



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3108

by Rep. Joe Sosnowski

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.2

from Ch. 38, par. 12-3.2

Amends the Criminal Code of 2012. Increases the penalty for domestic battery from a Class 4 to Class 3 felony if the defendant has any prior conviction under the Code for domestic battery or violation of an order of protection, or any prior conviction under the law of another jurisdiction for an offense which is substantially similar. Also, increases the penalty for domestic battery from a Class 4 to Class 3 felony if the defendant has any prior conviction under the Code for first degree murder, attempt to commit first degree murder, aggravated domestic battery, aggravated battery, heinous battery, aggravated battery with a firearm, aggravated battery with a machine gun or a firearm equipped with a silencer, aggravated battery of a child, aggravated battery of an unborn child, or aggravated battery of a senior citizen, stalking, aggravated stalking, criminal sexual assault, aggravated criminal sexual assault, kidnapping, aggravated kidnapping, predatory criminal sexual assault of a child, aggravated criminal sexual abuse, unlawful restraint, aggravated unlawful restraint, aggravated arson, or aggravated discharge of a firearm, or any prior conviction under the law of another jurisdiction for any offense that is substantially similar to these offenses, when any of these offenses have been committed against a family or household member.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

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 2012 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 or she
9 knowingly without legal justification by any means:

10 (1) Causes bodily harm to any family or household
11 member;

12 (2) Makes physical contact of an insulting or provoking
13 nature with any family or household member.

14 (b) Sentence. Domestic battery is a Class A misdemeanor.
15 Domestic battery is a Class 3 ~~4~~ felony if the defendant has any
16 prior conviction under this Code for domestic battery (Section
17 12-3.2) or violation of an order of protection (Section 12-3.4
18 or 12-30), or any prior conviction under the law of another
19 jurisdiction for an offense which is substantially similar.
20 Domestic battery is a Class 3 ~~4~~ felony if the defendant has any
21 prior conviction under this Code for first degree murder
22 (Section 9-1), attempt to commit first degree murder (Section
23 8-4), aggravated domestic battery (Section 12-3.3), aggravated

1 battery (Section 12-3.05 or 12-4), heinous battery (Section
2 12-4.1), aggravated battery with a firearm (Section 12-4.2),
3 aggravated battery with a machine gun or a firearm equipped
4 with a silencer (Section 12-4.2-5), aggravated battery of a
5 child (Section 12-4.3), aggravated battery of an unborn child
6 (subsection (a-5) of Section 12-3.1, or Section 12-4.4),
7 aggravated battery of a senior citizen (Section 12-4.6),
8 stalking (Section 12-7.3), aggravated stalking (Section
9 12-7.4), criminal sexual assault (Section 11-1.20 or 12-13),
10 aggravated criminal sexual assault (Section 11-1.30 or 12-14),
11 kidnapping (Section 10-1), aggravated kidnapping (Section
12 10-2), predatory criminal sexual assault of a child (Section
13 11-1.40 or 12-14.1), aggravated criminal sexual abuse (Section
14 11-1.60 or 12-16), unlawful restraint (Section 10-3),
15 aggravated unlawful restraint (Section 10-3.1), aggravated
16 arson (Section 20-1.1), or aggravated discharge of a firearm
17 (Section 24-1.2), or any prior conviction under the law of
18 another jurisdiction for any offense that is substantially
19 similar to the offenses listed in this Section, when any of
20 these offenses have been committed against a family or
21 household member. In addition to any other sentencing
22 alternatives, for any second or subsequent conviction of
23 violating this Section, the offender shall be mandatorily
24 sentenced to a minimum of 72 consecutive hours of imprisonment.
25 The imprisonment shall not be subject to suspension, nor shall
26 the person be eligible for probation in order to reduce the

1 sentence.

2 (c) Domestic battery committed in the presence of a child.
3 In addition to any other sentencing alternatives, a defendant
4 who commits, in the presence of a child, a felony domestic
5 battery (enhanced under subsection (b)), aggravated domestic
6 battery (Section 12-3.3), aggravated battery (Section 12-3.05
7 or 12-4), unlawful restraint (Section 10-3), or aggravated
8 unlawful restraint (Section 10-3.1) against a family or
9 household member shall be required to serve a mandatory minimum
10 imprisonment of 10 days or perform 300 hours of community
11 service, or both. The defendant shall further be liable for the
12 cost of any counseling required for the child at the discretion
13 of the court in accordance with subsection (b) of Section 5-5-6
14 of the Unified Code of Corrections. For purposes of this
15 Section, "child" means a person under 18 years of age who is
16 the defendant's or victim's child or step-child or who is a
17 minor child residing within or visiting the household of the
18 defendant or victim.

19 (d) Upon conviction of domestic battery, the court shall
20 advise the defendant orally or in writing, substantially as
21 follows: "An individual convicted of domestic battery may be
22 subject to federal criminal penalties for possessing,
23 transporting, shipping, or receiving any firearm or ammunition
24 in violation of the federal Gun Control Act of 1968 (18 U.S.C.
25 922(g)(8) and (9))." A notation shall be made in the court file
26 that the admonition was given.

1 (Source: P.A. 96-287, eff. 8-11-09; 96-1551, Article 1, Section
2 5, eff. 7-1-11; 96-1551, Article 2, Section 1035, eff. 7-1-11;
3 97-1109, eff. 1-1-13.)