

14-331. Stalking; essential elements.

For you to find the defendant guilty of stalking [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 knowingly pursued a pattern of conduct by, on more than one occasion, [directly or indirectly] [or] [using a third party²]³ engaging in any of the following acts:

[(a) following _____ (*name of person*)]

[(b) monitoring _____ (*name of person*)]

[(c) placing _____ (*name of person*) under surveillance]

[(d) threatening _____ (*name of person*)]

[(e) communicating [to] [or] [about] _____ (*name of person*)];³

[2. In pursuing the pattern of conduct the defendant was not acting within the scope of [lawful employment] [or] [constitutionally protected activity,]³⁴

3. [Although some of the acts constituting the pattern of conduct were directed at other people, the] [The]³ overall pattern of conduct was directed at _____ (*name of victim*);

4. The defendant intended

[to place _____ (*name of victim*) in reasonable apprehension of [death] [bodily harm] [sexual assault] [confinement or restraint]]

[or]

[to cause _____ (*name of victim*) to reasonably fear the [death] [bodily harm] [sexual assault] [confinement or restraint] of _____ (*name(s) of other individual(s)*)].^{3, 5}

5. This happened in New Mexico [between] [on or about] the _____ day of _____, _____ [and the _____ day of _____, _____].^{3, 6}

USE NOTES

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

2. Use when the evidence establishes that one or more third parties committed the acts constituting the pattern of conduct.

3. Use only the applicable bracketed alternatives.

4. Insert when there is any evidence the defendant acted with lawful authority, as defined in Section 30-3A-3(B)(1) NMSA 1978.

5. The victim may be afraid for the victim, other individuals, or both.

6. The pattern of conduct must involve more than one occasion, but may or may not occur on more than one date.

[Adopted, effective February 1, 1995; as amended, effective July 1, 1998; as amended by Supreme Court Order No. 21-8300-010, effective for all cases filed or pending on or after December 31, 2021.]