

(H.B. 4605)

(No. 376)

(Approved September 16, 2004)

## **AN ACT**

To amend Section 4 and 5 of Act No. 284 of August 21, 1999, as amended, known as the “Act Against Stalking in Puerto Rico,” to harmonize it to the new Penal Code of the Commonwealth of Puerto Rico of 2004.

### **STATEMENT OF MOTIVES**

The present is one of several amendments to the laws that are affected by the approval of the new Penal Code of the Commonwealth of Puerto Rico, which, in turn, repeals the one in effect approved through Act No. 115 of July 22, 1974.

It is imperative to adjust the penal code of laws so that when the new Penal Code is introduced, there is uniformity in said code of laws.

### **BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:**

Section 1.- Section 4 of Act No. 284 of August 21, 1999, is hereby amended to read as follows:

“Section 4.- Delinquent Conduct; Penalties.-

(a) Any person who intentionally demonstrates a constant or repetitive pattern of stalking addressed to intimidate a specific person to the effect that said person or any member of his/her family could suffer personal or property damage; or that maintains said type of conduct, knowing that a certain person could reasonably feel intimidated, shall incur a misdemeanor.

The Court may impose the penalty of restitution, in addition to the penalty of imprisonment thus established.

(b) Stalking, as typified in this Act, shall be charged as a fourth degree felony, if one or more of the following circumstances exist:

1. The dwelling of a certain person or a member of his/her family is entered, thus instilling fear of suffering physical injury, and/or exerting moral pressure on the person's *animus* to perform an act that is against his/her will; or
2. grave bodily injury is inflicted on a certain person or a member of his/her family; or
3. it is committed with a deadly weapon in circumstances not intended to kill or mutilate, or
4. it is committed after a restraining order has been issued against the offender, in aid of the victim of stalking or other person who is also stalked by the offender; or
5. an act of vandalism is committed that destroys property in the places that are adjacent or relatively close to the home, residence, school, workplace, or vehicle of a certain person or member of the family; or
6. is committed by an adult against a child; or
7. is committed against a pregnant woman.

The Court may impose the penalty of restitution in addition to the established term of imprisonment. The prosecution and punishment of any person for the crime defined and punished in this Act, shall not prevent the prosecution and punishment of the same person for any other act or omission in violation of any of the other provisions of this Act, or any other Act.

Section 2.- Subsection (a) of Section 5 of Act No. 284 of August 21, 1999, is hereby amended to read as follows:

- (a) Any person who has been a victim of stalking, or conduct that constitutes the crime, as typified in this Act, in the “Penal Code of the Commonwealth of Puerto Rico,” or in any other special Act, may file a petition *per se*, through his/her legal counsel or by a police agent to the Court requesting a restraining order, without the need of a the prior filing of an accusation or charge.

Section 2.- Effectiveness.

This Act shall take effect upon the effectiveness of the new Commonwealth of Puerto Rico Penal Code of the 2004.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 376 (H.B. 4605) of the 7<sup>th</sup> Session of the 14<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend Section 4 and 5 of Act No. 284 of August 21, 1999, as amended, known as the “Act Against Stalking in Puerto Rico,” to harmonize it to the new Penal Code of the Commonwealth of Puerto Rico of 2004,

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

In San Juan, Puerto Rico, today 16<sup>th</sup> of December of 2005.

Francisco J. Domenech  
Director