

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



Senate
Office of the Secretary

'17 MAY -2 A11 :24

SENATE
S.B. No. 1415

RECEIVED BY: _____

Introduced by **Senator Richard J. Gordon**

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

EXPLANATORY NOTE

Public office is a public trust. It is important to promote a culture of public accountability, honesty, and integrity in the public service by taking positive and effective measures against graft and corruption, plunder, and other crimes involving public office.

Whistleblowers report such improper conduct in public office. Providing for their protection is an essential tool that will increase investigative and prosecutorial effectiveness that will maintain honest and high standards of integrity in the public service and safeguard the national interest.

This bill proposes to provide for the protection, security, and benefits of whistleblowers admitted into the whistleblower protection program by the whistleblower benefits and protection council. It establishes the necessary nature, requirements, and procedures of such program, as well as protecting against any reprisal arising from a disclosure by a whistleblower.

RICHARD J. GORDON
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. Short Title.** – This Act shall be known as the “Whistleblower Protection
2 Act of 2017.”

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

7 (a) maintain honest and high standards of integrity in the public service;

8 (b) safeguard the national interest through the prosecution of corrupt and erring
9 public officials and employees; and

10 (c) encourage and facilitate the disclosure of corrupt conduct and practices in the
11 public service by providing for the protection, security, and benefits of
12 whistleblowers.

13 **Sec. 3. Definitions.** – As used in this act, the following terms are hereby defined as
14 follows:

15 (a) “Acts constituting improper conduct” shall refer to any conduct, act, or omission
16 of public officers and employees solely, or in cooperation or conspiracy with
17 private persons which are covered by, or constitute as violations of laws, such as
18 (1) Presidential Decree No. 46; (2) Republic Act No. 3019; (3) Republic Act No.
19 6713; (4) Republic Act No. 7080; and (5) Title VII, Book Two of the Revised
20 Penal Code.

21 (b) “Council” shall refer to the Whistleblower Benefits and Protection Council
22 created pursuant to this Act.

23 (c) “Employee” shall refer to any person who is made to suffer work by, or who
24 renders service for, an employer. The term shall include public officers and

- 1 employees as defined in this Act as well as any person considered an employee
2 under the Labor Code.
- 3 (d) "Employer" shall refer to any individual, partnership, association, corporation or
4 entity, including the government, or any person or group of persons who shall
5 directly or indirectly for or on behalf of said individual, partnership, association,
6 corporation or entity, hires an employee as defined in this Act.
- 7 (e) "Government" shall refer to the national government and any of its subdivisions,
8 agencies or instrumentalities, including government owned and controlled
9 corporations and their subsidiaries, and the local government units.
- 10 (f) "Informant" shall refer to any person who has personal knowledge or access to
11 data, events, or information, of any improper conduct as defined in this Act by a
12 public officer or an employee, and who shall deliberately disclose of individual,
13 collective, or organized improper conduct as provided in this Act. An informant
14 must not have any direct participation in the improper conduct, or in case
15 where such person participated in the improper conduct, such person is not the
16 most guilty and shall therefore qualify as a state witness against the person
17 subject of the disclosure.
- 18 (g) "Program" shall refer to the Whistleblower Protection Program, which the
19 council shall formulate and implement pursuant to this Act.
- 20 (h) "Public officer" shall refer to any person holding any public office in the
21 government of the Republic of the Philippines by virtue of an appointment,
22 election, or contract.
- 23 (i) "Reprisal" shall refer to any negative or obstructive response, or reaction to a
24 disclosure made under this Act aimed at, pertaining to, or against a
25 whistleblower, or any member of the whistleblower's family or relative up to
26 the fourth civil degree of consanguinity or affinity, as well as reprisal in the
27 workplace.
- 28 (j) "Reprisal in the workplace" shall refer to any discriminatory conduct or policy
29 against a whistleblower which affects promotion or job assignment including
30 undue negative performance appraisal, unusual and unwarranted close
31 monitoring by supervisors, unwarranted criticism or avoidance by co-
32 employees, blacklisting from other job opportunities, or prejudicial transfer by
33 reason of a disclosure made under this Act.
- 34 (k) "Whistleblower" shall refer to an informant admitted into the program of the
35 council according to this Act.

36 **Sec. 4. Coverage.** – This Act shall cover all acts constituting improper conduct
37 irrespective of the time of commission.

1 **Sec. 5. Admission to the Program.** – Whistleblowers, whether from the public or
2 private sector, shall be entitled to protection, security, and benefits under this Act,
3 provided that all the following requisites concur:

- 4 (a) the disclosure is voluntary, in writing, and under oath;
- 5 (b) the disclosure relates to an act constituting improper conduct; and
- 6 (c) the information to be disclosed is admissible in evidence.

7 **Sec. 6. Necessity of Testimony.** – The testimony of a whistleblower in court shall
8 not be necessary for the entitlement to protection, security, and benefits under this Act. In
9 the event that the whistleblower's testimony is determined by the council to be necessary
10 and indispensable to the success of an investigation or the prosecution of a case, the
11 whistleblower shall be entitled to the additional protection, security, and benefit under
12 Republic Act No. 6981.

13 **Sec. 7. Perpetuation of Testimony.** – Once admitted into the program, a
14 whistleblower may perpetuate testimony pursuant to Rule 134 of the Revised Rules of
15 Court.

16 **Sec. 8. Memorandum of Agreement.** – Before an informant is admitted as a
17 whistleblower under this Act, a memorandum of agreement setting forth the following
18 responsibilities shall be executed:

- 19 (a) to provide information to and testify before all branches or agencies of the
20 government in appropriate proceedings on acts constituting improper conduct;
- 21 (b) to avoid the commission of any crime;
- 22 (c) to take all necessary precautions to preclude detection by others of the facts
23 concerning the protection, security, and benefits provided under this Act;
- 24 (d) to cooperate with all reasonable requests of officers and employees of the
25 government who are providing protection under this Act; and
- 26 (e) to regularly inform the appropriate official of the program of the
27 whistleblower's current activities and address.

28 **Sec. 9. Breach of Memorandum of Agreement.** – Substantial breach of the
29 memorandum of agreement in the preceding Section shall be sufficient ground for the
30 termination of the protection, security, and benefits provided under this Act. The council
31 shall send notice to the whistleblower concerned, stating therein the ground for such
32 termination. In view thereof, the whistleblower shall be afforded reasonable time to take
33 appropriate and necessary protection and security measures. In addition, the
34 whistleblower shall return all the financial rewards received pursuant to this Act.

35 **Sec. 10. Confidentiality.** – Except as allowed by this Act, during and after a
36 disclosure, and throughout and after any proceeding taken thereafter, a whistleblower or
37 an informant is entitled to absolute confidentiality about:

- 1 (a) personal identity;
- 2 (b) the subject matter of the disclosure; and
- 3 (c) the person to whom such disclosure was made.

4 There shall be no such confidentiality of personal identity if a whistleblower or an
5 informant makes a public disclosure, unless, notwithstanding such public disclosure, the
6 whistleblower has taken means and measures obviously intended to preserve anonymity.

7 **Sec. 11. Confidential Information.** – No person to whom a disclosure has been
8 made or referred shall divulge any information that may identify or tend to identify a
9 whistleblower or informant, or reveal the subject matter of such disclosure, except under
10 the following circumstances:

- 11 (a) the whistleblower or the informant consents in writing prior to a disclosure of
12 an information;
- 13 (b) the disclosure is indispensable and essential as determined by the council
14 having regard to the necessary proceedings to be taken after the disclosure; or
- 15 (c) the disclosure or referral is made pursuant to an obligation under this Act.

16 The prohibition on disclosure under this Section shall apply to any person who has
17 become privy to any confidential information, whether officially or otherwise.

18 **Sec. 12. No Breach of Duty of Confidentiality.** – A whistleblower or an informant
19 who has made a disclosure under this Act, on whom a provision of law or contract imposes
20 a duty to maintain confidentiality with respect to the information disclosed, shall be
21 considered not to have committed a breach thereof.

22 **Sec. 13. Defense of Privileged Communication.** – A whistleblower or an informant
23 who has made a disclosure under this Act shall have, as defense in any other inquiry or
24 proceeding, the absolute privilege with respect to the subject matter of the disclosure or
25 information given to the proper authorities.

26 **Sec. 14. Protection Against Disciplinary Action or Reprisal.** – A whistleblower
27 who has made, or is believed or suspected to have made a disclosure under this Act is not
28 liable to disciplinary action for making the disclosure.

29 Prohibited acts under this Section include reprisals in the workplace or prejudicial
30 conduct towards a whistleblower such as discriminatory actions behind policies and
31 procedures, unwarranted reprimand, punitive transfers, malicious referral to a psychiatrist
32 or counselor, and unfounded or baseless poor performance reviews. Other prejudicial acts
33 include obstruction of an investigation, withdrawal of essential resources, undue reports,
34 and the attachment of false personnel files or notes.

35 To this end, any employer who shall discourage and impose sanctions or reprisals
36 based on workplaces interaction, which shall include workplace ostracism, questions and
37 attacks on motives, accusations of disloyalty and dysfunction, public humiliation, and the

1 denial of work or promotion, or who encourages, causes or does retaliatory action or
2 reprisal against a whistleblower or anyone believed or suspected to be one, shall be liable
3 for an offense defined under this Act.

4 Any employee who refuses to follow orders of employers that would cause them to
5 violate any provision of this Act shall likewise be protected from reprisal in the workplace.

6 For purposes of this protection, an applicant for employment shall be deemed an
7 employee and entitled to such protection.

8 An employer of a whistleblower shall be notified of the protection under this Section
9 through a certification issued by the council.

10 An employer may only remove a whistleblower from employment for cause and
11 after due process after securing a clearance from the council and the Department of Labor
12 and Employment.

13 **Sec. 15. Protection Against Other Actions.** – A whistleblower or an informant who
14 has made a disclosure under this Act shall not be subject to any liability in any proceeding.
15 Any disclosure made or any document submitted to the council shall be inadmissible in
16 evidence against the whistleblower. The protection shall also operate as immunity in favor
17 of a whistleblower or an informant against any action or proceeding taken against a
18 whistleblower or an informant by any person subject of a disclosure by reason of the
19 disclosure.

20 **Sec. 16. Protection, Security, and Benefits of a Whistleblower.** – A whistleblower
21 shall be entitled to an allowance equivalent to such whistleblower's basic financial
22 requirement, if the whistleblower requests for an allowance and the council determines
23 and approves the reasonableness of such request.

24 A whistleblower shall likewise be entitled to housing and personal security, if the
25 whistleblower requests for housing and personal security and the council determines and
26 approves the reasonableness of such request, regardless of whether the disclosure is made
27 in confidence or in public. For this purpose, the council may request any law enforcement
28 agency for assistance.

29 Should, at anytime, the identity of a whistleblower is revealed, or anonymity
30 compromised, such whistleblower may, upon the recommendation of the council, be
31 entitled to additional protection, security, and benefits under Republic Act No. 6981.

32 **Sec. 17. Financial Rewards for Whistleblower.** – A whistleblower shall be entitled
33 to a corresponding monetary reward on a contingency basis, equivalent to at least ten
34 percent (10%) of the amount which may be recovered as a result of the disclosure or the
35 amount of one million pesos (P1,000,000.00), whichever is lower.

1 **Sec. 18. Credibility of a Whistleblower.** – In all cases, the fact of the entitlement of a
2 whistleblower to protection, security, and benefits under this Act shall not be admissible in
3 evidence to diminish or affect his credibility.

4 **Sec. 19. Confidentiality of the Proceedings.** – All proceedings before the council
5 involving the application or enjoyment of the protection, security, and benefits under this
6 Act, including any action taken thereon, shall be confidential in nature. No information or
7 document given or submitted in support thereof shall be released except upon written
8 order of the council, and provided such disclosure shall not endanger the life of a
9 whistleblower.

10 **Sec. 20. Abstract.** – All government agencies, offices, bureaus, including
11 government owned or controlled corporations and their subsidiaries, and the local
12 government units shall conspicuously display an abstract of this Act and put in place
13 internal procedures for dealing with whistleblowers consistent with this Act to be widely
14 disseminated to all employees.

15 All other employers, specifically those in the private sector, shall also conspicuously
16 display notices of their obligations and their employees' protection under this Act.

17 **Sec. 21. Whistleblower Benefits and Protection Council.** – A Whistleblower
18 Benefits and Protection Council is hereby created composed of the Overall Deputy
19 Ombudsman as Chairperson, and the following as members:

20 (a) Prosecution General, Department of Justice;

21 (b) Special Prosecutor, Ombudsman;

22 (c) Witness Protection Program Director, Department of Justice;

23 (d) Executive Director, Anti-Money Laundering Council;

24 (e) Director, Legal Service, Philippine National Police, in case the a member is
25 involved;

26 (f) Judge Advocate General of the Armed Forces of the Philippines, in case a
27 member is involved;

28 (g) a representative from civil society involved in good governance to be appointed
29 by the Chairperson of the council upon the recommendation of the members
30 thereof; and

31 (h) a representative from the business sector to be appointed by the Chairperson of
32 the council upon the recommendation of the members thereof.

33 The existing personnel of the Office of the Ombudsman shall serve as secretariat to
34 the council.

35 **Sec. 22. Powers and Functions of the Council.** – In addition to its powers and
36 functions under existing laws, the council shall have the following powers and functions:

- 1 (a) monitor, coordinate, and evaluate all efforts relative to the implementation and
2 enforcement of the provisions of this Act;
- 3 (b) evaluate the disclosure and qualification of whistleblowers or informants for
4 coverage within this Act, and make the appropriate decision on their
5 entitlement to the benefits extended herein;
- 6 (c) undertake, in coordination and cooperation with the private and public sectors,
7 as information campaign to educate the public on the provisions and benefits of
8 this Act;
- 9 (d) develop plans and implement programs to further encourage whistleblowers or
10 informants on improper conduct with a view to effective deterrence and/or
11 prosecution;
- 12 (e) control and administer, consistent with the provisions and purposes of this Act,
13 the protection and benefits of whistleblowers in connection with the cases
14 within the coverage of this Act;
- 15 (f) call upon, or deputize and department, bureau, office or any other government
16 agency or public official to assist in the effective implementation and
17 enforcement of this Act; and
- 18 (g) grant immunity in accordance with the provisions of this Act and its
19 implementing rules and regulations.

20 **Sec. 23. Penalty for Giving False and Misleading Information.** – The penalty of
21 imprisonment of not less than six (6) years but not more than twelve (12) years shall be
22 imposed upon a whistleblower who deliberately and voluntarily gives false or misleading
23 information under this Act. The offender shall also be required to return all the amounts
24 received as financial rewards. The penalty of dismissal from the service, if applicable, and
25 the accessory penalty of perpetual absolute disqualification from holding public office shall
26 also be imposed. In addition, the offender may be held criminally and civilly liable under
27 existing laws.

28 **Sec. 24. Penalty for Unjustified Recantation.** – The unjustified recantation of
29 testimony by a whistleblower shall constitute an offense and shall be punishable by a
30 penalty of imprisonment of not less than four (4) years but not more than six (6) years. The
31 offender shall also be required to return all the amounts received as financial rewards.

32 **Sec. 25. Penalty for Reprisal Against Whistleblower.** – The penalty of
33 imprisonment of not less than six (6) years but not more than twelve (12) years or a fine of
34 not more than one hundred thousand pesos (P100,000.00), or both, at the discretion of the
35 court shall be imposed upon any person who shall commit any act of reprisal as defined in
36 this Act against a whistleblower, or hinders, delays, prevents or dissuades a whistleblower
37 from:

- 1 (a) attending, assisting or testifying before any investigating agency or judicial or
2 quasi-judicial body;
- 3 (b) reporting to a law enforcement officer or judge the commission or possible
4 commission of an offense, or a violation of conditions of probation, parole, or
5 release pending judicial proceedings;
- 6 (c) seeking the arrest of another person in connection with an offense;
- 7 (d) causing a criminal prosecution, or any proceeding for the revocation of a parole
8 or probation; and
- 9 (e) performing and enjoying the protection, security, and benefits under this Act or
10 attempt to do so.

11 In addition, the penalty of dismissal from the service, if applicable, and the accessory
12 penalty of perpetual absolute disqualification from holding public office shall be imposed.

13 **Sec. 26. Penalty for Violation of Confidentiality.** – The penalty of imprisonment of
14 not less than six (6) months but not more than six (6) years shall be imposed upon any
15 person who shall violate the protection of confidentiality of a protected disclosure under
16 this Act. The penalty of dismissal from the service, if applicable, and the accessory penalty
17 of temporary absolute disqualification from holding public office shall also be imposed. In
18 addition, the offender shall be civilly liable to indemnify a whistleblower or an informant in
19 such amount of damages as may be awarded and deemed reasonable by a competent court.

20 This shall be independent of any action that an aggrieved whistleblower or
21 informant may take before the Civil Service Commission, the Department of Labor and
22 Employment, or other agency that may or may not have arisen from a disclosure, or a
23 believed or suspected disclosure.

24 **Sec. 27. Penalty for Reprisal in the Workplace.** – The penalty of imprisonment of
25 not more than six (6) years but not more than twelve (12) years shall be imposed upon any
26 person who shall commit any act of reprisal in the workplace as defined in this Act, against
27 an employee who is a whistleblower or believed or suspected to be one. The penalty of
28 dismissal from the service, if applicable, and the accessory penalty of temporary absolute
29 disqualification from holding public office shall also be imposed. In addition, the offender
30 shall be civilly liable to indemnify a whistleblower in such amount of damages as may be
31 awarded and deemed reasonable by a competent court.

32 Towards this end, an aggrieved whistleblower shall be entitled to the provisional
33 remedy of injunction against any reprisal in the workplace, prejudicial conduct, or
34 discriminatory treatment by reason of a whistleblower's disclosure.

35 This shall be independent of any action that an aggrieved whistleblower or
36 informant may take before the Civil Service Commission, the Department of Labor and

1 Employment, or other agency that may or may not have arisen from a disclosure, or a
2 believed or suspected disclosure.

3 **Sec. 28. Penalty for Discriminatory Hiring.** – The penalty of imprisonment of not
4 more than six (6) months shall be imposed upon any person or employer who shall deny a
5 qualified applicant for employment, or who shall reject an application for employment
6 solely on the ground that an applicant is a whistleblower or an informant. If the offender is
7 a corporation, partnership, association, or any juridical person, the penalty shall be
8 imposed upon the owner, president, partner, manager, or any responsible officer who
9 participated in the commission of the offense. The penalty of dismissal from the service, if
10 applicable, and the accessory penalty of suspension of the right to hold public office shall
11 also be imposed. In addition, the offender shall be civilly liable to indemnify a
12 whistleblower in such amount of damages as may be awarded and deemed reasonable by a
13 competent court.

14 This shall be independent of any action that an aggrieved whistleblower or
15 informant may take before the Civil Service Commission, the Department of Labor and
16 Employment, or other agency that may or may not have arisen from a disclosure, or a
17 believed or suspected disclosure.

18 **Sec. 29. Failure of an Employer to Post Abstract.** – The failure to post an abstract
19 required under this Act shall constitute an offense and shall be punishable with a fine of
20 one hundred thousand pesos (P100,000.00) for the first offense. The amount shall be
21 doubled for every succeeding offense.

22 **Sec. 30. Failure to Act or Report to the Council.** – Any person under obligation to
23 report a disclosure under this Act to the Council, who fails to do so within a period of two
24 (2) months, or who fails to act thereon or cause an investigation thereof, shall be
25 punishable with a penalty of not more than one (1) month imprisonment or a fine of not
26 more than fifty thousand pesos (P50,000.00), or both at the discretion of the court. This is
27 without prejudice to any other liability that may be imposed under existing laws.

28 **Sec. 31. Appropriation.** – The initial amount of one hundred million pesos
29 (P100,000,000.00) is hereby appropriated to carry out the provisions of this Act.
30 Thereafter, such sums as may be necessary shall be included in the General Appropriations
31 Act.

32 **Sec. 32. Implementing Rules and Regulations.** – The council shall promulgate
33 rules and regulations to implement the provisions of this Act within ninety (90) days from
34 its effectivity.

35 **Sec. 33. Repealing Clause.** – All laws, decrees, orders, rules and regulations, or
36 other issuances or parts thereof inconsistent with the provisions of this Act are hereby
37 repealed or modified accordingly.

1 **Sec. 34. Separability Clause.** – If any portion or provision of this Act is declared
2 unconstitutional, the remainder of this Act or any provision not affected thereby shall
3 remain in force and effect.

4 **Sec. 35. Effectivity.** – This Act shall take effect after fifteen (15) days following the
5 completion of its publication either in the Official Gazette or in a newspaper of general
6 circulation in the Philippines.

7 Approved,