

14-960. Criminal sexual penetration in the first degree; victim unconscious, asleep, physically or mentally helpless; great bodily harm or great mental anguish; essential elements.

For you to find the defendant guilty of criminal sexual penetration causing [great bodily harm]¹ [great mental anguish] [as charged in Count _____]², the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant¹
[caused _____ (name of victim) to engage _____³];¹
[OR]
[caused the insertion, to any extent, of a _____⁴ into the
_____⁵ of _____ (name of victim);]
2. _____ (name of victim) was [unconscious]¹
[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 [great bodily harm⁶]¹ [great mental
anguish⁷] to _____ (name of victim);
- [5. The defendant's act was unlawful⁸];
6. This happened in New Mexico on or about the ____ day of
_____, _____.

USE NOTES

1. Use only the applicable alternatives.
2. Insert the count number if more than one count is charged.
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. The definition of "great bodily harm", Instruction 14-131 NMRA, must be given after this instruction.
7. The definition of "great mental anguish", Instruction 14-980 NMRA, must be given after this instruction.
8. 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.]