



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB1175

Introduced 2/18/2005, by Sen. John J. Cullerton - Emil Jones, Jr.

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.2

from Ch. 38, par. 12-3.2

Amends the Criminal Code of 1961. Makes a technical change in a section concerning domestic battery.

LRB094 04843 RLC 34872 b

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 ~~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. In addition  
13 to any other sentencing alternatives, for any second or  
14 subsequent conviction of violating this Section, the offender  
15 shall be mandatorily sentenced to a minimum of 72 consecutive  
16 hours of imprisonment. The imprisonment shall not be subject to  
17 suspension, nor shall the person be eligible for probation in  
18 order to reduce the sentence.

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

1 presence of a child" means in the physical presence of a child  
2 or knowing or having reason to know that a child is present and  
3 may see or hear an act constituting one of the offenses listed  
4 in this subsection.

5 (Source: P.A. 92-16, eff. 6-28-01; 92-827, eff. 8-22-02; P.A.  
6 93-336, eff. 1-1-04; 93-809, eff. 1-1-05.)