

(H. B. 3985)

(No. 157-2012)

(Approved August 5, 2012)

AN ACT

To amend subsection (b) of Section 2 and Section 81 of Act No. 205-2004, as amended, in order to clarify the manner in which the Family Advocate and the Advocate for Minors' Affairs positions are to be created and make clarifications and technical amendments; add a paragraph (12) to subsection (c), eliminate subsection (h), and renumber subsections (l) and (j) as subsections (h) and (i) of Section 3; amend Section 4, Section 7, Section 8, and Section 10 of Act No. 183-1998, as amended, known as the "Crime Victims and Witnesses Compensation and Services Act," to clarify the duties of the new Office; and amend Section 87 of Reorganization Plan No. 5-2011 in order to clarify the repealing clause.

STATEMENT OF MOTIVES

The Legislative Assembly approved Reorganization Plan No. 5-2011 in order to reorganize the Department of Justice. The objective of said Plan is to promote a government structure that responds to the actual needs of Puerto Rico and the existing justice system, thus contributing to a better quality of life for our citizens and the services provided to them. However, this Legislative Assembly deems it necessary to make various clarifications and technical amendments to the Reorganization Plan and the laws amended thereunder.

This legislative piece clarifies that the Governor of Puerto Rico shall authorize the creation of additional positions upon certification by the Secretary of Justice of the need to create additional positions of prosecutors and advocates and upon certification of the availability of funds by the Office of Management and Budget.

On the other hand, Reorganization Plan No. 5-2011 proposed amendments to Act No. 183-1998, as amended, in order to create the Crime Victims and Witnesses Compensation and Services Office attached to the Department of Justice.

This legislative intent was made possible through a series of amendments to Act No. 183-1998, as amended. However, Act No. 77 of July 9, 1986, as amended, known as the “Witnesses and Victims Protection Act,” and Act No. 183-1998, as amended, known as the “Crime Victims Compensation Act,” were inadvertently included in Section 87 corresponding to the repealing clause. It is necessary to eliminate the reference to said laws from the aforementioned Section 87, since the intent of this Legislative Assembly was to amend Act No. 183-1998 and transfer all employees and resources of the Victims and Witnesses Assistance Division of the Department of Justice and not to repeal the aforementioned laws.

Among the changes made under this Act are that individuals who incur funeral expenses of the victim may request compensation even though they are not related to the victim by blood or consensual ties, or affinity or financial dependence. Furthermore, it provides an additional six (6) months for victims to claim benefits from the Crime Victims and Witnesses Compensation and Services Office. Thus, crime victims have one year from the date of the crime to apply for benefits from the Office.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Subsection (b) of Section 2 of Act No. 205-2004, as amended, is hereby amended to read as follows:

“Section 2.- Definitions.

The words and phrases used in this Act shall have the meaning stated hereinbelow:

a) ...

b) Agent of the Bureau - Public servant attached to the Special Investigations Bureau who shall be empowered to investigate, report, arrest, serve court orders, keep and bear arms, and administer oaths to potential witnesses in cases under investigation by the Service, as described in Section 77 of Reorganization Plan No. 5-2011.

c) ...

...

q) ...”

Section 2.- Section 81 of Act No. 205-2004, as amended, is hereby amended to read as follows:

“Section 81.- Prosecutor and Advocate Positions.

...

The Governor may authorize the creation of four (4) additional Assistant Prosecutors IV positions, four (4) additional Assistant Prosecutors III positions, six (6) additional Assistant Prosecutors II positions, six (6) additional Assistant Prosecutors I positions, eighteen (18) additional Family Advocate positions, and fourteen (14) additional Advocate for Minors’ Affairs positions upon certification by the Secretary attesting to the need to create additional prosecutor and advocate positions and upon certification of availability of funds by the Office of Management.

District Attorneys, Assistant Prosecutors IV, Assistant Prosecutors III, Assistant Prosecutors II, Assistant Prosecutors I, and Family Advocates have the powers and shall exercise the functions previously exercised by them or by officials of the same class under legal authority until the date of effectiveness of this Act; the Advocate for Minors’ Affairs shall have the powers and exercise the

functions established by Act No. 88 of July 9, 1989[sic]¹, and the Family Advocate shall have the powers and exercise the functions established by this Act and by Act No. 246-2011, known as the “Child Safety, Wellbeing, and Protection Act,” or as otherwise provided in the future.”

Section 3.- Section 3 of Act No. 183-1998, as amended, known as the “Crime Victims and Witnesses Compensation and Services Act,” is hereby amended to read as follows:

“Section 3.- Definitions.

For purposes of this Act, the following terms and phrases shall have the meaning stated hereinafter:

(a) Physical Injuries...

(b) Office.- The Crime Victims and Witnesses Compensation and Services Office.

(c) Claimant...

(1) ...

(2) ...

(3) ...

(4) Every person related to the victim by legal or consensual ties, consanguinity, or affinity up to the second degree that resides with him/her at the time of the events;

(5) ...

(6) ...

(7) ...

(8) ...

(9) ...

(10) ...

¹ Translator’s note: Should read “1986”.

(11) ...

(12) In cases in which funeral expenses are claimed, the person who incurred funeral expenses shall be compensated even though he/she is not related to the victim by determined blood or consensual ties, or affinity or financial dependence.

May not be a claimant...

- (d) Secretary...
- (e) Victim...
- (f) Hospital...
- (g) Medical forensic examination...
- (h) Secondary Victim...
- (i) Family Unit..."

Section 4.- Section 4 of Act No. 183-1998, as amended, known as the "Crime Victims and Witnesses Compensation and Services Act," is hereby amended to read as follows:

"The Crime Victims and Witnesses Compensation and Services Office is hereby created, attached to the Department of Justice, for the purpose of authorizing and granting the payment of compensation to victims eligible to receive the benefits granted by this Act. Moreover, the Office shall provide support, services, and assistance to victims and witnesses to help them deal with the trauma related to the crime in which they were involuntarily involved. This shall include, among others, the following: crisis intervention services; guidance, and counseling services and familiarization with the criminal justice system; guidance on the Bill of Rights of Victims and coordination and referrals for services of various government agencies. Said Office shall operate under the general supervision of the Secretary, but its immediate direction shall be the responsibility of a Director appointed by the former, and who shall fix his/her

salary. In order to carry out the functions associated with his/her position, such as crime victims and witnesses' compensation and services, the Director shall have two Assistant Directors. All employees and resources of the Victims and Witnesses Assistance Division of the Department of Justice are hereby transferred to the Crime Victims and Witnesses Compensation and Services Office.”

Section 5. Section 5 of Act No. 183-1998, as amended, known as the “Crime Victims and Witnesses Compensation and Services Act,” is hereby amended to read as follows:

“Section 5.- Duties and Powers of the Director.

The Director of the Office shall have the following duties and powers:

a) Administer the Crime Victims and Witnesses Compensation and Services Office.

b) ...

c) ...

d) ...

e) Make known to the population the scope of the benefits provided and the eligibility conditions established in this Act, which shall include, but shall not be limited to, conducting awareness and educational campaigns, both in written press and on radio and television, handing out brochures and promotional material, among others.

f) ...

g) ...

h) ...

i) ...

j) ...

k) ...

l) ...

m) ...

n) May accept donations from public or private institutions and persons or individuals.”

Section 6.- Section 7 of Act No. 183-1998, as amended, known as the “Crime Victims and Witnesses Compensation and Services Act,” is hereby amended to read as follows:

“Section 7.- Impediments to Compensation.

The Office shall be precluded from granting compensation when one or more of the following circumstances are present:

(a) ...

(b) When the victim was engaged in criminal conduct at the time of the events. Notwithstanding the foregoing, in the event the victim dies while engaged in such criminal conduct, his/her dependants or relatives who are minors shall be entitled to claim the psychological expenses they have incurred as a result of the crime, and the loss of support benefit provided under this Act in the event of the death of the victim. In cases when the victim is an illegal alien and has requested protection under the Violence Against Women Act due to domestic violence or sexual assault, her dependants or relatives who are minors shall receive the compensation benefits provided by this Act. Likewise, compensation may be offered to a victim who is an illegal alien who cooperates with authorities and is eligible to apply for a U-Visa.

(c) ...

(d) ...

(e) ...

(f) ...”

Section 7.- Section 8 of Act No. 183-1998, as amended, known as the “Crime Victims and Witnesses Compensation and Services Act,” is hereby amended to read as follows:

“Section 8.- Eligibility Requirements.

In order to be entitled to the benefits granted by this Act, the victim shall meet the following requirements:

(a) ...

(b) ...

(c) Claim the benefits offered by the Office within a one (1) year term following the date of the commission of the crime, unless there is just cause. However, in the case of a victim or claimant who is a minor and his/her father, mother or legal guardian does not claim the benefits on his/her behalf, said term shall begin to run when such victim or claimant reaches legal age.”

Section 8.- Section 10 of Act No. 183-1998, as amended, known as the “Crime Victims and Witnesses Compensation and Services Act,” is hereby amended to read as follows:

“Section 10.- Victim Compensation Benefits.

The benefits granted by this Act shall compensate the claimant for the following reasons up to the limits provided hereinbelow. In the event the victim of the criminal act survives, compensation may be granted for the following:

(a) ...

(b) ...

(c) ...

(d) ...

...

(a) ...

(b) ...

(c) Reasonable expenses incurred for the psychological or psychiatric treatment of every person related to the victim by legal or consensual ties, or affinity up to the second degree who resided with the latter at the time of the events, or persons related to the victim up to a second degree of consanguinity even when not residing with the victim, or to every secondary victim and every person who depends on the victim for more than fifty percent (50%) of his/her subsistence expenses. The compensation to be paid for this reason shall not exceed one thousand dollars (\$1,000) per claimant; and

(d) ...

...

(a) ...

(b) ...

(c) ...

...”

Section 9.- Section 87 of Reorganization Plan No. 5-2011 is hereby amended to read as follows:

“Section 87.- Repealing Clause.

Act No. 38 of July 13, 1978, as amended, known as the ‘Special Investigations Bureau of the Department of Justice of the Commonwealth of Puerto Rico,’ is hereby repealed.”

Section 10.- Effectiveness.

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 157-2012 (H. B. 3985)** of the **7th Regular Session** of the **16th Legislative Assembly of Puerto Rico**:

AN ACT to amend subsection (b) of Section 2 and Section 81 of Act No. 205-2004, as amended, in order to clarify the manner in which the Family Advocate and the Advocate for Minors' Affairs positions are to be created and make clarifications and technical amendments; add a paragraph (12) to subsection (c), eliminate subsection (h), and renumber subsections (l) and (j) as subsections (h) and (i) of Section 3; amend Section 4, Section 7, Section 8, and Section 10 of Act No. 183-1998, as amended, known as the "Crime Victims and Witnesses Compensation and Services Act," to clarify the duties of the new Office; and amend Section 87 of Reorganization Plan No. 5-2011 in order to clarify the repealing clause.

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

In San Juan, Puerto Rico, on this 5th day of February, 2016.

Juan Luis Martínez Martínez
Director