

HB3422



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3422

Introduced 2/24/2011, by Rep. Dennis M. Reboletti

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.2

from Ch. 38, par. 12-3.2

Amends the Criminal Code of 1961. Increases the penalty for domestic battery from a Class 4 felony to a Class 3 felony if the defendant has any prior felony conviction for domestic battery.

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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 1961 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 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. Domestic
22 battery is a Class 3 felony if the defendant has any prior
23 felony conviction under this Code for domestic battery (Section
24 12-3.2). In addition to any other sentencing alternatives, for
25 any second or subsequent conviction of violating this Section,
26 the offender shall be mandatorily sentenced to a minimum of 72

1 consecutive hours of imprisonment. The imprisonment shall not
2 be subject to suspension, nor shall the person be eligible for
3 probation in order to reduce the sentence.

4 (c) Domestic battery committed in the presence of a child.
5 In addition to any other sentencing alternatives, a defendant
6 who commits, in the presence of a child, a felony domestic
7 battery (enhanced under subsection (b)), aggravated domestic
8 battery (Section 12-3.3), aggravated battery (Section 12-4),
9 unlawful restraint (Section 10-3), or aggravated unlawful
10 restraint (Section 10-3.1) against a family or household
11 member, as defined in Section 112A-3 of the Code of Criminal
12 Procedure of 1963, shall be required to serve a mandatory
13 minimum imprisonment of 10 days or perform 300 hours of
14 community service, or both. The defendant shall further be
15 liable for the cost of any counseling required for the child at
16 the discretion of the court in accordance with subsection (b)
17 of Section 5-5-6 of the Unified Code of Corrections. For
18 purposes of this Section, "child" means a person under 18 years
19 of age who is the defendant's or victim's child or step-child
20 or who is a minor child residing within or visiting the
21 household of the defendant or victim. For purposes of this
22 Section, "in the presence of a child" means in the physical
23 presence of a child or knowing or having reason to know that a
24 child is present and may see or hear an act constituting one of
25 the offenses listed in this subsection.

26 (d) Upon conviction of domestic battery, the court shall

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

8 (Source: P.A. 96-287, eff. 8-11-09.)