

**OTHER STATES' AGGRAVATED AND
FELONIOUS ASSAULT STATUTES
AND USSC GUIDELINES**

2011 FEDERAL SENTENCING GUIDELINES MANUAL

CHAPTER TWO - OFFENSE CONDUCT

U.S. Sentencing Commission

PART A - OFFENSES AGAINST THE PERSONES

2. ASSAULT

§2A2.2. Aggravated Assault

(a) Base Offense Level: 14

(b) Specific Offense Characteristics

(1) If the assault involved more than minimal planning, increase by 2 levels.

(2) If (A) a firearm was discharged, increase by 5 levels; (B) a dangerous weapon (including a firearm) was otherwise used, increase by 4 levels; (C) a dangerous weapon (including a firearm) was brandished or its use was threatened, increase by 3 levels.

(3) If the victim sustained bodily injury, increase the offense level according to the seriousness of the injury:

	<u>Degree of Bodily Injury</u>	<u>Increase in Level</u>
(A)	Bodily Injury	add 3
(B)	Serious Bodily Injury	add 5
(C)	Permanent or Life-Threatening Bodily Injury	add 7
(D)	If the degree of injury is between that specified in subdivisions (A) and (B),	add 4 levels; or
(E)	If the degree of injury is between that specified in subdivisions (B) and (C),	add 6 levels.

However, the cumulative adjustments from application of subdivisions (2) and (3) shall not exceed 10 levels.

(4) If the assault was motivated by a payment or offer of money or other thing of value, increase by 2 levels.

(5) If the offense involved the violation of a court protection order, increase by 2 levels.

(6) If the defendant was convicted under 18 U.S.C. § 111(b) or § 115, increase by 2 levels.

Commentary

Statutory Provisions: 18 U.S.C. §§ 111, 112, 113(a)(2), (3), (6), 114, 115(a), (b)(1), 351(e), 1751(e), 1841(a)(2)(C), 1992(a)(7), 2199, 2291, 2332b(a)(1), 2340A. For additional statutory provision(s), see Appendix A (Statutory Index).

Application Notes:

1. Definitions.—For purposes of this guideline:

"Aggravated assault" means a felonious assault that involved (A) a dangerous weapon with intent to cause bodily injury (i.e., not merely to frighten) with that weapon; (B) serious bodily injury; or (C) an intent to commit another felony.

State Felonious and Aggravated Assault Statutes that specify robbery as an aggravating factor

Alabama Section 13A-6-20

(a) A person commits the crime of assault in the first degree if:

(1) With intent to cause serious physical injury to another person, he causes serious physical injury to any person by means of a deadly weapon or a dangerous instrument; or

(2) With intent to disfigure another person seriously and permanently, or to destroy, amputate or disable permanently a member or organ of his body, he causes such an injury to any person; or

(3) Under circumstances manifesting extreme indifference to the value of human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes serious physical injury to any person; or

(4) In the course of and in furtherance of the commission or attempted commission of arson in the first degree, burglary in the first or second degree, escape in the first degree, kidnapping in the first degree, rape in the first degree, robbery in any degree, sodomy in the first degree or any other felony clearly dangerous to human life, or of immediate flight therefrom, he causes a serious physical injury to another person; or

(5) While driving under the influence of alcohol or a controlled substance or any combination thereof in violation of Section 32-5A-191 he causes serious bodily injury to the person of another with a motor vehicle.

(b) Assault in the first degree is a Class B felony.

Florida Chapter 784.021

Aggravated assault.—

(1) An “aggravated assault” is an assault:

(a) With a deadly weapon without intent to kill; or

(b) With an intent to commit a felony.

(2) Whoever commits an aggravated assault shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Georgia O.C.G.A. 16-5-21 (2010) aggravated assault

(a) A person commits the offense of aggravated assault when he or she assaults:

(1) With intent to murder, to rape, or to rob;

(b) Except as provided in subsections (c) through (k) of this Code section, a person convicted of the offense of aggravated assault shall be punished by imprisonment for not less than one nor more than 20 years.

Kansas Crimes and Punishments: 21-5412. Assault; aggravated assault; assault of a law enforcement officer; aggravated assault of a law enforcement officer.

(a) Assault is knowingly placing another person in reasonable apprehension of immediate bodily harm;

(b) **Aggravated assault is assault, as defined in subsection (a), committed:**

(1) With a deadly weapon;

(2) while disguised in any manner designed to conceal identity; or

(3) **with intent to commit any felony.**

Michigan 750.88

Assault with intent to rob and steal being unarmed—Any person, not being armed with a dangerous weapon, who shall assault another with force and violence, and with intent to rob and steal, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 15 years.

New Mexico, NM Stat § 30-3-2. Aggravated assault consists of either:

A. unlawfully assaulting or striking at another with a deadly weapon;

B. committing assault by threatening or menacing another while wearing a mask, hood, robe or other covering upon the face, head or body, or while disguised in any manner, so as to conceal identity; or

C. **willfully and intentionally assaulting another with intent to commit any felony.**

Whoever commits aggravated assault is guilty of a fourth degree felony.

New York, N.Y. PEN. LAW § 120.10

A person is guilty of assault in the first degree when: 1. With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument; or 2. With intent to disfigure another person seriously and permanently, or to destroy, amputate or disable permanently a member or organ of his body, he causes such injury to such person or to a third person; or 3. Under circumstances evincing a depraved indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes serious physical injury to another person; or 4. **In the course of and in furtherance of the commission or attempted commission of a felony or of immediate flight therefrom, he, or another participant if there be any, causes serious physical injury to a person other than one of the participants. Assault in the first degree is a class B felony.**

Rhode Island RI Gen L § 11-5-1

Every person who shall make an assault with intent to commit murder, robbery, sexual assault, burglary, or the abominable and detestable crime against nature, shall be imprisoned not exceeding twenty (20) years nor less than one year.

South Carolina SECTION 16-3-600

(C)(1) A person commits the offense of assault and battery in the first degree if the person unlawfully:

(a) injures another person, and the act:

(i) involves nonconsensual touching of the private parts of a person, either under or above clothing, with lewd and lascivious intent; or

(ii) occurred during the commission of a robbery, burglary, kidnapping, or theft; or

(b) offers or attempts to injure another person with the present ability to do so, and the act:

(i) is accomplished by means likely to produce death or great bodily injury; or

(ii) occurred during the commission of a robbery, burglary, kidnapping, or theft.

(2) A person who violates this subsection is guilty of a felony, and, upon conviction, must be imprisoned for not more than ten years.

Washington RCW 9A.36.021

(1) A person is guilty of assault in the second degree if he or she, under circumstances not amounting to assault in the first degree:

(a) Intentionally assaults another and thereby recklessly inflicts substantial bodily harm; or

(b) Intentionally and unlawfully causes substantial bodily harm to an unborn quick child by intentionally and unlawfully inflicting any injury upon the mother of such child; or

(c) Assaults another with a deadly weapon; or

(d) With intent to inflict bodily harm, administers to or causes to be taken by another, poison or any other destructive or noxious substance; or

(e) With intent to commit a felony, assaults another; or

(f) Knowingly inflicts bodily harm which by design causes such pain or agony as to be the equivalent of that produced by torture; or

(g) Assaults another by strangulation or suffocation.

(2)(a) Except as provided in (b) of this subsection, assault in the second degree is a class B felony.