



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

HB4287

Introduced 1/30/2004, by Raymond Poe

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.2

from Ch. 38, par. 12-3.2

Amends the Criminal Code of 1961. Provides that for a first offense of domestic battery, the offender shall be sentenced to a mandatory minimum 48 consecutive hours of imprisonment. Provides that for a second or subsequent conviction of domestic battery, the offender shall be sentenced to a mandatory minimum 72 consecutive hours of imprisonment (now for a second conviction committed within 5 years of a previous conviction, the offender shall be mandatorily sentenced to a minimum 48 consecutive hours of imprisonment).

LRB093 17813 RLC 43494 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

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 changing
5 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 intentionally
9 or knowingly without legal justification by any means:

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

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

17 (b) Sentence. Domestic battery is a Class A misdemeanor for
18 which the offender shall be mandatorily sentenced to a minimum
19 of 48 consecutive hours of imprisonment. The imprisonment shall
20 not be subject to suspension, nor shall the person be eligible
21 for probation in order to reduce the sentence. Domestic battery
22 is a Class 4 felony if the defendant has any prior conviction
23 under this Code for domestic battery (Section 12-3.2) or
24 violation of an order of protection (Section 12-30), or any
25 prior conviction under the law of another jurisdiction for an
26 offense which is substantially similar. Domestic battery is a
27 Class 4 felony if the defendant has any prior conviction under
28 this Code for first degree murder (Section 9-1), attempt to
29 commit 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
32 firearm (Section 12-4.2), aggravated battery of a child

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

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

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

10 (Source: P.A. 92-16, eff. 6-28-01; 92-827, eff. 8-22-02; P.A.
11 93-336, eff. 1-1-04.)