

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 misdemeanor
19 for which the offender shall be mandatorily sentenced to a
20 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. Domestic battery is a Class 4 felony if the
24 defendant has any prior conviction under this Code for
25 domestic battery (Section 12-3.2) or violation of an order of
26 protection (Section 12-30). Domestic battery is a Class 4
27 felony if the defendant has any prior conviction under this
28 Code for first degree murder (Section 9-1), attempt to commit
29 first degree murder (Section 8-4), aggravated domestic
30 battery (Section 12-3.3), aggravated battery (Section 12-4),
31 heinous battery (Section 12-4.1), aggravated battery with a

1 firearm (Section 12-4.2), aggravated battery of a child
2 (Section 12-4.3), aggravated battery of an unborn child
3 (Section 12-4.4), aggravated battery of a senior citizen
4 (Section 12-4.6), stalking (Section 12-7.3), aggravated
5 stalking (Section 12-7.4), criminal sexual assault (Section
6 12-13), aggravated criminal sexual assault (12-14),
7 kidnapping (Section 10-1), aggravated kidnapping (Section
8 10-2), predatory criminal sexual assault of a child (Section
9 12-14.1), aggravated criminal sexual abuse (Section 12-16),
10 unlawful restraint (Section 10-3), aggravated unlawful
11 restraint (Section 10-3.1), aggravated arson (Section
12 20-1.1), or aggravated discharge of a firearm (Section
13 24-1.2), when any of these offenses have been committed
14 against a family or household member as defined in Section
15 112A-3 of the Code of Criminal Procedure of 1963. In addition
16 to any other sentencing alternatives, for any second or
17 subsequent conviction of violating this Section ~~within 5~~
18 ~~years of a previous conviction for violating this Section,~~
19 the offender shall be mandatorily sentenced to a minimum of
20 72 ~~48~~ consecutive hours of imprisonment. The imprisonment
21 shall not be subject to suspension, nor shall the person be
22 eligible for probation in order to reduce the sentence.

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

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

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

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.