

## 11.108 Issues In Aggravated Battery--Based on Injury

To sustain the charge of aggravated battery, the State must prove the following proposition(s):

[1] *First Proposition:* That the defendant knowingly caused great bodily harm, other than by the discharge of a firearm, to \_\_\_\_\_ [(.) (, and)]

*Second Proposition:* That the defendant did so by means of a [(caustic substance) (flammable substance) (poisonous gas) (deadly [(biological) (chemical)] [(contaminant) (agent)]) (radioactive substance) (bomb) (explosive compound).

[or]

*Second Proposition:* That the defendant knew \_\_\_\_\_ to be a [(peace officer) (community policing volunteer) (fireman) (private security officer) (correctional institution employee)]; and

*Third Proposition:* That the defendant [(knew \_\_\_\_\_ was performing) (battered \_\_\_\_\_ to prevent performance of) (battered \_\_\_\_\_ in retaliation for performing)] his official duties.

[or]

*Second Proposition:* That at the time the defendant did so, he knew \_\_\_\_\_ to be a Department of Human Services employee; and

*Third Proposition:* That at the time the defendant did so, he knew that \_\_\_\_\_ was [(supervising) (controlling)] sexually [(dangerous) (violent)] persons); and

*Fourth Proposition:* That the defendant [(knew that \_\_\_\_\_ was performing) (battered \_\_\_\_\_ to prevent performance of) (battered \_\_\_\_\_ in retaliation for performing)] his official duties.

[or]

*Second Proposition:* That at the time the defendant did so, \_\_\_\_\_ was 60 years of age or older.

[or]

[2] *First Proposition:* That the defendant knowingly [(caused bodily harm) (made physical contact of an insulting or provoking nature)], other than by the discharge of a firearm, with \_\_\_\_\_; and

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

[or]

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

*Third Proposition:* That the defendant did so by means of [(a caustic substance) (a flammable substance) (a poisonous gas) (a deadly [(biological) (chemical)] [(contaminant) (agent)]) (a radioactive substance) (a bomb) (an explosive compound)].

[or]

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

*Third Proposition:* That at the time the defendant did so, he knew \_\_\_\_\_ to be a [(peace officer) (community policing volunteer) (fireman) (private security officer) (correctional institution employee)]; and

*Fourth Proposition:* That the defendant [(knew \_\_\_\_\_ was performing) (battered \_\_\_\_\_ to prevent performance of) (battered \_\_\_\_\_ in retaliation for performing)] his official duties.

[or]

*Second Proposition:* That at the time the defendant did so, he knew \_\_\_\_\_ to be a Department of Human Services employee; and

*Third Proposition:* That at the time the defendant did so, he knew that \_\_\_\_\_ was [(supervising) (controlling)] sexually [(dangerous) (violent)] persons); and

*Fourth Proposition:* That the defendant [(knew that \_\_\_\_\_ was performing) (battered \_\_\_\_\_ to prevent performance of) (battered \_\_\_\_\_ in retaliation for performing)] his official duties.

[or]

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

*Third Proposition:* That at the time the defendant did so, \_\_\_\_\_ was 60 years of age or older.

[or]

*Second Proposition:* That the defendant strangled \_\_\_\_\_.

If you find from your consideration of all the evidence that [(each one of these propositions) (this proposition)] 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) (this proposition)] 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(a) (West 2016), amended and renumbered by P.A. 96-1551 effective July 1, 2011, and amended by P.A.s 97-313, 97-467, 97-597 effective January 1, 2012, P.A. 97-1109 effective January 1, 2013, and P.A.s 98-369, 98-385 effective January 1, 2014.

Give Instruction 11.107.

Insert in the blank(s) the name of the victim.

When the defendant is charged with causing great bodily harm under section (a) (1), (2), (3) or (4) of 720 ILCS 5/12-3.05, it is not necessary to include the bracketed material alleging the defendant caused bodily harm or made contact of an insulting or provoking nature. If the defendant is charged with causing great bodily harm, use the instructions in the first set of propositions, bracketed “[1]”. If the defendant is charged with causing permanent disability, severe and permanent disability, or disfigurement, use the second set of propositions, bracketed “[2]”. Because “great bodily harm” necessarily includes “bodily harm”, the Committee believes it is not necessary for the jury to separately find that the defendant committed a battery. The second set of propositions contain the predicate allegations of battery as otherwise required by the statutory language i.e., “when, in committing a battery”.

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 11.107 (see the Committee Note to Instruction 11.107).

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.