

14-945. Criminal sexual penetration of a 13 to 18 year old in the second degree; use of coercion by person in position of authority; essential elements.

For you to find the defendant guilty of criminal sexual penetration of a child at least thirteen (13) but less than eighteen (18) years old by use of coercion by a person in a position of authority [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
[caused _____ (*name of victim*) to engage in _____²;³
[OR]
[caused the insertion, to any extent, of a _____⁴ into the
_____⁵ of _____ (*name of victim*);]
2. _____ (*name of victim*) was at least thirteen (13) but less than eighteen (18) years old;
3. The defendant was a
[(parent) (relative) (household member)⁶ (teacher) (employer)]³
[OR]
[person who by reason of the defendant's relationship to
_____ (*name of victim*) was able to exercise undue influence over
_____ (*name of victim*)]
AND used this position of authority⁷ to coerce _____ (*name of victim*) to submit to sexual contact;
4. The defendant's act was unlawful;⁸
5. This happened in New Mexico on or about the ____ day of _____, _____.

USE NOTES

This instruction is only to be used in cases based on crimes that occurred before the 2007 amendment (July 1, 2007).

1. Insert the count number if more than one count is charged.
2. Name the sexual act or acts: *i.e.*, "sexual intercourse," "anal intercourse," "cunnilingus," or "fellatio." The applicable definition or definitions from UJI 14-982 NMRA must be given after this instruction.
3. Use only the applicable alternative or alternatives.
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 UJI 14-981 NMRA must be given after this instruction.
6. If this bracketed alternative is given, UJI 14-370 NMRA, "household member defined," must be given after this instruction.
7. See NMSA 1978, Section 30-9-10(E) (2005) for the definition of "position of authority."
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; as amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010; by Supreme Court Order No. 11-8300-037, effective for cases pending or filed in the district court on or after November 18, 2011; as amended by Supreme Court Order No. 18-8300-012, effective for all cases pending or filed on or after December 31, 2018.]