

**14-2228A. Escape; jail release program; essential elements.<sup>1</sup>**

For you to find the defendant guilty of escape from a jail release program [as charged in Count \_\_\_\_\_]<sup>2</sup>, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant was committed to \_\_\_\_\_ (*identify institution*);
2. The [sheriff] [jail administrator]<sup>3</sup> of \_\_\_\_\_ (*identify institution*), with the approval of the [board of county commissioners of \_\_\_\_\_ (*name of county*)] [governing body of \_\_\_\_\_ (*name of municipality*)] had established a release program to allow prisoners to [attend school] [or] [be employed];
3. The defendant was released from \_\_\_\_\_ (*identify institution*) to \_\_\_\_\_ (*describe purpose for release*);
4. The defendant failed to return to confinement within the time fixed for the defendant's return;
5. The defendant's failure to return was willful, without sufficient justification or excuse<sup>4</sup>;
6. The defendant intended not to return within the time fixed<sup>4</sup>;
7. This happened in New Mexico on or about the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**USE NOTES**

1. This instruction is to be used when a prisoner escapes from a prisoner-release program established in a county or municipal jail or detention center under NMSA 1978, Section 33-3-24 (1981). For escape from a community custody release program under NMSA 1978, Section 30-22-8.1 (1999), use UJI 14-2228C NMRA. For escape from a penitentiary inmate-release program under NMSA 1978, Sections 33-2-43 to -47 (1969, as amended through 1980), use UJI 14-2228B NMRA.

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

3. Use only the applicable alternatives.

4. This element is necessary to comply with *State v. Rosaire*, 1997-NMSC-034, 123 N.M. 701, 945 P.2d 66.

[Adopted by Supreme Court Order No. 22-8300-031, effective for all cases pending or filed on or after December 31, 2022.]