

N.C.P.I.—Crim 208.94

ASSAULT INFLICTING SERIOUS BODILY INJURY ON A [[LAW ENFORCEMENT] [PROBATION] [PAROLE] OFFICER]] [MEMBER OF THE NORTH CAROLINA NATIONAL GUARD] [PERSON EMPLOYED AT A [STATE] [LOCAL] DETENTION FACILITY]. FELONY.

REPLACEMENT JUNE 2017

N.C. Gen. Stat. § 14-34.7(b)

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208.94 ASSAULT INFLICTING SERIOUS BODILY INJURY ON A [[LAW ENFORCEMENT] [PROBATION] [PAROLE] OFFICER]] [MEMBER OF THE NORTH CAROLINA NATIONAL GUARD] [PERSON EMPLOYED AT A [STATE] [LOCAL] DETENTION FACILITY]. FELONY.

The defendant has been charged with assault<sup>1</sup> on a [[law enforcement] [probation] [parole] officer]] [member of the North Carolina National Guard] [person employed at a [state] [local] detention facility] inflicting serious bodily injury.

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

First, that the defendant assaulted the alleged victim by intentionally<sup>2</sup> (and without justification or excuse)<sup>3</sup> (*describe assault*);

Second, that the defendant inflicted serious bodily injury. Serious bodily injury is injury that creates or causes [a substantial risk of death] [serious permanent disfigurement] [coma] [a permanent or protracted condition that causes extreme pain] [permanent or protracted loss or impairment of the function of any bodily member or organ] [prolonged hospitalization].

Third, that the alleged victim was a [[law enforcement] [probation] [parole] officer]] [member of the North Carolina National Guard] [person who is employed at a detention facility operated under the jurisdiction of [the State] [a local government];

Fourth, that the defendant knew or had reasonable grounds to know that the alleged victim was a [[law enforcement] [probation] [parole] officer]] [member of the North Carolina National Guard] [person who is employed at a detention facility operated under the jurisdiction of [the State] [a local government];

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And Fifth, that the alleged victim was in the performance of the alleged victim's duties. (*Describe duty, e.g., serving a warrant is a duty.*)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally assaulted and inflicted serious bodily injury upon the alleged victim who was a [[law enforcement] [probation] [parole] officer]] [member of the North Carolina National Guard] [person who is employed at a detention facility operated under the jurisdiction of [the State] [a local government] in the performance of the alleged victim's duties and the defendant knew or had reasonable grounds to know that the alleged victim was a [[law enforcement] [probation] [parole] officer]] [member of the North Carolina National Guard] [person who is employed at a detention facility operated under the jurisdiction of [the State] [a local government], 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, then it would be your duty to return a verdict of not guilty.<sup>4</sup>

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1 If a definition of assault is needed, see N.C.P.I.—Crim. 120.20.

2 If a definition of intent is needed, see N.C.P.I.—Crim. 120.10

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

4 Assault on a law enforcement officer inflicting physical injury is a lesser-included offense. N.C. Gen. Stat. § 14-34.7(c). See N.C.P.I.—Crim. 208.95C. If there is to be a lesser included offense of simple assault, see N.C.P.I.—Crim. 208.60 and 208.82. If there is a discrepancy as to whether an alleged assault involved serious bodily injury or physical injury, then both charges should be submitted with physical injury being a lesser included offense.