

11.23

Definition Of Aggravated Battery With A Firearm

A person commits the offense of aggravated battery with a firearm when he, by means of discharging a firearm, [(intentionally) (knowingly)] causes injury to [1] another person.

[or]

[2] a person he knows to be [(a peace officer) (a person summoned by a peace officer) (a correctional institution employee) (a fireman) (an emergency medical technician) (an ambulance driver) (a medical assistant) (a first aid attendant)] [employed by a municipality [or other governmental unit]]

[a] while the [(officer) (employee) (fireman) (emergency medical technician) (ambulance driver) (medical assistant) (first aid attendant)] is engaged in the execution of his official duties.

[or]

[b] to prevent the [(officer) (employee) (fireman) (emergency medical technician) (ambulance driver) (medical assistant) (first aid attendant)] from performing his official duties.

[or]

[c] in retaliation for the [(officer) (employee) (fireman) (emergency medical technician) (ambulance driver) (medical assistant) (first aid attendant)] performing his official duties.

Committee Note

720 ILCS 5/12-4.2 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §12-4.2 (1991)), added by P.A. 86-980, effective July 1, 1990; amended by P.A. 87-921, effective January 1, 1993; P.A. 87-1256, effective July 1, 1993; and P.A. 88-433, effective January 1, 1994.

Give Instructions 11.23A and 11.24.

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. *See People v. Worsham*, 26 Ill.App.3d 767, 326 N.E.2d 134 (1st Dist.1975).

Regarding offenses committed upon emergency medical technicians (EMT) (paragraph [2]), if the definition of EMT or the type of EMT becomes an issue, see Section 4.12, 4.13, or 4.15 of the Emergency Medical Services System Act (210 ILCS 50/4.12, 4.13, or 4.15 (West 1992)) which define EMT-ambulance, EMT-paramedic, and EMT-intermediate. See 720 ILCS 5/2-6.5 (West Supp.1993).

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 instructions submitted to the jury.