

1 **14-5106. Involuntary intoxication; defined.**¹

2 An issue you must consider in this case is whether the defendant was intoxicated and if so,
3 whether the intoxication was involuntary.

4 Intoxication is involuntary if:²

5 [a person is forced to become intoxicated against the person's will]

6 [a person becomes intoxicated by using (alcohol)³ (drugs) without knowing the intoxicating
7 character of the (alcohol)³ (drugs) and without willingly assuming the risk of possible
8 intoxication].

9 USE NOTES

10 1. If this instruction is given, add to the essential elements instruction for the offense
11 charged:

12 [The defendant was not involuntarily intoxicated at the time the offense was committed
13 or, if the defendant was involuntarily intoxicated, then the defendant nonetheless [knew what [~~he~~
14 ~~(she)~~ the defendant was doing or understood the consequences of [~~(his)~~ ~~(her)~~ their act]³

15 [or]

16 [knew that [~~(his)~~ ~~(her)~~ their act was wrong]

17 [or]

18 [could have prevented [~~(himself)~~ ~~(herself)~~ themselves from committing the act].

19 2. Use only the applicable source of the intoxication.

20 3. Use only the applicable alternative or alternatives.

21 [As amended, effective January 1, 1997; as amended by Supreme Court Order No. 19-8300-016,
22 effective for all cases pending or filed on or after December 31, 2019; as amended by Supreme

1 Court Order No. S-1-RCR-2025-00126, effective for all cases pending or filed on or after
2 December 31, 2025.]

3 **Committee commentary.** — Involuntary intoxication may result from the mistaken use of a liquor
4 or narcotic substance. *See generally* Perkins, *Criminal Law* 894 (2d ed. 1969). “[I]nvoluntary
5 intoxication is a defense only when it negates the intent element of a crime.” *State v. Gurule*, 2011-
6 NMCA-042, ¶ 17, 149 N.M. 599, 252 P.3d 823. Involuntary intoxication is not available as a
7 defense to strict liability crimes, which, by definition, do not require criminal intent. *Id.* ¶ 18.
8 Involuntary intoxication may serve as a defense “only . . . to the extent that it impairs the ability
9 to form intent.” *Id.* (internal quotation marks and citation omitted). In *State v. Brown*, 1996-
10 NMSC-073, ¶ 27, 122 N.M. 724, 931 P.2d 69, the Supreme Court extended the partial defense of
11 voluntary intoxication to depraved mind murder. Our appellate courts have not yet considered
12 whether involuntary intoxication would also be a partial defense to depraved mind murder. *See*
13 UJIs 14-5110, 14-5111 NMRA.

14 [As amended by Supreme Court Order No. 19-8300-016, effective for all cases pending or filed
15 on or after December 31, 2019.]