

14-957. Criminal sexual penetration; child under 13; essential elements.

For you to find the defendant guilty of criminal sexual penetration of a child under the age of thirteen (13) [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. _____ (*name of victim*) was a child under the age of
thirteen (13);

[3. The defendant's act was unlawful;]⁶

4. 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. 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; as amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010.]