

11.25

Definition Of Aggravated Battery Of A Child [Or Institutionalized Mentally Retarded Person]

A person commits the offense of aggravated battery of a child when he, being a person of the age of 18 years or more, [(intentionally) (knowingly)] [without legal justification] by any means, causes [(great bodily harm) (permanent disability) (permanent disfigurement)] to [(any child under the age of 13 years) (any institutionalized severely or profoundly mentally retarded person)].

Committee Note

720 ILCS 5/12-4.3 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §12-4.3 (1991)).

Give Instruction 11.26.

P.A. 85-1392, effective January 1, 1989, amended Section 12-4.3 to include aggravated battery of an institutionalized severely or profoundly mentally retarded person. See also P.A. 85-1440. The offense is still entitled “aggravated battery of a child,” and the Committee retained that designation in the body of this instruction. The bracketed reference to “institutionalized mentally retarded person” was included in the title to this instruction to facilitate identification of the appropriate instruction.

Give Instruction 11.65G when the alleged victim is an institutionalized severely or profoundly mentally retarded person.

Use the mental state that conforms to the allegation in the charge. *See People v. Grant*, 101 Ill.App.3d 43, 427 N.E.2d 810, 56 Ill.Dec. 478 (1st Dist.1981).

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

Use applicable bracketed material.