

SB2788



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2788

Introduced 1/18/2012, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.2

from Ch. 38, par. 12-3.2

Amends the Criminal Code of 1961. Makes a technical change in a Section concerning domestic battery.

LRB097 16195 RLC 61348 b

A BILL FOR

1 AN ACT concerning 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 or she
9 knowingly without legal justification by any means:

10 (1) Causes bodily harm to any family or household
11 member;

12 (2) Makes physical contact of an insulting or provoking
13 nature with any family or household member.

14 (b) Sentence. Domestic battery is a Class A misdemeanor.
15 Domestic battery is a Class 4 felony if the ~~the~~ defendant has
16 any prior conviction under this Code for domestic battery
17 (Section 12-3.2) or violation of an order of protection
18 (Section 12-3.4 or 12-30), or any prior conviction under the
19 law of another jurisdiction for an offense which is
20 substantially similar. Domestic battery is a Class 4 felony if
21 the defendant has any prior conviction under this Code for
22 first degree murder (Section 9-1), attempt to commit first
23 degree murder (Section 8-4), aggravated domestic battery

1 (Section 12-3.3), aggravated battery (Section 12-3.05 or
2 12-4), heinous battery (Section 12-4.1), aggravated battery
3 with a firearm (Section 12-4.2), aggravated battery with a
4 machine gun or a firearm equipped with a silencer (Section
5 12-4.2-5), aggravated battery of a child (Section 12-4.3),
6 aggravated battery of an unborn child (subsection (a-5) of
7 Section 12-3.1, or Section 12-4.4), aggravated battery of a
8 senior citizen (Section 12-4.6), stalking (Section 12-7.3),
9 aggravated stalking (Section 12-7.4), criminal sexual assault
10 (Section 11-1.20 or 12-13), aggravated criminal sexual assault
11 (Section 11-1.30 or 12-14), kidnapping (Section 10-1),
12 aggravated kidnapping (Section 10-2), predatory criminal
13 sexual assault of a child (Section 11-1.40 or 12-14.1),
14 aggravated criminal sexual abuse (Section 11-1.60 or 12-16),
15 unlawful restraint (Section 10-3), aggravated unlawful
16 restraint (Section 10-3.1), aggravated arson (Section 20-1.1),
17 or aggravated discharge of a firearm (Section 24-1.2), or any
18 prior conviction under the law of another jurisdiction for any
19 offense that is substantially similar to the offenses listed in
20 this Section, when any of these offenses have been committed
21 against a family or household member. In addition to any other
22 sentencing alternatives, for any second or subsequent
23 conviction of violating this Section, the offender shall be
24 mandatorily sentenced to a minimum of 72 consecutive hours of
25 imprisonment. The imprisonment shall not be subject to
26 suspension, nor shall the person be eligible for probation in

1 order to reduce the sentence.

2 (c) Domestic battery committed in the presence of a child.
3 In addition to any other sentencing alternatives, a defendant
4 who commits, in the presence of a child, a felony domestic
5 battery (enhanced under subsection (b)), aggravated domestic
6 battery (Section 12-3.3), aggravated battery (Section 12-3.05
7 or 12-4), unlawful restraint (Section 10-3), or aggravated
8 unlawful restraint (Section 10-3.1) against a family or
9 household member shall be required to serve a mandatory minimum
10 imprisonment of 10 days or perform 300 hours of community
11 service, or both. The defendant shall further be liable for the
12 cost of any counseling required for the child at the discretion
13 of the court in accordance with subsection (b) of Section 5-5-6
14 of the Unified Code of Corrections. For purposes of this
15 Section, "child" means a person under 18 years of age who is
16 the defendant's or victim's child or step-child or who is a
17 minor child residing within or visiting the household of the
18 defendant or victim.

19 (d) Upon conviction of domestic battery, the court shall
20 advise the defendant orally or in writing, substantially as
21 follows: "An individual convicted of domestic battery may be
22 subject to federal criminal penalties for possessing,
23 transporting, shipping, or receiving any firearm or ammunition
24 in violation of the federal Gun Control Act of 1968 (18 U.S.C.
25 922(g)(8) and (9))." A notation shall be made in the court file
26 that the admonition was given.

1 (Source: P.A. 96-287, eff. 8-11-09; 96-1551, Article 1, Section
2 5, eff. 7-1-11; 96-1551, Article 2, Section 1035, eff. 7-1-11;
3 revised 9-30-11.)