

(S. B. 2160)

(No. 232 -2012)

(Approved September 13, 2012)

AN ACT

To amend Sections 1, 1a, 2, and 2a, and add subsections (7), (8), and (9) to Section 6 of Act No. 100 of June 30, 1959, as amended, to include among the grounds of discrimination being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding a veteran status; and to define servicemember, ex-servicemember, and veteran.

STATEMENT OF MOTIVES

Article II, Section 1 of the Bill of Rights of the Constitution of the Commonwealth of Puerto Rico sets forth that dignity of the human being is inviolable; all men are equal before the law; no discrimination shall be made on account of race, color, sex, birth, social origin or status, or political or religious ideas; and that both the laws and the system of public education shall embody these principles of essential human equality.

Act No. 100 of June 30, 1959, better known as the “Act on Discrimination in Employment of 1959,” was enacted to comply with the above constitutional provisions and protect employees or anyone who aspires to employment against discrimination by the employer or labor union in relation to job, learning or training opportunities, based on age, race, color, sex, social or national origin, social status, or political or religious ideas.

At present, Act No. 100, *supra*, protects employees and anyone who aspires to employment against discrimination based on age, race, color, sex, social or national origin, social status, or political or religious ideas. However, there is a

population that has loyally and honorably served in the United States Armed Forces and which is being or could be potentially discriminated against in the workplace or when applying for a job because of their military status. By serving in the Armed Forces, these persons not only fulfilled their responsibility with their country, but also risked their lives serving in different armed conflicts, which is the greatest sacrifice anyone can make.

Considering the patriotic duty that these men and women performed serving in the U. S. Armed Forces, it is imperative to stress that discrimination based on military or veteran status shall not be tolerated nor allowed in Puerto Rico. Employees and anyone who aspires to employment must be protected against employer or labor union discrimination based on military or veteran status.

Therefore, this Legislative Assembly deems that Act No. 100, *supra*, should be amended to include that there shall be no discrimination against a person for having served in the U.S. Armed Forces or for his veteran status.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Sections 1, 1a, 2 and 2a of Act No. 100 of June 30, 1959, as amended, is hereby amended to read as follows:

“Section 1.- Discrimination because of age, race, color, religion, sex, social or national origin or social status, political affiliation, or political or religious ideology, or for being a victim or perceived as a victim of domestic violence, sexual aggression or stalking, for being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding veteran status.

Any employer who discharges, lays off or discriminates against an employee regarding his/her salary, wage, pay or remuneration, terms, rank, conditions or privileges of his/her job, or who fails or refuses to hire or rehire a person, or who limits or classifies his/her employees in any way which tends to deprive a person

of employment opportunities, or that affects his/her status as employee because of his/her age, as defined below, race, color, sex, social or national origin, social status, political affiliation or political or religious ideology of the employee or applicant for employment, or for being a victim or perceived as a victim of domestic violence, sexual aggression or stalking, being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding a veteran status:

(a) Shall be subject to a civil liability:

(1) For a sum equal to twice the amount of damages sustained by the employee or applicant for employment on account of such action;

(2) or for a sum of not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000), at the discretion of the court, if no pecuniary damages are determined;

(3) or twice the amount of the damages sustained if such amount is under the sum of five hundred dollars (\$500), and

(b) he/she shall also be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of up to five thousand dollars (\$5,000) or by imprisonment for a term not to exceed ninety (90) days, or by both penalties, at the discretion of the court.

Similarly, any employer who commits any of the acts mentioned in the first paragraph of this section relative to a person married to an employee of his/her company or business, shall be guilty of discriminatory practice and be subject to the aforementioned civil and penal liability. This provision shall apply to those persons who get married who aspire to employment as well as to those who are already employed by the employer.

Notwithstanding the provisions stated in the preceding paragraph, in those situations where a clear conflict of functions exists due to the marriage, and which substantially and adversely affects business operations, the employer shall be required to make a reasonable adjustment or compromise regarding the functions of the employees or anyone who aspires to employment. This practice shall apply to companies or businesses with (50) or more employees.

The foregoing shall be done so as not to affect the right of the employer to establish reasonable regulations concerning the working conditions of married couples employed in the same department, division or physical facility.

The following factors shall be taken into consideration when making such a determination: the size of the company's physical facilities and number of employees; its organizational chart, ranking and line of command; its physical needs and the specific problem or difficulties which could be caused by the married couple.

In the judgment passed on civil actions brought under the aforesaid provisions, the court may order the employer to reinstate the employee in his/her job and to cease and desist from the act involved.

Section 1a.- Discrimination because of age, race, color, religion, sex, social or national origin or social status, political affiliation, or political or religious ideology, or for being a victim or perceived as a victim of domestic violence, sexual aggression or stalking, for being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding a veteran status. Publishing; announcements.

It shall be unlawful for any employer or organization to publish or circulate, or allow the publication or circulation of announcements, notices or any other form of diffusion, denying equal employment opportunities, directly or indirectly, to any person, because of his/her race, color, sex, marital status, social or national origin,

social status, political affiliation or political or religious ideology, or for being a victim or perceived as a victim of domestic violence, sexual aggression or stalking, or because of age without just cause; for being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding a veteran status, or by establishing limitations which may exclude any person because of his/her race, color, sex, marital status, social or national origin, social condition, political affiliation or political or religious ideology, or for being a victim or perceived as a victim of domestic violence, sexual aggression or stalking, or because of age, without just cause; for being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding a veteran status. Any employer or labor organization violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of up to five thousand dollars (\$5,000) or by imprisonment in jail, for a term of not more than ninety (90) days, or both penalties, in the discretion of the court.

Section 2.- Discrimination because of age, race, color, religion, sex, social or national origin, social status, political affiliation, or political or religious ideology or for being a victim or perceived as a victim of domestic violence, sexual aggression or stalking, for being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding a veteran status. -
Discrimination by labor union

Any labor organization which limits, divides or classifies its members in a manner that deprives or tends to deprive anyone who aspires or is entitled to become a member of said organization, of an employment opportunity because of age, race, color, religion, sex, marital status, social or national origin, political affiliation, political beliefs or social status, or for being a victim or perceived as a victim of domestic violence, sexual aggression or stalking, for being a

servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding a veteran status:

(a) Shall be subject to a civil liability:

(1) For a sum equal to twice the amount of the damages sustained through such act by the member or person concerned;

(2) for a sum of not less than one hundred [dollars] (\$100) nor more than one thousand dollars (\$1,000), in the discretion of the court, if no pecuniary damages are determined;

(3) for twice the amount of damages sustained, if said amount were under the sum of one hundred dollars (\$100), and

(b) shall also be guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of up to five thousand dollars (\$5,000), or by imprisonment for a term of not more than ninety (90) days, or both penalties, in the discretion of the court.

The court may, in the judgment passed on civil actions brought under the provisions of this section, further direct the labor union to cease and desist from such action.

Section 2a.- Discrimination because of age, race, color, religion, sex, social or national origin, social status, political affiliation, or political or religious ideology or for being a victim or perceived as a victim of domestic violence, sexual aggression or stalking, for being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding a veteran status. -
Apprenticeship, training or retraining

Any employer, labor organization or joint labor-management committee that controls apprenticeship, training or retraining programs, including on-the-job training programs, which discriminates against a person because of his/her race, color, sex, marital status, social origin or status, political affiliation, political or

religious ideology, or for being a victim or perceived as a victim of domestic violence, sexual aggression or stalking, or because of advanced age, without just cause; for being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding a veteran status, to be admitted to, or employed in any apprenticeship or other training program:

(a) Shall be subject to a civil liability:

(1) For a sum equal to twice the amount of the damages sustained by the employee or applicant for employment on account of such action;

(2) or for a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), in the discretion of the court, if no pecuniary damages are determinable;

(3) or for twice the amount of the damages sustained if said amount were under the sum of one hundred dollars (\$100), and

(b) shall also be guilty of a misdemeanor and upon conviction, be punished by a fine of up to five thousand dollars (\$5,000) or by imprisonment for a term not more than ninety (90) days, or by both penalties, in the discretion of the court.

The court may, in the judgment passed on civil actions brought under the preceding provisions, direct the employer to reinstate the employee in his former job and to cease and desist from the act involved.

...

Section 2.- Subsections (7), (8) and (9) are hereby added to Section 6 of Act No. 100 of June 30, 1959, as amended, to read as follows:

“Section 6.-

(1) ...

(2) ...

(3) ...

(4) ...

(5) ...

(6) ...

(7) ‘Servicemember’.- means any person serving in the Armed Forces in any of the seven (7) uniformed services of the Government of the United States, to wit: the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Coast Guard, the United States Public Health Service Commissioned Corps, the National Oceanic and Atmospheric Administration Commissioned Corps, and the legal successors thereof. Moreover, it shall include such servicemembers whose service in the Armed Forces or the National Guard meets the requirements provided by Federal laws currently in effect. This term shall also include retirees from all Armed Forces components.

(8) ‘Ex-servicemember’.- means any person who has honorably served in any of the seven (7) uniformed services of the Government of the United States, to wit: the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Coast Guard, the United States Public Health Service Commissioned Corps, the National Oceanic and Atmospheric Administration Commissioned Corps, and the legal successors thereof; including retirees other than veterans, as defined in this Act. Moreover, it shall include ex-servicemembers whose service in the Armed Forces or the National Guard meets the requirements provided by Federal laws currently in effect.

(9) ‘Veteran’.- shall have the meaning as provided in Act No. 203-2007, as amended, better known as the ‘Bill of Rights of the Puerto Rican Veteran for the 21st Century.’”

Section 3.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 232-2012 (S. B. 2160)** of the **7th Regular Session** of the **16th Legislative Assembly of Puerto Rico**:

AN ACT to amend Sections 1, 1a, 2, and 2a, and add subsections (7), (8), and (9) to Section 6 of Act No. 100 of June 30, 1959, as amended, to include among the grounds of discrimination being a servicemember, ex-servicemember, serving or having served in the United States Armed Forces, or holding a veteran status; and to define servicemember, ex-servicemember, and veteran.

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

In San Juan, Puerto Rico, on this 15th day of September, 2016.

Juan Luis Martínez Martínez
Director