

14-9005. Children’s court; special verdict; amenability specific factors.¹

If you find that _____ (*name of child*) committed the offense of _____ (*name of offense*) [as charged in Count _____]², then you must determine whether the offense was committed in an aggressive, violent, premeditated or willful manner; and whether a firearm was used to commit the offense; and whether the offense was against a person or against property; and whether the _____ (*name of child*) inflicted physical injury to a person. You must complete the special forms to indicate your findings.

For you to make a finding of “yes” to the first question, the state must prove to your satisfaction beyond a reasonable doubt that the offense was committed in an aggressive, violent, premeditated or willful manner.

For you to make a finding of “yes” to the second question, the state must prove to your satisfaction beyond a reasonable doubt that a firearm was used to commit the offense.

For you to make a finding of “yes” to the third question, the state must prove to your satisfaction beyond a reasonable doubt that the offense was against a person.

For you to make a finding of “yes” to the fourth question, the state must prove to your satisfaction beyond a reasonable doubt that the offense was against property.

For you to make a finding of “yes,” to the fifth question, the state must prove to your satisfaction beyond a reasonable doubt that _____ (*name of child*) inflicted physical injury to a person.

QUESTION [1]

Do you unanimously find beyond a reasonable doubt that the offense [as charged in Count _____], was committed in an aggressive, violent, premeditated or willful manner?³

_____ (Yes)

_____ (No)

QUESTION [2]

Do you unanimously find beyond a reasonable doubt that a firearm was used to commit the offense [as charged in Count _____]?

_____ (Yes)

_____ (No)

QUESTION [3]

Do you unanimously find beyond a reasonable doubt that the offense was against a person?

_____ (Yes)

_____ (No)

QUESTION [4]

Do you unanimously find beyond a reasonable doubt that the offense was against property?

_____ (Yes)

_____ (No)

QUESTION [5]

Do you unanimously find beyond a reasonable doubt that _____ (name

of child) inflicted physical injury to a person[s]?

_____ (Yes)

_____ (No)

FOREPERSON

USE NOTES

1. This instruction is to be submitted in all youthful offender cases on the question of whether the child can be rehabilitated or treated sufficiently to protect society's interests by the time the child reaches the age of twenty-one (21) and is therefore amenable to treatment or subject to adult penalties. This instruction only applies to the offenses enumerated in NMSA 1978, Section 32A-2-3(J)(1) (2009), and only when the child was fourteen to eighteen years of age at the time of the alleged offense.

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

3. All questions must be submitted to the jury unless the court makes a finding that a factor is not applicable to amenability under the facts of the particular case or there is a stipulation by parties as to a factor.

[Adopted by Supreme Court Order No. 14-8300-005, effective for all cases filed on or after December 31, 2014.]