

(H. B. 1061)

(No. 230)

(Approved October 23, 2006)

AN ACT

To amend subsection (2) of Section 2 of Act No. 32 of May 22, 1972, as amended, which creates the Investigation, Prosecution and Appeal Commission (CIPA, Spanish acronym), to establish that the same may increase or aggravate a sanction, only when from the analysis of the facts that caused the complaint or the presentation of evidence before such body, it arises that the authority empowered to sanction has not imposed an adequate punishment.

STATEMENT OF MOTIVES

The “Investigation, Prosecution and Appeal Commission (CIPA, Spanish acronym),” was created by Act No. 32 of May 22, 1972, to establish an exclusive forum to appeal all cases in which any officer of the Executive Branch authorized to make arrests is accused of misuse or abuse of authority. Citizens who have allegedly been victims of misuse or abuse of authority are thus empowered to resort to a specialized independent entity to protect their civil rights.

Subsequently, the jurisdiction of CIPA was extended to grant it exclusive appellate jurisdiction over sanctions imposed by the appointing authority to public officers subject to Act No. 32.

Therefore, CIPA may act as an investigative agency and initiate disciplinary procedures against public officers authorized to make arrests, and as an appellate entity, to hear appeals submitted whether by individual

citizens unsatisfied with decisions made by the appointing authority, or by public officers against whom disciplinary measures have been imposed.

In *Arocho v. Puerto Rico Police*, 144 P.R.R. 765 (1998), the Supreme Court of Puerto Rico confirmed that CIPA “is authorized to increase the sanctions that the Police Superintendent may have imposed upon an appellant.” It further indicated that to modify does not only mean to reduce or lessen. To modify, in general terms, is to amend, change, correct, reform, vary or rectify.”

We understand that CIPA is different from other appellate entities because it is authorized to modify a determination to increase sanctions. An officer authorized to make arrests has power and authority not held by other citizens, such as the Puerto Rico Police, for example. We must always find the way to ensure that its members are the most suitable and able to carry out these duties. We must ensure that they are persons who observe the law, especially those that they are called upon to help enforce. We cannot expect any less from them.

The Commonwealth, aware of the great responsibility of the aforementioned officers, cannot afford to have an unqualified person interact with our citizens at the level of security and protection due to a mistaken determination made by those called upon to sanction the officers who are subject to Act No. 32.

The determination to increase a sanction cannot be made without grounds. It must be justified in such a manner that it does not dissuade those who wish to exercise their right to appeal before CIPA. We consider that this shall result in a better balance of interests between the parties involved.

The purpose of this Act is to establish that CIPA’s authority to increase sanctions should only apply when from an analysis of the record of the

complaint, or the presentation of evidence before such entity or both, it arises that the penalty imposed does not truly fit the facts that gave rise to the complaint.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Subsection (2) of Section 2 of Act No. 32 of May 22, 1972, as amended, is hereby amended to read as follows:

“Section 2.-

The Commission shall have the following functions:

- (1) ...
- (2) It shall act as an appellate entity with exclusive jurisdiction to hear and resolve appeals filed by public officers covered by this Act when the chief or director of the body or dependency in question has imposed any disciplinary measure in connection with the acts covered by this Act, or with slight faults in which an admonishment or suspension from employment and pay has been imposed, or serious faults in the case of members of the Commonwealth or Municipal Police, or from other agencies with similar regulations. It may also hear appeals presented by any citizen who is not satisfied with the decision of said officer.

Both the defendant officer and the plaintiff citizen who filed a formal complaint before an authority empowered to sanction shall have a term of thirty (30) days to appeal before the Commission, as of the notice of the decision of the issuing authority.

After holding the corresponding hearing, pursuant to the provisions of Section 3, Subsection (3), the Commission

may confirm, revoke, or modify the ruling or action appealed, or may impose any sanction that the authority empowered to sanction may have imposed. Notwithstanding the above, the Commission may modify its ruling in order to increase or aggravate a sanction only when, from an analysis of the record or the presentation of evidence before such entity or both, it arises that the chief or director of the dependency has imposed a punishment that, reasonably, does not fit the facts that gave rise to the complaint that has been presented.

...”

Section 2.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 230 (H.B. 1061) of the 4th Session of the 15th Legislature of Puerto Rico:

AN ACT to amend subsection (2) of Section 2 of Act No. 32 of May 22, 1972, as amended, which creates the Investigation, Prosecution and Appeal Commission (CIPA, Spanish acronym), to establish that the same may increase or aggravate a sanction, only when from the analysis of the facts that caused the complaint or the presentation of evidence before such body, it arises that the authority empowered to sanction has not imposed an adequate punishment,

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

In San Juan, Puerto Rico, today 31st of October of 2007.

Francisco J. Domenech
Director

