

(H. B. 2387)

(No. 193)

(Approved August 7, 2008)

AN ACT

To amend subsection (b) of Section 2; paragraphs (e), (f), (g) of clause (2) and paragraphs (g) and (h) of clause (3) of Section 50 of Act No. 177 of 2003, as amended, known as the “Comprehensive Child Well-being and Protection Act,” to temper it with the provisions of Act No. 149 of 18, 2004, as amended, known as the “Penal Code of the Commonwealth of Puerto Rico.”

STATEMENT OF MOTIVES

Act No. 177 of 2003, as amended, established the “Comprehensive Child Well-being and Protection Act.” The “constitutional principle which recognizes that human dignity is inviolable and that children enjoy rights similar to those that protect adults” was reaffirmed in said Act. It was further recognized that “the rejection of all forms of domestic violence is the basis for a more just and democratic society, to which all Puerto Ricans aspire.”

Said Act set forth various provisions in which reference was made to Act No. 115 of July 22, 1974, as amended, better known as the “Penal Code of Puerto Rico.” However, Act No. 115 was repealed by Act No. 149 of 2004, through which the new Penal Code of the Commonwealth of Puerto Rico was implemented. When the new Penal Code took effect, many of the crimes included in the former Penal Code that were mentioned in Act No. 177, *supra*, were eliminated, amended or incorporated within other crimes created by Act No, 149, *supra*.

Therefore, this Legislature deems it necessary to temper the provisions of Act No. 177, *supra*, with the provisions of the new Penal Code of the

Commonwealth of Puerto Rico to achieve greater cohesion in the interpretation and implementation of our laws.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Subsection (b) of Section 2 of Act No. 177 of August 1, 2003, is hereby amended to read as follows:

Section 2.- Definitions

(b) Sexual abuse – shall mean engaging in sexual conduct in the presence of a child and/or using the child, voluntarily or otherwise, to engage in sexual conduct aimed at satisfying lewdness, or any other act that, if criminally prosecuted, would constitute any of the following crimes sexual assault, lewd acts, indecent exposure, or indecent proposals; remitting, transporting, selling, distributing, publishing, exhibiting, or possessing obscene materials and obscene shows, as typified in the “Penal Code of the Commonwealth of Puerto Rico.”

Section 2.- Paragraphs (e), (f), (g) of clause (2), and paragraphs (g) and (h) of clause (3) of Section 50 of Act No. 177 of August 1, 2003, as amended, are hereby amended to read as follows:

“Section 50.- Reasonable Efforts

...

(1) ...

(2) ...

(a) ...

(e) If the father, mother, or person responsible for the child incurs in a conduct of using a child to commit a crime or in conduct or conducts which, if criminally prosecuted, would constitute crimes such as murder in the first or second degree; aggravated assault,

extenuating aggravated assault; sexual assault; lewd acts; human trafficking for sexual purposes; remittance, transportation, sale, distribution, publication, exhibition, or possession of obscene materials or obscene shows, and exposing children to those crimes; kidnapping and aggravated kidnapping; child abandonment; child abduction, child corruption, as typified in the “Penal Code of the Commonwealth of Puerto Rico.”

(f) If the father, mother, or person responsible for the child, as accessory, covers up or conspires to commit one or more of the crimes listed in paragraph (e) above, as typified in the “Penal Code of the Commonwealth of Puerto Rico.”

(g) If the father, mother, or person responsible for the child incurs in obscene conduct as defined in the “Penal Code of the Commonwealth of Puerto Rico.”

(3) ...

(a) ...

(g) If the father, mother, or person responsible for the child incurs in conduct that, if criminally prosecuted, would constitute aiding and abetting, attempting, conspiring, soliciting, or prompting the commission of crimes that attempt against the health and physical, mental, or emotional integrity of the child, as provided in “Penal Code of the Commonwealth of Puerto Rico.”

(h) If the father, mother, or person responsible for the child incurs in obscene conduct, as defined in “Penal Code of the Commonwealth of Puerto Rico.”

(i) ...

...”

Section 2.- Severability Clause

If any clause, paragraph, article, section or part of this Act were declared unconstitutional by a competent court, the ruling to such effect shall not affect nor invalidate the remainder thereof. The effect of such ruling shall be limited to the clause, paragraph, article, section or part of the Act declared unconstitutional.

Section 3.- Effectiveness

This Act shall take effect immediately after its approval. However, a term of one hundred and eighty (180) days as of its approval shall be granted to amend any regulation necessary for the implementation of this Act.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 193 (H.B. 2387) of the 7th Session of the 15th Legislature of Puerto Rico:

AN ACT to amend subsection (b) of Section 2; paragraphs (e), (f), (g) of clause (2) and paragraphs (g) and (h) of clause (3) of Section 50 of Act No. 177 of 2003, as amended, known as the “Comprehensive Child Well-being and Protection Act,” to temper it with the provisions of Act No. 149 of 18, 2004, as amended, known as the “Penal Code of the Commonwealth of Puerto Rico,”

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

In San Juan, Puerto Rico, today 14th of August of 2009.

Solange I. De Lahongrais, Esq.
Director

