

ASSAULT, ATTEMPTING TO INFLICT SERIOUS INJURY. MISDEMEANOR.
G.S. 14-33(c)(1).

The defendant has been charged with assault, attempting to inflict serious injury.

For you to find the defendant guilty of this offense, the State must prove two things beyond a reasonable doubt:

First, that the defendant assaulted the victim by intentionally¹ (and without justification or excuse)² (*describe assault*).

And Second, that the defendant attempted³ to inflict serious injury upon the victim.⁴

NOTE WELL: *If self-defense is an issue, use N.C.P.I.--Crim. 308.40 or 308.45, as appropriate.*

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally assaulted the victim attempting to inflict serious injury by (*describe assault*), (nothing else appearing)² it would be your

¹If a definition of intent is required, see N.C.P.I.--Crim. 120.10.

²The parenthetical phrase should be used only where there is evidence of justification or excuse, such as self-defense.

³If an instruction explaining "attempt" is required, see N.C.P.I.--Crim. 201.10.

⁴Serious injury may be defined as "such injury as causes great pain and suffering." See S. v. Jones, 258 N.C. 89 (1962); S. v. Ferguson, 261 N.C. 558 (1964). If there is evidence as to injuries which could not conceivably be considered anything but serious, the trial judge may instruct the jury as follows: "(Describe injury) would be a serious injury." S. v. Johnson, 320 N.C. 746, 751 (1987).

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duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or both of these things, it would be your duty to return a verdict of not guilty.⁵

NOTE WELL: If self-defense is an issue, use mandate from N.C.P.I.--Crim. 308.40 or 308.45, as appropriate.⁶

⁵If there is to be instruction on lesser included offenses, the last phrase should be: ". . . you will not return a verdict of guilty of assault with intent to kill."

⁶Including self-defense in the mandate is required by S. v. Dooley, 285 N.C. 158, 165 (1974).