



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB0958

Introduced 1/25/2013, by Rep. Emily McAsey

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.2

from Ch. 38, par. 12-3.2

Amends the Criminal Code of 2012. Provides that domestic battery is a Class 4 felony if the defendant has one or 2 prior convictions under the Code for domestic battery. Provides that domestic battery is a Class 3 felony if the defendant had 3 prior convictions under the Code for domestic battery. Provides that domestic battery is a Class 2 felony if the defendant had 4 or more prior convictions under the Code for domestic battery.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 2012 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 defendant has any
16 prior conviction under this Code for ~~domestic battery (Section~~
17 ~~12-3.2)~~ or violation of an order of protection (Section 12-3.4
18 or 12-30), or any prior conviction under the law of another
19 jurisdiction for an offense which is substantially similar.
20 Domestic battery is a Class 4 felony if the defendant has any
21 prior conviction under this Code for first degree murder
22 (Section 9-1), attempt to commit first degree murder (Section
23 8-4), aggravated domestic battery (Section 12-3.3), aggravated

1 battery (Section 12-3.05 or 12-4), heinous battery (Section
2 12-4.1), aggravated battery with a firearm (Section 12-4.2),
3 aggravated battery with a machine gun or a firearm equipped
4 with a silencer (Section 12-4.2-5), aggravated battery of a
5 child (Section 12-4.3), aggravated battery of an unborn child
6 (subsection (a-5) of Section 12-3.1, or Section 12-4.4),
7 aggravated battery of a senior citizen (Section 12-4.6),
8 stalking (Section 12-7.3), aggravated stalking (Section
9 12-7.4), criminal sexual assault (Section 11-1.20 or 12-13),
10 aggravated criminal sexual assault (Section 11-1.30 or 12-14),
11 kidnapping (Section 10-1), aggravated kidnapping (Section
12 10-2), predatory criminal sexual assault of a child (Section
13 11-1.40 or 12-14.1), aggravated criminal sexual abuse (Section
14 11-1.60 or 12-16), unlawful restraint (Section 10-3),
15 aggravated unlawful restraint (Section 10-3.1), aggravated
16 arson (Section 20-1.1), or aggravated discharge of a firearm
17 (Section 24-1.2), or any prior conviction under the law of
18 another jurisdiction for any offense that is substantially
19 similar to the offenses listed in this Section, when any of
20 these offenses have been committed against a family or
21 household member. Domestic battery is a Class 4 felony if the
22 defendant has one or 2 prior convictions under this Code for
23 domestic battery (Section 12-3.2). Domestic battery is a Class
24 3 felony if the defendant had 3 prior convictions under this
25 Code for domestic battery (Section 12-3.2). Domestic battery is
26 a Class 2 felony if the defendant had 4 or more prior

1 convictions under this Code for domestic battery (Section
2 12-3.2). In addition to any other sentencing alternatives, for
3 any second or subsequent conviction of violating this Section,
4 the offender shall be mandatorily sentenced to a minimum of 72
5 consecutive hours of imprisonment. The imprisonment shall not
6 be subject to suspension, nor shall the person be eligible for
7 probation in order to reduce the sentence.

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

25 (d) Upon conviction of domestic battery, the court shall
26 advise the defendant orally or in writing, substantially as

1 follows: "An individual convicted of domestic battery may be
2 subject to federal criminal penalties for possessing,
3 transporting, shipping, or receiving any firearm or ammunition
4 in violation of the federal Gun Control Act of 1968 (18 U.S.C.
5 922(g)(8) and (9))." A notation shall be made in the court file
6 that the admonition was given.

7 (Source: P.A. 96-287, eff. 8-11-09; 96-1551, Article 1, Section
8 5, eff. 7-1-11; 96-1551, Article 2, Section 1035, eff. 7-1-11;
9 97-1109, eff. 1-1-13.)