

1 **14-601. Contributing to delinquency of minor; essential elements.**

2 For you to find the defendant guilty of contributing to the delinquency of a minor [as
3 charged in Count _____],¹ the state must prove to your satisfaction beyond a reasonable
4 doubt each of the following elements of the crime:

5 1. The defendant _____;²

6 2. This [caused]³ [encouraged] _____ (*name of child*) to:³
7 [commit the offense of _____]⁴³

8 [OR]

9 [refuse to obey the reasonable and lawful commands or directions of [~~(his)~~³–(~~her~~)]
10 _____ (*name of child*)’s³ (parent)³ (parents) (guardian) (custodian) (teacher) (a
11 person who had lawful authority over _____ (*name of child*))]³

12 [OR]

13 [conduct [~~(himself)~~³–(~~herself~~)] themselves in a manner] injurious to [~~(his)~~³–(~~her~~)–(~~the~~)] the
14 (morals)³ (health) (welfare) (of _____ (*name of child*⁵)];³

15 3. _____ (*name of child*) was under the age of 18;

16 4. This happened in New Mexico on or about the _____ day of
17 _____, _____.

18 USE NOTES

19 1. Insert the count number if more than one count is charged.

20 2. Describe act or omission of the defendant.

21 3. Use only the applicable alternative or alternatives.

22 4. Identify the offense and give the essential elements. To instruct on the elements of
23 an uncharged offense, UJI 14-140 NMRA must be used.

1 5. Name of other person whose morals, health or welfare were injured or endangered
2 by the delinquent child as a result of the defendant's acts or omissions.

3 [As amended by Supreme Court Order No. 21-8300-025, effective for all cases pending or filed
4 on or after December 31, 2021; as amended by Supreme Court Order No. S-1-RCR-2025-00126,
5 effective for all cases pending or filed on or after December 31, 2025.]

6 **Committee commentary.** — In *State v. McKinley*, [~~53 N.M. 106, 202 P.2d 964 (1949)~~] 1949-
7 NMSC-010, 53 N.M. 106, 202 P.2d 964, the [s]Supreme [e]Court of New Mexico held that the
8 offense of contributing to the delinquency of a minor ([~~Laws 1943~~] 1943 N.M. Laws, Chapter 36,
9 Section 1) was not unconstitutionally vague, as a juvenile delinquent was defined by [~~Laws 1943~~]
10 1943 N.M. Laws, Chapter 40, Section 1 for purposes of juvenile court jurisdiction. [~~*State v.*~~
11 ~~*McKinley*~~] *McKinley* was followed in *State v. Leyba*, [~~80 N.M. 190, 453 P.2d 211 (Ct. App.)~~] 1969-
12 NMCA-030, 80 N.M. 190, 453 P.2d 211, cert. denied, 80 N.M. 198, 453 P.2d 219 (1969) and *State*
13 *v. Favela*, [~~91 N.M. 476, 576 P.2d 282 (1978)~~] 1978-NMSC-010, 91 N.M. 476, 576 P.2d 282,
14 *overruled on other grounds by State v. Pitts*, 1986-NMSC-011, ¶ 9,103 N.M. 778, 714 P.2d 582.

15 In [~~*State v. Leyba*~~] *Leyba*, the court of appeals looked to Laws 1955, Chapter 205, Section 8 for
16 the definition of juvenile delinquent for purposes of juvenile court jurisdiction. In [~~*State v. Favela,*~~
17 ~~*supra*~~] *Favela*, the New Mexico Supreme Court held that [~~"although the~~] although "the Children's
18 Code in 1972 narrowed the definition of a delinquent act committed by a [child] child, that
19 definition did not extend, amend, change or become incorporated into Section 40A-6-3, supra
20 [~~(Section 30-6-3 NMSA 1978)~~] [NMSA 1978, Section 30-6-3]"

21 It is assumed that the legislature in enacting the Criminal Code in 1963 intended that the definition
22 of juvenile delinquent for purposes of juvenile court jurisdiction be used in interpreting [~~Section~~

1 ~~30-6-3 NMSA 1978]~~ Section 30-6-3. [~~Laws 1955]~~ 1955 N.M. Laws, Chapter 205, Section 8(a)

2 granted jurisdiction to the juvenile court over juveniles as follows:

3 Section 8. The juvenile court shall have exclusive original jurisdiction in proceedings:

4 a. concerning any juvenile under the age of eighteen years living or found within the county:

5 (1) who has violated any law of the state, or any ordinance or regulation of a political subdivision
6 thereof;

7 (2) or, who by reason of habitually refusing to obey the reasonable and lawful commands or
8 directions of [~~his or her~~] [the juvenile's] parent, parents, guardian, custodian, teacher or any person
9 of lawful authority, is deemed to be habitually uncontrolled, habitually disobedient or habitually
10 wayward;

11 (3) or, who is habitually truant from school or home;

12 (4) or, who habitually deports [~~himself~~] themselves as to injure or endanger the morals, health or
13 welfare of [~~himself~~] [the juvenile] or others.

14 Intent is not an element of the crime of contributing to the delinquency of a minor. *State v. Gunter*,
15 [~~87 N.M. 71, 529 P.2d 297 (Ct. App.)~~] 1974-NMCA-132, 87 N.M. 71, 529 P.2d 297, cert. denied,
16 87 N.M. 48, 529 P.2d 274 (1974), cert. denied, [~~421 U.S. 951, 95 S. Ct. 1686, 44 L. Ed. 2d 106~~
17 (~~1975~~)] *Gunter v. New Mexico*, 421 U.S. 951 (1974). Therefore, [~~UJI 14-141~~] UJI 14-141 NMRA
18 need not be given.

19 For an adult to be guilty of the criminal offense of contributing to the delinquency of a minor, it is
20 not necessary for the juvenile to be a delinquent. It is only necessary that the actions of the
21 defendant cause or tend to cause or encourage the delinquency of the juvenile. *See* [~~Section 30-6-~~
22 ~~3 NMSA 1978]~~ Section 30-6-3. Mere presence of the defendant at the time a juvenile is engaged
23 in a delinquent act is insufficient. *State v. Grove*, [~~82 N.M. 679, 486 P.2d 615 (Ct. App. 1971)~~]

- 1 1971-NMCA-086, 82 N.M. 679, 486 P.2d 615. But see *People v. Miller*, [145 Cal. App. 2d 473,
- 2 302 P.2d 603 (1956)] 302 P.2d 603 (Cal. Dist. Ct. App. 1956) (presence of minor during
- 3 fornication held sufficient to sustain conviction; child need not be a participant).
- 4 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]