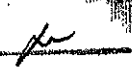


THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

04 AUG -3 P3:11

SENATE
S.B. No. **1607**

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article 2, Section 27, provides:

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

Given the delicate and sensitive nature of their functions, prosecutors should serve the public with utmost responsibility, integrity and honesty, upholding public interest over their personal interest at all times. They should conduct themselves always beyond reproach, circumscribed with the heavy burden of responsibility, to free them from any suspicion that may undermine the judicious disposition of justice.

Hence, this bill seeks to establish ethical standards for prosecutors in order to provide guidelines in the conduct of their office and prescribe penalties for their violation.


MIRIAM DEFENSOR SANTIAGO

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AN ACT
ESTABLISHING ETHICAL STANDARDS FOR PROSECUTORS

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

SECTION 1. *Short Title.* – This Act shall be known as the “Prosecutor Ethics Act.”

SECTION 2. *Ethical standards for prosecutors.* –

(1) PROSECUTOR DEFINED – In this section, the term “prosecutor” means an attorney employed by the Department of Justice who is directly engaged in the prosecution of violations of civil or criminal law.

(2) PROHIBITED CONDUCT FOR DEPARTMENT OF JUSTICE EMPLOYEES – The Secretary of Justice shall establish by rule that it shall be punishable conduct for any officer or employee of the Department of Justice, in the discharge of this or her official duties, intentionally to –

(A) seek the indictment of any person in the absence of a reasonable belief of probable cause, as defined by applicable laws;

(B) mislead a court as to the guilt of any person by knowingly making a false statement of a material fact or law;

(C) offer evidence known to be false;

(D) attempt to corruptly influence or color a witness’ testimony with the intent to encourage untruthful testimony;

(E) violate a defendant’s right to discovery under the Rules of Court;

(F) offer or provide sexual activities to any government witness or potential witness in exchange for or on account of his or her testimony; or

(G) improperly disseminate confidential, non-public information to any person during an investigation or trial.

(3) PENALTIES – The Secretary of Justice shall establish a range of penalties for engaging in conduct prohibited under paragraph (1), which shall include –

(A) reprimand;

(B) demotion;

(C) dismissal;

(D) suspension from employment;

(E) referral of ethical charges to the bar; and

(F) referral of evidence related to the conduct, if appropriate, to the court for possible criminal prosecution.

(4) SUBSTANTIVE RIGHTS – Nothing in this paragraph (1) may be construed to –

(A) establish any substantive right on behalf of a criminal defendant, civil litigant, target or subject of an investigation, witness, counsel for a represented party or parties, or any other person; or

(B) provide a basis for –

(i) dismissing any criminal or civil charge or proceeding against any person in any court; or

(ii) excluding relevant evidence in any proceeding in any court.

SECTION 3. *Commission on prosecutorial conduct.* –

(1) ESTABLISHMENT AND FUNCTIONS OF COMMISSION –

(A) ESTABLISHMENT – There is established a Commission on Prosecutorial Conduct (referred to in this subsection as the “Commission”).

(B) FUNCTIONS – The functions of the Commission shall be to –

(i) conduct a review regarding –

a. whether there are specific duties related to investigation and prosecution of violations of law which are incompatible with

the regulation of the conduct of prosecutors by any law or rule governing ethical conduct of attorneys; and

b. the procedures utilized by the Department of Justice to investigate and punish inappropriate conduct by prosecutors; and

(ii) not later than twelve (12) months after the date on which the members of the Commission are appointed under paragraph (2)(B), submit to the Secretary of Justice a report concerning the review under clause (i), including any recommendations of the Commission relating to the matters reviewed under clause (i).

(C) CONSULTATION – In carrying out subparagraph (B), the Commission shall consult with the Secretary of Justice, the Chairmen and Ranking Members of the Committees on Justice of the House of Representatives and the Senate, the Integrated Bar of the Philippines, and other organizations of attorneys, and law enforcement agencies.

(2) MEMBERSHIP –

(A) IN GENERAL – The Commission shall be composed of seven (7) members, each of whom shall be –

(i) appointed by the Secretary of Justice, after consultation with the Judiciary, Chairmen and Ranking Members of the Committees on Justice of the House of Representatives and the Senate, and representatives of judges, prosecutors, defense attorneys, law enforcement officials, victims of crime, and others interested in the criminal justice process; and

(ii) a lawyer engaged in the practice of law for at least five (5) years.

(B) APPOINTMENT – The members of the Commission shall be appointed not later than thirty (30) days after the date of enactment of this Act.

(C) VACANCY – Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(D) CHAIRPERSON – The Commission shall elect a chairperson and vice chairperson from among its members.

(E) QUORUM – Four (4) members of the Commission shall constitute a quorum, but two (2) members may conduct hearings.

(3) COMPENSATION – Members of the Commission shall receive no compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, in accordance with applicable civil service laws and other related laws.

(4) PERSONNEL –

(A) EXECUTIVE DIRECTOR – The Commission may appoint an Executive Director, who shall receive compensation at a rate not exceeding the rate prescribed for Director I level.

(B) STAFF – The Executive Director, with the approval of the Commission, may appoint and fix the compensation of such additional personnel as the Executive Director determines to be necessary, subject to applicable civil service regulations, without regard to the provisions governing appointments in the competitive service. Compensation under this subparagraph shall not exceed the annual maximum rate of basic pay for a position above grade 20.

(C) EXPERTS AND CONSULTANTS – The Executive Director may procure personal services of experts and consultants as authorized by law.

(5) INFORMATION – The Commission may request from any department, agency, or independent instrumentality of the government any information and assistance the Commission determines to be necessary to carry out its functions under this subsection. Each such department, agency, and independent instrumentality is authorized to provide such information and assistance to the extent permitted by law when requested by the chairperson of the Commission.

(6) REPORT OF THE SECRETARY OF JUSTICE – Not later than sixty (60) days after the date of enactment of this Act, the Secretary shall submit a report to the

Commission, which shall, with respect to the three (3) year period preceding the date on which the report is submitted under this paragraph –

(A) include the number, type and disposition of all investigations conducted or supervised by the Department of Justice;

(B) include a summary of the findings of each investigation in which the Department of Justice found that an officer or employee of the Department of Justice is engaged in willful misconduct; and

(C) be confidential and not disclose information that would interfere with any pending investigation or improperly infringe upon the privacy rights of any individual.

(7) TERMINATION – The Commission shall terminate ninety (90) days after the date on which the Commission submits the report under paragraph (1)(B)(ii).

(8) AUTHORIZATION OF APPROPRIATIONS – There is authorized to be appropriated to the Commission such sums as may be necessary to carry out this subsection. Amounts made available under this paragraph shall remain available until expended.

SECTION 4. *Separability Clause.* – If any provision, or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 5. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with, the provisions of this Act is hereby repealed, modified, or amended accordingly.

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

Approved.