

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 Sections 12-3.2, 12-7.3, and 12-30 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  
9 intentionally or knowingly without legal justification by any  
10 means:

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

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

18 (b) Sentence. Domestic battery is a Class A  
19 Misdemeanor. Domestic battery is a Class 4 felony if the  
20 defendant has any prior conviction under this Code for  
21 domestic battery (Section 12-3.2) or violation of an order of  
22 protection (Section 12-30). Domestic battery is a Class 4  
23 felony if the defendant has any prior conviction under this  
24 Code for first degree murder (Section 9-1), attempt to commit  
25 first degree murder (Section 8-4), aggravated domestic  
26 battery (Section 12-3.3), aggravated battery (Section 12-4),  
27 heinous battery (Section 12-4.1), aggravated battery with a  
28 firearm (Section 12-4.2), aggravated battery of a child  
29 (Section 12-4.3), aggravated battery of an unborn child  
30 (Section 12-4.4), aggravated battery of a senior citizen  
31 (Section 12-4.6), stalking (Section 12-7.3), aggravated

1 stalking (Section 12-7.4), criminal sexual assault (Section  
2 12-13), aggravated criminal sexual assault (12-14),  
3 kidnapping (Section 10-1), aggravated kidnapping (Section  
4 10-2), predatory criminal sexual assault of a child (Section  
5 12-14.1), aggravated criminal sexual abuse (Section 12-16),  
6 unlawful restraint (Section 10-3), or aggravated unlawful  
7 restraint (Section 10-3.1), aggravated arson (Section  
8 20-1.1), or aggravated discharge of a firearm (Section  
9 24-1.2), when any of these offenses have been committed  
10 against a family or household member as defined in Section  
11 112A-3 of the Code of Criminal Procedure of 1963. In addition  
12 to any other sentencing alternatives, for any second  
13 conviction of violating this Section within 5 years of a  
14 previous conviction for violating this Section, the offender  
15 shall be mandatorily sentenced to a minimum of 48 consecutive  
16 hours of imprisonment. The imprisonment shall not be subject  
17 to suspension, nor shall the person be eligible for probation  
18 in order to reduce the sentence.

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

1 victim's child or step-child or who is a minor child residing  
 2 within the household of the defendant or victim. For  
 3 purposes of this Section, "in the presence of a child" means  
 4 in the physical presence of a child or knowing or having  
 5 reason to know that a child is present and may see or hear an  
 6 act constituting one of the offenses listed in this  
 7 subsection.

8 (Source: P.A. 91-112, eff. 10-1-99; 91-262, eff. 1-1-00;  
 9 91-928, eff. 6-1-01; 92-16, eff. 6-28-01.)

10 (720 ILCS 5/12-7.3) (from Ch. 38, par. 12-7.3)

11 Sec. 12-7.3. Stalking.

12 (a) A person commits stalking when he or she, knowingly  
 13 and without lawful justification, on at least 2 separate  
 14 occasions follows another person or places the person under  
 15 surveillance or any combination thereof and:

16 (1) at any time transmits a threat of immediate or  
 17 future bodily harm, sexual assault, confinement or  
 18 restraint and the threat is directed towards that person  
 19 or a family member of that person; or

20 (2) places that person in reasonable apprehension  
 21 of immediate or future bodily harm, sexual assault,  
 22 confinement or restraint; or

23 (3) places that person in reasonable apprehension  
 24 that a family member will receive immediate or future  
 25 bodily harm, sexual assault, confinement, or restraint.

26 (a-5) A person commits stalking when he or she has  
 27 previously been convicted of stalking another person and  
 28 knowingly and without lawful justification, on one occasion:

29 (1) follows that same person or places that same  
 30 person under surveillance or both; and

31 (2) commits an act described in any of paragraphs  
 32 (1), (2), or (3) of subsection (a).

33 (b) Sentence. Stalking is a Class 4 felony. A second or

1 subsequent conviction for stalking is a Class 3 felony.

2 (b-5) The incarceration of a person in a penal  
3 institution who transmits a threat is not a bar to  
4 prosecution under this Section.

5 (c) Exemption. This Section does not apply to picketing  
6 occurring at the workplace that is otherwise lawful and  
7 arises out of a bona fide labor dispute, or any exercise of  
8 the right of free speech or assembly that is otherwise  
9 lawful.

10 (d) For the purpose of this Section, a defendant "places  
11 a person under surveillance" by remaining present outside the  
12 person's school, place of employment, vehicle, other place  
13 occupied by the person, or residence other than the residence  
14 of the defendant.

15 (e) For the purpose of this Section, "follows another  
16 person" means (i) to move in relative proximity to a person  
17 as that person moves from place to place or (ii) to remain in  
18 relative proximity to a person who is stationary or whose  
19 movements are confined to a small area. "Follows another  
20 person" does not include a following within the residence of  
21 the defendant.

22 (f) For the purposes of this Section and Section 12-7.4,  
23 "bona fide labor dispute" means any controversy concerning  
24 wages, salaries, hours, working conditions, or benefits,  
25 including health and welfare, sick leave, insurance, and  
26 pension or retirement provisions, the making or maintaining  
27 of collective bargaining agreements, and the terms to be  
28 included in those agreements.

29 (g) For the purposes of this Section, "transmits a  
30 threat" means a verbal or written threat or a threat implied  
31 by a pattern of conduct or a combination of verbal or written  
32 statements or conduct.

33 (h) For the purposes of this Section, "family member"  
34 means a parent, grandparent, brother, sister, or child,

1 whether by whole blood, half-blood, or adoption and includes  
 2 a step-grandparent, step-parent, step-brother, step-sister or  
 3 step-child. "Family member" also means any other person who  
 4 regularly resides in the household, or who, within the prior  
 5 6 months, regularly resided in the household.

6 (Source: P.A. 91-640, eff. 8-20-99.)

7 (720 ILCS 5/12-30) (from Ch. 38, par. 12-30)

8 Sec. 12-30. Violation of an order of protection.

9 (a) A person commits violation of an order of protection  
 10 if:

11 (1) He or she commits an act which was prohibited  
 12 by a court or fails to commit an act which was ordered by  
 13 a court in violation of:

14 (i) a remedy in a valid order of protection  
 15 authorized under paragraphs (1), (2), (3), (14), or  
 16 (14.5) of subsection (b) of Section 214 of the  
 17 Illinois Domestic Violence Act of 1986,

18 (ii) a remedy, which is substantially similar  
 19 to the remedies authorized under paragraphs (1),  
 20 (2), (3), (14) or (14.5) of subsection (b) of  
 21 Section 214 of the Illinois Domestic Violence Act of  
 22 1986, in a valid order of protection, which is  
 23 authorized under the laws of another state, tribe or  
 24 United States territory,

25 (iii) any other remedy when the act  
 26 constitutes a crime against the protected parties as  
 27 the term protected parties is defined in Section  
 28 112A-4 of the Code of Criminal Procedure of 1963;  
 29 and

30 (2) Such violation occurs after the offender has  
 31 been served notice of the contents of the order, pursuant  
 32 to the Illinois Domestic Violence Act of 1986 or any  
 33 substantially similar statute of another state, tribe or

1 United States territory, or otherwise has acquired actual  
2 knowledge of the contents of the order.

3 An order of protection issued by a state, tribal or  
4 territorial court related to domestic or family violence  
5 shall be deemed valid if the issuing court had jurisdiction  
6 over the parties and matter under the law of the state, tribe  
7 or territory. There shall be a presumption of validity where  
8 an order is certified and appears authentic on its face.

9 (a-5) Failure to provide reasonable notice and  
10 opportunity to be heard shall be an affirmative defense to  
11 any charge or process filed seeking enforcement of a foreign  
12 order of protection.

13 (b) For purposes of this Section, an "order of  
14 protection" may have been issued in a criminal or civil  
15 proceeding.

16 (c) Nothing in this Section shall be construed to  
17 diminish the inherent authority of the courts to enforce  
18 their lawful orders through civil or criminal contempt  
19 proceedings.

20 (d) Violation of an order of protection under subsection  
21 (a) of this Section is a Class A misdemeanor. Violation of an  
22 order of protection under subsection (a) of this Section is a  
23 Class 4 felony if the defendant has any prior conviction  
24 under this Code for domestic battery (Section 12-3.2) or  
25 violation of an order of protection (Section 12-30).  
26 Violation of an order of protection is a Class 4 felony if  
27 the defendant has any prior conviction under this Code for  
28 first degree murder (Section 9-1), attempt to commit first  
29 degree murder (Section 8-4), aggravated domestic battery  
30 (Section 12-3.3), aggravated battery (Section 12-4), heinous  
31 battery (Section 12-4.1), aggravated battery with a firearm  
32 (Section 12-4.2), aggravated battery of a child (Section  
33 12-4.3), aggravated battery of an unborn child (Section  
34 12-4.4), aggravated battery of a senior citizen (Section

1 12-4.6), stalking (Section 12-7.3), aggravated stalking  
2 (Section 12-7.4), criminal sexual assault (Section 12-13),  
3 aggravated criminal sexual assault (12-14), kidnapping  
4 (Section 10-1), aggravated kidnapping (Section 10-2),  
5 predatory criminal sexual assault of a child (Section  
6 12-14.1), aggravated criminal sexual abuse (Section 12-16),  
7 unlawful restraint (Section 10-3), or aggravated unlawful  
8 restraint (Section 10-3.1), aggravated arson (Section  
9 20-1.1), or aggravated discharge of a firearm (Section  
10 24-1.2), when any of these offenses have been committed  
11 against a family or household member as defined in Section  
12 112A-3 of the Code of Criminal Procedure of 1963. The court  
13 shall impose a minimum penalty of 24 hours imprisonment for  
14 defendant's second or subsequent violation of any order of  
15 protection; unless the court explicitly finds that an  
16 increased penalty or such period of imprisonment would be  
17 manifestly unjust. In addition to any other penalties, the  
18 court may order the defendant to pay a fine as authorized  
19 under Section 5-9-1 of the Unified Code of Corrections or to  
20 make restitution to the victim under Section 5-5-6 of the  
21 Unified Code of Corrections. In addition to any other  
22 penalties, including those imposed by Section 5-9-1.5 of the  
23 Unified Code of Corrections, the court shall impose an  
24 additional fine of \$20 as authorized by Section 5-9-1.11 of  
25 the Unified Code of Corrections upon any person convicted of  
26 or placed on supervision for a violation of this Section.  
27 The additional fine shall be imposed for each violation of  
28 this Section.

29 (e) The limitations placed on law enforcement liability  
30 by Section 305 of the Illinois Domestic Violence Act of 1986  
31 apply to actions taken under this Section.

32 (Source: P.A. 90-241, eff. 1-1-98; 90-732, eff. 8-11-98;  
33 90-734, eff. 1-1-99; 91-112, eff. 10-1-99; 91-357, eff.  
34 7-29-99.)

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.