

(S. B. 585)
(Conference)

(No. 138-2014)

(Approved August 12, 2014)

AN ACT

To amend Sections 1, 2, 6.1, 6.8, 8, 9, and 10; add a new Section 11; and renumber the current Section 11 as 22 of Act No. 121 of July 12, 1986, as amended, and better known as the “Bill of Rights for Elderly Persons,” in order to establish the duties of and effectively coordinate the government agencies in cases of elder abuse; add new definitions for behaviors that constitute abuse; and for other purposes; add new Sections 127-A, 127-B, 127-C, and 127-D; and amend Section 127 of Act No. 146-2012, as amended, known as the Penal Code of Puerto Rico; and amend Rule 218 of the Rules of Criminal Procedure of 1963, as amended.

STATEMENT OF MOTIVES

The Statement of Motives of Act No. 121 of July 12, 1986, as amended, better known as the “Bill of Rights for Elderly Persons,” established that despite this population having the same natural, legal, and human rights as all adults in Puerto Rico, they are often marginalized and prevented from asserting them. The aforementioned sometimes occurs due to ignorance, physical or mental conditions, or other external factors such as myths and stereotypes regarding the elderly. Section 1 of the Bill of Rights of the Constitution of the Commonwealth of Puerto Rico provides that the dignity of the human being is inviolable. In regards to this, the Bill of Rights for Elderly Persons establishes that “... all elderly persons shall be entitled to... [h]ave the effectiveness of their rights, benefits, responsibilities and privileges established by the Bill of Rights of the Constitution of the Commonwealth of Puerto Rico and of the United States of America, as well as laws and regulations of the

Commonwealth of Puerto Rico and of the United States of America, fully guaranteed.” Likewise, it establishes, among other things, that the elderly shall be entitled to live in an environment of tranquility, respect, and dignity that satisfies their basic housing, food, and health needs, among others. Moreover, they are also entitled to receive preventive and clinical medical care and rehabilitation for the protection of their health and general welfare, and to enjoy an environment of tranquility, among other things.

The elderly population keeps growing. The U.S. Census Bureau estimates that persons sixty (60) years or older shall make up thirty-five percent (35%) of the population by 2050. Since this population is constantly growing, it is the duty of this Legislative Assembly to safeguard their rights. Therefore, the creation of the Bill of Rights for Elderly Persons was a significant step towards the protection of this population. However, it is important to adjust such legislation to our current social reality.

Through this Act, we establish the duty of the State to enact and adopt the necessary measures to stop and eradicate elder abuse and neglect. The aforementioned requires the enactment and adoption of legislation that is consistent with this public duty and directed against any behaviors that constitute domestic violence and abusive relationships, specifically against the elderly.

In light of the foregoing, the State’s compelling interest in ensuring the wellbeing of the elderly is affirmed and, through this Act, their special interests and needs are addressed, and their natural and individual rights respected. In addition, the protection of their physical and mental health, and their property from any natural or juridical person, or private or state entity is ensured. Thus, the duty to offer this population a better quality of life and an existence free from abuse, mistreatment, or neglect is affirmed and strengthened in order to allow for the best wellbeing and comprehensive protection of the population we intend to protect through this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 1 of Act No. 121 of July 12, 1986, as amended, is hereby amended to read as follows:

“Section 1.- Public Policy

The Commonwealth of Puerto Rico...

- (a) ...
- (b) ...
- (c) ...
- (d) ...
- (e) ...
- (f) ...

Likewise, this Act recognizes the duty of the State to improve the quality of life of the elderly and also ensures their wellbeing. The Commonwealth of Puerto Rico reaffirms its constitutional commitment to protect the life, safety and dignity of men and women, including all elderly persons. In addition, through the precepts established herein, this Act reaffirms the duty of the State to preserve the physical and emotional integrity of the elderly for the purpose of strengthening and enforcing the public policy that has been guaranteed to this population.

Section 2.- Subsections (a), (b), (c), (d), (f), (i), (j) and (k) are hereby amended and new subsections (l), (m), (n), (o), (p), (q), (r) and (s) are hereby added to Section 2 of Act No. 121 of July 12, 1986, as amended, to read as follows:

“Section 2.- Definitions

The following terms shall have the meaning stated hereinbelow:

(a) Law Enforcement Officer.- A member or officer of the of the Puerto Rico Police or the Municipal Police.

(b) Multiple Activities Center.- A profit or nonprofit establishment, where the elderly are provided with a variety of services, the majority of which are social and recreational, for the purpose of maintaining or maximizing their independence for part of the day's twenty-four (24) hours.

(c) Coercion.- Physical or psychological force or violence exerted on a person to compel said person to say, do, or omit something.

(d) Residential Establishment.- Any center engaged in the institutional long-term continuous care of elderly persons twenty-four (24) hours a day or for a part thereof.

(e) Financial Exploitation.- The improper use of an elderly person's funds, property or resources by another individual including, but not limited to, fraud, false pretenses, embezzlement, conspiracy, forgery, falsification of records, coercion, property transfers, or denying them access to their wealth.

(f) Daycare Home.- The home of a family that, for pay, regularly engages in the daytime care of up to six (6) elderly persons who are not biologically related to said family.

(g) Substitute Home.- The home of a family that engages in the care of no more than two (2) elderly persons who come from other homes or families, twenty-four (24) hours a day, whether for profit or not.

(h) Undue Influence.- When in a power relation an elderly person allows a third party to act on his behalf despite there being evidence of the harm such an act causes him or when an elderly person acts differently to how he would act were he not influenced by the third party.

(i) Institution.- Any asylum, institute, residence, shelter, annex, center, home, foundation, house, mission or refuge engaged in the care of three (3) or more elderly persons twenty-four (24) a day, whether for profit or not.

(j) Intimidation.- Any act or word that when performed or said repeatedly exerts moral pressure on the will of an elderly person, who, out of fear of having physical or emotional harm exerted on his person, property or, another person is compelled to act against his will.

(k) Abuse.- The cruel or negligent treatment of an elderly person by another person which causes or puts the elder at risk of suffering harm to his health, wellbeing, or property. Elder abuse includes physical, emotional, and financial abuse, neglect, abandonment, assault, theft, embezzlement, threats, fraud, mail tampering, age discrimination, restriction of civil rights, exploitation, and sexual abuse, among others. The abuse can be the result of an action or omission and can be carried out by a family member, friend, acquaintance, or stranger.

(l) Institutional Abuse.- Shall mean any act or omission by the operator of a substitute home, or any employee and/or official of a public or private institution that provides care services twenty-four (24) hours a day, or for a part thereof, which causes harm to an elderly person or endangers their health or integrity. This also includes forcing an elderly person, in any manner, to engage in obscene acts as a result of the prevailing policies, practices, and conditions of the institution; and exploiting an elderly person or, having knowledge thereof, allowing another to do so including, but not limited to, using the elderly person to engage in obscene acts for profit or to receive any other benefit.

(m) Neglect.- Shall mean a type of abuse that consists of failing to perform the duties or failing to exercise the power to provide adequate nourishment, clothing, shelter, or medical attention to an elderly person.

(n) Institutional Neglect.- Shall mean when the operator of a substitute home or any employee or official of a public or private institution that provides care services twenty-four (24) hours a day, or for a part thereof engages in neglect, which harms or endangers an elderly person's health and physical, mental, and/or

emotional integrity. The foregoing includes sexual abuse whether it is known, suspected, or occurring due to the prevailing policies, practices, and conditions of the institution in question

(o) Restraining Order.- A mandate issued in writing under the seal of a competent court with jurisdiction, which dictates measures to an aggressor so that he abstains from committing or performing certain acts or from engaging in behavior which constitutes elder abuse.

(p) Elderly Person.- A person who is sixty (60) years of age or older.

(q) Respondent- The person against whom a restraining order is requested.

(r) Petitioner.- The person who petitions the Court to issue a restraining order.

(s) Domestic Violence.- Acts or omissions in relationships between family members which lead or may lead to a disturbance or loss of peace in the cohabitation and harmonious relationship which must be presumed to exist between them. It is an Act or omission that causes or may cause physical, sexual, psychological, financial, or property damage or suffering.”

Section 3.- Section 6.1 of Act No. 121 of July 12, 1986, as amended, is hereby amended to read as follows:

“Section 6.1.- Restraining Orders

Any elderly person who has been a victim of any type of abuse described herein, or of behavior which constitutes a crime as typified in the Penal Code of Puerto Rico or in any other special law may *pro se*, or through a legal representative, law enforcement officer, guardian or public official, or any private person interested in the welfare of the elderly person, file a petition for a restraining order with the court without first having to file a complaint or an accusation. After the court has determined that there are sufficient grounds to believe that the petitioner has been the victim of physical, emotional, or psychological abuse, harassment, coercion,

intimidation, emotional harm, or any other offense, it may issue an *ex parte* restraining order or at the request of the interested party. Said order may include, without it being construed as a limitation, the following:

(a) ...

(e) An order preventing the defendant from disposing of the petitioner's private property in any manner. Provided, that when it involves the administration of businesses, ventures or industries, the defendant must submit a monthly financial report to the court accounting for its administrative efforts. If the report is not submitted within the term provided, a fine of ten dollars (\$10) per day shall be imposed until the aforementioned report is submitted.

...”

Section 4.- Section 6.8 of Act No. 121 of July 12, 1986, as amended, known as the “ Bill of Rights for Elderly Persons,” is hereby amended to read as follows:

“Section 6.8.- Noncompliance

Any knowing violation of a restraining order issued pursuant to this Chapter shall be punished as a felony and the convicted person shall be punished with a term of imprisonment of two (2) years, a fine that shall not exceed five thousand dollars (\$5,000), or both penalties at the discretion of the court. Likewise, the court may...”

Section 5.- Section 8 of Act No. 121 of July 12, 1986, as amended, is hereby amended to read as follows:

“Section 8.- Reports- Professionals and Officials Compelled to Report

Professionals or public officials, public or private and privatized entities that in their professional capacity and in the discharge of their functions learn or suspect that an elderly person is, has been, or is at risk of being a victim of abuse, institutional abuse, neglect, and/or institutional neglect, are hereby compelled to report those cases in which there is or they suspect there is a situation of abuse, institutional abuse, neglect and/or physical, emotional, financial, or sexual abuse or exploitation

due to institutional neglect against an elderly person taking place; healthcare, education, social work and law enforcement professionals, and persons engaged in directing or working in care institutions or establishments that provide care services twenty-four (24)-hours a day or for a part thereof shall also be compelled to report such cases. They shall report such a fact through the Social Emergencies Program (PES, Spanish acronym) of the Department of the Family, the Office of the Ombudsman for the Elderly, and the Puerto Rico Police.”

Section 6.- Section 9 of Act No. 121 of July 12, 1986, as amended, is hereby amended to read as follows:

“Section 9.- Other Persons Who Shall Report

Any person who learns or suspects that an elderly person is a victim of abuse, institutional abuse, neglect and/or institutional neglect shall report such a fact through the “Social Emergencies Program (PES, Spanish acronym) of the Department of the Family, the Office of the Ombudsman for the Elderly, and the Puerto Rico Police as provided herein. The information thus furnished, as well as the identity of the person who furnished it, shall be kept in strict confidentiality.”

Section 7.- Section 10 of Act No. 121 of July 12, 1986, as amended, is hereby amended to read as follows:

“Section 10.- Emergency Custody

Any Commonwealth or municipal police officer, social technician, or worker especially designated by the Department, official of the Commonwealth Emergency Management and Disaster Administration Office, official designated by the Commonwealth of Puerto Rico Office of the Ombudsman for the Elderly, and any physician or other health professional that has an elderly person under treatment, shall assume emergency custody, even when such elderly person is under the temporary or permanent care of a guardian or a person responsible for his well-being, under the following circumstances, as applicable:

(a) He learns or believes that there is a risk to the safety, health, and physical, mental, emotional, and/or moral integrity of the elderly person.

(b) The guardian or person responsible for the welfare of the elderly person is not accessible or does not consent to the removal of the elderly person, only in cases in which the elderly person is under the temporary or permanent care of any of the aforementioned.

The person in charge of a hospital or a similar medical institution shall assume emergency custody of an elderly person when he learns or suspects that the latter has been a victim of abuse, institutional abuse, neglect and/or due to institutional neglect; when he believes that the facts so warrant, even if no additional medical treatment is required, and even if the guardian or the persons responsible for the welfare of the elderly person request that he be returned to them.

The person assuming emergency custody of an elderly person shall take the latter to the place previously designated by the Department of the Family for such purpose. The Department of the Family shall assume Emergency Custody and take the appropriate subsequent steps which result in the protection and benefit of the elderly person.

Any person assuming emergency custody of an elderly person shall report such a fact immediately through the Social Emergencies Program (PES) of the Department of the Family.

The emergency custody referred to in this Section may not exceed twenty-four (24) hours, except in cases in which an authorization from the court is procured and obtained.

No emergency custody shall or may be assumed in violation of the rights of the elderly person. The elderly person, provided he is fully mentally competent and/or unless there is a medical or judicial order that so warrants, shall be heard and tended to in relation to his interest in being protected and his desire therefor.”

Section 8.- A new Section 11 is hereby added to Act No. 121 of July 12, 1986, as amended, to read as follows:

“Section 11.- Responsibilities and Coordination with other Agencies

In order to ensure full compliance with the public policy established in this Act, the municipalities and agencies of the Commonwealth of Puerto Rico shall prioritize the situations of abuse, institutional abuse, neglect, and/or institutional neglect they become aware of. For such purposes, it is set forth that the Department of the Family shall be the agency responsible for the interagency coordination established herein.

In light of the foregoing, the Department of the Family, the Mental Health and Addiction Services Administration, the Department of Health, the Department of Housing, the Department of Justice, the Puerto Rico Police, the Department of Corrections and Rehabilitation, and the Courts Administration Office are hereby compelled to prioritize situations of abuse, institutional abuse, neglect, and/or institutional neglect. Moreover, they shall coordinate their efforts through interagency memorandums of understanding coordinated by the Department of the Family, when the rendering of services related to the identification, prevention, or treatment of elderly persons who are victims of abuse, institutional abuse, neglect, and/or institutional neglect is required.

Agency coordination shall include joint planning, the sharing of facilities, joint training and activities for personnel development, and the evaluation and management of cases.

According to their available resources, it shall be the responsibility of the departments, agencies, instrumentalities, public corporations or the subsidiaries thereof, and the municipalities of the Commonwealth of Puerto Rico to:

(a) Identify and report situations in which abuse, institutional abuse, neglect, and/or institutional neglect exists or is suspected to exist so that it is investigated as provided herein;

(b) Offer protection to elderly persons in emergency situations including: transportation, coordination of health services, emergency custody, and any other service necessary until the Department of the Family, the Mental Health and Addiction Services Administration, and/or the Medical Emergency Corps intervene;

(c) Provide support to victims of abuse, institutional abuse, neglect, and/or institutional neglect;

(d) Provide support for elderly persons during potentially traumatic situations;

(e) Protect the civil rights of the elderly, their integrity, and intimacy;

(f) Coordinate services for elderly persons who are victims of abuse with government and nongovernment agencies;

(g) Develop and implement prevention programs for families;

(h) Collaborate as multidisciplinary teams related to situations of abuse;
and

(i) Adopt abuse and/or institutional abuse orientation and prevention programs for agency employees.

In addition, they shall design, develop and implement an intervention protocol for situations of abuse, institutional abuse, neglect, and institutional neglect directed at working with the elderly persons who are victims of abuse and the abusers.

The Department of the Family, the Office of the Ombudsman for the Elderly and the agencies of the Commonwealth of Puerto Rico shall draft and adopt the regulations and collaboration agreements necessary for the implementation of this Act in accordance with the resources available thereto and as provided hereunder:

(a) The Mental Health and Addiction Services Administration shall have the following duties:

(1) To provide or coordinate comprehensive and efficient treatments and ambulatory or residential care to and for victims of elder abuse that suffer from mental health conditions or addiction;

(2) To provide or coordinate mental health and/or addiction services to and for family members or persons in charge of and/or responsible for an elderly person, who engage in elder abuse, as part of the reeducation process and reasonable efforts;

(3) To develop collaboration agreements with the government and private entities compelled by this Act in order to provide mental health or addiction services to the elderly or to persons responsible for or in charge of an elderly person who have engaged in abusive behavior;

(4) To offer expert testimony, certifications, or written reports in judicial proceedings when required to do so;

(5) To facilitate the investigation of referrals regarding abuse, institutional abuse, neglect, and/or institutional neglect in facilities that provide mental health services; and

(6) To offer advisory services and their expertise in situations of abuse, institutional abuse, neglect, and/or institutional neglect in mental health institutions.

(b) The Department of Health shall:

(1) Provide advisory and consultation services to the Department of the Family on the medical aspects of abuse, as requested;

(2) Offer expert testimony, certifications or written reports in judicial proceedings, as required;

(3) Share the responsibility of identifying and providing support to families at risk of suffering abuse with the Office of the Ombudsman for the Elderly and the Department of the Family;

(4) Provide training for medical and non-medical professionals on the medical aspects of elder abuse;

(5) Provide medical evaluations and vital medical attention to elderly persons under the custody of the Department of the Family;

(6) Guarantee health services for the elderly in the custody of the Department of the Family, regardless of their placement; and

(7) Facilitate the investigation of referrals for abuse, institutional abuse, neglect, and/or institutional neglect in facilities licensed by the Agency.

(c) The Department of Housing shall:

(1) Provide immediate attention, as a protective measure, to requests involving situations of abuse and/or neglect of elderly persons under the custody of the Department of the Family and the person responsible for or in charge of the elderly person may attest to their compliance with the Service Plan;

(2) Identify provisional housing for emergency situations;

(3) Include clauses in contracts to provide that the Department of Housing may amend the lease agreement when it is under the name of the abuser so that the elderly person may continue to live in his home; and

(4) Ensure that the administrators of housing facilities immediately address situations of abuse or neglect and that they comply with the obligations herein imposed on the Department of Housing.

(d) The Puerto Rico Police shall:

(1) Assist and collaborate with the Department of the Family personnel when their safety is at risk and so request it;

(2) Collaborate actively with the Department of the Family in any affirmative action directed at exercising custody of an elderly person and other services related to their protection; and

(3) Appear in judicial hearings to testify on investigative proceedings in cases of abuse, institutional abuse, neglect, and/or institutional neglect.

(e) The Department of Corrections and Rehabilitation shall:

(1) Maintain a record of the persons in the correctional system who have been found guilty of offenses related to elder abuse;

(2) Notify the Department of the Family, the elderly person, and/or their guardian of the release, temporary release, probation, or parole of the abusive person in order to protect the elderly person;

(3) Provide educational programs to abusive persons that lead to their reeducation; and

(4) Establish, administer, and operate reeducation and retraining programs for persons convicted of abuse or offenders.

(f) The Courts Administration Office shall:

(1) Notify the Department of the Family, the elderly person, and/or their guardian, as a protective measure, when the person found guilty under the provisions of Section 12 of this Act, *et seq.*, is released as duly ordered by a court of competent jurisdiction; and

(2) Maintain a registry of the restraining orders issued pursuant to this Act.

(g) The Department of Justice shall:

(1) Maintain a registry of persons found guilty of offenses related to elder Abuse; elder Abuse through threats; Neglect in the care of the elderly and

disabled; Financial Exploitation of the elderly and lien related Fraud against the elderly.

Section 9.- A new Article 127-A is hereby added to Act No. 146-2012, as amended, known as the “Penal Code of Puerto Rico,” to read as follows:

“Article 127-A.- Elder Abuse

Any person guilty of physical, emotional, and financial abuse, assault, theft, embezzlement, threats, fraud, or rape against an elderly person, that causes harm or puts the elderly person at risk of suffering harm to his health, wellbeing, or property shall be punished with a fixed term of imprisonment of ten (10) years.”

Section 10.- A new Section amended [sic] 127-B is hereby added to Act No. 146-2012, as amended, known as the “Penal Code of Puerto Rico,” to read as follows:

“Section 127-B.- Elder Abuse Through Threats

Any person who threatens to cause harm to an elderly person, to another person, or to the property valued by him shall be punished with a fixed term of imprisonment of six (6) years.”

Section 11.- A new paragraph is hereby added to Article 127 of Act No. 146-2012, as amended, known as the “Penal Code of Puerto Rico,” to read as follows:

“Article 127.- Negligent Care of Elderly and Disabled Persons.

Any person compelled by law or the court to feed and care of an elderly or disabled person who is negligent and fails to duly care of such person thereby putting their life, health, physical integrity, or sexual indemnity at risk shall be punished with a fixed term of imprisonment of two (2) years.

When the offense is committed by the operator of a substitute home, the person shall be punished with a fixed term of imprisonment of four (4) years. For the purposes of this Article, substitute home shall mean the home of a family that,

for pay, engages in the regular day care of up to six (6) elderly persons who are not related to said family.”

Section 12.- A new Article 127-C is hereby added to Act No. 146-2012, as amended, known as the “Penal Code of Puerto Rico,” to read as follows:

“Article 127-C.- Elder Financial Exploitation

(a) Types

(1) The improper use of the funds, real or personal property, or the resources of an elderly person by another individual including, but not limited to: false pretenses, the misappropriation of funds, coercion, property transfers, or denying access to their wealth.

(2) Any person who, aware of an elderly or disabled person’s inability to give consent, whether or not they enjoy a relationship of trust with such person and/or has a business relationship with such person, obtains, uses, or conspires with a third party whether intentionally or through deceit or intimidation to obtain or use the funds, assets, or real or personal property of the elderly or disabled person for the purpose of depriving them, either temporarily or permanently, of their use, benefit, or possession, for their own use or benefit or that of a third party.

(b) Penalties

(1) In cases in which the amount of funds, assets, or real or personal property involved in the financial exploitation of an elder or disabled person reaches up to \$2,500.00, the offender shall be guilty of a misdemeanor.

(2) In cases in which the amount of funds, assets, or real or personal property involved in the financial exploitation of an elder or disabled person equals \$2,501.00 or more, the offender shall be guilty of a felony.

(3) In all cases, the Court shall impose a penalty of restitution in addition to the established penalty.

Section 13.- A new Article 127-D is hereby added to Act No. 146-2012, as amended, known as the “Penal Code of Puerto Rico,” to read as follows:

“Article 127-D.- Lien-related Fraud Against the Elderly

Any person who taking advantage of the needs, inexperience, mental illness, or intellectual disability of an elderly or disabled person, for the purpose of benefitting himself or another, makes an elderly person transfer or encumber any real or personal property, regardless of whether the act is null or if it causes harm to the elderly person or a third party, shall be punished by a fixed term of imprisonment of eight (8) years. Moreover, the Court shall impose a penalty of restitution in addition to the established penalty.”

Section 14.- Subsection (a) of Rule 218 of the Rules of Criminal Procedure of 1963, as amended, is hereby amended to read as follows:

“Rule 218. Bail and Conditions, When Required; Criteria for Setting; Review of Amount or Conditions; In General

(a) Right to bail; who shall set it; imposing of conditions. Any person arrested, for any offense, who is eligible for release on bail or under the conditions imposed pursuant to subsection (c) of this rule until convicted. The court shall take into account the evaluation report and the recommendations rendered by the Office of Pretrial Services pursuant to the provisions of Act No. 177-1995, as amended, in order to determine the appropriate bail amount and the imposition of the conditions deemed suitable and convenient. In addition to setting the appropriate bail amount, the court shall impose that the person be subjected to electronic monitoring and those other conditions listed in subsection (c) of Rule 218, in accordance with the procedure established in said Rule, in the case of persons charged with any of the following felonies, as they are classified in the Puerto Rico Penal Code and any other special laws. The aforementioned felonies are: murder; aggravated robbery; aggravated arson; use of a minor for child pornography; intentional poisoning of

water for public use; sexual assault; kidnapping, aggravated; kidnapping, child kidnapping; elder abuse; elder abuse through threats; elder financial exploitation when classified as a felony; lien-related fraud against the elderly; intentional child abuse; as provided in Section 75 of Act No. 177, *supra*; Section 401 of the Controlled Substances Act, specifically when the transaction involves half a kilogram (1.1 pounds) or more of cocaine or heroin, or one kilogram (2.2 pounds) or more of marihuana, and Sections 405 on Distribution to persons under eighteen (18) years of age, 408 on Ongoing Criminal Ventures, and 4.11-A on the Introduction of Drugs into schools and institutions; the following Sections of the Weapons Act: Sections 2.14 on Assault Weapons, Section 5.01 on Manufacturing, Importation, Sale, and Distribution of Weapons, 5.03 on Automatic Firearms Trade, 5.07 on Illegal Possession or Use of Automatic Weapons or Shotguns, 5.08 on Possession or Sale of Silencing Devices, 5.09 on Facilitation to Third Parties and 5.10 on the Effacement or Mutilation of the Serial Number or the Name of the Owner of a Firearm; violations of the provisions of Act No. 54 of August 15, 1989, as amended, known as the ‘Domestic Abuse Prevention and Intervention Act,’ that entail serious bodily harm, and those felonies in which any type of weapon is used, as these are defined in Act No. 404-2000, as amended, known as the ‘Puerto Rico Weapons Act,’ and the circumstances provided in subsection (c) of this Rule, the court may provide that a person be released on parole under his recognizance, under the custody of a third party, or under deferred bail. When bail is required in these cases, such bail may be set by any magistrate, except in the event that probable cause for arrest is found in the absence of the accused, in which case, the bail set by the magistrate may only be modified through a motion under Rule 218.”

Section 15.- A new Section 26 is hereby added to Act No. 121 of July 12, 1986, as amended, to read as follows:

“Section 26.- Severability Clause

If any clause, paragraph, article, section, word, phrase, subsection, sentence, or part of this Act were, for any reason, challenged before a court with jurisdiction and held to be null or unconstitutional, such holding shall not affect, impair, or invalidate the remaining provisions and parts of this Act, the effect of such holding shall be specifically limited to the clause, paragraph, article, section, word, phrase, subsection, sentence, or part thus held to be null or unconstitutional; if the applicability of any clause, paragraph, article, or section, word, phrase, sub section, sentence, or part, in any case is held to be null or invalid, it shall not be understood to affect or impair, in any way, the application, validity, or constitutionality of the Act in any other case.”

Section 16.- The current Sections 11, 12, and 13 of Act No. 121 of July 12, 1986, as amended, are hereby renumbered as 23, 24, and 25.

Section 17.- This Act shall take effect immediately after its approval.