

(H. B. 2760)

(No. 84)

(Approved July 30, 2007)

AN ACT

To amend subsection 1 of Section 2.1 of Article 2 of Act No. 184 of August 3, 2004, as amended, known as the “Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico,” in order to prohibit discrimination in the public service on the basis of domestic violence, sexual assault or stalking.

STATEMENT OF MOTIVES

The Constitution of Puerto Rico sets forth that the dignity of men and women is inviolable. Domestic violence undoubtedly is a clear violation of this constitutional precept and one of the most critical manifestations of the effect of inequality in the relationships between men and women. It constitutes a criminal act that attempts against the physical security and emotional stability of not only the victim, but also of all other family members.

Domestic violence also has direct repercussions in the work environment, because many victims of domestic violence face problems at work due to the violent acts inflicted upon them by their partners, which have a direct effect on their performance as an employee. Very often, employment is the single source of support of the domestic violence victim, and the only means of escape from an abusive relationship. Nevertheless, victims sometimes refrain from filing for protection orders or criminal charges for fear of losing their jobs or being discriminated against.

Two decades ago, the issue of domestic violence in the workplace was inexistent. Today, awareness has been obtained and this situation represents a major employment security problem for supervision personnel and employers with which they are beginning to deal. (Domestic Violence in the Workplace Programs, Family Violence Prevention Fund, 2004, <http://www.endabuse.org>).

Statistical data contained in the Statistics Division Report of the Puerto Rico Police show that in our Island, 21,164 domestic violence incidents were reported in 2004, of which 170 occurred in the workplace, 22,635 domestic violence incidents were reported in 2005, of which 197 incidents occurred in the workplace. This evidences that there was an increase in domestic violence incidents that occurred in the workplace.

According to Heidi Sachs, in “Domestic Violence as a Barrier to Women’s Economic Self-Sufficiency,” published in *Issue Notes*, Vol. 3, No. 3 in December 1999, studies show that domestic violence victims often suffer from depression, anxiety, low self-esteem, and other behaviors associated with post-traumatic stress disorder, which make it difficult for women to perform the tasks of their jobs to the best of their abilities. This, added to the fact that the aggressor intervenes directly with the victim in the latter’s workplace through incessant telephone calls, constant stalking at the workplace, and visits to inflict physical, verbal and emotional abuse against the victim in the presence of co-workers is the cause for which employers opt for termination of the victim’s employment, or leave the victim no other choice than to resign.

In this sense, Puerto Rico approved Act No. 88 of August 26, 2005, to create an Interagency Protocol of Intervention with Victims/Survivors of Domestic Violence. In Puerto Rico, as well as in other states of the United

States, such as Arizona (ARIZ.REV.STAT.§12-1810(2003)), Colorado (COLO.REV.STAT.§13-14-102(2003)), Indiana (IND.CODE.ANN.§34-26-6-1(2003)), Arkansas (ARK.CODEANN.§11-5-115(2003)), Maine (ME.REV.STAT.ANN.§5-4653(2003)), legislation was approved to authorize employers to obtain protection orders when an employee is a victim of domestic violence in order to protect the working environment. Specifically, Act No. 538 of September 30, 2004, which amended Act No. 54 of August 15, 1989, as amended, known as the “Domestic Abuse Prevention and Intervention Act,” established a procedure to allow employers to request protection orders in favor of the personnel of his/her workplace, after notifying them thereof.

Act No. 54, *supra*, clearly establishes as public policy that the Government of the Commonwealth of Puerto Rico “repudiates domestic abuse as contravening the values of peace, dignity and respect,” thus reaffirming its constitutional commitment to protect the life, safety and dignity of our men and women. However, victims have been, at times, twice victimized when in the need to put a stop to the violence in their lives by resorting to a shelter, the court, or prosecutor to save their lives and the lives of their children, they are fired from their jobs as a result of their absences.

In view of this reality, several jurisdictions in the United States of America already have legislation to protect against discrimination in the workplace for being a victim or perceived as a victim of domestic violence, sexual assault or stalking. These are: California, Cal.Lab. Code §230 & 230.1; Colorado, Colo.Rev. Stat. §24-34-402.7; Connecticut, Conn/Gen. Stat. §54-85b; Florida, Miami-Dade County: Miami-Dade Cty., Fla. Code §11A-61; Hawaii, Haw. Rev. Stat. §378-72; Illinois, 820Ill. Rev. Stat.

180/1-45; Maine, 26 Me. Rev. Stat. §850; New York State, N.Y. Penal Law §215.14; North Carolina, N.C. Gen. Stat. §95-241; Rhode Island, R.I. Gen. Laws, §12-28-10. Furthermore, several states have introduced bills related to prohibiting discrimination in the workplace when the person is a victim or perceived as a victim of domestic violence, sexual assault or stalking; these are: Hawaii, Indiana, Kentucky, Louisiana, Massachusetts, New Jersey, New York, Oklahoma, Pennsylvania, and Tennessee.

On the other hand, it is necessary to indicate that, pursuant to the provisions of Act No. 184 of August 3, 2004, as amended, today employees are envisioned as the most valuable asset by the modern public administration. Therefore, said statute provides that “rather than being resources to be used and consumed, employees are the human capital that must be developed in order to improve public service for the benefit of the citizenry, of which they constitute a part.”

To honor this constitutional commitment to protect, this measure has the objective of addressing the need to guarantee to all employees who are victims of domestic violence that they shall not be discriminated against for such reason, thus protecting their financial stability and their access to request the remedies established to allow them to end the abusive relationship. There is the need to create and reinforce all efforts geared toward addressing the repercussions of domestic violence in the workplace and enable that the recognized substantive rights have an actual effect and may be accessed by those persons for which they were established, in this case victims/survivors of domestic violence.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Subsection 1 of Section 2.1 of Article 2 of Act No. 184 of August 3, 2004, as amended, is hereby amended to read as follows:

“Article 2.—Statement of Public Policy.—

Section 2.1.—Contents.—

The public policy of the Commonwealth of Puerto Rico concerning the Human Resources Administration of the agencies covered under this Act is that stated below:

1. To reaffirm merit as the principle that shall govern the Public Service, in order for the fittest to be the ones serving in the Government and for all employees to be selected, trained, promoted, treated and retained in their jobs in consideration of their merit and capability, without discrimination pursuant to the applicable laws, including discrimination on the basis of race, color, gender, origins, or social condition, political or religious beliefs, age, for being a victim of domestic violence, sexual assault or stalking, being a veteran, or for physical or mental disability.
2. ...”

Section 2.- Effectiveness

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 84 (H.B. 2760) of the 5th Session of the 15th Legislature of Puerto Rico:

AN ACT to amend subsection 1 of Section 2.1 of Article 2 of Act No. 184 of August 3, 2004, as amended, known as the “Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico,” in order to prohibit discrimination in the public service on the basis of domestic violence, sexual assault or stalking,

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

In San Juan, Puerto Rico, today 15th of November of 2007.

Francisco J. Domenech
Director