

(H. B. 3438)

(No. 420)

(Approved October 16, 2000)

AN ACT

To create an electronic file of restraining orders requested pursuant to Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act,” as amended, and Act No. 284 of August 21, 1999, known as the “The Puerto Rico Anti-Stalking Act;” in order to comply with the provisions of full faith and credit under Title IV of Public Law No. 103-322 of September 13, 1994, as amended, known as the “Violent Crime Control and Law Enforcement Act of 1994;” and include the provisions on the custody of minors duly granted by the Court of any other state, tribe, or territory of the United States.

STATEMENT OF MOTIVES

This legislation has as its objective to create an electronic file to include information regarding restraining orders requested pursuant to Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act,” as amended, and Act No. 284 of August 21, 1999, known as the “The Puerto Rico Anti-Stalking Act.”

This Act is in harmony with the public policy set forth by the Government of Puerto Rico, which consists of preventing and intervening with cases of domestic abuse, stalking, and with Title IV of Public Law No. 103-322 of September 13, 1994, as amended, known as the “Violent Crime Control and Law Enforcement Act of 1994” (said Title is known as the “Violence Against Women Act” or V.A.W.A., English acronym.)

The abovementioned federal statute provides that a restraining order issued by a court of a state, tribe, or territory of the United States shall have full faith and credit and shall be enforced by a second state, tribe or territory of the nation, if on issuing the same, the requirements of due processes of law were complied with. (See 18 USC Sec. 2265.)

Since Section 2265 of said statute is not self-executing, each state, tribe, or territory of the United States shall establish its own procedures to honor the orders of a second state, tribe, or territory of the nation.

Through the present legislation, the Government of Puerto Rico establishes the mechanism needed for compliance with the abovementioned Section and reaffirms its commitment to fight against domestic abuse and stalking, as well as any other behavior that affects the peace and safety of the citizenry.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Title.-

This Act shall be known as the “Restraining Orders Electronic File Act.”

Section 2.- Statement of Public Policy.-

It is hereby declared to be the public policy of the Government of Puerto Rico, to protect our community from domestic abuse and stalking, thus safeguarding peace, safety, dignity and respect, values to which all members of our society should aspire.

Section 3.- Definitions.-

For the purposes of this Act, the following terms shall have the meaning stated hereinafter:

- a. Stalking – refers to the behavior typified as a crime by Act No. 284 of August 21, 1999, known as the “Act Against Stalking in Puerto Rico.”
- b. Law Enforcement Officer – any officer or member of the Puerto Rico Police, or municipal policeman duly trained and accredited by the Puerto Rico Police.
- c. Electronic File – refers to the Domestic Abuse and Stalking Restraining Orders Electronic File, which shall be created by the Puerto Rico Police and attached to the Criminal Justice Information System, to which judges, officials of the Department of Justice, and law enforcement officers shall have access, in order to keep a complete and systemized record of all restraining orders issued, whether of temporary or permanent nature. The information transmitted through the Criminal Justice Information System shall be under the custody of the Puerto Rico Police.
- d. Restraining orders – refers to all orders of temporary nature, including *ex-parte* orders, issued in writing under the seal of the court, whereby pertinent measures are established in order for a person to abstain from incurring in or performing certain acts that constitute domestic abuse or stalking against another, as typified by Acts No. 54 and 284, *supra*.
- e. Respondent – refers to any person against whom a restraining order is requested.
- f. Petitioner – means any person who requests a restraining order.
- g. “Court” —means the Court of First Instance of the General Court of Justice, and the offices of municipal judges.

- h. Domestic Abuse – refers to the behavior typified as a crime in Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act.”

Section 4.- Restraining Orders Electronic File.-

The electronic file created by this Act does not pursue a punitive purpose; it is a means to guarantee the safety, protection and general welfare of all citizens against conducts that constitute domestic abuse and stalking, as typified by Acts No. 54 and 284, *supra*.

Section 5.- Content of the Electronic File.-

The electronic file, created by virtue of this Act, shall contain the following information:

- a. Court and judge who issue the order;
- b. Number of the restraining order;
- c. Name or *alias* of the respondent;
- d. Gender, age and physical characteristics of the respondent;
- e. Last known address and telephone number of the respondent;
- f. Driver’s license number and social security number of the respondent, if known;
- g. Damages alleged by the petitioner;
- h. Provisions of law under which the order was issued;
- i. Date of issue of the restraining order;
- j. Expiration date of the restraining order;
- k. If the order was issued *ex-parte*;
- l. Date and time in which the order was served;
- m. Name of the petitioner;
- n. Address, telephone number, age, and social security number of the petitioner;

- ñ. Type of relationship between the petitioner and the respondent, if any;
- o. Specific restrictions of the restraining order and other provisional measures issued by the court;
- p. Name of the family members also requesting protection, if applicable;
- q. Information on the custody and/or visiting rights of children the parties have in common, if applicable;
- r. Information on the respondent's possession of weapons and/or carrying weapons license and/or prohibitions thereto;
- s. Information on other restraining orders issued against the respondent;
- t. If the order is rendered ineffective, date, and reason therefor.

Section 6.- Inclusion of Restraining Orders Originating from other States, Territories, and Tribes in the Electronic Files.

- a. Any restraining order duly issued by a court of another state, tribe, or territory of the United States, shall have full faith and credit in the courts of Puerto Rico and shall be enforced as if it were issued by a court from this jurisdiction, provided it complies with the requirements of due process of law, at the moment of the issuance and serving of said order.
- b. Any person who has obtained a restraining order duly issued in another state, tribe, or territory of the United States may request the same to be included in the electronic file, by filing a certified copy thereof at the office of the clerk of any court of Puerto Rico, free of charge. Upon filing such order which seems to be authentic in its face, it shall be presumed to be valid and shall be

enforced, although the same has not been presented before any office of the clerk in the courts of Puerto Rico.

- c. Law enforcement officers shall consider a restraining order duly issued by a court of another state, tribe, or territory of the United States as a valid and legal document, and shall make an arrest for any violation to such restraining order, as it would be made for a violation to a restraining order issued by a court of Puerto Rico, pursuant to Acts No. 54 and 284, *supra*.
- d. Any violation to a restraining order duly issued by a court of another state, tribe, or territory of the United States shall be given the same treatment as in cases of violations to restraining orders related to domestic abuse and stalking, as typified by Acts No. 54 and 284, *supra*.
- e. Any provision on the custody of a minor included in a restraining order duly issued by a court of another state, tribe, or territory of the United States, shall enforced in this jurisdiction, if it complies with Federal or Commonwealth laws regarding custody of minors, including Public Law 96-611, of December 28, 1980 as amended, known as the “Federal Parental Kidnapping Prevention Act.”

Section 7.- Procedure to Transfer a Restraining Order to the Electronic File.

- a. The clerk of the court that issued the order, or that in which a restraining order issued by any other court of a state, tribe, or territory of the United States has been filed, shall remit copy of the restraining order to the corresponding Puerto Rico Police

headquarters within the next twenty four (24) hours after the same was filed or issued, as the case may be.

- b. The Puerto Rico Police shall process the information provided in the restraining order into the electronic file and in the National Crime Information Center Protection Order File (NCIC POF,) within eight (8) hours after the same is received and shall serve the order as provided by Acts No. 54 and 284, *supra*.
- c. Government bodies are hereby empowered, in coordination with the Puerto Rico Police, to establish the regulations and procedures needed for the implementation of this Act, pursuant to Act No. 170 of August 12, 1988, as amended, which shall include all that pertains to the disposal of information, if the restraining order has expired.

Section 8.- Availability of the Electronic File.-

The information of the electronic file shall be available for judges, officials of the Department of Justice, and law enforcement officers to access it twenty-four (24) hours a day, seven (7) days a week, through the terminals of the Criminal Justice Information Systems, which operate in the different judicial and police regions.

Section 9.- Severability.-

If any clause, paragraph, or section of this Act is declared unconstitutional by a court with competence and jurisdiction, the judgment rendered shall not affect or invalidate the remaining provisions thereof, and its effect shall be limited to the clause, paragraph or section declared unconstitutional.

Section 10.- Effectiveness.-

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 420 (H.B. 3438) of the 4th Special Session of the 13th Legislature of Puerto Rico:

AN ACT to create an electronic file of restraining orders requested pursuant to Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act,” as amended, and Act No. 284 of August 21, 1999, known as the “The Puerto Rico Anti-Stalking Act;” in order to comply with the provisions of full faith and credit under Title IV of Public Law No. 103-322 of September 13, 1994, as amended, known as the “Violent Crime Control and Law Enforcement Act;” and include the provisions on the custody of minors duly granted by Court of any other state, tribe, or territory of the United States,

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

In San Juan, Puerto Rico, today 1st of March of 2005.

Luis Fusté-Lacourt
Director

