

Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City

**EIGHTEENTH CONGRESS**

First Regular Session

House Bill No. 2239



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Introduced by **Rep. LAWRENCE LEMUEL H. FORTUN**

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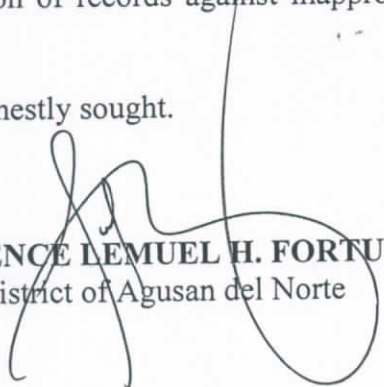
**EXPLANATORY NOTE**

This bill seeks to encourage witnesses to come out and expose corrupt practices in government by establishing a framework for whistleblowers and their families. Transparency International has ranked the Philippines 99th out of the 180 countries in the Corruption Perceptions Index for 2018. Corruption in the country has been perennial and wide-scale and has stunted to an alarming extent the growth of our country. The establishment of a whistleblower program is a significant step towards ensuring effective investigation, prosecution and conviction of government officials and employees involved in irregularities, anomalies and corruption.

The dearth of concrete policies and mechanisms that provide for rewards, protection and security to whistleblowers exposes the latter to serious security risks and possible retaliation. This has emboldened corrupt government officials and employees to continue with their illegal activities knowing that investigations and prosecution of corruption cases almost always fail due to lack of credible and reliable witnesses. An institutional mechanism established to protect whistleblowers from risks and reprisals would encourage them to disclose information on any fact or event constituting improper conduct whether they have any participation therein or knowledge.

This bill, thus, provides for a rewards system for whistleblowers and their security and protection against reprisal, protection against liabilities, protection against discrimination or retaliatory actions in the workplace, and protection of records against inappropriate disclosures.

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

  
**LAWRENCE LEMUEL H. FORTUN**  
1st District of Agusan del Norte

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**AN ACT**  
**PROVIDING FOR THE PROTECTION OF WHISTLEBLOWERS ENSURING**  
**THEIR SECURITY AND PROVIDING BENEFITS FOR THEIR WELFARE**

*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  
2 Protection Act ."

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

8  
9       (A) Maintain honesty and high standards of integrity in the public service;

10  
11       (B) Safeguard the national interest through the prosecution of corrupt and erring  
12 public officials and employees and repress certain acts of public officers and private  
13 persons alike which constitute graft or corrupt practices;

14  
15       (C) Encourage and give protection to individuals disclosing matters relating to  
16 corruption and other omissions of public officers and employees inimical to the  
17 government.

18  
19       **SEC. 3. Definitions.-** As used in this Act:

20  
21       A. "Employer" shall mean any individual, partnership, association, corporation or  
22 entity, including the government, or any person or group of persons who shall  
23 directly or indirectly for or on behalf of said individual, partnership, association,  
24 corporation or entity, employ an employee as defined in this Act.

25  
26       B. "Employee" shall mean any person who is made to work by, or who renders service  
27 for, an employer. The term shall include public officers and employees as defined  
28 in this Act as well as any person considered an "employee" under the Labor Code.

29       C. "Public officer/employee" shall refer to any person holding any office or  
30 performing any function or duty in the Government of the Republic of the  
31 Philippines by virtue of an appointment, election or contract.  
32



- 33 D. "Government" shall include the National Government, and any of its subdivisions,  
34 agencies or instrumentalities, including government-owned and controlled  
35 corporations and their subsidiaries, and Local Government Units.  
36
- 37 E. "Retaliatory action" shall refer to any negative or obstructive response, reaction or  
38 reprisal to a disclosure made under this Act aimed at, pertaining to, or against a  
39 whistleblower or any of the members of his/her family and relatives up to the fourth  
40 civil degree of consanguinity or affinity. Said actions shall include criminal, civil  
41 or administrative proceedings commenced or pursued against said whistleblower or  
42 any of the members of his/her family or relatives up to the fourth civil degree of  
43 consanguinity or' affinity as well as any retaliatory action in the workplace.  
44
- 45 F. "Retaliatory action in the workplace" shall mean any discriminatory conduct or  
46 policies which affect promotion or job assignment including undue negative  
47 performance appraisal, close monitoring by supervisors, unwarranted criticisms or  
48 avoidance by co-employees, blacklisting from other job opportunities or prejudicial  
49 transfers by reason of a disclosure made under this Act.  
50
- 51 G. "Acts constituting improper conduct" shall mean any act or omission of a public  
52 officer or employee solely, or in cooperation, conspiracy with, or with the  
53 assistance of, private persons which is covered by or constitute a violation of:  
54
- 55 (1) Presidential Decree No. 46 otherwise known as "Making it punishable for Public  
56 Officials and Employees to receive, and for Private persons to give, gifts on any occasion,  
57 including Christmas;"  
58
- 59 (2) Republic Act No. 3019 otherwise known as "Anti-Graft and Corrupt Practices  
60 Act;"  
61
- 62 (3) Republic Act No. 6713 otherwise known as "An Act Establishing a Code of  
63 Conduct and Ethical Standards for Public Officials and Employees;"  
64
- 65 (4) Republic Act No. 7080 otherwise known as the " Anti-Plunder Law";  
66
- 67 (5) Title VII of Book Two of the Revised Penal Code on Crimes Committed by  
68 Public Officers; and  
69
- 70 (6) All other laws which penalize or sanction any act or omission of a public officer  
71 or employee.  
72
- 73 H. "Whistleblower" shall refer to any person who has personal knowledge, or access  
74 to any fact, data, or information of acts constituting illegal or improper conduct,  
75 whether or not said person has any direct or indirect participation therein;  
76
- 77 I. "Qualified Whistleblower" shall mean a whistleblower qualified and admitted into  
78 the Whistleblower's Program of the Implementing Agency in accordance with this  
79 Act and its implementing rules and regulations;  
80
- 81 J. "Implementing Agencies or Agency" shall collectively or individually refer to the  
82 Department of Justice (DOJ), the Office of the Ombudsman, the Commission on  
83 Human Rights (CHR), and the Public Attorney's Office (PAO);  
84
- 85 K. "Whistleblower Council" shall refer to the council defined under Section 31 of this  
86 Act.  
87



88           **SEC. 4. Coverage.-** Notwithstanding the provisions of law on prescription of  
89 crimes, this Act shall cover all acts constituting improper conduct irrespective of the time  
90 of commission thereof.

91  
92           **SEC. 5. Admission/Qualification for the Program.-** Whistleblowers, whether  
93 from the public or private sector, shall be entitled to the benefits under this Act; Provided,  
94 that all the following requisites concur:

- 95  
96           A. The disclosure is voluntary, in writing and under oath;  
97           B. The disclosure relates to acts constituting improper conduct; and  
98           C. The information to be disclosed is admissible in evidence.  
99

100           **SEC.6. Necessity of Testimony.-** The testimony of a qualified whistleblower in  
101 court shall not be necessary for the entitlement or enjoyment of the benefits of this Act. In  
102 the event that the said whistleblower's testimony is required as found by the Implementing  
103 Agency to be necessary and indispensable for a successful prosecution of a case, he/she  
104 shall be entitled to the additional benefits and protection provided under R.A. No. 6891  
105 otherwise known as the Witness Protection Program, funding for which shall be sourced  
106 from the budget as provided under Section 32 hereof.  
107

108           **SEC. 7. Credibility of a Whistleblower.-** In all cases, the fact of the entitlement  
109 of the qualified whistleblower to the protection and benefits provided in this Act shall not  
110 be admissible in evidence to diminish or affect his credibility.  
111

112           **SEC. 8. Perpetuation of Testimony.-** Once admitted into the program, a  
113 whistleblower may perpetuate his/her testimony pursuant to Rule 134 of the Revised Rules  
114 of Court.  
115

116           **SEC. 9. Memorandum of Agreement with the Person to be Protected.-** Before  
117 a person is provided protection and benefits as a whistleblower for the State, he/she shall  
118 first execute a Memorandum of Agreement with the Implementing Agency which shall set  
119 forth his/her responsibilities as follows:  
120

- 121           A. To provide information to and testify before all branches or agencies of  
122 government in an appropriate proceeding on facts constituting improper  
123 conduct;  
124  
125           B. To avoid the commission of a crime;  
126  
127           C. To take all necessary precautions to preclude detection by others of the facts  
128 concerning the protection provided him/her under this Act;  
129  
130           D. To cooperate with all reasonable requests of officers and employees of the  
131 government who are providing protection under this Act; and  
132  
133           E. To regularly inform the Implementing Agency's program official concerned of  
134 his/her current activities and address.  
135

136           **SEC. 10. Breach of the Memorandum of Agreement.-** Breach of the  
137 Memorandum of Agreement, provided in Section 9 hereof shall, be sufficient ground for  
138 the termination of the protection and benefits provided under this Act; Provided, however,  
139 that before terminating the same, the Implementing Agency shall send notice to the  
140 qualified whistleblower concerned, stating therein the reason for such termination.  
141

142           **SEC. 11. Confidentiality.-** Except insofar as allowed by this Act, during and after  
143 the disclosure, and throughout and after any proceedings taken thereafter, a whistleblower  
144 is entitled to absolute confidentiality as to:



- 145  
146 A. His/her identity;  
147 B. The subject matter of his/her disclosure; and  
148 C. The person to whom such disclosure has been made.  
149

150 There shall be no such confidentiality in his/her identity if a whistleblower makes a public  
151 disclosure of acts constituting improper conduct unless, notwithstanding such public  
152 disclosure, he/she has taken means obviously intended to preserve his/her anonymity.  
153

154 **SEC. 12. Confidential Information.-** No person to whom a disclosure has been  
155 made or referred to shall divulge any information that may identify or tend to identify a  
156 whistleblower or reveal the subject matter of such disclosure, except only as to the  
157 following circumstances:  
158

- 159 A. The whistleblower consents in writing prior to such a disclosure;  
160  
161 B. The disclosure is indispensable and essential as determined by the Implementing  
162 Agency, taking into consideration the necessary proceedings to be had after said  
163 disclosure; or  
164  
165 C. The disclosure or referral is made pursuant to an obligation under this Act. The  
166 prohibition on disclosure under this Section shall apply to any person who has  
167 become privy to any confidential information, whether officially or otherwise.  
168

169 **SEC. 13. Violation of Confidentiality.-** Any person who shall violate the  
170 protection of confidentiality of a protected disclosure under Sections 11 and 12 of this Act,  
171 shall suffer the penalty of not more than one (1) year but not less than six (6) months with  
172 the accessory penalty of temporary absolute disqualification for public office, in case of a  
173 public officer or employee, and shall be civilly liable to the whistleblower in such amount  
174 of damages as may be awarded and deemed reasonable by the court. The proceedings  
175 herein shall be independent of any action that an aggrieved whistleblower may take before  
176 the Civil Service Commission or the Department of Labor and Employment for unfair or  
177 discriminatory practices, back wages, or other labor dispute, or before other quasi-judicial  
178 agencies that may or may not have arisen from a disclosure, or a believed or suspected  
179 disclosure.  
180

181 **SEC 14. No Breach of Duty of Confidentiality.-** A whistleblower who has made  
182 a disclosure under this Act upon whom a provision of law, regulation, issuance, practice  
183 or other convention, imposes upon him/her the duty to maintain confidentiality with respect  
184 to any information disclosed is considered not to have committed a breach thereof.  
185

186 **SEC 15. Defense of Privileged Communication.-** A whistleblower who has made  
187 a disclosure under this Act shall have in any other inquiry or proceeding the defense of  
188 absolute privileged communication with respect to the subject matter of his/her disclosure  
189 or information given the proper authorities.  
190

191 **SEC 16. False and Misleading Disclosures.-** Any person who deliberately and  
192 voluntarily giving false or misleading information in connection with acts or omissions  
193 constituting improper conduct shall be guilty of an offense punishable by imprisonment of  
194 not more than two (2) years and perpetual absolute disqualification from public office, in  
195 case of a public officer or employee, without prejudice to other liabilities under existing  
196 laws.  
197

198 **SEC 17. Protection against Disciplinary Action or Reprisals and Prohibited**  
199 **Acts.-** A whistleblower who has made or is believed or suspected to have made a disclosure  
200 under this Act shall not be liable to disciplinary action for making said disclosure.  
201



Prohibited acts under this section include retaliatory action in a workplace or prejudicial conduct towards a whistleblower, such as: discriminatory actions, behind policies and procedures, reprimand, punitive transfers, unwarranted referral to a psychiatrist or counselor, and undue poor performance reviews. Other prejudicial conducts include obstruction of an investigation, withdrawal of essential resources, undue reports and the attachment of unfair personnel file notes.

To this end, any employer who has discouraged and imposed sanctions or reprisals based on workplace interactions, which shall include workplace ostracism, questions and attacks on motives, accusations of disloyalty and dysfunction, public humiliation, and the denial of work or promotion, or who encourages, causes or does retaliatory action or reprisal against a whistleblower, or anyone believed or suspected to be one shall be liable for an offense defined under this Act.

Any employee who refuses to follow orders of employers that could cause them to violate any provision of this Act shall likewise be protected from reprisals and retaliatory action in the workplace. For purposes of this protection, an applicant for employment shall be deemed an employee and entitled to such protection. Provided, however, that an employer of a whistleblower shall be notified through a certification issued by the Implementing Agency within a period of thirty (30) days, from the date when the whistleblower last reported for work. Provided, further, that an employer shall have the option to remove said whistleblower from employment after securing a clearance from the Civil Service Commission and the Department of Labor and Employment, whichever the case may be, in case of a prolonged absence due to transfer or permanent relocation under this Act or RA. No. 6891.

**SEC 18. Protection against other Actions.-** A whistleblower who has made a disclosure under this Act shall not be subject to any liability whether administrative, civil, criminal for making such a disclosure. No action, claim or demand may be taken against a whistleblower for making such disclosure, nor any evidence presented be used against him/her in court.

This protection shall also operate as an immunity in favor of a whistleblower against any action or proceeding taken against him/her by reason of his/her disclosure. ORIGINAL: This protection shall also operate as an immunity in or of whistleblower against any action or proceeding taken against he of

**SEC. 19. Discriminatory Hiring.-** Any individual, firm, corporation, office or employer who shall deny a qualified applicant of employment, or who shall reject-his/her application for employment solely on the ground that the applicant is or will be a whistleblower, shall be guilty of an offense punishable by not more than six (6) months imprisonment with the accessory penalty of suspension of the right to hold public office, in case of a public officer or employee, and shall be civilly liable to indemnify the whistleblower for damages as may be awarded by the court.

**SEC. 20. Retaliatory Action in the Workplace.-** Any person who shall commit any retaliatory act in a workplace as defined under this Act, against an employee who is a whistleblower, or believed or suspected to be one, shall be guilty of an offense and shall suffer the penalty of not more than six (6) months imprisonment with the accessory penalty of suspension of the right to hold public office, in case of a public officer or employee, and shall be civilly liable to indemnify a whistleblower in case damages are incurred and as may be awarded by the court.

Toward this end, the aggrieved whistleblower shall be entitled to the provisional remedy of injunction against any retaliatory action in the workplace, prejudicial conduct or discriminatory treatment by reason of the said whistleblower's intended or actual disclosure



The proceedings herein shall be independent of any action that an aggrieved person may take before the Civil Service Commission or the Department of Labor and Employment for unfair discriminatory practices, back wages, or other labor dispute, or before other quasi-judicial agencies that may or may not have arisen from a disclosure, or a believed or suspected disclosure.

**SEC 21. Penalty for Retaliatory Acts against a Whistleblower.-** Any person who commits any of the retaliatory acts as defined in this Act against a whistleblower and/or hinders, delays, prevents or dissuades a whistleblower from:

- A. Attending, assisting or testifying, before any investigating agency and/or judicial or quasi-judicial body;
- B. Reporting to a law enforcement or judge the commission or possible commission or possible commission of an offense or a violation of conditions of probation, parole, or release pending judicial proceedings;
- C. Seeking the arrest of another person in connection with the offense;
- D. Causing a criminal prosecution, or a proceeding for the revocation of a parole or probation; or
- E. Performing and enjoying the rights and benefits under this Act, or attempts to do so shall be fined not more than One Hundred Thousand Pesos (Php 100,000.00) or suffer imprisonment of or not less than six (6) months but not more than six (6) years or both at the discretion of a court and shall also suffer the penalty of perpetual disqualification from holding public office in case of a public officer or employee.

**SEC. 22. Benefits and Security and Protection of a Qualified Whistleblower.-** A qualified whistleblower shall be entitled to an allowance equivalent to his/her daily basic financial requirements considering his personal circumstances, provided he/she requests for said allowance and the Implementing Agency determines and approves the reasonableness of such request. A qualified whistle blower shall likewise be entitled to housing and personal security regardless of whether the disclosure is made in confidence or in public. Accordingly, the implementing Agency is hereby authorized to allocate funds and resources as provided for in Section 32 hereof for the full satisfaction of the benefits and security and protection of a qualified Whistle blower,

This section is without prejudice to any benefits a qualified whistleblower may be entitled to under R.A. No. 6891 provided that the necessary amount shall be sourced from the budget as provided for in Section 32 hereof and that no duplication of benefit shall ensue.

**SEC. 23. Financial Rewards for Whistleblower.-** A qualified whistleblower shall be entitled to a monetary reward on a contingency basis, equivalent to at least ten percentum (10%) of the amount which may be recovered as a result of his disclosure or the amount of One Million Pesos (Php 1,000,000.00), whichever is lower.

**SEC. 24. Abstract.-** All government agencies, offices, bureaus and local government units, including government owned or controlled corporations, whether or not with original charters, shall conspicuously display an abstract of this Act and the rights and protections of whistleblowers, including the obligations of employers under this Act. Such abstract shall be provided in the implementing rules and regulations.

All government agencies, offices, bureaus and local government units, including government owned and controlled corporations, whether or not with original charters, shall



likewise put in place internal procedures for dealing with whistleblowers consistent with the provisions of this Act and its implementing rules and regulations. Said internal procedure shall be widely disseminated to all employees. All other employers, specifically those in the private sector, shall also conspicuously display notices of their employees' protections and their obligations under this Act and its implementing rules and regulations.

**SEC. 25. Failure of an Employer to Post Abstract.-** The failure to post an Abstract or to adopt internal procedures as required under Section 5 of this Act shall constitute an offense and shall be penalized with a fine in the amount of One Hundred Thousand Pesos (Php100,000) for the first offense. Said amount shall be doubled for every succeeding offense/s.

**SEC. 26. Failure to Act or Report to the Implementing Agency.-** Any person under obligation to report a disclosure under this Act to the Implementing Agency but who fails to do so within the period of two (2) months, or who fails to act thereon or cause an investigation thereof, shall be guilty of an offense and shall suffer the penalty of not more than six (6) months imprisonment, and or a fine amounting to not more than Three Hundred Thousand Pesos (Php300,000.00) without prejudice to any other liability that may be imposed upon such person under existing laws.

**SEC. 27. Confidentiality of the Proceedings.-** All proceedings involving application and/or enjoyment of the benefits under this Act, including any action taken thereon, shall be confidential in nature. No information or documents given or submitted in support thereof shall be released except upon written order of the Implementing Agency, and provided such disclosure shall not endanger the life of a qualified whistle blower.

**SEC. 28. Powers and Functions of the Implementing Agencies or Agency.-** In addition to their respective powers and functions under existing laws, the Implementing Agencies shall:

- A. Supervise, monitor and coordinate all efforts relative to the implementation and enforcement of the provisions of this Act;
- B. Investigate all disclosures made under this Act, prosecute or recommend prosecution of the same when warranted;
- C. Evaluate the qualification of whistleblowers for coverage under this Act, and whenever appropriate, make the appropriate decision on their entitlement to the benefits and security and protection extended herein;
- D. Undertake, in coordination and cooperation with the private and public sectors, an information campaign to educate the public on the provisions and benefits of this Act;
- E. Develop plans and implement programs to further encourage whistleblowers with a view for effective deterrence and/or prosecution of improper conduct as well as acts amounting to graft and corrupt practices;
- F. Control and administer, through coordination and consistent with the provisions and purpose of this Act, the protection and benefits of whistleblowers and the funds necessary to carry out the provisions of this Act;
- G. Call upon, or deputize any department, bureau, office or any other government agency or 5 public official to assist in the effective implementation and enforcement of this Act; and
- H. Grant immunity in accordance with the provisions of this Act and its implementing rules and regulation.

**SEC. 29. Implementing Agency, Option of Whistleblower.-** A whistleblower shall have the right to indicate his preference as to the Implementing Agency he/she intends to be admitted and/or qualified in as a whistleblower. The Implementing Agency so chosen shall have the primary jurisdiction and authority to exercise the powers and functions provided for under Section 28 of this Act.



373  
374       **SEC. 30. Congressional Whistleblower Program.-** The Senate and the House of  
375 Representatives may have their own Whistleblower's Program for resource persons and/or  
376 whistleblowers appearing before them or their respective committees. The resource person  
377 and/or whistleblower, with his/her express consent, may be admitted into the program upon  
378 the recommendation of the legislative committee where his/her testimony is needed when  
379 in its judgment there is pressing necessity therefor: Provided, that such recommendation is  
380 approved by the President of the Senate or the Speaker of the House, whichever the case  
381 may be. The Senate or the House of Representative, as the case may be, shall have primary  
382 jurisdiction in the administration and implementation of the program independent from any  
383 other agency of government when the investigation or the safety of the resource person or  
384 whistleblower shall be prejudiced.

385  
386       **SEC. 31. Implementing Rules and Regulations.-** There is hereby created a  
387 Whistleblower Council which shall be composed of the Implementing Agencies and  
388 headed by the Office of the Solicitor General. The Council shall be primarily and solely  
389 responsible for the drafting and promulgation of the necessary Implementing Rules and  
390 Regulations (IRR) for the effective implementation of this Act. The Council's submission  
391 to Congress of the approved IRR and the causing of its publication in at least two (2)  
392 newspapers of general circulation shall render the council functus officio.

393  
394       **SEC. 32. Funding.-** The amount One Hundred Million Pesos  
395 (Php 100,000,000.00) is hereby authorized to be appropriated out of any funds in the  
396 National Treasury not otherwise allocated to carry into effect the purpose of this Act. Other  
397 funding schemes or sources that may be authorized under existing laws shall be allowed  
398 in furtherance hereof

399  
400       **SEC. 33. Separability Clause.-** If any provision or part hereof, is held invalid or  
401 declared unconstitutional, the remainder of the law or the provisions not otherwise affected  
402 thereby shall remain valid and subsisting.

403  
404       **SEC. 34. Repealing Clause.-** Any law, presidential decree or issuance, executive  
405 order, 20 letter of instruction, administrative order, rule or regulation contrary to or  
406 inconsistent with, the provisions of this Act, is hereby repealed, modified, or amended  
407 accordingly.

408  
409       **SEC. 35. Effectivity Clause.-** This Act shall take effect fifteen (15) days after its  
410 publication in the Official Gazette or at least two (2) newspapers of general circulation.

411  
412 Approved,  
413