

1 **14-903. Criminal sexual contact; threats of force or coercion; essential elements.**

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

5 1. The defendant

6 [touched or applied force to the unclothed _____² of _____
7 (*name of victim*) without _____'s (*name of victim*) consent;]³

8 [OR]

9 [caused _____ (*name of victim*) to touch the _____² of the
10 defendant;]

11 2. The defendant

12 [used threats of physical force or physical violence against
13 _____] (*name of victim or other person*);]³

14 [OR]

15 [threatened to _____⁴;

16 3. _____ (*name of victim*) believed that the defendant would
17 carry out the threat;

18 [4. The defendant's act was unlawful;]⁵

19 5. _____ (*name of victim*) was eighteen (18) years of age or
20 older;

21 6. This happened in New Mexico on or about the ____ day of _____,
22 _____.

23 USE NOTES

- 1 1. Insert the count number if more than one count is charged.
- 2 2. Name one or more of the following parts of the anatomy touched: "groin," "anus,"
3 "buttocks," "breast," "mons pubis," "penis," "testicles," "mons veneris," or "vulva." When
4 definitions are provided in UJI 14-981 NMRA, they must be given after this instruction; otherwise,
5 no definition need be given unless the jury requests one.
- 6 3. Use only the applicable alternative or alternatives.
- 7 4. Describe threats used against the victim or another in [~~layman's~~] layperson's
8 language. ~~See [Section 30-9-10(A)(3) NMSA 1978]~~ NMSA 1978, § 30-9-10(A)(3) for examples
9 of types of threats.
- 10 5. Use the bracketed element if the evidence raises a genuine issue of the unlawfulness
11 of the defendant's actions. If this element is given, UJI 14-132 NMRA, "unlawful defined," must
12 be given after this instruction.
13 [As amended, effective September 1, 1994; January 20, 2005; as amended by Supreme Court Order
14 No. 18-8300-012, effective for all cases pending or filed on or after December 31, 2018; as
15 amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending or
16 field on or after December 31, 2025.]
- 17 **Committee commentary.** — This instruction contains the essential elements of criminal sexual
18 contact perpetrated through the use of force or coercion. In this instruction "force or coercion" is
19 supplied by threats. [~~Section 30-9-10(A)(2) and Section 30-9-10A(3) NMSA 1978]~~ NMSA 1978,
20 § 30-9-10(A)(2)-(3). The definitions from both subsections of the statute; i.e., threats to use
21 physical force or physical violence and threats of other action, have been combined into one
22 element in this instruction.

1 The statute is broad and includes various types of threats. However, the threat must be of such a
2 coercive nature that its use negates the victim's consent. It is therefore a question of law whether a
3 particular threat is sufficient to support the charge. Threats of criminal conduct, such as the
4 statutory examples of kidnapping or extortion, would clearly be sufficient. Promises to confer a
5 benefit upon the victim, such as a raise or promotion, would probably not be considered threats.
6 In such case a purported victim may have bargained for the benefit and thus consented. The threats
7 can be directed against the victim or another.

8 If the jury requests a definition of the threatened act or offense, e.g., kidnapping, extortion, etc.,
9 then in accordance with the general UJI rule, an ordinary dictionary definition should be given.
10 An exception to this general rule should be made if the defendant is also charged with the
11 substantive crime which was threatened. In such case, if the jury asks for the definition, the
12 essential elements of the substantive crime should be referred to as the definition of the threatened
13 offense. Otherwise the jury would be confused as to the elements of the accompanying offense.

14 The belief of the victim as to the ability and intention of the defendant to carry out the threat is
15 measured by a subjective standard. The committee was of the opinion that an objective test for
16 reasonableness of the fear is inapplicable to sex crimes. If the victim's apprehension caused
17 submission to the contact, the defendant cannot rely on an argument that the victim's response to
18 the threat was irrational. The victim's fear need not be reasonable, it must only be real.

19 *See also* the commentary to UJI 14-902 NMRA.

20 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]