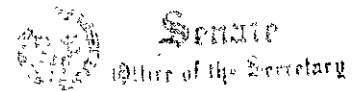



FIFTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)



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SENATE
S. No. 2991

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Article XI, Sections 1 and 12 of the Constitution provides:

SEC. 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice and lead modest lives.

SEC. 12. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on the complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

The failure of the Ombudsman to promptly act upon the complaints has been well documented during the term of former Ombudsman Merceditas Gutierrez. Such neglect has been highlighted by the glaring inaction on cases imbued with public interests such as the cases of PNP Euro-Generals, the fertilizer scam, misuse of the Road Users Tax and the NBN-ZTE scandal. In all these cases, various committees in the Senate have recommended the prosecution of the public officials involved.

Such inaction of the Office of the Ombudsman, whose office is constitutionally mandated to fight corruption, weakens our government's anti-corruption program as a whole. It is therefore imperative for Congress to legislate laws that will strengthen the Office of the Ombudsman and speed up the process by which corrupt public officials are brought to justice.

It is important to underscore the fact that the power of the Office of the Ombudsman to prosecute does not directly originate from the Constitution. It is found in RA 6770, or the Ombudsman Law. This means that while the Office of the Ombudsman has constitutional basis, the Ombudsman's power to prosecute is a creation of the legislature and not of the Constitution.

The records of the Constitutional Commission establishes the following points: (1) since the power of the Ombudsman to prosecute is a creation of the legislature, that power is subject to revision by Congress; and (2) since the power to conduct preliminary investigations is an incident to the Ombudsman's power to prosecute, it follows that such procedural power is also subject to the revisory powers of Congress.¹

Given the inquisitorial nature of the congressional hearings, it is possible that in the course of the investigations, a *prima facie* case against any person involved, in the matter investigated upon, may be established. In such instances part of the resolution of the case would be to recommend the prosecution of persons against whom a *prima facie* case has been established.

Such arrangement would not only speed up the prosecution process of the Office of the Ombudsman but also make the congressional hearings more meaningful as the persons involved would have to treat such hearings more seriously since the findings of the Congress can be adopted *in toto* by the Office of the Ombudsman and cause the filing of information against them.

This power would be tempered by a proviso which allows the Office of the Ombudsman to conduct a preliminary investigation on cases with as yet insufficient evidence.

This bill aims to expedite the prosecution of cases recommended by Congress and hasten the delivery of justice on matters of national concern.


MIRIAM DEFENSOR SANTIAGO

¹ See II Records of the Constitutional Commission 265-271 (1986).

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1 AN ACT
2 AMENDING REPUBLIC ACT NO. 6770, OTHERWISE KNOWN AS THE OMBUDSMAN
3 ACT, EXPEDITING THE PROSECUTION OF CASES RECOMMENDED BY CONGRESS
4 AND FOR OTHER PURPOSES

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

7 SECTION 1. A new Section 21 shall be inserted after Section 20 of Republic Act. 6770,
8 otherwise known as the Ombudsman Act, which shall read as follows:

9 SEC. 21. *Recommendations by Congress* – The Office of the
10 Ombudsman shall have the power to cause the filing of an information
11 against and prosecute the officials over which it has disciplinary
12 authority, as provided in this Act, without preliminary investigation, upon
13 recommendation by either the Senate or the House of Representatives;
14 provided that the Office of the Ombudsman has made a determination
15 that the said recommendation is supported by evidence sufficient to
16 prosecute the case as provided in its rules. The Office of the Ombudsman
17 shall make such determination within 30 days from receipt of the
18 congressional recommendation.

19 The chamber of Congress, from which the congressional
20 recommendation originated, shall transmit all evidence gathered during
21 their inquiry along with their recommendation. The Office of the
22 Ombudsman may then adopt the results of the congressional inquiry in
23 place of a preliminary investigation.

1 If the Office of the Ombudsman determines that the evidence provided is
2 insufficient, it shall conduct a separate preliminary investigation and shall
3 communicate the result of such investigation to the chamber of Congress
4 from which the said recommendation originated.

5 In all such cases, the Office of the Ombudsman shall ensure that the cases
6 covered by congressional recommendations are given priority.

7
8 SECTION 2. The succeeding sections shall be renumbered accordingly

9 SECTION 3. *Repealing Clause.* – All laws, decrees, orders, rules and regulations or parts
10 thereof inconsistent with the provisions of this Act are hereby repealed, amended or modified
11 accordingly.

12 SECTION 4. *Separability Clause.* – If, for any reason, any provision of this Act is
13 declared to be unconstitutional or invalid, the other sections or provisions hereof which are not
14 affected thereby shall continue to be in full force and effect.

15 SECTION 5. *Effectivity Clause.* – This Act shall take effect after fifteen (15) days
16 following its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

 Approved,