

1 **14-601. Contributing to delinquency of minor; essential elements.**

2 For you to find the defendant guilty of contributing to the delinquency of a minor [as
3 charged in Count _____] ¹, the state must prove to your satisfaction beyond a reasonable doubt
4 each of the following elements of the crime:

5 1. The defendant _____; ²

6 2. This [caused] ³ [encouraged] _____ (*name of child*) to: ³ [commit the offense
7 of _____] ⁴ ³

8 [OR]

9 [refuse to obey the reasonable and lawful commands or directions of (his) ³ (her) (parent)³
10 (parents) (guardian) (custodian) (teacher) (a person who had lawful authority over _____)
11 (*name of child*)] ³

12 [OR]

13 [conduct (himself) ³ (herself) in a manner injurious to (his) ³ (her) (the) (morals) ³ (health)
14 (welfare) (of _____ (*name of child*)⁵)] ³;

15 3. _____ (*name of child*) was under the age of 18;

16 4. This happened in New Mexico on or about the ___ day of _____, _____.
17

18 USE NOTES

19 1. Insert the count number if more than one count is charged.

20 2. Describe act or omission of the defendant.

21 3. Use only the applicable alternative or alternatives.

22 4. Identify the offense and give the essential elements. To instruct on the elements of
23 an uncharged offense, UJI 14-140 NMRA must be used.

1 5. Name of other person whose morals, health or welfare were injured or endangered
2 by the delinquent child as a result of the defendant’s acts or omissions.

3 [As amended by Supreme Court Order No. 21-8300-025, effective for all cases pending or filed
4 on or after December 31, 2021.]

5 **Committee commentary.** — In *State v. McKinley*, 53 N.M. 106, 202 P.2d 964 (1949), the
6 supreme court of New Mexico held that the offense of contributing to the delinquency of a minor
7 (Laws 1943, Chapter 36, Section 1) was not unconstitutionally vague, as a juvenile delinquent was
8 defined by Laws 1943, Chapter 40, Section 1 for purposes of juvenile court jurisdiction. *State v.*
9 *McKinley* was followed in *State v. Leyba*, 80 N.M. 190, 453 P.2d 211 (Ct.App.1969), cert. denied,
10 80 N.M. 198, 453 P.2d 219 (1969) and *State v. Favela*, 91 N.M. 476, 576 P.2d 282 (1978).

11 In *State v. Leyba*, the court of appeals looked to Laws 1955, Chapter 205, Section 8 for the
12 definition of juvenile delinquent for purposes of juvenile court jurisdiction. In *State v. Favela*,
13 supra, the New Mexico Supreme Court held that “although the Children’s Code in 1972 narrowed
14 the definition of a delinquent act committed by a child that definition did not extend, amend,
15 change or become incorporated into Section 40A-6-3, supra (Section 30-6-3 NMSA 1978).”

16 It is assumed that the legislature in enacting the Criminal Code in 1963 intended that the
17 definition of juvenile delinquent for purposes of juvenile court jurisdiction be used in interpreting
18 Section 30-6-3 NMSA 1978. Laws 1955, Chapter 205, Section 8(a) granted jurisdiction to the
19 juvenile court over juveniles as follows:

20 Section 8. The juvenile court shall have exclusive original jurisdiction in proceedings:
21 a. concerning any juvenile under the age of eighteen years living or found within the
22 county:

1 (1) who has violated any law of the state, or any ordinance or regulation of a political
2 subdivision thereof;

3 (2) or, who by reason of habitually refusing to obey the reasonable and lawful commands
4 or directions of his or her parent, parents, guardian, custodian, teacher or any person of lawful
5 authority, is deemed to be habitually uncontrolled, habitually disobedient or habitually wayward;

6 (3) or, who is habitually truant from school or home;

7 (4) or, who habitually deports himself as to injure or endanger the morals, health or welfare
8 of himself or others.

9 Intent is not an element of the crime of contributing to the delinquency of a minor. *State v.*
10 *Gunter*, 87 N.M. 71, 529 P.2d 297 (Ct.App.1974), cert. denied, 87 N.M. 48, 529 P.2d 274 (1974),
11 cert. denied, 421 U.S. 951, 95 S.Ct. 1686, 44 L.Ed.2d 106 (1975). Therefore, UJI 14-141 need not
12 be given.

13 For an adult to be guilty of the criminal offense of contributing to the delinquency of a
14 minor, it is not necessary for the juvenile to be a delinquent. It is only necessary that the actions of
15 the defendant cause or tend to cause or encourage the delinquency of the juvenile. *See* Section 30-
16 6-3 NMSA 1978. Mere presence of the defendant at the time a juvenile is engaged in a delinquent
17 act is insufficient. *State v. Grove*, 82 N.M. 679, 486 P.2d 615 (Ct.App.1971). But *see People v.*
18 *Miller*, 145 Cal.App.2d 473, 302 P.2d 603 (1956) (presence of minor during fornication held
19 sufficient to sustain conviction; child need not be a participant).