

(H.B. 1162)

(No. 307)

(Approved December 23, 1998)

AN ACT

To amend subsection (c) of Section 2 of Act No. 22 of April 22, 1988, which establishes the Bill of Rights of Victims and Witnesses of Crimes, in order to provide that the information regarding the address and telephone numbers of these shall remain confidential, and to impose penalties.

STATEMENT OF MOTIVES

Act No. 22 of April 22, 1988 establishes the Bill of Rights of Victims and Witnesses of Crimes, which sets forth the rights and guarantees that have been provided in the various laws and recognizes that a proper balance must be maintained between the protection afforded to the accused and to the victims and witnesses of crimes.

This measure ratifies and amplifies the right of the victims and witnesses of crimes to demand that information concerning their home and business address, as well as the telephone numbers thereof, not be divulged, pursuant to the public policy of the Commonwealth of Puerto Rico which guarantees respect, both to the dignity and the personal physical well-being of the victims and witnesses of crimes.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Subsection (c) of Section 2 of Act No. 22 of April 22, 1988, is hereby amended to read as follows:

“Section 2.- Bill of Rights of Victims and Witnesses of Crimes

Those persons who are victims or witnesses of a crime in the Commonwealth of Puerto Rico shall be entitled to:

- (a) ...
- (b) ...
- (c) Demand that the information concerning their addresses and telephone numbers remain confidential when deemed necessary to ensure their personal safety and that of their relatives, as well as the privileged communications between the victim and his/her counsel as guaranteed by Rule 26-A of the Rules of Evidence, as amended.

For such a purpose, the home and business addresses, as well as the telephone numbers of victims or witnesses of a crime shall be kept confidential. No report, paper, drawing, photograph or document filed in court or any other document related to a crime containing said information, which is under the custody or in possession of any public official or employee, including the prosecutor, the police or court employees, shall be available for public inspection unless the information regarding the addresses and telephone number of the victim or the witnesses has been omitted. No public official or employee may divulge the information concerning the addresses and telephone numbers of the victims or witnesses except to:

- (1) those public officials and employees who in order to discharge their duties require said information, including the police, prosecutors, probation officers or the prison

and court officials and employees charged with investigating, prosecuting or maintaining files related to crimes or to the accused, or who have other legal duties inherent to the office they hold;

- (2) any government agency or entity that provides compensation or services to victims and witnesses or that investigates or adjudicates claims for such compensations or services;
- (3) any organization or group whose purpose is to provide advisory or any other services or aid to the victims of crimes and therefore need the addresses and telephone numbers of the victims so as to provide these services, pursuant to the provisions of this Act. Said information shall not be available to entities that request the information in question for business purposes;
- (4) any person or agency having the written consent of the victim or the witness or of the parents, spouse or other person legally responsible for the care of the victim or witness, except when otherwise provided by a court order;
- (5) any person who before or after the trial concerning the case to which the victim or the witness are related, petitions the court with jurisdiction over the case for said information and the court orders that said information be given to said person. The court shall issue an order only after:

- (i) the person making the petition proves to the satisfaction of the court that there is good cause to provide said information;
- (ii) the court has been sufficiently assured by the prosecutor that the victim or the witness is not at risk of any personal danger whatsoever should the information be divulged or is properly protected against such a risk; and
- (iii) the victim or witness, their parents, spouse or any person legally responsible for caring for the victim or the witness, as well as the prosecutor have been notified in writing concerning said order at least one hundred and twenty (120) hours before said order was signed.

During the trial or a hearing related to a criminal proceeding, the court shall order that neither the residential nor the business address, or the telephone numbers of the victim or witness of the crime be divulged in open court and that the victim or witness be not required to disclose, upon questioning by the attorney for the defense or by the prosecutor, their addresses or telephone numbers, unless the court determines that there is clear need for such information since said information is necessary and relevant to the facts of the case or to establish the credibility of the witness. The burden of proving the need and relevance of disclosing said information shall rest on the defense or the party requesting said information. Before issuing an order authorizing said disclosure, the court shall make reasonably sure that the victim or the witness is not at risk of suffering any personal harm whatsoever as a result of said disclosure or that they are properly protected from such a risk.

None of the contents of this provision shall be interpreted as implying that the court excludes the public from any stage of the proceedings nor that

it interferes with the right of the accused to disclose evidence or that public access to government information or the right of the media to publish legally obtained information are limited.

The prosecutor or the person authorized by the latter, within the district in which a private organization rendering services to the victims and witnesses requests information regarding the addresses and telephone numbers of the victim or the witnesses, may authorize the office of the prosecutor, the police or other public officials or employees to disclose said information to said organization if it concludes that:

- (1) the primary purpose and the good faith of the organization is to provide services, counseling or other aid to the victims of crime;
- (2) the services provided shall be of benefit to the victims or the witnesses; and
- (3) the organization does not request the information for business purposes. No business or profit-making agency shall be deemed to operate for the primary purpose and the good faith of providing counseling or aid to the victims of crime.

Any organization which has been refused the information may request a review of the decision of the Secretary of Justice, who may order that the information be divulged according to the aforementioned criteria. Both the organization and its employees or those volunteers working for the former shall maintain the confidentiality of the information.

It shall be unlawful to divulge, solicit, receive, make use of, authorize or knowingly allow the use or the disclosure of

information containing the residential addresses or the telephone numbers of victims or witnesses without their written consent, except for purposes directly related to the services rendered to the victims or witnesses or the administration of the programs or services of the organization.

Any person who violates the provisions of this subsection shall be sanctioned with the penalty of imprisonment for a fixed term of two (2) years. Should aggravating circumstances exist the fixed penalty established may be increased for up to a maximum of three (3) years; should extenuating circumstances exist, the penalty may be reduced by up to a minimum of one (1) year.

The court, at its discretion, may impose the fixed penalty of imprisonment established or a fine which shall not exceed five thousand (5,000) dollars, or both penalties.

- (d) ...
- (e) ...
- (f) ...
- (g) ...
- (h) ...
- (i) ...
- (j) ...
- (k) ...
- (l) ...
- (m) ...
- (n) ...
- (o) ...

- (p) ...
- (q) ...
- (r) ...”

Section 2.- This Act shall take effect immediately after its approval.

March 1, 2001

Dynorah R. Requena-Gallego, Esq., Acting Director of the Office of Legislative Services of the Legislature of Puerto Rico, hereby certifies to the Secretary of State that she has duly compared the English and Spanish texts of Act No. 307 (H.B. 1162) of the 4th Session of the 13th Legislature of Puerto Rico, entitled:

AN ACT to amend subsection (c) of Section 2 of Act No. 22 of April 22, 1988, which establishes the Bill of Rights of Victims and Witnesses of Crimes, in order to provide that the information regarding the address and telephone numbers of these shall remain confidential, and to impose penalties,

and finds the same are complete, true and correct versions of each other.

Dynorah R. Requena-Gallego