

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



Senate
Office of the Secretary

SENATE

S. No. 84

'19 JUL -1 P2:35

Introduced by **Senator Richard J. Gordon**

RECEIVED

**AN ACT
PROVIDING FOR THE PROTECTION, SECURITY, AND BENEFITS
OF WHISTLEBLOWERS, APPROPRIATING FUNDS THEREFOR,
AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Public office is a public trust. It is important to promote a culture of public accountability, honesty, and integrity in the public service by taking positive and effective measures against graft and corruption, plunder, and other crimes involving public office.

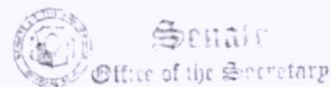
Whistleblowers report such improper conduct in public office. Providing for their protection is an essential tool that will increase investigative and prosecutorial effectiveness that will maintain honest and high standards of integrity in the public service and safeguard the national interest.

This measure proposes to provide for the protection, security, and benefits of whistleblowers admitted into the whistleblower protection program by the whistleblower benefits and protection council. It establishes the necessary nature, requirements, and procedures of such program, as well as protecting against any reprisal arising from a disclosure by a whistleblower.

RICHARD J. GORDON


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AND FOR OTHER PURPOSES

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

1 **SECTION 1. Short Title.** - This Act shall be known as the "Whistleblower
2 Protection Act of 2019."

3 **Sec. 2. Declaration of Policy.** - Public office is a public trust. It is the policy of
4 the State to promote and ensure full accountability in the conduct of its officers and
5 employees, and exact full retribution from those who shall engage in improper
6 conduct. Toward this end, the State shall:

7 (a) maintain honest and high standards of integrity in the public service;

8 (b) safeguard the national interest through the prosecution of corrupt and
9 erring public officials and employees; and

10 (c) encourage and facilitate the disclosure of corrupt conduct and practices in
11 the public service by providing for the protection, security, and benefits of
12 whistleblowers.

13 **Sec. 3. Definitions.** - As used in this act, the following terms are hereby defined
14 as follows:

15 (a) "Acts constituting improper conduct" shall refer to any conduct, act, or
16 omission of public officers and employees solely, or in cooperation or conspiracy with
17 private persons which are covered by, or constitute as violations of laws, such as (1)
18 Presidential Decree No. 46; (2) Republic Act No. 3019; (3) Republic Act No. 6713; (4)
19 Republic Act No. 7080; and (5) Title VII, Book Two of the Revised Penal Code.

1 (b) "Council" shall refer to the Whistleblower Benefits and Protection Council
2 created pursuant to this Act.

3 (c) "Employee" shall refer to any person who is made to suffer work by, or who
4 renders service for, an employer. The term shall include public officers and employees
5 as defined in this Act as well as any person considered an employee under the Labor
6 Code.

7 (d) "Employer" shall refer to any individual, partnership, association,
8 corporation or entity, including the government, or any person or group of persons
9 who shall directly or indirectly for or on behalf of said individual, partnership,
10 association, corporation or entity, hires an employee as defined in this Act.

11 (e) "Government" shall refer to the national government and any of its
12 subdivisions, agencies or instrumentalities, including government owned and
13 controlled corporations and their subsidiaries, and the local government units.

14 (f) "Informant" shall refer to any person who has personal knowledge or access
15 to data, events, or information, of any improper conduct as defined in this Act by a
16 public officer or an employee, and who shall deliberately disclose of individual,
17 collective, or organized improper conduct as provided in this Act. An informant must
18 not have any direct participation in the improper conduct, or in case where such
19 person participated in the improper conduct, such person is not the most guilty and
20 shall therefore qualify as a state witness against the person subject of the disclosure.

21 (g) "Program" shall refer to the Whistleblower Protection Program, which the
22 council shall formulate and implement pursuant to this Act.

23 (h) "Public officer" shall refer to any person holding any public office in the
24 government of the Republic of the Philippines by virtue of an appointment, election,
25 or contract.

26 (i) "Reprisal" shall refer to any negative or obstructive response, or reaction to
27 a disclosure made under this Act aimed at, pertaining to, or against a whistleblower,
28 or any member of the whistleblower's family or relative up to the fourth civil degree
29 of consanguinity or affinity, as well as reprisal in the workplace.

30 (j) "Reprisal in the workplace" shall refer to any discriminatory conduct or policy
31 against a whistleblower which affects promotion or job assignment including undue
32 negative performance appraisal, unusual and unwarranted close monitoring by

1 supervisors, unwarranted criticism or avoidance by co- employees, blacklisting from
2 other job opportunities, or prejudicial transfer by reason of a disclosure made under
3 this Act.

4 (k) "Whistleblower" shall refer to an informant admitted into the program of
5 the council according to this Act.

6 **Sec. 4. Coverage.** - This Act shall cover all acts constituting improper conduct
7 irrespective of the time of commission.

8 **Sec. 5. Admission to the Program.** - Whistleblowers, whether from the public
9 or private sector, shall be entitled to protection, security, and benefits under this Act,
10 provided that all the following requisites concur:

11 (a) the disclosure is voluntary, in writing, and under oath;

12 (b) the disclosure relates to an act constituting improper conduct; and

13 (c) the information to be disclosed is admissible in evidence.

14 **Sec. 6. Necessity of Testimony.** - The testimony of a whistleblower in court
15 shall not be necessary for the entitlement to protection, security, and benefits under
16 this Act. In the event that the whistleblower's testimony is determined by the council
17 to be necessary and indispensable to the success of an investigation or the prosecution
18 of a case, the whistleblower shall be entitled to the additional protection, security, and
19 benefit under Republic Act No. 6981.

20 **Sec. 7. Perpetuation of Testimony.** - Once admitted into the program, a
21 whistleblower may perpetuate testimony pursuant to Rule 134 of the Revised
22 Rules of Court.

23 **Sec. 8. Memorandum of Agreement.** - Before an informant is admitted as a
24 whistleblower under this Act, a memorandum of agreement setting forth the following
25 responsibilities shall be executed:

26 (a) to provide information to and testify before all branches or agencies of the
27 government in appropriate proceedings on acts constituting improper conduct;

28 (b) to avoid the commission of any crime;

29 (c) to take all necessary precautions to preclude detection by others of the facts
30 concerning the protection, security, and benefits provided under this Act;

31 (d) to cooperate with all reasonable requests of officers and employees of the
32 government who are providing protection under this Act; and

1 (e) to regularly inform the appropriate official of the program of the
2 whistleblower's current activities and address.

3 **Sec. 9. Breach of Memorandum of Agreement.** - Substantial breach of the
4 memorandum of agreement in the preceding Section shall be sufficient ground for the
5 termination of the protection, security, and benefits provided under this Act. The
6 council shall send notice to the whistleblower concerned, stating therein the ground
7 for such termination. In view thereof, the whistleblower shall be afforded reasonable
8 time to take appropriate and necessary protection and security measures. In addition,
9 the whistleblower shall return all the financial rewards received pursuant to this Act.

10 **Sec. 10. Confidentiality.** - Except as allowed by this Act, during and after a
11 disclosure, and throughout and after any proceeding taken thereafter, a whistleblower
12 or an informant is entitled to absolute confidentiality about:

- 13 (a) personal identity;
- 14 (b) the subject matter of the disclosure; and
- 15 (c) the person to whom such disclosure was made.

16 There shall be no such confidentiality of personal identity if a whistleblower or
17 an informant makes a public disclosure, unless, notwithstanding such public
18 disclosure, the whistleblower has taken means and measures obviously intended to
19 preserve anonymity.

20 **Sec. 11. Confidential Information.** - No person to whom a disclosure has been
21 made or referred shall divulge any information that may identify or tend to identify a
22 whistleblower or informant, or reveal the subject matter of such disclosure, except
23 under the following circumstances;

- 24 (a) the whistleblower or the informant consents in writing prior to a disclosure
25 of an information;
- 26 (b) the disclosure is indispensable and essential as determined by the council
27 having regard to the necessary proceedings to be taken after the disclosure; or
- 28 (c) the disclosure or referral is made pursuant to an obligation under this Act.

29 The prohibition on disclosure under this Section shall apply to any person who
30 has become privy to any confidential information, whether officially or otherwise.

31 **Sec. 12. No Breach of Duty of Confidentiality.** - A whistleblower or an informant
32 who has made a disclosure under this Act, on whom a provision of law or contract

1 imposes a duty to maintain confidentiality with respect to the information disclosed,
2 shall be considered not to have committed a breach thereof.

3 **Sec. 13. *Defense of Privileged Communication.*** - A whistleblower or an
4 informant who has made a disclosure under this Act shall have, as defense in any
5 other inquiry or proceeding, the absolute privilege with respect to the subject matter
6 of the disclosure or information given to the proper authorities.

7 **Sec. 14. *Protection Against Disciplinary Action or Reprisal.*** - A whistleblower
8 who has made, or is believed or suspected to have made a disclosure under this Act
9 is not liable to disciplinary action for making the disclosure.

10 Prohibited acts under this Section include reprisals in the workplace or
11 prejudicial conduct towards a whistleblower such as discriminatory actions behind
12 policies and procedures, unwarranted reprimand, punitive transfers, malicious referral
13 to a psychiatrist or counselor, and unfounded or baseless poor performance reviews.
14 Other prejudicial acts include obstruction of an investigation, withdrawal of essential
15 resources, undue reports, and the attachment of false personnel files or notes.

16 To this end, any employer who shall discourage and impose sanctions or
17 reprisals based on workplaces interaction, which shall include workplace ostracism,
18 questions and attacks on motives, accusations of disloyalty and dysfunction, public
19 humiliation, and the denial of work or promotion, or who encourages, causes or does
20 retaliatory action or reprisal against a whistleblower or anyone believed or suspected
21 to be one, shall be liable for an offense defined under this Act.

22 Any employee who refuses to follow orders of employers that would cause them
23 to violate any provision of this Act shall likewise be protected from reprisal in the
24 workplace.

25 For purposes of this protection, an applicant for employment shall be deemed
26 an employee and entitled to such protection.

27 An employer of a whistleblower shall be notified of the protection under this
28 Section through a certification issued by the council.

29 An employer may only remove a whistleblower from employment for cause and
30 after due process after securing a clearance from the council and the Department of
31 Labor and Employment.

1 **Sec. 15. *Protection Against Other Actions.*** - A whistleblower or an informant
2 who has made a disclosure under this Act shall not be subject to any liability in any
3 proceeding.

4 Any disclosure made or any document submitted to the council shall be
5 inadmissible in evidence against the whistleblower. The protection shall also operate
6 as immunity in favor of a whistleblower or an informant against any action or
7 proceeding taken against a whistleblower or an informant by any person subject of a
8 disclosure by reason of the disclosure.

9 **Sec. 16. *Protection, Security, and Benefits of a Whistleblower.*** - A
10 whistleblower shall be entitled to an allowance equivalent to such whistleblower's basic
11 financial requirement, if the whistleblower requests for an allowance and the council
12 determines and approves the reasonableness of such request.

13 A whistleblower shall likewise be entitled to housing and personal security, if
14 the whistleblower requests for housing and personal security and the council
15 determines and approves the reasonableness of such request, regardless of whether
16 the disclosure is made in confidence or in public. For this purpose, the council may
17 request any law enforcement agency for assistance.

18 Should, at any time, the identity of a whistleblower is revealed, or anonymity
19 compromised, such whistleblower may, upon the recommendation of the council, be
20 entitled to additional protection, security, and benefits under Republic Act No. 6981.

21 **Sec. 17. *Financial Rewards for Whistleblower.*** - A whistleblower shall be
22 entitled to a corresponding monetary reward on a contingency basis, equivalent to at
23 least ten percent (10%) of the amount which may be recovered as a result of the
24 disclosure or the amount of one million pesos (P1,000,000.00), whichever is lower.

25 **Sec. 18. *Credibility of a Whistleblower.*** - In all cases, the fact of the entitlement
26 of a whistleblower to protection, security, and benefits under this Act shall not be
27 admissible in evidence to diminish or affect his credibility.

28 **Sec. 19. *Confidentiality of the Proceedings.*** - All proceedings before the council
29 involving the application or enjoyment of the protection, security, and benefits under
30 this Act, including any action taken thereon, shall be confidential in nature. No
31 information or document given or submitted in support thereof shall be released

1 except upon written order of the council, and provided such disclosure shall not
2 endanger the life of a whistleblower.

3 **Sec. 20. *Abstract.*** - All government agencies, offices, bureaus, including
4 government owned or controlled corporations and their subsidiaries, and the local
5 government units shall conspicuously display an abstract of this Act and put in place
6 internal procedures for dealing with whistleblowers consistent with this Act to be
7 widely disseminated to all employees.

8 All other employers, specifically those in the private sector, shall also
9 conspicuously display notices of their obligations and their employees' protection
10 under this Act.

11 **Sec. 21. *Whistleblower Benefits and Protection Council.*** - A Whistleblower
12 Benefits and Protection Council is hereby created composed of the Overall Deputy
13 Ombudsman as Chairperson, and the following as members:

14 (a) Prosecution General, Department of Justice;

15 (b) Special Prosecutor, Ombudsman;

16 (c) Witness Protection Program Director, Department of justice;

17 (d) Executive Director, Anti-Money Laundering Council;

18 (e) Director, Legal Service, Philippine National Police, in case the a member is
19 involved;

20 (Q Judge Advocate General of the Armed Forces of the Philippines, in case a
21 member is involved;

22 (g) a representative from civil society involved in good governance to be
23 appointed by the Chairperson of the council upon the recommendation of the
24 members thereof; and

25 (h) a representative from the business sector to be appointed by the
26 Chairperson of the council upon the recommendation of the members thereof.

27 The existing personnel of the Office of the Ombudsman shall serve as
28 secretariat to the council.

29 **Sec. 22. *Powers and Functions of the Council.*** - In addition to its powers and
30 functions under existing laws, the council shall have the following powers and
31 functions:

1 (a) monitor, coordinate, and evaluate all efforts relative to the implementation
2 and enforcement of the provisions of this Act;

3 (b) evaluate the disclosure and qualification of whistleblowers or informants for
4 coverage within this Act, and make the appropriate decision on their entitlement to
5 the benefits extended herein;

6 (c) undertake, in coordination and cooperation with the private and public
7 sectors, as information campaign to educate the public on the provisions and benefits
8 of this Act;

9 (d) develop plans and implement programs to further encourage whistleblowers
10 or informants on improper conduct with a view to effective deterrence and/or
11 prosecution;

12 (e) control and administer, consistent with the provisions and purposes of this
13 Act, the protection and benefits of whistleblowers in connection with the cases within
14 the coverage of this Act;

15 (f) call upon, or deputize and department, bureau, office or any other
16 government agency or public official to assist in the effective implementation and
17 enforcement of this Act; and

18 (g) grant immunity in accordance with the provisions of this Act and its
19 implementing rules and regulations.

20 **Sec. 23. *Penalty for Giving False and Misleading Information.*** - The penalty of
21 imprisonment of not less than six (6) years but not more than twelve (12) years shall
22 be imposed upon a whistleblower who deliberately and voluntarily gives false or
23 misleading information under this Act. The offender shall also be required to return all
24 the amounts received as financial rewards. The penalty of dismissal from the service,
25 if applicable, and the accessory penalty of perpetual absolute disqualification from
26 holding public office shall also be imposed. In addition, the offender may be held
27 criminally and civilly liable under existing laws.

28 **Sec. 24. *Penalty for Unjustified Recantation.*** - The unjustified recantation of
29 testimony by a whistleblower shall constitute an offense and shall be punishable by a
30 penalty of imprisonment of not less than four (4) years but not more than six (6)
31 years. The offender shall also be required to return all the amounts received as
32 financial rewards.

1 **Sec. 25. *Penalty for Reprisal Against Whistleblower.*** - The penalty of
2 imprisonment of not less than six (6) years but not more than twelve (12) years or a
3 fine of not more than one hundred thousand pesos (P100,000.00), or both, at the
4 discretion of the court shall be imposed upon any person who shall commit any act of
5 reprisal as defined in this Act against a whistleblower, or hinders, delays, prevents or
6 dissuades a whistleblower from:

7 (a) attending, assisting or testifying before any investigating agency or judicial
8 or quasi-judicial body;

9 (b) reporting to a law enforcement officer or judge the commission or possible
10 commission of an offense, or a violation of conditions of probation, parole, or release
11 pending judicial proceedings;

12 (c) seeking the arrest of another person in connection with an offense;

13 (d) causing a criminal prosecution, or any proceeding for the revocation of a
14 parole or probation; and

15 (e) performing and enjoying the protection, security, and benefits under this
16 Act or attempt to do so.

17 In addition, the penalty of dismissal from the service, if applicable, and the
18 accessory penalty of perpetual absolute disqualification from holding public office shall
19 be imposed.

20 **Sec. 26. *Penalty for Violation of Confidentiality.*** – The penalty of imprisonment
21 of not less than six (6) months but not more than six (6) years shall be imposed upon
22 any person who shall violate the protection of confidentiality of a protected disclosure
23 under this Act. The penalty of dismissal from the service, if applicable, and the
24 accessory penalty of temporary absolute disqualification from holding public office
25 shall also be imposed. In addition, the offender shall be civilly liable to indemnify a
26 whistleblower or an informant in such amount of damages as may be awarded and
27 deemed reasonable by a competent court.

28 This shall be independent of any action that an aggrieved whistleblower or
29 informant may take before the Civil Service Commission, the Department of Labor and
30 Employment, or other agency that may or may not have arisen from a disclosure, or
31 a believed or suspected disclosure.

1 **Sec. 27. *Penalty for Reprisal in the Workplace.*** - The penalty of imprisonment
2 of not more than six (6) years but not more than twelve (12) years shall be imposed
3 upon any person who shall commit any act of reprisal in the workplace as defined in
4 this Act, against an employee who is a whistleblower or believed or suspected to be
5 one. The penalty of dismissal from the service, if applicable, and the accessory penalty
6 of temporary absolute disqualification from holding public office shall also be imposed.
7 In addition, the offender shall be civilly liable to indemnify a whistleblower in such
8 amount of damages as may be awarded and deemed reasonable by a competent
9 court.

10 Towards this end, an aggrieved whistleblower shall be entitled to the
11 provisional remedy of injunction against any reprisal in the workplace, prejudicial
12 conduct, or discriminatory treatment by reason of a whistleblower's disclosure.

13 This shall be independent of any action that an aggrieved whistleblower or
14 informant may take before the Civil Service Commission, the Department of Labor and
15 Employment, or other agency that may or may not have arisen from a disclosure, or
16 a believed or suspected disclosure.

17 **Sec. 28. *Penalty for Discriminatory Hiring.*** - The penalty of imprisonment of
18 not more than six (6) months shall be imposed upon any person or employer who
19 shall deny a qualified applicant for employment, or who shall reject an application for
20 employment solely on the ground that an applicant is a whistleblower or an informant.
21 If the offender is a corporation, partnership, association, or any juridical person, the
22 penalty shall be imposed upon the owner, president, partner, manager, or any
23 responsible officer who participated in the commission of the offense. The penalty of
24 dismissal from the service, if applicable, and the accessory penalty of suspension of
25 the right to hold public office shall also be imposed. In addition, the offender shall be
26 civilly liable to indemnify a whistleblower in such amount of damages as may be
27 awarded and deemed reasonable by a competent court.

28 This shall be independent of any action that an aggrieved whistleblower or
29 informant may take before the Civil Service Commission, the Department of Labor and
30 Employment, or other agency that may or may not have arisen from a disclosure, or
31 a believed or suspected disclosure.

1 **Sec. 29. *Failure of an Employer to Post Abstract.*** - The failure to post an
2 abstract required under this Act shall constitute an offense and shall be punishable
3 with a fine of one hundred thousand pesos (P100,000.00) for the first offense. The
4 amount shall be doubled for every succeeding offense.

5 **Sec. 30. *Failure to Act or Report to the Council.*** - Any person under obligation
6 to report a disclosure under this Act to the Council, who fails to do so within a period
7 of two (2) months, or who fails to act thereon or cause an investigation thereof, shall
8 be punishable with a penalty of not more than one (1) month imprisonment or a fine
9 of not more than fifty thousand pesos (P50,000.00), or both at the discretion of the
10 court. This is without prejudice to any other liability that may be imposed under
11 existing laws.

12 **Sec. 31. *Appropriation.*** - The initial amount of one hundred million pesos
13 (P100,000,000.00) is hereby appropriated to carry out the provisions of this Act.
14 Thereafter, such sums as may be necessary shall be included in the General
15 Appropriations Act.

16 **Sec. 32. *Implementing Rules and Regulations.*** - The council shall promulgate
17 rules and regulations to implement the provisions of this Act within ninety (90) days
18 from its effectivity.

19 **Sec. 33. *Repealing Clause.*** - All laws, decrees, orders, rules and regulations,
20 or other issuances or parts thereof inconsistent with the provisions of this Act are
21 hereby repealed or modified accordingly.

22 **Sec. 34. *Separability Clause.*** - If any portion or provision of this Act is declared
23 unconstitutional, the remainder of this Act or any provision not affected thereby shall
24 remain in force and effect.

25 **Sec. 35. *Effectivity.*** - This Act shall take effect after fifteen (15) days following
26 the completion of its publication either in the Official Gazette or in a newspaper of
27 general circulation in the Philippines.

Approved,