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Puerto Rico Working Mothers Protection Act

Act No. 3 of February 28, 1942, as amended

(Contains amendments incorporated by:

Act No. 398 of May 13, 1947

Act No. 39 of June 19, 1969

Act No. 20 of August 5, 1975

Act No. 7 of May 4, 1982

Act No. 39 of July 31, 1991

Act No. 188 of December 26, 1997

[Act No. 54 of March 10, 2000](#)

[Act No. 425 of October 28, 2000](#)

[Act No. 148 of July 19, 2018](#)

[Act No. 95 of August 8, 2020](#))

To protect working mothers; to establish their right to a rest which shall include four (4) weeks before and four (4) weeks after the birth; to prohibit working mothers from working during said period in offices, commercial and industrial establishments, and public service enterprises; to oblige employers to pay to working mothers one half of their salaries, wages, day wages, or compensation during the said period of rest; to fix penalties for the violation of the provisions of this act and for other purposes.

Be it enacted by the Legislature of Puerto Rico:

Section 1. — *Statement of Motives.* — The legislation in force in Puerto Rico provides no protection whatever for working mothers. In collective and individual labor agreements it is not customary to include any provision to guarantee any period of rest for working mothers in the weeks that precede or follow the birth. Uninterrupted work during this period constitutes a positive danger to the health and life of the workers. Medical science counsels the observance of a period of rest in these cases. Modern labor legislation is oriented towards providing working mothers with this indispensable rest.

The Puerto Rican Women who work in offices, commercial and industrial establishments, and public-service enterprises need the benefits of this humanitarian measure which is indispensable for the protection of their health and the preservation of their lives. It is hereby declared that the public policy of this Act is, through the exercise of the powers of the Legislature of Puerto Rico to enact laws for the protection of the lives, health, and security of employees and workmen, to establish the right of working mothers to a rest which shall include four weeks before and four weeks after the birth.

Section 2. — (29 L.P.R.A. § 467)

Pregnant working women shall be entitled to a rest period which shall include four (4) weeks before and four (4) weeks after childbirth. A working woman may opt to take only one (1) week of prenatal rest and extend up to seven (7) weeks the postnatal rest she is entitled to; provided, that she presents a medical certification to her employer attesting that she is able to work up to one (1) week before childbirth. The physician shall take into consideration the type of work performed by the female worker. The rest period provided herein and all the rights or benefits provided under this chapter, shall be applicable to every female worker who is at work or who is enjoying vacation or sick leave, as well as any other special leave or rest period authorized by law in which the employer-employee relationship continues to be in effect. Provided, That every female worker who adopts a preschool-aged child, that is, a child who is five (5) years of age or younger, who is not enrolled in school pursuant to the legislation and legal procedures in effect in Puerto Rico, shall be entitled to the same maternity leave benefits as a female worker has who gives birth to a child. A female employee who adopts a child age six (6) or older shall be entitled to a maternity leave of up to five (5) weeks. In such cases, the leave shall begin as of the date on which the child joins the family unit. In order to claim said right, the female employee must notify the employer of her intent to adopt a child, avail herself of maternity leave, and of her plans to return to work, at least thirty (30) days in advance. Furthermore, she shall submit evidence of the adoption procedures, issued by the pertinent organization, to her employer.

The employer shall likewise be bound to pay the working mother during said rest period her full salary, wages, day wages or compensation that she has been receiving for her work. This payment shall be made at the time the employee begins to enjoy her maternity leave or maternity by adoption leave. Provided, That the average salary, wages, day wages or compensation that she has been receiving during the six (6) months prior to commencing her rest period shall be used as the basis to compute her full salary, wages, day wages or compensation; or, if it is not possible to apply said six-month period, the salary, wages, day wages or compensation the working woman was earning at the time she began to enjoy the leave or special rest period approved by law.

In the case of maternity by a birth which occurred before the weeks of prenatal rest to which the pregnant working woman is entitled have elapsed, or before she has begun said prenatal rest period, she may choose to extend the postnatal rest for a period of time equal to that which she failed to enjoy during the prenatal period, and it shall also be paid to her on a full salary basis; Provided, That the working mother may request to be reinstated to her employment after the first two (2) weeks of the postnatal rest period, if a medical certificate is presented to her employer certifying that she is able to work. In this case, the working woman shall be deemed to have waived the other weeks of postnatal rest to which she is entitled. When the probable date of childbirth is mistakenly estimated, and the woman has enjoyed four (4) weeks of prenatal rest without having given birth, she shall be entitled to have the prenatal leave extended on a full salary basis until the birth occurs, in which case the additional period for which the prenatal rest is extended shall be paid in the same manner and terms established for the payment of regular salaries, wages, day wages or compensations. If the working woman suffers any postnatal complication which prevents her from working after the four-week period, reckoning from the date of the childbirth, the employer shall be under the obligation to extend the rest period for a term which shall not exceed twelve (12) additional weeks, provided that before the expiration of said rest period, a medical

certificate attesting to such facts is presented. In this case, the working woman shall not be entitled to receive additional compensation, but her position shall be reserved for her.

In the case of an adopting working mother, she may request to be reinstated to her work at any time after she has begun to enjoy her maternity leave. Provided, That in such case it shall be deemed that the adopting working mother waives any remaining term of the leave to which she is entitled.

Section 3. — (29 L.P.R.A. § 468)

During the rest periods referred to in Section two (2), the employer shall be bound, notwithstanding any stipulation to the contrary, to reserve the position of the pregnant female worker and the female worker who adopts a child pursuant to Act, the legislation and legal procedures in force in Puerto Rico or in any jurisdiction of the United States.

Section 4. — (29 L.P.R.A. § 469)

The employer shall not, without just cause, dismiss a pregnant woman or a woman who adopts a child pursuant to the legislation and legal procedures in effect in Puerto Rico or in any jurisdiction of the United States of America. Diminished work performance as a result of the pregnancy shall not be deemed to be just cause.

(a) Any employer that terminates, suspends, or otherwise discriminates against an employee on the basis of reduced work performance while pregnant, or that refuses to reinstate such employee after childbirth or adopting a child pursuant to the statutes and legal procedures in effect in Puerto Rico or in any jurisdiction of the United States of America shall be civilly liable for a sum equal to twice the amount of the damages caused to the female employee, or for an amount of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) at the discretion of the court if the amount of monetary damages cannot be determined, or twice the amount of the monetary damages if such damages amount to less than one thousand dollars (\$1,000). The employee shall also be entitled to reinstatement under penalty of the employer incurring in additional damages that are identical or equal to those established in this section. In any case in which a pregnant woman is dismissed it shall be presumed that the actions of the employer were unwarranted. The employer shall be required to submit sufficient proof to rebut the presumption.

Section 5. — (29 L.P.R.A. § 470)

In order to make use of the rest established in Section 2 of this Act, the working mother shall present the employer a medical certificate showing that the state of pregnancy at which she has arrived requires said rest as provided herein. It shall be the obligation of the physicians who supervise the prenatal care and/or childbirth to issue every working mother who so requests, free of all cost, after the corresponding examination, a certificate showing the state of the pregnancy, as well as the other medical certificates mentioned in Section 2 of this Act.

Section 6. — (29 L.P.R.A. § 471)

Any employer who denies any working mother the rest period or the maternity leave for adoption to which she is entitled to by law, or who permits said worker to work in his/her office, establishment or business place during the last week of pregnancy or the subsequent two (2) weeks immediately after birth, without the pregnant working mother having previously submitted herself voluntarily to medical examinations with the physician or medical specialist of her choice, and a report or medical certification has been submitted to the employer assuring that the condition and state of health of the working mother does not prevent her from performing her work or task, indicating such fact specifically, and stating in turn any special instruction or limitation regarding the time and place in which the working mother may be able to perform her work or task; or any employer who does not pay, in whole or in part, the salary, pay, daily wages or compensation to which she is entitled during said rest period or for the adoption of a child by virtue of the laws and procedures in force in Puerto Rico or any jurisdiction of the United States of America pursuant to the provisions of Section 2 of this Act, or who discharges her for reason of her state of pregnancy, or for her intention of adopting, or who does not keep the job position reserved for her as determined herein, or who avails him/herself of any recourse, fraud, deceit or subterfuge to deceive, deny or deprive any working mother from the referred rest period or maternity leave for adoption to which she is entitled to, shall incur a misdemeanor and if convicted, shall be punished by a fine of not less than one thousand dollars (\$1,000) or more than five thousand dollars (\$5,000), or imprisonment for a term of not less than thirty (30) days or more than ninety (90), or both penalties at the discretion of the court.

Section 7. — (29 L.P.R.A. § 472)

Whenever a female worker has to file a claim against her employer for the enjoyment of the rest period established herein or for any sum on account of salary, pay, daily wages or compensation corresponding to said rest period or maternity leave for adoption, as determined herein, she may avail herself of the procedure set forth in Act No. 10 of 1917, as subsequently amended [*Note: Repealed and replaced by Act No. 2 of October 17, 1961, as amended (32 L.P.R.A. §§ 3118 et seq.*), or any other legal procedure.

In the event the claim is sustained, the judgment shall order the employer to grant the rest period to which the petitioner is entitled to, or to pay the corresponding salary, pay, daily wages or compensation, as the case may be, plus a reasonable sum for costs, expenses and attorney fees.

Section 8. — (29 L.P.R.A. § 473)

For the purposes of this Act, the term “working woman” shall mean any woman employed for a salary, wage, day wage, a fixed-term contract, or any other kind of compensation, in any office, commercial or industrial establishment, or public service company. The protections afforded under this Act shall apply to female workers employed under a fixed-term contract as long as the employer-employee relationship is in effect unless a reasonable expectation of continuing work has been created, in which case the protections afforded under this Act shall be extended beyond the expiration date of the contract.

Section 9. — (29 L.P.R.A. § 474)

If any clause, paragraph, section, provision, or part of this Act is declared unconstitutional by a court of competent jurisdiction, said decision shall not affect, prejudice, or invalidate the remainder of this Act, but its effect shall be limited to the clause, paragraph, section, provision, or part of this Act that was so declared unconstitutional. The Secretary of Labor and Human Resources shall promulgate the rules necessary for the enforcement of this Act.

Section 10. — All laws or parts of laws in conflict herewith are hereby repealed.

Section 11. — This Act shall take effect ninety 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 LPR.A. 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.