

### 11.113

#### Definition Of Aggravated Battery--Based On Status Of Victim

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 to) (makes physical contact of an insulting or provoking nature with)] another person, and in doing so, he knows the individual harmed to be

[1] 60 years of age or older.

[or]

[2] pregnant.

[or]

[3] a person who has a physical disability.

[or]

[4] a [(teacher) (school employee)] [(upon school grounds) (upon grounds adjacent to a school) (in any part of a building used for school purposes)].

[or]

[5] 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]

[6] a [(judge) (emergency management worker) (emergency medical technician) (utility worker)] [(performing his official duties) (battered to prevent performance of his official duties) (battered in retaliation for performing his official duties)].

[or]

[7] an [(officer) (employee)] of [(the State of Illinois) (a unit of local government) (a school district)] while performing his official duties.

[or]

[8] a transit employee performing his official duties.

[or]

[9] a transit passenger.

[or]

[10] a taxi driver on duty.

[or]

[11] a merchant who detains the person for an alleged commission of retail theft.

[or]

[12] a [(person authorized to serve process) (special process server appointed by the circuit court)] in the performance of his duties as a process server.

[or]

[13] a nurse in the performance of his duties as a nurse.

### **Committee Note**

720 ILCS 5/12-3.05(d) (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 11.113 when the defendant is charged under 720 ILCS 5/12-3.05(d).

Give Instruction 11.114.

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

When applicable, give Instruction 4.29 defining “physically handicapped person”.

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

When applicable, give Instruction 4.30 defining “emergency medical technician”.

When applicable, give Instruction 4.31 defining “utility worker”.

When applicable, give Instruction 4.32 defining “transit employee”.

When applicable, give Instruction 4.33 defining “transit passenger”.

When applicable, give Instruction 13.46B defining “merchant”.

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 allegedly criminal behavior occurred.

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).

Use applicable paragraphs and 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.