

11.109 Definition Of Aggravated Battery--Based On Injury To A Child Or Person With An Intellectual Disability

A person commits the offense of aggravated battery of a [(child) (person with an intellectual disability)] when he, being a person of the age of 18 years or more, knowingly [without legal justification] by any means, [(causes [great] bodily harm to) (makes physical contact of an insulting or provoking nature with)] [(any child under the age of 13 years) (any severely or profoundly intellectually disabled person)] and causes [(disability) (disfigurement) (permanent disability) (permanent disfigurement)] to that [(child) or (severely or profoundly intellectually disabled person)].

Committee Note

Instruction and Committee Note Approved April 13, 2016

720 ILCS 5/12-3.05(b) (West 2016), amended by P.A. 96-1551, effective July 1, 2011. (P.A. 96-1551 also added to this Section a crime for “bodily harm” (as opposed to “great bodily harm”) and “disability or disfigurement” (as opposed to “permanent disability or disfigurement”).

The current 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 11.109 when the defendant is charged under 720 ILCS 5/12-3.05(b).

Give Instruction 11.110.

When the defendant is charged with causing great bodily harm under 720 ILCS 5/12-3.05(b), 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.

Give Instruction 11.65G when the alleged victim is an intellectually disabled person.

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 1961 (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 bracketed material.

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