

(H.B. 4261)  
(Conference)

**(No. 525)**

(Approved September 29, 2004)

## **AN ACT**

To amend Section 1.3 and Section 2.1 of Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act,” in order to add the definition of shelter and sheltered and add a new subsection (b) to Section 2.1 so that the protection orders under this Act include the suspension of the paternal relations of the respondent while the petitioner is in a shelter for the purpose of ensuring the safety and protection of the person sheltered, of the children of said person and the personnel in charge of the shelter. To also renumber the existing subsections of Section 1.3 from (b) to (l) as subsections (d) to (n) and the existing subsections of Section 2.1 from (b) to (j) as subsections (c) to (l).

## **STATEMENT OF MOTIVES**

Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act,” was approved as the result of the need to stop violence within the family unit through its prevention and intervention. Since its approval this statute has served as an instrument to help thousands of persons, especially mothers who with their children have seen their peace and physical and emotional integrity violated by the acts of violence perpetrated by their partners.

At present a great number of the victims/survivors of domestic abuse are sheltered with their children in different institutions throughout the country. These persons, mostly women, at the time of deciding to seek shelter, not only sought to safeguard their physical and emotional integrity but also that of their children who suffer, directly and indirectly, from the acts of violence that occur in their homes. Studies conducted in the United States show that between 50% and 70% of the men who abuse their female partner also physically abuse their children. They also indicate that to the degree to which violence against the partner increases so does the abuse to the children.

Shelters provide living quarters for victims/survivors as well as for their children and are conveniently a means of providing for their protection. Besides welcoming those victims who find themselves in situations of extreme defenselessness, shelters promote their self esteem and offer specialized services. When harboring these minors they are responding to the public policy of the government to safeguard the best interests of all minors. It is unfair that because these shelters assume the responsibility of allowing filial visits they should also have to directly deal with aggressive individuals who are a danger to victims/survivors, their children and for the personnel who render services in such an institution.

The children who suffer from and are witnesses of interfamily abuse are often beset by health problems, difficulty in sleeping, anxiety, bad behavior and feelings of guilt, fear and impotence. Furthermore, minors are at high-risk of becoming alcohol and controlled substances users as well as of committing suicide. Likewise, studies indicate that male children raised in homes where domestic violence exists are themselves at greater risk of incurring domestic violence in their intimate adult relationships.

This measure does not intend to unlimitedly or arbitrarily restrict the right of a father or a mother from maintaining a relationship with their children. What it does intend is to acknowledge the right of these minors and the victims/survivors of domestic violence to be protected from abuse which as has been shown not only consists of physical abuse but also of emotional abuse. Thus, the need for restricting relations during that stage, since it could be harmful to the emotional and physical restructuring process which persons sheltered and their children are undergoing.

The approximate time during which victims/survivors may be sheltered fluctuates between thirty days and twelve months, a period in which, depending on the case, it may be possible to immediately put a stop to interfamily violence. The victims/survivors of domestic violence are given the tools to increase and reinforce their self esteem as well as the tools to help achieve better communications with their children.

Certain state jurisdictions of the United States have approved legislation to establish supervised filial relations when the family unit has experienced domestic violence. Legislation has also been approved to allow the courts to consider in all custody cases whether the father or mother who then seeks custody was at any time prohibited from doing so as a result of domestic violence.

The purpose of this piece of legislation is therefore to provide protection to those who undoubtedly most need it: sheltered persons and their children. To put a limit to their relations during that time shall provide protection to those minors and at the same time avoid unreasonable interventions with the life of the sheltered victim.

This Legislature is committed to providing security and protection to sheltered persons as well as their minor children by directing its efforts

towards the achievement of their optimum development away from violent environments. It likewise has the ministerial duty of making reality the public policy set forth in Act No. 54, *supra*, so as to reaffirm the constitutional commitment of protecting the lives, safety and dignity of both men and women as well as to recognize that domestic violence attempts against the integrity itself of the family and its members and constitutes a serious threat to the stability and the preservation of civilized coexistence of our People.

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

Section 1.-Section 1.3 of Act No. 54 of August 15, 1989, as amended, is hereby amended to read as follows:

“Section 1.3.-Definitions

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

(a) ...

(b) Shelter. Means any institution whose main function is to provide protection, safety, security, support services and temporary lodging to surviving victims of domestic violence and to their children.

(c) Sheltered. Means that surviving victim of domestic violence who temporarily resides in a shelter as defined in this Act.

(d) ...

(e) ...

(f) ...

(g) ...

(h) ...

(i) ...

(j) ...

(k) ...

(l) ...

(m) ...

(n) ...”

Section 2.-A new subsection (b) is hereby added to Section 2.1 of Act No. 54 of August 15, 1989, as amended, to read as follows:

“Section 2.1-Protective orders

Any person who has been the victim of domestic abuse or conduct which constitutes said crime as typified in this Act or in the Penal Code of the Commonwealth of Puerto Rico or in any other special law, within the context of a relationship as a couple, may file a petition in court and request and order for protection, motu proprio or through legal counsel or through a law enforcement officer, without first filing a suit or complaint. When the court determines that there is sufficient cause to believe that the petitioner has been a victim of domestic abuse, it may issue an order for protection. Said order may include the following, without it being construed as a limitation:

(a) ...

(b) Suspend any filial relations with the minor children of the respondent party when the petitioner is sheltered. To make such a determination the court shall have to consider the following elements:

(1) The capacity of the shelter for providing security for the persons involved in the filial relations process;

(2) that the shelter possesses the resources needed to transport the minors to the place where the filial relations are to take place;

(3) the distance between the shelter and the place where the filial relations are to take place;

(4) the danger which the respondent party represents, if any, to those persons involved in the filial relations process: children of either sex, shelter personnel and the mother;

(5) the presence of a resource approved by the petitioner as intermediary in the filial relations process;

(6) that the respondent has not incurred conduct constituting domestic violence in the presence of the minors as established in Section 3 of this Act;

(7) that no protective order has been issued in favor of the minors against the respondent party;

(8) the duration of the pattern of domestic violence;

(9) the time transpired from the last contact with the minors and whoever is petitioning for filial relations;

(10) the quality of the relationship of the minors with the respondent;

(11) whether the respondent party has failed to comply with any protective order;

(12) whether the respondent party has incurred threatening conduct against the shelter personnel;

(13) whether the respondent party has verbally, physically or emotionally attacked the minors;

(14) whether the respondent party has affected the emotional health of the minors.

Should any of the elements described in this subsection fail to concur, the court, looking after the welfare of the minor, shall make any other determination based on Sections 50, 51 and 52 of the Comprehensive Child Welfare and Protection Act.

- (c) ...
- (d) ...
- (e) ...
- (f) ...
- (g) ...
- (h) ...
- (i) ...
- (j) ...
- (k) ...
- (l) ...”

Section 3.-Effectiveness

This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 525 (H.B. 4261) of the 7<sup>th</sup> Session of the 14<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend Section 1.3 and Section 2.1 of Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act,” in order to add the definition of shelter and sheltered and add a new subsection (b) to Section 2.1 so that the protection orders under this Act include the suspension of the paternal relations of the respondent while the petitioner is in a shelter for the purpose of ensuring the safety and protection of the person sheltered, of the children of said person and the personnel in charge of the shelter. To also renumber the existing subsections of Section 1.3 from (b) to (l) as subsections (d) to (n) and the existing subsections of Section 2.1 from (b) to (j) as subsections (c) to (l),

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

In San Juan, Puerto Rico, today 25<sup>th</sup> of August of 2006.

Francisco J. Domenech  
Director