

1 **14-936. Criminal sexual contact of a minor in the third degree; force or coercion; essential**
2 **elements.¹**

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

6 1. The defendant
7 [touched or applied force to the _____³ of _____ (*name of victim*);]⁴

8 [OR]

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

10 2. The defendant

11 [used threats of physical force or physical violence against _____ (*name*
12 *of victim or other person*)]⁴

13 [OR]

14 [threatened to _____⁵]; AND [_____ (*name of victim*)
15 believed that the defendant would carry out the threat;]

16 [OR]

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

21 3. The defendant's acts resulted in _____⁶; OR the defendant acted with
22 the help or encouragement of one or more persons;

1 4. Use only the applicable alternative or alternatives.

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

4 6. Name victim and describe personal injury or injuries. *See* NMSA 1978, § 30-9-
5 10(D) for types of personal injuries.

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

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

13 **Committee commentary.** — This instruction combines UJI 14-927 NMRA (physical force or
14 physical violence; personal injury), [~~14-928 NMRA~~] UJI 14-928 NMRA (threats; personal injury),
15 [~~14-929 NMRA~~] UJI 14-929 NMRA (unconscious, etc.; personal injury), [~~14-931 NMRA~~] UJI
16 14-931 NMRA (physical force or physical violence; aided or abetted), [~~14-932 NMRA~~] UJI 14-
17 932 NMRA (threats; aided or abetted) and [~~14-933 NMRA~~] UJI 14-933 NMRA (unconscious,
18 etc.; aided or abetted).

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

1 This combined instruction does not include [~~UJI 14-926~~] UJI 14-926 NMRA (position of
2 authority), nor UJI 14-935 NMRA (deadly weapon). It is awkward and confusing to combine either
3 with the other third degree sexual contacts because UJI 14-926 [~~NMRA~~] and 14-935 [~~NMRA~~]
4 contain no definitions of force or coercion. If the evidence also supports the giving of UJI 14-926
5 [~~NMRA~~] or [~~14-935 NMRA~~] UJI 14-935, that individual instruction should also be given.
6 *See also* commentary to UJI 14-921 NMRA.
7 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]