14-701A. "Felon" defined.[1]

A person is a "felon" if:

1. The person has been convicted of a felony offense by a court of the United States or any state. A crime is a felony if it is punishable by a sentence of death or imprisonment for one year or more;

2. It has been less than ten (10) years since the end of the person's sentence, including any period of probation;

3. The person has not been pardoned for the felony conviction by the proper authority; and

4. The person did not receive a deferred sentence.

USE NOTES

1. This instruction should be given with UJI 14-701 NMRA if the theory of the case is that the defendant is a felon. It may be omitted if the defendant stipulates to felon status.

[Adopted by Supreme Court Order No. S-1-RCR-2023-00044, effective for all cases pending or filed on or after December 31, 2026.]

Committee commentary. — *See* NMSA 1978, § 30-7-16(E)(3) (2022). The definition of "felony" is adapted from NMSA 1978, Section 30-1-6(A) ("A crime is a felony if it is so designated by law or if upon conviction thereof a sentence of death or of imprisonment for a term of one year or more is authorized."). Section 30-7-16(E)(3)(a) specifies that a person is a "felon" if "less than ten years have passed since the person completed serving a sentence or period of probation for the felony conviction," but does not mention parole terms. *Cf.* NMSA 1978, § 31-18-17(D)(1) (2003) (for purposes of habitual offender enhancements, a "prior felony conviction" means "a conviction,

when less than ten years have passed prior to the instant felony conviction since the person completed serving his sentence or period of probation or parole for the prior felony.").

[Adopted by Supreme Court Order No. S-1-RCR-2023-00044.]