



LEGISLATURE OF PUERTO RICO

Office of Legislative Services

May 5, 1998

José A. Figueroa-Lugo, Director of the Office of Legislative Services of the Legislature of Puerto Rico, hereby certifies to the Secretary of State that he has duly compared the English and Spanish texts of Act No. 27 (S.B. 323) of the 1st Session of the 13th Legislature of Puerto Rico, entitled:

AN ACT to create the Permanent Fund for the Administration and Operation of Assets Destined for the Development of Programs for the Protection of Children and Prevention of Child Abuse, as a nonprofit, permanent and irrevocable public trust fund for the continuous benefit of the children of Puerto Rico; to establish the manner in which the trust shall be capitalized and administered; to adopt norms for the supervision thereof; and to provide penalties,

and finds the same are complete, true and correct versions of each other.

José A. Figueroa-Lugo

(S.B. 323)

(No. 27)

(Approved July 1, 1997)

AN ACT

To create the Permanent Fund for the Administration and Operation of Assets Destined for the Development of Programs for the Protection of Children and Prevention of Child Abuse, as a nonprofit, permanent and irrevocable public trust fund for the continuous benefit of the children of Puerto Rico; to establish the manner in which the trust shall be capitalized and administered; to adopt norms for the supervision thereof; and to provide penalties.

STATEMENT OF MOTIVES

Child abuse is a serious problem in our society. According to statistics from the Department of the Family, there has been an increase in referrals and in the cases that child abuse is proven. This increase is due to the citizen's awareness of the problem and which has caused that the silence which usually surrounded these cases "be broken". During fiscal year 1991-92, 13,441 active cases of protection and 15,526 referrals were received. In fiscal year 1992-93, the total of active cases rose to 13,758 and the referrals to 20,173. For 1993-94, the total of active cases rose to 15,575 and the referrals to 17,564, while in 1994-95, the cases rose to 17,858 and referrals to 21,554. These cases include situations of physical and emotional abuse, negligence, exploitation, and sexual abuse of children. These result in psychological traumas which promote the disintegration of the family. Frequently, it is necessary to remove the child from his/her home and place him/her in a foster home, exposing him/her to changes that generate serious emotional problems. Guidance and support services are required to help in the adjustment process.

Studies reveal that many children who have been abused by their parents, when forming their own family, abuse their own children which represents a vicious circle

and the multiplication of the number of persons involved. Studies conducted on the sources and effects of primary and secondary prevention in Puerto Rico confirm that a history of violence and physical abuse of children as well as among adults are determining factors in the incidence of delinquency.

In view of the magnitude and complexity of the problem, it is necessary to develop innovative prevention programs that offer diverse support services to the family and that are not limited exclusively to community education activities.

For this reason, we hereby establish the Protection of Children and Prevention of Child Abuse Trust. When making contributions to the same, the citizenry may channel these additional financial resources in activities for the prevention of child abuse.

The Board of Directors of the Protection of Children and Prevention of Child Abuse Trust shall have the additional responsibility of studying and approving proposals for the creation of child abuse prevention programs.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Creation of the Permanent Fund for the Administration and Operation of Assets Destined for the Development of Programs for the Protection of Children and Prevention of Child Abuse;

General Powers.-

For the continuing benefit of the children of Puerto Rico a nonprofit, permanent and irrevocable public trust fund is hereby created which shall have the name of "Permanent Fund for the Administration and Operation of Assets Destined for the Development of Programs for the Protection of Children and Prevention of Child Abuse", which shall be known as the "Child Protection and Prevention of Abuse Trust", and shall be capitalized and administered pursuant to the provisions of this Act. The Trust shall have all the rights and powers that are necessary and pertinent to carry out its purposes, as they are established in this Act, including, but without being limited to the following:

- (a) Approve, amend and repeal regulations for the administration of its affairs and business and those regulations and norms that are necessary for the exercise of its powers and duties.
- (b) Adopt an official seal and alter the same at its convenience.
- (c) To sue and be sued on its own behalf, to file complaints and be complained against.
- (d) Receive, administer and comply with the conditions and requirements regarding any royalty, concession, loan or gift of any property or money, including, without it being understood as a limitation, those proceeding from the Government of Puerto Rico and the Government of the United States, or any agency or instrumentality thereof, and those from private sources.
- (e) Negotiate, enter contracts, leases, subleases and any other instruments and agreements with any natural or juridical person that are necessary or convenient to exercise the powers and duties conferred by this Act.
- (f) Borrow money or take out loans on behalf of the trust in those amounts, terms and conditions that it deems necessary and convenient for the administration of its business, and obligations of the trust's funds as provided in this Act.
- (g) File any judicial action to protect or enforce any right conferred by any law, contract or other agreement and, notwithstanding any provision of law in conflict thereof, exercise any action provided when there is noncompliance, under any contract or agreement according to said contract or agreement.
- (h) Appoint those officials, agents and employees that are needed for the proper compliance of the ends and purposes for which it has been created and to fix its powers, faculties and duties and the terms and working conditions established in this Act.
- (i) Procure, from insurers that satisfy the highest criteria of solvency, insurance against financial losses of the type and in the amounts

deemed necessary for the adequate protection of the Trust, including but without it being understood as a limitation, fidelity bonds and insurance against the civil liability of trustees, officials, agents and employees or equivalent coverages. In contracting insurance, the procedures established in the Insurance Code of Puerto Rico shall be followed.

- (j) Compensate third parties on behalf of the Trust and release any of its trustees, officials or agents from any legal liability incurred by them in the performance of their duties and responsibilities, under the circumstances provided in this Act.
- (k) Organize, administer and develop the operations, events and activities of the Trust in accordance to its best interests, businesses and purposes that gave rise to its creation.
- (l) Meet in regular session once a month.
- (m) Evaluate and approve proposals to grant funds to government and private entities that offer services for the prevention of child abuse. Adopt criteria to guide the Board of Trustees in the granting of funds.
- (n) Support community guidance programs through the communications media with special emphasis on primary prevention.
- (o) Support child abuse prevention programs.
- (p) Perform all those functions and exercise all the incidental powers that are necessary to comply with the purposes of this Act, that are not in contravention of any law, rule or regulations, nor to the sound public administration norms.

Section 2.- Definitions.-

The following terms shall have the meaning indicated below, unless it is otherwise clearly understood or construed from the context:

- (a) "Trust" or "Protection of Children and Child Abuse Prevention Trust" shall mean the Permanent Fund for the Administration and Operation of

Assets Destined for the Development of Programs for the Protection of Children and Prevention of Child Abuse.

- (b) "Board of Trustees" means the Board of Trustees of the Fund.
- (c) "Administration" means the Family and Children's Administration created by Reorganization Plan No. 1 of July 28, 1995, and attached to the Department of the Family.
- (d) "Trustee" means a member of the Board of Trustees of the Trust.
- (e) "Operating expenses" means those charges, salaries, compensations, commissions and other similar expenses that are necessary or proper for the operation and administration of the Trust's fund.
- (f) "Secretary of Family" shall mean the office of the Secretary of the Department of the Family created by Reorganization Plan No. 1 of July 28, 1995.
- (g) "Permanent Fund" means the fund destined for the creation of the Trust for the Protection of Children and Prevention of Child Abuse.

Section 3.- Capitalization.-

The Trust shall be nourished from those funds or properties that are ceded or donated to it in benefit of the programs to be administered by the Trust; and those other sums that are donated or ceded to the trust, from time to time, by any natural or juridical person or by the Governments of the United States and of Puerto Rico. This fund shall be denominated as the Permanent Fund.

Section 4.- Board of Trustees.-

The Trust shall be directed and administered by a Board of Trustees which shall be the governing body of the Trust. The Board shall be composed of the Secretary of the Family, represented by the Administrator of the Families and Children's Administration, the Secretary of the Treasury and five (5) representatives of the community, of which not less than two (2) shall be social workers.

The appointments of the first five (5) representatives of the community shall be, the first for one (1) year; the second, for two (2) years; the third, for three (3) years; a fourth member for four (4) years and the fifth, for five (5) years. Subsequent

appointments shall be made for a term of five (5) years. the members of this Board shall be appointed by the Governor of Puerto Rico and shall hold office until their successors are appointed and take office. The Board shall select a Chairperson and a Secretary through a majority vote of all its members.

Section 5.- Meetings.-

The Secretary shall call and direct the first meeting of the Board and subsequent meetings. The first special meeting shall be held within fifteen (15) days following the appointment of all its members.

Section 6.- Vacancies.-

Should a vacancy occur, the succeeding trustee shall be designated to hold said office for the remaining term of said vacancy, and shall meet the eligibility requirements of his/her predecessor. A vacancy on the Board shall not have the effect of diminishing its authority to exercise all its powers and carry out all the duties of the Board in any meeting in which there is the necessary quorum.

Section 7.- Qualifications of Members.-

Every trustee who is a representative of the community shall be of known moral probity and of recognized competence and experience in some of the different phases of child abuse or financial or business activities. No elected official of the Government of Puerto Rico and no official or employee of any political party shall be a trustee.

Section 8.- Removal of members.-

The Board of Trustees may, with the vote of the absolute majority of its members, recommend to the Governor the removal of any trustee of the Board for just cause. Said removal and the reasons therefor shall be set forth in a public record. The following shall be understood to be just cause:

- (1) The violation of the provisions of this Act or of its regulations as to the faithful performance of his/her responsibilities as trustee.
- (2) Acts or omissions contrary to the best interests of the Trust or to its financial solvency.
- (3) Gross negligence in the performance of his/her functions.

Section 9.- Quorum.-

An absolute majority of the members of the Board shall constitute quorum to hold the meetings of the Board. The decisions shall be made through the affirmative vote thereof in order to address its affairs and exercise the powers and duties of the Board; each trustee shall be entitled to cast one single vote.

If a meeting is convoked and it cannot be constituted for lack of quorum, it shall be recorded and a new meeting shall be convoked immediately to be held within the following ten (10) days for the same purposes. In said meeting, quorum shall be constituted by the members of the Board that are present, and its agreements shall be valid.

Section 10.- Voting.-

The Chairperson of the Board shall have a voice, but not vote in the affairs and decisions made by the Board. However, should there be a tie in the voting, the Chairperson may cast his/her vote to break the tie, but after calling a second vote in which the tie prevails.

Section 11.- Rules; Stipends.-

The Board shall adopt, and may from time to time, amend rules for its operation and internal administration, and those rules, regulations and norms that are consistent with the provisions of this Act, as they may be necessary and proper to direct its affairs and business. Trustees by appointment shall receive per diems equal to the minimum per diems fixed for members of the Legislature for each day they attend Board meetings. The trustees shall be entitled to reimbursement of those necessary and reasonable expenses incurred in the performance of their powers and duties, or trustees, pursuant to the legal provisions established in the Civil Code.

Section 12.- Conflict of Interest.-

If a matter is brought before the consideration of the Board in which a trustee has a personal interest or direct or indirect pecuniary interest through a family or business relation, including, but without being limited to, decisions of the Board related to the investment of those assets that are part of the Permanent Fund, in any obligation or proprietary deposit in a bank, corporation, partnership, or any other

person with whom said trustee has said pecuniary interest, he/she shall then indicate, for the record, that he/she has such pecuniary interest and shall not vote or participate in said matter. None of the above shall be construed as a prohibition of a trustee to participate or vote in matters related to the general investment norms of the Permanent Fund of the Trust.

Section 13.- Executive Director.-

The Board shall contract and fix the salary, working terms and conditions of an Executive Director, who shall have all those powers delegated to him/her by the Board related to the administration of the Fund. The Executive Director shall contract and establish the working terms and conditions of the additional personnel needed for the Trust with the consent, and subject to the norms established by the Board. No member of the Board shall hold the office of Executive Director or be part of the working personnel of the Permanent Fund. The costs and expenses related to personnel shall be paid with the Trust's funds.

Section 14.- Investment of Assets.-

The assets of the Permanent Fund shall be invested pursuant to the rules and regulations promulgated to such effects. Said rules and regulations shall be approved from time to time by the Government Development Bank, in terms of eligible investments for said Fund.

Section 15.- Budget.-

(a) The Executive Director shall prepare a budget for the Permanent Fund each year, which shall be subject to the approval of the Board.

Said budget shall clearly establish the operating expenses that shall be defrayed from the revenue of said Fund.

Section 16.- Custodians.-

The Board shall designate one or more banks to serve as custodians of the money, securities and assets of the Permanent Fund.

The custodian banks shall have to be: (i) incorporated under the laws of the United States or of Puerto Rico; (ii) subject to the supervision and examination by the banking authorities of federal or Puerto Rican deposit institutions and those that

have been designated by the Secretary of the Treasury as depositaries of public funds.

Section 17.- Fiscal Year.-

The fiscal year of the Permanent Fund shall end on June 30 of each year.

Section 18.- Political activities; prohibition.-

The resources of the Permanent Fund shall not be used to finance or influence activities of a political partisan nature.

Section 19.- Compensation.-

No member of the Board of Trustees, official, agent or employee shall in any way be personally liable for any obligation, loss or expense incurred by the Permanent Fund unless such obligation loss or expense arises or is the result of gross negligence, intentional misconduct or knowing that it could cause damages. The Board shall be authorized to compensate third parties and release from liability each one of the trustees, officials, agents or employees against any loss, claim, damage, lawsuit or obligation, including the payment of attorney's fees that arise from the performance of his/her duties, except when there is gross negligence, intentional misconduct or action knowing that damages could be caused on his/her part.

Section 20.- Audit.-

The Office of the Controller may examine, review, supervise or audit documents, papers or records of the Permanent Fund created hereby in order to ensure that the assets and the public funds proceeding from the Government of Puerto Rico, its agencies or instrumentalities, including the municipalities, have been used according to law.

Section 21.- Reports.-

The Board of Trustees of the Protection of Children and Prevention of Child Abuse Trust shall render an annual report of its expenses, operations and achievements to the Legislature.

Section 22.- Penalties.-

Any member of the Board, official, agent or employee of the Trust who in the performance of his/her powers, duties and responsibilities incurs conduct typified as a crime against public office or against the public treasury, shall be subject to the penalties established in the existing laws, as applicable.

Section 23.- This Act shall take effect immediately after its approval.