

## 11.107

### Definition Of Aggravated Battery -- Based On Injury

A person commits the offense of aggravated battery when he knowingly [without legal justification] and by any means, other than by the discharge of a firearm, [(causes bodily harm) (makes physical contact of an insulting or provoking nature)]; and

(1) causes [(great bodily harm) (permanent disability) (permanent disfigurement)] to an individual.

[or]

(2) causes [(severe and permanent disability) (great bodily harm) (disfigurement)] to another by means of a [(caustic substance) (flammable substance) (poisonous gas) (deadly [(biological) (chemical)] [(contaminant) (agent)]) (radioactive substance) (bomb) (explosive compound).

[or]

(3) causes [(great bodily harm) (permanent disability) (disfigurement)] to an individual whom the person knows to be a [(peace officer) (community policing volunteer) (fireman) (private security officer) (correctional institution employee) (Department of Human Services employee [(supervising) (controlling)] sexually [(dangerous) (violent)] persons)] [(performing his official duties) (battered to prevent performance of his official duties) (battered in retaliation for performing his official duties)].

[or]

(4) causes [(great bodily harm) (permanent disability) (disfigurement)] to an individual 60 years of age or older.

[or]

(5) strangles another individual.

### Committee Note

720 ILCS 5/12-3.05(a) (West 2023).

The aggravated battery statute, 720 ILCS 5/12-3.05, has seven separate categories: (1) offense based on injury; (2) offense based on injury to a child or person with an intellectual disability; (3) offense based on location or conduct; (4) offense based on status of victim; (5) offense based on use of firearm; (6) offense based on use of a weapon or device; and, (7) offense based on certain conduct. There are separate sets of jury instructions for each category.

Give Instruction 11.107 when the defendant is charged under 720 ILCS 5/12-3.05(a).

Give Instruction 11.108.

When applicable, give Instruction 11.05A defining “insulting or provoking contact”.

When applicable, give Instruction 11.107A defining the word “strangle”.

When applicable, give Instruction 4.26, defining “correctional institutional employee”.

When the defendant is charged with causing great bodily harm under 720 ILCS 5/12-3.05(a)(1), (2), (3), or (4), it is not necessary to include the bracketed material alleging the defendant also caused bodily harm or made contact of an insulting or provoking nature. See the Committee Comment after Instruction 11.108.

Use the phrase “without legal justification” whenever an instruction is to be given on an affirmative defense contained in Article 7 of the Criminal Code of 2012 (720 ILCS 5/7-1 *et seq.*). See *People v. Worsham*, 26 Ill.App.3d 767, 326 N.E.2d 134 (1st Dist.1975).

The definition of aggravated battery under Section 12-3.05 includes various legislative amendments that have occurred over several years. These amendments have added a number of designations of individuals who are to receive special protection. Court and counsel should ensure that a particular category of persons mentioned in a charge under this Section was in fact included within the statute when the alleged criminal behavior occurred.

Use applicable bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.