

14-631. Sexual exploitation of children; possession.

For you to find the defendant guilty of sexual exploitation of children (possession) [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 intentionally possessed a visual or print medium²;
2. The medium depicts a prohibited sexual act² [or simulation of such an act]³;
3. The defendant knew or had reason to know that medium depicts prohibited sexual act [or simulation of such act]³;
4. The defendant knew or had reason to know that one or more of the participants in that act is a child under eighteen years of age;
- [5. The depictions are obscene;⁴]³; and
6. This happened in New Mexico on or about _____, 20__.

USE NOTES

1. Insert the count number if more than one count is charged.
 2. If in issue, UJI 14-130 NMRA, “ ‘Possession’ defined,” definitions of “visual or print medium” and/or “prohibited sex act” shall be given. See NMSA 1978, § 30-6A-2.
 3. Instruct with bracketed language only if in issue.
 4. Use bracketed material if obscenity is in issue. If this element is instructed a definition of “obscene” shall also be given. See NMSA 1978, § 30-6A-2.
 5. If the consensual possession defense defined in NMSA 1978, Section 30-6A-3(B) is in issue, UJI 14-634 NMRA must be given.
 6. To invoke the sentencing enhancement defined in Section 30-6A-3(A), special interrogatory UJI 14-635 NMRA must be given.
- [Adopted by Supreme Court Order No. 19-8300-016, effective for all cases pending or filed on or after December 31, 2019.]