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Puerto Rico Sexual Harassment in Employment Act

Act No. 17 of April 22, 1988, as amended

(Contains amendments incorporated by:

[Act No. 196 of August 18, 2002](#)

Act No. 252 of November 30, 2006

[Act No. 37 of August 27, 2021](#)

[Amendments non-incorporated:

Act No. 146 of September 27, 2019 (*amended Sec. 11*)

Act No. 82 of September 28, 2022 (*amended Sec. 2 and added new Sections 15, 16, 17, and 18*)]

AN ACT

To prohibit sexual harassment in employment; establish responsibilities and fix penalties.

Our Constitution, in its Bill of Rights, establishes that the dignity of human beings is inviolable and that all men are created equal before the law. It clearly states that there shall be no discrimination on account of race, color, sex, birth or social origin or condition, or political or religious ideas.

In addition to our Constitution, we have other laws in our legal ambit that guarantee the right that there shall not be any discrimination against an employee on account of their sex.

The practice of sexual harassment in employment, in any of its manifestations, infringes the inviolability of the human being and clearly discriminates against men and women in any field of Work. It hinders their work, depriving them of the achievement and enjoyment of a full life to which all human beings are equally entitled before the law, as is stated in the Constitutional mandate, and is one of the ways that sexual discrimination is manifested. This includes men as well as women, although the typical victims tend to be women. This is mainly due to existing cultural patterns where men are placed predominantly above women.

The extent of this problem should interest and concern all of us, because sexual harassment in employment constitutes a repudiable offense against the dignity of all human beings.

Sexual harassment in employment is any undesirable sexual behavior which occurs in a Working relationship and affects job opportunities, the job itself, its terms and conditions, or the person's working environment. It is manifested in many ways, from direct or indirect sexual insinuations that could extend from the most subtle and furtive physical contact to simple or aggravated sexual aggression.

Most of the persons that experience sexual harassment in the workplace prefer and chose not to report it, due to their fear of losing their jobs, reprisals from their superiors, the possible rejection of their spouses and family because of the cultural patterns that prevail in our society.

The Congress of the United States has legislated to prohibit discrimination on account of sex in employment, and the Supreme Court of the United States through judicial interpretation,

and the Federal Equal Employment Opportunity Committee has approved special rules to define sexual harassment in employment and impose responsibilities therefor.

In Puerto Rico, the legislation in effect has also established that discrimination in employment on account of political ideology, race or color, age, national origin and social origin or condition, will be the employer's absolute responsibility when it results from the actions of his supervisors, agents or representatives.

This measure establishes the employer's definite liability in the prevention of sexual harassment in employment, as well as for its commission. The degree of employer liability for sexual harassment in his workplace shall be determined by the relationship of the person who is harassing another to the employer. When the sexual harassment is propitiated by an employee of an equal rank with the person being harassed or when it proceeds from a client or visitor, the employer shall only be held liable if he knew or should have known of the harassment and did not take immediate and adequate corrective action.

When adjudicating liability in the latter cases, the degree of control that the employer could have on the conduct of said client or visitor shall be taken into consideration.

With this legislation we are raising sexual harassment in employment to the same juridical level as the other types of discrimination existing on the federal and local levels.

We all deserve and should aspire to a healthy coexistence in an equality of conditions in our employment that will allow us to enjoy our democratic rights in a society of excellence. On the basis of these democratic postulates, this Legislature has the purpose of contributing to the eradication of this social evil by enacting this measure.

Be it enacted by the Legislature of Puerto Rico:

Section 1. — (29 L.P.R.A. § 155)

This Legislature resolves and declares as the public policy of the Commonwealth of Puerto Rico that sexual harassment in employment is a type of sexual discrimination and, as such, constitutes an illegal and undesirable practice that goes against the established constitutional principle that the dignity of a human being is inviolable. It is the intention of this Legislature to prohibit sexual harassment in employment, to impose responsibilities and fix penalties.

Section 2. — Definitions. (29 L.P.R.A. § 155a) *[Note: Act No. 82-2022, amended Subsection (1), but the official translation is not available. Please consult the Spanish version]*

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

(1) Employee — Any person who works for an employer and receives compensation therefor, or any job applicant. For the purposes of the protection conferred through this Act, the term employee shall be interpreted in the broadest sense possible.

(2) Employer — means any natural or juridical person of any kind, the Government of the Commonwealth of Puerto Rico, including each of its three Branches, and its instrumentalities or public corporations, municipal governments and any of its municipal instrumentalities or

corporations, which employ persons through any kind of compensation, for profit or non-profit purposes, and their agents and supervisors. It also includes labor unions and other organizations, groups or associations in which employees participate for the purpose of negotiating the terms and conditions of their employment with the employers, as well as employment agencies.

(3) Person — means any natural or juridical person.

(4) Supervisor — means any person that exercises some kind of control or whose recommendation is taken into consideration for the contracting, classifying, discharging, promoting, transfer, fixing compensation or the working hours, places or conditions, or the tasks or duties that an employee or group of employees perform or may perform, or on any other terms or conditions of employment for any person that performs day-to-day supervisory tasks.

Section 3. — (29 L.P.R.A. § 155b)

Sexual harassment in employment consists of any type of undesired sexual approach, demand for sexual favors and any other verbal or physical behavior of a sexual nature or that is reproduced by using any means of communication including, but not limited to, the use of multimedia tools through the cybernetic network or through any electronic means, when one or more of the following circumstances occur:

(a) When submission to said conduct becomes, implicitly or explicitly, a term or condition of a person's employment.

(b) When submission to or rejection of such conduct by the person becomes the grounds for making employment decisions or regarding the job that affect that person.

(c) When the conduct has the effect or purpose of interfering unreasonably with the performance of such person's work or when it creates an intimidating, hostile or offensive work environment.

Section 4. — (29 L.P.R.A. § 155c)

In order to determine whether the alleged conduct constitutes sexual harassment in employment, all of the circumstances surrounding the facts that occurred shall be taken into consideration. The determination of the legality of an action shall be based on the findings of each particular case.

Section 5. — (29 L.P.R.A. § 155d)

An employer shall be guilty of sexual harassment in employment according to his actions and those of his agents or supervisors, regardless of whether or not the specific acts being disputed were authorized or prohibited by the employer and regardless of whether the employer knew or should have known about said behavior. The particular employment relationship, shall be examined in order to determine whether the person that committed sexual harassment acted in his position as the employer's agent or supervisor. It shall not be necessary to establish that the agent or supervisor that committed sexual harassment was the claimant's immediate supervisor. '

Section 6. — (29 L.P.R.A. § 155e)

An employer shall be held responsible for any acts of sexual harassment towards the employees in the work place if the employer or his agents or his supervisors knew or should have been informed of such conduct, unless the employer proves that he took immediate and appropriate action to correct the situation.

Section 7. — (29 L.P.R.A. § 155f)

An employer shall be held responsible for the acts of sexual harassment towards his employees in the work place by persons not employed by him, if the employer or his agents or supervisors knew or should have known of such conduct and did not take immediate and adequate action to correct the situation. For the purposes of this Article, the extent of the employer's control and any other legal liability that the employer should have with respect to the behavior of persons not employed by him, shall be taken into consideration.

Section 8. — (29 L.P.R.A. § 155g)

When the employer grants employment opportunities or benefits as the result of a person's submission to sexual approaches and demands of the employer or of his agents or supervisors, the former shall be held liable for sexual harassment in employment with regard to the persons who were denied such opportunity or benefit.

Section 9. — (29 L.P.R.A. § 155h)

An employer shall be held liable pursuant to the provisions of this Act, when he carries out any action that results in adversely affecting the opportunities, terms and working conditions of any person who has rejected the employer's practices that are in conflict with the provisions of this Act, or who has filed a complaint or suit, has given testimony, collaborated or participated, in any other manner, in an investigation, procedure or hearing that is initiated under this Act.

Section 10. — (29 L.P.R.A. § 155i)

Every employer has the obligation of keeping the work place free from sexual harassment and intimidation, and shall clearly express his policy against sexual harassment to his supervisors and employees, and shall guarantee that they shall work with safety and dignity. In compliance with the obligation imposed on the employer of preventing, discouraging and avoiding sexual harassment in employment, he shall take whatever measures that are necessary or convenient for that purpose, including, but not being limited to the following:

(a) Clearly express to his supervisors and employees that the employer has a strong policy against sexual harassment in employment.

(b) Put into practice the methods needed to create awareness and make the prohibition of sexual harassment in employment known.

(c) Give sufficient publicity in the workplace so that the job applicants will know the rights and protection they are entitled to and granted pursuant to this Act, to Act No. 69 of July 6, 1985, [Act No. 100 of June 30, 1959 as amended](#), and the Constitution of the Commonwealth of Puerto Rico.

(d) Establish an adequate and effective internal procedure to handle sexual harassment complaints.

Section 11. — Sanctions. (29 L.P.R.A. § 155j) *[Note: Act No.146-2019, amended Subsection (2), but the official translation is not available. Please consult the Spanish version]*

Any person responsible for sexual harassment in employment, as defined by this Act, shall incur civil liability:

(1) for a sum equal to double of the amount of the damages that the action has caused the employee or job applicant; or

(2) for a sum of not less than three thousand (3,000) dollars at the discretion of the Court, in those cases in which pecuniary damages cannot be determined.

In the judgments rendered in civil actions filed under the above provisions, the court may order the employer to promote or reinstate the employee as well as to cease and desist from any such practice.

In cases where solidary and vicarious liability is adjudicated to the Government of the Commonwealth of Puerto Rico, including each of its three (3) Branches —Executive, Legislative, and Judicial— its instrumentalities, and public corporations, as well as the municipal governments, for acts of sexual harassment in employment, the foregoing may demand the restitution, equalization, or reimbursement of all the public funds used to pay the victims.

Any judgement and/or stipulation shall be public and shall contain an agreement or payment plan between the harasser or alleged harasser, and the Government, agency, municipality, or public corporation which used public funds to defray the judgment in order to enforce the restitution, equalization, or reimbursement thereof.

Section 12. — (29 L.P.R.A. § 155k)

The party that is found guilty of the behavior prohibited pursuant to the provisions of this Act, shall pay the attorney fees and costs of the proceedings as established by a competent Court.

Section 13. — (29 L.P.R.A. § 155l)

It shall not be necessary to exhaust all administrative remedies for the purpose of initiating judicial procedures under this Act.

Section 14. — Sexual Harassment in the Work Place. Limitations. (29 L.P.R.A. § 155m)

The term to file a suit based on the violations contained in this Act shall be of one (1) year. The statute of limitations in suits for sexual harassment in the work place shall begin to run its course when the circumstances that could delay the prosecution of the action end.

Section 15. — *[Note: Act No. 82-2022, added a new Section 15, but the official translation is not available. Please consult the Spanish version]*

Section 16. — *[Note: Act No. 82-2022, added a new Section 16, but the official translation is not available. Please consult the Spanish version]*

Section 17. — *[Note: Act No. 82-2022, added a new Section 17, but the official translation is not available. Please consult the Spanish version]*

Section 18. — *[Note: Act No. 82-2022, added a new Section 18, but the official translation is not available. Please consult the Spanish version]*

Section 19. — This Act shall take effect sixty (60) days after its approval.

Note. This compilation was prepared by the [Puerto Rico Office of Management and Budget](#) staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text and the collection of Laws of Puerto Rico Annotated LPRA. The state links acts are property of [Legislative Services Office](#) of Puerto Rico. The federal links acts are property of [US Government Publishing Office GPO](#). Compiled by the Office of Management and Budget Library.

See also the [Original version Act](#), as approved by the Legislature of Puerto Rico.