

1 **14-982. "Sex acts"; defined.**

2 Sexual intercourse means the penetration of the vulva or vagina, the female sex organ, by
3 the penis, the male sex organ, to any extent.

4 Cunnilingus means the touching of the edge or inside of the female sex organ with the lips
5 or tongue.

6 Fellatio means the touching of the penis with the lips or tongue.

7 Anal intercourse means the penetration of the anus by the penis to any extent.

8 [As amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010.]

9 **Committee commentary.** — The definitions of "cunnilingus" and "fellatio" are dictionary
10 definitions. The definition of "anal intercourse" is an adaptation of the definition of "sexual
11 intercourse." The definition of "sexual intercourse" is the legal definition of that element of rape.
12 *See, e.g., State v. Harbert*, [~~20 N.M. 179, 147 P. 280 (1915)~~] 1915-NMSC-023, 20 N.M. 179, 147
13 P. 280. It is not an accurate dictionary definition of "sexual intercourse" because the statute
14 provides that no emission is required for criminal sexual penetration. [~~30-9-11 NMSA 1978~~]
15 NMSA 1978, § 30-9-11.

16 The committee considered the question of whether the legislature intended to restrict the
17 definitions of "cunnilingus" and "fellatio" to those acts involving penetration. It was concluded
18 that the legislature used those terms in the sense set out in these definitions. In the Encyclopedia
19 Britannica, Macropædia [~~Macropædia~~], v. 16, p. 610 (1975), the term "fellatio" is defined as "oral
20 stimulation of the penis," and the term "cunnilingus" is defined as "oral stimulation of the vulva or
21 clitoris." In the Random House Dictionary of the English Language (unabridged ed., 1971), the
22 term "fellatio" is defined as "oral stimulation of the penis, especially to orgasm," and the term
23 "cunnilingus" is defined as "act, practice, or technique of orally stimulating the female genitalia."

1 *See also People v. Hunter*, [~~158 C.A.2d 500, 322 P.2d 942 (1958)~~] 322 P.2d 942 (1958), in which
2 the term "cunnilingus" was defined as placing the mouth upon the genital organ, and the act was
3 held to constitute a violation of a statute proscribing "oral copulation."

4 In *State v. Tafoya*, 2010-NMCA-010, ¶ 52, 147 N.M. 602, 227 P.3d 92, the New Mexico Court of
5 Appeals clarified that the definition of "sexual intercourse," as used in the jury instructions for
6 criminal sexual penetration, includes penetration of the vulva.

7 [As amended by Supreme Court Order No. 10-8300-039[~~, effective December 31, 2010~~]; as
8 amended by Supreme Court Order No. S-1-RCR-2025-00126.]