



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB3677

by Rep. Martin J. Moylan

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-3.2

from Ch. 38, par. 12-3.2

Amends the Criminal Code of 2012. Provides that a person convicted of domestic battery shall serve a mandatory minimum term of imprisonment of 30 days. Provides that in addition to any sentencing alternatives, for any second or subsequent conviction of domestic battery, the offender shall be mandatorily sentenced to a minimum of 30 days imprisonment (rather than a minimum of 72 consecutive hours of imprisonment). Provides that in addition to any other sentencing alternatives, a defendant who commits, in the presence of a child, a felony domestic battery (enhanced under the domestic battery statute), aggravated domestic battery, aggravated battery, unlawful restraint, or aggravated unlawful restraint against a family or household member shall be required to serve a mandatory minimum sentence of imprisonment of 30 days and perform 300 hours of community service (rather than serve a mandatory minimum sentence of 10 days or perform 300 hours of community service, or both).

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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 for  
15 which the offender shall be sentenced to a mandatory minimum  
16 term of imprisonment of 30 days. The imprisonment shall not be  
17 subject to suspension, nor shall the person be eligible for  
18 probation in order to reduce the sentence. Domestic battery is  
19 a Class 4 felony if the defendant has any prior conviction  
20 under this Code for violation of an order of protection  
21 (Section 12-3.4 or 12-30), or any prior conviction under the  
22 law of another jurisdiction for an offense which is  
23 substantially similar. Domestic battery is a Class 4 felony if

1 the defendant has any prior conviction under this Code for  
2 first degree murder (Section 9-1), attempt to commit first  
3 degree murder (Section 8-4), aggravated domestic battery  
4 (Section 12-3.3), aggravated battery (Section 12-3.05 or  
5 12-4), heinous battery (Section 12-4.1), aggravated battery  
6 with a firearm (Section 12-4.2), aggravated battery with a  
7 machine gun or a firearm equipped with a silencer (Section  
8 12-4.2-5), aggravated battery of a child (Section 12-4.3),  
9 aggravated battery of an unborn child (subsection (a-5) of  
10 Section 12-3.1, or Section 12-4.4), aggravated battery of a  
11 senior citizen (Section 12-4.6), stalking (Section 12-7.3),  
12 aggravated stalking (Section 12-7.4), criminal sexual assault  
13 (Section 11-1.20 or 12-13), aggravated criminal sexual assault  
14 (Section 11-1.30 or 12-14), kidnapping (Section 10-1),  
15 aggravated kidnapping (Section 10-2), predatory criminal  
16 sexual assault of a child (Section 11-1.40 or 12-14.1),  
17 aggravated criminal sexual abuse (Section 11-1.60 or 12-16),  
18 unlawful restraint (Section 10-3), aggravated unlawful  
19 restraint (Section 10-3.1), aggravated arson (Section 20-1.1),  
20 or aggravated discharge of a firearm (Section 24-1.2), or any  
21 prior conviction under the law of another jurisdiction for any  
22 offense that is substantially similar to the offenses listed in  
23 this Section, when any of these offenses have been committed  
24 against a family or household member. Domestic battery is a  
25 Class 4 felony if the defendant has one or 2 prior convictions  
26 under this Code for domestic battery (Section 12-3.2). Domestic

1 battery is a Class 3 felony if the defendant had 3 prior  
2 convictions under this Code for domestic battery (Section  
3 12-3.2). 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). In addition to any other sentencing  
6 alternatives, for any second or subsequent conviction of  
7 violating this Section, the offender shall be mandatorily  
8 sentenced to a minimum of 30 days ~~72 consecutive hours~~ of  
9 imprisonment. The imprisonment shall not be subject to  
10 suspension, nor shall the person be eligible for probation in  
11 order to reduce the sentence.

12 (c) Domestic battery committed in the presence of a child.  
13 In addition to any other sentencing alternatives, a defendant  
14 who commits, in the presence of a child, a felony domestic  
15 battery (enhanced under subsection (b)), aggravated domestic  
16 battery (Section 12-3.3), aggravated battery (Section 12-3.05  
17 or 12-4), unlawful restraint (Section 10-3), or aggravated  
18 unlawful restraint (Section 10-3.1) against a family or  
19 household member shall be required to serve a mandatory minimum  
20 imprisonment of 30 ~~10~~ days and ~~or~~ perform 300 hours of  
21 community service, ~~or both~~. The defendant shall further be  
22 liable for the cost of any counseling required for the child at  
23 the discretion of the court in accordance with subsection (b)  
24 of Section 5-5-6 of the Unified Code of Corrections. For  
25 purposes of this Section, "child" means a person under 18 years  
26 of age who is the defendant's or victim's child or step-child

1 or who is a minor child residing within or visiting the  
2 household of the defendant or victim.

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

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