

(H. B. 4)

(No. 221-2010)

(Approved December 30, 2010)

AN ACT

To add a new subsection (a) to and renumber current subsections (a), (b), (c), and (d), as (b), (c), (d), and (e), respectively, in Article 99 of Act No. 149 of June 18, 2004, as amended, known as the “Penal Code of the Commonwealth of Puerto Rico,” in order to establish a new statute of limitations for severe second degree felonies.

STATEMENT OF MOTIVES

Act No. 149 of June 18, 2004 established the Penal Code currently in effect in Puerto Rico. Sections 16 and 66 of said Act provided a classification of crimes and a sentencing schedule for imprisonment terms based on the degree of seriousness of the criminal act.

As per said classification, it was provided that the most severe crimes shall include a classification corresponding to first-degree murder, which entails a punishment by imprisonment for ninety nine (99) years; and a following classification of second-degree murder which entails punishment by imprisonment for a maximum term of fifteen (15) years.

However, a more in-depth analysis of the way in which certain crimes were classified was performed and it was concluded that the original classification of a second-degree felony would be so broad that it would disrupt the proportion of the punishment to numerous crimes related to violence against persons, such as second-degree murder and sexual assault.

For this reason, among others, Act No. 338 of September 16, 2004 made a number of amendments to the new Code, which included the creation of a new severe second-degree felony classification punishable by a term of imprisonment that ranges between fifteen (15) years and one (1) day and twenty five (25) years, which included second-degree murder, sexual assault, aggravated kidnapping, child abduction, and aggravated robbery when damage is inflicted upon the victim or if it occurs in the victim's residential building. This amendment had an effect on Section 16 (subsection b), and Sections 107, 134, 142, 169, 170, 182, and 199 of the Code. However, Act No. 338, *supra*, failed to adjust Section 66 which provides the applicable punishments according to the classification of the crimes, including the new modality of felony which is established in Section 16. Subsequently, said Section 66 was tempered to Section 16 with the approval of Act No. 96 of July 31, 2007, which set forth the applicable punishment.

On the other hand, Section 99 of Act No. 149, *supra*, provides that one of the grounds for the expiration of the penal action is the statute of limitations. Said provision establishes, where pertinent, that second- to fourth-degree felonies shall expire in five (5) years. Nonetheless, it fails to provide for severe second-degree felonies.

Even though the Legislative Assembly deemed it prudent to create an additional classification for felonies involving violence against persons, it failed to provide a statute of limitations therefor.

This Legislative Assembly believes that if such felonies require a separate classification for purposes of punishment by imprisonment, because of their seriousness, they shall also require longer statutes of limitations. The five (5)-year statute of limitations for second- to fourth-degree felonies should not include severe second-degree felonies. For such reason, we understand that such crimes shall expire in ten (10) years from the date such crimes were committed.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- A new subsection (a) is hereby added to and current subsections (a), (b), (c), and (d) are renumbered as (b), (c), (d), and (e), respectively, in Article 99 of Act No. 149 of June 18, 2004, as amended, known as the “Penal Code of the Commonwealth of Puerto Rico,” to read as follows:

“Article 99.- Statute of Limitations.- Criminal actions shall expire:

- (a) In ten (10) years for severe second-degree felonies.
- (b) In five (5) years for second- to fourth-degree felonies, and for felonies as classified in the special law or in the repealed Penal Code.
- (c) In one (1) year for misdemeanors, except those arising from infractions against fiscal laws and all misdemeanors committed by public officers or employees in the performance of their duties, which shall expire in five (5) years.
- (d) Concealment and conspiracy crimes prescribe in ten (10) years when committed in relation to murder in all its modalities.
- (e) The provisions set forth in subsections (a), (b), and (c) of this Section shall not apply to special laws in which crimes have a longer statute of limitations than the one proposed herein.”

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. 221-2010 (H. B. 4)** of the **4th Session of the 16th Legislature** of Puerto Rico:

AN ACT to add a new subsection (a) to and renumber current subsections (a), (b), (c), and (d), as (b), (c), (d), and (e), respectively, in Article 99 of Act No. 149 of June 18, 2004, as amended, known as the "Penal Code of the Commonwealth of Puerto Rico," in order to establish a new statute of limitations for severe second degree felonies.

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

In San Juan, Puerto Rico, on this 13th day of September, 2013.

Juan Luis Martínez Martínez
Acting Director