

(S. B. 758)

**(No. 162-2014)**

(Approved September 19, 2014)

## **AN ACT**

To eliminate Section 1 of the “Act to Correct the Exploitation of Minors” of February 25, 1902, as amended; amend Section 58 of Act No. 246-2011, as amended, known as the “Child Safety, Well-being, and Protection Act,” in order to add a new paragraph classifying as a misdemeanor the use of minors to collect money, carry out fundraising drives, ask for money or self-goods in the public roads of the Commonwealth of Puerto Rico, at the intersections, or traffic islands; and other purposes.

### **STATEMENT OF MOTIVES**

Section 1 of the “Act to Correct the Exploitation of Minors” of February 25, 1902, as amended, is a prohibition dating back to over one hundred and ten (110) years that bars engaging children under the age of sixteen (16) public beggary. Said Section, which today has fallen into disuse for it is very old, classifies as a misdemeanor the act of authorizing, inducing, permitting or ordering a minor to engage in panhandling. This legislation is not consistent with our social realities and our current code of law given that, three Penal Codes and several legislations were approved after said Act that specifically provide for minor related matters on the Island. Hence this Legislative Assembly seeks to repeal a provision that for being too old fails to contribute to improve the quality of life of Puerto Ricans as well as the security of our boys and girls.

Moreover, the main objective of Act No. 246-2011, as amended, known as the “Child Safety, Well-being, and Protection Act,” was to care for, protect, and guarantee the safety of our children and minors at all times. For such reason, said

Act is hereby amended to add a new paragraph to grant the necessary tools to update the provisions of the “Act to Correct the Exploitation of Minors.”

Undoubtedly, it falls on the Legislative Assembly of the Commonwealth of Puerto Rico, is changed with identifying which practices constitute a risk for our children. In recent years, we have seen how minors are being constantly used to ask for money for different purposes on the streets of the Island. It is particularly worrisome to see minors asking for money at intersections, traffic lights, public roads, and traffic islands, at the mercy of the weather and, most of all, being potential victims of traffic accidents.

It is known that such a practice threatens the lives and safety of minors exposed to this type of labor. Therefore, we cannot remain idle, much less wait for the first fatal victim of this practice. Therefore, making our boys and girls a priority, this Legislative Assembly deems it appropriate to repeal Section 1 of the “Act to Correct the Exploitation of Minors” and amend Section 58 of Act No. 246-2011, *supra*, to add a new paragraph classifying as a misdemeanor the use of minors to collect money, carry out fundraising drives, ask for money, or sell goods at the public roads of the Commonwealth of Puerto Rico.

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

Section 1.- Section 1 of the “Act to Correct the Exploitation of Minors” of February 25, 1902, as amended, is hereby eliminated.

Section 2.- A new paragraph is hereby added to Section 58 of Act No. 246-2011, as amended, known as the “Child Safety, Well-being, and Protection Act,” to read as follows:

**“Section 58.- Abuse**

Any father, mother, or person responsible for the well-being of a minor or any other person who, through the intentional commission or omission of an act, causes harm to a minor, or endangers his health or physical, mental, or emotional integrity, including, but not limited to engaging in conduct that constitutes sexual abuse, domestic violence in the presence of minors, obscene conduct, or using a minor to engage in obscene conduct shall be punished by imprisonment for a fixed term of five (5) years or by a fine of not less than five thousand dollars (\$5,000), nor more than ten thousand dollars (\$10,000), or both penalties, at the discretion of the Court. Should there be aggravating circumstances, the fixed penalty herein established may be increased to a maximum of eight (8) years; should there be mitigating circumstances, the fixed penalty may be reduced to a minimum of three (3) years.

When the conduct engaged in constitutes sexual abuse in the presence of a minor, or when a minor is used to perform an act of an obscene nature or to perform acts that constitute a sex crime to satisfy the lasciviousness of others, the fixed term of imprisonment shall be ten (10) years. Should there be aggravating circumstances, the fixed penalty may be increased to a maximum of twelve (12) years of imprisonment; should there be mitigating circumstances, the fixed penalty may be reduced to eight (8) years of imprisonment.

In these cases, the following shall be deemed aggravating circumstances:

- (a) If the victim is an ascendant or a descendant to any degree, including relations by adoption or affinity;
- (b) If the victim is a collateral relative up to the fourth (4th) degree of consanguinity, whether full blood or half blood, including relations by adoption or affinity;
- (c) If the victim has been compelled to the act by the use of irresistible physical force, the threat of grave and immediate bodily harm accompanied by the apparent ability to carry it out, or by neutralizing or substantially diminishing his

ability to resist through the use of hypnotics, narcotics, depressants, stimulants, or chemical substances, or if the victim has been induced to the act through any deceitful means;

(d) If the victim suffers from any special temporary or permanent physical or mental condition;

(e) When the crime is committed by the operator of a foster home in the exercise of his ministerial duties, or by any employee or an official of a public, private, or privatized institution, as defined herein.

When the conduct classified in the preceding paragraphs occurs as a result of a behavioral pattern, it shall be punished by imprisonment for a fixed term of twelve (12) years, or by a fine of not less than five thousand dollars (\$5,000), nor more than ten thousand dollars (\$10,000), or both penalties, at the discretion of the Court. Should there be aggravating circumstances, the fixed term established may be increased to a maximum of fifteen (15) years; should there be mitigating circumstances, the term may be reduced to a minimum of ten (10) years.

When the crime of abuse referred to in this Section takes place under the aggravating circumstances referred to in subsection (e), the Court shall also impose a fine on the public or private institution of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000). In addition, the Court may revoke the license or permit granted for the operation of said institution.

No conviction under these paragraphs may qualify for the benefit of a diversion program.

Likewise, every father, mother, tutor, guardian, or person responsible for the wellbeing of a minor or any other person who, through intentional action or omission uses minors to collect money, carryout fundraising drives, ask for money, or sell goods at the public roads, intersections, and traffic islands, without the due authorization of Traffic Safety Commission or the appropriate Municipality, shall be

guilty of a misdemeanor and punished by a fine not to exceed five hundred (\$500) dollars. When said father, mother, tutor, guardian, or person responsible for the wellbeing of a minor or any other person, has been previously convicted and sentenced for the aforementioned conduct, he shall be punished by imprisonment for a term not to exceed six (6) months.”

Section 3.- The Traffic Safety Commission is hereby directed, from the date of the approval of this Act, to establish a disclosure, education, and orientation program for a period of thirty (30) days in the media about the approval of this Act, its purpose, and the implications that a violation thereof entails. This disclosure, education, and orientation program shall be carried out in coordination with the Department of the Family and Department of Transportation and Public Works.

#### Section 4.- Severability

If any clause, paragraph, subparagraph, article, provision, section, or part of this Act were held to be null or unconstitutional, said holding shall not affect, impair, or invalidate the remaining provisions of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, article, provision, section, or part thereof thus held to be null or unconstitutional.

#### Section 5.- Effectiveness

This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 162-2014 (H. B. 758)** of the **4<sup>th</sup> Regular Session** of the **17<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** eliminate Section 1 of the “Act to Correct the Exploitation of Minors” of February 25, 1902, as amended; amend Section 58 of Act No. 246-2011, as amended, known as the “Child Safety, Well-being, and Protection Act,” in order to add a new paragraph classifying as a misdemeanor the use of minors to collect money, carry out fundraising drives, ask for money or self-goods in the public roads of the Commonwealth of Puerto Rico, at the intersections, or traffic islands; and other purposes.

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

In San Juan, Puerto Rico, on this 8<sup>th</sup> day of October, 2021.

Mónica Freire-Florit, Esq.  
Director