

“Organic Act of the Department of the Family”

Act No. 171 of June 30, 1968 as amended

(Contains amendments incorporated by:

Act No. 32 of May 29, 1984

Act No. 106 of July 12, 1985

Act No. 5 of December 30, 1986

Act No. 23 of May 21, 1994

Act No. 86 of August 17, 1994

Reorganization Plan No. 1 of 1995

Act No. 9 of January 19, 1995

Act No. 331 of September 2, 2000

Act No. 193 of August, 2002)

To create the Department of the Family and to outline its functions; to transfer various programs and functions from other organizations; to transfer the Child Commission; to assign to it the Puerto Rican Geriatrics Commission; and to appropriate funds for its operation.

STATEMENT OF MOTIVES

Social justice has been the aim of our government and the aspiration of our people. Social justice in an ample and noble feeling-real equal opportunities in every order of our lives and participation in all good things of our civilization, creating and enjoying them.

To achieve this goal we have been developing the economic potentiality of our country. We have promoted industry, agriculture and commerce; and we have created thousands of new employments. We have constructed homes, schools, hospitals, highways aware that economic progress does not by itself solve social wrongs, we have established and expanded aid programs to individuals and to families; programs for aiding the aged, disabled persons and helpless children; programs providing adequate dwellings to those lacking them and a basic education to those who were unable to receive education. We have also created programs for social rehabilitation of communities so that they may understand and solve their own problems.

Our social programs have been many and undoubtedly have rendered services of incalculable importance. But they can still be more embracing and rendered in a more coordinated and effective manner. We still have thousands of families who do not participate fully in our economic and social progress; who lack adequate means for a decent living and who have missed the opportunity of attaining their right to help in creating and enjoying everything that is good in our civilization.

We face the new problems which arise from our own economic development. The problem of young people who go astray is truly impressive. There still remains a great deal to be done in order to achieve an effective approach so as to adequately help this group. The new standards of urban and industrial living also establish problematic situations with which we are barely beginning to cope; situations affecting the lives and development of the children and which also are a burden on persons of old age; situations which touch the very root of familiar and community togetherness.

To adequately attend all these problems requires new activities, new approaches and new methods. The approach of various agencies in independent and dispersed activities must give way to integral and coordinated action. Guidance toward direct aid and remedial action must be complemented in an effective manner with emphasis on rehabilitation; and the rehabilitation action must extend to the individual and reach the family and the community. Citizen action must be joined to government action. Present programs must continue, but reguided, coordinated among themselves and strengthened by new activities. New programs must arise to face the situations which are still not being attended.

This extensive field of action is a justified commitment for a principal organization of the government. For such reason the Department of Social Services is hereby created which shall integrate service programs actually dispersed among various agencies and whose commitment shall be to develop in an integrated manner, and with the maximum of citizen participation, an embracing program, vigorous in diagnosing, treating and preventing social problems in Puerto Rico, contributing in making a reality social justice which is the goal of our government and legitimate aim of Puerto Ricans.

Be it enacted by the Legislature of Puerto Rico :

Section 1. — [Short Title] (8 L.P.R.A. § 211)

This Act shall be known as the Organic Act of the Department of the Family.

Section 2. — [Creation of the Department; appointment of the Secretary; compensation] (8 L.P.R.A. § 211a)

There is hereby created a Government executive department which shall be known as the Department of the Family (hereinafter called the Department) to be under the direction and supervision of a Secretary of the Family (hereinafter called the Secretary) who shall be appointed by the Governor with the advice and consent of the Senate.

The annual salary of the Secretary shall be thirty-two thousand dollars (\$32,000).

Section 3. — [Functions] (8 L.P.R.A. § 211b)

The Department shall be the agency responsible for carrying out the programs of the Commonwealth directed toward the solution or mitigation of the social problems of Puerto Rico. Toward this purpose it shall study the social problems and shall outline a plan of action directed toward the solution or mitigation of said problems. It shall also carry out social

service programs or of any related nature giving emphasis to the rehabilitation aspect by means of the efforts of the proper individuals and with the vision of interrelationship between individuals, families and community.

Through proper action or in coordination with other government or private organizations, it shall carry out programs of direct economic aid to needy persons, service for the welfare of children and young people and for disabled persons, rehabilitation and training programs, community improvement projects, programs for providing employment to unemployed persons, guidance programs for individuals and families and any other activity which leads to the social improvement of individuals as well as of families and communities.

Section 4. — [Secretary; powers and faculties; Subsecretary] (8 L.P.R.A. § 211c)

Besides the power and faculties vested on the Secretary of this chapter and those conferred by other laws he shall also have all the powers, faculties, functions and prerogatives inherent to the office, among which, without it being construed as a limitation, the following are hereby enumerated:

- (a) Make recommendations to the Governor and to the Legislature for the formulation of a public policy on social services and to implement the action to be finally adopted.
- (b) Plan, direct and supervise the operation of the Department and its programs.
- (c) Appoint, in accordance with applicable laws, all the personnel of the Department. The personnel appointed as hereinbefore provided shall be included within the Competitive Service.
- (d) Prescribe, repeal and amend norms and regulations for the operation of the Department and its programs.
- (e) Prepare and administrate the budget of the Department.
- (f) Appoint a Subsecretary of the Family, who under his direction will help him in his functions. In case of absence or temporary disability of the Secretary, the Subsecretary of the Family shall substitute for him and shall exercise all attributions of the Secretary as acting Secretary of the Family during said absence or disability.

In case of death, resignation or dismissal of the Secretary, the Subsecretary of the Family shall exercise all functions of the latter as acting Secretary of the Family, for the duration of the vacancy.

Section 5. — [Transference of organizations and programs] (8 L.P.R.A. § 211d)

There are hereby transferred to the Department for their operation under the direction and supervision of the Secretary the following organizations and programs:

- (a) The Division of Public Welfare of the Department of Health, created by Act No. 95 of May 12, 1943, as amended, with all its programs including the Food Distribution Program. All powers, faculties, obligations and duties of the Secretary of Health in connection with the programs under the government and administration of the Division of Public Welfare shall pass to the Secretary, including those established by Act No. 97 of June 1955, as amended.
- (b) The Vocational Rehabilitation Division of Puerto Rico established by the Board for Vocational Education by Act No. 414 of May 13, 1947, as amended. All powers and faculties

of the Board for Vocational Education and of its executive director in connection with said Division are hereby transferred to the Department to be exercised by the Secretary.

Jointly with the Vocational Rehabilitation Division there are also transferred from the Department of Education, the Center of Rehabilitation for the Blind, created by Act No. 18 of June 9, 1959, and the Corporation of Industries for the Blind, Mentally Retarded and Other Disabled Persons created by Act No. 207 of May 14, 1948, as amended [18 L.P.R.A. §§ 1025--1029], which shall continue existing as a corporation. The powers and duties of the Department of Education, of the Secretary of Education and of the Board of Vocational Education in connection with the Center of Rehabilitation for the Blind and the Corporation of Industries for the Blind, Mentally Retarded and Other Disabled Persons shall pass to the Secretary. There are also transferred the powers and faculties of the Secretary of Education in connection with Act No. 169 of May 10, 1940, which provides for a system of register and identification of the blind, and everything in connection with Act No. 66 of June 13, 1955, as amended which creates a fund for the purchase of shoes for public-school children who lack the means for acquiring same to be exercised by the Secretary.

Section 6. — [Transference of Child Commission] (8 L.P.R.A. § 211e)

There is hereby transferred to the Department the Child Commission created by Act No. 49, June 15, 1956, as amended.

Section 7. — [Transference of the Puerto Rican Geriatrics Commission] (8 L.P.R.A. § 211f)

There is hereby transferred from the Department of Health to function attached to the Department, the Puerto Rican Geriatrics Commission, established by Act No. 16 of May 22, 1962, and the executive office of this Commission.

Section 8. — [Personnel, records, equipment and properties, funds and appropriations transferred] (8 L.P.R.A. § 211g)

There are hereby transferred to the Department all resources and facilities including all personnel, records, equipment and properties, funds, appropriations which are being used in connection with the programs and the functions transferred by this chapter to be used, employed or spent by the Department in connection with said functions or agencies.

Section 9. — [Delegation in officers] (8 L.P.R.A. § 211h)

The Secretary may delegate in subordinate officers and authorize them to subdelegate in other officers any function or power as may be assigned or conferred by this chapter or any other act, except that the power of promulgating regulations shall not be delegated.

Section 10. — [Power to hold covenants or agreements] (8 L.P.R.A. § 211i)

The Secretary is hereby empowered to enter into contracts or agreements that are necessary and convenient in order to achieve the objectives of the Department and its programs, with entities of the Government of the United States of America, or with Commonwealth governments, with other departments, agencies or instrumentalities of the Commonwealth Government, its municipalities and with private institutions; he is likewise empowered to accept and receive any gifts or funds through appropriations, advances or any other kind of aid or benefit when derived from said government organizations or nonprofit institutions.

The Secretary of the Family is hereby empowered to contract social workers, psychiatrists or psychologists licensed to practice their profession in Puerto Rico, so that they can carry out the expert social study and render the corresponding report required by the adoption proceedings established in this chapter. The Secretary shall establish, through regulations, the norms needed to contract these professionals.

When adopting these regulations the Secretary of the Department of the Family shall ensure that norms are included regarding the following matters as well as any others that he/she may deem to be pertinent:

(a) The persons selected:

(1) Shall be professionals with a degree in social work presently licensed and affiliated to the Association of Social Workers.

(2) Shall have special training on research and drafting of social reports.

(3) Shall have knowledge and be acquainted with the adoption laws and other adoption norms and regulations in effect in Puerto Rico.

(b) Private contracts shall only be entered into when qualified personnel employed by the Department of the Family deems that it cannot submit the expert social report within the term required due to a heavy work load.

(c) Professionals employed or contracted by the Department of the Family to perform the studies shall enjoy freedom of judgment as to the manner and means by which they shall conduct their research and shall have flexibility in submitting their recommendations.

(d) Norms shall be established guaranteeing that the professional employed or contracted shall be able to take preventive and corrective measures during the adoption process in order to guarantee the safety of the minor, including the initiation of the petition for the divesting of patria potestas.

(e) Norms which establish a continuous education program for the social workers to pursue studies leading to a masters degree in social work, underwritten by the Department. (f) Norms leading to the creation of a mechanism to expedite cases, in order to ensure that those cases whose term is about to expire may be salvaged and worked on summarily.

(g) Norms leading to the certification of private entities which may provide guardianship and temporary care services for those minors who are susceptible to adoption and to the joint implementation, with the Association of Social Workers, of a plan for the placement of children for periods not to exceed twelve (12) months.

(h) The preparation of guidelines to serve as parameters so that the social workers in charge of the reports may produce them uniformly.

Section 11. — [Commissions, boards and committees; related entities] (8 L.P.R.A. § 211j)

The Secretary may appoint those commissions, boards and committees that he may deem necessary for the best attainment of the purposes of this chapter, as well as to collaborate with any entity related with the objectives and purposes of the Department, offering for such purpose secretarial or technical aid services which they may need. In the appointment of these commissions, boards and committees the Secretary shall give careful attention so that ample stimulation and opportunity be offered for participation by the citizens.

Section 12. — [Internal organization of the Department] (8 L.P.R.A. § 211k)

The Secretary is hereby empowered, with the approval of the Governor, to establish the internal organization of the Department, and he may for such purposes reorganize, consolidate and modify the titles, in the existing programs, activities and units, as well as to create new units, but subject to the condition that no program established by this chapter be eliminated, without the consent of the Legislature.

Section 13. — [Consonant provisions] (8 L.P.R.A. § 211l)

With the exceptions of the modifications that may be necessary in order to adjust the agencies and programs transferred by this chapter to the structure of the Department, the laws governing said agencies and programs shall continue in force, except those provisions that might be in conflict with this chapter, which are hereby repealed.

Section 14. — [Special provisions] (8 L.P.R.A. § 211)

Every regulation governing the operation of the organizations, programs and functions transferred by this Act [this chapter] and in force on the effectiveness of this act, shall continue in force until same are altered, modified, amended, repealed or substituted by the Secretary according to law.

Section 15. — [Special provisions] (8 L.P.R.A. § 211 note)

The Governor is hereby authorized to adopt those transitory measures and to take the decisions that might be necessary for the purposes of carrying out the transfers decreed by this Act [this chapter] without interrupting the administrative procedures and the functions of any of the transferred organizations and programs.

Section 16. — [Separability] (8 L.P.R.A. § 211 note)

No provisions of this Act [this chapter] shall be construed as modifying, altering or invalidating any agreement, covenant, claim or contract, that the officers responsible to the agencies and to the programs may have granted and which are in force on the effectiveness of this Act.

Section 17. — [Special provisions] (8 L.P.R.A. § 211 note)

There is hereby guaranteed to all employees included in the transfers provided by this Act, the rights acquired under the laws and regulations of personnel, as well as all rights, privileges, obligations and status in connection with any existing pension, retirement or savings and loan fund system or systems to which they are affiliated on the approval of this Act.

Section 18. — [Appropriations] (8 L.P.R.A. § 211 note)

The sum of one hundred thousand (100,000) dollars is hereby appropriated from any unencumbered funds in the Commonwealth Treasury to the Department to carry out the purposes of this Act. The Governor is also hereby authorized to transfer to the Department any funds, personnel and other resources of other departments and agencies, corresponding to activities hereby committed to the Department.

Section 19. — [Support for the Elderly Act - Short title] (8 L.P.R.A. § 211l-5)

[Note: Act No. 32 of May 29, 1984 added this sections 19 to 24]

This Act will be known as the "Support for the Elderly Act".

Section 20. — [Support for the Elderly Act - Definitions] (8 L.P.R.A. § 211l-6)

Definitions for purposes of this Act:

- (a) Department. Means the Department of the Family.
- (b) Secretary. Means the Secretary of the Department of the Family.
- (c) Secretariat. Means the office of the Secretariat of Family Services of the Department of the Family.
- (d) Elderly. Means a person who is 60 years of age or older.

Section 21. — [Support for the Elderly Act - Subrogation] (8 L.P.R.A. § 211)

Notwithstanding the provisions of Article 149 of the Civil Code of Puerto Rico, 1930 edition, as amended, [31 L.P.R.A. § 568], the Department of the Family is hereby authorized to be subrogated to the right of the elderly to receive support from the person or persons judicially obligated to provide for them, according to Articles 142 to 151 of the Civil Code of Puerto Rico, [31 L.P.R.A. §§ 561-570], in those cases in which the Family Services Program provides the following services:

- (a) Housekeeper;
- (b) day care;
- (c) substitute home, and
- (d) any other that implies payment for services.

Section 22. — [Support for the Elderly Act - Subrogation actions] (8 L.P.R.A. § 211)

The Department's subrogation shall authorize it to file administrative and judicial actions to claim and receive the support funds from those who are obligated to provide support without the requirement of a prior assignment of rights by the elderly person who is supported, since it shall be understood that the acceptance by the elderly person who receives support payments of any of the services indicated in Section 21 above constitutes an assignment to the Department of the Family of his right to support.

Section 23. — [Support for the Elderly Act - Organization and administrative procedures] (8 L.P.R.A. § 211l-9)

The Department shall establish, through regulations, the necessary organizational and administrative procedures in order to:

- (a) Determine in each case, which person or persons are obligated to provide for the elderly person who receives the benefits of the Secretariat.
- (b) Locate the persons who have the legal obligation to provide for him.
- (c) Determine, in conjunction with the provider, whenever possible, the amount that he must contribute for the support of the elderly person, taking into account the needs of the elderly person and the resources of the provider. Once an agreement has been reached, the parties shall sign a stipulation whose terms may be exacted in the courts of Puerto Rico as of the date on which the document is signed.
- (d) To file actions for support in the courts of Puerto Rico in those cases in which a stipulation cannot be reached as provided by Section 23 of this Act, to subrogate in the support rights of the elderly, pursuant to what is provided by this Act. The contribution that the court determines shall be exactable from the moment the Department requires it from the provider.

Section 24. — [Support for the Elderly Act - Refusal to comply with obligation to support or with agreement; actions] (8 L.P.R.A. § 211l-10)

The provider's refusal to comply with the obligation to provide support, or failure to comply with the terms of an agreement to do so, shall empower the Department to initiate the corresponding legal proceedings to exact the obligation or payment of the contributions determined, from the person or persons legally obligated to provide support.

Sections 25 - 30. — [Repealed. Act 193-2002, Section 25] . (8 L.P.R.A. § 211l-11 - l-15)

Section 31. — This Act shall take effect January 1, 1969.

Note. This compilation was prepared by the Puerto Rico OMB staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text. Compiled by the Office of Management and Budget Library.