

(S. B. 183)

(No. 14)

(Approved February 13, 2010)

AN ACT

To amend Section 2.1 of Act No. 54 of August 15, 1989, as amended, known as the “Domestic Violence Prevention and Intervention Act,” in order to provide that whenever a firearm has been seized as part of the protocol to be followed upon issue of a restraining order under this Act, any person convicted of noncompliance with the terms of the restraining order shall have his/her license to own and carry weapons permanently revoked.

STATEMENT OF MOTIVES

Domestic abuse is an issue that affects society as a whole, which makes no distinction as to social or financial condition. As regards to this matter, our Supreme Court has made the following observations:

“Violence is one of the most serious and alarming problems that we must face at present. Today, we reassert that violence against women continues to be one of the most serious problems encountered in our society. Domestic abuse is one of the most critical manifestations of the effect of inequality in relations between men and women...” [Unofficial translation supplied] *De los Ríos v. Méndez*, 141 D.P.R. 282 (1996).”

Domestic abuse may be defined as the physical, sexual or emotional abuse inflicted upon a person by his/her spouse, former spouse, domestic partner or former domestic partner, with whom the former sustains or has sustained an intimate consensual relationship or with whom he/she has had a child, with the purpose of inflicting physical harm on his/her person, his/her property, or a third party, or to inflict serious emotional harm. Anyone can fall victim to domestic

abuse. However, domestic abuse cases statistics in Puerto Rico show that 85% of domestic abuse victims are women, and that the women between the ages of 16 and 24 are most at risk of becoming victims of domestic abuse.

In order to address the domestic abuse issue in our Island, Act No. 54 was approved on August 15, 1989, as amended, known as the “Domestic Violence Prevention and Intervention Act.” This Act intends to state our emphatic repudiation of domestic abuse, insofar as it contravenes values such as peace, dignity, and respect which the People of Puerto Rico want to preserve for individuals, families, and the community at large. However, even though said Act forcefully punishes offenders, and in spite of other government and private initiatives, the truth remains that domestic abuse is increasingly on the rise.

Under Act No. 54, *supra*, when a restraining order is issued for the victim, if the offender has a license to own or to carry firearms, the Court issuing the order has the authority to command the seizure of said firearm. Yet, the Act is silent as to the circumstances under which the privilege may be suspended permanently or for a period more extensive than the effectiveness of the restraining order. Through this Bill, we are addressing the loopholes present in the Act as a measure to protect domestic abuse victims.

Owning and carrying a firearm is not a right of our citizens, but rather a privilege that the Commonwealth grants, as a privilege it is subject to being revoked if abused. Pursuant to the Act, in order to lawfully carry a firearm the carrier must have a license to own a firearm. In cases in which the carrier has no license to own a firearm, he/she shall not be authorized to carry such firearm anywhere.

It is the intent of this measure to empower the Court that issues a restraining order under Act No. 54, *supra*, so that the same may order the cancellation of any license to own and to carry firearms of any offender who violates the terms of a restraining order. We thus ensure compliance with the Court orders, as well as with the safety of domestic abuse victims.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.—Section 2.1 of Act No. 54 of August 15, 1989, as amended, is hereby amended to read as follows:

“Section 2.1.—Restraining Orders.—

Any person who has been the victim of domestic abuse or conduct which constitutes said crime as typified in this Chapter or in the Penal Code of the Commonwealth of Puerto Rico or in any other special law, within the context of a relationship as a couple, may file a petition in court and request a restraining order *motu proprio*, through legal counsel, or through a law enforcement officer, without the need of having made previous reports or accusations.

When the court so deems or has issued a restraining or anti-stalking order, the court shall immediately order the defendant to surrender to the Puerto Rico Police for custody, any firearm belonging to the defendant for which a license to bear or own or carry firearms, or for target-shooting or hunting or of any other kind, as the case may be. The order to surrender any firearm, as well as the suspension of any kind of firearm license, shall take effect compulsorily. Likewise, when such an order is issued by a court, the same shall have the effect of suspending the license to own or bear any firearm of any kind, such as, but not limited to, those used for target-shooting or hunting or otherwise, even when said firearm is part of the gear used by the accused in his/her profession. Said

restriction shall apply at the very least for the same period of time the order is in effect. *Any infringement of the terms of the restraining order which results in a conviction shall entail the permanent revocation of any kind of license to own a firearm which the defendant may hold, at which time, any firearms belonging to him/her shall be seized.* The objective of this statute is to eliminate the possibility for the accused to be able to use any firearm to inflict bodily harm or to threaten or intimidate the petitioner or the members of his/her family unit.

(a) ...”

Section 2.—This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 14 (S. B. 183)** of the **3rd Session of the 16th Legislature** of Puerto Rico:

AN ACT to amend Section 2.1 of Act No. 54 of August 15, 1989, as amended, known as the "Domestic Violence Prevention and Intervention Act," in order to provide that whenever a firearm has been seized as part of the protocol to be followed upon issue of a restraining order under this Act, any person convicted of noncompliance with the terms of the restraining order shall have his/her license to own and carry weapons permanently revoked.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on the 9th day of May, 2011.

María del Mar Ortiz Rivera, Esq.
Director