

THIRTEENTH CONGRESS OF THE REPUBLIC)  
OF THE PHILIPPINES )  
First Regular Session )

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SENATE  
S.B. No. 1438

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Introduced by Senator Miriam Defensor Santiago

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#### EXPLANATORY NOTE

The Constitution Article II, Section 27, provides that: "The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption."

Graft and corruption still abound and continue despite laws imposing severe penalties for their violation. One reason why many corrupt acts go unreported is because potential witnesses fear reprisals from the perpetrators.

Accordingly, the government must encourage potential witnesses to come out with information by providing them adequate protection from reprisals.

This bill seeks to provide protection to employees who may have information relating to a substantial violation of law related to a public contract, including the competition for or negotiation of a contract from reprisals of their employers.

  
MIRIAM DEFENSOR SANTIAGO *df*

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**AN ACT**  
**PROVIDING FOR PROTECTION FROM REPRISALS TO EMPLOYEES OF**  
**CONTRACTORS FOR DISCLOSURE OF INFORMATION RELATING TO**  
**SUBSTANTIAL VIOLATION OF LAW RELATED TO PUBLIC CONTRACTS**  
**INCLUDING THE COMPETITION FOR NEGOTIATION OF A CONTRACT**

*Be it enacted by the Senate and the House of Representatives in Congress assembled:*

Section 1. *Short Title.* - This Act may be cited as "Protection from Reprisals Act."

Section 2. *Declaration of Policy.*- It is the policy of the State to maintain honesty and integrity in the performance and negotiations of public contracts by encouraging employees of contractors, who had been awarded a public contract, to disclose information related to a substantial violation of law related to a contract including the competition for negotiation of a contract.

Section 3. *Definition of Terms.* - As used in this Act:

(A) The term "contract" means a contract awarded by the head of an executive agency.

(B) The term "contractor" means a person awarded a contract with an executive agency.

Section 4. *Prohibition of Reprisals.* - An employee of a contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a member of Congress or an authorized official of an executive agency or the Department

of Justice information relating to a substantial violation of a law related to a contract, including the competition for or negotiation of a contract.

Section 5. *Investigation of Complaints.* - A person who believes that an employee has been subjected to a reprisal prohibited by Section 4 of this Act may submit a complaint to the executive agency who awarded the contract.

Unless the officer designated by the Head of the concerned executive agency determines that the complaint is frivolous, he shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the head of the agency.

Section 6. *Remedy and Enforcement Authority.* - (A) If the head of an executive agency determines that a contractor has subjected a person to reprisal prohibited by Section 4 of this Act, the head of the executive agency may take one or more of the following actions:

- (1) order the contractor to take affirmative action about the reprisal.
- (2) order the contractor to reinstate the person to the position that the person held before the reprisal together with compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken; and
- (3) order the contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorney's fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the executive agency.

(B) Whenever a person fails to comply with an order issued under paragraph (A), the head of the executive agency shall file an action for enforcement of such order in the appropriate court for the district in which the reprisal was found to have occurred.

Section 7. *Construction.* - Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by Section 4 of this Act or to modify or derogate from a right or remedy otherwise available to the employee.

Section 8. *Separability Clause.* - If any provision or part thereof, is held invalid or unconstitutional, the remainder of the law of the provision not otherwise affected shall remain valid and subsisting.

Section 9. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with, the provisions of this Act is hereby repealed, modified or amended accordingly.

Section 10. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspaper of general circulation.

Approved.

FN: SB#309