

(H.B. 452)

(No. 59)

(Approved April 4, 1998)

AN ACT

To amend Articles 173-A, 173-B, 173-C, 178, 196 and 198 of Act No. 115 of July 22, 1974, as amended, known as the “Penal Code of the Commonwealth of Puerto Rico,” in order to include the penalty of restitution as a possible additional penalty to those already established in the aforementioned Articles.

STATEMENT OF MOTIVES

Act No. 111 of July 4, 1980 added, through new Articles 49-A and 54-A, the penalty of restitution to those penalties already established in Article 38 of the Puerto Rico Penal Code. Act No. 101 of June 4, 1980 was approved together with the aforementioned Act, to include the penalty of restitution for certain specific crimes set forth in the Penal Code. Curiously, certain of the crimes specified among the Crimes against Property in the Penal Code fail to provide the Court with this tool as penalty.

Our Supreme Court has resolved that the penalty of restitution is applicable only to those crimes for which the Legislature has specifically provided it.

This Legislature believes that to expressly include the penalty of restitution for some of the crimes against property while others do not include it, is an inconsistency and therefore it deems that the approval of this measure to amend Articles 173-A, 173-B, 173-C, 178, 196 and 198 of our Penal Code is necessary.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Article 173-A of the Puerto Rico Penal Code, as amended, is hereby amended to read as follows:

“Article 173-A.- Aggravated Robbery

Imprisonment for a fixed term of fifteen (15) years shall be imposed on any person who commits the crime provided in the preceding Article if to do so he/she makes use of a minor under eighteen (18) years of age. Should there be aggravating circumstances the fixed penalty established can be increased to a maximum of twenty-five (25) years; should there be extenuating circumstances, it can be reduced to a minimum of ten (10) years. Provided, furthermore, that the Court may impose the penalty of restitution in addition to the established penalty of imprisonment.”

Section 2.- Article 173-B of the Puerto Rico Penal Code, as amended, is hereby amended to read as follows:

“Article 173-B.- Carjacking

Any person who, using an object capable of causing grave bodily injury, unlawfully appropriates him or herself of a motor vehicle belonging to another, taking it away from the person, or from the person in whose possession it is at the time, in his/her immediate presence and against his/her will, through the use of violence or intimidation, shall be sanctioned with a fixed term of imprisonment of eighteen (18) years. Should there be aggravating circumstances the fixed penalty can be increased to a maximum of thirty (30) years; should there be extenuating circumstances, it can be reduced to a minimum of twelve (12) years. Provided, furthermore, that the Court may impose the penalty of restitution in addition to the established penalty of imprisonment.”

Section 3.- Article 173-C of the Puerto Rico Penal Code, as amended, is hereby amended to read as follows:

“Article 173-C.- Aggravated Carjacking

Imprisonment for a fixed term of twenty-four (24) years shall be imposed on any person who commits the crime provided in the preceding Article if to do so he/she uses a minor under eighteen (18) years of age. Should there be aggravating circumstances the fixed penalty established can be increased to a maximum of forty (40) years; should there be extenuating circumstances, it can be reduced to a minimum of sixteen (16) years. Provided, furthermore, that the Court may impose the established penalty of restitution in addition to the penalty of imprisonment.”

Section 4.- Article 178 of the Puerto Rico Penal Code, as amended, is hereby amended to read as follows:

“Article 178.- Entry into Another Person’s Landed Property

(a) Any person entering the fenced landed property of another by exerting force on the fence or paling, without the permission of the owner or person in charge thereof, shall be punished with a term of imprisonment which shall not exceed six (6) months, a fine which shall not exceed five hundred (500) dollars, the penalty of restitution, or a combination of any of the abovementioned penalties, at the discretion of the Court.

(b) Any person entering the landed property of another without the permission of the owner or person in charge thereof with the intention of committing a misdemeanor, shall be punished with a term of imprisonment which shall not exceed one (1) month, a fine which shall not exceed one hundred (100) dollars, the penalty of restitution, or a combination of any of the abovementioned penalties, at the discretion of the Court.

(c) Any person entering the landed property of another without the permission of the owner or person in charge thereof with the intention of committing a felony shall be punished with a term of imprisonment that shall not exceed three (3) months, a fine that shall not exceed three hundred (300) dollars, the penalty of restitution, or a combination of any of the abovementioned penalties, at the discretion of the Court.”

Section 5.- Article 196 of the Puerto Rico Penal Code, as amended, is hereby amended to read as follows:

“Article 196.- Aggravated Arson

The penalty of imprisonment shall be for a fixed term of eighteen (18) years should the fire be caused under any of the following circumstances:

- (a)
- (b)
- (c)
- (d)

In any of the preceding circumstances, should there be aggravating circumstances the fixed penalty established can be increased to a maximum of thirty (30) years; should there be extenuating circumstances, it can be reduced to a minimum of twelve (12) years. The Court, at its discretion, may impose the penalty of restitution in addition to the penalties established in this Article.”

Section 6.- Article 198 of the Puerto Rico Penal Code, as amended, is hereby amended to read as follows:

“Article 198.- Serious Damage or Destruction

Imprisonment for a fixed term of ten (10) years shall be imposed on any person who maliciously endangers the life, body or patrimony of another by any of the following acts:

- (a)

- (b)
- (c)
- (d)

In any of the preceding acts, should there be aggravating circumstances the fixed penalty established can be increased to a maximum of fifteen (15) years; should there be extenuating circumstances, it can be reduced to a minimum of six (6) years. The Court, at its discretion, may impose the penalty of restitution in addition to the penalties established in this Article.”

Section 7.- This Act shall take effect immediately after its approval.

June 28, 1999

Luis G. Hidalgo, Director of the Office of Legislative Services of the Legislature of Puerto Rico, hereby certifies to the Secretary of State that he has duly compared the English and Spanish texts of Act No. 59 (H.B. 452) of the 3rd Session of the 13th Legislature of Puerto Rico, entitled:

AN ACT to amend Articles 173-A, 173-B, 173-C, 178, 196 and 198 of Act No. 115 of July 22, 1974, as amended, known as the “Penal Code of the Commonwealth of Puerto Rico,” in order to include the penalty of restitution as a possible additional penalty to those already established in the aforementioned Articles,

and finds the same are complete, true and correct versions of each other.

Luis G. Hidalgo