

## **CR1320 Aggravated Assault**

(DEFENDANT'S NAME) is charged [in Count \_\_\_\_] with committing Aggravated Assault [on or about (DATE)]. You cannot convict [him] [her] of this offense unless, based on the evidence, you find beyond a reasonable doubt each of the following elements:

1. (Defendant's Name):
  - a. [intentionally or knowingly attempted, with unlawful force or violence, to do bodily injury to (VICTIM'S NAME); or]
  - b. [intentionally, knowingly, or recklessly
    - i. made a threat accompanied by a show of immediate force or violence, to do bodily injury to (VICTIM'S NAME); or
    - ii. committed an act with unlawful force or violence that
      1. cause bodily injury to (VICTIM'S NAME); or
      2. created a substantial risk of bodily injury to (VICTIM'S NAME);] and
2. (DEFENDANT'S NAME):
  - a. [used a dangerous weapon; or]
  - b. [committed any act that interfered with the breathing or the circulation of blood of (VICTIM'S NAME) by use of unlawful force or violence that was likely to produce a loss of consciousness by:
    - i. applying pressure to the neck or throat of (VICTIM'S NAME); or
    - ii. obstructing the nose, mouth, or airway of (VICTIM'S NAME); or]
  - c. [used [other] means or force likely to produce death or serious bodily injury]; and
3. [(DEFENDANT'S NAME)'s actions
  - a. [resulted in serious bodily injury; or]
  - b. [produced a loss of consciousness by impeding the breathing or circulation of blood of (VICTIM'S NAME).]
4. [The defense of \_\_\_\_\_ does not apply.]

After you carefully consider all the evidence in this case, if you are convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant GUILTY. On the other hand, if you are not convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant NOT GUILTY.

## **References**

Utah Code sect. 76-5-103

## **Committee Notes**

If the case requires instruction on element 3, practitioners should consider using a special verdict form (SVF1301), as this element can result in different levels of offense.

In cases involving domestic violence, practitioners should include a special verdict form (SVF1331) and instructions defining cohabitant (CR1330 and CR1331).

Utah appellate courts have not decided whether the cohabitant relationship between the defendant and the alleged victim is an element of the offense requiring proof of an associated mens rea (intentional, knowing, or reckless). Practitioners should review *State v. Barela*, 2015 UT 22.

When relevant to the facts of the case, this instruction should be used in connection with CR1322 (Aggravated Assault - Targeting a Law Enforcement Officer - Special Verdict Instructions) and SVF 1302 (Aggravated Assault - Targeting a Law Enforcement Officer).

## **Amended Dates:**

10/02/2019

10/07/2020