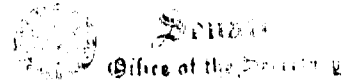



SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



'16 AUG -1 P1:46

SENATE

S.B. No. 949

RECEIVED BY: 

Introduced by Senator SONNY ANGARA

AN ACT
PROVIDING FOR THE PROTECTION, SECURITY AND BENEFITS OF WHISTLEBLOWERS,
APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Since 2010, much has been achieved in the drive against corruption in the public service. Government is slowly regaining the trust and confidence of the citizenry, after years of being cast under a long shadow of doubt. In fact, the Philippines ranked 95th out of 186 countries in the Corruption Perceptions Index of the Transparency International report for 2015, 10 notches lower than its rank in the previous year.

The latest Global Corruption Barometer of Transparency International also affirms this, showing that the Philippines was among a handful of countries where comparatively more people reported that they believe corruption in their society has decreased—some 37 percent of Filipino respondents.

However, the same survey reveals that a little more than 6 out of 10 Filipinos believe that the level of corruption has either stayed the same or actually increased. While current anti-corruption initiatives have already made headway, much more remains to be done.

But hope resides in everyday citizens. The survey also pinpoints that 3 out of 4 Filipino respondents believed that *ordinary people* could make a difference in the fight against corruption, with 84 percent expressing their willingness to engage in any anti-corruption activity.

Government must leverage this civic spirit, especially toward realizing Section 11, Article 1 of the Philippine Constitution, stating that public office is a public trust. It carries the obligation to craft and implement a framework that enables, *even incentivizes*, citizens to contribute in exposing any government misconduct.

The proposed measure institutionalizes such a framework by defining the security, protection and benefits afforded to whistleblowers.

By enabling citizens to speak up about any wrongdoing in the government, this measure adds to other mechanisms already in place that help restore credibility, integrity and accountability in public service.



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

1 **SECTION 1. Short Title.** This Act shall be known as the ***“Whistleblower Protection, Security***
2 ***and Benefit Act of 2016.”***

3
4 **SEC. 2. Declaration of Policy.** Public office is a public trust. It is the policy of the State to
5 promote and ensure full accountability in the conduct of its officers and employees, and exact
6 full retribution from those who shall engage in graft and corrupt practices. Towards this end, the
7 State shall:

- 8 (a) Maintain honest and high standards of integrity in the public service;
9 (b) Safeguard the national interest through the investigation and prosecution of corrupt
10 and erring public officials and employees; and
11 (c) Encourage and facilitate the disclosure of corrupt conduct and practices in the public
12 service by providing benefits and protection to whistleblowers.

13
14 Nothing in this Act shall diminish or restrict the entitlement, receipt or enjoyment by a
15 whistleblower of more or higher benefits provided in existing laws.

16
17 **SEC. 3. Definition of Terms.** As used in this Act, the following terms are hereby defined as
18 follows:

- 19 (a) *Acts constituting graft and corruption* refer to any conduct, act or omission of public
20 officers and employees which are covered by, or constitute as violations of:
21 (1) Republic Act No. 3019, otherwise known as the “Anti-Graft and Corrupt
22 Practices Act”;
23 (2) Sections 7, 8 and 9 of Republic Act No. 6713, otherwise known as the “Code
24 of Conduct and Ethical Standards for Public Officials and Employees”;
25 (3) Republic Act No. 7080, entitled “An Act Defining and Penalizing the Crime of
26 Plunder”;

1 (4) Presidential Decree No. 46, entitled "Making it Punishable for Public Officials
2 and Employees to Receive, and for Private Persons to Give, Gifts on Any
3 Occasion, Including Christmas"; and

4 (5) Title VII, Book Two of the Revised Penal Code on "Crimes Committed by
5 Public Officers".

6 (b) *Council* refers to the Whistleblower Benefits and Protection Council created pursuant
7 to Section 29 of this Act.

8 (c) *Informant* refers to any person who has personal knowledge or access to data,
9 events or information, of any conduct constituting graft and corruption as defined
10 under this Act by public officer/s and employee/s, and who shall deliberately disclose
11 of individual, collective or organized conduct constituting graft and corruption as
12 provided in this Act.

13 (d) *Program* refers to the "Whistleblower Protection, Security and Benefit Program"
14 which the Council shall formulate and implement pursuant to this Act.

15 (e) *Public officer* refers to any person holding any public office in the Government of the
16 Republic of the Philippines by virtue of an appointment, election or contract.

17 (f) *Whistleblower* refers to an informant admitted into the Program of the Council in
18 accordance with this Act and its rules and regulations.

19 (g) *Reprisal* refers to any negative or obstructive response or reaction to a disclosure
20 made under this Act aimed at, pertaining to, or against a whistleblower or any of the
21 members of the family and relatives up to the second degree of consanguinity or
22 affinity.

23 (h) *Reprisal in workplace* refers to any discriminatory conduct or policies against a
24 whistleblower which affect promotion or job assignment including undue negative
25 performance appraisal, unusual and unwarranted close monitoring by supervisors,
26 unwarranted criticisms or avoidance by co-employees, blacklisting from other job
27 opportunities or prejudicial transfers by reason of a disclosure made under this Act.

28
29 **SEC. 4. Coverage.** This Act covers conduct constituting graft and corruption, whether
30 commenced or consummated before the effectivity of this Act, refers to any conduct, act or
31 omission of public officers and/or employees which are covered by, or amount to violations of
32 Presidential Decree No. 46; Republic Act No. 3019; Sections 7, 8 and 9 of Republic Act No.
33 6713; Republic Act No. 7080; and Title VII, Book Two of the Revised Penal Code on "Crimes
34 Committed by Public Officers".

35
36 **SEC. 5. Admission to the Program.** Whistleblowers admitted into the Program shall be
37 entitled to the protection and benefits under this Act: *Provided*, That all the following requisites
38 concur:

39 (a) The disclosure is voluntary, in writing and under oath;

40 (b) The disclosure relates to conduct constituting graft and corruption under this Act;

- 1 (c) Such disclosure is necessary for an effective and successful investigation or
2 prosecution, or essential for the acquisition of material evidence not yet in the
3 possession of the Council;
- 4 (d) The information given by the whistleblower can be corroborated; and
- 5 (e) The information disclosed leads to a successful gathering of evidence and/or
6 conduct of investigation sufficient to sustain a finding of probable cause for the filing
7 of a criminal complaint or information before a court of competent jurisdiction.
- 8

9 **SEC. 6. Necessity of Testimony.** The testimony of a whistleblower in court shall not be
10 necessary for the entitlement to the benefits and protection under this Act, subject to the
11 provision of Section 17 herein. In the event that the whistleblower's testimony is determined by
12 the Council to be necessary and indispensable to the success of an investigation or the
13 prosecution of a case, the whistleblower shall be entitled to the additional benefits and
14 protection under Republic Act No. 6981, otherwise known as the "Witness Protection, Security
15 and Benefit Act".

16

17 **SEC. 7. Memorandum of Agreement With the Whistleblower.** As a prerequisite to the
18 availment of the protection and benefits under this Act, a whistleblower shall enter into a
19 Memorandum of Agreement with the Department of Justice (DOJ) which shall set forth the
20 whistleblower's responsibilities including the following:

- 21 (a) To provide information to and testify before all inquiries, in aid of legislation, and
22 before any law enforcement official concerning any appropriate proceeding in
23 connection with or arising from the activities involved in the offense subject matter
24 thereof;
- 25 (b) To avoid a commission of a crime involving moral turpitude;
- 26 (c) To take all necessary precautions to avoid detection by others of the facts
27 concerning the protection provided under this Act;
- 28 (d) To cooperate with respect to all reasonable requests of officers and employees of
29 the government who are providing protection under this Act; and
- 30 (e) To regularly inform the appropriate program official of the whistleblower's current
31 activities and address.
- 32

33 **SEC. 8. Breach of the Memorandum of Agreement.** Substantial breach of the Memorandum
34 of Agreement shall be a ground for the immediate termination of the protection and benefits
35 provided under this Act. The Council shall send notice to a whistleblower concerned, stating
36 therein the reason for such termination. In view thereof, a whistleblower shall be afforded
37 reasonable time to take appropriate and necessary protection and security measures.

38 In addition, the whistleblower shall return all the financial rewards received pursuant to Section
39 17 of this Act.

40

41 **SEC. 9. Protection Against Other Actions.** A whistleblower or an informant who has made a
42 disclosure under this Act shall not be subject to any liability in any proceeding. Any disclosure

1 made or any document submitted to the Council shall be inadmissible in evidence against the
2 whistleblower.

3
4 This protection shall also operate as immunity in favor of a whistleblower or informant
5 against any action or proceeding taken against the whistleblower by any person subject of a
6 disclosure, by reason thereof and acts in relation to subject of disclosure. Provided, however,
7 that the protection against any action or proceeding shall not be available in cases of deliberate
8 and voluntary giving of false or misleading information, and of any unjustified recantation of
9 testimony by a whistleblower.

10
11 **SEC. 10. Defense of Privileged Communication.** A whistleblower or any person who has
12 made a disclosure under this Act shall have, as defense in any other inquiry or proceeding, the
13 absolute privilege with respect to the subject matter of the disclosure or information given to the
14 proper authorities.

15
16 **SEC. 11. Confidentiality.** Except as allowed by this Act, during and after a disclosure, and
17 throughout and after any proceeding taken thereafter, a whistleblower or an informant is entitled
18 to absolute confidentiality about:

- 19 (a) Whistleblower's identity;
20 (b) The subject matter of the disclosure; and
21 (c) The person to whom such disclosure was made.

22 There shall be no such confidentiality of identity if a whistleblower or an informant makes
23 a public disclosure of a conduct constituting graft and corruption unless, notwithstanding such
24 public disclosure, the whistleblower has taken means and measures obviously intended to
25 preserve anonymity.

26
27 **SEC. 12. No Breach of Duty of Confidentiality.** A whistleblower or an informant who has
28 made a disclosure under this Act, on whom a provision of law, regulation, issuance, practice or
29 other convention, imposes a duty to maintain confidentiality with respect to any information
30 disclosed, is considered not to have committed a breach thereof.

31
32 **SEC. 13. Confidential Information.** No person to whom a disclosure has been made or
33 referred shall divulge any information that may identify or tend to identify a whistleblower or
34 informant or reveal the subject matter of such disclosure, except under the following
35 circumstances:

- 36 (a) The whistleblower or the informant consents in writing prior to a disclosure of an
37 information;
38 (b) The disclosure is indispensable and essential as determined by the Council, having
39 regard to the necessary proceedings to be taken after the disclosure; or
40 (c) The disclosure or referral is made pursuant to an obligation under this Act.

1 The prohibition on disclosure under this section shall apply to any person who has
2 become privy to any confidential information, whether officially or by other means.

3
4 **SEC. 14. Protection Against Disciplinary Action or Reprisals.** A whistleblower who has
5 made or is believed or suspected to have made a disclosure under this Act is not liable to
6 disciplinary action for making said disclosure.

7
8 Prohibited acts under this section include reprisals in the workplace or prejudicial
9 conduct towards a whistleblower such as: discriminatory actions behind policies and
10 procedures, unwarranted reprimand, punitive transfers, malicious referral to a psychiatrist or
11 counselor, and unfounded or baseless poor performance reviews. Other prejudicial actions
12 include obstruction of an investigation, withdrawal of essential resources, undue reports and the
13 attachment of false personnel files or notes.

14
15 **SEC. 15. Security and Protection of a Whistleblower.** When determined to be necessary and
16 appropriate by the Council, a whistleblower, even if the disclosure is made in confidence, shall
17 be entitled to personal security. For this purpose, the Council may request any law enforcement
18 agency for assistance. Should, at any time, the identity of the whistleblower be revealed, or
19 anonymity compromised, the whistleblower may, upon the recommendation of the Council, be
20 entitled to the benefits of Republic Act No. 6981, in addition to the other benefits under this
21 Act.

22
23 **SEC. 16. Confidentiality of the Proceedings.** All proceedings before the Council involving
24 application and/or enjoyment of the benefits under this Act, including any action taken thereon,
25 shall be confidential in nature. No information or documents given or submitted in support
26 thereof shall be released except upon written order of the Council, and provided such disclosure
27 shall not endanger the life of a whistleblower.

28
29 **SEC. 17. Financial Rewards for Whistleblowers.** The whistleblower shall be entitled to a
30 corresponding monetary reward in accordance with the following stages:

Stages	If the case is capable of pecuniary estimation	If the case is not capable of pecuniary estimation
Upon admission into the program	P200,000.00	P100,000.00
Upon filing of the case with the Office of the Ombudsman	P100,000.00	P 50,000.00
Upon completion of the testimony of the whistleblower	P100,000.00	P 50,000.00

31
32 For cases capable of pecuniary estimation, such as plunder, forfeiture of ill-gotten
33 wealth, bribery, malversation and damage or injury to government, the whistleblower shall be
34 entitled to an additional reward of ten percent (10%) of the actual amount recovered by final
35 judgment.

1 **SEC. 18. Return of the Amount Received as Financial Rewards.** A whistleblower admitted
2 into the Program who deliberately and voluntarily gives false or misleading information in
3 connection with conduct constituting graft and corruption as defined under this Act or who
4 unjustifiably recants testimony shall, in addition to the penalties provided in Section 21 and
5 Section 22 of this Act, be required to return all the amounts received as financial rewards.

6
7 **SEC. 19. Mandatory Posting of Abstract.** All government agencies, offices, bureaus and
8 LGUs, including government-owned or -controlled corporations, whether or not with original
9 charters, shall conspicuously display an abstract of this Act and the rights and protections of
10 whistleblowers or informants. Such abstract shall be provided in the rules and regulations to be
11 promulgated pursuant to Section 31 of this Act.

12
13 All government agencies, offices, bureaus and LGUs, including government-owned and -
14 controlled corporations, whether or not with original charters, are likewise required to put in
15 place internal procedures for dealing with whistleblowers or informants, consistent with the
16 provisions of this Act and the rules and regulations. Said internal procedure shall be widely
17 disseminated to all the public employees.

18
19 **SEC. 20. Credibility of a Whistleblower.** In all cases, the fact of the entitlement of the
20 whistleblower to the protection and benefits provided in this Act shall not be admissible in
21 evidence to diminish or affect the whistleblower's credibility.

22
23 **SEC. 21. Penalty for Giving False and Misleading Information.** The penalty of imprisonment
24 of not less than six (6) years but not more than twelve (12) years and a fine of not more than
25 One hundred thousand pesos (Php100,000.00) shall be imposed upon a whistleblower who
26 deliberately and voluntarily gives false or misleading information in connection with conduct
27 constituting graft and corruption under this Act. If the offender is a public officer or employee,
28 the penalty of dismissal from the service and the accessory penalty of perpetual absolute
29 disqualification from holding public office shall also be imposed. In addition, the offender may be
30 held criminally and civilly liable under existing laws.

31
32 **SEC. 22. Penalty for Unjustified Recantation.** The unjustified recantation of testimony by a
33 whistleblower shall constitute an offense and shall be punishable by a penalty of imprisonment
34 of not less than four (4) years but not more than six (6) years.

35
36 **SEC. 23. Penalty for Reprisal Against Whistleblower.** The penalty of imprisonment of not
37 less than six (6) years but not more than twelve (12) years or a fine of not more than One
38 hundred thousand pesos (Php100,000.00), or both, at the discretion of the court shall be
39 imposed upon any person who shall commit any act of reprisal as defined in this Act against a
40 whistleblower and/or hinders, delays, prevents or dissuades said whistleblower from:

- 41 (a) Attending, assisting or testifying before any investigating agency or judicial or quasi-
42 judicial body;

- 1 (b) Reporting to a law enforcement officer or judge the commission or possible
2 commission of an offense, or a violation of conditions of probation, parole, or release
3 pending judicial proceedings;
- 4 (c) Seeking the arrest of another person in connection with the offense;
- 5 (d) Causing a criminal prosecution, or any proceeding for the revocation of a parole or
6 probation; and
- 7 (e) Performing and enjoying the rights and benefits under this Act or attempt to do so.

8 In addition, the penalty of dismissal from the service and the accessory penalty of
9 perpetual absolute disqualification from holding public office shall be imposed upon
10 an offender who is a public officer or employee.

11

12 **SEC. 24. *Penalty for Violation of Confidentiality.*** The penalty of imprisonment of not less
13 than six (6) months but not more than six (6) years shall be imposed upon any person who shall
14 violate the protection of confidentiality of a protected disclosure under Sections 10, 11, 13 and
15 16 of this Act. The penalty of dismissal from the service and the accessory penalty of temporary
16 absolute disqualification from holding public office shall also be imposed upon an offender who
17 is a public officer or employee. In addition, the offender shall be civilly liable to indemnify the
18 whistleblower or informant in such amount of damages as may be awarded and deemed
19 reasonable by a competent court.

20

21 **SEC. 25. *Penalty for Reprisal in the Workplace.*** The penalty of imprisonment of not more
22 than six (6) years but not more than twelve (12) years shall be imposed upon any person who
23 shall commit any act of reprisal in the workplace as defined in this Act, against a whistleblower
24 or believed or suspected to be one. The penalty of dismissal from the service and the
25 accessory penalty of temporary absolute disqualification from holding public office shall also be
26 imposed upon an offender who is a public officer or employee. In addition, the offender shall be
27 civilly liable to indemnify the whistleblower in such amount of damages as may be awarded and
28 deemed reasonable by a competent court. Towards this end, an aggrieved whistleblower shall
29 be entitled to the provisional remedy of injunction against any reprisal in the workplace,
30 prejudicial conduct, or discriminatory treatment by reason of whistleblower's disclosure.

31

32 The proceedings herein shall be independent of any action that an aggrieved person
33 may take before the Civil Service Commission or the DOLE for unfair or discriminatory
34 practices, backwages, or other labor disputes, or before other quasi-judicial agencies that may
35 or may not have arisen from a disclosure or believed or suspected disclosure.

36

37 **SEC. 26. *Penalty for Discriminatory Hiring.*** The penalty of imprisonment of not more than six
38 (6) months shall be imposed upon any person who shall deny a qualified applicant for
39 employment, or who shall reject an application for employment solely on the ground that an
40 applicant is a whistleblower or informant for the State. If the offender is a corporation,
41 partnership, association, or any juridical person, the penalty shall be imposed upon the

1 president, partner, manager and/or any responsible officer who participated in the commission
2 of the offense.

3
4 The penalty of dismissal from the service and the accessory penalty of suspension of the
5 right to hold public office shall also be imposed upon the offender who is a public officer or
6 employee.

7
8 In addition, the offender shall be civilly liable to indemnify the whistleblower in such
9 amount of damages as may be awarded and deemed reasonable by a competent court.

10
11 **SEC. 27. Failure to Post Abstract.** The failure to post an abstract required under Section 19 of
12 this Act shall constitute an offense and shall be punishable with a fine of One hundred thousand
13 pesos (Php100,000.00) for the first offense. The amount shall be doubled for every succeeding
14 offense, and punishable with imprisonment of not more than six (6) months at the discretion of
15 the court. For this purpose, the president, general manager, or head of agency, office or bureau
16 shall be held criminally liable and shall suffer the accessory penalty of suspension of the right to
17 hold public office.

18
19 **SEC. 28. Failure to Act or Report to the Council.** Any person under obligation to report a
20 disclosure under this Act to the Council, who fails to do so within a period of two (2) months, or
21 who fails to act thereon or cause an investigation thereof, shall be held liable and shall suffer the
22 penalty of not more than one (1) month imprisonment or a fine of not more than Fifty thousand
23 pesos (Php50,000.00) at the discretion of the court.

24
25 **SEC. 29. Whistleblower Benefits and Protection Council.** A Whistleblower Benefits and
26 Protection Council is hereby created composed of the Overall Deputy Ombudsman as
27 Chairperson, and the following as members:

- 28 (a) Prosecutor General, DOJ;
29 (b) Special Prosecutor, Ombudsman;
30 (c) Witness Protection Program Director, DOJ;
31 (d) Executive Director, Anti-Money Laundering Council;
32 (e) Director, Legal Service, Philippine National Police, in case the respondent is a
33 member thereof;
34 (f) The Judge Advocate General of the Armed Forces of the Philippines, in case the
35 respondent is a member thereof;
36 (g) A representative from the civil society/nongovernment organization involved in anti-
37 corruption and good governance to be appointed by the Chairperson of the Council,
38 upon the recommendation of the members thereof; and
39 (h) A representative from the business sector to be appointed by the Chairperson of the
40 Council, upon the recommendation of the Philippine Chamber of Commerce and
41 Industry.

1 The existing personnel of the Office of the Ombudsman shall serve as secretariat to the
2 Council.

3
4 **SEC. 30. Powers and Functions of the Council.** In addition to its powers and functions under
5 existing laws, the Council shall have the following powers and functions:

- 6 (a) Monitor, coordinate and evaluate all efforts relative to the implementation and
7 enforcement of the provisions of this Act;
- 8 (b) Evaluate the disclosure and qualification of whistleblowers or informants for
9 coverage within this Act, and make the appropriate decision on their entitlement to
10 the benefits extended herein;
- 11 (c) Undertake, in coordination and cooperation with the private and public sectors, an
12 information campaign to educate the public on the provisions and benefits of this Act;
- 13 (d) Develop plans and implement programs to further encourage whistleblowers or
14 informants on graft and corrupt activities with a view to effective deterrence and/or
15 prosecution;
- 16 (e) Control and administer, consistent with the provisions and purposes of this Act, the
17 protection and benefits of whistleblowers in connection with the cases within the
18 coverage of Section 4 of this Act;
- 19 (f) Call upon, or deputize any department, bureau, office or any other government
20 agency or public official to assist in the effective implementation and enforcement of
21 this Act; and
- 22 (g) Grant immunity in accordance with the provisions of this Act and its implementing
23 rules and regulations.

24
25 **SEC. 31. Appropriations.** The amount necessary to carry out the provisions of this Act shall
26 be included in the annual General Appropriations Act.

27
28 **SEC. 32. Implementing Rules and Regulations.** The Council shall promulgate such rules and
29 regulations as may be necessary to implement the intent and purposes of this Act. Said rules
30 and regulations shall be published in two (2) newspapers of general circulation.

31
32 **SEC. 33. Separability Clause.** If any portion or provision of this Act or the application thereof
33 shall be declared invalid or unconstitutional, the validity of other parts or provisions not affected
34 thereby shall continue to be in full force and effect.

35
36 **SEC. 34. Repealing Clause.** All laws, decrees, executive issuances, rules and regulations
37 inconsistent with this Act are hereby repealed or modified accordingly.

38
39 **SEC. 35. Effectivity Clause.** This Act shall take effect fifteen (15) days following its complete
40 publication in two (2) newspapers of general circulation.

41
42 Approved,