

(S. B. 135)

(No. 37-2021)

(Approved August 27, 2021)

AN ACT

To amend Section 11 of Act No. 17 of April 22, 1988, as amended, known as the “Act to Prohibit Sexual Harassment in Employment,” in order to establish that in cases where solidary and vicarious liability is adjudicated to the Government of the Commonwealth of Puerto Rico, including each of its three (3) Branches—Executive, Legislative, and Judicial—its instrumentalities and public corporations, as well as the municipal governments for acts of sexual harassment in employment, the foregoing may request the restitution, equalization, or reimbursement of all the public funds used to pay the victims; and for other related purposes.

STATEMENT OF MOTIVES

Confusion, doubt, guilt, anxiety, depression, distrust or suspicion of others and fear are just some of the devastating effects of sexual harassment. The scars remain forever regardless of how much time has passed and despite therapy treatments,. This harsh reality not only requires the establishment and enforcement of a clear public policy on education and prevention, but also warrants the revision of approved legislation regarding this subject in order to update it and create new provisions.

Article II, Section 1, of the Constitution of the Commonwealth of Puerto Rico establishes that: “The dignity of the human being is inviolable. All men are equal before the law. No discrimination shall be made on account of race, color, sex, birth, social origin or condition, or political or religious ideas...” Consistent with the foregoing, the amendments proposed for Act No. 17 of April 22, 1988, as

amended, known as the “Act to Prohibit Sexual Harassment in Employment” seek to clarify that any act of sexual harassment in the employment requiring the payment of damages to the victim shall be paid by the person, employer, or supervisor from their own private money. The outlay of public funds to defray such claims is thus prohibited.

There is no doubt that sexual harassment in the employment is loathsome, unacceptable and has countless emotional and psychological effects on a person’s dignity. In light of the foregoing, we introduce this legislation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 11 of Act No. 17 of April 22, 1988, as amended, known as the “Act to Prohibit Sexual Harassment in Employment,” is hereby amended to read as follows:

“Section 11.- Sanctions.

Any person responsible for sexual harassment in employment, as defined by this Act, shall incur civil liability:

(1) ...

(2) ...

In the judgments rendered in civil actions filed under the above provisions, the court may order the employer to promote or reinstate the employee as well as to cease and desist from any such practice.

In cases where solidary and vicarious liability is adjudicated to the Government of the Commonwealth of Puerto Rico, including each of its three (3) Branches —Executive, Legislative, and Judicial— its instrumentalities, and public corporations, as well as the municipal governments, for acts of sexual harassment in employment, the foregoing may demand the restitution, equalization, or reimbursement of all the public funds used to pay the victims.

Any judgement and/or stipulation shall be public and shall contain an agreement or payment plan between the harasser or alleged harasser, and the Government, agency, municipality, or public corporation which used public funds to defray the judgment in order to enforce the restitution, equalization, or reimbursement thereof.”

Section 2.- This Act shall take effect upon its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 37-2021 (S. B. 135)** of the **2nd Regular Session** of the **19th Legislative Assembly of Puerto Rico**:

AN ACT amend Section 11 of Act No. 17 of April 22, 1988, as amended, known as the “Act to Prohibit Sexual Harassment in Employment,” in order to establish that in cases where solidary and vicarious liability is adjudicated to the Government of the Commonwealth of Puerto Rico, including each of its three (3) Branches—Executive, Legislative, and Judicial—its instrumentalities and public corporations, as well as the municipal governments for acts of sexual harassment in employment, the foregoing may request the restitution, equalization, or reimbursement of all the public funds used to pay the victims; and for other related purposes.

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

In San Juan, Puerto Rico, on this 16th day of December, 2021.

Mónica Freire-Florit, Esq.
Director