

N.C.P.I.—Crim. 208.95A
ASSAULT WITH A FIREARM OR OTHER DEADLY WEAPON UPON EMERGENCY
MEDICAL SERVICES PERSONNEL. FELONY.
GENERAL CRIMINAL VOLUME
REPLACEMENT JANUARY 2024
N.C. Gen. Stat. § 14-34.6

208.95A ASSAULT WITH A FIREARM OR OTHER DEADLY WEAPON UPON
EMERGENCY MEDICAL SERVICES PERSONNEL.¹ FELONY.

The defendant has been charged with assault with a [firearm] [deadly weapon] upon an emergency medical services person while such person was in the performance of *his* duties.

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 victim by intentionally² (and without justification or excuse)³ (*describe assault*).

Second, that the defendant used a [firearm. (*Describe firearm*) is a firearm] [deadly weapon. A deadly weapon is a weapon which is likely to cause death or serious bodily injury. In determining whether (*name object*) is a deadly weapon, you should consider the nature of (*name object*), the manner in which it was used, and the size and strength of the defendant as compared to the victim].

Third, that the victim was an emergency medical services person.

Fourth, that the defendant knew or had reasonable grounds to believe that the victim was an emergency medical services person.

And Fifth, that the victim was [discharging] [attempting to discharge] an official duty. (*Describe what victim was doing, e.g., providing care for a patient*) is an official duty of an emergency medical services person.⁴

NOTE WELL: If self-defense is an issue, use N.C.P.I.—Crim. 308.45.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally (and without justification or excuse) (*describe assault*) the victim with a [firearm] [(*name object*) (and

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that (*name object*) was a deadly weapon)⁵], and that the victim was an emergency medical services person, who was [discharging] [attempting to discharge] an official duty, and that the defendant knew or had reasonable grounds to believe that the victim was an emergency medical services person, it would be your duty to return a verdict of guilty. However, 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.⁶

1. N.C. Gen. Stat. § 14-34.6 relates to assaults or affrays on emergency medical technician or other emergency health care provider, medical responders, hospital employees, medical practice employees, licensed health care providers, individuals under contract to provide services at a hospital or medical practice, firefighters, and hospital security personnel.

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

3. The parenthetical phrase should be used only where there is evidence of justification or excuse.

4. Where the state contends that the victim was doing one thing, which would be a duty of his office, but there is evidence that he may have been doing something else which would not be a duty of his office, state what would and would not be a duty of the victim's office.

5. The parenthetical phrase should be given only where the weapon may not have been deadly *per se* and the third bracketed phrase has been used in the second element above.

6. If there is to be a charge on a lesser included offense, the last phrase should be “. . . you would not return a verdict of guilty as charged.”