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

RECEIVED BY: 

SENATE

S. No. 584

Introduced by Senator Antonio "Sonny" F. Trillanes IV

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

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 lackluster 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.

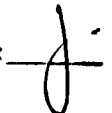
Thus, this bill seeks to authorize the Office of the Ombudsman to hire private lawyers to act as investigators and/or prosecutors to assist in the prosecution of cases filed before it. Waiting for a substantial increase in the budget appropriated for the Office to cover the ideal number of lawyers may 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.

In view of the foregoing, immediate passage of this bill is earnestly sought.


ANTONIO "SONNY" F. TRILLANES IV
Senator

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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
2 as follows:

3
4 "SEC. 31. Designation of Investigators and Prosecutors. – The Ombudsman
5 may utilize the personnel of his office and/or designate or deputize any fiscal, state
6 prosecutor or lawyer in the government services to act as special investigator or
7 prosecutor to assist in the investigation and prosecution of certain cases, **THE**
8 **OMBUDSMAN MAY ALSO DESIGNATE PRIVATE LAWYERS TO ACT AS**
9 **INVESTIGATORS AND/OR PROSECUTORS TO ASSIST IN THE**
10 **PROSECUTION OF CASES DECIDED HEREUNDER.** Those designated and
11 deputized to assist him herein provided shall be under his supervision and control.
12

13 The Ombudsman and his investigators and prosecutors, whether regular
14 members of his staff or designated by him as herein provided, shall have authority to
15 administer oaths, to issue *subpoena* and *subpoena duces tecum*, to summon and
16 compel witnesses to appear and testify under oath before them and/or bring books,
17 documents and other things under their control, and to secure the attendance or
18 presence of any absent or recalcitrant witnesses through application before the
19 Sandiganbayan or before any inferior court having jurisdiction of the place where the
20 witnesses or evidence is found.
21

22 **"THE OMBUDSMAN MAY DESIGNATE PRIVATE LAWYERS TO**
23 **ASSIST HIM IN THE PROSECUTION OF CASES IN THE FOLLOWING**
24 **INSTANCES:**

25
26 **(A) CASES INVOLVING FORMER PRESIDENTS OF THE PHILIPPINES,**
27 **FORMER VICE PRESIDENTS OF THE PHILIPPINES, INCUMBENT AND**
28 **FORMER MEMBERS OF THE CABINET AND INCUMBENT AND**
29 **FORMER UNDERSECRETARIES APPOINTED IN THE EXECUTIVE**
30 **BRANCH;**

1 (B) CASES REQUIRING SPECIALIZED AND EXPERT KNOWLEDGE AND
2 TRAINING OF THE LAW;
3

4 (C) CASES WHERE THE PRIVATE LAWYER DEPUTIZED BY THE
5 OMBUDSMAN IS ALSO THE COMPLAINANT IN THE FILING OF THE
6 ORIGINAL COMPLAINT LODGED WITH THE OMBUDSMAN. WHERE
7 THE COMPLAINANT IS NOT A LAWYER, THE OMBUDSMAN MAY
8 ALSO DESIGNATE OR DEPUTIZE THE PRIVATE LAWYERIS HIRED
9 AND ENGAGED BY THE SAID COMPLAINANT.
10

11 SEC. 31- A. *DEFINITION OF PRIVATE LAWYERS.* – FOR PURPOSES
12 OF THIS ACT, THE TERM PRIVATE LAWYER SHALL MEAN OR BE
13 UNDERSTOOD AS FOLLOWS:
14

15 (A) (I) ANY PERSON LEARNED IN THE LAW AS AN ATTORNEY,
16 COUNSEL, OR A PERSON LICENSED TO PRACTICE LAW
17

18 (II) ANY PERSON WHO PROSECUTES OR DEFEND CAUSES IN COURTS
19 OF RECORD OR OTHER JUDICIAL TRIBUNAL, OR WHOSE BUSINESS IS
20 TO GIVE LEGAL ADVICE OR ASSISTANCE IN RELATION TO ANY
21 CAUSE OR MATTER; OR
22

23 (III) ANY LAWYER WHO IS NOT EMPLOYED IN ANY GOVERNMENT
24 AGENCY AND NOT PAID OUT OF PUBLIC FUNDS; AND
25

26 (B)WITH AT LEAST FIVE (5) YEARS OF ACTIVE LITIGATION
27 PRACTICE OR EXPERIENCE.
28

29 "SEC. 31-B. *NATURE OF SERVICES.* - THE SERVICES RENDERED
30 BY THE PRIVATE LAWYERS UNDER AND PURSUANT TO THIS ACT
31 SHALL BE PRO BONO AND ON A PURELY VOLUNTARY BASIS EXCEPT
32 THAT INCIDENTAL, NECESSARY AND OUT-OF-POCKET EXPENSES
33 SHALL BE CHARGED AGAINST THE ACCOUNT OF THE OFFICE OF
34 THE OMBUDSMAN.
35

36 "SEC. 31-C. *PROHIBITION ON APPEARANCE.* – PRIVATE
37 LAWYER'S DESIGNATED BY THE OMBUDSMAN UNDER AND
38 PURSUANT TO THIS ACT AND THE FIRMS TO WHICH THEY BELONG
39 SHALL, IN CASES WHERE ACTUAL OR POTENTIAL CONFLICT OF
40 INTEREST ARISES, BE BARRED FROM APPERARING AS COUNSEL OR
41 AGENT OF THE OMBUDSMAN, AND FROM TRANSACTING BUSINESS
42 DIRECTLY OR INDIRECTLY WITH THE SAID OFFICE, WHILE THEY
43 ARE DEPUTIZED TO ASSIST THE OMBUDSMAN."
44

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

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

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

Approved,