

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 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 3 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 aggravated battery (Section 12-4), stalking (Section
25 12-7.3), aggravated stalking (Section 12-7.4), unlawful
26 restraint (Section 10-3), or aggravated unlawful restraint
27 (Section 10-3.1), when any of these offenses have been
28 committed against a family or household member as defined in
29 Section 112A-3 of the Code of Criminal Procedure of 1963. In
30 addition to any other sentencing alternatives, for any first
31 or subsequent ~~second~~ conviction of violating this Section

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

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

30 (Source: P.A. 91-112, eff. 10-1-99; 91-262, eff. 1-1-00;
31 91-928, eff. 6-1-01; 92-16, eff. 6-28-01.)

32 (720 ILCS 5/12-30) (from Ch. 38, par. 12-30)
33 Sec. 12-30. Violation of an order of protection.

1 (a) A person commits violation of an order of protection
2 if:

3 (1) He or she commits an act which was prohibited
4 by a court or fails to commit an act which was ordered by
5 a court in violation of:

6 (i) a remedy in a valid order of protection
7 authorized under paragraphs (1), (2), (3), (14), or
8 (14.5) of subsection (b) of Section 214 of the
9 Illinois Domestic Violence Act of 1986,

10 (ii) a remedy, which is substantially similar
11 to the remedies authorized under paragraphs (1),
12 (2), (3), (14) or (14.5) of subsection (b) of
13 Section 214 of the Illinois Domestic Violence Act of
14 1986, in a valid order of protection, which is
15 authorized under the laws of another state, tribe or
16 United States territory,

17 (iii) any other remedy when the act
18 constitutes a crime against the protected parties as
19 the term protected parties is defined in Section
20 112A-4 of the Code of Criminal Procedure of 1963;
21 and

22 (2) Such violation occurs after the offender has
23 been served notice of the contents of the order, pursuant
24 to the Illinois Domestic Violence Act of 1986 or any
25 substantially similar statute of another state, tribe or
26 United States territory, or otherwise has acquired actual
27 knowledge of the contents of the order.

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

34 (a-5) Failure to provide reasonable notice and

1 opportunity to be heard shall be an affirmative defense to
2 any charge or process filed seeking enforcement of a foreign
3 order of protection.

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

7 (c) Nothing in this Section shall be construed to
8 diminish the inherent authority of the courts to enforce
9 their lawful orders through civil or criminal contempt
10 proceedings.

11 (d) Violation of an order of protection under subsection
12 (a) of this Section is a Class A misdemeanor. Violation of an
13 order of protection under subsection (a) of this Section is a
14 Class 3 4 felony if the defendant has any prior conviction
15 under this Code for domestic battery (Section 12-3.2) or
16 violation of an order of protection (Section 12-30).
17 Violation of an order of protection is a Class 4 felony if
18 the defendant has any prior conviction under this Code for
19 aggravated battery (Section 12-4), stalking (Section 12-7.3),
20 aggravated stalking (Section 12-7.4), unlawful restraint
21 (Section 10-3), or aggravated unlawful restraint (Section
22 10-3.1), when any of these offenses have been committed
23 against a family or household member as defined in Section
24 112A-3 of the Code of Criminal Procedure of 1963. The court
25 shall impose a minimum penalty of 24 hours imprisonment for
26 defendant's first ~~second~~ or subsequent violation of any order
27 of protection; unless the court explicitly finds that an
28 increased penalty or such period of imprisonment would be
29 manifestly unjust. In addition to any other penalties, the
30 court may order the defendant to pay a fine as authorized
31 under Section 5-9-1 of the Unified Code of Corrections or to
32 make restitution to the victim under Section 5-5-6 of the
33 Unified Code of Corrections. In addition to any other
34 penalties, including those imposed by Section 5-9-1.5 of the

1 Unified Code of Corrections, the court shall impose an
2 additional fine of \$20 as authorized by Section 5-9-1.11 of
3 the Unified Code of Corrections upon any person convicted of
4 or placed on supervision for a violation of this Section.
5 The additional fine shall be imposed for each violation of
6 this Section.

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

10 (Source: P.A. 90-241, eff. 1-1-98; 90-732, eff. 8-11-98;
11 90-734, eff. 1-1-99; 91-112, eff. 10-1-99; 91-357, eff.
12 7-29-99.)