

1 AN ACT in relation to domestic battery.

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
5 changing Section 12-3.2 as follows:

6 (720 ILCS 5/12-3.2) (from Ch. 38, par. 12-3.2)
7 (Text of Section before amendment by P.A. 91-928)
8 Sec. 12-3.2. Domestic Battery.

9 (a) A person commits domestic battery if he
10 intentionally or knowingly without legal justification by any
11 means:

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

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

19 (b) Sentence. Domestic battery is a Class A
20 Misdemeanor. Domestic battery is a Class 4 felony if the
21 defendant has any prior conviction under this Code for
22 domestic battery (Section 12-3.2) or violation of an order of
23 protection (Section 12-30). Domestic battery is a Class 4
24 felony if the defendant has any prior conviction under this
25 Code for aggravated battery (Section 12-4), stalking (Section
26 12-7.3), aggravated stalking (Section 12-7.4), unlawful
27 restraint (Section 10-3), or aggravated unlawful restraint
28 (Section 10-3.1), when any of these offenses have been
29 committed against a family or household member as defined in
30 Section 112A-3 of the Code of Criminal Procedure of 1963.
31 Domestic battery is a Class 4 felony if the defendant has any

1 prior conviction for a felony that involved the use of force
 2 or violence against a family or household member as defined
 3 in Section 112A-3 of the Code of Criminal Procedure of 1963.

4 In addition to any other sentencing alternatives, for any
 5 second conviction of violating this Section within 5 years of
 6 a previous conviction for violating this Section, the
 7 offender shall be mandatorily sentenced to a minimum of 48
 8 consecutive hours of imprisonment. The imprisonment shall
 9 not be subject to suspension, nor shall the person be
 10 eligible for probation in order to reduce the sentence.

11 (c) For any conviction for domestic battery, if a person
 12 under 18 years of age who is the child of the offender or of
 13 the victim was present and witnessed the domestic battery of
 14 the victim, the defendant is liable for the cost of any
 15 counseling required for the child at the discretion of the
 16 court in accordance with subsection (b) of Section 5-5-6 of
 17 the Unified Code of Corrections.

18 (Source: P.A. 90-734, eff. 1-1-99; 91-112, eff. 10-1-99;
 19 91-262, eff. 1-1-00; revised 10-7-99.)

20 (Text of Section after amendment by P.A. 91-928)
 21 Sec. 12-3.2. Domestic Battery.

22 (a) A person commits domestic battery if he
 23 intentionally or knowingly without legal justification by any
 24 means:

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

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

32 (b) Sentence. Domestic battery is a Class A
 33 Misdemeanor. Domestic battery is a Class 4 felony if the
 34 defendant has any prior conviction under this Code for

1 domestic battery (Section 12-3.2) or violation of an order of
2 protection (Section 12-30). Domestic battery is a Class 4
3 felony if the defendant has any prior conviction under this
4 Code for aggravated battery (Section 12-4), stalking (Section
5 12-7.3), aggravated stalking (Section 12-7.4), unlawful
6 restraint (Section 10-3), or aggravated unlawful restraint
7 (Section 10-3.1), when any of these offenses have been
8 committed against a family or household member as defined in
9 Section 112A-3 of the Code of Criminal Procedure of 1963.
10 Domestic battery is a Class 4 felony if the defendant has any
11 prior conviction for a felony that involved the use of force
12 or violence against a family or household member as defined
13 in Section 112A-3 of the Code of Criminal Procedure of 1963.

14 In addition to any other sentencing alternatives, for any
15 second conviction of violating this Section within 5 years of
16 a previous conviction for violating this Section, the
17 offender shall be mandatorily sentenced to a minimum of 48
18 consecutive hours of imprisonment. The imprisonment shall
19 not be subject to suspension, nor shall the person be
20 eligible for probation in order to reduce the sentence.

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

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

10 (Source: P.A. 90-734, eff. 1-1-99; 91-112, eff. 10-1-99;
11 91-262, eff. 1-1-00; 91-928, eff. 6-1-01.)

12 Section 10. The Code of Civil Procedure is amended by
13 changing Section 8-802 as follows:

14 (735 ILCS 5/8-802) (from Ch. 110, par. 8-802)

15 (Text of Section WITHOUT the changes made by P.A. 89-7,
16 which has been held unconstitutional)

17 Sec. 8-802. Physician and patient. No physician or
18 surgeon shall be permitted to disclose any information he or
19 she may have acquired in attending any patient in a
20 professional character, necessary to enable him or her
21 professionally to serve the patient, except only (1) in
22 trials for homicide when the disclosure relates directly to
23 the fact or immediate circumstances of the homicide, (2) in
24 actions, civil or criminal, against the physician for
25 malpractice, (3) with the expressed consent of the patient,
26 or in case of his or her death or disability, of his or her
27 personal representative or other person authorized to sue for
28 personal injury or of the beneficiary of an insurance policy
29 on his or her life, health, or physical condition, (4) in all
30 actions brought by or against the patient, his or her
31 personal representative, a beneficiary under a policy of
32 insurance, or the executor or administrator of his or her

1 estate wherein the patient's physical or mental condition is
2 an issue, (5) upon an issue as to the validity of a document
3 as a will of the patient, (6) in any criminal action where
4 the charge is either first degree murder by abortion,
5 attempted abortion or abortion, (7) in actions, civil or
6 criminal, arising from the filing of a report in compliance
7 with the Abused and Neglected Child Reporting Act, (8) to any
8 department, agency, institution or facility which has custody
9 of the patient pursuant to State statute or any court order
10 of commitment, (9) in prosecutions where written results of
11 blood alcohol tests are admissible pursuant to Section
12 11-501.4 of the Illinois Vehicle Code, or (10) in
13 prosecutions where written results of blood alcohol tests are
14 admissible under Section 5-11a of the Boat Registration and
15 Safety Act, or (11) in prosecutions for domestic battery if
16 the disclosure relates directly to the facts or circumstances
17 regarding the domestic battery.

18 In the event of a conflict between the application of
19 this Section and the Mental Health and Developmental
20 Disabilities Confidentiality Act to a specific situation, the
21 provisions of the Mental Health and Developmental
22 Disabilities Confidentiality Act shall control.

23 (Source: P.A. 87-803.)

24 Section 95. No acceleration or delay. Where this Act
25 makes changes in a statute that is represented in this Act by
26 text that is not yet or no longer in effect (for example, a
27 Section represented by multiple versions), the use of that
28 text does not accelerate or delay the taking effect of (i)
29 the changes made by this Act or (ii) provisions derived from
30 any other Public Act.

31 Section 99. Effective date. This Act takes effect upon
32 becoming law.