

(S. B. 1768)

(No. 185-2012)

(Approved August 17, 2012)

AN ACT

To amend Sections 2.5, 2.7, 2.8, 3.7, 3.11, and 4.1 of Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act,” in order to establish a maximum term of forty-eight (48) hours to serve protective orders issued ex parte; require the placing of an electronic monitoring device when any type of suspended sentence is granted; establish the compulsory nature of the conditions of bail; provide for notification of protective orders issued under the Act to the Domestic Violence Divisions of the Police located in the jurisdiction where the petitioner resides, to the employer of the petitioner, and to the security company in charge of controlling the access at the place of residence of the petitioner; establish penalties for noncompliance; and for other related purposes.

STATEMENT OF MOTIVES

Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act,” sets forth the public policy of the Government of Puerto Rico to repudiate domestic abuse since it is contrary to the values of peace, dignity, and respect. The legislation was approved with the purpose of promoting the developing, establishing, and strengthening effective remedies to offer protection and assistance to victims, rehabilitation alternatives to offenders, and strategies for the prevention of domestic abuse.

Through said legislation, the Government of Puerto Rico reaffirmed its commitment to protect the lives, safety, and dignity of men and women. Unfortunately, the instances of domestic violence in Puerto Rico are constant, mainly affecting women regardless of their age, origin, social status, and religious

belief. It has been estimated that approximately fifty-three (53) incidents of domestic violence against women are reported daily in Puerto Rico. Most reported cases involve assault, followed by aggravated assault, the threats of assault, false imprisonment, and conjugal sexual assault. In most domestic violence incidents physical force is used.

The number of deaths associated with domestic violence is truly alarming. In 2006, there were twenty-seven deaths resulting from this reproachable conduct, whereas in 2007 and 2008, there were nineteen and twenty-seven deaths, respectively. In 2009, 17 women were murdered in incidents of domestic violence, and in the course of this year, the numbers show that said number has been considerably exceeded.

Most of the victims have a history of complaints, hospital reports, or behavior showing that they are being abused, whether physically or emotionally, by their partners. Furthermore, protective orders have been issued in most of the cases. The aggressor usually seeks out his victim in places they frequently visit, such as the place of residence and the workplace. As a matter of fact, approximately 79% of the incidents reported occur in the victim's residence.

There are many reasons for which a person becomes an abuser. Among these we highlight a wrong sense of ownership, uncontrollable jealousy, and learned behavior by a person who has suffered abuse from an early age. Certainly, education should be the cornerstone of finding a solution to this serious evil; however, it is necessary to improve and strengthen the legislation in effect so that it may serve as an effective tool to eradicate such a reproachable conduct.

The Government of Puerto Rico recognizes that domestic violence is one of the most serious and complex issues of our society. It jeopardizes the integrity of the family and its members, and seriously threatens the stability and preservation of civilized coexistence in Puerto Rico.

For such reason, this Legislative Assembly deems it necessary and meritorious to amend Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act,” in order to establish a maximum term of forty-eight (48) hours to serve protective orders issued ex parte; to require the placing of an electronic monitoring device when any type of suspended sentence is granted; establish the compulsory nature of the conditions of bail; provide for the notification of protective orders issued under the Act to the Domestic Abuse Divisions of the Police located in the jurisdiction where the petitioner resides, to the petitioner’s employer, and to the security company in charge of controlling access at the petitioner’s place of residence.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 2.5 of Act No. 54 of August 15, 1989, as amended, is hereby amended to read as follows:

“Section 2.5.- Ex Parte Orders

Other legal provisions notwithstanding, the court may issue an ex parte protective order if it is determined that:

- (a) ...
- (b) ...
- (c) ...

Whenever the court issues an ex parte protective order, it shall do so provisionally, and shall immediately serve the respondent with a copy thereof or otherwise, within a term that shall not exceed forty-eight (48) hours, and shall afford the respondent an opportunity to object to it. To such effect, it shall docket a hearing to be held within twenty (20) days following the issuance of said ex parte order, unless the respondent requests an extension to such effect. During said hearing, the

court may render the order without effect or extend the effect thereof for the term it deems necessary. The failure to serve the order within forty-eight (48) hours as established herein shall not render said order without effect.”

Section 2.- Section 2.7 of Act No. 54 of August 15, 1989, as amended, is hereby amended to read as follows:

“Section 2.7.- Notice to the Parties and Law Enforcement and Child Welfare Agencies

(a) ...

(b) ...

(c) ...

(d) ...

(e) ...

(f) The Clerk of the Court shall serve copies of the protective orders issued under this Act to the Domestic Violence Divisions of the Police located at the jurisdiction where the petitioner resides, to the employer of the petitioner, as informed by the latter, and to the security company in charge of controlling the access at the place of residence of the petitioner, if applicable. They shall report to the Puerto Rico Police any violation of the issued order.

Any natural or juridical person that on its own motion, or through its agents, representatives, or employees fails to comply with the provisions of this subsection, shall be punished by a fine in the amount of two hundred and fifty dollars (\$250).

(g) The Clerk of the Court shall serve a copy of the protective orders issued under this Act to the Parole Board, when the aggressor is under the jurisdiction of said Board.”

Section 3.- Section 2.8 of Act No. 54 of August 15, 1989, as amended, is hereby amended to read as follows:

“Section 2.8.- Noncompliance of Protective Orders

Any knowingly committed violation of a protective order issued pursuant to this Act shall be punished as a felony in the third degree in its lesser half; provided, however, that the courts shall be required to place an electronic monitoring device when any type of suspended sentence is granted.

Notwithstanding the provisions of Rule 11 of the Rules of Criminal Procedure, as amended, even when an order to such effects has not been issued, every law enforcement officer must make an arrest if presented with a protective order issued under this Act or a similar Act against the person to be arrested, or if the officer determines that such an order exists, after having contacted the pertinent authorities, the petitioner’s employer, or the security company in charge of controlling the access at the petitioner’s place of residence, and has reasonable grounds to believe that the provisions thereof have been violated.”

Section 4.- Section 2.9 of Act No. 54 of August 15, 1989, as amended, is hereby amended to read as follows:

“Section 2.9.- Social Work Evaluation

Whenever a protective order is issued and from the evidence introduced in the hearing arises that any or all of the children of the parties have witnessed and/or perceived the act of abuse, the court may refer the case to the Department of the Family in order for the respondent be referred to and undergo a social work evaluation to determine whether he requires any kind of psychological assistance that inures to the protection of the children.

The court shall summon the respondent to a follow-up hearing to ascertain that said person went to the Department of the Family and underwent the social work evaluation. The Department of the Family shall issue a report on the social work evaluation in which any kind of psychological assistance may be recommended to the respondent.

Noncompliance by the respondent with the referral shall be deemed to be a violation of the protective order.”

Section 5.- Section 3.7 of Act No. 54 of August 15, 1989, as amended, is hereby amended to read as follows:

“Section 3.7.- Special Provisions

(a) Bail.- ...

(b) Conditions for Release on Bail- The court may impose on the accused conditions for bail and shall take into consideration if the person has a domestic violence or a violent acts record, and whether the person poses a potential threat to the victim of the crime or any other person. In addition to the conditions established in the Rules of Criminal Procedure, the court may impose the following conditions:

(1) ...

(2) ...

(3) ...

(4) ...

(5) ...

(6) Enroll in an assistance program on managing domestic violence

issues.

(c) ...

(d) ...

(e) ...”

Section 6.- Section 3.11 of Act No. 54 of August 15, 1989, as amended, is hereby amended to read as follows:

“Section 3.11.- Preparation of Reports

...
...
...
...
...

The Courts Administration shall provide information on the protective orders requested and issued to the Statistics Division of the Police, as well as useful information, so that the report may contain, among others, the following information:

- (1) ...
- (2) ...
- (3) ...
- (4) ...
- (5) ...
- (6) ...
- (7) ...
- (8) ...

(9) The number of protective orders notified by the Clerk of each Court to the Police Headquarters of the jurisdiction where the petitioner resides.

(10) The number of protective orders notified by the Clerk of each Court to the employers of the petitioner.

(11) The number of protective orders notified by the Clerk of each Court to the security company in charge of controlling the access at the place of residence of the petitioner.

The Police Superintendent shall establish rules to guarantee confidentiality regarding the identity of the persons involved in domestic violence incidents.”

Section 7.- Section 4.1 of Act No. 54 of August 15, 1989, as amended, is hereby amended to read as follows:

“Section 4.1.- Functions

The Women’s Advocate Office, created by Act No. 20-2001, and consistent with the public policy set forth in this Act, shall be responsible for:

(a) ...

(l) ...

(m) Ensuring that the protective orders issued by the Courts are immediately notified by the Office of the Clerk to the Police Headquarters of the jurisdiction where the petitioner resides, to the employer of the petitioner, and to the security company in charge of controlling the access at the place of residence of the petitioner.”

Section 8.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 185-2012 (S. B. 1768)** of the **7th Regular Session** of the **16th Legislative Assembly of Puerto Rico**:

AN ACT to amend Sections 2.5, 2.7, 2.8, 3.7, 3.11, and 4.1 of Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act,” in order to establish a maximum term of forty-eight (48) hours to serve protective orders issued ex parte; require the placing of an electronic monitoring device when any type of suspended sentence is granted; establish the compulsory nature of the conditions of bail; provide for the notification of protective orders issued under the Act to the Domestic Violence Divisions of the Police located in the jurisdiction where the petitioner resides, to the employer of the petitioner, and to the security company in charge of controlling the access at the place of residence of the petitioner; establish penalties for noncompliance; and for other related purposes.

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

In San Juan, Puerto Rico, on this 29th day of July, 2019.

Orlando Pagán-Ramírez
Director