



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/09/04, by William B. Black - Patricia Reid
Lindner - Angelo Saviano - Patricia R. Bellock - Raymond Poe

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 person under 18 years of age is a Class 4 felony for a first conviction (rather than a Class A misdemeanor) and a Class 3 felony for a second or subsequent conviction (rather than a Class 4 felony).

LRB093 18079 RLC 43766 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 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 is a Class 4 felony if the defendant has any
19 prior conviction under this Code for domestic battery (Section
20 12-3.2) or violation of an order of protection (Section 12-30),
21 or any prior conviction under the law of another jurisdiction
22 for an offense which is substantially similar. Domestic battery
23 is a Class 4 felony if the defendant has any prior conviction
24 under this Code for first degree murder (Section 9-1), attempt
25 to commit first degree murder (Section 8-4), aggravated
26 domestic battery (Section 12-3.3), aggravated battery (Section
27 12-4), heinous battery (Section 12-4.1), aggravated battery
28 with a 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
32 stalking (Section 12-7.4), criminal sexual assault (Section

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

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

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

9 (Source: P.A. 92-16, eff. 6-28-01; 92-827, eff. 8-22-02; P.A.
10 93-336, eff. 1-1-04.)