

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

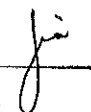


Senate  
Office of the Secretary

'13 JUL 29 P5:15

SENATE

S. NO. 1148

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Introduced by Senator Antonio "Sonny" F. Trillanes IV

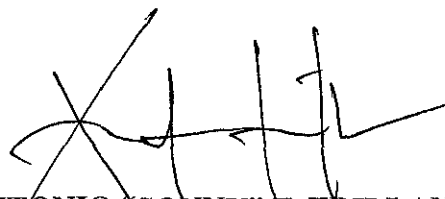
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#### EXPLANATORY NOTE

Article XI, Section 12 of the 1987 Constitution provides that the Ombudsman and his Deputies, as protectors of the people, shall act promptly on 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.

Nonetheless, contrary to the above constitutional mandate, the Office of the Ombudsman has, in the past received flak for its lacklustre performance insofar as conviction rates are concerned – scoring only a few convictions in its 25-year history. A 2006 study conducted by the Center for People Empowerment in Governance (CenPeg) in partnership with the Transparency International (TI) reports that the Office of the Ombudsman has suffered a backlog of cases, while many cases said to have been disposed were actually dismissed or archived. The lack of prosecutors is one of the reasons why cases have languished in the Office.

Thus, this bill seeks to authorize the Office of the Ombudsman to hire private lawyers to act as investigators and/or prosecutors to assist in the prosecution of cases filed before it. Waiting for a substantial increase in the budget appropriated for the Office to cover the ideal number of lawyers may take years. Unless and until the number of lawyers is beefed up, dramatic improvement in prompt and fair disposition of cases by the Office of the Ombudsman is highly unlikely.



ANTONIO "SONNY" F. TRILLANES IV  
Senator

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AN ACT  
AMENDING SECTION 31 OF REPUBLIC ACT NO. 6770, OTHERWISE KNOWN AS  
THE "OMBUDSMAN ACT OF 1989", AS AMENDED ALLOWING PRIVATE  
LAWYERS TO ACT AS PROSECUTORS ON BEHALF OF THE OMBUDSMAN

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

1           **SECTION 1.** Section 31 of Republic Act No. 6770 is hereby further amended to read as  
2 follows:

3           **"SEC. 31, Designation of Investigators and Prosecutors.** – The  
4 Ombudsman may utilize the personnel of his office *and/or* designate or deputize  
5 any fiscal, state prosecutor or lawyer in the *government* services to act as special  
6 investigator or prosecutor to assist in the investigation and prosecution of certain  
7 cases. **THE OMBUDSMAN MAY ALSO DESIGNATE PRIVATE**  
8 **LAWYERS TO ACT AS INVESTIGATORS AND/OR PROSECUTORS TO**  
9 **ASSIST IN THE PROSECUTION OF CASES DECIDED HEREUNDER.**  
10 Those designated and deputized to assist him herein provided shall be under his  
11 supervision and control.

12           The Ombudsman and his investigators and prosecutors, whether regular  
13 members of his staff or designated by him as herein provided, shall have authority  
14 to administer oaths, to issue *subpoena* and *subpoena duces tecum*, to summon and  
15 compel witnesses to appear and testify under oath before them *and/or* bring  
16 books, documents and other things under their control, and to secure the  
17 attendance or presence of any absent or recalcitrant witnesses through application  
18 before the Sandiganbayan or before any inferior court having jurisdiction of the  
19 place where the witnesses or evidence is found.

1                   **"THE OMBUDSMAN MAY DESIGNATE PRIVATE LAWYERS**  
2                   **TO ASSIST HIM IN THE PROSECUTION OF CASES IN THE**  
3                   **FOLLOWING INSTANCES:**

4                   **(A) CASES INVOLVING FORMER PRESIDENTS OF THE PHILIPPINES,**  
5                   **FORMER VICE PRESIDENTS OF THE PHILIPPINES, INCUMBENT**  
6                   **AND FORMER MEMBERS OF THE CABINET AND INCUMBENT AND**  
7                   **FORMER UNDERSECRETARIES APPOINTED IN THE EXECUTIVE**  
8                   **BRANCH;**

9                   **(B) CASES REQUIRING SPECIALIZED AND EXPERT KNOWLEDGE AND**  
10                   **TRAINING OF THE LAW;**

11                   **(C) CASES WHERE THE PRIVATE LAWYER DEPUTIZED BY THE**  
12                   **OMBUDSMAN IS ALSO THE COMPLAINANT IN THE FILING OF THE**  
13                   **ORIGINAL COMPLAINT LODGED WITH THE OMBUDSMAN.**  
14                   **WHERE THE COMPLAINANT IS NOT A LAWYER, THE**  
15                   **OMBUDSMAN MAY ALSO DESIGNATE OR DEPUTIZE THE PRIVATE**  
16                   **LAWYER/S HIRED AND ENGAGED BY THE SAID COMPLAINANT.**

17                   **SEC. 31- A. DEFINITION OF PRIVATE LAWYERS. – FOR**  
18                   **PURPOSES OF THIS ACT, THE TERM PRIVATE LAWYER SHALL**  
19                   **MEAN OR BE UNDERSTOOD AS FOLLOWS:**

20                   **(A)(I) ANY PERSON LEARNED IN THE LAW AS AN ATTORNEY,**  
21                   **COUNSEL, OR A PERSON LICENSED TO PRACTICE LAW**

22                   **(II) ANY PERSON WHO PROSECUTES OR DEFEND CAUSES IN**  
23                   **COURTS OF RECORD OR OTHER JUDICIAL TRIBUNAL, OR WHOSE**  
24                   **BUSINESS IS TO GIVE LEGAL ADVICE OR ASSISTANCE. IN**  
25                   **RELATION TO ANY CAUSE OR MATTER; OR**

26                   **(III) ANY LAWYER WHO IS NOT EMPLOYED *IN* ANY GOVERNMENT**  
27                   **AGENCY AND NOT PAID OUT OF PUBLIC FUNDS; AND**

1 (B) WITH AT LEAST FIVE (5) YEARS OF ACTIVE LITIGATION  
2 PRACTICE OR EXPERIENCE.

3 "SEC. 31·B. *NATURE OF SERVICES* . – THE SERVICES  
4 RENDERED BY THE PRIVATE LAWYERS UNDER AND PURSUANT  
5 TO THIS ACT SHALL BE *PRO BONO* AND ON A PURELY  
6 VOLUNTARY BASIS EXCEPT THAT INCIDENTAL, NECESSARY AND  
7 OUT-OF-POCKET EXPENSES SHALL BE CHARGED AGAINST THE  
8 ACCOUNT OF THE OFFICE OF THE OMBUDSMAN.

9 "SEC. 31·C. *PROHIBITION ON APPEARANCE*. – PRIVATE  
10 LAWYER'S

11 DESIGNATED BY THE OMBUDSMAN UNDER AND PURSUANT TO  
12 THIS ACT AND THE FIRMS TO WHICH THEY BELONG SHALL, IN  
13 CASES WHERE ACTUAL OR POTENTIAL CONFLICT OF INTEREST  
14 ARISES, BE BARRED FROM APPEARING AS COUNSEL OR AGENT  
15 OF THE OMBUDSMAN, AND FROM TRANSACTING BUSINESS  
16 DIRECTLY OR INDIRECTLY WITH THE SAID OFFICE, WHILE THEY  
17 ARE DEPUTIZED TO ASSIST THE OMBUDSMAN."

18 *SEC 2. Separability Clause.* – If any provision of this Act is *declared invalid* or  
19 *unconstitutional*, the remainder of this Act or any provisions *not* affected thereby shall remain in  
20 force and effect.

21 *SEC. 3. Repealing Clause.* – All laws, decrees, ordinances, rules and regulations,  
22 executive or administrative orders, and other presidential issuance inconsistent with this Act, are  
23 hereby repealed, amended or modified accordingly.

24 *SEC. 4. Effectivity.* – This Act shall take effect fifteen (15) days after its complete  
25 publication in at least two (2) newspapers of general circulation.

Approved,