

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

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

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

18 (b) Sentence. Domestic battery is a Class A
19 Misdemeanor. Domestic battery is a Class 4 felony if the
20 defendant has any prior conviction under this Code for
21 domestic battery (Section 12-3.2) or violation of an order of
22 protection (Section 12-30). Domestic battery is a Class 4
23 felony if the defendant has any prior conviction under this
24 Code for aggravated battery (Section 12-4), stalking (Section
25 12-7.3), aggravated stalking (Section 12-7.4), unlawful
26 restraint (Section 10-3), or aggravated unlawful restraint
27 (Section 10-3.1), when any of these offenses have been
28 committed against a family or household member as defined in
29 Section 112A-3 of the Code of Criminal Procedure of 1963. In
30 addition to any other sentencing alternatives, for any second
31 conviction of violating this Section within 5 years of a

1 previous conviction for violating this Section, the offender
2 shall be mandatorily sentenced to a minimum of 48 consecutive
3 hours of imprisonment. The imprisonment shall not be subject
4 to suspension, nor shall the person be eligible for probation
5 in order to reduce the sentence.

6 (c) Domestic battery committed in the presence of a
7 child. In addition to any other sentencing alternatives, a
8 defendant who commits, in the presence of a child, a felony
9 domestic battery (enhanced under subsection (b)), aggravated
10 domestic battery (Section 12-3.3), aggravated battery
11 (Section 12-4), unlawful restraint (Section 10-3), or
12 aggravated unlawful restraint (Section 10-3.1) against a
13 family or household member, as defined in Section 112A-3 of
14 the Code of Criminal Procedure of 1963, shall be required to
15 serve a mandatory minimum imprisonment of 10 days or perform
16 300 hours of community service, or both. The defendant shall
17 further be liable for the cost of any counseling required for
18 the child at the discretion of the court in accordance with
19 subsection (b) of Section 5-5-6 of the Unified Code of
20 Corrections. For purposes of this Section, "child" means a
21 person under 16 years of age who is the defendant's or
22 victim's child or step-child or who is a minor child residing
23 within the household of the defendant or victim. For
24 purposes of this Section, "in the presence of a child" means
25 in the physical presence of a child or knowing or having
26 reason to know that a child is present and may see or hear an
27 act constituting one of the offenses listed in this
28 subsection.

29 (Source: P.A. 91-112, eff. 10-1-99; 91-262, eff. 1-1-00;
30 91-928, eff. 6-1-01; 92-16, eff. 6-28-01.)