

(S. B. 724)

**(No. 104-2014)**

(Approved July 23, 2014)

## **AN ACT**

To amend Sections 1, 1-A, 2, 2-A, add subsections (9), (10), and (11) to Section 6 of Act No. 100 of June 30, 1959, as amended, in order to reinstate the ban on discrimination on the grounds of being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding veteran status; add definitions for veteran, ex-servicemember, and servicemember; establish retroactive application; and for other purposes.

### **STATEMENT OF MOTIVES**

Act No. 232-2012 amended Sections 1, 1-A, 2, and 2-A of Act No. 100 of June 30, 1959, as amended (Act No. 100), for the purpose of prohibiting discrimination in the workplace on the grounds of being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding veteran status. Moreover, Act No. 232-2012 added Subsections (7), (8), and (9) to Section 6 of Act No. 100 for the purpose of defining the terms “servicemember,” “ex-servicemember,” and “veteran.”

It is known that, through the approval of Act No. 22-2013, the Legislative Assembly of the Commonwealth of Puerto Rico prohibited discrimination on the grounds of sexual orientation or gender identity in the workplace, both in the public and private sectors. Moreover, the aforementioned legislation amended various labor laws and laws regarding the municipalities; however, it inadvertently omitted the text which provided that persons who have served in the United States Armed Forces were to be considered a protected class for the purposes of Act No. 100. Furthermore, by adding Subsections (7) and (8) to Section 6 of Act No 100, the definitions for “servicemember,” “ex-servicemember,” and “veteran” were tacitly eliminated.

For the purpose of correcting this inadvertent omission and maintaining the clarity and specificity of the enacting text, the Legislative Assembly of the Commonwealth of Puerto Rico deems it meritorious to amend Act No. 100 to clarify that it was not the legislative intent to divest servicemembers and veterans of the protections granted by Act No. 100, *supra*, with the approval of Act No. 22-2013.

Moreover, it is provided that these amendments shall have a retroactive effect up to May 29, 2013, the date of effectiveness of Act No 22-2013, thus clarifying that the legislative intent is that servicemembers, ex-servicemembers, and veterans are protected under Act No. 100 continuously as of the approval of Act No. 232-2012.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- Section 1 of Act No. 100 of June 30, 1959, as amended, is hereby amended to read as follows:

“Section 1.- Discrimination on the grounds of age, race, color, sex, sexual orientation, gender identity, social or national origin, social condition, political affiliation, political or religious beliefs, or for being a victim or perceived as a victim of domestic violence, sexual assault, or stalking, for being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding veteran status.

Any employer who discharges, lays off, or discriminates against an employee with regards to his salary, wage, pay or remuneration, terms, rank, conditions or job privileges, or who fails or refuses to hire or rehire a person, or who limits or classifies his employees in any way which deprives a person of employment opportunities or affects his employee status on the grounds of age, as defined below, race, color, sex, sexual orientation, gender identity, social or national origin, social condition, political affiliation, or political or religious beliefs of the employee or job applicant,

or for being a victim or perceived as a victim of domestic violence, sexual assault or stalking, or being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces or holding veteran status:

...”

Section 2.- Section 1-A of Act No. 100 of June 30, 1959, as amended, is hereby amended to read as follows:

“Section 1-A.– Publishing; Announcements.

It shall be unlawful for any employer or organization to publish or circulate, or allow the publication or circulation of announcements, notices, or any other form of diffusion, denying equal employment opportunities, directly or indirectly, to any person, on the grounds of race, color, sex, marital status, sexual orientation, gender identity, social or national origin, social condition, political affiliation, or political or religious beliefs, or for being a victim or perceived as a victim of domestic violence, sexual assault or stalking, or without just cause, because of age, for being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding veteran status, or without just cause, because of age, or by establishing limitations which may exclude any person on the grounds of race, color, sex, marital status, sexual orientation, gender identity, social or national origin, social condition, political affiliation, or political or religious beliefs, or for being a victim or perceived as a victim of domestic violence, sexual assault, or stalking, for being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces or holding veteran status, or because of age, without just cause.

...”

Section 3.- Section 2 of Act No. 100 of June 30, 1959, as amended, is hereby amended to read as follows:

“Section 2.- Discrimination by Labor Union

Any labor union which limits, divides, or classifies its members in any manner that deprives or tends to deprive anyone who aspires or is entitled to become a member thereof of an employment opportunity on the grounds of age, race, color, religion, sex, marital status, sexual orientation, gender identity, social or national origin, political affiliation, political beliefs or social condition, or for being a victim or perceived as a victim of domestic violence, sexual assault or stalking, or for being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding veteran status.

...”

Section 4.- Section 2-A of Act No. 100 of June 30, 1959, as amended, is hereby amended to read as follows:

“Section 2-A.- Apprenticeship, Training, or Retraining

Any employer, labor union, or joint labor-management committee that controls apprenticeship, training, or retraining programs, including on-the-job training programs, which discriminates against a person on the grounds of race, color, sex, marital status, sexual orientation, gender identity, social origin or condition, political affiliation, political or religious beliefs, or for being a victim or perceived as a victim of domestic violence, sexual assault or stalking, or without just cause on the grounds of age, or for being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding veteran status during the admission to or employment in any apprenticeship or other training program:

(a) Shall incur civil liability:

...”

Section 5.- Subsections (9), (10), and (11) are hereby added to Section 6 of Act No. 100 of June 30, 1959, as amended, to read as follows:

“Section 6.- Definitions.

The following terms, as used in this Act, shall have the following meanings:

(1) ...

(2) ...

(3) ...

(4) ...

(5) ...

(6) ...

(7) ...

(8) ...

(9) ‘Servicemember’ - means any person serving in the Armed Forces in any of the seven (7) uniformed corps of the Government of the United States, to wit: the United States Army; the United States Marine Corps; the United States Navy; the United States Air Force; the United States Coast Guard; the United States Public Health Service Commissioned Corps; or the National Oceanic and Atmospheric Administration Commissioned Corps, or the legal successors thereof. Moreover, it shall include the servicemembers whose service in the reserve components of the Armed Forces or the National Guard meet the requirements provided by Federal laws currently in effect. This term shall also include retirees from all Armed Forces components.

(10) Ex-servicemember’.- means any person who has honorably served in any of the seven (7) uniformed corps of the Government of the United States, to wit: the United States Army; the United States Marine Corps; or the United States Navy; the United States Air Force; the United States Coast Guard; the United States Public Health Service Commissioned Corps; or the National Oceanic and Atmospheric

Administration Commissioned Corps, the legal successors thereof, including retirees other than veterans, as defined in this Act. It shall include ex-servicemembers whose service in the reserved components of the Armed Forces or the National Guard meets the requirements provided by Federal laws currently in effect.

(11) ‘Veteran’.- as defined in Act No. 203-2007, as amended, better known as the ‘Bill of Rights of the Puerto Rican Veteran for the 21st Century.’”

Section 6.- Severability Clause.-

If any section, subsection, part, paragraph, or clause of this Act or the application thereof to any person or circumstance were held to be unconstitutional by a Court with jurisdiction, such holding shall not affect or invalidate the remaining provisions of this Act, and the effect thereof shall be limited to said subsection, part, or paragraph.

Section 7.- This Act shall take retroactive effect up to May 29, 2013.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 104-2014 (S. B. 724)** of the **3<sup>rd</sup> Regular Session** of the **17<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to amend Sections 1, 1-A, 2, 2-A, add subsections (9), (10), and (11) to Section 6 of Act No. 100 of June 30, 1959, as amended, in order to reinstate the ban on discrimination on the grounds of being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding veteran status; add definitions for veteran, ex-servicemember, and servicemember; establish retroactive application; 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 11<sup>th</sup> day of September, 2018.

Orlando Pagán-Ramírez  
Director