

(S. B. 2704)

(No. 480)

(Approved September 23, 2004)

AN ACT

To amend Sections 1.3, 3.1, 3.2, 3.3, 3.4 and 3.5 of Act No. 54 of August 15, 1989, as amended, known as the Domestic Abuse Prevention and Intervention Act, in order 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 code in effect approved by Act No. 115 of July 22, 1974.

It is imperative to adjust the entire penal code of laws so that upon the introduction of the new Penal Code there is uniformity in said code of laws.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- A new subsection (j) is hereby added and subsections (j), (k) and (l) are redesignated as subsections (k), (l) and (m) of Section 1.3 of Act No. 54 of August 15, 1989 as amended, to read as follows:

“Section 1.3.- Definitions

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

- (a) . . .
- (b) . . .
- (c) . . .
- (d) . . .
- (e) . . .

- (f) . . .
- (g) . . .
- (h) . . .
- (i) . . .
- (j) “Sexual Relations” – shall mean any sexual penetration, whether vaginal, anal, oral-genital, digital or instrumental.
- (k) “Court” – shall mean the Court of First Instance of the General Court of Justice and the offices of the municipal judges.
- (l) “Domestic abuse” – shall mean a constant pattern of conduct involving physical force or psychological violence, intimidation or persecution against a person by his/her spouse, former spouse, a person with whom he/she cohabits or has cohabitated, with whom he/she has, or has had a consensual relationship, or a person with whom a son or daughter has been procreated, to cause physical harm to his/her self, their property, or another’s self, or to cause him/her grave emotional harm.
- (m) “Psychological abuse” – shall mean a constant pattern of conduct to dishonor, discredit or scorn of personal worth, unreasonable limitation to access and handling of common property, blackmail, constant vigilance, isolation, deprivation of access to adequate food or rest, threats of deprivation of custody of sons or daughters, or destruction of objects held in esteem by the person, except those that privately belong to the offender.”

Section 2.- Section 3.1 of Act No. 54 of August 15, 1989, as amended, is hereby amended to read as follows:

“Section 3.1.- Abuse

Every person who makes use of physical force or psychological abuse,

intimidation or persecution against the person of his/her spouse, former spouse, or the person with whom he/she cohabits, or has cohabited, or the person with whom he/she has, or has had a consensual relationship, or the person with whom a child has been procreated to cause physical harm to the person, the property held in esteem by him/her, except that which is privately owned by the offender, or to another's person, or to cause grave emotional harm, shall incur a fourth degree felony.

The court may impose the penalty of restitution in addition to the established penalty of imprisonment.”

Section 3.- Subsection (g) is hereby amended and a new subsection (h) is added to Section 3.2 of Act No. 54 of August 15, 1989, as amended, to read as follows:

“Section 3.2.- Aggravated abuse

The corresponding penalty to a fourth degree felony in its superior half shall be imposed if abuse against the person of the spouse, former spouse or the person with whom he/she cohabits or has cohabited, or with whom he/she has or has had a consensual relationship, or with whom a son or daughter has been procreated, as typified in this Act, is incurred under one or more of the following circumstances exist:

- (a) . . .
- (b) . . .
- (c) . . .
- (d) . . .
- (e) . . .
- (f) . . .
- (g) When child abuse as defined in Act No. 177 of August 1, 2003, is committed and simultaneously incurred.
- (h) If the victim is forced or induced by means of physical force or

psychological abuse to participate or become involved in unwanted sexual relations with third parties.

The court may impose the penalty of restitution in addition to the established penalty of imprisonment.”

Section 4.- Section 3.3 of Act No. 54 of August 15, 1989, as amended, is hereby amended to read as follows:

“Section 3.3.- Abuse by threat

Any person who threatens his/her spouse, former spouse, the person with whom he/she cohabits or has cohabited, with whom the person has or has had a consensual relationship, or the person with whom he/she has had a son or daughter, to cause specific damage to that person, or the property held in esteem by him/her, except that which is privately owned by the offender, or to another person, shall incur a fourth degree felony.

The court may impose the penalty of restitution in addition to the established penalty of imprisonment.”

Section 5.- Section 3.4 of Act No. 54 of August 15, 1989, as amended, is hereby amended to read as follows:

“Section 3.4.- Abuse by restriction of freedom

Any person who uses violence or intimidation against the person of his/her spouse, former spouse, of the person with whom he/she cohabits or has cohabited, or with whom he/she has or has had procreated a son or daughter, or who uses the pretext of suffering from, or that one of the abovementioned persons suffers from an illness or mental defect to restrict the freedom of the victims with his/her knowledge, shall incur a fourth degree felony in the superior half.

The court may impose the penalty of restitution in addition to the established penalty of imprisonment.”

Section 6.- Section 3.5 of Act No. 54 of August 15, 1989, as amended, is

hereby amended to read as follows:

“Section 3.5.- Conjugal sexual assault

As provided hereinbelow, the penalty of imprisonment shall be imposed on any person that engages in a sexual relation without the consent of the spouse or former spouse, or of the person with whom he/she is cohabiting or has cohabited, or of the person he/she has or has had a consensual relationship, or of the person with whom he/she has procreated a son or daughter, under any of the following circumstances:

- (a) If the person has been compelled to engage in sexual conduct through the use of force, violence, intimidation or threat of grave or immediate bodily harm; or
- (b) if the person’s capacity to resist has been substantially annulled or reduced, without the person’s knowledge or the person’s consent through the use of hypnotic methods, narcotics, depressants, stimulants or similar means or substances; or
- (c) if due to an illness or temporary or permanent mental disability, the person were unable to understand the nature of the act at the time it is carried out; or
- (d) if the person is forced or induced by the use of abuse, physical or psychological violence to participate or become involved in an undesired sexual relation with third parties.

The penalty to be imposed for this crime, with the exception of the modality referred to in subsection (a) of this section, shall be that of a second degree felony.

The penalty to be imposed for the modality of the crime referred to in subsection (a) of this section shall be that of a second degree felony in the superior half.

When the modality of the crime described in subsection (a) of this Section is committed while the author of the crime has entered the victim’s home without the

consent of the latter, or has entered a house or residential building where the victim is present, or the yard, land, or parking area thereof, and when the spouses or cohabitants were separated and residing in different dwellings or when they have filed a legal action for divorce, the offender shall incur a second degree felony in the superior half.

The court may impose the penalty of restitution in addition to the established penalty of imprisonment in any of the aforementioned modalities.”

Section 7.- Effectiveness. This Act shall take effect when the Commonwealth of Puerto Rico Penal Code of 2004 becomes effective.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 480 (S.B. 2704) of the 7th Session of the 14th Legislature of Puerto Rico:

AN ACT to amend Sections 1.3, 3.1, 3.2, 3.3, 3.4 and 3.5 of Act No. 54 of August 15, 1989, as amended, known as the Domestic Abuse Prevention and Intervention Act, in order 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 15th of September of 2008.

Francisco J. Domenech
Director