



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2610

Introduced 2/20/2009, by Rep. Constance A. Howard

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.2
720 ILCS 5/12-3.3

from Ch. 38, par. 12-3.2

Amends the Criminal Code of 1961. Provides that upon conviction of domestic battery or aggravated domestic battery, the court shall advise the defendant orally or in writing that an individual convicted of domestic battery or aggravated domestic battery may be subject to federal criminal penalties for possessing, transporting, shipping, or receiving any firearm or ammunition in violation of the federal Gun Control Act of 1968. Provides that a notation shall be made in the court file that the admonition was given. Effective immediately.

LRB096 09899 RLC 20062 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 Sections 12-3.2 and 12-3.3 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 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

1 under this Code for first degree murder (Section 9-1), attempt
2 to commit first degree murder (Section 8-4), aggravated
3 domestic battery (Section 12-3.3), aggravated battery (Section
4 12-4), heinous battery (Section 12-4.1), aggravated battery
5 with a firearm (Section 12-4.2), aggravated battery of a child
6 (Section 12-4.3), aggravated battery of an unborn child
7 (Section 12-4.4), aggravated battery of a senior citizen
8 (Section 12-4.6), stalking (Section 12-7.3), aggravated
9 stalking (Section 12-7.4), criminal sexual assault (Section
10 12-13), aggravated criminal sexual assault (12-14), kidnapping
11 (Section 10-1), aggravated kidnapping (Section 10-2),
12 predatory criminal sexual assault of a child (Section 12-14.1),
13 aggravated criminal sexual abuse (Section 12-16), unlawful
14 restraint (Section 10-3), aggravated unlawful restraint
15 (Section 10-3.1), aggravated arson (Section 20-1.1), or
16 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 as defined in Section
21 112A-3 of the Code of Criminal Procedure of 1963. In addition
22 to any other sentencing alternatives, for any second or
23 subsequent conviction of violating this Section, the offender
24 shall be mandatorily sentenced to a minimum of 72 consecutive
25 hours of imprisonment. The imprisonment shall not be subject to
26 suspension, nor shall the person be eligible for probation in

1 order to reduce the 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 12-4),
7 unlawful restraint (Section 10-3), or aggravated unlawful
8 restraint (Section 10-3.1) against a family or household
9 member, as defined in Section 112A-3 of the Code of Criminal
10 Procedure of 1963, shall be required to serve a mandatory
11 minimum imprisonment of 10 days or perform 300 hours of
12 community service, or both. The defendant shall further be
13 liable for the cost of any counseling required for the child at
14 the discretion of the court in accordance with subsection (b)
15 of Section 5-5-6 of the Unified Code of Corrections. For
16 purposes of this Section, "child" means a person under 18 years
17 of age who is the defendant's or victim's child or step-child
18 or who is a minor child residing within or visiting the
19 household of the defendant or victim. For purposes of this
20 Section, "in the presence of a child" means in the physical
21 presence of a child or knowing or having reason to know that a
22 child is present and may see or hear an act constituting one of
23 the offenses listed in this subsection.

24 (d) Upon conviction of domestic battery, the court shall
25 advise the defendant orally or in writing, substantially as
26 follows: "An individual convicted of domestic battery may be

1 subject to federal criminal penalties for possessing,
2 transporting, shipping, or receiving any firearm or ammunition
3 in violation of the federal Gun Control Act of 1968 (18 U.S.C.
4 922(g) (8) and (9))." A notation shall be made in the court file
5 that the admonition was given.

6 (Source: P.A. 93-336, eff. 1-1-04; 93-809, eff. 1-1-05; 94-148,
7 eff. 1-1-06.)

8 (720 ILCS 5/12-3.3)

9 Sec. 12-3.3. Aggravated domestic battery.

10 (a) A person who, in committing a domestic battery,
11 intentionally or knowingly causes great bodily harm, or
12 permanent disability or disfigurement commits aggravated
13 domestic battery.

14 (b) Sentence. Aggravated domestic battery is a Class 2
15 felony. Any order of probation or conditional discharge entered
16 following a conviction for an offense under this Section must
17 include, in addition to any other condition of probation or
18 conditional discharge, a condition that the offender serve a
19 mandatory term of imprisonment of not less than 60 consecutive
20 days. A person convicted of a second or subsequent violation of
21 this Section must be sentenced to a mandatory term of
22 imprisonment of not less than 3 years and not more than 7 years
23 or an extended term of imprisonment of not less than 7 years
24 and not more than 14 years.

25 (c) Upon conviction of aggravated domestic battery, the

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

8 (Source: P.A. 91-445, eff. 1-1-00.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.