

(H. B. 4675)

(No. 542)

(Approved September 30, 2004)

AN ACT

To amend the first paragraph, add a second paragraph, eliminate subsection (j) and rename subsection (j) as subsection (k) of Section 2.1 of Act No. 54 of August 15, 1989, as amended, known as the “Domestic Violence Prevention and Intervention Act;” and to amend the introductory paragraph of subsection (b), eliminate clause (4) and renumber clause (4) as clause (5) of Section 5 of Act No. 284 of August 21, 1999, as amended, known as the “Act Against Stalking in Puerto Rico,” in order to make it mandatory for Courts to order defendants in any case in which a protection or anti-stalking order has been issued, to immediately surrender any firearms and the immediate suspension of any license to bear firearms.

STATEMENT OF MOTIVES

This measure seeks the purpose of amending Section 2.1 of Act No. 54 of August 15, 1989, as amended, known as the “Domestic Violence Prevention and Intervention Act,” and amending Section 5 of Act No. 284 of August 21, 1999, as amended, known as the “Act Against Stalking in Puerto Rico,” in order to make it mandatory for Courts to order defendants in cases in which it is proven that they have incurred domestic violence or committed the crime of stalking, to surrender any firearm for which they hold a license to bear and own or any target-shooting gun.

At present, the provisions we refer to use wording which allows the judge to exercise his/her discretion when deciding whether to allow the defendant to keep his/her firearm or to order its surrendering to the Police. In

practice, judges order persons against whom protection orders have been issued to surrender their firearms to the Police pursuant to the provisions of Act No. 54, *supra*, and Act No. 284, *supra*. This amendment does not make room for discretion and binds the judge to disallow any person against whom a protection order is in effect, from keeping the firearm for which he/she holds a license.

This amendment is grounded in the public policy of the Government of the Commonwealth of Puerto Rico of protecting life and safety from manifestations of violence of any kind against individuals or against families and their property. The purpose of the Legislature is to provide greater safety for the population that has been victim of domestic violence or the crime of stalking.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.—The first paragraph is hereby amended, a second paragraph added, subsection (j) eliminated, and subsection (k) renamed as subsection (j) of Section 2.1 of Act No. 54 of August 15, 1989, as amended, to read as follows:

“Section 2.1.—Protection Orders.—

Any person who has been victim of domestic violence or of conduct which constitutes a crime as typified under this Act or the Penal Code of the Commonwealth of Puerto Rico or any other special law, within the context of a relationship as a couple, may file *per se*, through his/her legal representative or a law enforcement officer, a petition before the Court and request a protection order without the need of having made previous reports or accusations. When the Court so deems or has issued a protection or anti-stalking order, the Court shall immediately order the defendant to surrender to the Puerto Rico Police for custody, any firearm belonging to the defendant

for which a license to bear or own or carry firearms, or for target-shooting or hunting or of any other kind, as the case may be. The order to surrender any firearm as well as the suspension of any kind of firearm shall take effect compulsorily. Likewise, when such an Order is issued by a Court, the same shall have the effect of suspending the license to own or bear any firearm of any kind, such as but not limited to those used for target-shooting or hunting or otherwise, even when said firearm is part of the gear used by the accused in his/her profession. Said restriction shall apply at the very least for the same period of time the Order is in effect. The objective of this statute is to eliminate the possibility for the accused to be able to use any firearm to inflict bodily harm or to threaten or intimidate the petitioner or the members of his/her family unit.

(a) ...”

Section 2.—The introductory paragraph of subsection (b) is hereby amended and clause (4) eliminated from Section 5 of Act No. 284 of August 21, 1999, as amended, to read as follows:

“Section 5.—Issue of Protection Orders.—

(a) ...

(b) When the Court determines that there are sufficient motives to believe that the petitioner has been the victim of stalking, the same may issue a protection order and order the defendant to surrender to the Puerto Rico Police for custody, whether on a temporary, indefinite or permanent basis, any firearm in relation to which the defendant has been issued a license to bear and own or to carry firearms or for target-shooting, or both, as the case may be, and the Court shall order the suspension of the firearms license of the defendant under the same terms. Said order may also include but is not limited to the following:

(1) ...
...”

Section 3.—Clause (5) is hereby renumbered as clause (4) of Section 5 of Act No. 284 of August 21, 1999, as amended.

Section 4.—This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 542 (H.B. 4675) of the 7th Session of the 14th Legislature of Puerto Rico:

AN ACT to amend the first paragraph, add a second paragraph, eliminate subsection (j) and rename subsection (j) as subsection (k) of Section 2.1 of Act No. 54 of August 15, 1989, as amended, known as the “Domestic Violence Prevention and Intervention Act;” and to amend the introductory paragraph of subsection (b), eliminate clause (4) and renumber clause (4) as clause (5) of Section 5 of Act No. 284 of August 21, 1999, as amended, known as the “Act Against Stalking in Puerto Rico,” in order to make it mandatory for Courts to order defendants in any case in which a protection or anti-stalking order has been issued, to immediately surrender any firearms and the immediate suspension of any license to bear firearms,

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

In San Juan, Puerto Rico, today 12th of January of 2007.

Francisco J. Domenech
Director