**14-942. Criminal sexual penetration in the third degree; threats of force or coercion; essential elements.**

 For you to find the defendant guilty of criminal sexual penetration [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. The defendant2

[caused \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim*) to engage in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_3 through the use of threats of physical force or physical violence against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim or other person*);] ]

[OR]

[threatened to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_6;]

 3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim*) believed the defendant would carry out the threat;

 [4. The defendant's act was unlawful;]7

 5. 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 from Instruction 14-981 NMRA must be given after this instruction.

 6. Describe threats used against the victim or another in layman's language. *See* Section 30-9-10 (A)(3) NMSA 1978 for examples of types of threats.

 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 January 20, 2005.]