

208.05 MALICIOUS CASTRATION. FELONY.

The defendant has been charged with malicious castration.

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

First, that the defendant [cut off] [maimed] [disfigured] a privy member of the victim, thereby permanently injuring him. (*Name privy member*) is a privy member.

Second, that the defendant acted unlawfully and with the intent¹ to [murder] [maim] [disfigure] [disable] [render impotent] the victim.

And Third, that *he* acted with malice aforethought. Malice means not only hatred, ill will, or spite as it is ordinarily understood-to be sure, that is malice-but it also means the condition of mind which prompts a person to intentionally inflict serious bodily harm which proximately results in injury without just cause, excuse, or justification. You may consider this along with all other facts and circumstances in determining whether the castration was unlawful and whether it was done with malice. Aforethought means that *he* formed the intent to (castrate) before doing it.

*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 with malice aforethought, unlawfully and with the intent to [murder] [maim] [disfigure] [disable] [render impotent] the victim [cut off] [maimed] [disfigured] the victim's (*name privy member*), thereby permanently injuring him, it would be your

duty to return a verdict of guilty of malicious castration. If you do not so find or have a

reasonable doubt as to one or more of these things, you will not return a verdict of guilty of malicious castration,² but must determine whether *he* is guilty of castration without malice aforethought. Castration without malice aforethought differs from malicious castration in that the State need not prove beyond a reasonable doubt that the defendant acted with malice aforethought.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant unlawfully with the intent to [kill] [maim] [disfigure] [disable] [render impotent] the victim [cut off] [maimed] [disfigured] the victim's (*name privy member*), thereby permanently injuring him, 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.

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

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

2. If there is to be no instruction on lesser included offenses, the last phrase should be ". . . it would be your duty to return a verdict of not guilty of malicious castration."