

(H. B. 3355)

**(No. 246-2011)**

(Approved December 16, 2011)

## **AN ACT**

To adopt the “Child Safety, Well-being, and Protection Act,” for the purpose of guaranteeing the well-being of our children and ensuring that child abuse cases are promptly addressed; repeal Act No. 177-2003, known as the “Comprehensive Child Well-being and Protection Act”; and amend Section 2.006 of Act No. 201-2003, as amended, known as the “Judiciary Act of the Commonwealth of Puerto Rico of 2003,” in order to require that training on child abuse matters, as well as changes in policy and procedures related to the “Child Safety, Well-being, and Protection Act,” be inherent to the judicial education system; and for other related purposes.

### **STATEMENT OF MOTIVES**

Children are the foundation of our society and, therefore, it is our duty to care for and protect them, and guarantee their safety at all times. Our children deserve to live in homes that are free of abuse and where they are protected. It is the public policy of this Administration to safeguard minors from any kind of abuse or neglect caused by their parents or caretakers, or by institutions responsible for serving them. The fact that our children may find themselves defenseless when facing adults that intend to harm them justifies that the State takes necessary actions to protect them from such persons.

Act No. 177-2003, as amended, was created for the purpose of guaranteeing our children’s well-being, from the perspective of family reunification as the preferred alternative. In its implementation, the State has realized that said Act includes guarantees that are extremely broad, as well as technical aspects that favor abusive parents, which have often times prevailed over the child’s best interests. The State recognizes the importance of continuing its focus of making reasonable

efforts to keep families together, given the role of said institution in the orderly development of society. However, such efforts shall be carried out from the standpoint of validating the minors' rights before those of the parents, since the former are vulnerable individuals who lack the physical and legal ability to protect themselves and procure their well-being on their own.

This Administration recognizes that family reunification should be the first choice, but does not favor considering the best interest of a child as secondary to the interests of abusive parents or guardians. The State cannot allow children to continue being abused by parents who put their interests before those of their offspring. As a society, we must accept that family reunification is not always the best option.

The Department of the Family carries out different attempts on a daily basis to obtain a waiver of reasonable efforts in cases in which parents cruelly abuse their children. However, pursuant to the provisions of Act No. 177, *supra*, the mechanisms to be used require a series of efforts that delay the State's assuming the custody of the minor. Such delay has cost the life of more than one child. This Act has the purpose of ensuring that procedures in cases of child abuse are addressed diligently, casting aside the liberal interpretation in favor of family reunification and focusing on achieving the safety and protection, as well as physical, emotional, and psychological well-being, over any other interest.

In those cases in which family reunification is not in the child's best interest, we hereby establish that the Department of the Family shall have the duty to initiate the process of termination of parental rights as soon as possible and shall promote the adoption of minors as provided in Act No. 186-2009, known as the "Comprehensive Adoption Proceedings Reform Act of 2009."

It shall be public policy that, in those cases in which a conflict of interest arises between a guardian and a minor's best interest, the best interest of the child shall prevail. This shall apply to all administrative and judicial proceedings carried out under this Act.

Our children are at the base of our society, and they are also our future, so it is the duty of every citizen to protect them and to ensure their well-being.

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

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### **Section 1.– Title.**

This Act shall be known as the “Child Safety, Well-being, and Protection Act.”

#### **Section 2.– Public Policy.**

Children have the right to life, to a good quality of life, and to a safe environment with conditions of respect where they may constantly enjoy all such rights. Quality of life is crucial for their comprehensive development in keeping with human dignity. This right implies the creation of conditions that, from the time they are conceived, guarantee the minors' care, protection, adequate and balanced nutrition, access to health services, education, appropriate clothing, recreation, and a home that provides the essential public utilities and a safe environment. The State shall develop a public policy aimed at empowering minors and shall provide for the establishment of reasonable support efforts to strengthen families for prevention of violence, as well as promoting the values that allow for a coexistence based on respect for human dignity and the importance of peace.

Children have the right to be protected against all actions or behaviors that can or may cause their deaths, as well as physical, sexual, or psychological harm or suffering. They specifically have the right to be protected against abuse and any mistreatment at the hand of their parents, legal guardians, caretakers, or members of their family unit, school, or community.

For purposes of this Act, child abuse means any kind of harm; humiliation; physical or psychological abuse; carelessness; omission or negligent treatment; mistreatment; sexual exploitation, including sexual assault and obscene behavior; and any type of violence or aggression directed to a child or youth by his/her parents, legal guardians, or any other person.

Therefore, it is hereby declared as the public policy of the Government of Puerto Rico the assurance of the best interest and comprehensive protection of minors and, in our interest to ensure their well-being, to provide opportunities, and carry out reasonable efforts to allow for the preservation of family and community ties to the extent that they cause no harm to the minor. Furthermore, whenever removal has been necessary for their protection, the opportunity to reunify minors with their family must be provided, insofar as it is in the minors' best interest. This procedure shall in no way impair the welfare of the minor, which is the basic principle of the standards set forth in this Act.

### **Section 3.– Definitions.**

For the purposes of this Act, the following terms shall have the meaning expressed hereinbelow:

(a) “Abandonment” shall mean willful dereliction or being remiss in the responsibilities that a father, mother, or any other person responsible for a minor has, taking into account said minor's age and need for adult care. The intention to abandon can be evidenced by, but is not limited to:

(1) a lack of communication with the minor for a period of at least three (3) months;

(2) a lack of participation in any plan or program designed to reunify the minor with his/her father, mother, or other person responsible for his/her well-being;

(3) failure to respond to notices of hearings in child protective proceedings; or

(4) when the minor is found in circumstances that make it impossible to ascertain the identity of the father, mother, or other person responsible for the minor's well-being; or when the identity is known, but the whereabouts of the father, mother, or other person responsible for the minor remain unknown in spite of efforts to locate him/her; and when the father, mother, or other person responsible for the minor's well-being fails to claim the latter within thirty (30) days after he/she is found.

(b) "Sexual Abuse" shall mean engaging in sexual conduct in the presence of a minor and/or using the minor, voluntarily or otherwise, to engage in sexual conduct aimed at satisfying lasciviousness, or any other act that, if criminally prosecuted, would constitute any of the following crimes: sexual assault; lewd and lascivious acts; human trafficking for the sex trade; indecent exposure; indecent sexual proposal; possession and distribution of child pornography; use of a minor for child pornography; or delivering, transporting, selling, distributing, publishing, exhibiting, or possessing obscene material; and obscene shows, as these have been classified in the Penal Code of Puerto Rico.

(c) "Protection Cases" shall mean situations of child abuse, institutional abuse, neglect, and/or institutional neglect, as these terms are defined herein and supported by an investigation.

(d) “Licensed Centers” shall mean those establishments, regardless of how they are called, engaged in the care of twelve (12) or more children, twenty-four (24) hours a day, whether or not for profit.

(e) “Obscene Behavior” shall mean any physical activity of the human body, whether carried out alone or with other persons, including, but not limited to singing, talking, dancing, acting, pretending, or pantomiming which, as a whole, is considered by the average person and according to contemporary community standards to appeal to lewd interests, which represents or depicts any kind of sexual conduct in an overtly offensive manner, and which lacks any serious literary, artistic, political, religious, scientific, or educational value.

(f) “Shared Responsibility” shall mean the concurrence of doers and deeds aimed at guaranteeing the exercise of children’s rights. Families, society, and the State have a shared responsibility to look after them and their safety, care, and protection.

Shared responsibility and concurrence apply to the relationship established among all sectors and institutions of the State.

Notwithstanding the foregoing, public or private institutions that must render social services may not invoke the principle of shared responsibility to deny attention warranted by the fundamental rights of children and youths.

(g) “Emergency Custody” shall mean that which is exercised by someone other than the father or mother whenever the situation of a minor would constitute an imminent danger to his/her safety; health; physical, mental, or emotional integrity; and/or social well-being if no immediate action were taken with regards to his/her custody.

(h) “Custody” shall mean, besides that which the parents are granted by virtue of parental rights, that which is granted by a competent court.

(i) “Temporary Custody” shall mean that which is granted by a judge in termination of custody proceedings, or when a protection order is issued against the father, mother, or other person responsible for the minor, for a specified period and subject to review, until the conclusion of the proceedings.

(j) “Physical Custody” shall mean having a minor under one’s care and protection without this implying the exercise of rights and obligations inherent to parental rights.

(k) “Bodily Harm” shall mean any non-accidental trauma, injury, or condition, including inadequate nourishment that could result, if left unattended, in death, disfigurement, illness, or temporary or permanent disability of any part or function of the body, including inadequate nourishment. Moreover, the trauma, injury, or condition may be the result of a single episode or several episodes.

(l) “Mental or Emotional Injury” shall mean the impairment of the intellectual or emotional ability of a minor, taking into account what is considered normal for his/her age or cultural environment. Furthermore, emotional injury is deemed to exist when there is evidence that the minor recurrently manifests or exhibits behaviors such as fear; feelings of abandonment or hopelessness; frustration and failure; anxiety; insecurity; isolation; aggressive or regressive behavior, or any other similar behavior that demonstrates his/her emotional vulnerability.

(m) “Monitoring Duty of the State” shall mean the duty of the State to ensure that all natural and juridical persons that shelter or care for children and youths comply with the standards that the same has imposed.

The Department of the Family, as the governing, coordinating, and enforcing entity of the Family Well-being System, may recognize, grant, suspend, or cancel operating licenses for system institutions that render protection and care

services to minors or families, as well as those institutions that develop an adoption program.

(n) “Department” shall mean the Department of the Family of the Government of Puerto Rico.

(o) “Diversion” shall mean a program to reeducate or retrain first-time offenders convicted of abuse, institutional abuse, neglect, and/or institutional neglect.

(p) “Emergency” shall mean any situation that imminently endangers the minor’s safety, health, physical, mental, or emotional integrity; and social well-being if no immediate action is taken with regards to his/her custody.

(q) “Reasonable Efforts” shall mean all those actions, activities, or services offered either at home or elsewhere to support, develop, and foster a valuable relationship between the father, mother, or other person responsible for a minor and the minors themselves, in coordination with public and private entities, so as to guarantee such minor’s safety and well-being. These efforts seek to prevent the minors’ removal from their families, to reunify families, and to find a permanent placement alternative whenever reunifying the family is not an option.

(r) “Family” shall mean two or more persons bound either legally or by blood, family, or kinship who share social, financial, and affectional responsibilities whether or not they live under the same roof.

(s) “Foster Home” shall mean a place that temporarily provides substitute care for no more than six (6) children from other homes or families, twenty-four hours a day. It shall be a home that has undergone investigation, certification, or licensing and is under the supervision of the Department. For purposes of the Spanish version of this Act, “*hogar de crianza*” shall be renamed “*hogares temporeros*”.



(t) “Unsubstantiated Report” shall mean information offered pursuant to the provisions of this Act and which, when investigated, is found to be lacking grounds to support allegations of abuse or neglect, or which is determined to be false.

(u) “Report to Refer Situations of Abuse, Institutional Abuse, Neglect, or Institutional Neglect” or “Referral” shall mean oral or written information provided by a person who is required to report, or by any other person through the Abuse Hotline, the Puerto Rico Police Department, or the local office of the Department, describing situations of alleged suspicion or existence of abuse, institutional abuse, neglect, or institutional neglect.

(v) “Abuse” shall mean any intentional act or omission by the father, mother, or other person responsible for a minor of such nature that it causes or puts a minor at risk of suffering injury or harm to his/her health or physical, mental, and/or emotional integrity, including sexual abuse as defined in this Act. Abuse shall also mean to engage in obscene behavior and/or use the minor to carry out obscene acts; to allow another person to cause or to put the minor at risk of suffering injury or harm to his/her health or physical, mental, and/or emotional integrity; to willfully abandon a minor; the exploitation of a minor by his/her father, mother, or any other person responsible for his/her well-being; to allow another person to exploit a minor by forcing or allowing him/her to perform any act, including but not limited to engaging in obscene acts for profit or in order to receive any other benefit; or to behave in any way that, if criminally prosecuted, would constitute a crime against the health or physical, mental, or emotional integrity of the minor, including sexual abuse. Minors will also be considered victims of abuse if their father, mother, or person responsible for them has engaged in any of the aforesaid behaviors or in acts that constitute domestic violence in the presence of minors as defined in Act No. 54-1989, as amended.

(w) “Institutional Abuse” shall mean any act or omission by the operator of a foster home or by an employee or official of a public or private institution providing care services for twenty-four (24) hours a day or part thereof, or having control over or custody of a minor to provide care, education, treatment, or detention, that causes harm or endangers the health or physical, mental, and/or emotional integrity of such minor, including, but not limited to sexual abuse; to engage in obscene behavior and/or use the minor to perform lewd acts, whether it is known, suspected, or occurring as a result of the prevailing policies, practices, and conditions of the institution in question; to exploit a minor or allow someone else to do so, including, but not limited to using such minor to perform obscene acts, either for profit or to receive any other benefit.

(x) “Best Interests of the Child” shall mean the balance of different factors that may affect the safety; health; or physical, mental, emotional, educational, and social well-being, or any other aimed at achieving the optimum development of the minor.

(y) “Minor” shall mean any person who is not yet eighteen (18) years of age.

(z) “Neglect” shall mean the type of abuse that consists of failing to perform the duties or to exercise the ability to provide adequate nourishment, clothing, shelter, education, or health care to a minor; failing to exercise supervision; failing to visit the minor or maintain contact or frequent communication with him/her. Likewise, a minor shall be deemed to be a victim of neglect if the father, mother, or other person responsible for him/her has engaged in the behavior described in paragraphs (3) and (4) of Section 166 A of the Civil Code of Puerto Rico.

(aa) “Institutional Neglect” shall mean actual or suspected neglect by the operator of a foster home, any employee or official of a private or public institution

that provides care during a twenty-four (24)-hour period or part thereof, or anyone who has control over or custody of a minor in order to provide care, education, treatment or detention, and causes harm to such minor or places him/her at risk of harm to his/her health or physical, mental, and/or emotional integrity, including sexual abuse, and which situation is known, suspected, or occurring as a result of the prevailing policies, practices, and conditions of the institution in question.

(bb) “Protection Order” shall mean any order issued in writing under the seal of a court, dictating the measures to be taken by a child abuser to refrain from engaging in or performing certain actions or behaviors that constitute abuse, institutional abuse, neglect, and/or institutional neglect.

(cc) “Person Responsible for the Minor” shall mean the custodian or employees and officials of the programs, centers, or institutions that provide care, education, treatment, or detention services to minors twenty-four (24) hours a day or part thereof.

(dd) “Respondent” shall mean any person against whom a protection order is requested.

(ee) “Petitioner” shall mean the father, mother, law enforcement officer, official of the Department of Justice or the Department of the Family, relative of the minor, or other person responsible therefor who petitions the court to issue a protection order.

(ff) “Permanency Plan” shall mean the design and implementation of activities with the minor and his/her family geared towards achieving the stability, safety, and best interests of such minor, taking into account the available resources.

(gg) “Service Plan” shall mean the systematic organization of goals, objectives, and activities set within a timeframe and which result from a process of information gathering and evaluation based on the family’s strengths, in order to

overcome such family's needs and provide direction as to the social care of the minor and his/her family.

(hh) “Prevalence of Children’s Rights” shall mean that, in any act, decision, or measure, whether administrative, judicial, or of any other nature, which shall be adopted with regards to a minor, the rights of such minor shall prevail, especially if there is conflict between his/her fundamental rights and those of any other person.

In the event of conflict between two or more legal, administrative, or disciplinary provisions, the standards that are most favorable to the best interests of the child, as determined by a court or administrative forum, shall prevail.

(ii) “Termination of Parental Rights” shall mean the termination of the rights that parents have over their children pursuant to the provisions of the Civil Code of Puerto Rico.

(jj) “Comprehensive Protection” shall mean the recognition of children as subjects of their rights, the guarantee and fulfillment thereof, the elimination of threats to their safety and their immediate reinstatement in accordance with the principle of the best interests of the child. Comprehensive protection shall materialize thorough the policies, plans, programs, and actions executed, together with their corresponding allotment of financial, physical, and human resources.

(kk) “Family Resource” shall mean a family home with one or more members that has been evaluated and certified by the Department, and whose members are related to the minor within the third degree of consanguinity and can guarantee his/her safety and well-being as provided in this Act.

(ll) “Foster Home Network” shall mean a group of families that are licensed and certified by the Department, registered in the child protection program subsidized by the State, and that are willing to immediately and voluntarily accept children and temporarily provide them with the care and attention they need.

(mm) “Central Register” shall mean the work unit established the Department that gathers information about all referrals and cases of Abuse, Institutional Abuse, Neglect, or Institutional Neglect.

(nn) “Removal” shall mean the action taken by the Department, with the previous authorization of the court, to obtain custody of a minor whose stability and safety are threatened and must be protected.

(oo) “Parental Responsibility” shall mean the inherent duties of parents regarding guidance, care, affection, companionship, and upbringing of their children during their formative years. This includes a supportive and shared responsibility of the parents to ensure that such children can achieve the maximum enjoyment of their rights.

Under no circumstance shall the exercise of parental responsibility include physical or psychological violence or acts that impair the exercise of the children’s rights.

(pp) “Family Reunification” shall mean bringing the child together with the family from which he/she was removed so that it can provide him/her with affection, health, education, safety, well-being, care, and companionship, as well as to guarantee his/her optimum development as a human being.

(qq) “Risk” shall mean the probability that a child may become a victim of abuse or neglect in the future at the hands of his/her father, mother, or person responsible for him/her.

(rr) “Imminent Risk” shall mean any situation that endangers the health, safety, and physical, emotional, and/or sexual well-being of a minor.

(ss) “Risk of Death” shall mean an act that places the minor in circumstances that may cause his/her death.

(tt) “Secretary” shall mean the Secretary of the Department of the Family.

(uu) “Social Protective Services” shall mean the specialized services to achieve the safety and well-being of minors and preventing the risk of them suffering abuse, institutional abuse, neglect, or institutional neglect. It shall also mean the services provided to parents or other persons responsible for minors in order to encourage modification of their child-rearing patterns. The fact that a minor may be a parent and the subject of a report does not make the minor ineligible to receive protective services.

(vv) “Subject of a Report” shall mean any person referred under this Act, including any minor, parent, or other person, in charge of the well-being of a minor.

(ww) “Protective Supervision” shall mean supervision by the Department of a minor who continues to live at home after a court finds that he/she has been the victim of abuse and/or neglect.

(xx) “Human Trafficking” shall mean any conduct that results in sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or the removal of organs.

(yy) “Court” shall mean any Part of the Court of First Instance of the Government of Puerto Rico.

## **CHAPTER II**

### **GUARANTEE OF RIGHTS AND PREVENTION**

#### **Duties of the Family, Society, and the State**

##### **Section 4.– Duties of the Family, Society, and the State.-**

In addition to the provisions of the Constitution and other legal provisions, all the provisions contemplated under this Act shall be duties of the family, society, and the State.

##### **Section 5.– Duties of the Family.**

The family shall have the duty to encourage equal rights, affection, solidarity, and mutual respect among all its members. Any type of violence within the family shall be considered destructive to its harmony and unity, and shall be sanctioned. The duties of the family to guarantee the rights of minors shall be:

1. Protect them against any act that threatens or places their lives, dignity, and personal integrity at risk.

2. Participate in democratic forums to discuss, design, formulate, and execute policies, plans, programs, and projects of interest for children, youths, and families.

3. Develop, guide, and stimulate them to exercise their rights and responsibilities, and to develop their independence.

4. Register them after their birth in the Demographic Registry of the Department of Health.

5. Provide the conditions needed for their adequate health and nutrition, so as to achieve their optimum physical, psychomotor, mental, intellectual, emotional, and affective development, as well as education in preventive health and hygiene.

6. Include them in the social security and health care systems from birth and take them for periodic health checkups, vaccination, and other health services in a timely manner.

7. Ensure their access to education from birth and provide the conditions and means for their appropriate development, thus guaranteeing their continuance and permanence in school.

8. Abstain from any act or behavior that may constitute physical, sexual, or psychological abuse, and attend counseling and treatment centers whenever necessary.



9. Abstain from exposing children to situations of financial exploitation.
10. Freely and responsibly decide how many children it can support and raise.
11. Respect the child's cultural manifestations and inclinations, and encourage their artistic expression and scientific and technological abilities.
12. Provide the necessary conditions for their recreation and participation in sports and cultural activities of interest to them.
13. Warn them and keep them informed of the harmful effects of using legal and illegal controlled substances.
14. Treat children with disabilities with dignity and in the same way as any other member of the family, and provide them with opportunities for equality and self-sufficiency, so they can exercise their rights. Furthermore, provide them with adequate spaces for them and guarantee their participation in family and social affairs.
15. Raise them in an atmosphere of affection and moral and material security.
16. Educate them in an atmosphere of love, understanding, and tolerance, and protect them from practices that may foster discrimination of any kind.
17. Educate them so they may develop their own attitudes and judgment, as well as a sense of moral and social responsibility, so they can become useful members of society.
18. Any other action in the discharge of their responsibility towards their children.

### **Section 6.– Duties of Society.**

In compliance with the principles of shared responsibility and solidarity, the organizations, associations, companies, businesses, and other juridical and natural

persons, have the duty and responsibility to actively take part in upholding children's rights and the guarantees thereof. In this sense, they shall:

1. Know, respect, and promote these values and their pervasive nature.
2. Respond with actions that pursue their immediate protection in situations that threaten or undermine their rights.
3. Actively participate in the creation, development, evaluation, follow-up, and control of the public policies related to children and youths.
4. Warn or report, by any means, the crimes or actions that make them vulnerable or that threaten them.
5. Collaborate with authorities in the application of the provisions of this Act.
6. Collaborate with or participate in any other act needed to ensure the exercise of children's rights.

#### **Section 7.– Duties of the State.**

The State constitutes the institutional aspect in the comprehensive development of children. To comply with its duty, it shall:

1. Guarantee the exercise of all the rights of children.
2. Ensure conditions for the exercise of children's rights, and prevent such exercise from being threatened or affected through the design and execution of child and youth-related public policies.
3. Guarantee the allocation of the necessary resources for compliance with child and youth-related public policies, so that the prevalence of their rights is ensured.
4. Ensure the protection and effective reestablishment of any right that has been impaired.
5. Promote peaceful coexistence within the family and the social setting.

6. Resolve recourses, petitions, and judicial actions involving minors with priority.

7. Promote respect for the physical, psychological, and intellectual integrity of minors, as well as for their rights and the enforcement thereof in all sectors of society.

8. Educate children and their families on the importance of respect, dignity, the rights of others, democratic coexistence, human values, and peaceful conflict resolution.

9. Prevent and immediately address the various violent acts that may threaten children's right to life and the quality thereof.

10. Guarantee the conditions, so that children may, from birth, have access to ideal and quality education, whether in educational institutions that are close to their homes or through the use of technology that can guarantee such access, both in rural and urban settings.

11. Prevent and address sexual and domestic violence, as well as child abuse.

12. Ensure that children in the custody of the Department are well-fed, without prejudice to other persons that must provide nourishment under the terms of this Act, and guarantee effective mechanisms to demand and ensure compliance with child support.

13. The Department shall investigate, refer, or require the investigation of any referral received involving abuse, institutional abuse, neglect, and/or institutional neglect for which it shall use procedures, services, and means to guarantee that said investigations are conducted promptly and effectively. The same shall be conducted by professionals qualified by their education, experience, and expertise.

Whenever the Department of the Family has custody and relations among siblings have not been restricted or prohibited, the Department shall be responsible for establishing a visitation plan so that siblings that have been removed from their home can meet at least twice (2) a month, and seek their joint placement whenever possible. The Department of the Family shall be required to guarantee that physical guardians comply with all the duties and responsibilities stated in the plan.

To ensure compliance with the public policy set forth in this Act, agencies and municipalities of the Government of Puerto Rico shall address situations of abuse, institutional abuse, neglect, and/or institutional neglect with priority as soon as they become aware thereof. The Department of the Family, the Department of Education, the Department of Health, the Mental Health and Anti-Addiction Services Administration, the Department of Housing, the Department of Justice, the Puerto Rico Police Department, the Corrections Administration, and the Juvenile Institutions Administration shall be required to address situations of abuse, institutional abuse, neglect, and/or institutional neglect with priority. They shall coordinate their efforts whenever rendering services related to identification, prevention, and treatment of minors who are victims of abuse, institutional abuse, neglect, and/or institutional neglect is required.

Coordination between agencies shall include joint planning, public education and information services, use of each other's facilities, joint training, and activities for staff development, evaluation, and case management.

The agencies of the Government of Puerto Rico shall:

- (1) Identify and report situations in which abuse, institutional abuse, neglect, and/or institutional neglect exists or is suspected, for the investigation thereof as provided in this Act;

(2) Offer protection to minors in emergency situations, including transportation, medical services coordination, emergency custody, and any other necessary service pending the intervention of the Department of the Family;

(3) Offer support to victims of abuse, institutional abuse, neglect, and/or institutional neglect;

(4) Provide support to minors in potentially traumatic situations;

(5) Protect the civil rights of children, as well as their privacy and integrity;

(6) Coordinate services with government and nongovernmental agencies for minors who are victims of abuse;

(7) Develop and implement prevention programs for both parents and children;

(8) Collaborate with multidisciplinary teams in situations involving abuse;

(9) Adopt educational and prevention programs for agency staff on abuse and/or institutional abuse;

(10) Design, develop, and implement an intervention protocol for situations involving abuse, institutional abuse, neglect, and/or institutional neglect directed to assist abused children, abusive persons, and victims of domestic violence.

The Department and the agencies of the Government of Puerto Rico shall develop and adopt the regulations and necessary collaboration agreements to implement this Act, as provided below:

(a) Department of Education

(1) Develop school policies and protocols to report situations of abuse, institutional abuse, neglect, and/or institutional neglect;

(2) Perform educational, psychological, and/or psychiatric evaluations; offer support and follow-up services in situations of abuse, institutional abuse, neglect, and/or institutional neglect;

(3) Intervene and offer services related to educational neglect;

(4) Offer parents help through school-sponsored programs, pursuant to the duties and responsibilities imposed by the Organic Act of the Department of Education;

(5) Facilitate and guarantee school placement and transportation for children in the custody of the Department within a term that shall not exceed seventy-two (72) hours, so as not to interrupt their school services. In the case of children with disabilities, whose emergency school placement may require the continuation of the special education program developed for them, the school principal, the special education teacher that provides such service, and the school social worker shall meet to coordinate the child's placement within the term set forth in this subsection. To such effect, every school, both public and private, shall keep an updated directory or catalog of specialized resources and facilities that enables and expedites the placement of a child with disabilities;

(6) Offer expert advice on educational matters, and their experience in situations of institutional abuse and/or institutional neglect in educational institutions;

(7) Facilitate the investigation of and intervention in institutional abuse and/or institutional negligence referrals and cases. The school social worker who handles abuse cases shall communicate periodically with the Department of the Family case workers, so that he/she actively participates in the intervention protocol designed for the referred minor and his/her family, including the abusive member;

(8) Request protection orders on behalf of the minors.

(b) Department of Health

- (1) Provide medical diagnostic and treatment services to abused children and their families;
- (2) Offer advice and consulting services to the Department on medical aspects of abuse, as requested;
- (3) Provide expert testimony, certifications, and written reports during judicial proceedings, as required;
- (4) Identify and provide support to families at high risk of abuse;
- (5) Provide training for health and non-health professionals on the medical aspects of child abuse;
- (6) Provide priority assessment and medical attention to minors in the custody of the Department, as well as any prescribed medication;
- (7) Guarantee health services to minors in the custody of the Department, regardless of their placement;
- (8) Establish service programs for abused children with special health needs;
- (9) Offer expert advice on health matters, and their experience in situations of institutional abuse and/or institutional neglect in educational institutions;
- (10) Collaborate in the investigation of abuse, institutional abuse, and/or institutional neglect referrals;
- (11) Ensure that providers and entities that run privatized mental health services and facilities direct their immediate attention to situations involving abuse, as well as medication, and that they comply with the obligations imposed herein on the Department of Health.

(c) Mental Health and Anti-Addiction Services Administration

(1) Offer mental health and anti-addiction treatment, including treatment for alcohol and tobacco abuse, from an integrated perspective to abused children according to the identified needs. This includes determining the corresponding treatment level;

(2) Offer mental health and/or anti-addiction services to parents or persons responsible for a minor who engages in abuse, as part of the reeducation and reasonable effort process;

(3) Coordinate the rendering of anti-addiction and mental health services with the Service Plan of the Department;

(4) Enter into collaboration agreements with government entities required under this Act to provide mental health or anti-addiction services to minors, their parents, or persons responsible for such minors who have engaged in abusive behavior;

(5) Provide information related to treatment offered or suggested for a minor during judicial proceedings, as required;

(6) Offer expert advice and their experience in situations of institutional abuse and/or institutional neglect in healthcare facilities;

(7) Facilitate the investigation of institutional abuse and institutional neglect referrals;

(8) Ensure that providers and entities that run privatized mental health services and facilities direct their immediate attention to situations involving abuse, and that they comply with the obligations imposed herein on the Mental Health and Anti-Addiction Services Administration.

(d) Department of Housing

(1) Provide immediate attention, as a protective measure, to requests involving situations of abuse where the children are in the custody of the



Department and the mother, father, or person responsible for the minor can attest to their compliance with the Service Plan;

(2) Provide immediate attention, as a protective measure, to housing requests in situations where both domestic violence and child abuse exist;

(3) Identify provisional housing for emergency situations where placement proves to be difficult;

(4) In cases in which it is possible, include clauses in contracts to provide that the Department of Housing may amend the lease contract when the same is under the name of an abusive person, so that the minor may continue to live in his/her home;

(5) Ensure that administrative agents of public housing facilities notify and direct their immediate attention to possible situations of abuse. Furthermore, they shall comply with the obligations imposed herein on the Department of Housing.

(e) Puerto Rico Police Department

(1) Receive and investigate complaints involving abuse, institutional abuse, neglect, and/or institutional neglect;

(2) Assist and collaborate with Department personnel when their safety is at risk and upon request;

(3) Collaborate actively with the Department in any affirmative action directed to exercise the custody of a minor and other services related to the protection thereof;

(4) Appear in judicial proceedings to testify on investigative procedures in cases of abuse, institutional abuse, neglect, and/or institutional neglect;

(5) Keep a record of protection orders issued under this Act.

(f) Corrections Administration

- (1) Keep a record of system participants who have been convicted of abuse;
- (2) As a protective measure for minors, notify the Department and the person responsible for the minor of the release, pass, probation, or parole of an abusive parent;
- (3) Offer educational programs to abusive parents that lead to their reeducation;
- (4) Establish, administer, and operate reeducation and retraining programs for persons convicted of abuse or offenders;
- (5) Participate and facilitate the intervention of service workers of the Department of the Family with inmates in interventions and treatment related to situations involving child abuse and the achievement of their children's permanency plan.

(g) Juvenile Institutions Administration

(1) Identify and refer cases of institutional abuse and institutional neglect by the Juvenile Institutions Administration personnel to the Departments of the Family, Justice, and Puerto Rico Police;

(2) In situations between minors, which may constitute offenses, the investigation shall include the identification of institutional neglect;

(3) Ensure that the civil rights of the minor are safeguarded;

(4) Keep a registry of institutional abuse and/or institutional neglect cases;

(5) Facilitate the investigation of referrals for institutional abuse and/or institutional neglect;

(6) Keep a record of minors who are abusive parents;

(7) Notify the Department of the services rendered and of any progress observed in the minor;

(8) As a protective measure for minors who are victims of abuse, notify the Department and the minor's legal guardian of the release pass granted, whether temporary or extended, of an abusive parent.

(9) Offer educational programs to abusive parents that lead to their education.

(h) Department of Justice

(1) Investigate referrals on institutional abuse and/or institutional neglect involving children;

(2) Conduct joint investigations of referrals or cases in which a determination has been reached to file charges of abuse, institutional abuse, neglect, and/or institutional neglect;

(3) Keep a statistical record of abuse, institutional abuse, neglect, and/or institutional neglect cases that have been criminally prosecuted, as well as of protection order violations.

Furthermore, the Secretary shall appoint a Deaths Review Panel composed of a multidisciplinary team to prevent, share information, and evaluate the circumstances in which children have died in Puerto Rico. The Panel may share the children's causes of death with the public and support the creation of public policies and programs to prevent such fatalities. In addition, it may carry out any other function established by regulations.

### **Section 8.- Commonwealth Center for the Protection of Minors**

The Department shall establish a Commonwealth Center for the Protection of Minors, which shall be attached to the Administration of Families and Children, and shall provide the same with the necessary resources, including integrated communication and information systems and a Central Register of Protection Cases in order to carry out the purposes and duties delegated thereto by this Act, which shall consist of the following:

(a) Central Register of Protection Cases.

A Central Register shall be established as a component of the Commonwealth Center which shall consist of an integrated information system of all incidents of abuse, institutional abuse, neglect, and institutional neglect. This Central Register shall be organized to allow identification of previous referrals and previous protection cases, the status thereof, and to periodically analyze statistical data and any other information that allows assessment of the effectiveness of service programs.

The Central Register shall contain, but shall not be limited to:

- i. any information in any written report confirming abuse, institutional abuse, abuse by neglect, and abuse by institutional neglect;
- ii. services provided and accepted;
- iii. rehabilitation treatment plan;
- iv. the name, date, and other data regarding any person who requests or receives information from the Central Register; and
- v. any other information that may be useful to achieve the purposes of this Act.

(b) Hotline for Situations of Abuse, Institutional Abuse, Neglect, and Institutional Neglect

The Department shall operate a special toll-free communications system attached to the Commonwealth Center for the Protection of Minors, to be known as the “Hotline For Situations of Abuse, Institutional Abuse, Neglect, and Institutional Neglect,” whereby any person shall be able to report situations of child abuse, institutional abuse, neglect, and institutional neglect twenty-four (24) hours a day, seven (7) days a week. All abuse, institutional abuse, neglect, and institutional neglect referrals shall be investigated at any time of the day or night, any day of the week.

(c) Information Services through the Hotline

The Department of the Family shall establish a special toll-free communications system attached to the Commonwealth Center for the Protection of Minors, to be known as the Information Hotline and that shall offer professional counseling to any person or family that requests such service.

(d) Interagency and Interstate Services Office

The Department of the Family shall establish an Interagency and Interstate Services Office that shall coordinate any services needed by families to achieve appropriate social behavior with agencies in Puerto Rico and the United States. This office shall:

(1) Provide information and coordinate service programs offered by the Department of the Family with agencies outside Puerto Rico;

(2) Collaborate in the identification and evaluation of families being considered for the placement of children;

(3) Collaborate in the evaluation of homes for the placement of children in Puerto Rico, the United States, and its territories;

(4) Coordinate the preparation of social research on custody and the supervision of resource families.

(5) Identify the programs, resources, and services available for families and children in the agencies and municipalities.

**Section 9.- Family Support and Education Multi-Sector Community Board**

The Family Support and Education Multi-Sector Community Board is hereby created for the purpose of coordinating, supporting, and promoting collaboration efforts between government agencies and nongovernmental organizations to guarantee the most effective and efficient attention to abuse, institutional abuse, neglect, and/or institutional neglect cases. It shall also provide and promote prevention, support, and treatment services to minors who are victims of abuse and/or institutional abuse and to their families, and shall support community efforts to such end. For such purposes, it shall plan, outline strategies, foster investigation and audits, and develop action plans with task forces directed in different topics.

The Board shall be chaired by the Secretary of the Department of the Family and shall include the Secretaries of each of the agencies to which responsibilities are delegated under Section 7 of this Act – except for the Juvenile Institutions Administration, which shall be represented by the Department of Corrections – or representatives thereof with decision-making power; a representative of the College of Social Work Professionals; a representative of the private sector; a representative of non-profit and faith-based organizations; and a representative of the University of Puerto Rico. All of these members shall have work history or knowledge in providing care, shelter, counseling, treatment, or other services for at-risk populations or for surviving victims of child abuse and their families. The members of the Board who represent the College of Social Work Professionals, the private sector, non-profit and faith-based organizations, and the University shall be appointed by the Secretary for a six (6)-year term.

The Board shall have the following obligations:

a. To promote compliance by the agencies of the Government of Puerto Rico with the obligations imposed thereto for the implementation of this Act.

b. To facilitate the approval and compliance of interagency cooperation agreements and agreements with other nongovernmental organizations to facilitate an integrated effort for the prevention of child abuse and to provide services for the comprehensive well-being and protection of children in accordance with the public policy stated herein.

c. Create family support and education multi-sector community centers, which shall have the technology and resources to provide counseling to the population in need thereof, as well as training in life skills, among others.

d. Conduct educational campaigns to promote values such as tolerance of differences, equality, solidarity, respect, participatory dialogue, human rights, and civic competence, among others.

e. Develop and implement educational curricula of interest to families through the use of different pedagogical strategies, as well as the training of resources in all sectors to be agents of change where they work and meet.

f. Outline strategies to provide continuous education to the general public that serve as work experience, incorporate interns in community centers, and provide spaces and technological support for these groups, among other strategies.

g. Identify enterprises with a community component that may join in the education and prevention efforts.

h. Enter into collaboration agreements to finance the marketing and development of the projects to be implemented. Incorporate the banking sector, so they may invest in community services and projects aimed at strengthening family bonds through the different programs available.

i. Encourage the participation of sponsors from the private sector, so that they may provide financial support for the creation of cooperatives or microbusinesses to offer services to families in their own communities. At the same time, that they may offer training workshops directed to anger management, conflict management, prevention of child abuse, prevention of animal abuse, gender equality, decision-making, savings, effective intra family planning, education and adequate management of persons with special needs, and reconstituted families, among others.

j. Create a support network to address the emotional and physical needs of people in their homes. The purpose of the foregoing is to foster social responsibility in all persons and to maximize financial resources, so that the State does not have to bear the financial burden of all these needs.



k. To serve as a forum for harmonizing the procedures, visions, practices, and perspectives adopted by the different government agencies to address and intervene in cases of abuse, and/or institutional abuse, neglect, and/or institutional neglect.

l. To promote interdisciplinary and interagency training of personnel in each of the government agencies that address and intervene in cases of abuse, and/or institutional abuse, neglect, and/or institutional neglect.

m. To facilitate the communication and participation of nongovernmental, community, service, and professional organizations with scientific, technical, or specialized knowledge and training in the prevention, investigation, identification, counseling, treatment, and other services directed to at-risk populations or the surviving victims of abuse, and/or institutional abuse, neglect, and/or institutional neglect.

n. Evaluate the effectiveness of the Department in meeting its responsibilities to protect children in accordance with the State Plan.

o. Coordinate with the foster homes and adoption systems in accordance with the applicable regulatory and legal provisions.

p. Evaluate the procedures of the Department to address child protection situations through professional services in order to have a more integrated view thereof.

The Secretary shall establish through regulations the functions of the Board, as well as the regions where the same shall be established, in order to guarantee its proper operation. Likewise, the provisions of this Act on confidentiality shall include the work performed by this Board and each of its members.

## **Section 10.- Adoptive Homes**

When reunification of the family or of a qualified family resource, as defined in this Act, is not possible, the Secretary shall be responsible for promoting placement in adoptive homes to ensure the stability, safety, and well-being of the children in its custody, pursuant to the provisions of Act No. 186-2009, known as the “Comprehensive Adoption Proceedings Reform Act of 2009.”

## **Section 11.- Prevention of Violence**

Violence, in any of its manifestations, is an extremely complex phenomenon rooted in the interaction of different social, cultural, economic, and political factors.

The Department shall develop and provide educational programs on peaceful coexistence and child-rearing for individuals of all ages and social groups, to be disseminated through mass media.

These programs shall be aimed at: (1) developing responsible awareness of the abuse issue; (2) enabling and securing coexistence, child-rearing, and discipline without violence, based on the values of love, solidarity, and peace that are consistent with respect for the human rights of everyone, including children; (3) transforming violent attitudes and behavior and promoting the values of solidarity, love, and peace to counter cultural tolerance for violence in all aspects of life, especially in coexistence and child-rearing; (4) promoting multi-sector participation that incorporates families, communities, and organizations in violence prevention programs; and (5) helping victims of domestic violence and child abuse identify and seek support resources or services so they may break the abuse cycle as soon as possible.

Furthermore, it shall develop and implement a continuing education program for employees that provide services to families. The program shall include aspects of prevention, investigation, evaluation, and management of situations of abuse, among others. The Department shall also develop and implement education and orientation programs for personnel and officials with reporting duties.

The Department shall have the duty to encourage the development and improvement of government programs and activities, as well as those of other private or privatized entities, community groups, and non-governmental organizations, so they may share the responsibility to prevent and address situations of abuse. Likewise, it shall coordinate existing programs and carry out, support, and foster the development of educational and research projects.

### **Protective Measures for Minors**

#### **Section 12.- Protective Measures**

Protective measures for minors shall be construed to be the actions taken by the State to guarantee the minors' safety, well-being, and the reinstatement of their impaired rights, with the purpose of reestablishing their human dignity and integrity.

#### **Section 13.- Obligation to Ensure the Well-being and Safety of Minors**

Ensuring the well-being and safety of children and youths is the responsibility of the State. Public authorities are required to report any situation of risk or vulnerability in which children or youths are involved to the appropriate authorities. Whenever this happens, the competent authority shall ensure that the Department of the Family intervenes immediately, so as to guarantee its involvement in the services the minors need.

#### **Section 14.- Verification of Safety and Well-being**

In all cases, the competent authority shall immediately ascertain the safety and well-being of minors, as well as each and every one of their rights. It shall verify:

1. their physical and psychological health.
2. their nutritional condition and vaccination status.
3. the location of the family of origin.
4. the study of the family environment and the identification of protective and risk factors to ensure the minors' rights.
5. their engagement in the health system.
6. their engagement in the school system.

An express statement shall be prepared regarding the foregoing, which shall serve as a basis to define the appropriate measures for reinstating the minors' rights. If the competent authority becomes aware of the possible commission of a crime, it shall report the same to law enforcement authorities.

#### **Section 15.- Measures to Ensure the Protection, Safety, and Well-being of Minors**

In order to guarantee the minor's rights as provided in this Act, the Social Worker of the Department shall make an analysis based on the scientific process of observation and assessment of information, intervention models, and theoretical frameworks and, at his/her discretion, shall take one or more of the following measures:

1. Establish a safety plan, with which the legal guardian of the minor shall comply.
2. Order the immediate removal of the minor from activities that may threaten or impair his/her rights, and from illegal activities in which he/she may be

involved. The minor may be placed in a specialized attention program so that he/she may receive any warranted services.

3. Order the immediate removal of the minor from the home where he/she is. In this case, the Department may keep the minor for up to seventy-two (72) hours without having to appear in court. However, the minor shall be placed in the home of a qualified relative, as provided in Section 17 of this Act, or in a duly qualified and licensed foster home.

4. In those cases in which the minor cannot be placed in “foster homes,” he/she may be temporarily placed in licensed centers.

5. Adoption, if parental rights have been terminated as provided in this Act.

6. Initiate any appropriate criminal, administrative, or legal action.

7. In addition to the foregoing, measures set forth in other legal provisions shall be applied, or any other that guarantees full protection for minors.

### **Section 16.- Safety Plan**

If the Department provides a safety plan and the parents or legal guardian refuse to accept the same, the child or children shall be removed immediately and the social worker shall take the case before a judge within seventy-two (72) hours after the removal of the child or children. Parent-child relations shall be suspended during this time.

In the event that the parents or legal guardian of the child or children agree to sign the safety plan, he/she must faithfully comply therewith. Noncompliance with the plan shall lead to the child’s or children’s immediate removal. The social worker shall take the case before a judge within seventy-two (72) hours after the removal of the child or children. Parent-child relations shall be suspended during this time.

### **Section 17.- Placement with a Family Resource**

When a minor is removed, he/she may be placed with a family resource only if that home can guarantee his/her safety and well-being, and insofar as such resource does not have a history of abuse and is not related to the allegations, facts, or situations prompting the protective action of the government. If there is more than one family resource that has been qualified as safe and proper for the welfare of the child, the non-custodial parent shall be considered first; the maternal or paternal grandparents shall be considered second; any adult and independent siblings, third; and, fourth, any other family resource that proves to be the safest and most beneficial for the child. In such cases in which it cannot be immediately determined whether a family resource can guarantee the safety and well-being of the child or children, such child or children shall be placed in foster homes.

### **Section 18.- Placement in a Foster Home**

Placement in a foster home entails the immediate and temporary placement of a child or youth with families within the foster home network. This measure shall be taken when parents, relatives, or persons responsible for their care are not available, or whenever the social worker determines that the foregoing cannot guarantee the safety and well-being of the child or children.

Placement in a foster home is a temporary measure and its duration shall not exceed the term necessary to place the child or children or youth in a permanent home.

### **Section 19.- Foster Home Network**

The Foster Home Network is construed to be a group of families registered in the State-funded child protection program, which are willing to receive minors voluntarily and immediately, so as to provide them with the necessary care in a temporary manner.

These homes shall not be entitled to adopt a minor under their care unless they are registered in the Commonwealth Voluntary Adoption Registry (REVA, Spanish acronym), have been recommended by the Adoption Center of the Department of the Family, and when parental rights for such minor have been terminated.

### **Section 20.- Permanency Plans**

Permanency plans shall be prepared and established by the social worker and their Family Services Technician assigned to the case, the supervisor of the social worker assigned to the case, and the Associate Director. The main goal of the permanency plan shall be to:

- (a) Ensure that every child placed in a physical facility outside of his/her home may find a family according to his/her needs and specific situation.
- (b) Review the plan whenever necessary to adjust it to the child's needs.
- (c) Make sure that the permanency plan is carried out as soon as possible, within a term that shall not exceed twelve (12) months after a child is removed from his/her home.
- (d) Request the discussion of the case with agency personnel and the multidisciplinary professional team.
- (e) Suggest alternatives in situations in which the permanency plan is not considered to be consistent with the child's specific needs and those of his/her biological family.
- (f) Any and all other functions prescribed by regulations.

It shall be the duty of the Associate Director to prepare statistical reports of the work carried out in each permanency plan. This group of officials may reach decisions by a simple majority; provided, that the social worker or the Family Services Technician are present for such decision-making.

**CHAPTER III**  
**ADMINISTRATIVE PROCEDURE**

**Section 21.- Citizens' Obligation to Report**

All persons shall be required to immediately report cases of actual or suspected child abuse, institutional abuse, neglect, and/or institutional neglect, or if a child is at risk of being a victim thereof.

Any person who, in the performance of his/her professional responsibilities or employment, has knowledge of or watches any film, photograph, videotape, negative, or slide that depicts a minor involved in a sexual activity shall report that fact immediately to the Department through its Abuse Hotline, to the Puerto Rico Police Department, or to the local office of the Department. Any film, picture, videotape, negative, or slide that depicts a minor involved or participating in a sexual act shall be surrendered to the nearest station of the Puerto Rico Police.

The information furnished by virtue of this Section, as well as the identity of the person who furnishes the same, shall be kept strictly confidential, except in cases of unsubstantiated reports in which false information has been knowingly provided.

Information provided in good faith by any person, official, or institution required to furnish information regarding child abuse, institutional abuse, neglect, and/or institutional neglect, as provided in this Act, may not be used against him/her/it in any civil or criminal proceedings that may be initiated as a result of said action. The information reported by school or hospital employees and law enforcement officers who are required to allow the Department to intervene pursuant to the provisions of Section 7 of this Act may not be used against them, either.



## **Section 22.- Evidence, Photographs, Radiological and Dental Exams, Laboratory Tests**

Any professional and/or official required to provide information on any case of abuse, institutional abuse, neglect, and/or institutional neglect, as well as any protection case worker, may take photographs or have photographs taken of the areas where the child suffered trauma and, if medically indicated, have any necessary radiological or dental exam, laboratory test, or any other medical examination of the child performed or ordered without the consent of the father, mother, or person responsible for the well-being of said child in those cases in which they oppose the performance of the same or are unavailable at the time. Taking photographs of the site where the abuse, institutional abuse, neglect, and/or institutional neglect has occurred is also authorized.

Photographs, radiological or dental exams, laboratory tests, or any other necessary medical examination shall be taken or performed in such a way that the child's condition is not aggravated or his/her dignity is not violated, and shall be sent to the Department as soon as possible. The Department shall defray the initial cost of evaluation and care of the allegedly abused or abandoned child, and may require the father, mother, or person responsible for the child to reimburse such cost. Moreover, it may require the participation of other agencies, so they may contribute with defraying the cost of necessary care services. This evidence shall be available to initiate criminal proceedings for violations of the provisions of this Act or other related statutes.

## **Section 23.- Emergency Custody**

Any State or municipal police officer; social worker, or technician especially designated by the Department, school principal, teacher, school social worker, behavioral health professional, physician, official of the Commonwealth Emergency Management Agency, and physical or mental health professional who

has a minor under treatment shall have emergency custody without the consent of the father, mother, or person responsible for such minor whenever he/she has knowledge or suspects that there is imminent risk to the safety, health, and physical, mental, or emotional integrity of the minor, and when one or more of the following circumstances occurs:

(a) The father, mother, or person responsible for the minor is not available, despite efforts to locate him/her, or does not consent to have the minor removed;

(b) If notifying the father, mother, or person responsible for the minor would increase the imminent risk of serious harm to said minor or to another person;

(c) The nature of the risk is such that there is no time to petition the court for custody.

The person in charge of a hospital or similar medical institution shall assume emergency custody of a minor whenever he/she has knowledge or suspects that the minor has been a victim of abuse, institutional abuse, neglect, and/or institutional neglect; whenever he/she deems that the facts justify doing so, even though additional medical treatment is not required; and even if the father, mother, or person responsible for the child demands that the latter be returned to him/her.

Any person who assumes emergency custody of a minor shall immediately report this fact to the Abuse Hotline of the Department, as provided in this Act. The Department shall take the necessary protective measures for the minor and address the need for placement. Emergency custody shall not be assumed by any prison, juvenile institution, or any other place for the detention of juvenile delinquents or offenders.

Emergency custody as referred to in this Section may not exceed seventy-two (72) hours, except in those cases in which court authorization has been

requested and obtained through the procedures set forth in this Act, or when it has not been possible to obtain said authorization because the court is in recess.

#### **Section 24.- Interviewing Minors without Prior Notice**

The Department may interview a minor without the need of a court order and without prior notice to the father, mother, or person responsible for the minor when it has knowledge of or suspects that such minor is a victim of abuse, institutional abuse, neglect, and/or institutional neglect, and that notifying the father, mother, or person responsible for the minor would increase the risk of serious harm to the minor or to another person. The Department may also conduct an initial interview with the minor when the latter herself contacts the Department or through a person who provides protective services.

The interview may be held in a public or private school, hospital, police station, or any other place where the safety of the minor can be guaranteed. School principals, supervisors, teachers, and other school employees shall allow Department representatives to meet with and interview the minor during school hours. They shall provide an appropriate place and conditions to ensure the confidentiality of the process.

#### **Section 25.- Rights of the Subject of the Report**

The subject of the report shall be entitled to request the Department, in writing, that a copy of the information about his/her case found in the Central Register be provided to him/her. The Secretary, or the person designated by him/her, shall furnish such information insofar as this does not go against the best interests of the minor, and if the necessary steps have been taken to protect the confidentiality of the person who, in good faith, reported the case or cooperated during the investigation thereof.

If the information request is denied, the person affected by the Secretary's decision may resort to the Court of Appeals within a period not to exceed thirty (30) days after the decision is notified.

As for referrals for which no grounds were found, the subject of the report may request in writing that his/her name be amended or deleted from the Register within thirty (30) days after being notified that grounds were not found. The Commonwealth Center for the Protection of Minors shall have thirty (30) days after receiving the request to act thereon. If the request is denied, or if the Center fails to act thereon, the subject of the report shall have thirty (30) days to file his/her petition for review with the Court of Appeals. This thirty (30)-day term shall begin on the date of notification by the Commonwealth Center for the Protection of Minors, or when the term expires for the Center to act on the petition to eliminate or amend made by the subject of the report.

#### **Section 26.- Confidentiality of Reports and Records**

All records related to protection cases, including reports from any office or public, private, or privatized entity that are generated while enforcing this Act shall be confidential and shall not be disclosed, except in those cases or circumstances specifically authorized by this Act.

#### **Section 27.- Persons with Access to Records**

No person, official, officer, employee, or agency shall have access to records, except to comply with purposes directly related to the administration of this Act or by virtue of a court order. As an exception, said records, without necessarily entailing the delivery of copies, may be accessed by:

(a) The official or employee of the Department or agency that renders direct services, when it is for purposes of performing the functions assigned to him/her under this Act.

(b) The Advocate for Family Affairs, the Advocate for Minors' Affairs, the prosecutors and agents of the Specialized Sex Crimes, Child Abuse, and Domestic Violence Unit, in any case in which the commission of acts that constitute crimes related to this Act is being investigated.

(c) The physician or behavioral health professional who renders direct services to a minor in protection cases under this Act.

(d) The court, if it is determined that access to the records is necessary to resolve a dispute related to the well-being of the minor, in which case, access shall be limited to examination by the judge in chambers.

(e) Any behavioral health or health professional contracted by the Administration for Families and Children of the Department of the Family who provides abuse assessment, validation, and treatment services in cases of child sexual abuse in multidisciplinary centers or programs affiliated to such agency.

No person authorized to receive confidential information pursuant to the provisions of this Act may disclose said information. This prohibition shall not include the subject of the report, Advocates for Family Affairs, prosecutors, Advocates for Minors' Affairs, or police officers, when the information obtained is to be used in judicial or administrative proceedings.

Information obtained by virtue of a procedure covered under this Act may only be used for the benefit of the minor and in cases related to this Act. None of these provisions shall be construed as to alter the rules and procedures related to court files or those of the Criminal Justice System of Puerto Rico.

### **Section 28.- Administrative Hearing**

Whenever an administrative hearing is to be held pursuant to this Act, it shall be chaired by the person to whom the Secretary delegates such function. Proceedings shall be carried out so as to allow the parties to submit all the evidence deemed necessary, introduce witnesses, examine the witnesses of the other party,

and argue their cases. The parties may be represented by attorneys, if they so desire.

### **Section 29.- Petition for Reconsideration**

A party that is adversely affected by a resolution or a partial or final order may, within a term of twenty (20) days from the date on which the notification of the resolution or order was filed in the record, file a motion for reconsideration of such resolution or order.

### **Section 30.- Judicial Review**

A party that is adversely affected by an order or final resolution of the Department and has exhausted all the remedies provided by the same may file a petition for review with the Court of Appeals within a term of thirty (30) days from the date on which a copy of the notification of the Department's order or final resolution is filed or as provided in the Uniform Administrative Procedures Act.

## **CHAPTER IV**

### **JUDICIAL PROCEEDINGS**

#### **Section 31.- Legal Actions**

When the investigation conducted shows that a situation of abuse, institutional abuse, neglect, and/or institutional neglect exists, the social worker of the Department of the Family may appear before the Court of First Instance, which shall have jurisdiction to issue protection orders; grant temporary, permanent, or emergency custody; terminate the parental rights of the minor's father and/or mother, as requested, and any other remedy that guarantees the best interests of the minor.

#### **Section 32.- Legal Representation**

During judicial proceedings in cases of child abuse, institutional abuse, neglect, and/or institutional neglect, the defendant may appear together with his/her attorney. However, legal representation shall not be mandatory. Defendants may waive their right to an attorney at any time, including when waiving custody and parental rights.

The interests of a minor who, as alleged in court, has been the victim of abuse, institutional abuse, neglect, and/or institutional neglect shall be represented by an Advocate for Family Affairs, appointed by the Governor for that purpose, who shall also have the ministerial duty to keep the minor informed of the most relevant aspects of his/her case, to the extent that his/her intellectual and emotional abilities so allows.

**Section 33.- Public Access**

The public shall not have access to the courtrooms where proceedings conducted under this Act are held.

**Section 34.- Privileged Communications**

There shall be no privileged communications in proceedings for child abuse, institutional abuse, neglect, and/or institutional neglect under this Act, except between attorney and client, as provided in the Rules of Evidence of Puerto Rico. Privileged communications, excluding attorney-client communications, shall not constitute grounds for failing to provide reports such as those required or allowed by this Act, to cooperate with protective services for the minor in the activities contemplated in this Act, or to accept or introduce evidence in any judicial proceedings related to the child abuse, institutional abuse, neglect, and/or institutional neglect.

**Section 35.- Summons**

Any summons to hearings shall be issued by the Clerk of Court and shall require any person to whom the summons is addressed to appear in court at the specified date, time, and place, under penalty of contempt. The summoned party shall be advised of his/her right to appear with an attorney in cases that so allow it. The judge may summon any person in open court.



### **Section 36.- Failure to Appear**

If the summoned person fails to appear, the court shall order that he/she be held in contempt and may issue the resolution or order that is legally pertinent.

### **Section 37.- Emergency Procedures**

When emergency custody has been obtained pursuant to the provisions of Section 23 of this Act, or when the child's situation poses a risk to his/her safety, health, or physical, mental, or emotional integrity, the Department's social worker or Family Services Technician may appear and, in a general, brief, and simple manner, using the form drafted to such effect by the Office of Courts Administration, testify under oath before a judge of the Court of First Instance as to the specific facts that warrant requesting the protection of the child by removing him/her from the home.

The court shall make the determination it deems to be in the best interests of the child, including an order granting emergency custody to place the him/her immediately under the custody of the Department, to provide him/her with necessary medical treatment, to have provisional child support assigned for his/her benefit, and any other order that the judge deems shall best ensure his/her well-being. The child shall not be taken outside the jurisdiction of Puerto Rico unless a court order is issued to that effect.

The Court shall be under the obligation to grant temporary custody to the Department if either the testimony given or the petition shows that the actions carried out by the mother, father, or legal guardian so warrant it, or that there is a risk to the safety or well-being of the child.

In cases where temporary emergency custody is denied by a Municipal Court Judge, the interested party may appear before Family Court at the Superior Court of the Court of First Instance to request an ordinary hearing for the custody of a child within twenty (20) days after the determination is issued.

### **Section 38.- Notification of the Order for Removal**

Any order for removal issued by a judge shall be notified simultaneously to the father, mother, or person responsible for the minor, to the local office of the Department, to the Office of the Advocates for Family Affairs and for Minors' Affairs assigned to the corresponding judicial region, and to the Family or Children Division of the Court of First Instance within seventy-two (72) hours of its issuance.

### **Section 39.- Custody Ratification Hearing**

Within fifteen (15) days after the Municipal Court grants emergency custody to the Department of the Family, the Family Court of the Court of First Instance shall hold a ratification hearing.

For cases in which the petition for custody has been denied, the ratification hearing shall be held within five (5) days as of the date in which the interested party requested the hearing.

If, after considering the evidence introduced during the hearing, the Court finds that the circumstances that caused the removal and award of emergency custody still exist, or that there are other conditions that require said action, it may award temporary legal custody to the Department. In this case, since this is an administrative determination, physical custody shall be assigned to the person designated by the Department by order of precedence.

In those cases in which the Department notifies that it shall seek a waiver of efforts for reunification, the Court may hold the Waiver of Reasonable Efforts Hearing jointly with the Custody Ratification Adjudication Hearing.

### **Section 40.- Medical Treatment and Other Issues**

In order to provide any medical treatment to a minor, with the exception of surgery, the authorization of the parents shall not be necessary. When a surgical procedure or surgery is needed, authorization from only one of the parents with

parental rights over the minor shall be necessary. In the event that both parents refuse to give their consent for such treatment, any relative, as well as the physician or official of the hospital where the minor is hospitalized or receiving treatment, or a social worker or Family Services Technician of the Department of the Family may petition the court for an order to authorize medical treatment for said minor. If the petition is made by someone other than the minor's physician, a certificate from the physician who will provide the treatment to the minor must be enclosed, which shall include a brief description of the treatment and the need and urgency to provide the same. The physician shall be available for questioning by the court.

The Department shall be empowered to authorize any medical treatment and/or surgical procedures needed by the minor without prior authorization only in emergency cases.

The Department shall also have the power to make decisions or authorize the performance of any act that will benefit the minor, such as, for example, granting permission for the minor to leave Puerto Rico on vacation or to participate in sports, recreational, or educational activities.

#### **Section 41.- Follow-up Hearing**

In every case of termination of custody, the Department shall inform the court whether family reunification is feasible considering the best interests, well-being, and safety of the child. If reunification is feasible, it shall state the reasonable efforts that have been made to keep the family together.

The Department shall submit the periodic evaluation reports that are required by the court. Said evaluation reports shall include information on the condition and physical and/or emotional progress of the child, as well as the services provided to the family, father, mother, or person responsible for the minor. These reports shall also include pertinent recommendations as to the length,

modification, or termination of the service plan or the reasonable efforts made according to the results obtained in the process of providing support and help to the families. However, if the Department certifies and provides evidence to the court during this hearing showing that the family, father, mother, or person responsible for the child will not comply or is not interested in continuing with the previously established permanency plan, the judge shall turn the follow-up hearing set forth in this Section into a final disposition hearing according to Section 42 of this Act.

### **Section 42.- Final Disposition Hearing**

The court shall hold a disposition hearing within a period that shall not exceed six (6) months after having awarded temporary custody of the child. This term may only be extended once, for an additional six (6) months, when causes that justify it exist and is in the best interest and well-being of the child.

Every decision providing the return of the child to his/her home must be supported by a report prepared by a social worker, psychologist, or psychiatrist duly licensed in Puerto Rico, or a case worker trained in child protective services. The Department shall be responsible for submitting a report to the Court's consideration in every final disposition hearing, which report shall comply with the provisions of this Section. If the child's return to his/her home is recommended, the report shall reasonably conclude that the conditions of risk that were present at the time of said child's removal no longer exist and, thus, his/her return does not endanger the well-being, health, or physical, mental, emotional, or sexual integrity of the child. However, in those cases in which the court lacks such report, it may rule for the return of the child to the home from where he/she was removed if, upon evaluation of the evidence available, it can determine that his/her return does not constitute a risk to his/her safety and best interests.

In those cases in which the court determines that it is not advisable to return the child to the home from where he/she was removed, or to another relative's home according to precedence, custody shall be awarded to the Department, or a proceeding may be initiated for termination of parental rights pursuant to the provisions set forth in this Act. The court shall also make any other necessary determination for the child's safety, taking his/her best interest into consideration.

#### **Section 43.- Right of the Minor to Be Heard**

In any proceedings under this Act, the minor shall have the right to be heard. The judge may interview him/her in the presence of the Advocate or a social worker of the Court. The testimonies given shall be part of the case file. However, they shall not be part of the record and shall remain sealed. The court may admit and consider the written or oral evidence in the statements given outside the court by a minor, and shall assign such evidence the probative value it warrants. The court may also obtain the testimony of a minor using the closed-circuit system when, after a hearing, the court considers it appropriate.

#### **Section 44.- Rights of Grandparents and Siblings of Legal Age who are not Dependents of the Parents in Proceedings for the Protection of Minors**

The grandparents of a minor may request to be heard in any proceedings for the protection thereof. The court shall grant the right to be heard when it determines that the grandparents maintain a relationship with the minor or have made sufficient efforts to establish one, and that allowing them to be heard is consistent with the purpose of this Act to seek the best interests of the minor. However, grandparents shall not be entitled to intervene or become an intervener in the proceedings.

Siblings of legal age who are not dependents of the parents may request to be heard in any proceedings for the protection of minors. The court shall grant the right to be heard when it determines that the siblings maintain a relationship with

the minor or have made sufficient efforts to establish one, and that allowing them to be heard is consistent with the purpose of this Act to seek the best interests of the minor. However, siblings shall not be entitled to intervene or become interveners in the proceedings.

**Section 45.- Rights of Foster Homes to Request to Be Heard in Proceedings for the Protection of Minors**

Persons in charge of foster homes or who have had a minor in their care for a term exceeding six (6) months may be heard, at the discretion of the court, in any proceedings for the protection of a minor who lives or has lived in their home, so that they may provide evidence of the physical, emotional, mental, or sexual integrity of such minor while in their care, but they shall not be deemed to be a party thereto. The court shall make a determination with regards to the request, taking the best interests of the minor into account.

In the case of proceedings related to the placement of a minor for adoption pursuant to the provisions of Act No. 186-2009, known as the “Comprehensive Adoption Proceedings Reform Act of 2009,” persons in charge of foster homes shall not be heard nor be involved in any way in proceedings given the incompatibility of their function with the State’s objective to promptly identify a potential adoptive father or mother for a minor waiting to be adopted.

**Section 46.- Rights of Pre-Adoptive Homes**

In the case of pre-adoptive homes that meet the requirements established in Act No. 186-2009, known as the “Comprehensive Adoption Proceedings Reform Act of 2009,” they shall have the right to participate in any proceedings for the protection of the minor in their care.

### **Section 47.- Medical, Physical, and Mental Exam**

At any stage of the proceedings, the court may order that a minor, father, mother, or person responsible for the minor who had his/her custody at the time of the alleged abuse, institutional abuse, neglect, and/or institutional neglect, as well as any party to the proceedings or the person who requests custody or care of a minor, undergo a mental or physical exam pursuant to Rule 32 of the Rules of Civil Procedure of Puerto Rico.

### **Section 48.- Reports**

Before ruling on any incident in a protection case, the court shall have a report before it including the minor's information, his/her relatives, their circumstances, and any other information that shall allow the court to properly rule in the best interests of the minor.

In any judicial proceedings related to protection cases referred to in this Act, the court shall consider social and medical expert reports as evidence.

Family Services Technicians and social workers of the Department, as well as experts and/or physicians who have treated or evaluated a minor, shall file their reports with the court and with the Advocate for Family Affairs within a period of at least ten (10) days prior to any scheduled hearing. Medical reports, as well as the social report, shall be confidential unless the court finds that there is just cause to disclose the information. The legal representatives of the parties shall be notified with copies of the reports for their examination on the same date they are submitted. Said reports shall be admitted into evidence pursuant to the provisions of the Rules of Evidence of Puerto Rico. The parties entitled to obtain copies of the reports shall be responsible for keeping their contents strictly confidential and shall limit their use to the procedure established by virtue of this Act.

## **Section 49.- Reasonable Efforts**

After removing a minor from his/her home, the Department shall make reasonable efforts to reunify such minor with the family from which he/she was removed whenever feasible and if the safety, well-being, and best interest of the minor can be guaranteed. Personnel of the Department shall incorporate the support resources from individuals, the family, and the community, as well as the internal and external resources of the Department and other public and nongovernmental agencies, to improve the living conditions of the family that may endanger the life and safety of a minor.

In cases in which reasonable efforts must be made, the determination on the reasonability of such efforts shall be made by the court, taking into consideration whether the Department made a service plan available to the father, mother, or person responsible for the minor to address the specific needs identified, as well as the Department's diligence in providing such services, and any other element that the court deems necessary.

After removing a minor from his/her home, reasonable efforts shall be made to reunify the minor with his/her family for a period that shall not exceed six (6) months. Moreover, support services shall continue once the minor is permanently placed.

Reasonable efforts shall not be made to reunify the minor with his/her father, mother, or person responsible for him/her if the following circumstances exist:

(a) If the efforts to change the behavior of the father, mother, or person responsible for the minor have not been successful after six (6) months of the initiation of the service plan, according to the evidence presented in the case.

(b) When a father, mother, or person responsible for a minor has stated that he/she has no interest in being reunified with the minor.



(c) When a healthcare professional certifies that the father, mother, or person responsible for the minor suffers from a mental disability or defect of such magnitude that it prevents him/her from benefiting from reunification services and will not be able to properly care for the minor.

(d) If the minor has been previously removed from his/her home and, after custody of the minor has been awarded to the father, mother, or person responsible for him/her, the minor, a sibling, or any other member of the family unit is once again removed for having been the victim of abuse and/or neglect.

(e) If parental rights over another of the parent's children has been terminated and they have been unable to resolve the problems that led to such termination.

(f) If the father, mother, or person responsible for the minor engages in conduct that involves using the minor to commit a crime or in conduct(s) that, if criminally prosecuted, would constitute any of the following crimes: murder in the first or second degree; aggravated battery or mitigated aggravated battery; sexual assault; lewd acts; sex trafficking; production of child pornography; possession and distribution of child pornography; use of a minor for child pornography; sending, transporting, selling, distributing, publishing, exhibiting, or possessing obscene material; obscene shows and exposure of children to such crimes; kidnapping and aggravated kidnapping; abandonment of minors; child abduction; or child corruption, as classified in the Penal Code of Puerto Rico.

(g) If the father, mother, or person responsible for the minor is an accomplice, covers up, or conspires to commit one or several of the crimes listed in subsection (f) above, as classified in the Penal Code of Puerto Rico.

(h) If the father, mother, or person responsible for the minor engages in conduct that, if criminally prosecuted, would constitute aiding and abetting, attempting, conspiring for, soliciting, or prompting the commission of crimes that attempt against the health and physical, mental, or emotional integrity of such minor, as provided in the Penal Code of Puerto Rico;

(i) If the father, mother, or person responsible for the minor uses or prompts the child or youth to engage in conduct that, if criminally prosecuted, would constitute aiding and abetting, attempting, conspiring for, soliciting, or prompting the commission of crimes set forth in subsections (f) and (h) of this Section.

(j) If the father, mother, or person responsible for the minor engages in obscene conduct, as defined in the Penal Code of Puerto Rico;

(k) When a healthcare professional certifies that the father, mother, or person responsible for the minor suffers from a chronic controlled substance abuse problem that prevents the return of the minor's custody to him/her within a period of six (6) months after having initiated the procedures.

(l) Whenever it is determined that returning home is not in the best interest of the child or youth, or whenever the facts show that the home cannot guarantee the safety and protection or emotional stability thereof.

(m) When, in light of all the circumstances, the court determines that family reunification shall not be the best for the minor's well-being.

In the cases of subsections (d) to (m), once the facts have been proven, the court shall have no discretion and shall grant a waiver of efforts to the Department.

In those cases in which the court determines that no reasonable efforts shall be made, a permanency hearing for the minor shall be held within fifteen (15) days following such decision.

## **Section 50.- Reasonable Efforts in Cases of Abuse or Neglect and Domestic Violence**

In situations of domestic violence in which the victim is not the perpetrator of the child abuse, the provisions of this Act shall not be construed to entail the removal of minors from their home without first making a reasonable effort for their protection, as well as that of the persons undergoing domestic violence.

When intervening in cases of abuse or neglect where a pattern of domestic violence has also been identified, technicians, case or social workers, or other aid professionals in charge of investigating and addressing situations of abuse, together with their supervisor and making use of their professional criteria in the screening process, must provide and coordinate protective and support services for surviving victims of domestic violence, such as helping to place them in a shelter, contacting the police, obtaining a protection order, advising them of their rights, making an effort to remove the aggressor from the home, among other measures. The victim must also be made aware of the impact of violence on children.

After giving the victims the opportunity to understand all their options and all the services available to them, the appropriate actions shall be taken, so that the aggressor stays away from his/her victims and assumes the responsibility for his/her violent behavior. These actions shall be taken as part of the efforts needed to protect the victims. In cases where it is necessary to remove custody of the minors from the surviving victim of domestic violence, the latter must be informed of his/her rights and options, including his/her right to be represented by an attorney during the entire process.

## **Section 51.- Termination, Restriction, and Suspension of Parental Rights**

In any proceedings initiated to protect a minor who has been the victim of abuse and/or neglect as defined in this Act, or when the circumstances described in Section 166B of the Puerto Rico Civil Code are present, the Department may petition for the termination, restriction, or suspension of the parental rights of the father or mother of minors under *de jure* or *de facto* custody of the Department through a written motion without having to initiate a termination suit. In such cases, it shall be mandatory to hold a hearing within a term not to exceed fifteen (15) days from the notice of the petition for termination, restriction, or suspension of parental rights. In said petition, the parties shall be notified of their right to legal counsel. The father and/or mother may waive parental rights without being represented by each counsel. For the termination, restriction, or suspension of parental rights when the petition filed during proceedings on child abuse or neglect initiated by virtue of this Act, it shall not be necessary to meet the requirement for summons as provided in the Rules of Civil Procedure of Puerto Rico.

## **Section 52.- Petition for Termination of Parental Rights**

The Department may initiate proceedings for the termination, restriction, or suspension of parental rights under any of the following circumstances:

(a) When a minor has remained in a foster home for six (6) months, provided that the Department has rendered the services according to the established permanency plan so that the minor may return to his/her home.

(b) When the court has determined, in accordance with the provisions of this Act, that reasonable efforts are not in order and, thus, rules that reunification services shall not be rendered;

(c) When the court determines that the father and/or mother is unwilling or unable to assume responsibility and protect the minor from risks to his/her health and physical, mental, emotional and/or sexual integrity, and these circumstances will not change within a period of six (6) months after initiating proceedings, according to the evidence presented in the case.

(d) When the court determines that the father and/or mother has not made efforts in good faith to rehabilitate him/herself and be reunified with the minor.

(e) When any of the reasons in our code of laws for which parental rights can be terminated, restricted, or suspended is present.

(f) When the minor has been abandoned, as evidenced by any of the following circumstances:

(1) The father or mother has not communicated with the minor for a period of at least three (3) months.

(2) The father or mother has not participated in any plan or program designed to reunify him/her with the minor after the Department has made the necessary arrangements for their participation by making use of its internal resources and/or the services of other external agencies.

(3) The father or mother fails to appear at the hearings for the protection of the minor.

(4) The minor is found in circumstances that make it impossible to ascertain the identity of his/her father or mother, or when his/her identity is known, but their whereabouts are unknown in spite of the efforts made to locate them; and the father or mother fails to claim the minor within thirty (30) days after such minor was found.

The Department shall not need to file a petition for termination of parental rights if it decides to place the minor with a relative, or if it informs the court that termination of parental rights is not in the best interests of the minor.

The Department may file the petition for termination of parental rights during protection proceedings without the need to initiate additional proceedings.

**Section 53.- Contents of the Petition**

A petition for termination of parental rights must be made under oath and shall include at least the following:

- (a) Name, date, and place of birth, if known, of the minor;
- (b) Name and address of the petitioner;
- (c) Name and place of residence, if known, of each of the parents of the minor;
- (d) Name and address of the minor's guardian in protection or adoption proceedings.
- (e) A brief statement of the facts that the petitioner deems are sufficient grounds to petition for termination of parental rights;
- (f) Consequences of the termination order.

The court shall set a date for the termination of parental rights hearing within ten (10) days as of the filing of the petition, which hearing shall not be suspended except for just cause. Furthermore, at the time the petition is filed, the parties shall be notified of their right not to be deprived of their parental rights without being assisted by legal counsel. If the respondent fails to appear or fails to justify his/her failure to appear, the court shall find him/her in contempt and may pronounce judgment without further summons or hearing. Moreover, the proceedings for termination of parental rights may be held simultaneously with adoption proceedings, as provided in Act No. 9-1995, as amended, known as the "Special Legal Proceedings Act." Once the termination of parental rights is final and binding, the Department may immediately initiate the adoption process.

The father and/or mother may voluntarily waive their parental rights over the minor without being represented by legal counsel. Consent shall be given in writing, willingly and voluntarily, and in court for the judge's verification. The judge shall advise of the consequences of an order to waive parental rights.

#### **Section 54.- Appeals**

Any of the parties may file an appeal before the Puerto Rico Court of Appeals in their corresponding judicial region to request a review of the ruling to terminate parental rights issued by the Court of First Instance. The appeal must be filed within thirty (30) days following the decision of the court. However, filing an appeal shall not render ineffective the determination of the Court of First Instance.

### **CHAPTER V**

#### **CIVIL AND CRIMINAL PROVISIONS**

#### **Section 55.- Cause of Action to Claim Damages against Any Person Who Affects the Employment Conditions of Persons Reporting Abuse**

Any person who considers that his/her employment conditions or status have been affected for having met with his/her obligation to report pursuant to the provisions of this Act shall have grounds to claim damages against the party who has caused the damages.

To such effect, any personnel transaction or change that adversely affects the status or conditions of employment of a person reporting abuse, such as dismissal; termination; involuntary transfer; reductions in pay, benefits, or privileges of employment; or negative evaluations at the same time or within six (6) months of reporting situations of abuse, institutional abuse, neglect, or institutional neglect, shall constitute *prima facie* evidence of retaliation on the job against the person who made the report.

### **Section 56.- Penalty**

Any person, official, or public or private institution under the obligation to furnish information and who voluntarily and knowingly fails to meet that obligation, or who fails to perform any other act required by this Act, or deliberately prevents another person acting reasonably from doing so, or knowingly furnishes false information or advises another person to do so, shall be guilty of a fourth degree felony and, upon conviction, be punished by the penalty set forth in the Penal Code for this offense. Any information furnished which is found to be false and whose natural or probable consequence is deemed to have interfered in the legitimate exercise of custody, parent-child relations, and parental rights shall be referred by the competent authority to the Department of Justice for evaluation and subsequent prosecution, if applicable.

### **Section 57.- Unauthorized Disclosure of Confidential Information**

Any person who allows, aids, or abets the unauthorized disclosure of confidential information contained in the reports and files prepared as part of any proceedings carried out under this Act, or provided or obtained in a judicial hearing, shall be guilty of a misdemeanor and, upon conviction, be punished by a fine of at least five hundred dollars (\$500), but not more than five thousand dollars (\$5,000), or by a maximum term of six (6) months of imprisonment, or both penalties, at the discretion of the court.

### **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/her 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 carry out obscene conduct shall be punished by



imprisonment for a fixed term of five (5) years or by a fine of at least five thousand dollars (\$5,000), but not 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; 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 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/her 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/her ministerial duties, or by any employee or officer 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 that shall be of at least five thousand dollars (\$5,000), but not 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 at least five thousand dollars (\$5,000) but not 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 diversion.

### **Section 59.- Neglect**

Any father, mother, or person responsible for the well-being of a minor who, through the commission or omission of an act, causes harm to a minor or endangers his/her health or physical, mental, or emotional integrity shall be punished by imprisonment for a fixed term of two (2) years, or by a fine of at least five thousand dollars (\$5,000) but not more than eight thousand dollars (\$8,000), 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 three (3) years; should there be mitigating circumstances, the fixed penalty may be reduced to a minimum of one (1) year. The neglect referred to in this Section may take the form of repetitive conduct, an isolated incident, or an imprudent omission caused by the lack of appropriate care that results in physical, mental, or emotional injury, or puts the minor at a substantial risk of death.

When the conduct classified in the preceding paragraph is the result of a pattern of negligent behavior that causes harm or endangers the minor's health and physical, mental, or emotional integrity, it shall be punished by imprisonment for a fixed term of four (4) years, or by a fine of at least eight thousand dollars (\$8,000), but not more than ten thousand dollars (\$10,000), or both penalties, at the discretion of the Court. Should there be aggravating circumstances, the fixed penalty may be increased to a maximum of six (6) years; should there be mitigating circumstances, the fixed penalty may be reduced to a minimum of two (2) years.

**Section 60.- Failure to Comply with Orders in Cases of Institutional Abuse or Institutional Neglect**

Any deliberate violation of an order issued pursuant to Sections 71 to 73 of this Act on Institutional Abuse or Institutional Neglect shall be punishable as a misdemeanor. The court may impose a fine for each violation that shall not exceed five thousand dollars (\$5,000), as well as the penalty of restitution.

**Section 61.- Fines**

The money collected from fines shall be transferred to the Trust for the Prevention of Abuse and the Protection of Minors.

### **Section 62.- Prohibitions**

No conviction under this Act may be used to initiate eviction proceedings against a family enjoying the benefits of a government housing program until all remedies provided in this Act related to reasonable efforts have been exhausted.

## **CHAPTER VI**

### **PROTECTION ORDERS**

#### **Section 63.- Persons Authorized to Request Protection Orders for Minors**

The father or mother, school principal, teacher, law enforcement officer, the Advocate for the Protection of Minors or the Advocate for Family Affairs, any prosecutor or official authorized by the Secretary of the Department of the Family, the school social worker, or any relative or person responsible for the minor may petition the court to issue a Protection Order for Minors against the person who abuses or is suspected of abusing or neglecting a minor, or when there is imminent risk of a minor being abused.

#### **Section 64.- Procedure for Issuing Protection Orders**

The procedure to obtain a Protection Order may be initiated by filing an oral or written petition, as part of any pending custody or termination of parental rights case, or as part of any proceedings under this Act.

The order may also be issued at the request of the Advocate for Family Affairs, the Advocate for the Protection of Minors, or any prosecutor in criminal proceedings, or as a condition for probation or conditional release.

To facilitate the process for obtaining a Protection Order under this Act, the Courts Administration shall have simple forms to petition and process such order available at the Office of the Clerk of the Courts of Puerto Rico. Likewise, it shall provide any assistance and information necessary to fill out and file said Orders.

Once the petition for a Protection Order is filed, the Court shall issue a summons to the parties under penalty of contempt to appear within a term that shall not exceed forty-eight (48) hours. The notice of summons and a copy of the petition shall be made pursuant to the Rules of Civil Procedure and shall be served by a marshal, law enforcement officer, any person 18 years or older who is not a party to the case, or pursuant to the procedure set forth in the Rules of Civil Procedure, within a term not to exceed twenty-four (24) hours after being filed. Failure to appear by a person who has been duly summoned shall be deemed as criminal contempt of the court that issued the summons and be punishable pursuant to the law.

#### **Section 65.- Issuance of Protection Orders**

The Court, taking into account the best interests and safety of the minor, may issue a Protection Order when it determines that there are sufficient grounds to believe that the minor has either been or is at risk of being the victim of abuse or neglect. Without the following being construed as a limitation, the order shall include:

(a) Award temporary custody of the abused minors, or those at imminent risk of being abused, to the petitioner, the Department of the Family, or the closest relative who guarantees such minors' well-being and safety;

(b) Order the respondent, if he/she has custody of the minors, to move out of the house he/she shares with them, regardless of the right said respondent may claim thereto;

(c) Order the respondent to refrain from bothering, harassing, stalking, intimidating, threatening, or otherwise interfering with the exercise of temporary custody over the minors that has been awarded to the petitioner or to the closest relative to whom it has been granted;

(d) Order the respondent to refrain from coming near or entering any place where the minors are when, at the discretion of the Court, such restriction is needed to prevent the respondent from abusing, bothering, intimidating, threatening, or otherwise interfering with the minors;

(e) Order the respondent to pay the rent or mortgage of the house where the minors live when the respondent has been ordered to move out, or to pay child support for the minors if he/she has a legal obligation to do so;

(f) Order the respondent to participate in the programs or receive the treatment needed to stop his/her abusive or neglectful behavior toward the minors;

(g) Order the respondent to pay for the programs or treatment that he/she needs to receive, or that the minors who are victims of abuse or neglect must receive;

(h) Issue any order needed to enforce the purposes and public policy set forth this Act.

### **Section 66.- Ex Parte Orders**

The court may issue an Ex Parte Protection Order if it determines that:

(a) Diligent efforts have been made to serve the respondent with a copy of the summons issued by the Court and the petition filed therewith, and these efforts have not been successful; or

(b) There is a probability that giving prior notice to the respondent may cause the irreparable damage that the petition for a Protection Order is trying to prevent; or

(c) When the petitioner shows that there is substantial likelihood of immediate risk of abuse.

Whenever the Court issues an Ex Parte Protection Order, it shall do so provisionally, shall notify the respondent immediately with a copy thereof or through any other means, and give the respondent the opportunity to object thereto.

To such effect, the court shall schedule a hearing to be held within five (5) days following the issuance of the ex parte order, unless the respondent requests an extension. During this hearing, the Court may render the order ineffective or extend the effects thereof for the period it deems necessary.

### **Section 67.- Content of Protection Orders**

All protection orders must specifically indicate the orders issued by the court, the remedies dictated, and the time for which it shall be in effect. All protection orders must state the date and time they were issued and specifically notify the respondent that any violation thereof shall constitute contempt of court, which could result in imprisonment, a fine, or both penalties.

Any ex parte protection order must include the date and time it was issued, state the date, time, and place where the hearing shall be held for the extension or annulment thereof, and the reasons that made it necessary to issue such ex parte order.

### **Section 68.- Notice to Parties and Law Enforcement Agencies**

(a) A copy of every protection order shall be filed with the Office of the Clerk of Court that issues the same. The Office of the Clerk of Court shall provide a copy thereof at the request of the parties or of any other interested party. The father, mother, or person responsible for the minor, the local office of the Department, the Office of Family Advocates assigned to the corresponding judicial region, the Advocate for Family Affairs, the Family or Juvenile Court of the Court of First Instance, and the police station closest to the home of the minor shall also be notified simultaneously within twenty-four (24) hours of issuance.

(b) Any order issued under this Act must be notified to the respondent personally, whether by a marshal of the court, a law enforcement officer, any person 18 years or older who is not a party to the case, or pursuant to the procedure established in the Rules of Civil Procedure.

(c) The Office of the Clerk of Court shall remit a copy of the orders issued under this Act to the office of the Police in charge of keeping record of all protection orders thus issued. Furthermore, a copy of the order shall be forwarded to the police station closest to the home of the minor. In cases in which said order provides for the payment of child support, a copy thereof shall be sent to the Child Support Administration.

### **Section 69.- Failure to Comply with a Protection Order**

Failure to comply with a protection order issued by virtue of this Act shall constitute a fourth degree felony and be penalized accordingly.

Notwithstanding the provisions of Rule 11 of the Rules of Criminal Procedure, as amended, even if there were no order to that effect, all law enforcement officers must make an arrest when shown a protection order issued under this Act or a similar law against the person to be arrested; also, if they determine that said order exists after contacting the corresponding authorities and there are substantiated reasons to believe that the provisions of such protection order have been violated.

### **Section 70.- Forms**

The Office of Courts Administration shall provide the protection order forms, which shall allow for including, at least, the information of the parties, the allegations, and the court's determination. The Office of Courts Administration may modify said forms when deemed convenient for the purposes of this Act.

## **CHAPTER VII**

### **INSTITUTIONAL ABUSE AND/OR INSTITUTIONAL NEGLECT**

#### **Section 71.- Reports on Institutional Abuse and Institutional Neglect**

Reports on institutional abuse and institutional neglect shall be made by the Department of the Family. However, the Department of Justice shall



be the government entity responsible for conducting the corresponding investigation

when institutional abuse and institutional neglect occur or are suspected of occurring in an institution that provides shelter or services, treatment, or detention of minors who are offenders, pursuant to Act No. 88-1986, as amended.

The Department of Justice shall establish the procedures for investigating cases of institutional abuse and institutional neglect brought to its attention. It shall also provide mechanisms to submit the data required to prepare the Annual State Plan and to update the information in the Commonwealth Center for the Protection of Minors on the investigation, findings, and progress of each case.

**Section 72.- Petition for Remedy to Investigate Institutional Abuse or Institutional Neglect Referrals**

At any time during the investigation of an institutional abuse or institutional neglect referral, the official designated by the Department who is prevented from doing his/her job may appear before the court and declare under oath, briefly and simply, using a form prepared for this purpose by the Office of Courts Administration, the specific facts that prevented him/her from doing his/her job, document the existence of a referral that justifies his/her intervention, and request an ex parte order against the respondent public, private, or privatized agency or subject of the referral, providing the following:

(a) An order to allow access to inspect the facilities and review the files of minors who are or have been in the institution, as well as documents related to the operation of the entity;

(b) An order to allow interviewing minors, employees, relatives, or parents;

(c) An order to allow access to information about the minors who are or have been in the institution, their parents or persons who had custody, employees or former employees, including data leading to their whereabouts;

(d) An order to require that the employees or persons responsible for the operation of the entity submit to controlled substance detection tests or to psychological or psychiatric evaluations;

(e) An order to produce documents and/or belongings of the minor;

(f) Any order that allows gathering the information needed to evaluate the circumstances of the alleged institutional abuse or institutional neglect.

The order issued shall remain in effect until the investigation is concluded or until it is determined during the process that it is no longer necessary.

**Section 73.- Emergency Procedures in Cases of Institutional Abuse and/or Institutional Neglect**

Any relative or interested party, as well as any physician, teacher, officer of the institution where the minor is found or undergoing treatment, or social worker or Family Services Technician of the Department shall report such fact to the Department's Abuse Hotline, the Puerto Rico Police Department, or the local office of the Department, so that, after the corresponding investigation, the emergency procedure provided in this chapter may be initiated.

When, in light of the investigation carried out by the Department or by the Department of Justice, it is determined that there is a situation of institutional abuse and/or institutional neglect which endangers the health, safety, and well-being of a minor, the Department's social worker or Family Services Technician, or any employee or official designated by the Department of Justice, shall appear before a judge to declare under oath, briefly and simply, using the form prepared for this purpose by the Office of Courts Administration, that the health, safety, and well-being of a particular minor is in danger if immediate action is not taken to

protect him/her. Said technician, social worker, or employee or official designated by the Department of Justice shall clearly indicate the specific facts that serve as the grounds for requesting an emergency remedy.

In the event of an emergency situation in which a minor's life or physical, mental, or emotional health is in imminent danger as a result of institutional abuse or institutional neglect, the father/mother, the person responsible for the minor, or the person required to report may appear before the court without the prior filing of a referral and petition for an emergency remedy to guarantee the minor's health, safety, and well-being. In such cases, the court shall order the appearance of officials of the Department who, upon being notified of said petition, shall inform the Hotline for Situations of Abuse, Institutional Abuse, Neglect, and/or Institutional Neglect and initiate the corresponding investigation.

If, after evaluating the circumstances described in the petition and hearing the petitioner, the court deems it necessary to make an ex parte decision, it may order the temporary remedy that it deems most appropriate in the best interest of the minor and shall give notice of such temporary remedy to the parties summoned for the initial hearing.

Once a petition regarding institutional abuse and/or institutional neglect is filed, the court shall issue a summons for the initial hearing, and shall order the appearance of the parents of the child whose protection is being requested, the Department, the Advocate for Family Affairs, and any other officials of the respondents public, private, or privatized agencies within a period not to exceed five (5) days.

In the initial hearing, the judge shall issue a resolution or order determining whether any of the alternatives provided in Section 74 of this Act is in order. The judge may also vacate any ex parte order issued, or extend its effects for the period he/she may deem necessary, or until the hearing provided in Section 75 is held. In

order to continue the proceedings, notice of the resolution or order shall be given simultaneously to the father, mother, or person responsible for the minor, the respondent institution, the local office of the Department, the Office of Family Advocates assigned to the corresponding judicial region, and the Family or Juvenile Court of the Court of First Instance within twenty-four (24) hours following the issuance of said resolution or order.

**Section 74.- Remedies; Institutional Abuse, and/or Institutional Neglect**

At any stage of the proceedings where it is determined that there is an emergency situation that endangers the safety, health, or physical, mental, or emotional integrity of a minor as a result of institutional abuse and/or institutional neglect, the court may:

- (a) order that the minor be immediately placed in the custody of the father, mother, or person responsible for him/her;
- (b) order that the minor be placed in the custody of the Department;
- (c) order the immediate relocation of the minor and any other minor who is considered to be at risk;
- (d) order that the requested treatment or required services be provided;
- (f)[sic] order the institution to desist from the actions that pose a risk to the health, safety, and well-being of the minors it is in charge of;
- (g)[sic] order the institution to take or carry out all the necessary steps to guarantee the health, safety, and well-being of the minors;
- (h)[sic] order the partial or total closing of the institution;
- (i)[sic] order that all admissions and placements in the respondent institution or agency cease;
- (j)[sic] order any temporary measure necessary to guarantee the well-being of the minors;

(k)[sic] order any public agency charged with the accreditation of, or with the authority for granting a license to the respondent institution or agency, to cancel or deny such accreditation or license;

(l)[sic] order the appearance of any public, private, or privatized agency whose intervention is necessary to address the need for protecting the minor or minors that are object of the petition;

(m)[sic] issue any order needed to enforce the purposes and public policy established in this Act.

It is hereby provided that the remedies listed in subsections (a), (b), (g), (h) and (j) shall not be available in cases where the Department of Justice is the petitioning party.

**Section 75.- Subsequent Proceedings in Emergency Cases of Institutional Abuse and/or Institutional Neglect**

Whenever emergency proceedings are initiated, the hearing of such cases before the Court of First Instance shall be held within twenty (20) days after the initial hearing is held. The court shall issue a written notice to be served ten (10) days prior to the hearing on the merits. The written notice shall contain the following information:

- (a) The alleged facts;
- (b) The names of the petitioner and the witnesses who are expected to testify in support of the allegations;
- (c) The contents of the resolution issued by the court;
- (d) The date, time, and place of the hearing, as well as a statement about the right of the parties to appear assisted by their attorneys during any stage of the proceedings. The lack of legal representation shall not be a reason to suspend the hearing;

(e) A warning that failing to appear at the hearing shall prompt the court to find the party in contempt and enter the corresponding remedy to ensure the health, safety, and well-being of the minor or minors in the custody, supervision, or care of the respondent institution without further summons or hearing;

(f) A warning that noncompliance with the orders of the court by the respondent institution constitutes contempt, which may entail the imposition of penalties, the permanent closing of the institution, and an order to the Department, the Department of Justice, or other agency involved to suspend or revoke the corresponding license or accreditation, as well as the ratification of any orders issued at any stage of the proceedings.

#### **Section 76.- Progress Reports**

The Department or the Department of Justice shall submit periodic evaluation reports with the information and within the term required by the court. The evaluation reports shall include information on the condition and progress of the institution in addressing the circumstances that led to the petition, as well as the services provided to the minor, the family, the father, mother, or person responsible for the minor. These reports shall also include pertinent recommendations as to the duration, modification, or termination of the action plan, and compliance with the orders and conditions imposed.

#### **Section 77.- Final Disposition Hearing**

The court shall hold a final disposition hearing of the case within a term that shall not exceed six (6) months from the date of notification, as provided in Section 42 of this Act. In any case decided pursuant to the provisions of this Act, the court shall rule in favor of the best interests of the minor, according to the public policy established herein.

## **CHAPTER VIII**

### **SPECIAL PROVISIONS**

### **Section 78.- Comprehensive Child Well-being and Protection Plan**

Every two years, the Department shall prepare a Comprehensive Child Well-being and Protection Plan to serve as a guide for the implementation of the public policy established in this Act. The plan shall reflect the progress in the implementation of the Act and shall be prepared after multi-sector consultation with the government, nongovernmental, and private entities required to comply with the Act. A copy of the plan shall be submitted to the Legislative Assembly and shall be available for consideration by the general public. The Department shall prepare a summary of the plan to achieve greater dissemination among the general public.

### **Section 79.- Reports**

The Department shall prepare and submit an annual report to the Governor and the Legislative Assembly on the prevention of and treatment in situations of abuse, institutional abuse, neglect, and institutional neglect not later than June 1<sup>st</sup> of each year. The Legislative Assembly shall remit a copy of said report to the College of Social Work Professionals of Puerto Rico and to any other agency, institution, or person that so requests.

### **Section 80.- Rulemaking Authority**

The Department shall adopt rules and regulations as are necessary to implement this Act pursuant to the provisions of Act No. 170-1988, as amended, known as the “Uniform Administrative Procedures Act of the Commonwealth of Rico,” not later than one hundred eighty (180) days after the effective date of this Act.

### **Section 81.- Transitory Provision**

The regulations of the Department shall remain in effect until new regulations are approved.

### **Section 82.- Authority to Contract**

The Secretary of the Family shall have the necessary and convenient powers and authority to enforce the provisions and achieve the purposes of this Act. He/she may enter into contracts, reach agreements, and coordinate with government and nongovernmental agencies and entities, the Judicial Branch, and with any other public and private institution.

**Section 83.- Construction**

The provisions of this Act shall be construed in favor of the protection, well-being, safety, and best interests of the minor.

**Section 84.- Repeal**

Act No. 177-2003, as amended, known as the “Comprehensive Child Well-being and Protection Act,” is hereby repealed.

**Section 85.- Substitution**

Any law making reference to Act No. 177-2003, as amended, known as the “Comprehensive Child Well-being and Protection Act,” shall be construed to refer to this Act.

**Section 86.-** Section 2.006 of Act No. 201-2003, as amended, is hereby amended to read as follows:

“Section 2.006.- Judicial Education

The Chief Justice of the Supreme Court shall establish a judicial education system to promote the professional and intellectual betterment and the development of skills of judges of the Court of First Instance and the Court of Appeals, as sensible, fair, efficient, and effective officials in the administration of justice. Among others, said system shall implement periodic educational programs for newly-appointed judges, as well as programs aimed at addressing the needs of mandatory continuing judicial education for all judges. Provided, that as an inherent part of said judicial education system, judges of the Court of First Instance and the Court of Appeals shall be required to attend training every two (2) years on



topics of child abuse and protection, as well as on changes in policies and procedures related to the ‘Child Safety, Well-being, and Protection Act.’”

**Section 87.- Severability Clause**

If any provision of this Act were held to be null or unconstitutional based on any legal grounds, the remainder of the Act shall continue to be in full force and effect.

**Section 88.- Effectiveness**

This Act shall take effect ninety (90) days after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 246-2011 (H. B. 3355)** of the **6<sup>th</sup> Session** of the **16<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to adopt the “Child Safety, Well-being, and Protection Act,” for the purpose of guaranteeing the well-being of our children and ensuring that child abuse cases are promptly addressed; repeal Act No. 177-2003, known as the “Comprehensive Child Well-being and Protection Act”; and amend Section 2.006 of Act No. 201-2003, as amended, known as the “Judiciary Act of the Commonwealth of Puerto Rico of 2003,” in order to require that training on child abuse matters, as well as changes in policy and procedures related to the “Child Safety, Well-being, and Protection Act,” be inherent to the judicial education system; 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 23<sup>rd</sup> day of October, 2015.

Juan Luis Martínez Martínez  
Director