

(S.B. 339)

(No. 107)

(Approved August 27, 2005)

AN ACT

To amend Section 11.001 and add a clause (3) to Section 11.016 of Act No. 81 of August 30, 1991, as amended, known as the “Puerto Rico Autonomous Municipalities Act of 1991,” in order to prohibit discrimination in the municipal public service for reason of being a victim of domestic violence; to establish the benefit of non accruable leave with pay for a maximum of five (5) working days in the municipal public service when the employee is the victim of domestic violence; to seek the assistance of an attorney or advisor in matters of domestic violence; to obtain a restraining order or obtain medical services or those of any other nature for him/herself or his/her family members; and for other purposes.

STATEMENT OF MOTIVES

It is an unfortunate fact that there are thousands of citizens within our society that from day to day are subjected to acts or threats of violence by their spouses, former spouses, persons with whom they have children in common, persons with whom they cohabit or have cohabited, persons with whom they are or have been continuously involved in a relationship of a romantic or intimate nature or persons with whom they live or have lived continuously or at regular intervals in the same residence. Thus, domestic violence is an extremely antisocial criminal act with devastating consequences for the family unit.

Since it is a direct aggression against civilized coexistence that contributes to the disintegration of the family, to fostering crime and to the weakening of the values of human neighborliness, we, as a society have always considered it imperative to eradicate domestic violence and its damaging effects. On the basis of this, numberless studies have been conducted about such a problem, whose conclusions at times have served as the foundation for the creation and adoption of legislative measures.

However, little attention has been given to the impact of domestic violence on the working lives of its victims and on the economy in general. Nevertheless, substantial evidence has been gathered in recent years on the devastating impact of domestic violence in the capacity of its victims – an overwhelming majority of whom are women – to fully participate in the labor market. Said evidence leads us to conclude that it is clear that the capacity of the victims of domestic violence to escape from an abusive relationship depends to a great degree in economic factors, such as finding and maintaining a job and acquiring economic security and independence.

Many of these studies have shown that more than half of the women victims of domestic violence remain in abusive relationships because they lack alternate resources with which to support themselves and their children. Other studies have shown that between 24% and 52% of the women victims lose their jobs, in part, due to domestic violence, including harassment by the offender in and outside the workplace. Employers are also negatively affected by domestic violence. On the basis of this, numberless companies at the national level have established policies and programs to assist those of their employees who face domestic violence.

Within the governmental structures, other state jurisdictions such as New York, Maine and Pennsylvania and local jurisdictions such as the city of Miami, Florida, have begun to contend with this problem.

We acknowledge the fact that frequently and perhaps for fear of losing their jobs, the victims of domestic violence dare not inform their employers about domestic violence incidents or to solicit simple working conditions that might help them do their work properly. Every day we hear more anecdotes that suggest that the fear of the victims of domestic violence of being demoted, transferred or suspended from employment or of losing their jobs is not unjustified. It is known that certain victims of domestic violence have had their position downgraded or have been dismissed from their jobs after having solicited simple protective measures such as free days or flexible work schedules in order to seek the assistance of an attorney or advisor in matters of domestic violence or obtain a restraining order or medical services or those of any other nature for themselves or for their family members.

It is possible that the victims of domestic violence who receive medical treatment or therapy due to the physical or psychological effects of domestic violence are covered by the provisions that apply to those persons with disabilities in the Federal or Commonwealth laws now in effect. However, not all victims of domestic violence need or receive such treatment and thus cannot be considered to be disabled persons. Furthermore, many victims of domestic violence do not consider themselves to be disabled.

We therefore understand that it is to our best interests to protect the economic feasibility of the victims of domestic violence and to assist them in their efforts to become independent of their abusers. Thus, the victims of

domestic violence who are employees or officials of the Government of Puerto Rico must be allowed to communicate with their directors or supervisors without fear of reprisal to let them know about incidents of domestic violence or to be able to take the steps that would allow them to escape from abusive relationships and improve their work performance, provided this does not imply undue hardship in economic terms.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.-Section 11.001 of Act No. 81 of August 30, 1991, as amended, known as the “Puerto Rico Autonomous Municipalities Act of 1991,” is hereby amended to read as follows:

“Section 11.001.-Personnel system – Establishment

Each municipality shall establish an autonomous system for the administration of the municipal personnel.

Said system shall be governed by the merit principle in order to provide a public service of excellence based on equity, justice, efficiency and productivity without discrimination due to race, color, gender, birth, age, origin or social condition nor due to political or religious ideas or to being a victim of domestic violence. Said system shall be in agreement with the guidelines prepared by the Office of Human Resources of the Commonwealth of Puerto Rico (ORHELA, Spanish acronym), by virtue of Section 1, *et seq.* of Act No. 5 of October 14, 1975, as amended, known as the “Puerto Rico Public Service Personnel Act.”

....”

Section 2.- Section 11.016 of Act No. 81 of August 30, 1991, as amended, known as the “Puerto Rico Autonomous Municipalities Act of 1991,” is hereby amended to read as follows:

“Section 11.016.-Fringe benefits – Holidays and leave

In addition to the fringe benefits established by special laws, including the provisions in effect regarding holidays, municipal employees shall be entitled to the following:

- (a) Holidays – Holidays shall be those days declared as such by the Governor or by municipal ordinance.
- (b) Leave
 - (1) Vacation leave
 - ...
 - (2) Sick leave
 - ...
 - (3) Leave for victims of domestic violence

When the employee is victim of domestic violence and requires free days or a flexible work schedule, he/she shall be entitled to non accruable leave with pay for a term of up to five (5) working days to seek the assistance of an attorney or advisor in matters of domestic violence, obtain a restraining order or obtain medical services or those of any other nature for him/herself or his/her family members.

For the purposes of this Section the term ‘domestic violence’ shall be interpreted as it is defined in the ‘Act for the Prevention of and Intervention with Domestic Violence,’ Act No. 54 of August 15, 1989, as amended.

- (c) Christmas bonus
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Section 3.-The provisions of this Act regarding the prohibition of discrimination against municipal employees who are victims of domestic violence shall apply to employees in the municipal public service.

Section 4.- The provisions of this Act regarding leave to the victims of domestic violence shall apply to employees in the municipal public service regardless of whether they are or are not covered under any collective bargaining agreement, except when the agreement signed provides a greater benefit.

Section 5.-Severability

Should any part, paragraph or Section of this Act were to be declared null or invalid by a Court with competent jurisdiction, the judgment rendered to that effect shall only affect that part, paragraph or Section whose nullity or invalidity has been declared.

Section 6.-Effectiveness

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 107 (S.B. 339) of the 1st Session of the 15th Legislature of Puerto Rico:

AN ACT to amend Section 11.001 and add a clause (3) to Section 11.016 of Act No. 81 of August 30, 1991, as amended, known as the “Puerto Rico Autonomous Municipalities Act of 1991,” in order to prohibit discrimination in the municipal public service for reason of being a victim of domestic violence; to establish the benefit of non accruable leave with pay for a maximum of five (5) working days in the municipal public service when the employee is the victim of domestic violence; to seek the assistance of an attorney or advisor in matters of domestic violence; to obtain a restraining order or obtain medical services or those of any other nature for him/herself or his/her family members; and for other purposes,

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