

1 AN ACT in relation to 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  
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. In  
31 addition to any other sentencing alternatives, for any second

1 conviction of violating this Section within 5 years of a  
2 previous conviction for violating this Section, the offender  
3 shall be mandatorily sentenced to a minimum of 48 consecutive  
4 hours of imprisonment. The imprisonment shall not be subject  
5 to suspension, nor shall the person be eligible for probation  
6 in order to reduce the sentence.

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

14 (Source: P.A. 90-734, eff. 1-1-99; 91-112, eff. 10-1-99;  
15 91-262, eff. 1-1-00; revised 10-7-99.)

16 (Text of Section after amendment by P.A. 91-928)

17 Sec. 12-3.2. Domestic Battery.

18 (a) A person commits domestic battery if he or she  
19 intentionally or knowingly without legal justification by any  
20 means:

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

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

28 (b) Sentence. Domestic battery is a Class A  
29 Misdemeanor. Domestic battery is a Class 4 felony if the  
30 defendant has any prior conviction under this Code for  
31 domestic battery (Section 12-3.2) or violation of an order of  
32 protection (Section 12-30). Domestic battery is a Class 4  
33 felony if the defendant has any prior conviction under this  
34 Code for aggravated battery (Section 12-4), stalking (Section

1 12-7.3), aggravated stalking (Section 12-7.4), unlawful  
2 restraint (Section 10-3), or aggravated unlawful restraint  
3 (Section 10-3.1), when any of these offenses have been  
4 committed against a family or household member as defined in  
5 Section 112A-3 of the Code of Criminal Procedure of 1963. In  
6 addition to any other sentencing alternatives, for any second  
7 conviction of violating this Section within 5 years of a  
8 previous conviction for violating this Section, the offender  
9 shall be mandatorily sentenced to a minimum of 48 consecutive  
10 hours of imprisonment. The imprisonment shall not be subject  
11 to suspension, nor shall the person be eligible for probation  
12 in order to reduce the sentence.

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

1 subsection.

2 (Source: P.A. 90-734, eff. 1-1-99; 91-112, eff. 10-1-99;

3 91-262, eff. 1-1-00; 91-928, eff. 6-1-01.)