

**14-915. Criminal sexual contact in the fourth degree; force or coercion; essential elements.<sup>1</sup>**

For you to find the defendant guilty of criminal sexual contact in the fourth degree [as charged in Count \_\_\_\_\_]<sup>2</sup>, 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 \_\_\_\_\_<sup>3</sup> of  
\_\_\_\_\_ (*name of victim*) without \_\_\_\_\_<sup>3</sup>'s (*name of victim*) consent;]<sup>4</sup>  
[OR]  
[caused \_\_\_\_\_ (*name of victim*) to touch the \_\_\_\_\_<sup>3</sup>  
of the defendant;]
2. [The defendant used physical force or physical violence;]<sup>4</sup>  
[OR]  
[The defendant  
(used threats of physical force or physical violence against  
\_\_\_\_\_) (*name of victim or other person*)]<sup>4</sup> (OR) (threatened to  
\_\_\_\_\_)<sup>5</sup>; AND \_\_\_\_\_ (*name of victim*) believed that  
the defendant would carry out the threat;]  
[OR]  
[\_\_\_\_\_ (*name of victim*) was (unconscious)<sup>4</sup> (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); AND the  
defendant knew or had reason to know of the condition of \_\_\_\_\_ (*name of victim*);]
3. The defendant's acts resulted in \_\_\_\_\_<sup>6</sup>; OR, the defendant  
acted with the help or encouragement of one or more persons;
- [4. The defendant's act was unlawful;]<sup>7</sup>
5. \_\_\_\_\_ (*name of victim*) was eighteen (18) years of  
age or older;
6. This happened in New Mexico on or about the \_\_\_\_\_ day of  
\_\_\_\_\_, \_\_\_\_\_.

**USE NOTES**

1. This instruction sets forth the elements of all three types of "force or coercion" in NMSA 1978, Section 30-9-10(A) (2005): (1) use of physical force or physical violence, (2) threats, and (3) mental or other incapacity of the victim. The instruction also sets forth, in the alternative, two of the three types of criminal sexual contact in the fourth degree in NMSA 1978, Section 30-9-12(A) (1993): (1) contact resulting in personal injury, and (2) contact while aided and abetted by another. If the evidence supports one or more theories of "force or coercion" and also supports both of these theories of criminal sexual contact in the fourth degree, this instruction may be used. If the evidence also supports the third type of criminal sexual contact in the fourth

degree (contact while armed with a deadly weapon), UJI 14-914 NMRA must also be given.

2. Insert the count number if more than one count is charged.
3. 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.
4. Use only the applicable alternative or alternatives.
5. Describe threats used against the victim or another in layman's language. See NMSA 1978, Section 30-9-10(A)(3) for examples of types of threats.
6. Name victim and describe personal injury or injuries. See Section 30-9-10(D) 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 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.]