

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 both (1)
20 the 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). Domestic battery is a Class 4
23 felony if the defendant has any prior conviction under this
24 Code for first degree murder (Section 9-1), attempt to commit
25 first degree murder (Section 8-4), aggravated domestic
26 battery (Section 12-3.3), aggravated battery (Section 12-4),
27 heinous battery (Section 12-4.1), aggravated battery with a
28 firearm (Section 12-4.2), aggravated battery of a child
29 (Section 12-4.3), aggravated battery of an unborn child
30 (Section 12-4.4), aggravated battery of a senior citizen
31 (Section 12-4.6), stalking (Section 12-7.3), aggravated

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

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

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

11 (Source: P.A. 91-112, eff. 10-1-99; 91-262, eff. 1-1-00;
12 91-928, eff. 6-1-01; 92-16, eff. 6-28-01; 92-827, eff.
13 8-22-02.)