

1 **14-905. Criminal sexual contact; force or coercion; essential elements.**¹

2 For you to find the defendant guilty of criminal sexual contact [as charged in Count
3 _____]², 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 _____³ of
7 _____ (*name of victim*) without _____'s (*name of victim*)
8 consent;]⁴

9 [OR]

10 [caused _____ (*name of victim*) to touch the _____³ of the
11 defendant;]

12 2. [The defendant used physical force or physical violence;]⁴

13 [OR]

14 [The defendant (used threats of physical force or physical violence against
15 _____) (*name of victim or other person*)⁴ (OR) (threatened to
16 _____⁵); AND _____ (*name of victim*) believed that the defendant
17 would carry out the threat;]

18 [OR]

19 [_____ (*name of victim*) was (unconscious)⁴ (asleep) (physically
20 helpless) (suffering from a mental condition so as to be incapable of understanding the nature or
21 consequences of what the defendant was doing); AND the defendant knew or had reason to know
22 of the condition of _____; (*name of victim*)]

23 [3. The defendant's act was unlawful;]⁶

1 **Committee commentary.** — *See* [~~Section 30-9-12B NMSA 1978; misdemeanor~~] NMSA 1978, §
2 30-9-12(D) (describing misdemeanor criminal sexual contact perpetrated with the use of force or
3 coercion).

4 This instruction combines UJI 14-902 (physical force or physical violence), UJI 14-903 (threats)
5 and UJI 14-904 (unconscious, etc.). It may be used if the evidence supports more than one type of
6 force or coercion as the means employed in perpetrating the criminal contact. However, in some
7 circumstances the individual and particularized uniform jury instructions may be more clear and
8 therefore preferable. The court has discretion as to which UJI should be given for these essential
9 elements.

10 Note, however, that even if different theories of force or coercion are submitted to the jury, in this
11 instruction the defendant is being charged with only one crime, misdemeanor criminal sexual
12 contact. Throughout the statutes on sexual offenses [~~Sections 30-9-11 to 30-9-13 NMSA 1978~~],
13 NMSA 1978, Sections 30-9-11 to -13, alternative methods are set forth for committing the
14 offenses. For example, there are three ways in which a defendant can commit criminal sexual
15 contact in the fourth degree. § [~~30-9-12A NMSA 1978~~] 30-9-12(C). Separate instructions have
16 been prepared for each of these methods, and where force or coercion is an essential element of a
17 particular method, separate instructions for each definition of force or coercion have been
18 prepared. There are, therefore, ten separate instructions setting forth the essential elements of the
19 single crime of criminal sexual contact in the fourth degree.

20 In all cases where alternate methods of committing one offense are submitted to the jury, the
21 defendant is being charged with only one offense and may be found guilty of only one offense.

22 *See also* commentary to UJI 14-902, 14-903 and 14-904 NMRA.

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