



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/04/04, by Marlow H. Colvin

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.2

from Ch. 38, par. 12-3.2

Amends the Criminal Code of 1961. Provides that domestic battery committed in the presence of a child under 16 years of age who is the defendant's or victim's child or step-child or who is a minor child residing within the household of the defendant or victim is a Class 4 felony.

LRB093 18163 RLC 43857 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 intentionally
9 or knowingly without legal justification by any means:

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

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

17 (b) Sentence. Domestic battery is a Class A Misdemeanor.
18 Domestic battery committed in the presence of a child is a
19 Class 4 felony. Domestic battery is a Class 4 felony if the
20 defendant has any prior conviction under this Code for domestic
21 battery (Section 12-3.2) or violation of an order of protection
22 (Section 12-30), or any prior conviction under the law of
23 another jurisdiction for an offense which is substantially
24 similar. Domestic battery is a Class 4 felony if the defendant
25 has any prior conviction under this Code for first degree
26 murder (Section 9-1), attempt to commit first degree murder
27 (Section 8-4), aggravated domestic battery (Section 12-3.3),
28 aggravated battery (Section 12-4), heinous battery (Section
29 12-4.1), aggravated battery with a firearm (Section 12-4.2),
30 aggravated battery of a child (Section 12-4.3), aggravated
31 battery of an unborn child (Section 12-4.4), aggravated battery
32 of a senior citizen (Section 12-4.6), stalking (Section

1 12-7.3), aggravated stalking (Section 12-7.4), criminal sexual
2 assault (Section 12-13), aggravated criminal sexual assault
3 (12-14), kidnapping (Section 10-1), aggravated kidnapping
4 (Section 10-2), predatory criminal sexual assault of a child
5 (Section 12-14.1), aggravated criminal sexual abuse (Section
6 12-16), unlawful restraint (Section 10-3), aggravated unlawful
7 restraint (Section 10-3.1), aggravated arson (Section 20-1.1),
8 or aggravated discharge of a firearm (Section 24-1.2), or any
9 prior conviction under the law of another jurisdiction for any
10 offense that is substantially similar to the offenses listed in
11 this Section, when any of these offenses have been committed
12 against a family or household member as defined in Section
13 112A-3 of the Code of Criminal Procedure of 1963. In addition
14 to any other sentencing alternatives, for any second conviction
15 of violating this Section within 5 years of a previous
16 conviction for violating this Section, the offender shall be
17 mandatorily sentenced to a minimum of 48 consecutive hours of
18 imprisonment. The imprisonment shall not be subject to
19 suspension, nor shall the person be eligible for probation in
20 order to reduce the sentence.

21 (c) Domestic battery committed in the presence of a child.
22 In addition to any other sentencing alternatives, a defendant
23 who commits, in the presence of a child, a felony domestic
24 battery (enhanced under subsection (b)), aggravated domestic
25 battery (Section 12-3.3), aggravated battery (Section 12-4),
26 unlawful restraint (Section 10-3), or aggravated unlawful
27 restraint (Section 10-3.1) against a family or household
28 member, as defined in Section 112A-3 of the Code of Criminal
29 Procedure of 1963, shall be required to serve a mandatory
30 minimum imprisonment of 10 days or perform 300 hours of
31 community service, or both. The defendant shall further be
32 liable for the cost of any counseling required for the child at
33 the discretion of the court in accordance with subsection (b)
34 of Section 5-5-6 of the Unified Code of Corrections. For
35 purposes of this Section, "child" means a person under 16 years
36 of age who is the defendant's or victim's child or step-child

1 or who is a minor child residing within the household of the
2 defendant or victim. For purposes of this Section, "in the
3 presence of a child" means in the physical presence of a child
4 or knowing or having reason to know that a child is present and
5 may see or hear an act constituting one of the offenses listed
6 in this subsection.

7 (Source: P.A. 92-16, eff. 6-28-01; 92-827, eff. 8-22-02; P.A.
8 93-336, eff. 1-1-04.)