

14-908. Criminal sexual contact; victim unconscious, asleep, physically or mentally helpless; personal injury; essential elements.

For you to find the defendant guilty of criminal sexual contact 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 defendant
[touched or applied force to the unclothed _____² of
_____ (*name of victim*) without _____'s (*name of
victim*) consent;]³
[OR]
[caused _____ (*name of victim*) to touch the _____²
of the defendant;]
2. _____ (*name of victim*) was (unconscious)³ (asleep)
(physically helpless) (suffering from a mental condition so as to be incapable of
understanding the nature or consequences of what the defendant was doing);
3. The defendant knew or had reason to know of the condition of
_____ (*name of victim*);
4. The defendant's acts resulted in _____⁴;
- [5. The defendant's act was unlawful;]⁵
6. _____ (*name of victim*) was eighteen (18) years of age or
older;
7. 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. Name one or more of the following parts of the anatomy touched: "groin," "anus," "buttocks," "breast," "mons pubis," "penis," "testicles," "mons veneris," or "vulva." When definitions are provided in UJI 14-981 NMRA, they must be given after this instruction; otherwise, no definition need be given unless the jury requests one.
3. Use only the applicable alternative or alternatives.
4. Name victim and describe personal injury or injuries. See NMSA 1978, Section 30-9-10(D) (2005) for types of personal injuries.
5. 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 September 1, 1994; January 20, 2005; as amended by Supreme Court Order No. 18-8300-012, effective for all cases pending or filed on or after December 31, 2018.]