

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

2 An issue in this case is whether the defendant acted while defending another person.

3 The defendant acted in defense of another if

4 1. There was an appearance of immediate danger of bodily harm to  
5 \_\_\_\_\_<sup>2</sup> as a result of \_\_\_\_\_<sup>3</sup>; and

6 2. The defendant believed that \_\_\_\_\_<sup>2</sup> was in immediate danger of  
7 bodily harm from \_\_\_\_\_ (*name of victim*) and \_\_\_\_\_<sup>4</sup> to prevent  
8 the bodily harm; and

9 3. The defendant used an amount of force that the defendant believed was reasonable  
10 and necessary to prevent the bodily harm; and

11 [4. The force used by defendant ordinarily would not create a substantial risk of death  
12 or great bodily harm; and]<sup>5</sup>

13 5. The apparent danger to \_\_\_\_\_<sup>2</sup> would have caused a reasonable  
14 person in the same circumstances to act as defendant did.

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

18 USE NOTES

19 1. For use in cases when the defense theory is based on (1) a reasonable ground to  
20 believe a design exists to commit an unlawful act or do bodily harm against another; or (2) a  
21 defense of spouse or other family member against any unlawful action. If this instruction is given,  
22 add to the essential elements instruction for the offense charged, [“]“The defendant did not act in  
23 defense of \_\_\_\_\_.[“]”<sup>2</sup>

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

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

5           4.       Describe the act of defendant, [~~e.g.~~] e.g., ["struck [Richard] Roe,["] ["choked  
6 [Richard] Roe.[""]

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

10 [As amended, effective January 1, 1997; as amended by Supreme Court Order No. 18-8300-012,  
11 effective for all cases pending or filed on or after December 31, 2018; as amended by Supreme  
12 Court Order No. S-1-RCR-2025-00126, effective for all cases pending or filed on or after  
13 December 31, 2025.]

14 **Committee commentary.** — NMSA 1978, Section 30-2-7(A) (1963) provides that a person may  
15 necessarily defend a member of the person's family against any unlawful action. Section 30-2-7(B)  
16 provides that a person may reasonably defend another when there is reasonable ground to believe  
17 a design exists to commit a felony or to do some great personal injury against another. Since it is  
18 never reasonable or necessary to use a deadly force to repel a nondeadly attack, these subsections  
19 are redundant. A person may use a deadly force in defending another only if the person reasonably  
20 believes the other person to be in danger of death or great bodily harm. *See* committee commentary  
21 to UJI 14-5172 NMRA.

1 Element 4 is bracketed and is to be used only if there is evidence that the defendant used a force  
2 which ordinarily would not cause death or great bodily harm, but which resulted in death or great  
3 bodily harm.

4 The 1981 amendments to UJI 14-5172 NMRA were made to clarify this instruction and to make  
5 this instruction consistent with other instructions on self-defense.

6 *See also* committee commentary to UJI 14-5181 NMRA.

7 [As amended by Supreme Court Order No. 18-8300-012, effective for all cases pending or filed  
8 on or after December 31, 2018.]