

1 **14-944. Criminal sexual penetration in the third degree; force or coercion; essential elements.**

2 For you to find the defendant guilty of criminal sexual penetration [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 defendant³

6 [caused _____ (*name of victim*) to engage in _____⁴;

7 [OR]

8 [caused the insertion, to any extent, of a _____⁵ into the _____⁶ of
9 _____ (*name of victim*);]

10 2. [The defendant used physical force or physical violence;]³

11 [OR]

12 [The defendant (used threats of physical force or physical violence against
13 _____ (*name of victim or other person*))³ (OR) [threatened to
14 _____⁷]; AND _____ (*name of victim*) believed that the defendant
15 would carry out the threat;]

16 [OR]

17 [_____ (*name of victim*) was (unconscious)³ (asleep) (physically
18 helpless) (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 act was unlawful;]⁸

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

USE NOTES

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2 1. This instruction sets forth the elements of all three types of "force or coercion" in
3 ~~[Section]~~ NMSA 1978, Section 30-9-10(A) ~~[NMSA 1978]~~: (1) use of physical force or physical
4 violence; (2) threats; (3) mental or other incapacity of the victim. If the evidence supports two or
5 more of these theories of "force or coercion," this instruction may be used.

6 2. Insert the count number if more than one count is charged.

7 3. Use only the applicable alternatives.

8 4. Name the sexual act or acts: i.e., "sexual intercourse," "anal intercourse,"
9 "cunnilingus" or "fellatio." The applicable definition or definitions from ~~[Instruction]~~ UJI 14-974
10 NMRA must be given after this instruction.

11 5. Identify the object used.

12 6. Name the part or parts of the body: i.e., "vagina", "penis" or "anus". The applicable
13 definition or definitions from ~~[Instruction]~~ UJI 14-981 NMRA must be given after this instruction.

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

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

20 [As amended, effective January 20, 2005; as amended by Supreme Court Order No. S-1-RCR-
21 2025-00126, effective for all cases pending or filed on or after December 31, 2025.]

22 **Committee commentary.** — *See* committee commentary under UJI 14-941 NMRA.