

### **11.110 Issues In Aggravated Battery--Based On Injury To A Child Or Person With An Intellectual Disability**

To sustain the charge of aggravated battery of a [(child) (person with an intellectual disability)], the State must prove the following propositions:

[1] *First Proposition:* That the defendant knowingly by any means caused [great] bodily harm to \_\_\_\_\_; and

*Second Proposition:* At the time of the act, the defendant was at least 18 years of age; and

*Third Proposition:* At the time of the act, \_\_\_\_\_ was a [(child under 13 years of age) (severely or profoundly intellectually disabled person)].

[or]

[2] *First Proposition:* That the defendant knowingly by any means [(caused bodily harm) (made physical contact of an insulting or provoking nature)] with \_\_\_\_\_; and

*Second Proposition:* That the defendant caused [(permanent disability) (permanent disfigurement)] to \_\_\_\_\_; and

*Third Proposition:* That when the defendant did so, the defendant was at least 18 years of age; and

*Fourth Proposition:* That when the defendant did so, \_\_\_\_\_ was a [(child under 13 years of age) (severely or profoundly intellectually disabled person)].

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

#### **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.

When the defendant is charged with causing bodily harm or great bodily harm under 720 ILCS 5/12-3.05(b), it is not necessary to include the predicate allegations of battery as otherwise required by the statutory language (“when, in committing a battery). In that situation, use the first set of propositions, bracketed “[1]”. If the defendant is charged with causing disability, permanent disability, disfigurement or permanent disfigurement, use the second set of propositions, bracketed “[2]”.

Insert in the blanks the name of the victim.

Whenever the jury is to be instructed on an affirmative defense, this instruction must be combined with the appropriate instructions from Chapter 24-25.00. Because the additional proposition or propositions that will thereby be included will require the jury to find that the defendant acted without legal justification, the Committee has concluded that the phrase “without legal justification” need not be used in this issues instruction, although it does need to be included in Instruction 11.109 (see the Committee Note to Instruction 11.109).

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.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.