

208.60 ASSAULT INFLICTING SERIOUS INJURY. MISDEMEANOR.

NOTE WELL: Use N.C.P.I. 208.72 if the defendant, during the course of the assault, inflicts serious bodily injury or uses a deadly weapon on a person with whom the defendant has a personal relationship, in the presence of a minor.

The defendant has been charged with assault inflicting 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 alleged victim by intentionally¹ (and without justification or excuse)² (*describe assault*).

And Second, that the defendant inflicted serious injury upon the alleged victim. Serious injury is such physical injury as causes great pain and suffering.³

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 alleged victim inflicting serious injury by (*describe assault*) (nothing else appearing) it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.⁴

NOTE WELL: If self-defense is an issue, use mandate from N.C.P.I.—Crim. 308.40 or 308.45, as appropriate.⁵

1. If a definition of intent is required, see N.C.P.I.—Crim. 120.10.
2. The parenthetical phrase should be used only where there is some evidence of justification or excuse, such as self-defense.
3. See *S. v. Jones*, 258 N.C. 89 (1962), and *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).

4. If there is to be instruction on lesser included offenses, the last phrase should be: ". . . you will not return a verdict of guilty of assault inflicting serious injury."

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