

(H. B. 1445)
(Conference)

(No. 132-2014)

(Approved August 6, 2014)

AN ACT

To amend Sections 3, 3-A, and 3-E of Act No. 118 of July 22, 1974, as amended, in order to adjust its provisions to the terms established in Act No. 146-2012, as amended, known as the “Puerto Rico Penal Code of 2012,” and incorporate the Commonwealth of Puerto Rico in the definition of the term “crime victim” in certain circumstances, and provide for the notice of proceedings; amend Section 18 of Act No. 205-2004, known as the “Department of Justice Organic Act,” in order to authorize the Secretary of Justice to appear as representative of the Commonwealth of Puerto Rico as a crime victim before the Parole Board; and for other related purposes.

STATEMENT OF MOTIVES

Act No. 118 of July 22, 1974, (“Act No. 118”) created the Parole Board (JLBP, Spanish acronym), within the Department of Corrections and Rehabilitation, with authority to grant parole to any person confined in any penal institution of Puerto Rico upon meeting the requirements of said Act. The Parole requirements set forth in Act No. 118 were amended upon the approval of the now repealed Penal Code of 2004, but were not amended after the enactment of Act No. 146-2012, known as the “Penal Code of 2012.” Due to the changes in the classification of offenses and the eligibility criteria for parole established in the most recent Penal Code, it is imperative to amend Act No. 118 in order to conform both statutes.

Furthermore, Act No. 90-2005, established a procedure to allow crime victims to actively participate in the parole proceedings of their aggressors. However, the definition of “crime victim” established in said Act only included natural persons. Thus, the Commonwealth of Puerto Rico, which over the past years has been a victim of the offenses committed by its officials, was excluded from the process. Said exclusion has allowed that the process of evaluating former Commonwealth officials who have committed serious offenses against the People of Puerto Rico to be conducted without notifying and allowing their victim to actively participate in the evaluation on the merits of any application for parole filed by these offenders. This Legislative Assembly deems it necessary to correct said situation by defining the interests of the People of the Commonwealth of Puerto Rico as victim of crimes that have affected public order, morals, or the treasury, and providing that the Secretary of the Department of Justice shall be the representative of the People of the Commonwealth of Puerto Rico as a crime victim in the proceedings before the Parole Board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 3 of Act No. 118 of July 22, 1974, as amended, is hereby amended to read as follows:

“Section 3.- Authority, Duties, and Powers of the Board

The Parole Board shall have the following authority, powers, and duties:

(a) To release on parole any person confined in any penal institution of Puerto Rico who had been or is convicted of crimes committed prior to the effective date of the law that established the Determinate Sentencing System in Puerto Rico, or who had been or is convicted of crimes under the law that establishes the Determinate Sentencing System in Puerto Rico, when such person has paid the fine provided in Section 49-C of Act No. 115 of July 22, 1974, and served half of the determined sentence imposed, except when the person has been convicted of first-

degree murder under said sentencing system, in which case the convict shall not be eligible for parole. Likewise, the Board shall not grant parole in cases involving first-degree murder under subsection (b) of Article 83 of repealed Act No. 115 of July 22, 1974, as amended.

The Board may likewise grant parole to any person confined in any penal institution of Puerto Rico who has been convicted in accordance with the crime seriousness scale and the conditions for parole established in repealed Act No. 149-2004, as amended, known as the ‘Penal Code of Puerto Rico of 2004’ ...

- (1) ...
- (2) ...
- (3) ...
- (4) ...

The Board may likewise grant parole to any person confined in any penal institution of Puerto Rico who has been convicted pursuant to the provisions of Act No. 146-2012, known as the ‘Puerto Rico Penal Code of 2012,’ after having served seventy-five percent (75%) of the term of imprisonment.

In the case of a person convicted of first-degree murder under Act No. 146-2012, said person may be considered for parole by the Parole Board after serving thirty-five (35) calendar years of the sentence, or after twenty (20) calendar years in the case of minors tried and sentenced as adults.

The Board shall not grant parole to persons who have used or attempted to use an illegal firearm in the commission of a felony, or in the attempt thereof, as defined in Section 146-2012, as amended. Parole shall not be granted either when the person is a repeat offender who has been convicted of offenses involving sexual assault or child pornography in any of their forms, as defined in Act No. 146-2012, as amended.

If the Board orders that the inmate be released on parole, it may impose the conditions it may deem advisable and set conditions that may be modified from time to time, as each case may warrant...”

Section 2.- Section 3-A of Act No. 118 of July 22, 1974, as amended, is hereby amended to read as follows:

“Section 3-A.- Definition of the term ‘crime victim’

For the purposes of this Act, the term ‘crime victim’ means:

- (a) ...
- (b) ...
- (c) The Commonwealth of Puerto Rico, in those cases in which a person has been convicted of any crime against the State’s property and/or assets or against public duty, as established in the Puerto Rico Penal Code of 2012, or its equivalent thereof in the Penal Codes of 2004 or 1974, such as the following:
 1. Unlawful collection of personal information (Art. 167);
 2. Aggravated misappropriation of public funds (Art 182);
 3. Extortion (Art. 191);
 4. Aggravated damage to public property (Art. 199)(d) and (e));
 5. Fraud involving state property (Arts. 202 and 203);
 6. Forgery involving state property (Arts. 211-220);
 7. Illegal use or possession of credit cards and debit cards, when secured by public funds (Art.228);
 8. Sabotage of essential services (Art 240);
 9. Conspiracy (Art. 244);
 10. Offenses against the discharge of public office (Arts. 250-263);
 11. Offenses against public funds (Arts. 264-266);
 12. Aiding escape (Art 276);

13. Possession and Conveyance of Items into a Penal Facility (Art. 277);
14. Manipulating or damaging an Electronic Monitoring System (Art. 278);
15. Alteration of Text of Bills (Arts 295-297).”

Section 3.- Section 3-E of Act No. 118 of July 22, 1974, as amended, is hereby amended to read as follows:

“Section 3-E.- Notice of hearing to crime victim

The Board shall be responsible for giving written notice to the victim of the hearing to consider the granting, modification, reconsideration, follow-up, and investigation of the parole privilege not less than fifteen (15) business days in advance. In absence of a reply by the victim, if the victim chooses not to appear at the hearing, or if it is proved that the Board is unable to locate the victim, the proceedings shall continue without the victim’s participation. Said notice shall be sent to the last known mailing address of the victim and shall include:

- (1) date, time, and place where the hearing shall be held;
- (2) a brief explanation of the reasons for the hearing, including the crime or crimes for which the inmate was convicted;
- (3) a list of the statutory or regulatory provisions of law or regulations applicable to the victim’s participation in the proceeding, and
- (4) the address and telephone number of the office or official that the victim may contact to receive more information regarding his participation in the hearing.

In those cases, in which the Commonwealth of Puerto Rico is considered a crime victim as provided in this Act, written notice shall be given to the Secretary of Justice, upon publication in at least one (1) newspaper of general circulation in which the aforementioned details shall be provided.

The Board shall make any and all efforts to locate and notify the crime victim and keep evidence thereof in the case record...”

Section 4.- Section 18 of Act No. 205-2004, as amended, known as the “Department of Justice Organic Act,” is hereby amended to read as follows:

“Section 18.- Additional Powers and Duties.

In addition to the powers and duties conferred by this Act and by other laws and the powers and prerogatives inherent in the office, the Secretary shall have the following, without it being construed as a limitation:

(a) ...

(v) Appear as the representative of the People of the Commonwealth of Puerto Rico as a crime victim before the Parole Board in those proceedings in which said appearance is allowed in accordance with Act No. 118 of July 22, 1974, as amended.

Section 5.- The Parole Board shall adjust the regulations in effect to the provisions of this Act within a period not to exceed thirty (30) days from its date of approval.

Section 6.- This Act shall take effect upon its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 132-2014 (H. B. 1445) (Conference)** of the **3rd Regular Session** of the **17th Legislative Assembly of Puerto Rico:**

AN ACT amend Sections 3, 3-A, and 3-E of Act No. 118 of July 22, 1974, as amended, in order to adjust its provisions to the terms established in Act No. 146-2012, as amended, known as the “Puerto Rico Penal Code of 2012,” and incorporate the Commonwealth of Puerto Rico in the definition of the term “crime victim” in certain circumstances, and provide for the notice of proceedings; amend Section 18 of Act No. 205-2004, known as the “Department of Justice Organic Act,” in order to authorize the Secretary of Justice to appear as representative of the Commonwealth of Puerto Rico as a crime victim before the Parole Board; 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 7th day of October, 2022.

Mónica Freire-Florit, Esq.
Director