

**14-5182. Defense of another; nondeadly force by defendant.<sup>1</sup>**

Evidence has been presented that the defendant acted while defending another person.

The defendant acted in defense of another if:

1. There was an appearance of immediate danger of bodily harm to \_\_\_\_\_<sup>2</sup> as a result of \_\_\_\_\_<sup>3</sup>; and
2. The defendant believed that \_\_\_\_\_<sup>2</sup> was in immediate danger of bodily harm from \_\_\_\_\_ (*name of victim*) and \_\_\_\_\_<sup>4</sup> to prevent the bodily harm; and
3. The defendant used an amount of force that the defendant believed was reasonable and necessary to prevent the bodily harm; and
- [4. The force used by defendant ordinarily would not create a substantial risk of death or great bodily harm; and]<sup>5</sup>
5. The apparent danger to \_\_\_\_\_<sup>2</sup> would have caused a reasonable person in the same circumstances to act as defendant did.

The burden is on the state to prove beyond a reasonable doubt that the defendant did not act in defense of \_\_\_\_\_<sup>2</sup>. If you have a reasonable doubt as to whether the defendant acted in defense of another, you must find the defendant not guilty.

**USE NOTES**

1. For use in nonhomicide cases when the defense theory is based upon: a reasonable ground to believe a design exists to commit an unlawful act; a reasonable ground to believe a design exists to do bodily harm; or a defense of spouse, or other member of the family, a necessary defense against any unlawful action. If this instruction is given, add to the essential elements instruction for the offense charged, "The defendant did not act in defense of \_\_\_\_\_"<sup>2</sup>.

2. Give the name of the person in apparent danger, if known, and the relationship to defendant, if any. More than one person may be included.

3. Describe unlawful act which would result in some bodily harm as established by the evidence. Give at least enough detail to put the act in the context of the evidence.

4. Describe the act of defendant; e.g., "struck Richard Roe", "choked Richard Roe".

5. Use bracketed material only if the defendant's action resulted in death or great bodily harm. The definition of great bodily harm, UJI 14-131, must be given if not already given.

[As amended, effective January 1, 1997.]