

1 **14-961. Criminal sexual penetration in the first degree; force or coercion; great bodily harm**
2 **or great mental anguish; essential elements.¹**

3 For you to find the defendant guilty of criminal sexual penetration causing [great bodily
4 harm]² [great mental anguish] [as charged in Count _____]³, the state must prove to your
5 satisfaction beyond a reasonable doubt each of the following elements of the crime:

6 1. The defendant²

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

8 [OR]

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

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

12 [OR]

13 [The defendant (used threats of physical force or physical violence against
14 _____ (*name of victim or other person*))² (OR) (threatened to
15 _____⁷); AND _____ (*name of victim*) believed that the
16 defendant would carry out the threat;]

17 [OR]

18 [_____ (*name of victim*) was (unconscious)² (asleep) (physically
19 helpless) (suffering from a mental condition so as to be incapable of understanding the nature or
20 consequences of what the defendant was doing); AND the defendant knew or had reason to know
21 of the condition of _____ (*name of victim*);]

22 3. The defendant's acts resulted in [great bodily harm⁸]² [great mental anguish⁹] to
23 _____ (*name of victim*);

1 [4. The defendant's act was unlawful;]¹⁰

2 5. This happened in New Mexico on or about the _____ day of
3 _____, _____.

4 USE NOTES

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

9 2. Use only the applicable alternatives.

10 3. Insert the count number if more than one count is charged.

11 4. Name the sexual act or acts: i.e., "sexual intercourse", "anal intercourse",
12 "cunnilingus" or "fellatio." The applicable definition or definitions from [~~Instruction~~] UJI 14-982
13 NMRA must be given after this instruction.

14 5. Identify the object used.

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

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

20 8. The definition of "great bodily harm", [~~Instruction~~] UJI 14-131 NMRA, must be
21 given after this instruction.

22 9. The definition of "great mental anguish," [~~Instruction~~] UJI 14-980 NMRA, must be
23 given after this instruction.

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

4 [As amended, effective January 20, 2005; as amended by Supreme Court Order No. S-1-RCR-
5 2025-00126, effective for all cases pending or filed on or after December 31, 2025.]

6 **Committee commentary.** — *See* [~~committee commentary under UJI 14-958 NMRA~~] UJI 14-958
7 NMRA comm. cmt.

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