

fiscal year, depositing the remainder, if any, in the special account, and the free surplus in the General Fund. When the advances of funds exceed the collections made, the surplus shall be withheld from the sums to be set aside in the following fiscal year.”

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

Bill of Rights of Victims and Witnesses of Crimes

(H.B. 1444)

[No. 22]

[Approved April 22, 1988]

AN ACT

To establish the Bill of Rights of Victims and Witnesses of Crimes and to provide the means that shall be available to claim such rights.

STATEMENT OF MOTIVES

A system of justice that is not equitable with respect to the protection of the rights of the accused person and the due protection of the victims of crimes is doomed to failure. The justice system in our democracy was designed so that the people could trust in it, but in recent years we have become aware that there is no adequate balance between the protection given to the accused person and the protection granted to the victim when said balance, in essence, is the cornerstone of its wisdom.

In order to obtain said balance, the efforts of the Government and of the community should be directed to satisfying the three basic needs of the victims, to wit: respect for their dignity, be protected, and be consulted.

In accordance with this principle, Act No. 77 of July 9, 1986, was approved which declared that it is the public policy of the Commonwealth of Puerto Rico to provide protection and assistance to the victims and witnesses during judicial procedures which are tried in the Courts as well as during the investigations that are conducted, to motivate their cooperation and full participation in those procedures, free from intimidation.

Furthermore, our code of laws also contains other laws that have met the basic needs of the victims and witnesses of crimes.

Therefore, the Commonwealth of Puerto Rico recognizing in one single statute the responsibility that government agencies and private persons and entities have, in certain cases, of providing the necessary protection and assistance to victims and witnesses, hereby adopts the Bill of Rights of Victims and Witnesses in which the rights that, up to now have been recognized in several laws are gathered and complemented with other guarantees that have been recognized in other jurisdictions and have been adapted to the reality of our system. This shall contribute to make the citizenry fully aware of the rights and guarantees that the victims and witnesses of crimes are entitled to, and particularly, in the government agencies that make up the criminal justice system.

Be it enacted by the Legislature of Puerto Rico:

Section 1.—Purpose of the Act

In harmony with the public policy of the Commonwealth of Puerto Rico of providing protection and assistance to victim and witnesses during judicial proceedings and investigations carried out pursuant to Act No. 77 of July 9, 1986, as amended, the Bill of Rights of the Victims and Witnesses of Crimes is hereby adopted.

Section 2.—Bill of Rights of Victims and Witnesses of Crimes

Any person that is a victim or a witness of a crime in the Commonwealth of Puerto Rico shall be entitled to:

- a) Receive a compassionate and dignified treatment from the public officials and employees that represent the agencies that compose the criminal justice system, during the phases of investigation, proceedings, sentencing and subsequent disposition of the criminal case filed against the person responsible for the crime.
- b) Have access to a telephone, free of charge, so that the person can communicate with his family or next of kin or with his legal counsel, as soon as he is in contact with the criminal justice system.
- c) Claim the confidentiality of the information regarding his address and telephone numbers when he deems it necessary for his personal safety and that of his family, as well as the communications privilege between the victim and his counsel guaranteed by Rule 26-A of the Rules of Evidence, as amended.
- d) Receive all the protection services guaranteed by Act No. 77 of July 9, 1986, as amended, for himself and his family against all

possible threats and damages that they may suffer from the person responsible for the crime, his henchmen, friends and relatives, including, without it being understood as a limitation, the emergency telephone line, shelter, change of address and identity and direct surveillance.

e) Be oriented as to all the medical, psychological, social and financial assistance programs that are available in the Commonwealth of Puerto Rico, to receive the correct information from the officials and employees of the public and private agencies that administer these programs and to be guided as to the procedures for requesting such services.

f) Receive, for himself and his family, all those services and benefits provided by medical, psychological, social and financial assistance programs that are available in the Commonwealth of Puerto Rico and to which he is eligible.

g) Be notified of the development of the investigation, proceedings and sentencing of the person responsible for the crime, and to be consulted prior to settling a complaint or accusation against the author of a crime and to be informed of the procedures after the sentencing when the victim or the witness thus requests it to the Puerto Rico Police, to the Special Investigations Bureau and to the District Attorney's Office.

h) Have the District Attorney's Office promote the speedy handling of the criminal cases against the person responsible for the crime and especially, the cases of sexual crimes, abuse and domestic violence.

i) Be present in all the stages of the procedures against the person responsible for the crime when the laws and rules of procedure allow it, except in those cases prohibited by the Court because the victim is a witness in the criminal procedure or due to other circumstances, and that the Puerto Rico Police, the Bureau of Special Investigations or the District Attorney's Office promptly inform the person when his presence is not necessary in the Court.

j) Receive, at all time that he is giving testimony in a Court or quasi-judicial body, a respectful and dignified treatment from the lawyers, prosecutors, judges and pertinent officials and employees and the protection of the Judge or the official presiding the administrative hearing in cases of harassment, insults, attacks and abuses to the dignity and the honor of the witness or of his family and relatives.

k) When dealing with rape victims to not be questioned on their sexual background pursuant to the provisions of Rule 21 of the Rules of Evidence for the General Court of Justice of 1979, as amended.

l) When dealing with a minor or disabled person to not be questioned as to the extent of the duty to say the truth, that he not be sworn or confirmation in this sense, and to file the corresponding suits for sexual offenses and abuse within the extended prescriptive term provided in Article 78 of the Penal Code of the Commonwealth of Puerto Rico.

m) Have available to them, in the Court where the judicial proceedings are being dilucidated against the person responsible of the crime, an area that is separated from the accused, his henchmen, friends and family, and, when said separate area is not available, to receive other protective measures.

n) Have him relieved from personally appearing at the hearing to determine probable cause for arrest, when said testimony conveys a risk to his personal safety or that of his family or when he is physically or emotionally unable to do so.

o) Submit to the sentencing court a report on the financial and emotional effect the commission of the crime has caused him, as guaranteed by Rules 162.1 and 162.2 of the Rules of Criminal Procedure of 1963, as amended.

p) Receive the financial compensation due to him for his appearance in the judicial proceedings, as well as the granting of judicial leave and reinstatement in his employment provided by Acts No. 338 of May 10, 1947, as amended; No. 122 of July 12, 1986, Act No. 5 of October 14, 1975, as amended, and Article 249 of the Penal Code of the Commonwealth of Puerto Rico.

q) Receive the benefit of restitution by the person liable for the crime in all those cases in which the Penal Code of the Commonwealth of Puerto Rico or the special laws thus provide it.

r) Have all property that has been retained by the pertinent authorities to be used as evidence, returned to him as soon as possible.

Section 3.—Action to Claim the Rights Granted by this Act.

Any person entitled to any of the rights recognized by this Act, per se, through his tutor, or a public official or private person interested in his well-being, may resort to the Department of Justice or to any other administrative forum or part of the Court of First Instance of the judicial district in which he resides, to claim

any right or benefit corresponding to him, or to request the suspension of any action that is in violation of the Bill of Rights of Victims and Witnesses.

The Department of Justice or the competent administrative forum to which the person resorts shall receive and investigate these complaints and shall handle the pertinent judicial actions.

In the case a complaint charges a public official or a private person with a violation of the rights recognized by this Act, the Department shall resort to the competent forums and authorities so that the corresponding administrative measures and actions are taken.

The complaints filed for any violation of the rights recognized by this Act against judges or attorneys shall be dilucidated before the Supreme Court of Puerto Rico.

For the purposes of this paragraph, the term public official shall include the members of the Puerto Rico Police and the agents of the Bureau of Special Investigations, the agents of law and order, the prosecuting attorneys appointed by the Governor of Puerto Rico or designated by the Secretary of Justice, the Prosecutors for Minor's Affairs and any other public official or employee.

The courts shall give priority to the actions filed by virtue of this Act and shall be empowered to appoint a legal counsel or defense counsel for the victim or witness of a crime or their family if they do not have the financial resources therefor. The Court shall be empowered to render any order or judgment under the law that is needed to carry out the provisions of this Act. Failure to comply with the orders and judgments rendered by the Court pursuant to this Section shall constitute civil contempt.

Section 4.—Actions Reserved

The exercise of the action authorized by this Act is separate from any other civil or criminal action, right or remedy that is provided by the laws in effect, and none of the provisions of this Act shall limit, or impede the exercise of such actions, rights or remedies.

Section 5.—This Act shall take effect immediately after its approval.

Health—Emergency Medical Treatment for Indigents; Amendments

(Substitute to
S.B. 1128)

[No. 23]

[Approved May 6, 1988]

AN ACT

To amend the Title and Sections 1, 2, 4 and 8 of Act No. 11 of October 5, 1979, which created the Children's Emergency Medical Treatment Fund attached to the Department of Health in order to extend the services to Indigent Patients regardless of their age, and to increase the appropriation of funds to the program.

STATEMENT OF MOTIVES

All human beings should have access to, and enjoy the latest scientific discoveries. The Government of Puerto Rico has as its primary objective, to endow our people with the most modern advances in the fields of health and medicine. However, advances in the fields of medicine and health occur very rapidly. New equipment and highly-specialized medical treatments are being found every day but it has not been possible yet to bring them to Puerto Rico.

For the preservation of human life and to improve the quality of life, it is essential to have access to those specialized services not available in Puerto Rico. It is even more important to achieve, that low-income persons have the same opportunity to whatever extent is possible to have access to the latest scientific advances.

There are many patients in Puerto Rico at present, that upon medical recommendation, must undergo surgery or medical treatment abroad, because those procedures are not performed in Puerto Rico. Many of these patients do not have the financial resources needed to cover the cost of hospitalization and complementary expenses, thus they must resort to asking for help, and to other activities which will help them to obtain sufficient funds. Frequently, the money comes too late for the patient, or his condition has worsened, thus jeopardizing his life.