

208.55 ASSAULT, ATTEMPTING TO INFLICT SERIOUS INJURY.  
MISDEMEANOR.

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 intentionally<sup>1</sup> (and without justification or excuse)<sup>2</sup> (*describe assault*).

And Second, that the defendant attempted<sup>3</sup> to inflict serious injury upon the victim.<sup>4</sup>

*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)<sup>2</sup> 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 both of these things, it would be your duty to return a verdict of not guilty.<sup>5</sup>

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

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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 evidence of justification or excuse, such as self-defense.

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

4. Serious injury may be defined as "such injury as causes great pain and suffering."

N.C.P.I.-Crim. 208.55  
ASSAULT, ATTEMPTING TO INFLICT SERIOUS INJURY. MISDEMEANOR.  
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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).

5. 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 with intent to kill."

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