**14-946. Criminal sexual penetration in the second degree; use of physical force or physical violence; personal injury; essential elements.**

For you to find the defendant guilty of criminal sexual penetration causing personal injury [as charged in Count \_\_\_\_\_\_\_\_]1, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant2

[caused \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim*) to engage in \_\_\_\_\_\_\_\_\_\_3;]

[OR]

caused the insertion, to any extent, of a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_4 into the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_5 of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim*);]

2. The defendant caused the insertion of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_4 into the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_5 of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim*) through the use of physical force or physical violence;

3. The defendant's acts resulted in \_\_\_\_\_\_\_\_\_\_\_\_\_\_6;

[4. The defendant's act was unlawful7;]

5. This happened in New Mexico on or about the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_.

USE NOTES

1. Insert the count number if more than one count is charged.

2. Use only the applicable alternatives.

3. Name the sexual act or acts: i.e., "sexual intercourse," "anal intercourse," "cunnilingus" or "fellatio." The applicable definition or definitions from Instruction 14-982 NMRA must be given after this instruction.

4. Identify the object used.

5. Name the part or parts of the body: i.e., "vagina," "penis" or "anus." The applicable definition or definitions from Instruction 14-981 NMRA must be given after this instruction.

6. Name victim and describe personal injury or injuries. *See* Section 30-9-10(D) NMSA 1978 for types of personal injuries.

7. Use the bracketed element if the evidence raises a genuine issue of the unlawfulness of the defendant's actions. If this element is given, UJI 14-132 NMRA, "unlawful defined", must be given after this instruction.

[As amended, effective January 20, 2005.]