**14-904. Criminal sexual contact; victim unconscious, asleep, physically or mentally helpless; essential elements.**

For you to find the defendant guilty of criminal sexual contact [as charged in Count \_\_\_\_\_\_]1, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant

[touched or applied force to the unclothed \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_2 of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim*) without \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_’s (*name of victim*) consent;]3

[OR]

[caused \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim*) to touch the \_\_\_\_\_\_\_\_\_\_\_\_2 of the defendant;]

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim*) was [unconscious]3 [asleep] [physically helpless] [suffering from a mental condition so as to be incapable of understanding the nature or consequences of what the defendant was doing];

3. The defendant knew or had reason to know of the condition of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim*);

4. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*name of victim*) was eighteen (18) years of age or older;

[5. The defendant’s act was unlawful;]4

6. This happened in New Mexico on or about the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_.

USE NOTES

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

2. Name one or more of the following parts of the anatomy touched: “groin,” “anus,” “buttocks,” “breast,” “mons pubis,” “penis,” “testicles,” “mons veneris,” or “vulva.” When definitions are provided in UJI 14-981 NMRA, they must be given after this instruction; otherwise, no definition need be given unless the jury requests one.

3. Use only the applicable alternative or alternatives.

4. Use the bracketed element if the evidence raises a genuine issue of the unlawfulness of the defendant’s actions. If this element is given, UJI 14-132 NMRA, “unlawful defined,” must be given after this instruction.

[As amended, effective September 1, 1994; January 20, 2005; as amended by Supreme Court Order No. 18-8300-012, effective for all cases pending or filed on or after December 31, 2018.]