

(H. B. 1347)

(No. 120)

(Approved July 19, 2000)

AN ACT

To amend Sections 1 and 4, repeal Section 2 and renumber Section 3 as Section 2, Section 4 as Section 3, and Section 5 as Section 4 of Act No. 117 of June 30, 1965, as amended, in order to include the maternity leave by adoption as a benefit for the teachers covered by said act; and for other purposes.

STATEMENT OF MOTIVES

Pursuant to Act No. 3 of March 13, 1942, as amended, known as the “Working Mothers’ Protection Act”, the Legislature of Puerto Rico enacted a public policy addressed to offer protection to working mothers. From that moment on, pregnant working mothers had the right to a rest period, that includes four (4) weeks before the birth and four (4) weeks after giving birth. However, the benefits granted by said law do not apply, **where appropriate**, in the case of those working mothers that adopt a child pursuant to the laws and legal procedures in effect in Puerto Rico.

Notwithstanding the above, the provisions established in the Working Mothers Act, *supra*, do not apply to pregnant teachers, but to those of Act No. 117 of June 30, 1965, as amended, that regulate the period of rest under such circumstances. See 1975 Op.Sec.Just. No. 25.

However, through an Executive Order published in Informative Bulletin No. 4879 of March 6, 1987, the then Governor of Puerto Rico, Rafael Hernández Colón, authorized the granting of maternity leave for women employees that adopt another child, pursuant to the legislation and legal

procedures in force in Puerto Rico. To such ends, subsection 5 of Section 12.4 of the Personnel Regulations for Career Employees of the Central Administration to provide this type of leave. Likewise, amendments were made to Section 11.4 of the Regulations applicable to all employees of trust.

On the other hand, Act No. 84 of October 29, 1992 amended Act No. 81 of August 31, 1991 known as the “Autonomous Municipalities Act of Puerto Rico”. Said Act amended, among other provisions, subsection (g) of Section 12.018 with the purpose of providing that municipal employees enjoy other leaves, with or without pay, as established through regulations to that effect, such as a maternity leave for adopting a minor child.

Maternity is one of the most cherished moments for every woman who wants to begin a family. It is one of the most significant stages of life that marks the beginning of a continuous process of simultaneous teaching and learning. Its importance is such that a maternity leave that includes pre-natal and postnatal rest periods is granted as a fringe benefit of their employment.

Notwithstanding the above, Act No. 117 of June 30, 1965, as amended, does not provide that mothers who adopt a child, pursuant to legislation in effect, have the right to the maternity leave that has been granted to all pregnant women workers. Certainly, this is necessary, since it is not a *sine qua non* requirement to be pregnant in order to be a mother; being a mother through adoption has the same merits and satisfaction. The main objective maternity leave is to provide pre-natal and postnatal rest periods for the pregnant woman. The adopting mother does not need these rest periods, but she needs time to bond with her new child. It is an opportunity to reinforce and strengthen the bonds of mother and child.

Notwithstanding the above, this initial period in the relationship of the adopting mother and her child is fundamental during the child’s pre-school

years. Thus, the adopting mother shall only receive the benefit of a maternity leave if she adopts a child of preschool age.

This Legislature deems it is imperative that, as justice was done with those teachers by the grace of God who could give birth to a child, those teachers who adopt a child should also be compensated when adopting a child within the age limit stated above, with all the corresponding benefits. Therefore, it is necessary to amend Act No. 117 of June 30, 1965 in order to include those working mothers who, protected by said act, adopt a child pursuant to the laws and legal procedures in effect in Puerto Rico.

Finally, through this legislative measure Section 2 of Act No. 117, supra, is hereby repealed since it is no longer valid, due to the fact that it refers to those teachers who opted for the benefits of a maternity leave without pay, until June 30, 1966. We shall also proceed to amend Section 4 with the sole purpose of replacing the term “Secretary of Public Education” by that of “Secretary of Education” to conform to conform the code of laws in effect in Puerto Rico.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Section 1 of Act No. 117 of June 30, 1965, as amended, is hereby amended to read as follows:

“Section 1.- Pregnant teachers shall be entitled to a rest period which shall include four (4) weeks before child birth and four (4) weeks following delivery. The teacher may choose to take only one (1) week of prenatal rest and extend the postnatal rest period up to seven (7) weeks to which she is entitled, provided she presents a doctor’s certificate stating that she is able to work up to the moment that the teacher decides to begin her maternity leave. She may also return to work whenever she wishes to after the first two (2) weeks of postnatal rest, through a doctor’s certificate to such effect.

If she returns before the leave ends, the teacher waives the right to avail herself of the remainder of the eight – (8) week period to which she is entitled. Provided, that the teacher who adopts a child of preschool age, be it understood, a child five (5) years of age or less, who is not enrolled in an educational institution, pursuant to the laws and legal procedures in effect in Puerto Rico, shall be entitled to the same maternity leave benefits that a teacher who has a normal birth. In such cases, the leave shall start on the date the teacher receives the minor into her family unit. When claiming this right, the teacher shall submit to the Department of Education supporting evidence of the adoption proceedings duly issued by the competent body. In addition, the teacher must notify, to the director of the school she serves thirty (30) days in advance of her plans to enjoy her maternity leave as well as her plans to return to work. The adopting teacher may request to return to work at any moment after starting to enjoy her maternity leave. Provided that in such case, it shall be deemed that the adopting teacher has waived her right to the remaining weeks of the maternity leave pursuant to this Section.”

Section 2.- Section 4 of Act No. 117 of June 30, 1965, as amended, is hereby amended to read as follows:

“Section 4.- The Secretary of Education shall promulgate the needed rules for compliance of this act.”

Section 3.- Section 2 of Act No. 117 of June 30, 1965, as amended, is hereby repealed.

Section 4.- Sections 3, 4 and 5 of Act No. 117 of June 30, 1965, as amended, are renumbered as 2, 3 and 4, respectively.

Section 5.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 120 (H.B. 1347) of the 7th Session of the 13th Legislature of Puerto Rico:

AN ACT to amend Sections 1 and 4, repeal Section 2 and renumber Section 3 as Section 2, Section 4 as Section 3, and Section 5 as Section 4 of Act No. 117 of June 30, 1965, as amended, in order to include the maternity leave by adoption as a benefit for the teachers covered by said act; and for other purposes,

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

In San Juan, Puerto Rico, today 10th of November of 2003.

Elba Rosa Rodríguez-Fuentes
Director

