

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  
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 first degree murder (Section 9-1), attempt to commit  
25 first degree murder (Section 8-4), aggravated domestic  
26 battery (Section 12-3.3), aggravated battery (Section 12-4),  
27 heinous battery (Section 12-4.1), aggravated battery with a  
28 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

1 stalking (Section 12-7.4), criminal sexual assault (Section  
2 12-13), aggravated criminal sexual assault (12-14),  
3 kidnapping (Section 10-1), aggravated kidnapping (Section  
4 10-2), predatory criminal sexual assault of a child (Section  
5 12-14.1), aggravated criminal sexual abuse (Section 12-16),  
6 unlawful restraint (Section 10-3), aggravated unlawful  
7 restraint (Section 10-3.1), aggravated arson (Section  
8 20-1.1), or aggravated discharge of a firearm (Section  
9 24-1.2), when any of these offenses have been committed  
10 against a family or household member as defined in Section  
11 112A-3 of the Code of Criminal Procedure of 1963. Domestic  
12 battery committed in the presence of a person under 18 years  
13 of age is a Class 4 felony for a first conviction and a Class  
14 3 felony for a second or subsequent conviction. In addition  
15 to any other sentencing alternatives, for any second  
16 conviction of violating this Section within 5 years of a  
17 previous conviction for violating this Section, the offender  
18 shall be mandatorily sentenced to a minimum of 48 consecutive  
19 hours of imprisonment. The imprisonment shall not be subject  
20 to suspension, nor shall the person be eligible for probation  
21 in order to reduce the sentence.

22 (c) Domestic battery committed in the presence of a  
23 child. In addition to any other sentencing alternatives, a  
24 defendant who commits, in the presence of a child, a felony  
25 domestic battery (enhanced under subsection (b)), aggravated  
26 domestic battery (Section 12-3.3), aggravated battery  
27 (Section 12-4), unlawful restraint (Section 10-3), or  
28 aggravated unlawful restraint (Section 10-3.1) against a  
29 family or household member, as defined in Section 112A-3 of  
30 the Code of Criminal Procedure of 1963, shall be required to  
31 serve a mandatory minimum imprisonment of 10 days or perform  
32 300 hours of community service, or both. The defendant shall  
33 further be liable for the cost of any counseling required for  
34 the child at the discretion of the court in accordance with

1 subsection (b) of Section 5-5-6 of the Unified Code of  
2 Corrections. For purposes of this Section, "child" means a  
3 person under 16 years of age who is the defendant's or  
4 victim's child or step-child or who is a minor child residing  
5 within the household of the defendant or victim. For  
6 purposes of this Section, "in the presence of a child" means  
7 in the physical presence of a child or knowing or having  
8 reason to know that a child is present and may see or hear an  
9 act constituting one of the offenses listed in this  
10 subsection.

11 (Source: P.A. 91-112, eff. 10-1-99; 91-262, eff. 1-1-00;  
12 91-928, eff. 6-1-01; 92-16, eff. 6-28-01; 92-827, eff.  
13 8-22-02.)