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Submitted by Representative García Cabán

Referred to the Education and Culture Committee

LAW

To create the Homeschool Program, establish the Homeschool Board; and amend item (a) of Article 1.03 of Law Number 149 of July 15, 1999, as amended, also known as “Organic Law of the Department of Education of Puerto Rico”, so as to include, among the exceptions, the compulsory school attendance of the children that will be part of the Program established by Law.

EXPOSITION OF MOTIVES

The Constitutional Assembly understood that education was essential for the development of Puerto Rico as a nation. It was thus ratified in Section 1 of Article 2 of the Constitution of the Commonwealth of Puerto Rico, that the public instruction system would carry the principles of human equality, among them, that a human being’s dignity cannot be violated, that all men are equal before the Law, and that there will be no discrimination based on color of skin, race, sex, birth, origin, or social condition, nor for political or religious beliefs.

Additionally, Section 5, Article 2 of the Constitution of the Commonwealth of Puerto Rico established the right of all persons to receive an education that will assist in developing his/her personality and to strengthen the respect toward a man’s rights and his fundamental liberties. Education is so essential for the Government of the Commonwealth of Puerto Rico that it was determined that primary and secondary school education would be free of charge. The mechanism of law used to comply with the constitutional directives was the designation of a Council of Secretaries, among which is the Secretary of Education, whose objective was to organize the public education system, assure the unity of the educational process, and facilitate the exigencies of education that modern society requires.

The State recognizes the natural and inalienable right of parents to freely determine and select the best way in which to educate their children, independently that this may mean obtaining an education through homeschool programs. Homeschooling has surpassed barriers of time, incredulousness, and lack of information, and it is today a viable option for parents that may so determine for their children.

Particularly, the United States has more than a million children that are homeschooled, under various modalities, and without the confronting the greatest criticism against this way of teaching, the inexistence of socialization among peers. Experts in human development have concluded that children who are homeschooled freely and without being segregated with children their own age are more mature, and that their verbal and physical interaction between parent and child is indispensable for the communication ability of the children. Homeschooling has been accepted as an effective education, for which reason schools and universities that are highly selective in their admittance processes have admitted that these children's performance has been exceptional.

The Legislative Assembly of the Commonwealth of Puerto Rico understands it is of value to allow Puerto Rican parents the opportunity of determining what type of education they want for their children and which would be more beneficial to develop them intellectually, emotionally, for which reason the Homeschool Program is established.

IT IS HEREBY DECREED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

1 Article 1.- Title

2 This Law will be known as "Homeschool Program"

3 Article 2.- Definitions

4 The following words will have the meaning herewith expressed:

5 (a) "Academic year" will be of 180 days.

6 (b) "Legal custodian" will mean any person that, by way of legal
7 authorization will have the care and custody of the school-aged child.

8 (c) "Department" will mean the Education department of the
9 Commonwealth of Puerto Rico.

10 (d) "School age" will mean the ages between 5 and 21 years of age.

1 (e) "Homeschool education" will mean the instruction program
2 established to provide a classic academic instruction by the father, legal
3 custodian, or person that will have the custody of a school-age child
4 during an academic year.

5 (f) "School" will mean an institution in charge of the children's

6 education, with an adequate physical structure, faculty that will
7 provide the education, and the students that form the same.

8 (g) "Private school" will mean a school that will offer educational
9 programs without supervision or control of the Department.

10 (h) "Public school" will mean the functional unit of the public
11 education system of Puerto Rico that is constituted by the students, the
12 academic component, formed by teachers and professional teacher-
13 support staff, and the school Director.

14 (i) "Board" will be the Homeschool Board.

15 (j) "Parent" will be the biological or adoptive father or mother of the minor.

16 (k) "Program" will mean the "Homeschool Program".

17 (l) "Secretary" will mean the Secretary of the Department of Education.

18 Article 3.- Exception to the compulsory school attendance.

19 Those children who are part of the Homeschool Program, and who are aptly
20 registered in the Education Department, will be exempted from compliance with
21 Item (a) of Article 1.03 of Law Number 149, of July 15, 1999, as amended, also known
22 as "Organic Law of the Department of Education of Puerto Rico", that establishes the
23 compulsory school attendance to schools in Puerto Rico.

1 The Department of Education will have the ministerial responsibility of
2 establishing guides through regulation, to put into effect the Homeschool Program
3 and will determine, along with the parents, tutors, or persons in charge of the
4 students, the date in which the uniform exams will be taken.

5 Article 4.- Homeschool Program

6 The Program may be established through three (3) modalities: the first one
7 will take place through the supervision of the minors' parents, tutors or person-in-charge; the
8 second one through the supervision of a private tutor, who may teach more than one
9 child at a time, who may be from the same nuclear family; and the third through an
10 extended program, designed, established and supervised by a school or private entity
11 and through a duly certified teacher. The Program, regardless of whatever modality
12 it selected, will be subject to the approval of the Homeschool Board attached to the
13 Department of Education of the Commonwealth of Puerto Rico.

14 Article 5.- School Calendar

15 The student in the Program will have to comply with a minimum of 180
16 days of classes, irrespective of the modality chosen by his/her parents, tutors, or
17 persons in charge of developing such Program.

18 Article 6.- Homeschooling under the supervision of a school or private
19 entity.

20 Should the parents be the children's educators under the third modality of
21 the Program, the school or private entity, through a person certified to educate, will
22 supervise the student's progress and have a minimum contact with the student and
23 parent or legal custodian, once a week.

1 Article 7.- Program approved by the Department's Board

2 The parent, tutor, or legal custodian must submit annually an affidavit to the
3 Board attached to the Department, indicating his/her intention of commencing in the
4 Program, no later than sixty (60) days prior to the beginning of the school year, and an
5 application for approval of the study mechanism.

6 The affidavit will include the following information: name of the parent,

7 legal custodian or supervisor; the name and ages of the children with their Social
8 Security numbers; the residential and postal addresses; telephone number; a
9 certification that the education will be offered in Spanish or English; vaccination
10 evidence; a certification that the supervisor and all the adults living in the home have
11 not been convicted of moral depravation law violations within the last five (5) years.

12 Article 8.- Parents as Educators

13 Those parents in charge of their children's education in the first modality of
14 the Program, must possess a College degree equivalent to a Baccalaureate.

15 Article 9.- Requirements for the Tutors or Private Teachers.

16 The private tutor or teacher of the extended program of a private school that
17 may be the center of the Program, will have to comply with the requirements
18 provided by the Department to educate, provide the teacher certificate for the level
19 to be taught, submit a negative records check certificate, maintain the minors'
20 records, and comply with the school attendance requirement.

21 Article 10.- Responsibility of Parents or Legal Custodians.

22 The parent or legal custodian of the student will be responsible for the
23 educational philosophy; the doctrine; selection of educational materials; text books;
1 teaching methods; time and place where the education will be provided; and the manner in

2 which the student will be regularly evaluated, excepting those considerations established
through this Law.

3 Article 11.- Subjects.

4 The curriculum or study plan of the Program shall comply with the basic
5 elements in the schools of the Commonwealth of Puerto Rico, among other subjects,
6 the following must be included: Spanish, reading, grammar, arithmetic, P.R. and U.S.
7 history; health and physiology; physical education; sex education; music; art;

8 geography; science; Spanish, U.S. and English literature; science; general math;
9 algebra and geometry; and languages.

10 Article 12.- Progress record of students.

11 The parents, legal custodians, or supervisors of the Program will maintain a
12 register. Said register will contain as evidence the materials used with educational
13 purposes, writing samples, work sheets, exam grades, uniforms, students' jobs,
14 vaccination record, and the register of days and hours of study. The
15 register will be revised by members of the Board and the Secretary of the Department
16 in the month of June, after the school year is over. The Secretary will not be able to
17 inspect the home nor the students' records outside of the time frame.

18 Article 13.- Annual Student Evaluation.

19 The Board attached to the Department, through a licensed psychologist or
20 a teacher certified by the State, will annually evaluate the academic progress
21 of the minors under the Program. The evaluation will be based in an
22 interview with the student and a revision of the annual register.

1 If the Board decides that the academic progress of the student is poor, once
2 the annual register is evaluated and after the interview with the minor, the parent, legal custodian or
supervisor
3 will have twenty (20) days to submit additional documentation for evaluation by the Board
4 and the Secretary. Even when submitting additional documentation, if the Secretary and the Board
persist in
5 their determination, the family has the right to appeal immediately such determination
6 before an impartial examiner or before a court of general justice.

7 Article 14.- Uniform Examinations.

8 The students of the Program will have to annually take uniform

9 examinations created, approved, provided, administered and supervised by the Board
10 and the Department. The test results will be part of the record that the parents, legal
11 custodians or tutors of the students have under their possession, and which result
12 they will have to submit annually to the Board for the purpose of evaluating the student's progress.

13 Article 15.- Application for Grade Equivalency.

14 In order to obtain approval of equivalency of grades studied, the parents,
15 tutors, or legal custodians of the students under the Program, will submit an application to the
Secretary.

16 The Board and the Secretary will decide if they will grant the application for grade
equivalency

17 using the criteria established by regulation for the grade equivalency programs.

18 They will evaluate, among other elements, the following: hours and days of study;

19 the satisfactory certification of the teachers that direct the Program supervised by a

20 school or private entity; the subjects studied; a scheme of the study plan undertaken; a

21 list or description of educational materials and text books used by the students;

22 the student's progress supervision four (4) times a year; the academic progress record; and

23 the result of the uniform examinations.

1 If the Secretary, once the evaluation and the criteria are evaluated,

2 determines to deny said application, the parents, tutors or persons-in-charge of the

3 minors will have thirty (30) days from the notice of denial of their application, to amend

4 the application and send it to the Secretary or a court of justice.

5 Article 16.- Eligibility for College Studies.

6 The Homeschool Program students will be eligible to be admitted

7 in the universities, as long as they comply with the equivalency programs and

8 student progress.

9 Article 17.- Creation and Composition of the Homeschool Board.

10 Through this Article the Homeschool Board is created, composed by
11 five (5) members and attached to the Department of Education, and will be appointed
12 by the Governor of the Commonwealth of Puerto Rico with the counsel and consent of
13 the Puerto Rican Senate. Two (2) of the five (5) members will be appointed
14 to a four (4) year term; two (2) to a term of three (3) years; and one (1) to a term of two
15 (2) years, and they will act as such until their successors are
16 appointed and take their places. Should there be a vacancy before the term of four (4)
17 years expires, same will be filled for the remainder of the term.

18 Article 18.- Quorum

19 In order for the Board to be duly constituted, three (3) of its members must
20 constitute quorum, and the vacancy or absence of two (2) of its members will not affect
21 the right of the other members to execute all the powers of the Board. The Board's
22 agreements will be reached through the vote of the majority of those present.

23 Article 19.- Per Diem.

1 The Board members will receive per diem equivalent to the minimum per
2 diem established in the Political Code of 1902 for the members of the Legislative Assembly, except the
President
3 of the Board, who will receive a per diem equivalent to one hundred (100) per cent of the per diem
4 received by all other members of the Board. It is disposed that the payment of per diem
5 and mileage that each Board member is entitled to will be up to a maximum of twelve (12)
meetings
6 per year.

7 Article 20.- Members of the Homeschool Board.

8 The members of the Board must meet the following requirement:

9 (a) be of age

- 10 (b) be citizens of the United States
- 11 (c) be residents of Puerto Rico
- 12 (d) display a good conduct
- 13 (e) have practiced teaching for a minimum of ten (10) years

14 Article 21.- Dismissal of Board Members.

15 The Governor of the Commonwealth of Puerto Rico may dismiss any
 16 member of the Board, after due filing of charges, notice and audience, for
 17 negligence, inefficiency or incompetence in the performance of functions, or for
 18 immoral conduct, or for a felony conviction or conviction for a violation involving
 19 moral depravity, or for any other just cause.

20 Article 22.- Duties and Powers of the Homeschool Board.

- 21 (a) Will select its President amongst its members
- 22 (b) Will hold the meetings and sessions necessary to comply with its 23 function, after being
 convened by the President.
- 1 (c) Will authorize the Homeschool Program.
- 2 (d) Will establish the study plan.
- 3 (e) Will select the educational materials and text books.
- 4 (f) Will evaluate the Program students through uniform examinations.
- 5 (g) Will certify by grades those students that may have been
 6 homeschooled
- 7 (h) Will employ a teacher or a supervisor that will visit the families four
 8 (4) times a year
- 9 (i) Will be responsible for data compilation, such as: exam and evaluation
 10 results to analyze and evaluate it.
- 11 (j) Will examine the annual evaluations of the children in the Program,

12 along with the Secretary

13 (k) Will take any action and have any other power, in addition to the
14 ones herewith assigned, to comply with the dispositions of this Law.

15 Article 23.- Separateness Clause

16 Should any clause, item, article, section, title or part of this Law be declared
17 unconstitutional by a competent court, such sentence will in no way affect, damage,
18 nor invalidate the rest of the Law. The effect of such sentence will be limited to
19 the clause, item, article, section, title or part that may have been declared
20 unconstitutional.

21 Article 24.- Item (a) of Article 1.03 of Law Number 149 of July 15, 1999, as
22 amended, is hereby amended to read as follows:

23 "Article 1.03.- Compulsory School Attendance-

1 a. School attendance will be compulsory for all child between
2 five (5) and twenty one (21) years of age, except children of
3 high academic achievement and
4 those registered in any secondary education program for
5 adults or other programs that will prepare them for readmission
6 in regular day schools or that may have taken the High School
7 *equivalency exam or that may participate in the Homeschool Program,"*

7 Article 25.- Implementation.

8 This Law will be in effect immediately after its approval.