

(S. B. 2302)

(No. 149)

(Approved June 18, 2004)

AN ACT

To adopt the Penal Code of the Commonwealth of Puerto Rico and repeal the current Code, which was approved by means of Act No. 115 of July 22, 1974, as amended; repeal Articles 64 through 76, 291 through 298, 299 through 304, 305 through 317, 329 through 332, 334 and 335, 337 and 338, 345, 351 and 357, 478, 485 through 499, 500 through 505, 553 through 556, all inclusive, of the Penal Code of 1902, as amended, which remained provisionally in effect pursuant to Article 278 of Act No. 115 of July 22, 1974; to provide for the application and effectiveness of its provisions and for the creation of a reviewing entity that proposes recommendations to the Legislature to temper the body of laws with the provisions in this Code.

STATEMENT OF MOTIVES

A new Penal Code was approved for Puerto Rico by means of Act No. 115 of July 22, 1974, and the Code that governed our Island since 1902 was repealed. That Code was practically a Spanish translation of the California Penal Code, 1873 edition, updated to 1901. The fundamental opposition to the approval of the Penal Code of 1902 was that it constituted a legal transculturation by means of the hastened incorporation of provisions that were alien to our values, customs and social reality.

The Penal Reform of 1974 resulted from more than a decade of studies that gathered criminal law experts Helen Silving, José Miró-Cardona, Francisco Pagán-Rodríguez and Manuel López-Rey in Puerto Rico. The Department of Justice and the Council on Judicial Reform in Puerto Rico worked closely with the Legislature for the approval of the Penal Code of 1974.

The juridical literature produced as a result of the studies prior to its approval, the provisions of the Penal Code of 1974 and the case law of the

Supreme Court constitute a valuable contribution to the development of Puerto Rican Penal Law. Notwithstanding its incalculable value, from its approval up to the present it has been pointed out that the Penal Code of 1974 did not establish a precise and articulate criminological foundation, did not incorporate the penological trends of the times and upheld provisions that were inserted into our body of laws that originated from abroad, thus conflicting with our legal tradition and culture.

The Penal Code of 1974 adopted the model of indeterminate sentencing by means of which the judge would set a punishment that fluctuated between a minimum and a maximum duration, and when the person served a minimum, the same could be considered for parole. In 1980, said system was substituted by a determinate sentencing system in which the judge imposes a punishment with a fixed term and the convict qualifies for parole upon serving half of the jail term. Throughout the years, due to the absence of pondering on the reform process, determinate and indeterminate sentences coexist in both the Code and the provisions that establish crimes in special laws.

Furthermore, during its twenty-eight (28) years in effect, more than two hundred (200) amendments to the Penal Code have been approved that are characterized by a marked increase in the catalogue of crimes and punishments. Many of these amendments have been approved hastily, reason for which they did not connect with the remaining provisions of the Code itself nor with the abundant complementary legislation. These amendments to crimes and punishments have not been compatible with the reality of crime or penal institutions.

In more specific terms, it has been stated that the Penal Code of Puerto Rico should be reviewed in its entirety because it has the following deficiencies:

- (a) It is an outdated legal body with respect to the conditions and needs of this century.

- (b) The creation of types of crimes in a hasty manner has generated a duplication of crimes, disparity of punishments in the Code itself and in the special laws, and the absence of structural proportion between the punishments corresponding to the different crimes.
- (c) Penalties of monetary content are not consistent with current economic values and propitiate the unequal treatment and impunity of those who commit crimes through corporate entities.
- (d) Penal sanctions entail unequal treatment for crime victims.

Outstanding among all of these statements, is that the penalties that are in effect both in the Penal Code as well as in the special laws are not realistic. In addition to the fact that the legislated penalties are not in proportion with the relative severity of the crimes, the revolving door of the penitentiary system to reduce overcrowding has created an abysmal difference between the sentence imposed upon the convict and the sentence that is actually served. This is because the legislation that grants automatic credits reduces prison sentences of more than fifteen (15) years by forty-three (43) percent and reduces sentences of less than fifteen (15) years by forty (40) percent. Once inmates have served half of their credit sentence, they qualify for parole and additional credits fluctuating between five (5) and (7) days for each month are granted for studies and work. Furthermore, there are diversion programs for the persons who begin to serve their prison sentence and, in some cases, the person may qualify for diversion when they are up to thirty-six (36) months away from qualifying for parole.

For the foregoing reasons, there is consensus regarding the need for the review of the Penal Code of Puerto Rico and, in the immediate future, the complementary legislation. To conduct this review, prior to presenting the legislation, a consultation process was carried out by means of public hearings, work meetings and the advice of legal experts and writers, both local and from

abroad. The advisory team produced several technical reports that became consultation and reference guidelines for the decision-making process. These studies evaluated the laws that have amended our Penal Code in the past twenty-eight years, the sources for a model of punishments and the model of punishments of the Penal Code of Puerto Rico. Likewise, comparative studies were made of the Penal Codes of more than eighteen (18) jurisdictions against the General Part and the Special Part of our Code.

The Penal Code review work initiated in the 1989 to 1992 quadrennium was also considered during the preparation of this new Penal Code, but the findings were updated, the proposal was tempered with the experience accrued and its scope was broadened.

This new Penal Code formulates the rules whose violation constitutes a crime and the rules of adjudication of criminal liability; it uses precise and consistent language and wording, and eliminates gaps that produce uncertainty and interpretative conflicts. Attention has been paid to the structure of the Code and its logical division to ease and guide access to its content by both the common citizen and the expert who intervenes in its interpretation and application.

Clarity and care in the technique to be used in criminal laws is particularly crucial, for it shall address and respect the constitutional principles of legality and proportionality of the punishments. The goal is for this clarity to tend toward the greatest respect in the compliance with these legal norms by the broadest sector of our community as part of the effort being made to prevent crime. To restore public confidence in its criminal system, by means of this Penal Reform, it is hereby established that the convicted person shall comply with the sentence imposed by the court. However, in compliance with the constitutional duty to advance the rehabilitation of the convict, the types of penalties that may be imposed by the court are broadened and a new procedure is introduced which allows the

Department of Corrections and Rehabilitation to certify that the inmate is in fact rehabilitated and is eligible for reinstatement in the community without posing a risk to society.

For the aforementioned reasons, we deem that the approval of this legislation shall provide Puerto Rico with a Penal Code for the 21st Century that identifies community values and sets forth a fair and rational sentencing system. In view of the problem of criminality and delinquency, a new Penal Code is hereby adopted for Puerto Rico, which aspires to individually prevent the commission of crimes by means of the social reinsertion of the inmate when he/she attains rehabilitation, and to serve as a general instrument of prevention through the affirmation of our values.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

BOOK ONE

GENERAL PART

TITLE I

OF CRIMINAL LAW

CHAPTER I

PRINCIPLES FOR THE APPLICATION OF CRIMINAL LAW

SECTION ONE

Title and Guarantees

Article 1.- Title of the Act.- This Act shall be known as the Penal Code of the Commonwealth of Puerto Rico.

Article 2.- Principle of Legality.- No criminal action shall be filed against any person for the commission of any act that is not expressly defined as a crime under this Code or special law, nor shall any punishment or security measure be imposed other than that established by the law prior to the commission of the act.

Article 3.- Prohibition on Analogy.- No crimes, punishment or security

measures shall be created or imposed by analogy.

Article 4.- Principles of Criminal Sanctions.- The punishment or security measure imposed shall be: in proportion to the seriousness of the crime, necessary and adequate to achieve the purposes contained in this Code and shall not attempt against human dignity.

Article 5.- Principle of Legality.- Any punishment or security measure shall be imposed exclusively by means of a court sentence.

SECTION TWO

On the Scope of Application

Article 6.- Territorial Application.- The criminal laws of Puerto Rico shall apply to any committed or attempted crime within the territorial extension of the Commonwealth of Puerto Rico.

It shall be understood as territorial extension the land, sea and air space subject to the jurisdiction of the Commonwealth of Puerto Rico.

Article 7.- Extraterritorial Application.- The criminal laws of Puerto Rico shall apply to any committed or attempted crime outside the territorial extension of the Commonwealth of Puerto Rico under any of the following circumstances:

- (a) When a part of the criminal behavior is carried out within the territorial extension of the Commonwealth of Puerto Rico.
- (b) When the behavior constitutes a violation of the functions or duties inherent to the office or charge entrusted to an officer or employee of the Commonwealth of Puerto Rico or any person who performs services on his/her behalf.
- (c) When genocide or crimes against humanity as defined in this Code are committed.
- (d) When according to the treaties or agreements ratified by the United

States of America the crime may be tried in the Commonwealth of Puerto Rico.

Article 8.- Provisional Application.- The criminal law applies to acts committed during its effectiveness.

Article 9.- Application of the Most Favorable Law.- The criminal law has a retroactive effect in whatsoever favors the accused of a crime. Consequently, the following rules apply:

- (a) If the law in effect at the time of the commission of the crime is different from that in effect when processing the accused or when imposing the sentence, the most lenient law shall always be applied.
- (b) If during the term in which the person is serving the sentence a law that is more lenient with respect to the punishment, the security measure or the method of execution thereof takes effect, it shall apply retroactively.
- (c) If during the term that the person is serving the sentence a law that suppresses the crime takes effect, or the Supreme Court issues a decision decriminalizing the act, the sentence shall be rendered null and the person freed from being incarcerated or under restriction of freedom.

In these cases, the effects of the new law or the new court ruling shall operate as a matter of law.

Article 10.- Application of the Law of Provisional Effectiveness.- The Criminal law of provisional effectiveness shall apply to those acts committed during its effectiveness, even if the law has lost its effectiveness afterwards, unless otherwise ruled by law.

Article 11.- Application of the Code to Other Laws.- The principles contained in Book One of the General Part of this Code apply to the conduct regulated by other criminal laws, unless said laws provide otherwise.

SECTION THREE

On Construction

Article 12.- Concurrence of Criminal Provisions.- When the same act is regulated by several criminal provisions:

- (a) The special provisions shall prevail over the general provisions.
- (b) The provisions of broader scope in the protection of the legal good shall absorb the provisions of a narrower scope and the former shall apply.
- (c) The subsidiary provisions shall only apply in the default of the principal, if said subsidiarity is expressly stated or inferred.

Article 13.- Construction of Words and Phrases.- The words and phrases shall be construed according to context and the meaning sanctioned by common and current usage.

The words used in this Code in the present tense also include the future; those used in the masculine gender include the feminine and the neuter, except in cases in which such construction would be absurd; the singular number includes the plural and the plural includes the singular.

If the language used is susceptible to two or more constructions, it shall be construed to further the purposes of this Code and of the particular Article object of the construction.

Article 14.- Definitions.- Unless it otherwise arises from the context, the following words and phrases contained in this Code shall have the meaning set forth below:

(a) ‘Knowingly’.- Implies personal knowledge. It does not require knowledge of the illegality of the act or omission.

(b) ‘Year and Calendar Year’.- Three hundred sixty-five (365) days, unless it is a leap year, in which case it shall consist of Three hundred sixty-six (366) days.

(c) 'To appropriate'.- Includes to misappropriate, to defraud, to exercise illegal control, to use, to retrieve, to take possession or in any other way to make any property or thing one's own either temporarily or permanently.

(d) 'Benefit'.- Any benefit, utility, advantage, profit or gain, the term not being limited to a monetary or material gain, but denoting any form of advantage.

(e) 'Real property'.- Includes lands and anything permanently built or grown thereon or adhering thereto.

(f) 'Personal Property'.- Includes money, goods, livestock, equipment, devices, information and communication systems, services, motor vehicles or any other object of locomotion, electric power, gas, water or other fluid, waves, mobile or electronic communication signals and identification numbers on paper or electronic medium, things the possession of which may be demanded at a trial, credit vouchers, documents or any other object susceptible to appropriation.

(g) 'Public Document'.- Any writing, printed material, paper, book, pamphlet, photograph, photocopy, film, microfilm, audio tape, map, drawing, blueprint, tape or any other material read by machine or electronically produced even though it may never be printed on paper, in electronic file, or any other information or informatics material, regardless of its physical form or features, which is originated or received manually or electronically, or kept in any dependency of the Commonwealth of Puerto Rico pursuant to the law, or designated by law as a public document, or any written material which originates in the private sector in the ordinary course of transactions conducted with government dependencies and which is kept permanently or temporarily in any dependency of the Commonwealth due to its administrative usefulness, or legal, fiscal or cultural value.

(h) 'Building'.- Comprises any house, structure, ship, wagon, vehicle or other built enclosure designed or adapted to or capable of accommodating human

beings, or which may be used to store things, keep animals or for business. Also comprises its annexes, dependencies and the lot on which same is located.

(i) 'Occupied Building'.- Comprises any house, structure, vehicle or other location adapted to provide night accommodation human beings, for doing business in same, for the care of children or persons, for teaching at any level, or for public purposes, provided that the same is in use, even if there are no persons present at the time of the event. It also comprises its annexes, dependencies and the lot on which same is located.

(j) 'Writing'.- Includes any printed material, paper, letter, public deed, notarial document, seal, written document or signature of a person on paper or digital medium, or image, coin, paper money, tokens, credit cards or any other symbol or evidence representing any value, right, privilege or obligation.

(k) 'Commonwealth of Puerto Rico or Commonwealth'.- Comprises the departments, agencies, boards and other dependencies, public corporations, instrumentalities and their subsidiaries, the municipalities and political subdivisions and government branches.

(l) 'United States'.- Means the states of the United States of America, its territories and possessions, the District of Columbia and the Commonwealth of Puerto Rico.

(m) 'Signature or Subscription'.- The name written by hand or digitally, or the name or mark or sign made at the request of any person when said person cannot write his/her name, said name being written by another person who shall also sign as a witness next to such a mark or sign.

(n) 'Public Funds'.- All moneys, bonds or liabilities, securities, seals, internal revenue vouchers, and evidences of indebtedness, and property belonging to the Government of the Commonwealth of Puerto Rico, departments, agencies, boards and other dependencies, public corporations and their subsidiaries,

municipalities and political divisions. It also includes the money collected by private persons or entities who, by means of agreement or legal authority, conduct transactions or collect municipal licenses, rights, taxes, income taxes, services or any money owed to the Commonwealth of Puerto Rico for any other obligation or any other transaction, or for the collection of stamps or fees for public instruments or notarial documents. In the case of bonds, obligations, securities and evidence of indebtedness, the term includes not only the document that evidences the obligation, but also the moneys, bonds, securities or obligations obtained as a result of the issuance, purchase, execution, financing, refinancing or any other transaction with the aforementioned.

(o) 'Fraudulently or to Defraud'.- An act committed through wile, simulation, plot, trick or by any other form of deceit.

(p) 'Public Officer or Employee'.- Any person holding an office or performing a duty whether or not for compensation, either permanently or provisionally, by virtue of any kind of appointment, contract or designation, for the Legislative, Executive or Judicial Branch or any the municipalities of the Commonwealth of Puerto Rico. It also includes those persons who represent the public interest and who are designated to office in any board, public corporation, instrumentality and its subsidiaries of the Commonwealth of Puerto Rico, as well as those who are entrusted with notarial public faith. The term public officer includes those persons who hold office or are employed by the Government of the Commonwealth of Puerto Rico who are vested with part of the sovereignty of the Commonwealth; hence they are involved in the making and implementation of public policy.

(q) 'Illegally'.- Any act in violation of any law, rule, regulation, ordinance or order promulgated by any competent authority of the Commonwealth in the exercise of its duty.

(r) 'Oath'.- Includes an affirmation or statement, as well as any other way of confirming the truth about what is being stated. Any form of oral statement under oath or affirmation is comprised within the term 'to testify' and any written statement within the term 'to depose.'

(s) 'Law'.- Also includes regulations, rule, order or ordinance approved by a competent authority.

(t) 'Month'.- Period of thirty (30) days, unless otherwise stated.

(u) 'Night'.- Period between sundown and sunrise.

(v) 'Person'.- Includes natural and juridical persons.

(w) 'Premeditation'.- The deliberation occurring prior to the resolve to perpetrate the act after having considered it for some time.

(x) 'Property or Patrimony'.- Includes real and personal property.

(y) 'Seal'.- Comprises the impression of a stamp on a writ, on paper or digital, or on any substance affixed to the paper with capacity to receive any visible or legitimate impression.

(z) 'Credit or Debit Card'.- Includes any instrument or object known as a credit or debit card, placard, coupon book or by any other name, issued with or without payment of a charge by the receiver, for use by the holder in obtaining or acquiring by credit or debit any money, goods, services or any other item of value, in the establishment of the issuer of the debit or credit card or in any other establishment.

(aa) 'Voluntarily'.- Applies to the intent with which an act is executed or an omission incurred; it simply implies the purpose or will to commit the act or incur the omission to which it refers.

TITLE II

ON THE ELEMENTS OF CRIME AND ON CRIMINAL BEHAVIOR

CHAPTER I

ON CRIME

Definition and Classification

Article 15.- Definition. A crime is an act committed or omitted in violation of a law forbidding or commanding it, which entails, upon conviction, a punishment or security measure.

Article 16.- Classification of Crimes. Crimes are classified as misdemeanors and felonies.

A misdemeanor is a crime punishable by an individualized fine of up to five thousand (5,000) dollars or imprisonment for up to ninety (90) days. A felony, in all the classifications specified further on, comprises all other crimes.

A felony is a crime that entails imprisonment for more than six (6) months and which, according to the corresponding punishment, is classified into four degrees, as follows:

(a) First degree felony, the punishment of which is imprisonment for a term of ninety-nine (99) years.

(b) Second degree felony, the punishment of which is imprisonment for a term fluctuating from eight (8) years and one (1) day to fifteen (15) years.

(c) Third degree felony, the punishment of which is imprisonment for a term fluctuating between three (3) years and one (1) day to eight (8) years.

(d) Fourth degree felony, the punishment of which is imprisonment for a term fluctuating between six (6) months and one (1) day and three (3) years.

However, other types of punishment in addition to imprisonment may be imposed for felonies and misdemeanors.

The felonies in special laws maintain the classification of felony and the corresponding punishment if they entail a punishment of imprisonment of more than six (6) months or a fine of more than five thousand (5,000) dollars, unless otherwise provided by law.

Misdemeanors classified in special laws maintain the classification of misdemeanor and the corresponding punishment if they entail a punishment that does not exceed six (6) months or a fine that does not exceed five thousand (5,000) dollars, or both penalties.

Article 17.- Crimes Without an Established Punishment.- If any act or omission were declared to be a crime and no proper punishment were established, such act or omission shall be punishable as a misdemeanor.

If any act or omission is declared to be a felony and no proper punishment is established, the sentence to be imposed shall be that of a fourth degree felony.

CHAPTER II
ON CRIMINAL BEHAVIOR
SECTION ONE

On the Objective Part

Article 18.- Forms of Commission.- Crimes can only be perpetrated by commission or omission.

Article 19.- Commission by Omission.- The crimes that classify the production of a result may only be committed by omission when the failure to prevent the same would be equal to the actual occurrence.

To determine the equivalence of the omission to its commission, the existence of a specific duty to prevent the result shall be taken into account, and if any prior action of the person who omits makes it possible to impute to the latter the risk situation of the legally protected interest.

Article 20.- Place of Crime.- The crime is considered committed:

(a) where the act has been perpetrated or where the omitted act should have been perpetrated.

or

(b) where the result has been produced or should have been produced in a

location in Puerto Rico, in those cases in which the act has been perpetrated or the omission incurred outside of the Commonwealth of Puerto Rico.

Article 21.- Time of the Crime.- The crime is considered to be committed:

(a) At the time the act has been perpetrated or the omitted act should have been perpetrated;

or

(b) at the time in which the result of the criminal offense has been produced.

SECTION TWO

On the Subjective Part

Article 22.- Principle of Subjective Accountability.- No person may be punished for an act foreseen in a criminal law unless the same is committed with intent or negligence.

The intent or negligence is shown by the circumstances connected with the act, the mental capacity and the expressions and conduct of the person.

The acts sanctioned in this Code require intent, unless it is expressly stated that negligence is sufficient.

Article 23.- Intent.- The crime is committed with intent:

(a) when the corresponding act has been performed with a conduct voluntarily geared toward accomplishing it.

(b) the corresponding act is a natural consequence of the voluntary conduct of the author; or

(c) when the subject has wanted his/her conduct conscious of the fact that it implied a considerable and illegal risk of producing the criminal act produced.

Article 24.- Negligence.- A crime is deemed to be committed negligently when it is performed without intent, but imprudently, when not observing the standard care that a reasonably prudent person would have observed in the same

situation as the author in order to prevent the result.

SECTION THREE

On the Causes for Exclusion from Criminal Liability

Article 25.- Allowed Risk.- A person does not incur liability when he/she has caused a result classified as a crime, if said result does not constitute the production of sufficient and unlawful risk originated by his/her conduct.

Article 26.- Self-Defense.- Any person who defends his/her person, dwelling, property or rights, or the person, dwelling, property or rights of others under such circumstances as to reasonably believe that there is peril of imminent danger, shall not be held liable, provided there is the rational need for the means employed to avoid or repel the damage, lack of sufficient provocation on the part of the defending person and more damage than is necessary is inflicted to avert or avoid the injury.

When alleging self-defense to justify inflicting death to a human being, it is necessary to have reasonable grounds to believe that when inflicting death to the aggressor, the aggrieved or defending person was in imminent or immediate danger of death or serious bodily harm. To justify the defense of dwelling, the circumstances shall indicate trespassing of dwelling, or for the purpose of committing a crime. To justify defense of property or rights, the circumstances shall indicate an attack to the same that constitutes a crime or that poses serious danger of deterioration or imminent loss.

Article 27.- State of Necessity.- Any person who, in order to protect his/her own or another's right from an imminent danger, not provoked by him/her and otherwise inevitable, infringes a duty or causes damage to another's legally protected interest, shall not be liable, provided that the damage caused is lesser than the damage sought to be prevented and does not cause the death or the serious and permanent injury to the physical integrity of a person.

This cause for justification shall not benefit a person who, by reason of his/her office, occupation or activity, is bound to confront the risk and the consequences thereof.

Article 28.- Exercise of Right or Performance of Duty.- Any person who acts in the performance of a legal duty or in the lawful exercise of a right, authority or office shall not be held liable.

Article 29.-Obedience to Superior Orders.- Any person who acts by reason of hierarchical obedience in the discharge of public office shall not be held liable, provided that the order lies within the authority of a superior with respect to the subordinate, does not seem unlawful, and the subordinate is compelled to obey it.

Article 30.- Error.- Any person who commits an act in response to an essential error that excludes intent and negligence shall not be held liable.

If the error is due to imprudence and it is expressly punished by law, said person shall be liable due to negligence.

If the error falls under aggravating circumstances or a circumstance that warrants a more serious modality of the crime, it shall prevent the imposition of the highest punishment.

Article 31.- Entrapment.- Any person who commits an criminal act, the intent of which is induced into his/her mind by scheme, persuasion or fraud by a public officer or a private person acting in collaboration with the public officer, shall not be held liable.

This liability exception cause shall not benefit the coauthor unaware of the deceitful inducement of the public officer or the person collaborating with the latter.

Article 32.- Intimidation or Violence.- Any person who, at the time of the commission of the act constituting the crime, did so compelled by intimidation or

violence shall not be held liable:

(a) Under threat of serious and imminent danger, provided that there is rational proportionality between the damage caused and the actual threat;

(b) Under an overpowering physical force; or

(c) Under coercion or overwhelming fear.

The term 'violence' in this Article also comprises the use of hypnotic means, narcotic, depressant or stimulant substances, or any other similar means or substances.

Article 33.- Insignificant Conduct.- Any person who commits an act so insignificant as to warrant neither prosecution nor conviction shall not be held liable.

Article 34.- Provisions Applicable to This Section.- The causes for exclusion from criminal liability shall be examined with subjective criteria, taking into consideration the particular circumstances of the person invoking the defense.

If the person acted negligently, said person shall be liable for negligence if said negligence is expressly sanctioned by the law.

In cases of obedience to superior orders, entrapment, intimidation or violence, the person liable for the criminal act shall be the one who induces, compels or coerces the person who invokes the defense into performing the criminal act.

SECTION FOUR

On Attempt

Article 35.- Definition of Attempt.- Attempt exists when a person acts or incurs in omissions unequivocally and instantaneously directed toward initiating the commission of a crime that is not consummated due to circumstances beyond the control of the person.

Article 36.- Punishment for Attempt.- Any attempt to commit a felony

entails a punishment equal to half of the fixed punishment for the consummated crime. Said punishment shall be selected reducing by half the term of the punishment established by law for the consummated crime. In determining the punishment to be applied, the court shall take into consideration the danger inherent to the attempt and the degree of completion reached.

An attempted first degree felony entails the punishment for a second degree felony up to a maximum of ten (10) years.

Article 37.- Desisting.- If a person voluntarily desists from consummating a crime or, after having begun the perpetrating thereof, avoids its results, said person shall not be subject to punishment, except for the conduct previously executed that by itself constitutes a crime.

CHAPTER III

SUBJECT OF THE SANCTION

SECTION ONE

Grounds for criminal non-liability

Article 38.- Minors.- A person shall not be prosecuted or convicted for an act perpetrated while said person has not yet attained the age of eighteen (18), except in those cases set forth under the special legislation for minors.

Article 39.- Mental Incompetency.- A person shall not be prosecuted if, at the time of the commission of the act, he/she, as a result of mental disease or defect, was unable to understand the criminality of the act or to conduct him/herself pursuant to the mandate of law.

The term mental disease or defect does not include an abnormality manifested only as repeated criminal or antisocial conduct.

Article 40.- Temporary Mental Disorder.- A person shall not be held accountable if at the time of the commission of the act, as a result of the state of temporary mental disorder, was unable to understand the criminality of the act or

to conduct him/herself pursuant to the mandate of law.

“Temporary mental disorder” does not exempt from accountability when provoked by the subject for the purpose of performing the act.

Article 41.- Voluntary Intoxication; Exception.- Voluntary drunkenness or voluntary intoxication with drugs or narcotic, stimulant or depressant substances, or any similar substances shall not be grounds for criminal nonliability; however, whenever the actual existence of any particular purpose, motive or intent is an essential element to constitute a particular species or degree of crime, the judge may take into consideration the fact that the accused was drunk or intoxicated at the time of deciding the purpose, motive or intent with which the crime was committed.

PART TWO

On Participation

Article 42.- Accountable Persons.- The persons to be held accountable for the commission of a crime are the principals and those who cooperate with them, whether natural or juridical persons.

Article 43.- Principals.- Considered to be principals are:

- (a) Whoever participates directly in the commission of a crime.
- (b) Whoever forces, provokes, abets or induces another person to commit a crime.
- (c) Whoever takes advantage of a legally non-imputable person to commit a crime.
- (d) Whoever cooperates before, simultaneously or after the commission of a crime, and without whose participation the crime could not have been perpetrated.
- (e) Whoever takes advantage of a juridical person to commit a crime.
- (f) Whoever acts in representation of another as member, director, agent or owner of a juridical person, and perpetrates the criminal act, even if the special

elements that give rise to the crime do not concur upon such a person, but do concur upon the person represented or upon the juridical person provided that there is a law that classifies the crime.

Article 44.-Accessories After the Fact.- Those who without being principals otherwise knowingly cooperate in the commission of a crime.

Article 45.-Accountability of the Parties to the Crime.- Each principal and each accessory shall be accountable to the extent of degree of participation in the criminal act according to the personal circumstances that characterize their participation therein.

The accessory in the consummation or attempt of a crime shall receive a punishment equal to half of the penalty prescribed for the crime or attempt thereof, as the case may be, up to a maximum of ten (10) years.

Article 46.- Juridical Persons.- Juridical persons organized under the laws of the Commonwealth of Puerto Rico or authorized to act within its jurisdiction and any unincorporated partnership or association shall be held criminally accountable when the authorized persons, agents or representatives commit criminal acts while executing their agreements or conducting acts ascribable to them.

The accountability established herein does not exclude any individual accountability in which the members, leaders, agents or representatives of the juridical persons or the unincorporated partnerships and associations that participate in the commission of a criminal act may incur.

TITLE III
ON THE CONSEQUENCES OF THE CRIME
CHAPTER I
ON THE PURPOSES OF THE PENALTY

Article 47.- Purposes of the Imposition of the Penalty.- The general purposes that determine the imposition of the penalty are the following:

- (a) The prevention of crimes and the protection of society.
- (b) The fair punishment of the principal in proportion with the seriousness of the crime and the accountability of the principal.
- (c) The moral and social rehabilitation of the convict.
- (d) To do justice to the victims of crime.

Article 48.- Civil Liability.- The punishment established in this Code does not in any way affect or alter the civil liability of the persons convicted of a crime.

CHAPTER II

ON PUNISHMENT FOR NATURAL PERSONS

SECTION ONE

On the Types of Punishment

Article 49.- Punishments for Natural Persons.- The following punishments are hereby established for natural persons:

- (a) Imprisonment
- (b) Therapeutic Confinement
- (c) House Arrest
- (d) Probation
- (e) Day Fines
- (f) Community Services
- (g) Restitution
- (h) Suspension or Revocation of License, Permit or Authorization
- (i) Special Penalty for the Crime Victims' Special Compensation Fund

Article 50.- Imprisonment.- The punishment of imprisonment consists of the deprivation of freedom within a penal institution for the time established in the sentence.

The punishment of imprisonment shall be served in such a manner so as to promote adequate treatment for the social rehabilitation of the convict and shall be as non-restrictive of liberty as possible in order to achieve the purposes set forth in this Code.

Imprisonment imposed upon minors under twenty-one (21) years of age shall be served in institutions that are fit for this group of offenders.

Article 51.- Therapeutic Confinement.- The punishment of therapeutic confinement consists of the restriction of freedom for the term and in the location established in the sentence for the convict to submit to a confinement and treatment regime so as to obtain therapeutic intervention, rehabilitative treatment and supervision necessary to comply therewith.

The following factors, among others, shall be taken into consideration when this punishment is imposed: the willingness to undergo to treatment, the health condition of the person sentenced, the need for treatment and supervision, the possibility of rehabilitation and the risks and benefits for the community.

The Department of Corrections and Rehabilitation, subject to the regulations adopted by same, shall be in charge of executing this punishment and of supervising compliance with the rehabilitation plan attached to the sentence.

In the event that the sentenced person fails to comply with the punishment of therapeutic confinement, he/she shall serve the totality of the sentence of imprisonment, unless the judge in the revocation hearing, at his/her discretion, deducts part of the time already served.

If the convict satisfactorily complies with the treatment and rehabilitation plan and, at the end of his sentence, the court concludes that he has in effect rehabilitated from his addiction to controlled substances, alcohol or gambling, the court shall order the dismissal of the case and the exoneration of the sentenced person.

This punishment is not available to persons convicted for crimes classified as first and second degree felony crimes.

Article 52.-House Arrest.- The punishment of house arrest consists of the restriction of freedom for the term of the sentence, to be served in the domicile of the person or another dwelling as ordered by the court under conditions that promote the social rehabilitation of the convict and which do not pose a risk to the safety of the community.

The following factors, among others, shall be considered when imposing this punishment: whether the convicted person is employed or studying, his/her health condition, the stability of his/her family group, the commitment not to break the law again, the possibility of rehabilitation, the risk and benefit for the community and the availability of family resources or other persons to collaborate with the attainment of the objectives of this punishment and to complying with the conditions imposed.

The Department of Corrections and Rehabilitation, subject to the regulations adopted by same, shall be in charge of the execution of this punishment, supervise compliance with the rehabilitation plan attached to the sentence, and impose the corresponding conditions.

The person sentenced to this punishment shall not change domicile during the term of the sentence without prior authorization from the Department of Corrections and Rehabilitation, which in turn, shall notify the court.

A person who fails to comply with the conditions of his/her house arrest shall serve a term of imprisonment for the totality of the sentence, unless the Judge in the revocation hearing, at his discretion, deducts part of the time already served.

This punishment is not available to persons convicted for crimes classified as first and second degree felony crimes, or to persons with prior convictions for crimes classified as first and second degree felony crimes.

Article 53.- Probation.- Probation consists of the suspension of the effects of the imprisonment punishment for the convict to submit to the supervision regime ordered in the Suspended Sentences Act, as amended.

Article 54.- Community Services.- The punishment of community services consists of the rendering of community services for the term and in the location ordered by the court, according to the crime for which the person was convicted. Each day imposed by the court equals eight (8) hours of services.

The court may provide that the services be rendered in any of the following locations: a non-profit corporation or association, an institution or a public agency. The court, in its discretion, shall ensure that the term and conditions of the service do not attempt against the dignity of the convict, result in benefit of the community and the recognition by the convicted person of the consequences of his/her behavior. The conditions of the service and the term thereof shall be accepted by the convict prior to the sentencing.

The court, at the time of fixing the term and conditions of the service, shall take into consideration the following: the nature of the crime, the age, health condition, occupation, profession or trade of the convicted person, as well as the particular circumstances of the case, among others.

The Department of Corrections and Rehabilitation, subject to the regulations adopted by the same, and the institution to which the sentenced person is assigned to render the services shall be in charge of the execution of this punishment. The Department of Corrections and Rehabilitation shall establish agreements with those institutions in which the services may be rendered and the procedures to notify the Department of Corrections or the court of any noncompliance with this punishment.

If the convicted person fails to comply with the conditions, he shall serve the punishment of imprisonment for the remaining days not complied with of the

imposed sentence.

This punishment is not available to persons convicted for crimes classified as first and second degree felony crimes.

Article 55.- Day-Fines.- The punishment of day fines consists of a monetary fine that the court shall impose in day-fine units taking into consideration the greater or lesser degree of the crime. The minimum punishment shall be one day-fine and the maximum shall be a ninety (90) day-fine.

Once the unit of day-fines that the convicted person must satisfy is established, the daily quota of the fine shall be decided by the court based upon the convicted person's daily income. The daily quota shall range from one (1) dollar for each day-fine up to forty-four (44) dollars for each day-fine.

Article 56.- Special Law Fines.- The penalty of fines set forth in the special criminal laws consists of the obligation to pay to the Commonwealth of Puerto Rico a sum of money fixed by the sentence that the court imposes upon the convicted person.

In addition to the criteria established in the special laws, the sum of the fines shall be determined by the court taking into consideration the financial situation, the family responsibilities, the degree of greed or profit shown in the commission of the criminal act, the profession or occupation of the sentenced person, his/her age and health, as well as the particular circumstances of the case, among others.

Article 57.- Method of Payment of the Fines or Day-Fines.- The sum of the fines or the day-fines shall be paid immediately. However, at the request of the convicted person, and at the discretion of the court, said fines may be paid in full or in installments within a reasonable term after the date on which the sentence becomes effective.

The court may uphold the benefit of installment payments if it deems that noncompliance by the sentenced person was due to a justified cause.

Article 58.- Amortization of the Fines or Day-Fines Through Community Services.- The court, in the exercise of its discretion or at the request of the sentenced person, upon showing his/her ability to pay, may authorize the payment or amortization of the unpaid portion of the fines or day-fines through the rendering of community services.

In the case of an individualized means based fines punishment, a one day-fine shall be credited for every eight (8) hours of community service.

In the case of an amortization of the day-fines penalty, fifty (50) dollars shall be credited for each day of community services, which shall not exceed eight (8) work hours for each day.

The court shall hold jurisdiction over the sentenced person regarding compliance with the amortization order issued, including, in the appropriate cases, the power to dismiss said order or to demand the payment of the total unpaid balance of the fines or the day-fines.

Article 59.- Conversion of Day-Fines.- If the day-fines or the days of community services otherwise imposed are not satisfied, they shall be converted into punishment of imprisonment by imposing one day of imprisonment for each unpaid day-fine or for every eight (8) hour work day of unfulfilled community services.

The convicted person may regain his freedom at any time upon payment of the fines, and shall be credited for the part corresponding to imprisonment time served.

The conversion of the sentence of day-fines shall not exceed ninety (90) days of imprisonment.

If the day-fines penalty has been imposed jointly with a punishment of imprisonment, the default imprisonment shall be additional to the punishment of imprisonment.

Article 60.- Conversion of the Fines in Special Laws.- In the case of a conviction pursuant to a special law in which the penalty of fines or the rendering of community services is imposed, if said fines or services are not satisfied, they shall be converted into imprisonment, at a rate of fifty (50) dollars for each day of imprisonment.

The convicted person may regain his freedom at any time through the payment of the fines, and shall be credited for the part corresponding to imprisonment time served.

If the fines have been imposed jointly with a punishment of imprisonment, the default imprisonment shall be additional to the punishment of imprisonment.

When a penalty of fine is imposed in these cases, its conversion cannot exceed ninety (90) days of imprisonment. If the punishment of the fine imposed is less than fifty (50) dollars and cannot be paid by the convicted person, he/she shall be imposed one single day of imprisonment.

Article 61.- Restitution.- The penalty of restitution consists of the court imposed obligation to compensate the victim for the damages and losses caused to his/her person or property as a consequence of the crime. The penalty of restitution does not include suffering and mental anguish.

The court may order that the penalty of restitution be compensated in money, through the rendering of services, the delivery of the illegally appropriated property or the equivalent, if the property is not available.

If the penalty of restitution is compensated in money, the sum thereof shall be established by the court taking into consideration the following: the total amount of damages to be restored, the allocated participation of the convicted person if there were several perpetrators of the criminal act, the convicted person's ability to pay and all other elements that allow an adequate adjustment to the circumstances of the case and the condition of the convicted person.

The penalty of restitution shall be paid immediately. Nevertheless, at the request of the sentenced person and at the discretion of the court, taking into consideration the financial situation of the convict, it may be paid in full or in installments within a reasonable term after the date on which the sentence becomes effective.

Article 62.- Revocation of Driver's License.- When a person is convicted for the crime of negligent homicide while operating a motor vehicle, in addition to imposing the punishment that fits the crime, the court shall revoke the driver's license.

Upon revoking the license, the following shall be observed:

(a) The term that the convict serves in prison shall be credited to the term of revocation.

(b) After one (1) year has elapsed since the revocation of his/her driver's license, the convicted person must file a new application and comply with all other legal requirements to obtain said license again.

(c) The court shall remit a certified copy of the resolution revoking the license to the Secretary of Transportation and Public Works of Puerto Rico.

Article 63.- Suspension or Revocation of License, Permit or Authorization.- When in the commission of a crime the requirements provided by law for the issuance of a license, permit or authorization are violated, or when the criminal act justifies the suspension of the privilege to practice a profession, occupation or regulated activity, in addition to the punishment imposed upon the convict for the crime committed, the court may order the suspension of the license, permit or authorization for a fixed term established in the sentence. The court shall have discretion to order the permanent revocation of said license, permit or authorization.

Article 64.- Prohibition on Forfeiture of Property.- No conviction for any crime entails the loss or forfeiture of property, except for cases in which said penalty is expressly imposed by the law, or the property was used to commit the crime, or is the product thereof and their owner is unknown.

SECTION TWO

On Applicable Punishments

Article 65.- Punishments for Crimes.- The punishment for a crime is that which corresponds to the classification indicated by the type of crime as adjusted according to the mitigating or aggravating circumstances provided in this Code.

Article 66.- Applicable Punishments.- The punishments established for natural persons by this Code are established according to the classification of the degree of the crime for which the person was convicted, as follows:

(a) ‘First Degree Felony’ - entails a punishment of imprisonment in natural years of ninety-nine (99) years. In such case, the person may be considered for parole by the Parole Board upon having served twenty-five (25) natural years of his sentence, or ten (10) natural years, in the case of a minor who is tried and sentenced as an adult.

(b) ‘Second Degree Felony’ - entails a punishment of imprisonment for a fixed term in natural years which shall not be less than eight (8) years and one (1) day, nor more than fifteen (15) years. In such case, the person may be considered for parole by the Parole Board upon having served eighty (80) percent of the term of imprisonment imposed.

(c) ‘Third Degree Felony’ - entails a punishment of imprisonment for a fixed term in natural years which shall not be less than three (3) years and one (1) day, nor more than eight (8) years. In such case, the person may be considered for parole by the Parole Board upon having served sixty (60) percent of the term of imprisonment imposed.

(d) 'Fourth Degree Felony' - entails a punishment of imprisonment for a fixed term in natural years which shall not be less than six (6) months and one (1) day, nor more than three (3) years. In such case, the person may be considered for parole by the Parole Board upon having served fifty (50) percent of the term of imprisonment imposed.

(e) 'Misdemeanor' - entails a punishment of day-fine according to the financial situation of the convicted person which shall not exceed ninety (90) day-fines, a punishment of daily community services which shall not exceed ninety (90) days, imprisonment or house arrest in natural days of up to ninety (90) days, or a combination of these punishments, the total days of which shall not exceed ninety (90) days.

Article 67.- Special Punishment.- In addition to the punishment imposed for the commission of a criminal act, the court shall impose a special punishment of one hundred (100) dollars for each misdemeanor and three hundred (300) dollars for each felony upon all persons convicted thereof. The punishment set forth herein shall be paid by means of the corresponding internal revenue stamps. The amounts thus collected shall be covered into the Crime Victims' Special Compensation Fund.

Article 68.- Punishment Alternatives to Imprisonment.- As an alternative to the punishment of imprisonment, the court may impose one or any combination of the following punishments for third and fourth degree felonies and the attempt thereof, and for attempted second degree felonies: therapeutic confinement, house arrest, probation or community services. Likewise, alternative punishments shall be applicable to accessories after the fact, as defined in Article 44.

If the court combines one or more of these punishments, it shall ensure that the combination thereof shall not exceed the maximum limit of the term of imprisonment established for the corresponding crime.

The court shall determine the imposition of a punishment alternative to imprisonment taking into consideration the recommendations of the pre-sentencing report, the requirements of each punishment, the degree of the crime and the consequences thereof, the rehabilitation of the convicted person and the security of the community.

SECTION THREE

On the Method for Imposing Punishment

Article 69.- Pre-sentence Report.- The imposition of a punishment requires a pre-sentence report, the preparation of which shall be mandatory for second to fourth degree felonies and for misdemeanors at the discretion of the court. These reports shall be at the disposal of both parties.

No limitation shall be imposed upon the nature of the information concerning the complete history, character and conduct of the convicted person that may be considered by the court for the purpose of sentencing.

Article 70.- Sentencing.- When the court imposes the punishment of imprisonment or a punishment that entails some type of restriction of freedom, or the suspension of a license, permit or authorization, the sentence pronounced shall be of a specific duration to be selected within the interval of imprisonment years established by law for the crime.

Within the limitations established by this Code for the crime, the punishment shall be imposed according to the greater or lesser degree of the criminal act taking into consideration the aggravating or mitigating circumstances.

Article 71.- Mitigating Circumstances.- The following facts concerning the convict and the commission of the crime are considered to be mitigating circumstances for purposes of the punishment:

(a) The causes for criminal accountability exclusion when all its requirements for exemption do not concur.

- (b) The convict does not have a criminal record.
- (c) The convict observed good conduct prior to the crime and has a satisfactory reputation in the community.
- (d) The young or advanced age of the convict.
- (e) The mental and physical condition of the convict.
- (f) The convict accepted his accountability at some phase of the criminal prosecution.
- (g) The convict cooperated voluntarily in the clearing up of the crime committed by him/her and others.
- (h) The convict compensated the victim for the damages caused or lessened the effect of the damages caused.
- (i) The convict tried to avoid causing damages to the person or property.
- (j) The victim provoked the act or the act was produced due to the victim's carelessness.
- (k) The convict was abetted by others into participating in the incident.
- (l) The convict committed the crime due to causes or stimuli so overpowering that they produced fury, obstinacy or another similar emotional state of mind.
- (m) The participation of the convict was not by itself a determining factor in the damage or danger caused the criminal act.
- (n) The damage caused to the victim or property was minimal.

Article 72.- Aggravating Circumstances.- The following facts concerning the convict and the commission of a criminal act are considered to be aggravating circumstances:

- (a) The convict has a criminal record that was not considered to charge him/her with recidivism.
- (b) The convict committed the criminal act while enjoying the benefits of suspended sentence, parole, therapeutic confinement, house arrest, release on bail

or probation, or on a diversion program.

(c) The convict lied under oath in the trial held against him and was not processed for perjury.

(d) The convict threatened the witnesses, abetted them to commit perjury or otherwise obstructed the judicial proceedings.

(e) The convict took undue advantage of the authority of his office or employment or of the service or task that was under his/her responsibility.

(f) The convict committed the crime by using a uniform that identified him as a state, municipal or federal law enforcement officer or as an employee of a government agency or private entity.

(g) The convict used a minor or a disabled person for the commission of the crime.

(h) The convict induced or influenced or directed the other participants in the commission of the criminal act.

(i) The convict planned the criminal act.

(j) The convict executed the criminal act in exchange for money or any other means of compensation or promise to that effect.

(k) The convict used a firearm in the commission of the crime or used any other instrument, object, medium or method that is dangerous or harmful to life, bodily integrity, or health of the victim.

(l) The convict caused or threatened to cause serious bodily harm to the victim.

(m) The convict took advantage of his/her physical superiority over the condition of the victim and deliberately caused him/her further suffering.

(n) The victim of the crime was particularly vulnerable, whether because he was a minor, an elderly or a mentally or physically disabled person.

(o) The crime committed was violent and its commission reveals cruelty and

contempt toward the victim.

(p) The crime was committed within a building owned by the Commonwealth of Puerto Rico, a public dependency or its annexes, or caused the loss of public property or funds.

(q) The crime was committed motivated by prejudice toward and against the victim by reason of race, color, sex, sexual orientation, gender, identify of gender, origin, ethnic origin, civil status, birth, physical or mental disability, social status, religion, age, or religious or political beliefs. For the purpose of establishing motive as provided in this subsection, it shall not suffice to prove that the convict has a particular belief, or to prove that the convict is merely a member of a particular organization.

Article 73.- Applicability of Mitigating or Aggravating Circumstances.-

The aggravating or mitigating circumstances that concern the convict in his particular relations with the victim or in another personal cause shall serve to aggravate or mitigate the accountability only for those on whom they concur.

The aggravating or mitigating circumstances that consist of the material execution of the crime or the media used to execute it serve only to aggravate or mitigate the accountability of those who had knowledge of them at the time of executing or cooperating in the crime.

The aggravating or mitigating circumstances that the law has considered when classifying the crime, as well as those inherent to it, shall not be considered when establishing the punishment.

Article 74.- Setting the Punishment.- The following rules shall be observed for establishing the punishment, whether or not there are mitigating or aggravating circumstances:

(a) When neither mitigating or aggravating circumstances, or either one or the other concur, a punishment for a term within the medium range of punishments set

forth in this Code for the crime shall be selected, taking into consideration the personal circumstances of the convict, the need for prevention and the greater or lesser degree of the crime.

(b) When one or several aggravating circumstances concur, a punishment for a term within the upper half of the range of punishments set forth in this Code shall be selected for the crime.

(c) When two or more mitigating circumstances concur, or when there is only one, but the judge deems it to be substantial, a punishment for a term within the lower half of the range of punishments set forth in this Code shall be selected for the crime.

Article 75.- Detention Credits or Imprisonment Terms.- The convict shall be credited for served detention or imprisonment terms as follows:

(a) The imprisonment time served by any convict from his detention and up to the time when the sentence becomes final shall be credited completely toward the serving of the sentence, whichever it may be.

(b) If the sentence is imposed under a special criminal law or under the determined sentence regime and consists exclusively of fines, the time spent deprived of freedom shall be credited at the rate of fifty (50) dollars in fines for each day of deprivation of freedom served. If the fines imposed are less than fifty (50) dollars, they shall be paid with one (1) single day of imprisonment or detention of the convict.

(c) The time a person spends deprived of freedom, under house arrest or therapeutic confinement serving a sentence that is subsequently annulled or revoked shall be deducted completely from the term of imprisonment or restriction of freedom to be served if the person is once again sentenced for the same crime that motivated the sentence annulment or revocation.

(d) If the sentence imposes day-fines or community services, each day of

restriction of freedom under subsections (a) and (b) shall be credited on the basis of one unit of day-fines and one unit of eight (8) hours of community services, respectively.

Article 76.- Mitigating the Sentence.- If upon sentencing it appears that the sentenced person has paid fines or has been imprisoned for the crime for which he/she was convicted by virtue of an order in which such crime was ruled as contempt, the court shall mitigate the sentence imposed.

Article 77.- Deferment of Execution of a Sentence.- The court may defer the execution of a sentence:

(a) If the convict who shall serve the same is seriously ill, his condition certified by medical testing to the satisfaction of the court. The sentence shall no longer be in effect after ten (10) calendar years have elapsed.

(b) If a pregnant woman or if six (6) months have not yet elapsed since the childbirth.

(c) If other circumstances so do warrant for a term of not more than ten (10) days.

SECTION FOUR

On Concurrence

Article 78.- Ideal and Real Concurrence of Crimes.- When two or more punishments apply to a crime, and each values different aspects of the crime, or when one of them is the necessary means to carry out the other, sentence shall be passed for all concurrent crimes, but only the punishment for the most felonious shall be imposed, selected for a term within the upper half in the range of penalties.

Article 79.- Real Concurrence of Crimes.- When any person commits several crimes that are judged simultaneously and each of the crimes entails its own punishment, an aggregate penalty shall be imposed upon the person, which shall be determined as follows:

(a) When one of the crimes entails imprisonment for ninety-nine (99) years, said term shall absorb the others.

(b) When one or more of the crimes entails imprisonment for ninety-nine (99) years, an aggregate penalty of twenty (20) percent shall be imposed for each victim.

(c) In the remaining cases, a penalty for each crime shall be imposed and added together, but the full amount shall not exceed the aggregate penalty of twenty (20) percent of the maximum range of penalties for the most felonious.

Article 80.- Sentence for Continued Crime.- When the elements of a single crime are produced with a single criminal purpose, plurality of conducts and a single passive subject, the sentence shall be imposed from the upper half of the range of penalties.

SECTION FIVE

On Recidivism

Article 81.- Degrees and Punishment for Recidivism.- The following degrees of recidivism are hereby established, under the specified circumstances, and their applicable punishment is hereby provided:

(a) There shall be recidivism when the person convicted and sentenced for a felony commits another felony. Such recidivism is considered to be an aggravating circumstance.

(b) There shall be aggravated recidivism when the person previously convicted and sentenced for two or more felonies committed and tried at different times and independently from one another once again commits another felony. The sentence to be applied may be increased up to twenty (20) percent of the maximum limit in the range of penalties for the crime.

(c) There shall be habitual recidivism when a person who has been convicted and sentenced for two or more felonies committed and tried at different times and

independently from each other later commits another felony in the first or second degree or any other felony in violation to the Puerto Rico Explosives Act, Act No. 134 of June 28, 1969, the Act Against Organized Crime, Act No. 33 of June 13, 1978, Sections 401, 405, 411 and 411(a) of the Controlled Substances Act of Puerto Rico, Act No. 4 of June 23, 1971, or sections 2.14, 5.03 and 5.07 of the Puerto Rico Weapons Law, all as amended. The punishment to be applied shall be ninety-nine (99) years of imprisonment.

Article 82.- Rules to Determine Recidivism.- The following rules shall apply to determine recidivism:

(a) A previous crime shall not be taken into consideration when five (5) years have elapsed since the person served the sentence for the previous crime.

(b) Any conviction for a crime under the repealed Penal Code or classified as a felony under the Special Law shall be taken into consideration.

(c) Any conviction in a jurisdiction outside the Commonwealth of Puerto Rico for a criminal act that constitutes a felony in the Commonwealth of Puerto Rico shall be taken into consideration. It shall not be taken into consideration if classified as a misdemeanor in the Commonwealth of Puerto Rico.

(d) Criminal acts committed prior to the person having attained eighteen (18) years of age shall not be taken into consideration, except in cases excluded from the jurisdiction of the Juvenile Court of the Superior Court, pursuant to the provisions of law and those in which said court has waived its jurisdiction.

CHAPTER III

ON THE PENALTIES FOR JURIDICAL PERSONS

Article 83.- Penalties for Juridical Persons.- The penalties for juridical persons established herein as defined by this Code are the following:

(a) Fines

(b) Suspension of activities

- (c) Cancellation of certificate of incorporation
- (d) Dissolution of the entity
- (e) Suspension or revocation of license, permit or authorization
- (f) Restitution
- (g) Probation

Article 84.- Fines.- The penalty of a fine consists of the obligation imposed by the court on the convicted juridical person of paying a sum of money fixed by said court to the Commonwealth of Puerto Rico.

The fines to be imposed shall be determined based on the gross annual income of the juridical person in the year in which the crime was committed, pursuant to the provisions of the following paragraph in accordance to the classification of the crime. The court may require the necessary information to determine the gross income, including a financial statement audited by a certified public accountant. However, on setting the fines, the court shall take into consideration the financial situation of the juridical person and any applicable aggravating or mitigating circumstances at the time of passing the sentence.

The court may impose a fine to be selected according to the corresponding classification of the crime for which the juridical person was convicted, as follows:

- (a) ‘First Degree Felony’ - a fine equal to ten (10) percent of the annual income of the juridical person at the time the crime was committed.
- (b) ‘Second Degree Felony’ - a fine equal to eight (8) percent of the annual income of the juridical person at the time the crime was committed.
- (c) ‘Third Degree Felony’ - a fine equal to six (6) percent of the annual income of the juridical person at the time the crime was committed.
- (d) ‘Fourth Degree Felony’ - a fine equal to four (4) percent of the annual income of the juridical person at the time the crime was committed.
- (e) ‘Misdemeanor’ - a fine equal to two (2) percent of the annual income of

the juridical person at the time the crime was committed.

Article 85.- Suspension of Activities.- The penalty of suspension of activities consists of the cessation of all the activities of the juridical person, except for those of strict compliance, during the time determined by the court, which shall not exceed six (6) months.

This penalty shall only be available for convictions for recidivism, as provided in Article 90 of this Code.

The penalty of suspension of activities also entails the payment of the fines corresponding to the crime.

Article 86.- Probation.- The penalty of probation consists of the supervision of the activities of the juridical person under the terms determined by the court and under the responsibility of the person or entity appointed by the court for such purposes for a term not to exceed one (1) year.

This penalty shall only be available for convictions for recidivism as provided in Article 90 of this Code.

The penalty of probation also entails the payment of the fines corresponding to the crime.

Article 87.- Suspension or revocation of license, permit or authorization.-

When in the commission of a crime the juridical person violates for the first time, the requirements of law for the granting of a license, permit or authorization, the court shall order the suspension of said license, permit or authorization for a term not to exceed one (1) year in addition to any fines to be imposed as provided for the crime.

If the juridical person violates the requirements of law for the granting of a license, permit or authorization more than once, the court shall permanently revoke said license, permit or authorization.

Article 88.- Cancellation of the Certificate of Incorporation or Dissolution.- The penalty of cancellation of the certificate of incorporation or the dissolution of an entity mentioned in this Code shall be available only as provided in Article 90 of this Code.

This penalty shall be in addition to the fines established for the crime.

Article 89.- Restitution.- The penalty of restitution consists of the obligation imposed by the court on the juridical person to pay the victim for the damages and losses caused to his/her person and property as a consequence of the criminal act.

The penalty of restitution shall be set by taking into consideration the social capital of the juridical person, the state of business, the nature and consequences of the crime, and any other relevant circumstance.

Article 90.- Recidivism.- When the juridical person is convicted of a first or second degree felony after a prior conviction of similar seriousness, the fines established for the crime shall be imposed in addition to the suspension of activities for a term not to exceed six (6) months. In the case of a third degree felony, probation may be imposed for a term of up to one (1) year in addition to the fines.

When the juridical person is convicted for a third or subsequent felony, after two or more prior convictions for crime of the same nature committed at different times, the court may impose the cancellation of the certificate or the cessation of activities of the juridical person if it shows a persistent tendency to the commission of crimes. In the case of misdemeanors, probation shall be imposed for up to one (1) year.

In all recidivism cases, it shall be necessary to impose as penalty the corresponding fines for the crime upon conviction.

For the purposes of calculating the recidivism, the statute of limitations established in Article 82 of this Code shall apply.

CHAPTER IV
ON SECURITY MEASURES
SECTION ONE

On the Purposes of Security Measures

Article 91.- Application of the Measures.- When the person accused of a crime is found to be not guilty by reason of mental disability or temporary mental disorder, or his/her non-liability in such sense is established, the court shall maintain jurisdiction over the person and shall rule his/her commitment to an institution suitable for his/her treatment, if in the exercise of its discretion it determines, pursuant to the evidence submitted, that such a person is dangerous and poses a risk to society or that he/she shall benefit from said treatment.

In the case of ordering institutionalization, it shall be for the time required for the safety of society and the well-being of the person, subject to the provisions set forth in Article 92. In all cases, it shall be the duty of the persons in charge of the treatment to send quarterly reports to the court regarding the progress of the case.

Article 92.- Principle of Proportionality.- Safety measures shall not be more severe nor of longer duration than the penalty applicable to the crime committed, nor exceed the limits of what is necessary to prevent risk posed by the principal.

Article 93.- Exclusion of Penalty.- The security measures may only be imposed by court sentencing and they exclude the sentence.

SECOND TWO

On the Application of Security Measures

Article 94.- Pre-security Measures Report.- No security measures shall be imposed without a prior examination and psychiatric or psychological report of the person performed by a psychiatrist or clinical psychologist designated by the court and a social report performed by a probation officer.

Said reports shall be notified to the parties, excluding information sources that

are declared confidential.

Article 95.- Hearings.- The parties may discuss these reports at a hearing in which the authors of such reports shall be called to testify at the request of the parties.

Article 96.- Periodical Review. Each year, the court shall pronounce itself on the maintenance, modification or cessation of the security measures imposed and, without prejudice of so doing at any time in which the circumstances warrant it, or at the request of the person having custody of the institutionalized person.

If the court, from the favorable progress of the treatment can reasonably deduct that the healing and readjustment of the sentenced person may be carried out in the free community with supervision, since the sentenced person has ceased to be dangerous, the institutionalization of the person shall cease subject to the provisions of special laws on the matter.

CHAPTER V

ON THE EXPIRATION OF CRIMINAL ACTION AND PUNISHMENTS

SECTION ONE

On the Expiration of Criminal Action

Article 97.- Expiration of Criminal Action.- A criminal action expires upon:

- (a) Death
- (b) Pardon
- (c) Statute of Limitations
- (d) Reparation of Damages

Article 98.- Reparation of Damages.- In third and fourth degree felonies and in misdemeanors, when the principal has made an effort to agree upon a compensation with the injured person and has made restitution for the most part to the juridical situation prior to the crime, or has compensated totally or substantially in a situation in which the reparation of damages requires noticeable personal

restitutions or waivers, the court may order the dismissal and the filing of the criminal action, with the consent of the victim and the prosecution.

Article 99.- Statute of Limitations.-

Criminal actions shall expire:

(a) In five (5) years for second to fourth degree felonies, and first and second degree felonies, according to the classification in the special law or in the repealed Penal Code.

(b) In one (1) year for misdemeanors, except those arising from infractions against fiscal laws and all misdemeanors committed by public officers or employees in the performance of their duties, which expire in five (5) years.

(c) Concealment and conspiracy crimes prescribe in ten (10) years when committed in relation to murder in all its modalities.

(d) The provisions set forth in subsections (a) and (b) of this Article shall not apply to special law crimes, which have a longer statute of limitations than the one proposed herein.

Article 100.- Crimes Without Statute of Limitations.- For the following crimes, criminal action does not have a statute of limitations: first degree felonies, genocide, crimes against humanity, homicide, kidnapping and child abduction, embezzlement of public funds, forgery of public documents and all felonies classified under this Code or in a special law committed by a public officer or employee in the performance of public duties.

Article 101.- Calculation of the Statute of Limitations.- The statute of limitations shall be calculated from the day the crime is committed up to the date on which probable cause is found for the arrest or subpoena. In those cases in which it is necessary to appeal, a hearing shall be held to find probable cause for arrest or subpoena shall interrupt the statute of limitations.

However, crimes of sexual assault or attempted sexual assault in which the

victim has not attained the age of eighteen (18) years, the statute of limitations shall be calculated from the date in which the victim attains the age of eighteen (18) years.

Article 102.- Accessories- The statute of limitations shall be calculated separately for each participant.

SECTION TWO

On the Termination of Sentences

Article 103.- Termination of Sentences.- Sentences are terminated for:

- (a) Death of the sentenced person
- (b) Pardon or any other executive clemency action
- (c) Service of the sentence imposed
- (d) Rehabilitation of the sentenced person

Article 104.- Rehabilitation of the Sentenced Person.- If the Secretary of the Department of Corrections and Rehabilitation concludes, based on the evaluations performed, that the convict in a penal institution is rehabilitated, he/she shall issue a certification and, in consultation with the Secretary of Justice, shall file an application on behalf of the convict before the court to the effect that the remainder of the sentence involving restriction of freedom be deemed as served.

It shall be a requirement for the issuing of said certification that the Secretary of the Department of Corrections and Rehabilitation receive a psychological evaluation and recommendation stating that the convict is capable of living in the free community and that the other professionals who evaluated him/her submit detailed written reports on their findings regarding the rehabilitation of the convict, especially that there is no longer any risk of danger represented by the crime for which the convict serves the sentence. To be eligible for this procedure, in first degree felonies the convict shall have served at least twelve (12) years of imprisonment and at least eight (8) years in the case of a minor tried as an adult. In

second degree felonies, the convict shall have served in prison at least fifty (50) percent of the sentence imposed by the court.

The Secretary of the Department of Corrections and Rehabilitation and the Secretary of Justice shall jointly adopt the regulations to establish the procedure to evaluate the adjustment of the inmate as well as to issue and process the certification of rehabilitation.

The court shall hold a hearing and shall have full power to decide with respect to the request taking into consideration any evidence submitted, the opinion of the victim or the family of the victim, and the objections that Secretary of Justice may set forth. Said evidence shall necessarily contain the certification of the Secretary of the Department of Corrections and Rehabilitation duly justified by an evaluation of the integral adjustment and social conduct of the inmate during imprisonment and his/her compliance with the rehabilitation plan. If the court decides in favor of the certification of rehabilitation, it shall order the Police Superintendent not to include the conviction in the Penal Record Certificate, but to register it in the convict's criminal records only for purposes of recidivism.

**BOOK TWO
SPECIAL PART
TITLE I
CRIMES AGAINST THE PERSON
CHAPTER I
CRIMES AGAINST LIFE
SECTION ONE**

On Murder and Homicide

Article 105.- Murder.- Murder is to kill another human being with intent.

Article 106.- Degrees of Murder.- First degree murder is constituted by:

(a) Any murder committed by means of poison, stalking or torture, or with premeditation.

(b) Any murder committed as a natural consequence of the attempt or consummation of aggravated arson, sexual assault, robbery, aggravated burglary, kidnapping, child abduction, serious damage or destruction, poisoning of bodies of water for public use, mayhem, escape, and intentional abuse or abandonment of a minor.

(c) The murder of a law enforcement officer, school police, municipal guard or police officer, marshal, prosecutor, solicitor for minors' affairs, special family solicitors for child abuse, judge or custody officer in the performance of his duty, committed while carrying out, attempting or concealing a felony.

Any other intentional killing of a human being constitutes second degree murder.

Article 107.- Penalties for Murder.- Any person convicted of first degree murder shall be punished with the sentence established for a first degree felony.

Any person convicted for second degree murder shall be punished with the penalty established for a second degree felony.

Article 108.- Manslaughter.- Notwithstanding the provisions of Article 107, when the murder occurs in circumstances of sudden heat of passion or rage, the convict shall receive the penalty established for a third degree felony.

Article 109.-Negligent Homicide.- Any person who causes the death of another through negligence shall incur a misdemeanor, but shall receive the penalty established for a fourth degree felony.

When the death is caused while driving a motor vehicle under the influence of alcoholic beverages, controlled substances or with wanton disregard for the safety of others, or while aiming and shooting a firearm against an undefined target, the perpetrator shall incur a third degree felony.

SECTION TWO

On Suicide

Article 110.- To Abet to Commit Suicide.- Any person who assists or abets another into committing suicide or initiating the execution of suicide shall incur a third degree felony.

SECTION THREE

On Abortion

Article 111.- Abortion.- Any person who allows, indicates, advises, abets or practices an abortion or who makes available, facilitates, administers, prescribes or otherwise has a pregnant woman take any medicine, drug or substance, or who uses any instrument or any other means with the intent to provoke an abortion, and any person who assists in the commission of any of said acts, unless by therapeutic prescription by a physician duly authorized to practice medicine in Puerto Rico, with the intention of preserving the health or life of the mother shall incur a fourth degree felony.

Article 112.- Abortion Committed or Consented by the Woman.- A woman who seeks from any other person with the purpose of provoking an abortion any medicine, drug or substance and takes it, or who undergoes any operation or any other surgical procedure or means, except in the case that it were necessary to save her health or life, shall incur a fourth degree felony.

Article 113.- Abortion by Force or Violence.- Any person who through the use of force or violence causes harm to a pregnant woman and provokes a premature childbirth with harmful consequences for the infant shall incur a third degree felony.

If the infant dies, the person shall incur a second degree felony.

Article 114.- Advertisements of Means to Produce Illegal Abortions.- Any person who drafts and publishes a notice or advertisement of any remedy or

procedure to produce or abet illegal abortions, or who offers his/her services by means of any notice, advertisement or by any other means to assist in the commission of such an act shall incur a fourth degree felony.

SECTION FOUR

On Genetic Engineering and Assisted Reproduction

Article 115.- Alteration of the human genome for purposes other than the diagnosis, treatment and scientific research in genetics and medicine.- Any person who uses technology to alter the human genome for purposes other than diagnosis, treatment or scientific research in the field of human biology, particularly genetics or medicine shall incur a second degree felony.

The terms “diagnosis” and “treatment” shall mean any medical intervention directed to determining the nature and causes of illness, disabilities or defects of genetic origin or remedies (healing or relief) thereof. “Scientific research” means any procedure or work directed to the discovery of new therapies or the broadening of scientific knowledge on the human genome and its medical applications.

Both the interventions directed to the diagnosis and treatment and the procedures and work directed to scientific research shall be performed with the informed and truly free consent of the person from which the genetic material originates.

Article 116.- Human Cloning.- Any person who, using the techniques of cloning, generates human embryos for reproductive purposes shall incur a second degree felony.

Article 117.- Production of Weapons by Means of Genetic Engineering.- Any person who uses genetic engineering to produce biological weapons or weapons of mass destruction shall incur a first degree felony.

Article 118.- Manipulation of Gametes, Zygotes and Human Embryos.- Any person who possesses gametes, zygotes or human embryos for purposes other

than those authorized by its donors shall incur a third degree felony.

Article 119.- Mixing of Human Gametes with Other Species.- Any person who mixes human gametes with those of other species for reproductive purposes shall incur a second degree felony.

This Article does not prohibit the creation of animals in which the genome has incorporated human genes (transgenic animals).

Article 120.- Other Penalties.- In addition to the penalties provided for the crimes established in this Section, the penalty of suspension of professional license, permit or authorization shall be imposed. When a juridical person is convicted, the penalty of suspension or cancellation of license, permit or authorization shall also be imposed.

CHAPTER II

CRIMES AGAINST BODILY INTEGRITY

Article 121.- Simple Battery.- Any person who illegally through any means or form inflicts injury to the bodily integrity of another shall incur a misdemeanor.

Article 122.- Aggravated Battery.- If the battery described in Article 121 causes an injury that does not leave permanent harm, but requires medical attention, specialized professional outpatient treatment, shall incur a fourth degree felony.

If the battery causes an injury that requires hospitalization or extended treatment, or causes permanent harm, the perpetrator shall incur a third degree felony. This modality also includes mayhem, those that transmit an illness, syndrome or condition requiring prolonged physical treatment, or those that require prolonged psycho-emotional treatment.

Article 123.- Mitigated Aggravated Battery.- If the aggravated battery is committed in the heat of passion or in a fit of fury, the penalty corresponding to the crime that is immediately below in the range of penalties shall be imposed.

Article 124.- Negligent Injury.- Any person who, due to negligence, causes bodily injury requiring hospitalization or prolonged treatment, or which causes permanent damage or mayhem to another person shall incur a misdemeanor, but shall be punished with the penalty for a fourth degree felony.

Article 125.- Practices Harmful to Bodily Integrity in Initiation Procedures.- Any person who, with negligence, risks the health of any candidate for membership of an organization, fraternity or sorority by means of practices that are harmful to the bodily integrity of the candidate as part of the initiation process, shall incur a misdemeanor.

It is further provided that any educational institution that, negligently, allows the acts herein prohibited to occur anywhere within its premises or under its possession, custody or control shall incur a misdemeanor.

CHAPTER III
CRIMES AGAINST THE FAMILY
SECTION ONE

On Crimes against Civil Status

Article 126.- Bigamy.- Any person who remarries without having annulled or dissolved the previous marriage or having declared the spouse missing pursuant to the provisions of law shall incur a misdemeanor.

Article 127.- Unmarried Party.- Any unmarried person who marries a married person knowing that said person is committing bigamy shall incur a misdemeanor.

Article 128.- Celebration of Illegal Marriages.- Any person authorized to solemnize marriages who knowingly celebrates or authorizes a marriage prohibited by civil law shall incur a misdemeanor.

Article 129.- Illegal Marriages.- It shall be a misdemeanor to:

- (a) Solemnize a marriage without being authorized to do so.

(b) Marry another person in a marriage prohibited by civil law.

Article 130.- Adultery.- Any married person who has sexual intercourse with a person other than his/her spouse shall incur a misdemeanor.

The prosecution for the crime of adultery shall commence within one year after the crime is committed or from the time it became known to the plaintiff.

If the crime of adultery is committed between a married woman and an unmarried man, or a married man and an unmarried woman, the unmarried man or the unmarried woman shall have committed adultery.

SECTION TWO

On Due Protection of Minors

Article 131.- Noncompliance with the Obligation to Pay Child Support.- Any father or mother who, without legal excuse, fails to comply with the obligation imposed by the law or the court to provide child support for minors shall incur a misdemeanor.

(a) **When Paternity is Not in Dispute.** When the accused has accepted his paternity before the court prior to the trial, or when paternity is not in dispute, the trial shall be held and, if the accused party is found guilty of failure to comply with the obligation to pay child support, the court, through resolution, shall fix a reasonable amount for child support, admonishing the accused party that the failure to comply with said resolution without legal excuse may be punishable as civil contempt.

(b) **When Paternity is in Dispute.** When the accused denies paternity, the court shall grant said party a term of not more than ten (10) days to answer the allegation and shall immediately hold a trial in which the rules of evidence in effect shall be followed. Within five days of having heard the evidence, the judge shall rule on the paternity and, if proven, shall draft a minute and order the corresponding resolution, and shall also fix the amount of child support to be

provided for the child.

(c) **Other Procedural Provisions.** After the preliminary proceedings set forth in the two preceding paragraphs, the case shall continue to be heard based on the allegations of noncompliance with child support and the ruling shall be issued on this allegation. The court has discretion to suspend the effects of the sentence if it deems it necessary for the well-being of the minor. The accused may appeal an adverse ruling on the paternity and on the noncompliance with the obligation to pay child support in a single action. Hearings on these cases shall have preference in the calendars of courts of appeals.

The appeal of any sentence or order issued under this Article shall not suspend the effects of the resolution that orders the payment of child support, and the accused has the obligation to deposit at the Office of the Clerk of the Court of First Instance the amount fixed for child support. At the request of an interested party, the court, after hearing the testimony of both parties, may authorize the Clerk to make available the fixed amounts to the obligee until the court decision is issued. In the case that the ruling is in favor of the accused, the obligee shall have the obligation of returning the sums consigned by the obligor. In the cases in which the court ruling confirms the sentence of the appealed court, but reduces the amount to be paid for child support, the difference between such amounts shall be credited to the obligor in the future payments to be deposited for the benefit of the obligee. If the obligor fails to comply with the established payments, hearing shall be held and if there is no justifiable reason for non-payment, the court shall dismiss the appeal.

When the sentence is final, the court shall issue an order accompanied by a certified copy of the writ of acceptance of paternity or of the determination of paternity issued by the judge, directed to the person in charge of the Vital Statistics Registry for said person to register the minor as child of the obligor with all other

details required in the birth certificate for all purposes and effects.

In all actions pertaining to this Article, including hearings for failure to comply with the order to pay child support, the public interest shall be represented by the Department of Justice.

Article 132.- Abandonment of Minors.- The father or mother of a minor or any person who is in charge of said minor for support or education, who abandons said minor in any place with the intent to leave said minor unprotected shall incur a fourth degree felony.

When, due to the circumstances of the abandonment, the life, health, bodily integrity or sexual indemnity of the child jeopardized, the person shall incur a third degree felony.

Article 133.- Exclusion.- Surrendering a minor to a child care institution, whether public or private, by the parents, one of the parents, or guardian does not constitute the crime of abandonment of minors. The directors, officers or employees of the institution shall not ask for any information regarding the mother or the father of the minor surrendered, unless the minor shows signs of abuse.

The Commonwealth of Puerto Rico shall have the legal custody and the institution that shelters shall have physical custody of the minor until the Department of the Family provides otherwise.

Article 134.-Child Abduction.- Any person who, by means of force, violence, intimidation, fraud or deceit abducts a minor for the purposes of restraining and hiding said minor from his/her parents, guardian or from any other person in charge of said minor shall incur a second degree felony.

A penalty in the upper half of the corresponding range shall be imposed when the conduct prohibited in the previous paragraph is carried out in:

- (a) a public or private hospital institution,
- (b) a public or private elementary, middle or high school,

- (c) an occupied building or its premises,
- (d) a child care center, or
- (e) a park, recreational area or shopping mall.

Article 135.- Illegal Deprivation of Custody.- Any person who without the right to do so deprives a father, mother or any other person of the legal custody of a minor or a person with disabilities shall incur a misdemeanor.

It shall be considered as an aggravated crime and a fourth degree felony when any of the following circumstances concurs:

- (a) If the minor is taken out of the jurisdiction of the Commonwealth of Puerto Rico.
- (b) If the non-custodial father or mother residing outside of Puerto Rico retains the minor when he/she should return the minor to the home of the parent with legal custody.

Article 136.- Adoption in Exchange for Money.- Any person who, for profit, receives money or other goods in exchange for the surrendering of a minor for adoption or any person who offers or gives money in exchange for the surrendering of a child for adoption in violation of the law that regulates said procedure, shall incur a fourth degree felony.

Article 137.- Child Corruption.- The following shall incur a fourth degree felony:

(a) Any person who intoxicates, induces, advises, abets or helps to intoxicate a minor who has not attained eighteen (18) years of age with alcoholic beverages.

(b) The owner, businessperson, administrator, manager, director, clerk or employee of a public establishment or business who consents or tolerates the commission in said establishment of any of the acts set forth in subsection (a).

(c) The owner, administrator or person in charge of any establishment used wholly or in part as a bar or gambling place who allows a minor who has not

attained eighteen (18) years of age to participate in games of chance.

(d) Any person who authorizes, abets, allows or orders a minor who has not attained eighteen (18) years of age to engage in public mendicancy, participate in games of chance, or stay in a house of prostitution or sodomy.

(e) The owner, administrator, person in charge or employee of a house of prostitution or sodomy who allows the presence of a minor who has not attained eighteen (18) years of age.

In those cases in which the establishments or locations mentioned in this Article have been granted a permit or license, the cancellation or revocation of said permit or license may also be imposed.

The juridical person where such conduct is performed may also be a participant in this crime.

SECTION THREE

On Due Protection of Elderly and Persons with Disabilities

Article 138.-Noncompliance with Obligations to Provide Support.- Any person who, without legal justification, fails to comply with the legally or court imposed obligation to provide support to another person of legal age, whether a spouse or an elderly ascendant or descendent relative, shall incur a misdemeanor.

Article 139.- Abandonment of Elderly and Persons with Disabilities.- Any person to whom an elderly or person with disabilities who is unable to care for him/herself is entrusted, and who abandons said person in any place with the intention of deserting him/her shall incur a fourth degree felony.

When due to the circumstances of the abandonment the life, health, bodily integrity or sexual indemnity of the person is jeopardized, the perpetrator shall incur a third degree felony.

SECTION FOUR

On Respect for the Dead

Article 140.- Profanation of Cadavers or Ashes.- Any person who unlawfully mutilates, exhumes or removes a human cadaver, or part thereof, or its remains or ashes from the place of burial or from where it is deposited awaiting burial or cremation, or who otherwise defiles it, shall incur a fourth degree felony.

Article 141.- Profanation of a Grave or Interruption of a Funeral.- Any person who profanes the place of burial of a human cadaver, the objects therein devoted to honor its memory or those that contain its remains or ashes, or who prevents or interrupts a funeral, wake or funeral service shall incur a misdemeanor.

CHAPTER IV

CRIMES AGAINST SEXUAL INDEMNITY

SECTION ONE

On Sexual Violence Crimes

Article 142.- Sexual Assault.- Any person who performs sexual penetration, whether vaginal, anal, oral-genital, digital or instrumental under any of the following circumstances shall incur a second degree felony:

(a) When the victim has not attained the age of sixteen (16) years at the time of the commission of the crime.

(b) When due to mental illness or disability, whether temporary or permanent, the victim is unable to understand the nature of the act at the time of its commission.

(c) When the victim was compelled into the act by means of physical force, violence, intimidation or the threat of serious and immediate bodily harm.

(d) When the victim's capability to consent has been annulled or diminished substantially by means of hypnotics, narcotics, depressants or stimulants, or otherwise similar means or substances without his/her knowledge or consent.

(e) When at the time of the commission of the act the victim is not aware of its nature and this circumstance is known to the accused.

(f) When the victim submits to the act by means of deception, ruse, simulation or concealment with respect to the identity of the accused.

(g) When the victim is forced or abetted by means of abuse or physical or psychological violence into participating or becoming involved in an unwanted sexual relationship with third parties.

(h) When the accused has kinship with the victim, for being an ascendant or descendant relative, or through consanguinity, adoption or affinity, or collateral by consanguinity or adoption up to the third degree.

(i) When the accused takes advantage of the trust placed on him/her by the victim because there is a relationship of superiority due to having the victim under his/her custody, guardianship, or primary, middle or special education, medical or psychotherapeutic treatment, or any type of counseling, or because there is a relationship of religious belief leadership with the victim.

If the conduct classified in subsection (a) herein is committed by a minor who has not attained eighteen (18) years of age, the perpetrator shall incur a third degree felony if tried as an adult.

Article 143.- Essential Circumstances of Sexual Assault Crimes.- The crime of sexual assault essentially consists of battery against the bodily or psycho-emotional integrity and dignity of the person.

When considering the circumstances of the crime, the point of view of a person of equal age and gender as the victim shall be taken into consideration.

Ejaculation is not necessary and any sexual penetration, whether vaginal, anal, oral-genital, digital or instrumental, regardless of how slight, shall be sufficient for the consummation of the crime.

Article 144.- Lewd Acts.- Any person who without the intention to consummate the crime of sexual assault described in Article 142 submits another person to an act that tends to awaken, excite or satisfy the sexual passion or desire of the accused, under any of the following circumstances hereinbelow, shall incur a third degree felony.

(a) When the victim has not attained the age of sixteen (16) years at the time of the commission of the crime.

(b) When the victim was compelled to the act by means of physical force, violence, the threat of serious and immediate bodily harm or intimidation, or by means of hypnotics, narcotics, depressants or stimulants, or otherwise similar means or substances.

(c) When the victim, due to mental disease or a temporary or permanent disability was unable to understand the nature of the act.

(d) When the victim was compelled to the act through the use of deceptive means that substantially annulled or impaired his/her capacity to consent.

(e) If the accused has kinship with the victim, by reason of being an ascendant or descendant relative, by consanguinity, adoption or affinity, or collateral by consanguinity or adoption up to the third degree.

(f) When the accused takes advantage of the trust placed upon him/her by the victim because there is a relationship of superiority due to having the victim under his/her custody, guardianship, or primary, middle school or special education, or medical or psychotherapeutic treatment, or any type of counseling, or because there is a religious belief leadership relationship with the victim.

Article 145.- Bestiality.- Any person who performs, or incites, coerces or assists another person to perform any type of sexual penetration with an animal shall incur a fourth degree felony.

Article 146.- Sexual Harassment.- Any person who in the ambit of a workplace, educational or rendering of services requests sexual favors for him/herself or for a third party, and conditions the terms of the employment, education and service to its fulfillment, or by means of sexual conduct provokes an intimidating, hostile or humiliating situation for the victim shall incur a misdemeanor.

SECTION TWO

On Crimes against Public Decency

Article 147.- Indecent Exposure.- Any person who exposes any intimate part of his/her body in any place in which another person is present, including law enforcement officers, who can be offended or upset by such exposure, shall incur a misdemeanor.

This conduct does not include the act of breastfeeding an infant.

Article 148.-Indecent Proposal.- Any person who in a public or open space makes indecent proposals in a manner that is offensive to public decency shall incur a misdemeanor.

SECTION THREE

On Prostitution and Similar Activities

Article 149.- Prostitution.- Any person who engages in, accepts, offers or solicits to have sexual relations with another person for money, stipend, compensation or any type of payment shall incur a misdemeanor.

For the purposes of this Section, the gender of the parties that engage in, accept, offer or solicit to have sexual relations shall not be considered a defense.

Article 150.- Houses of Prostitution and Sodomy.- The following shall incur a misdemeanor:

(a) Any person who owns or exploits under any denomination a house or annex thereof, building or annex thereof, or premises thereof to arrange or practice

prostitution or sodomy, or otherwise manages, directs or administrates or participates in the property, exploitation, direction or administration thereof.

(b) Any person who, as owner or administrator, or under any denomination, leases a house or annex thereof, building or annex thereof, or any premises thereof to be used as a house to arrange or practice prostitution or sodomy.

(c) Any person who, as owner, administrator, director, person in charge, or under any denomination, has a house or annex thereof, building, annex, or premises thereof, allows the habitual presence therein of one or several persons to arrange or practice prostitution or sodomy.

It is hereby provided that regarding establishments or places referred to in this Article, the court shall also order the revocation of any licenses, permits or authorizations to operate.

In these cases, the juridical person where the conduct is occurs may also be a participant in this crime.

Article 151.- Disorderly Houses.- Any person who owns or under any denomination has a disorderly establishment or house in which the peace, well-being or decorum of the neighborhood is disturbed or disturbances are promoted habitually shall incur a misdemeanor.

In such cases, the juridical person where the conduct is occurs may also be a participant in this crime.

Article 152.- Proxenetism, Pandering and Human Trafficking.- The following shall incur a fourth degree felony:

(a) Any person who, for profit, or to satisfy the lewdness of another promotes or enables the prostitution of another person, even with the consent of said person;

(b) Makes the prostitution of others his/her habitual means of livelihood; or

(c) Promotes or enables the entry or exit from the Commonwealth of Puerto

Rico of another person, even with the consent of said person, to have the person practice prostitution or sodomy.

Article 153.- Aggravated Proxenetism, Pandering and Human Trafficking.- Any person who commits the crime described in Article 152 shall incur a third degree felony if any of the following circumstances concur:

- (a) If the victim has not attained eighteen (18) years of age.
- (b) When there is deceit, violence, abuse of authority or any means of intimidation or coercion.
- (c) If the perpetrator is an ascendant, descendent, spouse, brother/sister, guardian or the person in charge of the education, guardianship or has the custody of the victim.
- (d) If the prostitution or sodomy of more than one person is promoted or enabled.

SECTION FOUR

On Obscenity and Child Pornography

Article 154.- Definitions.- For the purposes of this Section, the following terms or phrases shall have the meanings stated below:

(a) “Indecent Behavior” means any of the physical activities of the human body, whether performed alone or with other persons, including but not limited to singing, speaking, dancing, acting, simulating, or pantomiming, which could be considered in whole by the average person and, according to contemporary community patterns as:

- (1) appealing to the lewd interests, that is to say, a morbid interest in nudity, sexuality or physiological functions;
- (2) representing or describing sexual conduct in a patently offensive manner; and
- (3) lacking serious literary, artistic, political, religious, scientific or

educational value.

The enticement of behavior towards lewd interests shall be judged in the light of the average adult, unless it arises from the nature of such behavior or the circumstances of its production, presentation or exhibition that it is designed for groups of sexual deviates, in which case, the predominant enticement of the behavior shall be judged in the light of the group towards which it is directed.

In proceedings for violations to the provisions in this Article in which the circumstances of production, presentation or exhibition indicate that the accused is commercially exploiting the obscene behavior for its lewd enticement, such circumstances shall constitute *prima facie* evidence that it lacks any serious literary, artistic, political, religious, scientific or educational value.

When the prohibited behavior is intended for or in the presence of minors, it shall be sufficient that the material is directed to awakening a lewd interest in sex.

(b) "Sexual Behavior" comprises:

(1) patently offensive representations or descriptions of consummated sexual acts, whether normal or perverted, actual or simulated, including sexual relations, sodomy and bestiality; or

(2) patently offensive representations or descriptions of masturbation, oral copulation, sexual sadism, sexual masochism, lewd exhibition of the genitalia, stimulation of human genitalia with objects designed for such purposes, or scatological functions, even if such conduct is performed individually or between members of the same sex or of the opposite sex or between humans and animals.

(c) "Material" means any book, magazine, newspaper or any other written or printed material, or any photograph, drawing, caricature, movie film, cinematographic or otherwise graphic representation; or any oral or visual representation transmitted or retransmitted through cables, electromagnetic waves,

computers, digital technology or any other electronic media or other means of communication; or any statue, carving or figure, sculpture; or any mechanical, chemical or electric recording, transcription or reproduction of any other article, equipment or machine.

(d) “Material Injurious to Minors” means any material that explicitly describes the nudity of the human body, manifestations of sexual conduct or sexual excitement, or of such a nature that, upon considering them in whole or in part of their context:

- (1) it appeals predominantly to prurient, shameful or morbid interest in minors;
- (2) it is patently offensive according to the contemporary adult community criteria, with regard to the best interest of minors; and
- (3) it lacks any serious social value for minors.

(e) “Obscene Material” means material considered in its entirety by an average person and upon applying contemporary community standards:

- (1) it appeals to prurient interest, in other words, a morbid interest in nudity, sexuality or physiological functions;
- (2) it represents or describes sexual behavior in a patently offensive manner; and
- (3) it lacks any serious literary, artistic, political, religious, scientific or educational value.

The enticement of lewd interest in sex in the material is judged in the light of the average adult unless it arises from the nature of the material, or the circumstances of its diffusion, distribution or exhibition that it is designed for groups of sexual deviates, in which case said attraction shall be judged in the light of the group toward which it is directed.

In proceedings regarding violations to the provisions of this Article in which the circumstances of the production, presentation, sale, dissemination, distribution or advertising indicate that the accused is commercially exploiting the material for its lewd attraction, which proof shall constitute *prima facie* evidence that it lacks any serious literary, artistic, political, religious, scientific or educational value.

When the prohibited behavior is intended for, or is in the presence of minors, it shall be sufficient for the material to be directed to awaken lewd interest in sex.

(f) “Child Pornography” means any representation of sexually explicit behavior, any act of masturbation, sadomasochistic abuse, real or simulated sexual relations, deviate sexual relations, bestiality, homosexuality, lesbianism, acts of sodomy or the exhibition of genitalia performed by persons under eighteen (18) years of age. “Sadomasochistic abuse” means acts of flagellation or torture performed by one person to another or to him/herself, or the condition of being chained, tied or otherwise restricted as an act of sexual gratification or stimulation.

Article 155.- Sending, Transporting, Sale, Distribution, Publishing, Exhibiting or Possessing Obscene Material.- Any person who knowingly sends or has another send, transports or has another transport, brings or has another bring obscene material to Puerto Rico for its sale, exhibition, publication or distribution, or who owns, prepares, publishes, or prints any obscene material in Puerto Rico with the intention of distributing, selling, or exhibiting it to others, or to offer it for its distribution or sale shall incur a misdemeanor.

If the crime described in the previous paragraph is intended for or in the presence of a minor, or if a minor is used to help or assist in the prohibited conduct, the offender shall incur a fourth degree felony.

The provisions of this Article with respect to the exhibition of any obscene material or the possession thereof with the intention of exhibiting the same, shall not apply to any employee, projectionist, or operator of a cinematographic device

who has been employed and is acting within the scope of his/her employment, provided that said employee, projectionist or operator does not have a proprietary interest of any sort in the place or establishment in which he/she is employed.

Article 156.- Obscene Shows.- Any person who knowingly engages in or participates in the administration, production, sponsorship, presentation or exhibition of a show that contains obscene conduct or participates in a part of such an event, or contributes to its obscenity, shall incur a misdemeanor.

If the behavior described in the preceding paragraph is carried out for or in the presence of a minor, the offender shall incur a fourth degree felony.

Article 157.- Production of Child Pornography.- Any person who knowingly promotes, allows, participates in or directly contributes to the creation or production of child pornography material or child pornography shows shall incur a third degree felony.

Article 158.- Possession and Distribution of Child Pornography.- Any person who knowingly owns, prints, sells, purchases, exhibits, distributes, publishes, transmits, transfers, sends or circulates child pornography material or child pornography shows shall incur a third degree felony.

Article 159.- Use of a Minor for Child Pornography.- Any person who uses a minor, or persuades or induces a minor into posing, modeling or incur sexual conduct with the purpose of preparing, printing or exhibiting child pornography material or into participating into a show of said nature shall incur a third degree felony.

Article 160.- Exhibition and Sale of Material Injurious to Minors.- The following shall incur a fourth degree felony:

(a) Any person in charge of the supervision, control or custody of a commercial or business establishment that knowingly exhibits, displays or exposes to view any material injurious to minors in those areas of the establishment or

premises to which minors have access as part of the general public, or who sells, rents, or lends such material to a minor.

(b) Any person in charge of the supervision, custody or control of a movie theater in which cinematographic films containing material injurious to minors are shown and who knowingly sells an entrance ticket or otherwise allows the entrance of a minor into such an establishment.

Article 161.- Propaganda of Obscene or Child Pornography Material.-

Any person who prepares, exhibits, publishes, announces or solicits from another person to publish or exhibit an announcement of obscene or child pornography material or who otherwise promotes the sale or distribution of such material shall incur a misdemeanor.

Article 162.- Conditional Sale or Distribution.- Any person who knowingly, as a condition for the sale, distribution, consignment or delivery for resale of any newspaper, magazine, book, publication or otherwise any merchandise that requires the buyer or consignee to receive any obscene or child pornography material, or who denies, revokes or threatens to deny or revoke a franchise, or who imposes a monetary punishment or of any other sort because such a person refuses to accept said material, or because of the return of said material, shall incur a misdemeanor.

Article 163.- Transmission or Retransmission of Obscene or Child Pornography Material.- Any person who knowingly distributes any obscene or child pornography material through television, radio, computer or any other electronic means or communications media shall incur a misdemeanor.

Article 164.- Seizure.- The Secretary of Justice, the Police Superintendent or the Secretary of the Treasury, through their delegates or law enforcement officers may seize any property or interest that any person has acquired in violation to the provisions of this Article, subject to the procedures established by the Uniform

Seizures Act, Act No. 93 of June, 1988, as amended.

Article 165.- Destruction of Material.- When a conviction and binding sentence for any of the crimes included in this Article exists, the court shall order the destruction of any obscene or child pornography material or announcement which has motivated the conviction of the offender and is in the hands or in the control of the court, the prosecution or a law enforcement officer.

CHAPTER V
CRIMES AGAINST CIVIL RIGHTS
SECTION ONE

On the Restriction of Freedom

Article 166.- Slavery.- Any person who exercises attributes attaching to the right of ownership or any of them over another person shall incur a third degree felony.

Article 167.- Restriction of Freedom.- Any person who unlawfully restricts another person in such a manner so as to interfere substantially with his/her freedom shall incur a misdemeanor.

Article 168.- Aggravated Restriction of Freedom.- A fourth degree felony shall be incurred if the crime of restriction of freedom is committed with concurrence of any of the following circumstances:

- (a) By means of violence, intimidation, fraud or deceit.
- (b) By simulating to be a public authority.
- (c) By any public official or employee abusing the powers inherent to his/her authority or duties.
- (d) Under the pretext that the restricted person suffers an illness or mental disability.
- (e) To a person who has not attained eighteen (18) years of age, has disabilities and is unable to care for him/herself, or is mentally ill.

Article 169.- Kidnapping.- Any person who by means of physical force, violence, intimidation, fraud or deceit abducts or restrains and hides another person depriving him/her of his/her freedom shall incur a third degree felony.

When the victim is abducted from his/her location and is removed therefrom, such abduction of the victim must be for a substantial time or distance and not merely incidental to the commission of another crime.

Article 170.- Aggravated Kidnapping.- Any person who commits the crime of kidnapping under any of the following circumstances shall incur a second degree felony:

(a) When the crime is committed against a person who has not attained eighteen (18) years of age, has a disability and is unable to care for him/herself, or is mentally ill.

(b) When the crime is committed against the Governor of Puerto Rico, a legislator or a Secretary of the Cabinet or the head of an agency or public corporation, judge, special independent prosecutor or a prosecuting attorney of the Department of Justice of Puerto Rico, whether appointed by the Governor of Puerto Rico or designated as such by the Secretary of Justice.

(c) When the crime is committed with the purpose of demanding ransom or if any unlawful act or an act against the will of the kidnapped person is carried out, or to demand from the State the release of any inmate that is serving a sentence or the release of a person arrested or charged with respect to the commission of any crime.

(d) When the kidnapping is initiated outside of the territorial limits of the Commonwealth of Puerto Rico and the person is either brought or sent to Puerto Rico.

Article 171.- Delay in the Interrogation of the Arrested Person.- Any public officer or person who having arrested someone unreasonably and unnecessarily

delays bringing the arrested person before a judge shall incur a fourth degree felony.

Article 172.- Noncompliance with Writ of Habeas Corpus.- Any public officer or person to whom a writ of habeas corpus is addressed who fails or refuses to comply with it after its presentation shall incur a fourth degree felony.

Article 173.- Evasion of Writ of Habeas Corpus.- Any public officer or employee who has in his/her custody or authority any inmate on whose behalf a writ of habeas corpus is issued and who, with the purpose of eluding its presentation or evading its effects, transfers the inmate into the custody of another person or places him under the power or authority of another person, or hides or changes the location of imprisonment, or transfers the inmate out of the jurisdiction ordered in the writ shall incur a fourth degree felony.

Article 174.- New Arrest or Imprisonment of a Released Person.- Any person who, on his/her own or as a member of a court, unlawfully detains, arrests, imprisons or deprives of freedom a person released from prison for the same cause by virtue of a writ of habeas corpus shall incur a fourth degree felony.

Article 175.- Undue Extension of the Penalty.- Any officer or employee of an institution, detention center, penal or correctional establishment intended for the serving of sentences or for security measures, who engages in the following shall incur a fourth degree felony if:

- (a) he/she receives any person without an order issued by a competent authority or without meeting the legal requirements;
- (b) he/she disobeys the release order issued by a judge; or
- (c) he/she unduly extends the service of the penalty or security measures.

Article 176.- Illegally Obtained Arrest or Search Warrant.- Any person who illegally and without a judge finding probable cause pursuant to the law obtains the issuance and execution of an arrest or search warrant shall incur a

fourth degree felony.

Article 177.- Illegal Search.- Any person who executes a search, under the pretext of authority and without a warrant issued by a judge in accordance with the law shall incur a fourth degree felony.

SECTION TWO

On Crimes against the Right to Privacy

Article 178.- Illegal Compiling of Personal Information.- Any public employee or officer who without legal authority and for illegal purposes prepares, maintains or preserves a file, blacklist, manual, list, or index, or compiles information and documents containing names and information on persons, groups and organizations solely and exclusively due to religious or labor beliefs or ideals, or for reasons of race, color, sex, or physical or mental health conditions, without said persons, groups or entities being connected to the commission or attempt to commit a crime, or for purposes of discriminating in the obtainment of or permanence in employment shall incur a fourth degree felony.

Article 179.- Illegal Recording of Images.- Any person who without legal justification or without a legitimate investigative purpose uses electronic or digital video equipment, with or without audio, to conduct secret surveillance in private places in which persons are under the expectation of privacy shall incur a fourth degree felony.

Article 180.- Illegal Entry of Dwelling.- Any person who enters or remains in a house or residential building belonging to another, or in its dependencies or in its premises without the consent or against the express will of the tenant or a representative of said tenant, or who enters it clandestinely by means of deceit, shall incur a misdemeanor.

Article 181.- Recording of Communications by a Participant.- Any person who participates in a private personal communication, whether by telephone,

computer or any other means of communication, who records such communication by mechanical means or otherwise without the express authorization of all parties involved in such communication, shall incur a misdemeanor.

Article 182.- Breach of Personal Communications.- Any person who without authorization and for the purpose of discovering or allowing any other person to discover, or who takes possession of documents, letters, e-mail messages or any other documents or effects of another, or intercepts another person's telecommunications or uses technical devices or mechanisms to listen to, transmit, record or reproduce any text, sound, image or any other communication signal, or alters the content thereof, shall incur a misdemeanor.

Article 183.- Alteration and Use of Personal Information in Files.- Any person who, without being authorized to do so, takes possession, uses, modifies or alters to the detriment of the owner of said information or of a third party, reserved, private, or family information of a personal nature belonging to another which is recorded on disks or in electronic data files, or other type of file or register, whether public or private, shall incur a fourth degree felony.

Article 184.- Disclosure of Communications and Personal Information.- Any person who discloses, publishes, reveals or yields to a third party the information, communications or discovered findings or captured images referred to in Sections 182 (Breach of Personal Communications), 183 (Alteration and Use of Personal Information in Files) shall incur a fourth degree felony.

Article 185.- Protection for Juridical Persons.- The provisions of Article 182 (Breach of Personal Communications), Article 183 (Alteration and Use of Personal Information in Files) and Article 184 (Disclosure of Communications and Personal Information) shall apply to any person who discloses, reveals or yields private information of juridical persons without the consent of its representatives.

Article 186.- Aggravated Crime.- If the crimes coded in Article 182, Breach of Personal Communications), Article 183 (Alteration and Use of Personal Information in Files) and Article 184 (Disclosure of Communications and Personal Information) are executed for purposes of profit by the persons in charge or responsible for disks, electronic data files or other any other type of file or registers, or by officers or employees in the course of their duties, a punishment in the upper half of the range of penalties shall be imposed.

The provisions in this Article shall also apply in the case of private information of juridical persons.

Article 187.- Disclosure of Trade Secret.- Any person who, without just cause, discloses secrets that have come to his/her knowledge by virtue of their profession or religious ministry, charge or office, to the prejudice of another shall incur a misdemeanor.

SECTION THREE

On Crimes against Personal Tranquility

Article 188.- Threats.- Any person who threatens another with causing a specific damage to the bodily integrity, rights, honor or patrimony of that person or his/her family shall incur a misdemeanor.

Article 189.- Intrusion of Personal Tranquility.- Any person who, by means of the telephone, electronic mail, or any other means proffers or writes a language that is threatening, abusive, obscene or lewd to another person; or who with the purpose of bothering a person repeatedly makes telephone calls or causes the telephone of another to ring repeatedly, or any person who knowingly authorizes any telephone under his control to be used for any purpose prohibited under this Article shall incur a misdemeanor.

SECTION FOUR

On Crimes against the Freedom of Association

Article 190.- Crimes Against the Right of Assembly.- Any person who interrupts or hinders a lawful and peaceful assembly shall incur a misdemeanor.

SECTION FIVE

On Crimes against Equal Protection Under the Law

Article 191.- Illegal Discriminations.- Any person who without any legal grounds performs any of the following acts because of political ideas, religious beliefs, race, color of skin, sex, social condition, or national or ethnic origin, shall incur a misdemeanor:

(a) Denies access, service or equal treatment to any person in public places or establishments, private clubs where public activities are held, and in transportation media.

(b) Refuses to sell, transfer or lease personal or real property.

(c) Denies the granting of a loan for the construction of housing.

(d) Publishes, circulates or distributes any order, notice or advertisement that hinders, prohibits or discourages the sponsorship of or the presence at public places and establishments and the means of transportation, or the sale, transfer or lease of personal or real property.

TITLE II

CRIMES AGAINST PROPERTY

CHAPTER ONE

CRIMES AGAINST PROPERTY AND PROPRIETARY RIGHTS

SECTION ONE

On Illegal Appropriation

Article 192.- Larceny- Any person who without violence or intimidation illegally takes personal property belonging to another shall commit the crime of

larceny and shall incur a misdemeanor.

The court shall also impose the restitution.

Article 193.- Aggravated Larceny.- Any person who commits the crime of larceny described in Article 192, if taking public property or funds, or goods valued above one thousand (1,000) dollars or more shall incur a third degree felony.

If the value of the illegally taken good is less than one thousand (1,000) dollars, but more than five hundred (500) dollars, it shall entail fourth degree felony.

The court may also impose restitution.

Article 194.- Determining the Value of Credit Documents.- If the taken good is a credit voucher or a document, the amount of money represented or guaranteed by the same, or the value of the good whose ownership justifies the document, shall constitute the value of the appropriated good.

Article 195.- Petite Larceny or Shoplifting in Commercial Establishments.- Any person who, with the intention of illegally taking merchandise from a commercial establishment, for him/herself or another, without paying the price fixed by the seller commits any of the following acts and incurs a misdemeanor:

(a) Hides merchandise on his/her person, purse or handbag, bag, or any other similar object, or on the person of a minor, elderly or person with disabilities who is under his control;

(b) Alters or changes the price on the price tag of the merchandise be it on a label, bar code or any other marking showing the sales price;

(c) Changes the merchandise from one container into another showing a different price;

(d) Removes the merchandise from the commercial establishment; or

(e) Causes the cash register or any other instrument that registers sales to

show a price lower than the marked sales price.

The court may also impose restitution.

Notwithstanding the provisions herein established, when the sales price of the item exceeds the amounts provided in Article 193, the person may be prosecuted for the crime of aggravated larceny.

Article 196.- Interfering with Meters.- Any person who alters, interferes or obstructs the water, gas or electricity meter, or that of any other fluid for the purpose of defrauding another shall incur a misdemeanor.

Article 197.- Use or Interference with Communications Equipment or System.- Any person who uses, alters, modifies, interferes, intervenes or obstructs communications or information system equipment, devices or systems for purposes of defrauding another shall incur a fourth degree felony.

SECTION TWO

On Robbery

Article 198.- Robbery.- Any person who unlawfully takes personal property belonging to another in the immediate presence of said person and against his/her will by means of violence or intimidation shall incur a third degree felony.

Any person who unlawfully takes personal property and immediately after having committed the act uses violence or intimidation against another to retain the taken item shall also incur a third degree felony.

Article 199.- Aggravated Robbery.- When in order to commit the robbery, the person takes advantage of a minor who has not attained eighteen (18) years of age, or when the item object of the robbery is a motor vehicle, a punishment in the upper half of the classification of punishment established for third degree felonies shall be imposed.

When in the course of the robbery physical damage is inflicted upon the victim, or if the robbery takes place in an occupied residential building in which the victim

is, the offender shall incur a second degree felony.

The court may also impose restitution.

SECTION THREE

On Extortion

Article 200.- Extortion.- Any person who, by means of violence or intimidation, or under the pretext of rights as a public officer or employee, compels another person to deliver property or to perform, tolerate or omit acts which occur or are executed after an act of violence, intimidation or under pretext of authority shall incur a fourth degree felony.

SECTION FOUR

On the Receiving and Disposal of Stolen Goods

Article 201.- Receiving, Disposal and Transfer of Stolen Goods.- Any person who purchases, receives, withholds, transports or disposes of any property knowing that it was unlawfully taken, stolen, obtained by means of extortion or by any unlawful means shall incur a misdemeanor.

If the value of the stolen property exceeds five hundred (500) dollars, the person shall incur a fourth degree felony.

The court may also impose restitution.

Article 202.- Seizure of Vehicles or Other Means of Transportation.- Any vehicle or other means of transportation that has been used to transfer property that has been unlawfully taken, stolen, obtained by means of extortion or by any unlawful means shall be seized by the Secretary of Justice, the Secretary of the Treasury or by the Police Superintendent through their delegates, police officers or law enforcement personnel on behalf of the Commonwealth of Puerto Rico.

For the seizing and disposal of vehicles, animals, watercraft or areas of any transportation means the procedure to be followed shall be that established in the

Uniform Seizures Act, Act No. 93 of June 13, 1988, as amended.

SECTION FIVE

On Burglary and Other Types of Illegal Entry

Article 203.- Burglary.- Any person who enters a dwelling, building or other construction or structure or its dependencies or annexes with the purpose of committing any crime involving an unlawful taking or a felony shall incur a misdemeanor.

Article 204.- Aggravated Burglary.- If the burglary crime described in Article 203 is committed in an inhabited building, the offender shall incur a third degree felony.

The court may also impose restitution.

Article 205.- Trespassing.- Any person who commits any of the following acts shall incur a misdemeanor:

(a) Illegal occupation of land or property of another for purposes of performing acts of dominion or of taking possession over them;

(b) Enters into the property of another without the express authorization of the owner, possessor or person in charge and performance of acts of dominion, regardless of their type.

(c) Illegally diverts, dams or stops public or private waters;

(d) Illegally diverts another of his personal property or real property right to use, usufruct or habitation constituted over a real property; or

(e) Illegally removes or alters the boundaries of a real property or any sort of sign established to set the boundaries of property or the markings on adjacent lands.

The court may also impose restitution.

Article 206.- Entering into the Estate of Others.- Any person who enters into the fenced premises or estate of another by forcing the fence or stockade

without authorization from the owner or person in charge of said property, or with the intention of committing a crime shall incur a misdemeanor.

SECTION SIX

On Damages against the Property of Others

Article 207.- Damages.- Any person who destroys, disables, alters, disappears or otherwise damages the personal or real property of another shall incur a misdemeanor.

The court may also impose restitution.

Article 208.- Aggravated Damages.- Any person who commits the crime of damages set forth in Article 207 of this Code shall incur a fourth degree felony if any of the following circumstances concur:

(a) When harmful substances, whether poisonous, corrosive, inflammable or radioactive are used, if the act does not constitute a more serious felony;

(b) When the damage caused is assessed in one thousand (1,000) dollars or more;

(c) When involving historic, artistic or cultural interest property; or

(d) When the damages are caused to real property owned by the Commonwealth of Puerto Rico or by private non-profit entities.

The court may also impose restitution.

Article 209.- Affixing of Signs.- Any person who pastes, affixes, prints or paints any notice, announcement, sign, poster, engraving, banner, picture, motto, writing, drawing, figure or any other similar medium on public property, with the exception of posts and columns, or on any private property without the consent of the owner, custodian or person in charge, regardless of the matter, article, person, activity, theme, concept or subject to which reference is made in the same, shall incur a misdemeanor.

The court may also impose restitution.

SECTION SEVEN

On Defrauding

Article 210.- Fraud.- Any person who fraudulently performs any of the following shall incur a fourth degree felony:

(a) To induce another person to perform acts or omissions that affect the proprietary rights or interests on the real or personal property of said person, the State or a third party to the prejudice of the same; or

(b) To perform acts or omissions that deprive another person or affect the proprietary rights or interests on the real or personal property of said person to the prejudice of the same or of a third party.

The court may also impose restitution.

Article 211.- Computer Fraud.- Any person who with the intention of defrauding and by means of any computer manipulation makes an unauthorized transfer of any property or proprietary rights to the prejudice of a third party or the State, shall incur a fourth degree felony.

The court may also impose restitution.

Article 212.- Construction Works Fraud.- Any entrepreneur, engineer, contractor or architect of works, juridical person and any other person who is contracted or who agrees to execute works and who, after receiving money in partial or total payment for the execution of the contracted work, with the intention of defrauding, fails to comply with the obligation to execute or complete the work as agreed shall incur a misdemeanor.

If the value of the work agreed upon and not executed or not completed was five hundred (500) dollars or more, the offender shall incur a fourth degree felony.

The court may also impose restitution and the suspension or revocation of license, permit or authorization.

Article 213.- Fraud in Competitions.- Any person who promotes, expedites or guarantees the irregular result of a sports competition or of any other sort for the purpose of obtaining undue benefits for him/herself or for a third party shall incur a misdemeanor.

The court may also impose restitution.

Article 214.- Undue Influence on Radio and Television.- The following shall incur a fourth degree felony, and the court may also impose the sentence of restitution upon:

(a) Any radio or television station employee or any other person who offers, solicits, gives or receives, directly or by means of an intermediary, for him/herself or for another person or a third party, any money or any form of payment, service or benefit, or accepts a proposition to such effects, in exchange for the broadcasting by radio or television of the music of a certain author or singer, or any other material or program, without informing said fact to the station prior to the broadcasting of the music, material or program in question.

(b) Any person who, as part of the production of a radio or television program solicits, gives or receives, directly or by means of an intermediary, for himself or for another person or a third party, any money or any form of payment, service or benefit, or accepts a proposition to such effects, in exchange for the broadcasting by radio or television of said program or part thereof without informing said fact to the station, the employer of the person who shall receive the payment or the person for whom such program is produced prior to the broadcasting of said program.

(c) Any person who supplies to another a radio or television program or part thereof without notification to said person that money or any other form of payment, service or benefit has been offered, solicited, given or received, directly or by means of an intermediary, or that a proposition to such effects has been accepted in exchange for said program or part thereof to be broadcast by radio or

television.

(d) If during the referred broadcast the sponsor of the broadcasted program is adequately identified, the duty to inform set forth in the preceding subsections (a), (b), and (c) shall be complied with.

(e) Compliance with the duty to inform set forth in the preceding subsections (a), (b), and (c) shall not be necessary when the station has obtained a disclaimer for such purposes from the Federal Communications Commission.

SECTION EIGHT

On Identity Theft

Article 215.- False Impersonation.- Any person who, with the intention to deceive, falsely impersonates or represents another and while in character conducts any unauthorized action in the name of the falsely represented person shall incur a misdemeanor.

Article 216.- Identity Theft.- Any person who takes for him/herself a means of identification belonging to another person with the intention of committing any unlawful act shall incur a fourth degree felony.

The court may also impose restitution.

For purposes of this crime, a means of identification shall include the following: name, address, telephone number, driver's license number, social security number, employer identification number, credit or debit card number, health insurance card number, passport or immigration card number, mobile telephone electronic serial number, any bank account number, the personal identification number (PIN) of any bank account, telephone, electronic mail (e-mail) or computer system identification, place of employment, name of parents, date and place of birth, or name and address of place of employment or any other information that may be used by itself or jointly with others to identify a person, in addition to biometric information such as fingerprints, voice recordings, retina, iris

imaging or any particular physical representation.

Article 217. Provisions Applicable to this Article .- As part of the restitution that the court may impose for the crimes described in this Section, it may also demand the reimbursement of the expenses of the victim for the restoration of his credit, including the payment of any debt or obligation arising from the acts of the offender. The court may also issue orders for the correction of any public or private document containing false information to the prejudice of the victim, as a consequence of the behavior of the offender.

CHAPTER II

CRIMES AGAINST THE SECURITY OF TRANSACTIONS

SECTION ONE

On Forgery

Article 218.- Forgery of Documents.- Any person who, with the intent to defraud, makes a false document, instrument or writing, in whole or in part, by means of which any right, obligation or interest is created, transferred, terminated or otherwise affected, or who falsely alters, limits, suppresses or destroys, in whole or in part, a true right shall incur a fourth degree felony.

Article 219.- Ideological Falsehood.- Any person who, with the intent to defraud, makes false statements in a public or private document concerning a fact which the document attests to, and in the case of a private document, which has juridical effects to the prejudice of another person, shall incur a fourth degree felony.

Article 220.- Falsification of Entries in Registers.- Any person who, with the intent to defraud, makes, imitates, suppresses or alters any entry in a book of registers, files or data bank, whether on hard copy or electronically, shall incur a fourth degree felony.

Article 221.- Forgery of Seals.- Any person who, with the intent to defraud, forges or imitates the seal of the Commonwealth of Puerto Rico, a public official authorized by law, a court, a corporation, or any other public seal authorized or recognized under the laws of Puerto Rico or the United States, or of any state, government or country, or who forges or imitates any impression attempting to substitute the same for the impression of any of these seals shall incur a fourth degree felony.

Article 222.- Forgery of License, Certificate or Any Other Documentation.- Any person who, with the intent to defraud, makes, alters, forges, imitates, circulates, passes, publishes or possesses as if genuine any license, certificate, diploma, reports, records or any other document of a similar nature which should be issued by an officer or employee of the Commonwealth of Puerto Rico or by any private institution authorized to issue it, knowing that it is false, altered, forged or imitated shall incur a fourth degree felony.

Article 223.- Filing of Forged Documents or Information.- Any person who, with the intent to defraud, offers or presents a false or altered document or information to be filed, registered or entered at a dependency of the Commonwealth of Puerto Rico which, if it had been genuine or true, may have been filed or entered into any official registry or data bank, whether on hard copy or electronically, shall incur a fourth degree felony.

Article 224.- Possession and Transfer of Forged Documents.- Any person who, with the intent to defraud, possesses, uses, circulates, sells, or passes for genuine or true any forged document, instrument or writing knowing that it is forged, altered, falsified or imitated shall incur a fourth degree felony.

Article 225.- Possession of Instruments for Forging.- Any person who makes or knowingly has in his possession any die, plate or any device, paper, metal, machine or any other thing which may be used in the forging of a seal,

document, instrument or writing shall incur a fourth degree felony.

Article 226.- Alteration of Information that Identifies Musical, Scientific or Literary Works.- Any person who alters information that identifies the author, title, edition number, or publisher, or who distorts, mutilates or alters the text of a book or of a literary, scientific or musical work or record, a tape recording or electronic sound recording (audio), or of a theatrical work without due authorization from the author or holder of the rights shall incur a fourth degree felony.

The court may also impose restitution.

Article 227.- Forgery in the Practice of Professions or Trades.- Any person authorized by law to practice a profession or trade who lends his name or otherwise assists or furthers another unauthorized person to practice said profession or trade or to perform actions pertaining to said profession or trade shall incur a fourth degree felony.

SECTION TWO

On Crimes against Security in Commercial Transactions

Article 288.- Money Laundering.- Any person who performs any of the following acts shall incur a third degree felony:

(a) To convert or transfer goods knowing that such goods originate from an unlawful activity or participation in such sort of activity for purposes of concealing or covering up the unlawful origins of the property; or

(b) To conceal or cover up the true nature, origin, location, disposal or transfer of property, goods or the corresponding rights thereof knowing that they originate from an unlawful activity or participation in such sort of activity.

The court shall provide for the seizing of the property, rights or goods obtained by means of this crime, whose amounts shall be covered into the Crime Victims' Compensation Fund.

Article 229.- Insufficiency of Funds.- Any person who, with the intent to defraud writes, issues, endorses or releases a check, money order, draft or note for the payment of money chargeable to any bank or other depository knowing that the issuer or drafter thereof lacks sufficient funds in said bank or depository for the full payment of the check, money order, draft or note at the time of presenting same, nor has the express authorization to overdraw, shall incur a misdemeanor.

The court may also impose restitution.

Article 230.- Closed or Non-existent Account and Undue Stop Payment.- Any person who, with the intent to defraud, orders any bank or depository to cancel an account designated for the making of payments with money charged against such account knowing that prior to said cancellation he/she had written, issued, endorsed or delivered any checks, money orders, drafts or notes to be charged against said cancelled account; or who draws against a closed or non-existent account; or stops the payment of the instrument after its issue without justified cause shall incur a misdemeanor.

If the amount represented by the instrument is more than five hundred (500) dollars, the offender shall incur a fourth degree felony.

The court may also impose restitution.

Article 231.- Knowledge of Nonpayment.- It constitutes *prima facie* evidence of knowledge of the insufficiency of funds in the closed or non-existent account, the cancellation of the account, or the lack of express authorization to overdraw if the drawer or endorser writes, issues or releases a check, money order, draft or note the payment of which is refused by the drawee through any of the following: insufficiency of funds, drawing against a closed or non-existent account, the cancellation of the account designated for the payment or for not having express authorization to overdraw.

Article 232.-Demand for Payment.- No person shall commit the crimes established in the Articles 229 and 230 above unless it is shown that the holder of the check, money order, draft or note, or the agent thereof has notified either in person or by certified letter with return receipt requested from the drawer or endorser at his last known address demanding the payment to the holder or the agent thereof at the address stated in the notice of the amount of the check, money order, draft or note within a term of not less than ten (10) days if the drawer or endorser to whom the notice is addressed is domiciled in the area of the holder and not less than fifteen (15) days if domiciled in another municipality or out of the Commonwealth of Puerto Rico. Said term is calculated from the date of the notice to the drawer or endorser of the unpaid check, money order, draft or note.

If the address provided by the drawer or endorser is false, or if he refused to provide a physical address together with the mailing address at the time of issuing the check, money order, draft or note, it shall be understood that the notice from the bank or depository stating that the check, money order, draft or note had insufficient funds constitutes sufficient notice pursuant to the first paragraph of this Article.

Article 233.- Nonpayment After Demand for Payment.- Nonpayment, after demand for payment, by the person who has drawn, signed, issued, endorsed or released said check, money order, draft or note shall be considered as *prima facie* evidence of the purpose to defraud.

Article 234.- Payment Within Term.- After the term granted in the demand for payment has elapsed, the injured party shall file a claim at the district attorney's office in the district in which the check with insufficient funds or drawn against a closed or non-existent account was released, and the prosecutor shall issue a summons to the drawer or endorser of the check, money order, draft or note for him to appear at a probable cause hearing within a term that shall not exceed ten

(10) days from the filing of the claim.

The payment of the check, money order, draft or note, prior to the probable cause hearing, shall release the person who issued or endorsed said check, money order or note from criminal liability. The person shall pay the costs of the proceedings, which shall not be less than twenty-five (25) dollars.

The payment made after a finding of probable cause in the hearing shall not release the accused from criminal liability in the trial. Such a circumstance shall be understood as a mitigating circumstance when establishing the punishment for the crime.

Article 235.- Illegal Use of Credit and Debit Cards.- Any person who, with the intent to defraud another or to obtain goods and services to which he/she is not legally entitled, uses a credit or a debit card knowing that is stolen or forged, or which has been revoked or canceled, or the use of which is unauthorized for any reason shall incur a misdemeanor.

TITLE III

CRIMES AGAINST COLLECTIVE SAFETY

CHAPTER ONE

ON ARSON AND CATASTROPHIC RISK

SECTION ONE

On Arson

Article 236.- Arson.- Any person who endangers the life, health or physical integrity of others by setting a building on fire shall incur a third degree felony.

Article 237.- Aggravated Arson.- Any person who commits the crime of arson as described in Article 236 shall incur a second degree felony when any of the following circumstances concur:

- (a) Harm is caused to the life, health or bodily integrity of any person;
- (b) The offender has removed, damaged or disabled the devices for

extinguishing the fire;

(c) The act takes place in an occupied building; or

(d) The structure stores inflammable, toxic, radioactive or chemical material.

Article 238.- Forest Fires.- Any person who sets fire to mountains, sown fields, pastures, forests or plantations which are the property of others shall incur a fourth degree felony.

If it endangers the life, health or physical integrity of persons, the offender shall incur a third degree felony.

Article 239.- Reckless Arson.- Any person who, recklessly, causes a fire in buildings, mountains, sown fields, pastures, forests or plantations which endangers the life, health or physical integrity of others shall incur a fourth degree felony.

SECTION TWO

Crimes Involving Catastrophic Risk

Article 240.-Serious Damage or Destruction.- Any person who endangers the life, health, bodily integrity or safety of one or several persons, or who causes environmental damages by provoking an explosion, flood or landslide through the demolition of real property, or by using toxic or asphyxiating gas, nuclear energy, ionizing elements or radioactive material, microorganisms or any other substance that is hazardous to health or has destructive capacity shall incur a second degree felony.

If the acts listed under this crime are performed recklessly, the offender shall incur a third degree felony.

The court may also impose restitution.

Article 241.- Poisoning of Public Waters.- Any person who endangers the life or health of one or several persons by poisoning, contaminating or otherwise dumping substances meant to destroy human health into wells, deposits, bodies of water, pipelines or watercourse used for human consumption and supply shall

incur a second degree felony.

If the acts listed under this crime are performed recklessly, the offender shall incur a third degree felony.

The court may also impose restitution.

Article 242.- Environmental Pollution.- Any person who unlawfully performs or provokes, directly or indirectly, emissions, radiation or spills of any sort on the ground, into the atmosphere or into superficial, underground or maritime bodies of water seriously endangering the health of persons, the balance of ecological systems or the environment shall incur a fourth degree felony.

The court may also impose restitution.

Article 243.- Aggravated Environmental Pollution.- If the environmental pollution crime established in Article 242 is carried out by a juridical person without the corresponding environmental permit, endorsement, certification, franchise or concession, or is carried out clandestinely or has failed to comply with specific provisions issued by the environmental authorities for the correction or suspension of any unlawful act, or if it submits false information or omits information that is required to obtain the corresponding environmental permit, endorsement, certification, franchise or concession, or otherwise hinders or interferes with an inspection conducted by the authority with jurisdiction, said juridical person shall incur a third degree felony.

The court may also suspend the license, permit or authorization and impose restitution.

CHAPTER II
ON FALSE ALARMS
AND INTERFERENCE WITH PUBLIC SERVICES
SECTION ONE
On False Alarms

Article 244.- False Alarms.- Any person who knowingly gives a false alarm or warning of a fire, bomb or any other explosive device, or emanation of gasses or substances that are hazardous to health in a building or any other location in which people are gathered shall incur a misdemeanor.

Article 245.- False Telephone Call to Emergency System.- Any person who knowingly calls or allows calls to be made from any telephone under his/her control to any emergency call response system, such as 9-1-1, to falsely warn or notify a fire alarm, medical emergency, commission of a crime, natural disaster or any other situation requiring the mobilization, dispatch or presence of the Firefighters Corps, Commonwealth Emergency Management and Disaster Administration, or law enforcement corps, including the Puerto Rico Police, or who makes or allows that obscene or prank calls are made to such emergency call response systems shall incur a misdemeanor.

The court may also impose restitution to compensate for any unnecessary use of resources or unnecessary disbursement of funds by the Commonwealth to respond to any obscene, prank or false alarm calls to such emergency response systems.

SECTION TWO

On Interference with Public Services

Article 426.- Sabotage of Essential Public Services.- Any person who, for purposes of partially or totally obstructing the rendering of essential public services, destroys, damages, vandalizes or alters the operations of water, gas, electric, telephone, telecommunications, computer network or system installations or equipment, or any other property designated for public services, including transportation and communications, shall incur a third degree felony.

CHAPTER III
CRIMES AGAINST PUBLIC ORDER

Article 247.-Disorderly Conduct.- Any person who commits any of the following acts shall incur a misdemeanor:

(a) To disturb the peace or tranquility of one or several persons by means of offensive conduct that affects the right to privacy in the home, or in any other location in which reasonable privacy is to be expected;

(b) To disturb the peace or tranquility of one or several persons by means of offensive or insulting words or statements are articulated in a location in which reasonable privacy is to be expected by those within audible range; or

(c) To disturb the peace or tranquility of one or several persons by means of criticism, insults, challenges, provocations or words that are insulting and offensive which may provoke a violent or angry reaction from those who hear them.

Article 248.- Rioting.- The use of force or violence which disturbs the public peace, or the threat to use such force or violence by two or more persons acting together and without the legal authority to do so, and the potential for doing so immediately shall constitute rioting, and any person who participates in a riot shall incur a fourth degree felony.

Article 249.- Conspiracy.- When two or more persons conspire or agree to commit a crime and have made specific plans regarding their participation, the location and the acts to be carried out, they shall incur a misdemeanor.

If the agreement is to commit a first or second degree felony, they shall incur a fourth degree felony.

Article 250.- Agreement, When it Constitutes Conspiracy.- No agreement, except to commit a first degree or second degree felony, shall constitute conspiracy, except that ulterior or optional act is carried out to execute

the agreement by one or more of the conspirators.

Article 251.- Use of Violence or Intimidation Against Public Authorities.- Any person who uses violence or intimidation against a public officer or employee to force same to carry out or omit an act under his/her charge or to carry out an act against his/her official duties shall incur a misdemeanor.

Article 252.- Resisting or Obstructing Public Authorities.- Any person who resists, obstructs, delays or interferes with any public officer or employee in the discharge or attempt to discharge any of his/her duties shall incur a misdemeanor.

**TITLE IV
CRIMES AGAINST PUBLIC SERVICE
CHAPTER I
CRIMES AGAINST THE DISCHARGE OF PUBLIC SERVICE
SECTION ONE**

On Crimes against the Discharge of Public Office

Article 253.- Unlawful Enrichment.- Any public officer, employee, former officer or former employee who uses for his/her own benefit or for the benefit of a third party any information or data that could have been known solely by reason of his/her office, employment or assignment shall incur a fourth degree felony.

If the person obtains the pursued benefit, he/she shall incur a third degree felony.

The court may also impose restitution.

Article 254.- Unjust Enrichment.- Any public officer, employee, former officer or former employee who enriches his/her own estate or that of a third party when such enrichment has occurred after having taking office, employment or assignment and up to five (5) years after concluding his/her term, and is unable to justify said enrichment when duly required to do so shall incur a third degree felony.

It shall be understood that there has been enrichment not only regarding the increase of the estate with money or property, but also when any obligations which bound him/her have been extinguished.

The third party benefitted shall also incur this felony.

Article 255.- Unlawful Benefit from Public Office.- Any public officer or employee who unlawfully uses for his/her benefit or the benefit of a third party any property, works or services paid for with public funds shall incur a fourth degree aggravated felony.

The court may also impose restitution.

Article 256.- Negotiations Incompatible with the Discharge of Public Office.- Any public officer or employee who, by reason of his/her office, directly or through third party, promotes, authorizes or executes a contract, bid or any other operation in which he/she has an interest without having a dispensation or authorization allowed by the law shall incur a fourth degree felony.

The third party thus benefitted shall also incur this felony.

A third degree felony sentence shall be imposed if the person obtains the benefit pursued.

The court may also impose restitution.

Article 257.- Undue Intervention in Government Operations.- Any person who unduly intervenes or without legal authority in the execution of a contract, in a bid process or otherwise in the negotiation of any other procedure of the Commonwealth of Puerto Rico for purposes of obtaining benefits or to benefit a third party shall incur a fourth degree felony.

A third degree felony sentence shall be imposed if the person obtains the benefit pursued.

The court may also impose restitution.

Article 258.- Usurpation of Public Office.- Any person who commits any of the following shall incur a misdemeanor:

(a) To usurp any office, employment or assignment for which the person has not been elected, named nor designated, or to carry out the same without being duly qualified;

(b) To willfully perform any of the duties of the office, employment or assignment to which he/she was designated after having finished the term of service or after receiving an official notification ordering the termination or suspension of his/her duties.

Article 259.- Retaining Property.- Any public officer, employee, former officer or former employee who, after completion of the term of office, employment, or assignment, or when the office has been eliminated or the duties entrusted have concluded due to resignation or severance, retains under his/her power or refuses to surrender any property, files, records, documents, access codes, disks, electronic files or any other official information or material belonging to his/her office, whether hard copy or on electronic media, shall incur a fourth degree felony.

When the property or material in his/her custody is mutilated, damaged, destroyed or retrieved, the offender shall incur a third degree felony.

Article 260.- Alteration or Mutilation of Property.- Any public officer or employee who is in charge of or has control over any property, file, record, document, electronic register or any other type of register or data bank, whether hard copy or electronic, and who alters, destroys, mutilates, removes or conceals the same in whole or in part, shall incur a fourth degree felony.

In the event of loss of public property or funds, the court may also impose restitution.

Article 261.- False Certifications.- Any public officer or employee authorized by law to issue certifications and any other documents, who issues as true a certification or document containing statements which he/she knows to be false shall incur a fourth degree felony.

Article 262.- Bribery.- Any public officer or employee, juror, witness, arbitrator or any person authorized by law to hear or decide any issue or controversy who solicits or receives, directly or through an intermediary, for him/herself or for a third party, any money or benefit, or accepts a proposal to such effects to perform, omit or delay an act that pertains to his/her regular office or duties, or to perform an act that is contrary to his/her regular duties, or with the understanding that such remuneration or benefit shall influence any action, decision, vote or ruling by said person in his/her official capacity shall incur a third degree felony.

When the perpetrator is a public officer, arbitrator or person authorized by law to hear or decide any issue or controversy, he/she shall incur a second degree felony.

Article 263.- Offer of Bribery.- Any person who, directly or through an intermediary, gives or promises to give money or any benefit to a public officer or employee, witness, juror, arbitrator, or any other person authorized by law to hear or decide any issue or controversy, or to a witness for the purpose provided in Article 242, shall incur a third degree felony.

Article 264.- Undue Influence.- Any person who obtains or attempts to obtain any benefit from another by claiming or pretending that he/she is in a position to influence the conduct of a public officer or employee in the exercise of his/her duties shall incur a fourth degree felony.

A third degree felony sentence shall be imposed if the person obtains the benefit pursued.

The court may also impose restitution.

Article 265.- Omission in the Performance of Duty.- Any public officer or employee who knowingly omits to comply with any duty imposed by law or regulations and, as a consequence of said omission, causes the loss of public funds or damages to public property shall incur a misdemeanor.

If the assessed value of the loss of public funds or the damages to public property exceeds ten thousand (10,000) dollars, he/she shall incur a fourth degree felony.

The court may also impose restitution.

Article 266.- Negligence in the Performance of Duty.- Any public officer or employee who persistently neglects to comply with a duty imposed by law or regulation and, as a consequence of said omission causes the loss of public funds or damages to public property shall incur a misdemeanor.

If the assessed value of the loss of public funds or the damages to public property exceeds ten thousand (10,000) dollars, he/she shall incur a fourth degree felony.

The court may also impose restitution.

SECTION TWO

On Crimes against Public Funds

Article 267.- Embezzlement of Public Funds.- Any public officer or employee who is responsible, directly or indirectly, for the administration, transfer, care, custody, revenues, disbursement or accounting of public funds shall incur a third degree felony, regardless of whether or not he/she obtained benefits for him/herself or for any third party if he/she commits any of the following acts:

- (a) Illegally appropriates such funds, in whole or in part;
- (b) Uses such funds for any purpose that is not authorized or contrary to the law or regulations;

(c) Deposits such funds illegally or alters or makes any entry or registry in any account or document pertaining to the same that is not authorized or contrary to the law or regulations;

(d) Illegally withholds, converts, transfers or releases such funds without authorization or contrary to the law or regulations; or

(e) Fails to cover or disburse public funds in the manner prescribed by law.

When the offender is a public officer or the loss of public funds exceeds fifty thousand dollars (50,000), he/she shall incur a second degree felony.

The court may also impose restitution.

Article 268.- Refusal to Answer or Furnish Fiscal Information.- Any person who refuses to take or sign any oath, declaration or statement required by the fiscal legislation of the Commonwealth of Puerto Rico or by any competent person, employee or officer, or who refuses to answer any interrogation so required; or who furnishes, gives or returns any form, certification, list or fiscal form with incomplete, false or fraudulent information shall incur a misdemeanor.

Article 269.- Hindering Debt Collections.- Any person who hinders or obstructs any person, public official or employee from conducting debt collections authorized by the law, concerning revenues, taxes, excise taxes, duties, municipal licenses and permits or any other sums of money in which the Commonwealth of Puerto Rico has an interest shall incur a misdemeanor.

Article 270.- Possession and Unlawful Use of Tax Information, Receipts and Payment Vouchers.- Any person who has in his/her power, without authorization to do so, receipt forms or payment vouchers for municipal licenses, taxes, excise taxes or permits, or who issues, uses or gives any receipt for the payment of taxes, excise taxes, duties or municipal licenses against provisions of law or regulations, or who receives the amounts for such taxes, excise taxes,

permits, duties or municipal taxes without issuing a receipt or voucher, or who makes any unlawful or false entry in the receipt or voucher or in the fiscal documents or data banks shall incur a fourth degree felony.

Article 271.- Unlawful Purchase and Sale of Property for Payment of Taxes.- Any collector or agent who, directly or indirectly, performs any of the following acts shall incur a fourth degree felony:

(a) Purchases any portion of personal or real property sold for the payment of unpaid taxes.

(b) Sells or assists in the sale of any personal or real property, knowing that such property is exempted from seizure or from the payment of taxes, or knowing that the taxes for which same is being sold have been paid.

(c) Sells or assists in the sale of any personal or real property for the payment of taxes with the purpose of defrauding the owner of said property.

(d) Issues a sales certificate for real property transferred under the circumstances described in the previous subsections.

Otherwise hinders or restricts bidders in any public auction held for the payment of unpaid taxes.

Article 272.- Refusal to Allow the Inspection of Books and Documents.- Any employee in charge of the collection, receipt or disbursement of public funds who, upon being required to allow any competent officer to inspect the books, documents, registers and files pertaining to his/her office, fails or refuses to do so or obstructs the operations shall incur a misdemeanor.

CHAPTER II

CRIMES AGAINST JUDICIAL POWER

Article 273.- False Statements or Allegations Regarding a Crime.- Any person who knowingly makes a false statement or allegation that a crime has been committed by means of a claim, request, information, strict confidences, regardless

of whether same is anonymous or under a false name, directed to persons or officers with legal authority to conduct criminal investigations, thus causing the initiation of an investigation to clarify such false statement or allegation shall incur a misdemeanor.

Article 274.- Perjury.- Any person who takes an oath, makes a statement or declaration, testifies, deposes or certifies the truth before any competent court, body, officer or person and states that any material or important fact is true knowing that it is false, or who categorically states a material or important fact without being certain that it is true shall incur perjury and the punishment for a fourth degree felony shall be imposed upon said person.

If under the circumstances set forth in the previous paragraph, any person gives two or more inconsistent testimonies, declarations, depositions or certifications, he/she shall also incur perjury. In this case, it shall be necessary to establish the truth or falsehood of the stated facts.

For purposes of this section, “Body” shall include any institution with quasi-judicial, quasi-legislative or quasi-adjudicative powers.

Article 275.- Aggravated Perjury.- If a false statement rendered by any person under the circumstances set forth for the crime of perjury results in the deprivation of freedom or the conviction of a person accused of a crime, he/she shall incur aggravated perjury and the punishment for a third degree felony shall be imposed.

Article 276.- Form of Oath.- For purposes of the crimes of perjury and aggravated perjury, no special form of oath or affirmation shall be required. The form which the person regards to be most binding or solemn shall be used.

Article 277.- Inadmissible Defense.- It shall be inadmissible as defense in any cause of action for perjury or aggravated perjury that:

(a) The circumstances under which the oath was made or taken were

irregular.

(b) The fact that the accused did not know the relevance of the false statement he/she made, or that such false statement did not affect the cause of action. It shall suffice that such false statement is material or important and that it possibly could have been used to affect said proceedings.

Article 278.- Deposition or Certification: When Deemed to be Complete.- Any deposition or certification shall be deemed to be complete for purposes of the crime of perjury or aggravated perjury from the time it was rendered by the deponent with the purpose of having it published, disclosed or used as true.

Article 279.-Taking Justice in One's Hand.- Any person who takes justice in his/her own hands rather than resorting to a public authority for purposes of exercising an existing or alleged right shall incur a misdemeanor.

If the crime is committed through violence or intimidation against persons or by force upon objects, the offender shall incur a fourth degree felony.

Article 280.- Refusal to prevent the Commission of a Crime or to Assist in an Arrest.- Any person who, after being required to do so by a person with authority and without risk to either him/herself or another, does not prevent the commission of a crime that affects the life or bodily integrity of others or who does not assist in the arrest of another person shall incur a misdemeanor.

Article 281.- Escape.- Any person who is lawfully under preventive custody, imprisonment, restriction of freedom or interned as a security measure, or undergoing treatment and rehabilitation in a program of the Commonwealth of Puerto Rico or a private program, supervised and licensed by a Commonwealth agency, or under a special diversion procedure under Rule 247.1 of the Rules of Criminal Procedure, or under a special law, and escapes or evades the legal custody exercised over him/her by another person with legal authority and any other person acting jointly with same shall incur a fourth degree felony.

The punishment shall be imposed in addition to the punishment corresponding to the other crime or the sentenced being served. No alternative punishment to imprisonment shall be available for this crime.

Article 282.- Aiding in Escape.- Any person in charge of the custody of another who causes, assists, allows or expedites the escape of the latter under any of the circumstances set forth for the crime of escape shall incur a third degree felony if the person whom he/she helped to escape was serving a sentence of imprisonment or restricted freedom. The punishment corresponding to a fourth degree felony shall be imposed in all other cases.

Article 283.- Introducing Objects into a Penal Facility.- Any person who sells, introduces, or helps to sell or who has in his possession with the intent to introduce or sell narcotics, drugs or any other controlled substance or any type of weapon, alcoholic or intoxicating beverages, explosives, projectiles or other object that could affect the order or security in any penal institution or facility in the correctional system, from within or from outside, to any inmate, knowing he/she is an inmate, shall incur a fourth degree felony.

Article 284.- Contempt.- Any person who performs any of the following acts shall incur a misdemeanor:

(a) Breach of the peace, noise or disturbance, or behaving in a contemptuous or insolent manner toward a court of justice or a judge in the course of a judicial investigation or proceeding, thus directly tending to interrupting the procedures or impairing the respect due to its authority, or in the presence of the jury while it is sitting or deliberating on any cause of action.

(b) Disobedience of any decree, mandate, summons or other legal order issued or entered by any court.

(c) Unlawful or obstinate refusal by any person to take oath or meet the requirements as a witness in any cause pending before any court, or refusal,

without a legitimate excuse, to answer any legal interrogation after having been sworn in or having met said requirements.

(d) Scurrilous or libelous criticism of the decrees, orders, sentences or proceedings of any court which tend to discredit the court or a judge.

(e) To knowingly publish any false or overtly inaccurate report on any judicial proceedings.

Article 285.- Concealment.- Any person who knowingly conceals the person responsible for the commission of a crime, or who procures the disappearance, alteration or concealment of evidence to obstruct the action of justice shall incur a fourth degree felony.

The punishment of a third degree felony shall be imposed when the concealer acts for profit or is a public officer or employee and commits the crime taking advantage of his/her charge or employment.

Article 286.- Use of a Disguise.- Any person who uses a mask, hairpiece, makeup, dye, or any other type of costume, whether total or partial that temporarily or permanently alters his/her physical appearance with the purpose to:

(a) Avoid being discovered, recognized or identified in the commission of any crime.

(b) Conceal, flee or escape when accused, arrested or sentenced for the commission of any crime.

Article 287.- Preventing or Persuading Non-appearance of Witnesses.- Any person who, without any legal justification, prevents or persuades another who is or may be a witness not to appear at or testify in any investigation, proceeding, hearing or any judicial, legislative or administrative issue or at any other procedure authorized by the law, shall incur a misdemeanor.

Article 288.- Fraud or Deceit Against Witnesses.- Any person who commits fraud or deceit to affect the testimony of any witness or person who shall be called

to testify in any investigation, proceeding, hearing or judicial, legislative or administrative issue or other procedures authorized by the law, or who knowingly makes any statement or declaration, or who shows any document to such a witness or person to unlawfully affect his/her testimony shall incur a misdemeanor.

Article 289.- Threats to Witnesses.- Any person who threatens another person or his/her family with inflicting physical harm or damages to his/her estate when such person is a witness or that due to his/her knowledge of the facts may be called to testify in any investigation, proceeding, hearing or judicial, legislative or administrative issue, if the latter entails sanctions in excess of five thousand (5,000) dollars or the suspension of employment and salary, with the purpose of keeping said witness from testifying, or to testify partially or to change said testimony shall incur a fourth degree felony.

Article 290.- Conspiracy, Threats or Attempts Against Officers of the Judicial System or their Families.- Any person who conspires, threatens, attempts or commits a crime against the person or property of a police officer, bailiff, custody officer, investigating officer, or other law enforcement officer, prosecutor, judge or other public officer related to the criminal investigation, arrest, accusation, processing, conviction or detention, or against any relative of such officers within the fourth degree of consanguinity or second degree of affinity, and said conspiracy, threat, or attempt to commit a crime against the person or property arises during or as a consequence of any investigation, procedure, hearing or issue which such officers are or have been conducting in the exercise of his/her official duties shall incur a fourth degree felony.

Article 291.- Destruction of Evidence.- Any person who knowing that any documentary evidence or object that may be submitted as evidence in any investigation, proceeding, hearing or judicial, legislative or administrative matter, or in any other procedure authorized by the law, destroys or hides the same to

prevent the filing thereof, shall incur a fourth degree felony.

Article 292.- Drafting of Forged Writings.- Any person who drafts any book, document, register, written instrument, or other forged or predated object in order to introduce or enable the filing thereof as legitimate and true in any investigation, proceeding, hearing or judicial, legislative or administrative matter, or in any other proceeding authorized by the law shall incur a fourth degree felony.

Article 293.- Submitting Forged Writings.- Any person who, in any investigation, proceeding, hearing or judicial, legislative or administrative matter, or in any other procedure authorized by the law submits in evidence as authentic or true, any written proof knowing that same has been altered, predated or forged shall incur a fourth degree felony.

Article 294.- Certification of False or Inaccurate Lists.- Any person who has the legal duty to certify the list of jurors and who certifies a false or inaccurate list, or a list with the names of others than those selected, or who being legally bound to write on separate slips the names appearing on such certified lists fails to do so and places in the jury wheel the same names that appear on the certified jury list without adding or deleting any of them shall incur a fourth degree felony.

Article 295.- Tampering with List of Jurors.- Any person who adds a name to the list of jurors either by depositing said name in the jury wheel or otherwise, or who withdraws any name from said wheel, or destroys the same, or any of the slips containing the names of the jurors, or who mutilates or defaces said names so that they cannot be read, or alters the name on the slips, except in those cases allowed by the law, shall incur a fourth degree felony.

Article 296.- Promise to Render a Certain Verdict or Decision.- Any juror or person drawn or summoned as such, any judge, arbitrator or person authorized by law to hear and decide any issue or controversy shall incur a third degree felony if said person:

(a) Promises or agrees to reach a verdict or decision in favor of or against one of the parties; or

(b) Admits any book, paper, document or report pertaining to any cause of action or issue pending before the same, except during the ordinary course of the proceedings.

Article 297.- Undue Influence on Adjudication.- A fourth degree felony shall be incurred by any person who attempts to influence any judge, juror or person summoned or drawn as such, or elected or named arbitrator, or person authorized by the law to hear and decide on any issue or controversy with respect to his/her verdict or decision in any cause of action or proceeding pending before said person, or which shall be submitted for its resolution, availing himself/herself of any of the following means:

(a) Any oral or written communication with such person, except during the ordinary course of the proceedings.

(b) Any book, paper or document shown to such person out of the ordinary course of the proceedings.

(c) Any threat, intimidation, persuasion or plea.

Article 298.- Family Ties with Jurors.- Any defense or prosecuting attorney who intervenes in a case tried by jury and conceals the fact that he/she has consanguinity or affinity ties within the fourth degree with any of the jurors selected for the case shall incur a fourth degree felony.

Article 299.- Termination or Suspension of Employee for Serving As Juror or Witness.- Any employer who authorizes, consents or terminates, and any person who threatens to terminate, suspend, reduce the salary, or demote an employee, or who imposes or attempts to impose onerous working conditions upon such person due to the fact that said employee has been summoned to serve, is serving or has served jury duty, or who has been summoned or is bound to appear

under penalty of contempt before a judge, court, prosecutor, administrative agency, whether state or federal, both Houses of the Legislature and their Committees, Municipal Legislature and its Committees or any employer who refuses to reinstate said employee when he/she has requested it within forty-eight (48) hours after having ceased to serve as juror or witness, shall incur a misdemeanor.

CHAPTER III

CRIMES AGAINST LEGISLATIVE POWER

Article 300.- Preventing the Legislature or Municipal Legislatures from Assembling.- Any person who by means of intimidation, violence or fraud prevents the Legislature, either of its Houses, any Municipal Legislature or any of the members thereof from assembling shall incur a fourth degree felony.

Article 301.- Disorderly Conduct.- Any person who by means of intimidation, violence or fraud disturbs the Legislature, either of its Houses, a Municipal Legislature or a legislative committee, or who openly and in the presence of any of these legislative bodies or committees thereof, disturbs the peace in order to interrupt the acts of the abovementioned, shall incur a fourth degree felony.

Article 302.- Alteration of Text of Bills.- Any person who alters the text of any bill, ordinance or resolution introduced for voting and approval before either of the Houses that constitute the Legislature or any Municipal Legislature with the intention of obtaining its passage or approval by any of said Houses or Municipal Legislatures, or its certification by the Presiding Officer thereof, under terms different from those proposed shall incur a fourth degree felony.

Article 303.- Alteration of Enrolled Copy.- Any person who alters the enrolled copy of a bill, ordinance or resolution approved by the Legislature, either of its Houses, or any Municipal Legislature with the purpose of obtaining its passing by the Governor or Mayor or certification by the Secretary of State or

Municipal Secretary for such act, ordinance or resolution, as the case may be, or for the same to be printed, disclosed by the official publisher of statutes and ordinances in a language other than that in which was passed, approved, signed or promulgated shall incur a fourth degree felony.

Article 304.- Refusal of Witness to Appear, Testify or Submit Evidence to the Legislature or Any Municipal Legislature.- Any person who, having been summoned to appear as a witness before either House of the Legislature, Municipal Legislature or any of the committees thereof, refuses to appear, and acquiesce to the same or fails to do so without a legitimate use, or who, in the presence of any House of the Legislature, Municipal Legislature or any of the committees thereof obstinately refuses to be sworn in, answer to any material and pertinent question, or to produce any book, document or record in his/her possession or control after being given a reasonable term for the same, shall incur a fourth degree felony.

**TITLE V
CRIMES AGAINST HUMANITY
SOLE CHAPTER
CRIMES AGAINST HUMAN RIGHTS**

Article 305.- Genocide.- Any of the acts set forth below constitute genocide when perpetrated with the intention of destroying a group as such, in whole or in part, whether it is national, ethnic, racial or religious:

- (a) Murder of group members
- (b) Serious injury to the physical or mental health of the members of the group
- (c) Intentionally submitting the group to living conditions that shall entail their total or partial physical destruction
- (d) Measures intended to preventing births within the group
- (e) Transfer by force of children from one group to another.

Any person who commits genocide in the modality set forth in subsection (a) of the previous paragraph shall incur a first degree felony. Any person who commits genocide in the modalities set forth in subsections (b), (c), (d) and (e) of the previous paragraph shall incur a second degree felony.

Article 306.- Crimes Against Humanity.- A crime against humanity is any of the following acts when committed as part of a general or systematic attack against a civilian population:

- (a) Murder
- (b) Extermination
- (c) Slavery
- (d) Forced deportation or transfer of population
- (e) Imprisonment or other serious deprivation of physical freedom breaching the fundamental rules of international law.
- (f) Torture
- (g) Rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization or other sexual abuse of comparable seriousness
- (h) Persecution of a group or community with its own identity based on political, racial, national, ethnic, cultural, religious, gender or other motives universally recognized as unacceptable pursuant to international law.
- (i) Forced disappearance of persons
- (j) Apartheid
- (k) Other inhuman acts of similar nature that intentionally cause great strive or seriously attempt against bodily integrity or mental or physical health.

Any person who commits crimes against humanity in the modalities set forth in subsections (a), (b), (g in the modality of rape) and (i) in the preceding paragraph shall incur a first degree felony. Any person who commits crimes against humanity pursuant to the remaining modalities shall incur a second degree

felony.

For purposes of this Article, the following terms or phrases shall have the following meanings:

(a) “**Extermination**” means the intentional imposition of living conditions, deprivation of access to food or medication, among others, geared toward causing the destruction of part of the population.

(b) “**Slavery**” means the exercise of the attributes of right of ownership over a person or group of persons, including the exercise of said attributes in the trafficking of persons, particularly women and children.

(c) “**Forced deportation or transfer of population**” means the deployment of the persons affected, by means of explosion or other coercive acts, from the zone in which they are legally present, without motives authorized by international law.

(d) “**Torture**” means to intentionally inflict pain or serious suffering, whether physical or mental, upon a person the accused has in custody or control; however, the suffering derived solely from unlawful sanctions or those which are the normal or random consequence of such sanctions shall not be deemed to be torture.

(e) “**Forced pregnancy**” means the unlawful confinement of a woman which has been forcefully impregnated with the intent of modifying the ethnic composition of a population or to commit other serious violations against international law. In no way shall it be construed that this definition affects the rules of law pertaining to pregnancy.

(f) “**Persecution**” means the intentional and serious deprivation of fundamental rights against international law for reasons of the identity of the group or community.

(g) “**Apartheid**” means the conduct which implies the commission of a number of acts against a civilian population pursuant to a state or organizational

policy to commit such acts or to promote such policy committed within the context of an institutionalized regime of systematic oppression and dominance over one or more racial groups, all with the intention of maintaining such a regime.

(h) **“Forced disappearance of persons”** means the capture, detention or kidnapping of persons by a state or a political or paramilitary organization with its authorization, support or acquiescence, followed by the refusal to report on the deprivation of freedom or to give information regarding the fate or whereabouts of such persons with the intention of leaving same out of the protection of the law for a extended term.

(i) **“Gender”** means both sexes, male and female, in the context of society.

TITLE VI

ADDITIONAL PROVISIONS

Article 307.-Repeal.- Except for the provisions of the following Article, Act No. 115 of July 22, 1974, as amended, known as the “Penal Code of the Commonwealth of Puerto Rico,” is hereby repealed.

Likewise, Article 64 through 76, inclusive, Articles 291 through 298, inclusive; Articles 299 through 304, inclusive; Articles 305 through 317, inclusive; Articles 329 through 332, inclusive; Articles 334 and 335; Articles 337 and 338; Article 345; Articles 351 and 357, inclusive; Article 478; Articles 485 through 499, inclusive; and Articles 500 through 505, inclusive. Articles 553 through 556, inclusive of the Penal Code of 1902, as amended, which remained temporarily in effect, pursuant to Article 278 of Act No. 115 of July 22, 1974, are hereby repealed.

Article 308.- Application of this Code in Time.- Any conduct carried out prior to the effectiveness of this Code in violation to the provisions set forth in the Penal Code hereby repealed or of any other special law of a criminal nature shall be governed by the laws in effect at the time of the commission of the act.

If this Code abolishes any crime, no proceeding shall be initiated, legal actions in progress shall be stayed, and any condemning sentence shall be declared null and void, and the person shall be released. The change of the name of a crime does not mean that the type of crime has been abolished.

Article 309.- Separability of Provisions.- If any clause, paragraph, article, section, chapter, title or part of this Code were declared unconstitutional by a competent court, the ruling to such effects shall not affect, impair or invalidate the remainder of this Code. The effect of such ruling shall be limited to the clause, paragraph, article, section, chapter, title or part of this Code thus declared unconstitutional.

Article 310.- Power to Punish for Contempt.- This Code shall not affect the power conferred by the law to any public agency, administration or officer to punish for contempt.

Article 311.- Crimes Not Included in this Code.- The inclusion of some crimes or provisions of special laws in this Code does not imply the repeal of said laws nor of those special crimes not included in this Code.

Article 312.- Continuous Review of this Code and Criminal Laws.- Within thirty (30) days following the date of approval of this new Penal Code, the Legislature of Puerto Rico shall establish a reviewing entity that, among other duties, shall evaluate the laws pertaining to the administration of criminal justice, the Rules of Criminal Procedure and the laws that codify crimes in order to propose the necessary changes to temper the provisions set forth therein with the provisions in this Code.

The recommendations of the reviewing entity shall promote compliance with the objectives established in this Code and shall assist in the establishment of a rational and scientific basis for its future review and the approval of special laws containing criminal provisions.

The integrating and reviewing duties of the entity shall be carried out pursuant to a work plan that shall conduct studies and propose legislative changes based on the priorities established by the Legislature of Puerto Rico and its respective Committees On the Judiciary.

The entity shall be empowered to draft amendments or repeals and to suggest new legislation which may complement or be included in this Code by means of attachments or new titles, sections or Articles. The initial work shall be geared to concluding the first phase of this review process before the provisions set forth in this Code take effect.

Article 313.- Implementation of the Rehabilitating Provisions.- The Secretary of the Department of Corrections and Rehabilitation and the Secretary of Justice shall jointly adopt, within the next one hundred twenty (120) days as of the date of approval of this new Penal Code, the regulations establishing the procedures set forth in Article 104 for the evaluation of the adjustment of the inmates and for the issue and processing the certificates of rehabilitation, which they shall submit within said term to the Legislature. Once received by the Legislature, said regulations shall be approved without objections or returned to be amended. The regulations shall take effect at the same time as this new Penal Code.

Likewise, the Secretary of the Department of Corrections and Rehabilitation shall adopt the necessary regulation for the implementation of Articles 51, 52, and 54 of this Code, and shall submit the same within one hundred and twenty (120) days as of the approval of this new Penal Code. Once received by the Legislature, said regulations shall be approved without objections or returned to be amended. The regulations shall take effect at the same time as this new Penal Code.

Article 314.- Effectiveness.- This Code shall take effect on May 1, 2005, with the exception of Articles 312 and 313, which shall take effect immediately after the approval of this Act.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 149 (S.B. 2302) of the 7th Session of the 14th Legislature of Puerto Rico:

AN ACT to adopt the Penal Code of the Commonwealth of Puerto Rico and repeal the current Code, which was approved by means of Act No. 115 of July 22, 1974, as amended; repeal Articles 64 through 76, 291 through 298, 299 through 304, 305 through 317, 329 through 332, 334 and 335, 337 and 338, 345, 351 and 357, 478, 485 through 499, 500 through 505, 553 through 556, all inclusive, of the Penal Code of 1902, as amended, which remained provisionally in effect pursuant to Article 278 of Act No. 115 of July 22, 1974; to provide for the application and effectiveness of its provisions and for the creation of a reviewing entity that proposes recommendations to the Legislature to temper the body of laws with the provisions in this Code.

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

In San Juan, Puerto Rico, today 20th of August of 2009.

Solange I. De Lahongrais, Esq.
Director