

11.117 Definition Of Aggravated Battery--Based On Use Of A Weapon Or Device

A person commits the offense of aggravated battery when he knowingly [without legal justification] and by any means, [(causes bodily harm to) (makes physical contact of an insulting or provoking nature with)] another person, and

[1] in doing so, he uses [(a deadly weapon other than by the discharge of a firearm) (an air rifle)].

[or]

[2] in doing so, he wears a hood, robe, or mask to conceal his identity.

[or]

[3] knowingly shines or flashes a [(laser gunshot) (laser device)] [(attached to a firearm) (used in concert with a firearm)] so that the laser beam strikes upon or against another person.

[or]

[4] knowingly video or audio records the offense with the intent to disseminate the recording.

Committee Note

Instruction and Committee Note Approved April 13, 2016

720 ILCS 5/12-3.05(f) (West 2016) amended by P.A. 96-1551, effective July 1, 2011. 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 11.117 when the defendant is charged under 720 ILCS 5/12-3.05(f).

Give Instruction 11.118.

When applicable, give Instruction 4.35 defining “air rifle”.

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