

HB1129



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB1129

by Rep. Michael J. Madigan

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.2

from Ch. 38, par. 12-3.2

Amends the Criminal Code of 2012. Makes a technical change in a Section concerning domestic battery.

LRB099 04971 RLC 25000 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 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 ~~the~~ defendant has
16 any prior conviction under this Code for violation of an order
17 of protection (Section 12-3.4 or 12-30), or any prior
18 conviction under the law of another jurisdiction for an offense
19 which is substantially similar. Domestic battery is a Class 4
20 felony if the defendant has any prior conviction under this
21 Code for first degree murder (Section 9-1), attempt to commit
22 first degree murder (Section 8-4), aggravated domestic battery
23 (Section 12-3.3), aggravated battery (Section 12-3.05 or

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

1 12-3.2), or 3 prior convictions under the law of another
2 jurisdiction for any offense which is substantially similar.
3 Domestic battery is a Class 2 felony if the defendant had 4 or
4 more prior convictions under this Code for domestic battery
5 (Section 12-3.2), or 4 or more prior convictions under the law
6 of another jurisdiction for any offense which is substantially
7 similar. In addition to any other sentencing alternatives, for
8 any second or subsequent conviction of violating this Section,
9 the offender shall be mandatorily sentenced to a minimum of 72
10 consecutive hours of imprisonment. The imprisonment shall not
11 be subject to suspension, nor shall the person be eligible for
12 probation in order to reduce the sentence.

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

1 the defendant's or victim's child or step-child or who is a
2 minor child residing within or visiting the household of the
3 defendant or victim.

4 (d) Upon conviction of domestic battery, the court shall
5 advise the defendant orally or in writing, substantially as
6 follows: "An individual convicted of domestic battery may be
7 subject to federal criminal penalties for possessing,
8 transporting, shipping, or receiving any firearm or ammunition
9 in violation of the federal Gun Control Act of 1968 (18 U.S.C.
10 922(g)(8) and (9))." A notation shall be made in the court file
11 that the admonition was given.

12 (Source: P.A. 97-1109, eff. 1-1-13; 98-187, eff. 1-1-14;
13 98-994, eff. 1-1-15.)