



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB4653

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. Provides that the enhanced penalties for domestic battery if a person has had prior convictions for certain offense apply to prior convictions under the law of another jurisdiction for any offense which is substantially similar.

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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 4 felony if the defendant has any  
16 prior conviction under this Code for violation of an order of  
17 protection (Section 12-3.4 or 12-30), or any prior conviction  
18 under the law of another jurisdiction for an offense which is  
19 substantially similar. Domestic battery is a Class 4 felony if  
20 the defendant has any prior conviction under this Code for  
21 first degree murder (Section 9-1), attempt to commit first  
22 degree murder (Section 8-4), aggravated domestic battery  
23 (Section 12-3.3), aggravated battery (Section 12-3.05 or

1 12-4), heinous battery (Section 12-4.1), aggravated battery  
2 with a firearm (Section 12-4.2), aggravated battery with a  
3 machine gun or a firearm equipped with a silencer (Section  
4 12-4.2-5), aggravated battery of a child (Section 12-4.3),  
5 aggravated battery of an unborn child (subsection (a-5) of  
6 Section 12-3.1, or Section 12-4.4), aggravated battery of a  
7 senior citizen (Section 12-4.6), stalking (Section 12-7.3),  
8 aggravated stalking (Section 12-7.4), criminal sexual assault  
9 (Section 11-1.20 or 12-13), aggravated criminal sexual assault  
10 (Section 11-1.30 or 12-14), kidnapping (Section 10-1),  
11 aggravated kidnapping (Section 10-2), predatory criminal  
12 sexual assault of a child (Section 11-1.40 or 12-14.1),  
13 aggravated criminal sexual abuse (Section 11-1.60 or 12-16),  
14 unlawful restraint (Section 10-3), aggravated unlawful  
15 restraint (Section 10-3.1), aggravated arson (Section 20-1.1),  
16 or aggravated discharge of a firearm (Section 24-1.2), or any  
17 prior conviction under the law of another jurisdiction for any  
18 offense that is substantially similar to the offenses listed in  
19 this Section, when any of these offenses have been committed  
20 against a family or household member. Domestic battery is a  
21 Class 4 felony if the defendant has one or 2 prior convictions  
22 under this Code for domestic battery (Section 12-3.2), or one  
23 or 2 prior convictions under the law of another jurisdiction  
24 for any offense which is substantially similar. Domestic  
25 battery is a Class 3 felony if the defendant had 3 prior  
26 convictions under this Code for domestic battery (Section

1 12-3.2), or 3 prior convictions under the law of another  
2 jurisdiction for any offense which is substantially similar.

3 Domestic battery is a Class 2 felony if the defendant had 4 or  
4 more prior convictions under this Code for domestic battery  
5 (Section 12-3.2), or 4 or more prior convictions under the law  
6 of another jurisdiction for any offense which is substantially  
7 similar. In addition to any other sentencing alternatives, for  
8 any second or subsequent conviction of violating this Section,  
9 the offender shall be mandatorily sentenced to a minimum of 72  
10 consecutive hours of imprisonment. The imprisonment shall not  
11 be subject to suspension, nor shall the person be eligible for  
12 probation in order to reduce the sentence.

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

1 the defendant's or victim's child or step-child or who is a  
2 minor child residing within or visiting the household of the  
3 defendant or victim.

4 (d) Upon conviction of domestic battery, the court shall  
5 advise the defendant orally or in writing, substantially as  
6 follows: "An individual convicted of domestic battery may be  
7 subject to federal criminal penalties for possessing,  
8 transporting, shipping, or receiving any firearm or ammunition  
9 in violation of the federal Gun Control Act of 1968 (18 U.S.C.  
10 922(g) (8) and (9))." A notation shall be made in the court file  
11 that the admonition was given.

12 (Source: P.A. 97-1109, eff. 1-1-13; 98-187, eff. 1-1-14.)