

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.
18 Domestic battery is a Class 4 felony if the defendant has any
19 prior conviction under this Code for domestic battery (Section
20 12-3.2) or violation of an order of protection (Section 12-30),
21 or any prior conviction under the law of another jurisdiction
22 for an offense which is substantially similar. Domestic battery
23 is a Class 4 felony if the defendant has any prior conviction
24 under this Code for first degree murder (Section 9-1), attempt
25 to commit first degree murder (Section 8-4), aggravated
26 domestic battery (Section 12-3.3), aggravated battery (Section
27 12-4), heinous battery (Section 12-4.1), aggravated battery
28 with a 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
32 stalking (Section 12-7.4), criminal sexual assault (Section

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

20 (c) Domestic battery committed in the presence of a child.
21 In addition to any other sentencing alternatives, a defendant
22 who commits, in the presence of a child, a felony domestic
23 battery (enhanced under subsection (b)), aggravated domestic
24 battery (Section 12-3.3), aggravated battery (Section 12-4),
25 unlawful restraint (Section 10-3), or aggravated unlawful
26 restraint (Section 10-3.1) against a family or household
27 member, as defined in Section 112A-3 of the Code of Criminal
28 Procedure of 1963, shall be required to serve a mandatory
29 minimum imprisonment of 10 days or perform 300 hours of
30 community service, or both. The defendant shall further be
31 liable for the cost of any counseling required for the child at
32 the discretion of the court in accordance with subsection (b)
33 of Section 5-5-6 of the Unified Code of Corrections. For
34 purposes of this Section, "child" means a person under 16 years
35 of age who is the defendant's or victim's child or step-child
36 or who is a minor child residing within the household of the

1 defendant or victim. For purposes of this Section, "in the
2 presence of a child" means in the physical presence of a child
3 or knowing or having reason to know that a child is present and
4 may see or hear an act constituting one of the offenses listed
5 in this subsection.

6 (Source: P.A. 92-16, eff. 6-28-01; 92-827, eff. 8-22-02; P.A.
7 93-336, eff. 1-1-04.)