

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



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Senate  
Office of the Secretary

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SENATE  
S. No. 189

*per*

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Introduced by Senator Miriam Defensor Santiago

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#### EXPLANATORY NOTE

The Constitution, Article 2, Section 27, provides:

The State shall maintain honesty and integrity in public service and take positive and effective measure against graft and corruption.

The Constitution, Article 11, Section 1, further provides:

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.

It is the intent of this bill to encourage citizens to stand up and report alleged violations of law, improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer or employee, and private entity. By protecting citizens who disclose wrongdoing from retaliatory acts, we strengthen accountability and reduce corruption in the public and private sectors.<sup>1</sup>

*ms*  
*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO

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



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1 AN ACT  
2 PROVIDING FOR THE PROTECTION OF WHISTLEBLOWERS

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

3 SECTION 1. *Short Title.* - This Act shall be known as the "Whistleblowers' Protection  
4 Act."

5 SECTION 2. *Definitions of Terms.* - As used in this Act, the following terms shall have  
6 the meaning indicated:

7 (a) "Whistleblower" is a person who publicly reveals a concealed misconduct or a  
8 commission or attempted commission of a crime by a person, employer, employee, or an agency  
9 whether of a public or private entity. Provided, however, that said person has not participated or  
10 has refused to participate in the misconduct or the violation or attempted violation of law.

11 (b) "Whistleblowing" is the disclosure, making public, giving evidence to,  
12 information that a whistleblower reasonably believes constitutes:

- 13 (i) a violation of law, rule, regulation, policy;  
14 (ii) gross mismanagement;  
15 (iii) gross waste of funds;  
16 (iv) abuse of authority;  
17 (v) threat to public interest such as fraud and corruption; or  
18 (vi) substantial and specific danger to public health or safety;

19 (c) "Employer" is any individual, partnership, association, corporation, or any person  
20 or group of persons who has the power and right to control and direct the employee in the

1 material details of how the work is to be performed, which includes any public or privately  
2 owned corporation, branches of government, or any other political subdivision, authority,  
3 commission, or board, or any other agency or instrumentality thereof;

4 (d) "Superior/Supervisor" is an individual having authority, in the interest of the  
5 employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or  
6 discipline other employees, or responsibly to direct them, or to adjust their grievances, or  
7 effectively recommend such action, if in connection with the foregoing the exercise of such  
8 authority is not a merely routine or clerical nature, but requires the use of independent judgment;

9 (e) "Retaliatory Action" is the discharge, suspension, transfer, or demotion of any  
10 employee/whistleblower or the withholding of bonuses, reduction in salary or benefits, or any  
11 other action that may adversely affect his or her rights and interests taken by the employer,  
12 superior, supervisor, or head of agency;

13 (f) "Gross Mismanagement" is the continuous pattern of managerial abuses, wrongful  
14 or arbitrary and capricious actions, or fraudulent or criminal conduct which may have a  
15 substantial adverse economic impact; and

16 (g) "Gross Waste of Funds" means to spend or use funds or to allow funds to be used  
17 without valuable result in a manner grossly deviating from the standard of care or competence  
18 that a reasonable person would observe in the same situation.

19 SECTION 3. *Prohibited Acts.* - It shall be unlawful for any employer, superior,  
20 supervisor or head of agency to retaliate or perform such acts which can be deemed as  
21 "retaliatory action" as defined in this Act against an employee/whistleblower.

22 SECTION 4. *Nature of Information Disclosed.* - The information disclosed under this  
23 section must include:

24 (a) Any violation or suspected violation of any law, rule, or regulation committed by  
25 an employee or agent of government agency or private entity which creates and presents a  
26 substantial and specific danger to the public interest, safety, or welfare.

1 (b) Any act or suspected act of gross mismanagement and misconduct, malfeasance,  
2 misfeasance, nonfeasance or gross neglect of duty, gross waste of public funds committed by an  
3 employee or agent and public officials of a government agency.

4 SECTION 5. *To Whom Information Disclosed.* - The information disclosed under this  
5 section must be made by the employee/whistleblower to his or her superior/supervisor or any  
6 other person in authority who has the power to prevent, remedy, correct the wrongdoing or any  
7 government agency having the authority to investigate, prosecute the violation or act, including,  
8 but not limited to, the Philippine National Police, the National Bureau of Investigation, the  
9 Office of the Ombudsman, and the Department of Justice.

10 SECTION 6. *Whistleblowers and Persons Protected.* - Legal protections accorded under  
11 this Act to employees/whistleblowers and their spouse and/or any member of the family within  
12 the first civil degree by consanguinity or affinity who:

13 (a) disclose information on their own initiative in a written and signed complaint or  
14 affidavit; or

15 (b) are requested to participate in an investigation, hearing, or other inquiry  
16 conducted by any agency or national government agency; and

17 (c) refuse to participate in any retaliatory action prohibited by this section; or who  
18 initiate a complaint against or testify regarding an illegal act.

19 SECTION 7. *Remedies.* - Any whistleblower or employee of or applicant for employment  
20 with any government agency, who is discharged, disciplined, or subjected to other retaliatory  
21 action, or denied employment, because he or she engaged in an activity protected by this Act  
22 may file a complaint without need of exhausting all available contractual or administrative  
23 remedies, before a court of competent jurisdiction within one (1) year after the action prohibited  
24 by this Act is committed.

1           SECTION 8. *Relief.* - In any action brought under this section, the relief must include the  
2 following:

3           (a)     Reinstatement of the whistleblower or employee to the same position held before  
4 the retaliatory action was commenced, or to an equivalent position or reasonable front pay as  
5 alternative relief;

6           (b)     Reinstatement of the whistleblower or employee's full fringe benefits and  
7 seniority rights, as appropriate;

8           (c)     Compensation, if appropriate, for lost wages, benefits, or other lost remuneration  
9 caused by the retaliatory action;

10          (d)     Payment of reasonable costs, including attorney's fees, to a substantially  
11 prevailing employee, or to the prevailing employer if the whistleblower or employee filed a  
12 frivolous action in bad faith;

13          (e)     Issuance of an injunction, if appropriate, by a court of competent jurisdiction;

14          (f)     Temporary reinstatement to the whistleblower or employee's former position or to  
15 an equivalent position, pending the final outcome On the complaint, if an employee complains of  
16 being discharged in retaliation for a protected disclosure and if a court of competent jurisdiction  
17 or the Commission on Human Rights, as applicable, determines that the disclosure was not made  
18 in bad faith or for a wrongful purpose or occurred after an agency's initiation of a personnel  
19 action against the whistleblower or employee which includes documentation of the employee's  
20 violation of a disciplinary standard or performance deficiency.

21           SECTION 9. *Preemption.* - Nothing in this Act shall be deemed to diminish the rights,  
22 privileges, or remedies of any whistleblower or employee under any law or regulation or under  
23 any collective bargaining agreement or employment contract. No whistleblower or employee  
24 may waive through private contract any right set forth in this Act, except as set forth in Section  
25 7, and no employee may be compelled to adjudicate his or her rights under this Act pursuant to a  
26 collective bargaining agreement or any other arbitration agreement.

1 SECTION 10. *Settlement.* - The rights afforded employees under this Act may not be  
2 waived or modified.

3 SECTION 11. *Penal Clause.* - Any person who violates any provision of this Act shall  
4 suffer pay a fine of not less than two hundred thousand pesos (P200,000) but not more than five  
5 hundred thousand pesos (P500,000) and suffer an imprisonment of not less than two (2) years but  
6 not more than six (6) years.

7 Upon filing of an appropriate complaint, and after due notice and hearing, the proper  
8 authorities may also cause the cancellation or revocation of the business permit, permit to  
9 operate, franchise and other similar privileges granted to any private entity that fails to abide the  
10 provisions of this Act.

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

14 SECTION 13. *Repealing Clause.* - All laws, decrees, orders, rules, and regulations or  
15 parts thereof inconsistent with the provisions of this Act are hereby repealed, amended, or  
16 modified accordingly.

17 SECTION 14. *Effectivity Clause.* - This Act shall take effect after fifteen (15) days  
18 following its publication in at least two (2) newspapers of general circulation.

Approved,