

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

SENATE  
OFFICE OF THE SECRETARY

10 JUL 22 1948

SENATE  
S. No. 1883

---

Introduced by Senator Miriam Defensor Santiago


---

EXPLANATORY NOTE

The government needs a new institutional mechanism for integrity and accountability to avoid scandals and restore credibility in the public service. The litmus test for such reforms is the government's treatment of whistleblowers.

Whistleblowers are the primary vehicle through which misconduct is exposed. But witnesses to misconduct can expect retaliation for speaking out. Those who "blow the whistle" are most often fired and become ostracized from friends and co-workers. They are accused of having a grievance with their employer or trying to profit from their accusations. The fear generated by such retaliation creates a chilling effect on the willingness of the people to come forward.

Hence, this bill seeks to strengthen government and even corporate accountability by supporting and protecting the right of employees to speak out about wrongdoing on the job.<sup>1</sup>

*acc.*   
MIRIAM DEFENSOR SANTIAGO

---

<sup>1</sup> This bill was originally filed during the Fourteenth Congress, First Regular session.

10 09 22 1949

SENATE  
S. No. 1883

---

Introduced by Senator Miriam Defensor Santiago

---

1 AN ACT  
2 ESTABLISHING A WHISTLEBLOWER BILL OF RIGHTS  
3

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

5 SECTION 1. *Short Title.* - This Act shall be known as the "Whistleblower Protection  
6 Act."

7 SECTION 2. *Definitions.* -As used in this Act:

8 (A) "Employer" means any individual, partnership, association, corporation, or any  
9 person or group of persons acting directly or indirectly, and shall also include any public or  
10 privately owned corporation, all branches of government, or any other political subdivision, or a  
11 school district, or any special district, or any authority, commission, or board, or any other  
12 agency or instrumentality thereof. Employer shall also include agents, contractors, or  
13 subcontractors of an employer.

14 (B) "Employee" means any individual who performs services for or under the control and  
15 direction of an employer for wages or other remuneration. Employee shall also include  
16 applicants for employment, former employees, or an unauthorized representative of an employee.

17 (C) "Public body" means:

18 (a) the Congress, or any popularly-elected local governmental body, or any member or  
19 employee thereof;

20 (b) the judiciary, or any member or employee thereof;

21 (c) any regulatory, administrative or public agency, or authority, or instrumentality  
22 thereof;

23 (d) any law enforcement agency, prosecutorial office, or police or peace officer;

24 (e) any department of an executive branch of government; or

1 (f) any division, board, bureau, office, committee, or commission of any of the public  
2 bodies described in the above paragraphs of this section.

3 (D) "Supervisor" means any individual with an employer's organization who has the  
4 authority to direct and control the work performance of the affected employee or who has  
5 authority to take corrective action regarding the violation of the law, rule, or regulation of which  
6 the employee complains.

7 (E) "Retaliatory action" means the discharge, suspension, demotion, harassment,  
8 blacklisting, or the refusal to hire an employee, or other adverse employment action taken against  
9 an employee in the terms and conditions of employment, or other actions which interfere with an  
10 employee's ability to engage in protected activity set forth in pertinent laws.

11 (F) "Improper quality of patient care" means, with respect to patient care by an employer  
12 that is a health care provider, any practice, procedure, action, or failure to act which violates any  
13 law or any rule, regulation, or declaratory ruling adopted pursuant to law, or any professional  
14 code of ethics.

15 SECTION 3. *Protected Activity*. - An employer shall not take any retaliatory action  
16 against an employee because the employee does any of the following:

17 (A)Discloses, threatens to disclose, or is about to disclose to a supervisor or to a public  
18 body, an activity, policy, or practice of the employer, a co-employee, or another employer, that  
19 the employee reasonably believes is in violation of a law or a rule or regulation promulgated  
20 pursuant to law, or, in the case of an employee who is a licensed or certified health care  
21 professional, reasonably believes constitutes improper quality of patient care.

22 (B)Provides information to, or testifies before, any public body conducting an  
23 investigation, hearing, or inquiry into any violation of law, or a rule or regulation promulgated  
24 pursuant to law by the employer or another employer, or, in the case of an employee who is a  
25 licensed or certified health care professional, provides information to, or testifies before, any  
26 public body conducting an investigation, hearing, or inquiry into the quality of patient care.

27 (C)Discloses, threatens to disclose, or is about to disclose to a supervisor or to a public  
28 body, an activity, policy, or practice of the employer, a co-employee, or another employer, that

1 the employee reasonably believes is incompatible with a clear mandate of public policy  
2 concerning the public health and safety or welfare or protection of the environment.

3 (D) Assists or participates in a proceeding to enforce the provisions of this law.

4 (E) Objects to, opposes, or refuses to participate in any activity, policy, or practice which  
5 the employee reasonably believes -

6 (1) is in violation of a law, or a rule or regulation promulgated pursuant to law or, if the  
7 employee is a licensed or certified health care professional, constitutes improper quality of  
8 patient care;

9 (2) is fraudulent or criminal; or

10 (3) is incompatible with a clear mandate of public policy concerning the public health,  
11 safety or welfare or protection of the environment.

12 SECTION 4. *Forum.* - Upon a violation of any of the provisions of this Act, an aggrieved  
13 employee or former employee may, within one (1) year, institute a civil action in a court of  
14 competent jurisdiction.

15 SECTION 5. *Burden of Proof* - A violation of this statute has occurred only if the  
16 employee demonstrates, by a preponderance of the evidence that any behavior described in  
17 Section 3 was a contributing factor in the retaliatory action alleged in the complaint by the  
18 employee. However, relief may not be ordered under Section 6 if the employer demonstrates by  
19 clear and convincing evidence that it would have taken the same unfavorable personnel action  
20 (retaliatory action) in the absence of such behavior.

21 SECTION 6. *Remedies.* - All remedies available in tort actions shall be available to the  
22 prevailing plaintiffs. The court shall also, where appropriate, order:

23 (A) An injunction to restrain continued violation of this Act;

24 (B) The reinstatement of the employee to the same position held before the retaliatory  
25 action, or to an equivalent position;

26 (C) The reinstatement of full fringe benefits and seniority rights;

27 (D) The compensation for lost wages, benefits, and other remuneration;

28 (E) The payment by the employer of reasonable costs, and attorney's fees; or

29 (F) Compensatory or exemplary damages.

1 SECTION 7. *Posting.* - An employer shall conspicuously display notices of its  
2 employees' protections and obligations under this Act.

3 SECTION 8. *Preemption.* - Nothing in this Act shall be deemed to diminish the rights,  
4 privileges, or remedies of any employee under any law or regulation or under any collective  
5 bargaining agreement or employment contract. No employee may waive through a private  
6 contract any right set forth in this Act, except as set forth in Section 9, and no employee may be  
7 compelled to adjudicate his or her rights under this Act pursuant to a collective bargaining  
8 agreement or any other arbitration agreement.

9 SECTION 9. *Settlement.* - The rights afforded employees under this Act may not be  
10 waived or modified, except through a court approved settlement agreement reached with the  
11 voluntary participation and consent of the employee and employer. An employer may not require  
12 an employee to waive, as a condition of settlement, his or her right to reasonably engage in  
13 conduct protected under Section 3 of this Act.

14 SECTION 10. *Separability Clause.* - If any provision, or part hereof, is held invalid or  
15 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain  
16 valid and subsisting.

17 SECTION 11. *Repealing Clause.* - Any law, presidential decree or issuance, executive  
18 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent  
19 with, the provisions of this Act is hereby repealed, modified, or amended accordingly.

20 SECTION 12. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its  
21 publication in at least two (2) newspapers of general circulation.

22 Approved,