

HB1105



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB1105

Introduced 2/17/2021, by Rep. Emanuel Chris Welch

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.2

from Ch. 38, par. 12-3.2

Amends the Criminal Code of 2012. Makes a technical change in a Section concerning domestic battery.

LRB102 03119 RLC 13132 b

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

1 or 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
19 in this Section, when any of these offenses have been
20 committed against a family or household member. Domestic
21 battery is a Class 4 felony if the defendant has one or 2 prior
22 convictions under this Code for domestic battery (Section
23 12-3.2), or one or 2 prior convictions under the law of another
24 jurisdiction for any offense which is substantially similar.
25 Domestic battery is a Class 3 felony if the defendant had 3
26 prior convictions under this Code for domestic battery

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

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

1 purposes of this Section, "child" means a person under 18
2 years of age who is the defendant's or victim's child or
3 step-child or who is a minor child residing within or visiting
4 the household of the defendant or victim.

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

13 (Source: P.A. 97-1109, eff. 1-1-13; 98-187, eff. 1-1-14;
14 98-994, eff. 1-1-15.)