

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Criminal Code of 1961 is amended by
5 changing Section 12-3.2 as follows:

6 (720 ILCS 5/12-3.2) (from Ch. 38, par. 12-3.2)

7 Sec. 12-3.2. Domestic Battery.

8 (a) A person commits domestic battery if he
9 intentionally or knowingly without legal justification by any
10 means:

11 (1) Causes bodily harm to any family or household
12 member as defined in subsection (3) of Section 112A-3 of
13 the Code of Criminal Procedure of 1963, as amended;

14 (2) Makes physical contact of an insulting or
15 provoking nature with any family or household member as
16 defined in subsection (3) of Section 112A-3 of the Code
17 of Criminal Procedure of 1963, as amended.

18 (b) Sentence. Domestic battery is a Class A
19 Misdemeanor. Domestic battery is a Class 4 felony if the
20 defendant has any prior conviction under this Code for
21 domestic battery (Section 12-3.2) or violation of an order of
22 protection (Section 12-30), or any prior conviction under the
23 law of another jurisdiction for an offense which is
24 substantially similar. Domestic battery is a Class 4 felony
25 if the defendant has any prior conviction under this Code for
26 first degree murder (Section 9-1), attempt to commit first
27 degree murder (Section 8-4), aggravated domestic battery
28 (Section 12-3.3), aggravated battery (Section 12-4), heinous
29 battery (Section 12-4.1), aggravated battery with a firearm
30 (Section 12-4.2), aggravated battery of a child (Section
31 12-4.3), aggravated battery of an unborn child (Section

1 12-4.4), aggravated battery of a senior citizen (Section
2 12-4.6), stalking (Section 12-7.3), aggravated stalking
3 (Section 12-7.4), criminal sexual assault (Section 12-13),
4 aggravated criminal sexual assault (12-14), kidnapping
5 (Section 10-1), aggravated kidnapping (Section 10-2),
6 predatory criminal sexual assault of a child (Section
7 12-14.1), aggravated criminal sexual abuse (Section 12-16),
8 unlawful restraint (Section 10-3), aggravated unlawful
9 restraint (Section 10-3.1), aggravated arson (Section
10 20-1.1), or aggravated discharge of a firearm (Section
11 24-1.2), or any prior conviction under the law of another
12 jurisdiction for any offense that is substantially similar to
13 the offenses listed in this Section, when any of these
14 offenses have been committed against a family or household
15 member as defined in Section 112A-3 of the Code of Criminal
16 Procedure of 1963. In addition to any other sentencing
17 alternatives, for any second conviction of violating this
18 Section within 5 years of a previous conviction for violating
19 this Section, the offender shall be mandatorily sentenced to
20 a minimum of 48 consecutive hours of imprisonment. The
21 imprisonment shall not be subject to suspension, nor shall
22 the person be eligible for probation in order to reduce the
23 sentence.

24 (c) Domestic battery committed in the presence of a
25 child. In addition to any other sentencing alternatives, a
26 defendant who commits, in the presence of a child, a felony
27 domestic battery (enhanced under subsection (b)), aggravated
28 domestic battery (Section 12-3.3), aggravated battery
29 (Section 12-4), unlawful restraint (Section 10-3), or
30 aggravated unlawful restraint (Section 10-3.1) against a
31 family or household member, as defined in Section 112A-3 of
32 the Code of Criminal Procedure of 1963, shall be required to
33 serve a mandatory minimum imprisonment of 10 days or perform
34 300 hours of community service, or both. The defendant shall

1 further be liable for the cost of any counseling required for
2 the child at the discretion of the court in accordance with
3 subsection (b) of Section 5-5-6 of the Unified Code of
4 Corrections. For purposes of this Section, "child" means a
5 person under 16 years of age who is the defendant's or
6 victim's child or step-child or who is a minor child residing
7 within the household of the defendant or victim. For
8 purposes of this Section, "in the presence of a child" means
9 in the physical presence of a child or knowing or having
10 reason to know that a child is present and may see or hear an
11 act constituting one of the offenses listed in this
12 subsection.

13 (Source: P.A. 91-112, eff. 10-1-99; 91-262, eff. 1-1-00;
14 91-928, eff. 6-1-01; 92-16, eff. 6-28-01; 92-827, eff.
15 8-22-02.)