

(S. B. 1216)

(No. 100-2011)

(Approved June 23, 2011)

AN ACT

To amend Section 19 of the Organic Act of the Child Support Administration, Act No. 5 of December 30, 1986, as amended, in order to fix a seven (7)-day term for the Court or the Administrative Official of ASUME (Spanish acronym) to set a date for a hearing to modify a child support order when the reason for such petition is the loss of employment or income of the obligor; and provide that the child support modification shall be retroactive to the petition's filing date; and for other purposes.

STATEMENT OF MOTIVES

The Organic Act of the Child Support Administration (hereinafter ASUME, Spanish acronym), as amended, establishes as the policy of the Commonwealth of Puerto Rico “to ensure that the legally responsible parents or persons contribute, in the measure that their resources allow, to the support and welfare of their children or dependents, through the strengthening of the systems and the expediting of the administrative and judicial procedures for the determination, collection, and distribution of child support.” The goal of such declaration of Public Policy continues to be “in favor of the best interests of the minor...”.

For such reason, this Legislative Assembly deems it pertinent and necessary to modify the provisions of the aforementioned Act to conform it to our society's current needs. The fiscal crisis faced by the Island compels us to take measures to help obligor parents to modify a previously issued child support order in the event they experience loss of job or a substantial decrease in their monthly income.

It is common knowledge that most processes to seek and obtain a modification of a child support order are extensive and distressing. Also, setting a date for a child support modification hearing may take several months, causing distress to obligor parents who cannot meet their immediate obligations for having suffered a substantial financial setback. Puerto Rico's current economic situation constitutes a critical scenario for those obligors who have lost their jobs since they will not have the resources to comply with the original child support order, directly affecting the minor's support and exposing themselves to be held in contempt or even arrested for failing to meet their obligations and responsibilities.

This scenario would increase the child support debt periodically and, consequently, it would significantly affect the interests of the minor, which is what the implementation of this Act seeks. It also seeks to strike a balance between promptly addressing petitions of obligors and ensuring that the minors concerned receive the support to which they are entitled; thus, complying with the public policy established by law. For all of the forgoing, it is necessary to implement the measures needed to deal with the problems entailed by the obligor's loss of income or employment.

The amendments incorporated in this Act promote a quick response by the Courts and ASUME to petitions for child support modification when they are made due to the obligor parent's loss of employment or income. Despite the existence of an expedited procedure, the truth is that such process is considerably slow and burdensome to follow. Setting a fixed term to act on petitions to modify child support, and to determine whether such petition should be retroactive, shall encourage courts and ASUME officials to act on such petitions promptly.

With this legislative measure, the Legislative Assembly complies with its duty and obligation to offer citizens alternatives aimed at providing them with a better quality of life. Furthermore, this measure serves justice to those obligors who have been dismissed from their jobs, or those who suffer the uncertainties of our current economy. Once a child support modification hearing is requested, the petition shall be promptly addressed and the determination or adjustment of the child support order shall be retroactive to the filing date of said petition.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 19 of the Organic Act of Child Support Administration, as amended, is hereby amended to read as follows:

[a] ...

[b] ...

[c] ...

[d] **Modification.** The Administrator or the Court, at the request of a party or at their own discretion, shall initiate the procedure to modify a child support order at any time and out of the cycle of three (3) years, when it is deemed that there is just cause to do so, such as significant variations and changes or unforeseen events in the income, capacity to generate income, disbursements, expenses or capital of the obligor or obligee, or in the expenses, needs, or circumstances of the minor, or when there is any other evidence of substantial change of circumstances. When the petition to modify a child support order is made as a result of the loss of employment of the obligor and it is thus certified in the petition, the Court or the Administrator of ASUME shall set the date for the child support modification hearing within seven (7) days after the petition's filing date. If the Court grants such petition, it shall be understood that the obligor's loss of employment or of income is a change of circumstances for the purposes of determining whether the child support shall be modified retroactively.

The modified child support order shall take effect or be retroactive to the date on which the petition was filed. The Court or the ASUME Official shall take into consideration the obligor's concern for the obligee in requesting such modification. Every child support order issued by the Court or the Administration shall instruct the parties of their right to request a modification of a child support obligation and in those cases under the jurisdiction of the Administration, said notice shall continue to be issued at least once every three (3) years. Notwithstanding any law or provision to the contrary, the requirement of significant or unforeseen change of circumstances of any of the parties is met if the application of the Mandatory Guidelines to Fix and Modify Child Support in Puerto Rico adopted pursuant to the provisions set forth in this Act, results in an amount that is different to child support previously ordered. The need to provide for the medical needs of a minor in an order shall also be the basis for the modification of a child support obligation. The Administrator shall prescribe by regulations the procedure for modification review, for determining the effective date of modifications, for providing notice, and for the application of federal requirements.

Section 2.- This Act hereby repeals any other legal or regulatory provision that is inconsistent with these provisions. ASUME shall adopt or modify the regulations in effect to conform them to the provisions of this Act.

Section 3.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 100-2011 (S. B. 1216)** of the **5th Regular Session** of the **16th Legislative Assembly of Puerto Rico**:

AN ACT to amend Section 19 of the Organic Act of the Child Support Administration, Act No. 5 of December 30, 1986, as amended, in order to fix a seven (7)-day term for the Court or the Administrative Official of ASUME (Spanish acronym) to set a date for a hearing to modify a child support order when the reason for such petition is the loss of employment or income of the obligor; and provide that the child support modification shall be retroactive to the petition's filing date; and for other purposes.

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

In San Juan, Puerto Rico, on this 20th day of November, 2014.

Juan Luis Martínez Martínez
Acting Director