

(H.B. 203)

(No. 87)

(Approved August 26, 2005)

AN ACT

To add a Section 12; renumber Sections 12 and those following as Sections 13 to 30 of Act No. 230 of May 12, 1942, as amended, known as the “Employment of Women and Minors; Compulsory School Attendance Act,” in order to specify that no employer may discriminate against a minor of under 18 years of age because of the guarantee of confidentiality of his/her record granted by the Puerto Rico Minors Act.

STATEMENT OF MOTIVES

The global economic situation and the increase in the responsibilities acquired by minors in Puerto Rico each day prompt a greater number of these young people to join the labor force. Regardless of whether they seek a first work experience in order to finish their studies, or whether they need to generate an income to provide for their families, the truth is that many employers wish to know if the applicants have incurred any type of criminal conduct before hiring them.

However, the Puerto Rico Minors Act wisely provides minors with a guarantee of confidentiality about the services, complaints or other details that might have been brought before the Minors Court. Sadly, some employers fail to understand the scope of the protection sought for such

minors and opt to deny them employment in view of their uncertainty as to whether the applicants may or may not have a criminal record.

It is important to make clear that the records of minors are kept in files separate from those of adults and they are not subject to inspection by the public, but may be accessible for inspection by the legal representative of the minor in question after the proper identification of the former and in a specific place for doing so. The records in the possession of the Police as well as those in the possession of the Advocate are subject to the same confidentiality. Therefore, copies of legal or social documents may never be allowed to be taken out of court. No information whatsoever may be provided concerning the contents of any record except that after prior proof of necessity and the express permission of the court, said information may be made available to officials of the General Court of Justice for their official use, and to those persons of accredited professional or scientific repute who in writing attest to their interest in obtaining such information for the fulfillment of their official duties and always under the conditions the judge may stipulate.

This right to the confidentiality of the record of a minor has been stipulated in Chapter 10 of Act No. 33 of June 19, 1987, as amended, known as the Rules of Procedure for Minors' Affairs, which among other things provides for the destruction of the records of minors who are found not to have committed any offense. The record must likewise be sealed once the authority of the court over the minor has ceased.

In view of this situation, the Legislature of Puerto Rico deems it imperative to reaffirm the public policy directed to guaranteeing the confidentiality of the record of a minor and at the same time extend said protection to the private labor market. Finally, we provide new sanctions

against those employers who discriminate in these matters in detriment of minors.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.-A Section 12 is hereby added to Act No. 230 of May 12, 1942, as amended, known as the “Employment of Women and Minors; Compulsory School Attendance Act,” to read as follows:

“Section 12.-Employment of Minors – Record of the Minor

The record of a minor before a Court shall not constitute an impediment for applying or obtaining employment, a position or office in the public service or the private sector. Any natural or juridical person who rejects an employment application of a minor of eighteen (18) years of age or fails to give the minor employment only because said person did not have access to the records of the applicant, shall be sanctioned with a fine of not less than one thousand (1,000) dollars nor of more than five thousand (5,000) dollars.”

Section 2.-Sections 12 and those following are hereby renumbered as Sections 13 to 30 of Act No. 230 of May 12, 1942, as amended, known as the “Employment of Women and Minors; Compulsory School Attendance Act.”

Section 3.-This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 87 (H.B. 203) of the 1st Session of the 15th Legislature of Puerto Rico:

AN ACT to add a Section 12; renumber Sections 12 and those following as Sections 13 to 30 of Act No. 230 of May 12, 1942, as amended, known as the “Employment of Women and Minors; Compulsory School Attendance Act,” in order to specify that no employer may discriminate against a minor of under 18 years of age because of the guarantee of confidentiality of his/her record granted by the Puerto Rico Minors Act,

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

In San Juan, Puerto Rico, today 24th of January of 2006.

Francisco J. Domenech
Director