

**AGGRAVATED ASSAULT - BODILY INJURY WITH DEADLY WEAPON
(PURPOSELY OR KNOWINGLY)
(N.J.S.A. 2C:12-1b(2))**

Count _____ of the indictment charges defendant with aggravated assault in that he/she allegedly

(Read appropriate count of Indictment)

Defendant is accused of violating a section of our law that reads as follows:

A person is guilty of aggravated assault if he/[she] attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon.

Under this statute, the defendant can be found guilty if he/she EITHER caused bodily injury to another with a deadly weapon OR attempted to cause bodily injury to another with a deadly weapon.

To find the defendant guilty of causing bodily injury to another with a deadly weapon, the State must prove beyond a reasonable doubt the following elements:

1. that the defendant caused bodily injury to another; and
2. that the defendant caused the bodily injury by use of a deadly weapon; and
3. that the defendant acted purposely or knowingly.

The first element that the State must prove beyond a reasonable doubt is that defendant caused bodily injury to another.

Bodily injury is defined as physical pain, illness, or any impairment of the physical condition of another.¹

¹ N.J.S.A. 2C:11-1a.

**AGGRAVATED ASSAULT-BODILY INJURY WITH
DEADLY WEAPON (PURPOSELY OR KNOWINGLY)**
(N.J.S.A. 2C:12-1b(2))
Page 2 of 6

The second element that the State must prove beyond a reasonable doubt is that the defendant caused the bodily injury by use of a deadly weapon.

Causation has a special meaning under the law. To establish causation, the State must prove two elements, each beyond a reasonable doubt:

First, that but for the defendant's conduct, (name of victim) would not have sustained bodily injury.

Second, that the bodily injury sustained by (name of victim) was within the design or contemplation of the defendant. If not, it must involve the same kind of injury or harm as that designed or contemplated, and must also not be too remote, too accidental in its occurrence or too dependent on another's volitional act to have a just bearing on the defendant's liability or on the gravity of his offense. In other words, the State must prove beyond a reasonable doubt that the bodily injury sustained by (name of victim) was not so unexpected or unusual that it would be unjust to find the defendant guilty of aggravated assault.

A deadly weapon is any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury. Serious bodily injury means bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

The third element that the State must prove beyond a reasonable doubt is that the defendant acted purposely or knowingly.

AGGRAVATED ASSAULT-BODILY INJURY WITH
DEADLY WEAPON (PURPOSELY OR KNOWINGLY)
(N.J.S.A. 2C:12-1b(2))
Page 3 of 6

A person acts purposely with respect to the nature of (his/her) conduct or a result thereof if it is his/her conscious object to engage in conduct of that nature or to cause such a result. A person acts purposely with respect to attendant circumstances if (he/she) is aware of the existence of such circumstances or he/she believes or hopes that they exist. “With purpose,” “designed,” “with design,” or equivalent terms have the same meaning.

A person acts knowingly with respect to the nature of his/her conduct or the attendant circumstances if he/she is aware that his/her conduct is of that nature, or that such circumstances exist or the person is aware of a high probability of their existence. A person acts knowingly with respect to a result of the conduct if he/she is aware that it is practically certain that his/her conduct will cause such a result. “Knowing,” “with knowledge,” or equivalent terms have the same meaning.

Purpose and knowledge are conditions of the mind that cannot be seen and that can be determined only from inferences from conduct, words or acts. It is not necessary for the State to produce a witness to testify that the defendant stated that he/she acted with a particular state of mind. It is within your power to find that proof of purpose or knowledge has been furnished beyond a reasonable doubt by inferences that may arise from the nature of the acts and circumstances surrounding the conduct in question.

[CHARGE WHERE APPROPRIATE]

[When the actual victim was one other than the intended victim, add:

It is immaterial that (name the victim) was or was not the intended victim.]

**AGGRAVATED ASSAULT-BODILY INJURY WITH
DEADLY WEAPON (PURPOSELY OR KNOWINGLY)**
(N.J.S.A. 2C:12-1b(2))
Page 4 of 6

[CHARGE IN ALL CASES]

If you find that the State has proved each element beyond a reasonable doubt, then you must find defendant guilty. If you find that the State has failed to prove any element beyond a reasonable doubt, then you must find defendant not guilty of the charge of aggravated assault by causing bodily injury with a deadly weapon.²

As I previously instructed you, the defendant can be found guilty if he/she EITHER caused bodily injury to another with a deadly weapon OR attempted to cause bodily injury to another with a deadly weapon. If you find beyond a reasonable doubt that defendant attempted to cause bodily injury to another with a deadly weapon, it does not matter whether such injury actually resulted.

The law provides that a person is guilty of attempt if, acting purposefully, he/she:

(select appropriate section)

1. Engaged in conduct that would constitute the offense if the attendant circumstances were as a reasonable person would believe them to be;

(or)

2. Did (or omitted to do) anything with the purpose of causing serious bodily injury to another without further conduct on his/her part. This means that the defendant(s) did something designed to cause serious bodily injury without having to take any further action.

² Where appropriate, charge the lesser included offense of simple assault. See Model Charge for N.J.S.A. 2C:12-1a(2).

**AGGRAVATED ASSAULT-BODILY INJURY WITH
DEADLY WEAPON (PURPOSELY OR KNOWINGLY)**
(N.J.S.A. 2C:12-1b(2))
Page 5 of 6

(or)

3. Did (or omitted to do) anything that, under the circumstances as a reasonable person would believe them to be, was an act (or omission) constituting a substantial step in a course of conduct planned to culminate in his/her commission of the crime. The step taken must be one that is strongly corroborative of the defendant's criminal purpose. The accused must be shown to have had a firmness of criminal purpose in light of the step(s) he/she had already taken. These preparatory steps must be substantial and not just very remote preparatory acts.³

Bodily injury is defined as physical pain, illness, or any impairment of the physical condition of another.

A deadly weapon is any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury. Serious bodily injury means bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

A person acts purposely with respect to the nature of (his/her) conduct or a result thereof if it is the person's conscious object to engage in conduct of that nature or to cause such a result. A person acts purposely if he/she acts with design, with a specific intent, with a particular object or purpose or if he/she means to do what he/she does (e.g., "I did it on purpose").

³ State v. Fornino, 223 N.J. 531, 538 (App. Div. 1988), certif. den., 111 N.J. 570 (1988); cert. den., 488 U.S. 859, 109 S.Ct. 152, 102 L.Ed. 2d 123 (1988).

**AGGRAVATED ASSAULT-BODILY INJURY WITH
DEADLY WEAPON (PURPOSELY OR KNOWINGLY)**
(N.J.S.A. 2C:12-1b(2))
Page 6 of 6

If you find that the State has proved beyond a reasonable doubt that the defendant attempted to cause bodily injury to another with a deadly weapon, then you must find defendant guilty.

If you find that the State has failed to prove beyond a reasonable doubt that the defendant attempted to cause bodily injury to another with a deadly weapon, then you must find defendant not guilty.