

(H.B. 912)

**(No. 99)**

(Approved September 18, 2009)

**AN ACT**

To set forth as the public policy of the Government of Puerto Rico the creation of the Monitoring, Protection, and Prevention Program to address cases of aggravated domestic violence, recommending the compulsory use of an electronic monitoring device for aggressors; establish an interagency coordination protocol; and for other purposes.

**STATEMENT OF MOTIVES**

Domestic violence is a serious and complex social problem that affects families as well as their children, in prejudice to their dignity and other human rights. The most recent figures of the United Nations Development Fund for Women (UNIFEM) indicate that globally, one out of every three women has been beaten, sexually assaulted, and/or abused. In most cases the aggressor is known to the victim. Last year in Puerto Rico, twenty-eight (28) cases of death by domestic violence were reported. This calls for a social and institutional transformation in order to properly address this situation.

The mission of the Department of Corrections and Rehabilitation is to structure, develop, and coordinate the public policy of the Commonwealth of Puerto Rico with regard to the correctional system and the rehabilitation of the adult and juvenile correctional population. The Office of Pretrial Services (OPS) has the task of investigating and evaluating every alleged offender and offering recommendations to the court on the possibility of granting a conditional release to the person indicted, in lieu of bail or even both sentences, as provided in the Organic Act of the OPS, Act No. 177 of August 12, 1995, as amended, known as

the “Office of Pretrial Services Act.” Furthermore, the mission of the OPS is to guarantee the appearance of the alleged offender at all judicial proceedings and, in turn, guarantee public safety to the community. To these purposes, it shall have the duty to submit reports on its findings and recommendations, which shall be taken into account by the courts when determining the amount of the corresponding bail and the imposition of conditions that are deemed to be adequate and convenient.

Section 10 of Act No. 177, *supra*, provides the conditions for which the OPS may evaluate and make recommendations to the courts on the manner of granting an alleged offender conditional release on own recognizance, release to the custody of a third party, and/or release on deferred bail. Among which, “...(c) shall keep from approaching or communicating with a specific person or class of persons;...(d) keep from visiting a specific area, establishment or place...remain under the direct supervision of the Office and appear as ordered at a supervision center, with or without the use of an approved electronic supervision system;... and (n) any other reasonable condition imposed by the court.”

This Act seeks to establish as the public policy of the Government of Puerto Rico that, in certain cases of noncompliance with the domestic violence act, the use of an electronic monitoring device is recommended and furthered for alleged offenders as one of the mechanisms to address the domestic violence problem in Puerto Rico.

The Office of Pretrial Services shall make recommendations in its reports to the courts on the imposition of electronic monitoring as an additional condition when granting bail to any person charged with an offense related to domestic abuse, particularly in cases related to restraining order violations, aggravated abuse, and sexual assault.

***BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:***

Section 1.- It is hereby set forth as the public policy of the Government of Puerto Rico the creation of the Monitoring, Protection, and Prevention Program to address cases of aggravated domestic violence, recommending the compulsory use of an electronic monitoring device for the alleged offender.

Section 2.- In its evaluation reports to the court, the Office of Pretrial Services (OPS) shall recommend the imposition of electronic monitoring as an additional and mandatory condition when granting bails, in cases where a person is charged with a domestic abuse offense, specifically in cases of violations to restraining orders, aggravated abuse, kidnapping, and sexual assault. Provided, that the courts shall be obliged to impose electronic monitoring in cases of noncompliance with Sections 2.8, 3.2, except subsection (d), 3.4, and 3.5 of Act No. 54 of August 15, 1989, as amended, know as the “Domestic Abuse Prevention and Intervention Act,” or in cases of recidivism in connection with the above cited Act, notwithstanding the infringed section, with or without the recommendation of the OPS.

Section 3.- Once the alleged offender posts bond as set by a Court, he/she shall be released on bail, until OPS takes the necessary steps to place the electronic monitoring device. The OPS is hereby directed to place the electronic monitoring device on the day of the bail hearing.

Section 4.- The Secretary of the Department of Justice shall issue the corresponding directions in order for prosecutors and other officials of said Department to act in accordance with the public policy set forth in this Act.

Section 5.- The Police Superintendent shall direct the agents under his/her charge to act in accordance with the public policy set forth in this Act, especially the agents working in the special domestic abuse unit.

Section 6.- In accordance with the public policy set forth in this Act, the Department of Justice, the Office of Pretrial Services (OPS), the Puerto Rico Police, and the Women's Advocate Office shall:

- (a) Evaluate the code of laws in effect and promote the corresponding amendments in order to strengthen and broaden the criteria established in this Act.
- (b) Promote interagency collaboration and coordination to maximize available resources and standardize the procedures followed in the agencies to handle cases of noncompliance with restraining orders, sexual assault, aggravated abuse, threats, and domestic violence recidivism.

Section 7.- The Department of Justice, the Office of Pretrial Services (OPS), and the Women's Advocate Office shall coordinate with the Office of Court Administration the implementation and attainment of the objectives of the public policy set forth in this Act.

Section 8.- A ninety (90)-day period is hereby established for the Office of Pretrial Services (OPS), the Puerto Rico Police, and the Women's Advocate Office, in collaboration with the Department of Corrections and Rehabilitation and the Department of Justice, to draft, approve, and adopt a work procedure or operational protocol whereby the responsibilities of each agency with respect to the implementation and purposes of this Act are established. It is provided further, that the abovementioned protocol shall include, among others, those factors requiring interagency coordination: 1) an electronic monitoring system that shall place up to three calls to the alleged offender before law enforcement officials intervene, when it detects that, presumably, the conditions imposed have been breached; 2) the procedure to be followed in the event that, presumably, the conditions imposed have been breached, to alert the affected person without

unnecessary delay; and 3) that government authorities shall provide the victim adequate protection wherever he/she is and according to his/her particular situation.

Section 9.- This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 99 (H. B. 912)** of the **2<sup>nd</sup> Session of the 16<sup>th</sup> Legislature** of Puerto Rico:

**AN ACT** to set forth as the public policy of the Government of Puerto Rico the creation of the Monitoring, Protection, and Prevention Program to address cases of aggravated domestic violence, recommending the compulsory use of an electronic monitoring device for aggressors; establish an interagency coordination protocol; and for other purposes.

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

In San Juan, Puerto Rico, on the 10<sup>th</sup> day of December, 2010.

María del Mar Ortiz Rivera, Esq.  
Acting Director