

1 **14-915. Criminal sexual contact in the fourth degree; force or coercion; essential elements.**¹

2 For you to find the defendant guilty of criminal sexual contact in the fourth degree [as
3 charged in Count _____]², the state must prove to your satisfaction beyond a reasonable doubt
4 each of the following 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
15 (used threats of physical force or physical violence against _____) (*name*
16 *of victim or other person*)]⁴ (OR) (threatened to _____⁵); AND
17 _____ (*name of victim*) believed that the defendant 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*);]

1 5. Describe threats used against the victim or another in [~~layman's~~] layperson's
2 language. See [~~NMSA 1978, Section~~] § 30-9-10(A)(3) for examples of types of threats.

3 6. Name victim and describe personal injury or injuries. See [~~Section~~] § 30-9-10(D)
4 for types of personal injuries.

5 7. Use the bracketed element if the evidence raises a genuine issue of the unlawfulness
6 of the defendant's actions. If this element is given, UJI 14-132 NMRA, "unlawful defined," must
7 be given after this instruction.

8 [~~As amended, effective September 1, 1994; January 20, 2005; as amended by Supreme Court Order~~
9 ~~No. 18-8300-012, effective for all cases pending or filed on or after December 31, 2018; as~~
10 ~~amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending or~~
11 ~~filed on or after December 31, 2025.~~]

12 **Committee commentary.** — This instruction combines UJI 14-906 NMRA (physical force or
13 physical violence; personal injury), 14-907 NMRA (threats; personal injury), 14-908 NMRA
14 (unconscious, etc.; personal injury), 14-910 NMRA (physical force or physical violence; aided or
15 abetted), 14-911 NMRA (threats; aided or abetted) and 14-912 NMRA (unconscious, etc.; aided
16 or abetted).

17 This instruction may be used if the evidence supports two theories of aggravation of the offense;
18 i.e., personal injury and aided or abetted. However, in some circumstances individual and
19 particularized uniform jury instructions may be more clear and therefore preferable. The court has
20 discretion as to which UJI should be given for these essential elements.

21 This combined instruction does not include UJI 14-912 NMRA (deadly weapon). It is awkward
22 and confusing to combine it with the other fourth degree sexual contacts because UJI 14-914
23 NMRA contains no definitions of force or coercion. If the evidence also supports the charge that

- 1 the defendant was armed with a deadly weapon, UJI 14-914 NMRA must be given. That is because
- 2 the use of the deadly weapon element of UJI 14-914 NMRA supplants the force or coercion set
- 3 forth in UJI 14-915 NMRA.
- 4 *See also* commentary to UJI 14-902 NMRA.