

(S. B. 731)

(No. 39-2023)

(Approved February 21, 2023)

AN ACT

To amend Section 3.5 of Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act,” in order to provide that there shall be no statute of limitations for the offense of marital rape if the victim is under the age of eighteen (18) and the offender is over the age of eighteen (18) at the time of the commission of the offense.

STATEMENT OF MOTIVES

Act No. 146-2012, as amended, known as the “Puerto Rico Penal Code,” was amended by Act No. 34-2018, to provide that there shall be no statute of limitations for the offenses of incest, sexual assault, lewd acts, human trafficking, aggravated abduction, among others, listed in Article 88 of Act No. 146-2012, *supra*, when the victim is under the age of eighteen (18) and the offender is over the age of eighteen (18). At the time, the legislative intent sought to protect minors who are victims of these heinous criminal acts committed by individuals acting with gross disregard for human integrity and dignity.

Acts of domestic violence in intimate relationships are prohibited under Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act.” Section 3.5 of Act No. 54, *supra*, classifies “Marital Rape” as an act committed by the victim’s current or former intimate partner. Victims who are in an intimate relationship tend to be more vulnerable and to remain silent than in cases where there is no affection. There is a pressing need for victims to be protected for when they decide to speak out. The amendment proposed herein is necessary because it is a well-known fact in accordance with the

principle of legality, no offense or punishment shall be created or imposed by analogy.

Therefore, in order to further the public policy to protect victims of domestic violence, it is hereby established that there shall be no statute of limitations for the offense of “Marital Rape,” as defined and classified in Act No. 54, *supra*, if, at the time of the commission of the offense, the victim is under the age of eighteen (18) and the offender is over the age of eighteen (18).

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 3.5 of Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act,” is hereby amended to read as follows:

“Section 3.5.- Marital Rape

As provided below, the punishment of imprisonment shall be imposed on any person who has nonconsensual sexual intercourse with a current spouse or former spouse, or the person with whom he or she cohabits or has cohabited, or with whom he or she has or has had a consensual relationship, or with whom he or she shares a child in common, regardless of the sex, marital status, sexual orientation, gender identity, or immigration status under any of the following circumstances:

(a) If the victim has been compelled into engaging in sexual intercourse through the use of force, violence, intimidation or threat of serious or immediate bodily injury; or

(b) if the victim’s capacity to consent has been substantially impaired or diminished, without the victim’s knowledge or consent due to the influence of hypnotics, narcotics, depressants, stimulants, or other similar means or substances;

or

(c) if due to a temporary or permanent mental illness or disability, the victim is incapable of appraising the nature of the act at the time of its commission;
or

(d) if the victim is forced or induced by means of abuse, physical or psychological violence into participating or becoming involved in unwanted sexual intercourse with third parties.

There shall be no statute of limitations for the offense of marital rape if, at the time of the commission of the offense, the victim is under the age of eighteen (18) and the offender is over the age of eighteen (18). The punishment to be imposed for this offense in any of its modalities shall be consistent with a severe second-degree felony.

The court may impose restitution in addition to the term of imprisonment established in any of the modalities stated above.”

Section 2.- Effectiveness

This Act shall take effect upon its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 39-2023 (S. B. 731)** of the **5th Regular Session** of the **19th Legislative Assembly of Puerto Rico**:

AN ACT amend Section 3.5 of Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act,” in order to provide that there shall be no statute of limitations for the offense of marital rape if the victim is under the age of eighteen (18) and the offender is over the age of eighteen (18) at the time of the commission of the offense.

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

In San Juan, Puerto Rico, on this 14th day of November, 2023.

Mónica Freire-Florit, Esq.
Director