

1 **14-303. Assault; attempted battery; threat or menacing conduct; essential elements.<sup>1</sup>**

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

5 1. The defendant intended to commit the crime of battery against  
6 \_\_\_\_\_ (*name of victim*) by \_\_\_\_\_;<sup>3</sup>

7 A battery consists of intentionally touching or applying force in a rude, insolent or angry  
8 manner;<sup>4</sup>

9 2. The defendant began to do an act which constituted a substantial part of the battery  
10 but failed to commit the battery;

11 OR

12 1. The defendant \_\_\_\_\_ (*describe unlawful act, threat or menacing*  
13 *conduct*);

14 2. The defendant's conduct caused \_\_\_\_\_ (*name of victim*) to believe  
15 the defendant was about to intrude on \_\_\_\_\_'s (*name of victim*) bodily integrity or  
16 personal safety by touching or applying force to \_\_\_\_\_ (*name of victim*) in a rude,  
17 insolent or angry manner;<sup>4</sup> and

18 3. A reasonable person in the same circumstances as \_\_\_\_\_ (*name of*  
19 *victim*) would have had the same belief;

20 AND

21 3. This happened in New Mexico on or about the \_\_\_\_\_ day of  
22 \_\_\_\_\_, \_\_\_\_\_.

23 USE NOTES

1           1.       This instruction sets forth the elements of two of the types of assault in NMSA  
2 1978, Section 30-3-1 (1963)[~~NMSA-1978~~]; one type involves attempted battery and the other  
3 involves an unlawful act, a threat or menacing conduct which causes another person to reasonably  
4 believe [~~he~~] that person is about to be touched or have force applied to [~~him~~]them. If the evidence  
5 supports both of these theories of assault, use this instruction.

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

7           3.       Use ordinary language to describe the touching or application of force.

8           4.       If the “unlawfulness” of the act is in issue, add unlawfulness as an element as  
9 provided by Use Note 1 of UJI 14-132 NMRA. In addition, UJI 14-132 is given. If the issue of  
10 “lawfulness” involves self-defense or defense of another, *see* UJI 14-5181 NMRA to UJI 14-5184  
11 NMRA.

12 [Adopted effective October 1, 1976; UJI Criminal Rule 3.02 NMSA 1978; UJI 14-303 SCRA; as  
13 amended, effective January 15, 1998; as amended by Supreme Court Order No. 16-8300-008,  
14 effective for all cases pending or filed on or after December 31, 2016; as amended by Supreme  
15 Court Order No. S-1-RCR\_2025-00126, effective for all cases pending or filed on or after  
16 December 31, 2025.]

17 **Committee commentary.** — *See* the committee commentaries following UJI 14-132 and UJI 14-  
18 301 NMRA.

19 The UJI 14-301 and 14-302 NMRA pattern is used throughout Chapters 3 and 22 of these  
20 instructions.