

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**SEVENTEENTH CONGRESS**

First Regular Session

**HOUSE BILL NO. 2814**

HOUSE OF REPRESENTATIVES	
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Introduced by **Honorable Estrellita B. Suansing** and **Honorable Horacio P. Suansing, Jr.**

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**EXPLANATORY NOTE**

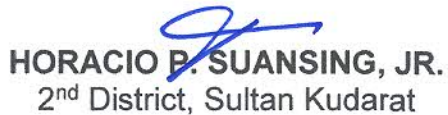
This bill seeks to provide protection, benefits and security to whistleblowers and appropriating the necessary funds for its effective implementation.

Public office is public trust. As such, the government must take the necessary steps to guarantee public accountability, ensure transparency and preserve the integrity of public servants. The total elimination of corruption in many government agencies will ultimately lead to the eradication of the poverty in the Philippines. Minimizing opportunities for corruption in the Philippines will further encourage both domestic and foreign investment and redound to economic growth and development.

The intention of this bill is to encourage whistleblowers and informants to come out in the open to report corrupt conduct and practices in public service and gross violations of existing laws on graft and corruption. This proposed measure seeks to immediately detect possible corruption activities and successfully prosecute violators of existing laws on graft and corruption by way of institutionalizing the framework for the benefits, protection, and security of whistleblowers and informants against retaliatory actions.

In consonance with the 1987 Constitution which states that "*The State shall maintain honesty and integrity in public service and take positive measure against graft and corruption.*", the approval of this bill is earnestly requested.

  
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AN ACT

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

**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 Whistleblower Protection, Benefits and Security Act of 2016.

SECTION 2. **Declaration of Policy.** – Public office is public trust. It is the declared policy of the State to promote, ensure and guarantee full accountability in the conduct of its officers and employees and exact full retribution from those who shall engage in graft and corrupt practices. Towards this end, the State shall:

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

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

SECTION 3. **Definition of Terms.** - For the purpose of this Act, the following terms shall be defined as follows:

- (a) **Graft and Corruption** – shall refer to any conduct, act or omission of public officers and employees which are covered by, or constitute as violations of the following laws and decree:
  - (1) Republic Act No. 3019 otherwise known as the “Anti-Graft and Corrupt Practices Act”;
  - (2) Sections 7, 8 and 9 of Republic Act No. 6713, otherwise known as the “Code of Conduct and Ethical Standards for Public Officials and Employees”;

- (3) Republic Act No. 7080, entitled "An Act Defining and Penalizing the Crime of Plunder";
  - (4) Presidential Decree No. 46 entitled "Making it Punishable for Public Officials and Employees to Receive, and for Private Persons to Give Gifts on Any Occasion Including Christmas; and
  - (5) Title VII, Book II of the Revised Penal Code on "Crimes Committed by Public Officers".
- (b) **Council** – shall refer to the Whistleblower Benefits and Protection council created pursuant to Sec. 29 of this Act;
- (c) **Informant** – refers to any person who has personal knowledge or access to data, events or information, of any conduct constituting graft and corruption as defined under this Act by public officer/s and employee/s and who shall deliberately disclose of individual, collective or organized conduct constitution graft and corruption as provided in this Act;
- (d) **Program** – refers to the "Whistleblower Protection , Security and Benefit Program" which the Council shall formulate and implement pursuant to this Act;
- (e) **Public Officer** – refers to any person holding public office in the Government of the Republic of the Philippines by virtue of an appointment, election or contract, having authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees.
- (f) **Whistleblower** – refers to an informant admitted into the Program of the Council in accordance with this Act and its Implementing Rules and Regulations;
- (g) **Reprisal** – refers to any negative or obstructive response or reaction to a disclosure made under this Act aimed at, pertaining to, or against a whistleblower or any of the members of the family and relatives up to the second degree of consanguinity or affinity;
- (h) **Reprisal in workplace** - refers to any discriminatory conduct or policies against a whistleblower which affect promotion or job assignment including undue negative performance, appraisal, unusual and unwarranted close monitoring by superiors/supervisors, destructive criticisms or avoidance by co-employees, blacklisting from other job opportunities or prejudicial transfers by reason of disclosure made under this Act.

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

SECTION 5. **Admission to the Program.** – Whistleblowers admitted into the Program shall be entitled to the protection and benefits under the Act. Provided, That all the following requisites are concurred:

- (a) The disclosure is voluntary, in writing and under oath;
- (b) The disclosure relates to conduct constituting graft and corruption under this Act;
- (c) Such disclosure is necessary for an effective and successful investigation or prosecution, or essential for the acquisition of material evidence not yet in the possession of the Council;
- (d) The information given by the whistleblower can be corroborated; and
- (e) The information disclosed leads to a successful gathering of evidence and/or conduct of investigation sufficient to sustain a finding of probable cause for the filing of criminal complaint or information before a court of competent jurisdiction.

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

SECTION 7. **Memorandum of Agreement With the Whistleblower.** – As a prerequisite to the availment of the protection and benefits under this Act, a whistleblower shall enter into a Memorandum of Agreement with the Department of Justice (DOJ) which shall set forth the following whistleblower's responsibilities including but not limited to the following:

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

SECTION 8. **Breach of the Memorandum of Agreement.** – Substantial breach of the Memorandum of Agreement shall be ground for the immediate termination of the protection and benefits provided under this Act. The Council shall send notice to a whistleblower



concerned, stating therein the reason for such termination. In view thereof, a whistleblower shall be afforded reasonable time to take appropriate and necessary protection and security measures.

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

**SECTION 9. Protection Against Other Actions.** – A whistleblower or an informant who has made a disclosure under this Act shall not be subject to any liability in any proceeding. Any disclosure made or any document submitted to the Council shall be inadmissible in evidence against the whistleblower. This protection shall also operate as immunity in favor of a whistleblower or informant against any action or proceeding taken against the whistleblower by any person subject of a disclosure, by reason thereof and acts in relation to the subject of disclosure. Provided, however, That the protection against any action or proceeding shall not be available in cases of deliberate and voluntary giving of false or misleading information, and any unjustified recantation of testimony by a whistleblower.

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

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

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

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

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

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

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

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

**SECTION 14. Protection Against Disciplinary Action or Reprisals.** – A whistleblower who has made or is believed or suspected to have made a disclosure under this Act is not liable to disciplinary action for making said disclosure. Prohibited acts under this section include reprisals in the workplace or prejudicial conduct to the whistleblower such as discriminatory actions behind policies and procedures, unwarranted reprimand, punitive transfers, malicious referral to a psychiatrist or counselor, and unfounded or baseless poor performance reviews. Other prejudicial actions include obstruction of an investigation, withdrawal of essential resources, undue reports and the attachment of false personnel files or notes.

**SECTION 15. Security and Protection of a Whistleblower.** – When determined to be necessary and appropriate by the Council, a whistleblower, even if the disclosure is made in confidence, shall be entitled to, personal security. For this purpose, the Council may request the Philippine National Police or any law enforcement agency for assistance. Should, at any time, the identity of the whistleblower be revealed, or anonymity compromised, the whistleblower may, upon the recommendation of the Council, be entitled to the benefits of Republic Act No. 6981 otherwise known as the Witness Protection and Benefit Act, in addition to the other benefits the whistleblower is entitled to under this Act.

**SECTION 16. Confidentiality of the Proceedings.** – All proceedings before the Council involving application and/or enjoyment of 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 Council, and provided such disclosure shall not endanger the life of a whistleblower.

**SECTION 17. Financial Rewards for Whistleblowers.** – The whistleblower shall be entitled to a corresponding monetary rewards 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	P200,000.00	P100,000.00
Upon Completion of the Testimony of the Whistleblower	P100,000.00	P100,000.00

Provided, That for cases capable of pecuniary estimation, such as plunder, forfeiture of ill-gotten wealth, bribery, malversation and damage or injury to government, the whistleblower shall be entitled to an additional reward equivalent to Ten Percent (10%) of the actual amount recovered by final judgement.

**SECTION 18. Return of the Amount Received as Financial Rewards.** – A whistleblower admitted into the Program who deliberately and voluntarily gives false or misleading

information in connection with conduct constituting graft and corruption as defined under this Act or who unjustifiably recants testimony shall, in addition to the penalties provided in Section 21 and 22 of this Act, be required to return all the amounts received as financial rewards.

SECTION 19. **Mandatory Posting of Abstract.** – All government agencies, offices, bureaus, Local Government Units (LGUs), including government-owned and controlled corporations whether or not with original charters, shall conspicuously display an abstract of this Act and the rights and protections of whistleblowers or informants. Such abstract shall be provided in the rules and regulations to be promulgated pursuant to Section 31 of this Act. All government agencies, offices, bureaus and LGUs including government-owned and controlled corporations, whether or not with original charters, are likewise required to put in place internal procedures for dealing with whistleblowers and informants, consistent with the provisions of this Act and the Implementing Rules and Regulations. The said internal procedure shall be widely disseminated to all the public employees.

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

SECTION 21. **Penalty for Giving False and Misleading Information.** – The penalty of imprisonment of not less than six (6) years but not more than twelve (12) years and a fine of not less than Fifty Thousand pesos (P50,000.00) but not more than One Hundred Thousand Pesos (P100,000.00) shall be imposed upon a whistleblower who deliberately and voluntarily gives false and misleading information in connection with the conduct constituting graft and corruption under this Act. Provided, That if the offender is a public officer or employee, the penalty of dismissal from the service and the accessory penalty of perpetual absolute disqualification from holding public office whether appointive or elective shall also be imposed. Provided, further, That in addition, the offender may be held criminally and civilly liable under existing laws.

SECTION 22. **Penalty for Unjustified Recantation.** – The unjustified recantation of testimony by a whistleblower shall constitute an offense and shall be punishable by a penalty of imprisonment of not less than four (4) years but not more than six (6) years and a fine of not less than Twenty Thousand Pesos (P20,000.00) but not more than Fifty Thousand Pesos (P50,000.00).

SECTION 23. **Penalty for Reprisal Against Whistleblower.** – The penalty of imprisonment of not less than six (6) years but not more than twelve (12) years or a fine of not less than Fifty Thousand Pesos (P50,000.00) but not more than One Hundred Thousand Pesos (P100,000.00) or both such imprisonment and fine at the discretion of the court shall be imposed upon any person who shall commit any act of reprisal as defined in this Act against a whistleblower and/or hinders, delays, prevents or dissuades said whistleblower from:

- (a) Attending, assisting or testifying before any investigating agency of judicial or quasi-judicial body;
- (b) Reporting to a law enforcement officer or judge the commission of possible commission of an offense, or a violation of conditions of probation, parole, or release pending judicial proceedings;
- (c) Seeking arrest of another person in connection with the offense;

- (d) Causing a criminal prosecution, or any proceeding for the revocation of a parole or probation;
- (e) Performing and enjoying the rights and benefits under this Act or any attempt to do so.

Provided, That in addition, the penalty of dismissal from the service and the accessory penalty of perpetual absolute disqualification from holding public office whether appointive or elective shall be imposed upon an offender who is a public officer or employee.

**SECTION 24. Penalty for Violation of Confidentiality.** – The penalty of imprisonment of not less than six (6) months but not more than three (3) years or a fine of not less than Twenty Thousand Pesos (P20,000.00) but not more than Fifty Thousand Pesos (P50,000.00) or both such imprisonment and fine at the discretion of the court shall be imposed upon any person who shall violate the protection of confidentiality of a protected disclosure under Sections 10, 11, 13 and 16 of this Act. The penalty of dismissal from the service and the accessory penalty of temporary absolute disqualification from holding public office whether appointive or elective shall also be imposed upon an offender who is a public officer or employee. Provided, That in addition, the offender shall be civilly liable to indemnify the whistleblower or informant in such amount of damages as may be awarded and deemed reasonable by a competent court.

**SECTION 25. Penalty for Reprisal in the Workplace.** – The penalty of imprisonment of not more than six (6) years but not more than twelve (12) years and a fine of not less than Fifty Thousand Pesos (P50,000.00) but not more than One Hundred Thousand Pesos (P100,000.00) shall be imposed upon any person who shall commit any act of reprisal in the workplace as defined in this Act, against a whistleblower or believed or suspected to be one. The penalty of dismissal from the service and the accessory penalty of perpetual absolute disqualification from holding public office whether appointive or elective shall be imposed upon an offender who is a public officer or employee. In addition, the offender shall be civilly liable to indemnify the whistleblower in such amount of damages as may be awarded by a competent court. Towards this end, an aggrieved whistleblower shall be entitled to the provisional remedy of injunction against any reprisal in the workplace, prejudicial conduct, or discriminatory treatment by reason of the whistleblower's disclosure.

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

**SECTION 25. Penalty for Discriminatory Hiring.** – The penalty of imprisonment of not more than six (6) months shall be imposed upon any person who shall deny a qualified applicant for employment, or who shall reject an application for employment solely on the ground that an applicant is a whistleblower or an informant of the State. If the offender is a corporation, partnership, association, or any juridical person, the penalty shall be imposed upon the president, partner, manager and/or any responsible officer who participated in the commission of the offense. The penalty of dismissal from the service and the accessory penalty of suspension of the right to hold public office whether appointive or elective shall be imposed upon an offender who is a public officer or employee. Provided, That in addition, the offender shall be civilly liable to indemnify the whistleblower in such amount of damages as may be awarded and deemed reasonable by a competent court.

**SECTION 27. Failure to Post Abstract.** – The failure to post an abstract required under Section 19 of this Act shall constitute an offense and shall be punishable with a fine of One



Hundred Thousand Pesos (P100,000.00) for the first offense. The amount shall be doubled for every succeeding offense, and punishable with imprisonment of not more than one (1) year at the discretion of the court. For this purpose, the president, the general manager or the head of agency, office or bureau shall be held criminally liable and shall suffer accessory penalty of suspension of the right to hold public office whether appointive or elective.

SECTION 28. **Failure to Act or Report to the Council.** – Any person under obligation to report a disclosure under this Act to the Council, who fails to do so within a period of two (2) months, or who fails to act thereon or cause an investigation thereof, shall be held liable and shall suffer the penalty of not more than six (6) months imprisonment or a fine of not more than Fifty Thousand Pesos (P50,000.00) or both such imprisonment and fine at the discretion of the court.

SECTION 29. **Whistleblower Benefits and Protection Council.** – A Whistleblower Benefits and Protection Council is hereby created composed of the Overall Deputy Ombudsman as Chairperson, and the following as members;

- |  |                                 |
|--|---------------------------------|
| (a) Prosecutor General   | Department of Justice           |
| (b) Special Prosecutor   | Ombudsman                       |
| (c) Witness Protection Program Director  | Department of Justice           |
| (d) Executive Director   | Anti-Money Laundering Council   |
| (e) Director, Legal Service<br>In case the respondent is a member thereof  | Philippine National Police      |
| (f) The Judge Advocate General<br>In case the respondent is a member thereof   | Armed Forces of the Philippines |
| (g) A representative from the civil society/non-government organization involved in anti-corruption and good governance to be appointed by the Chairperson of the Council, upon the recommendation of the members thereof. |                                 |
| (h) A representative from the business sector to be appointed by the Chairperson of the Council, upon the recommendation of the Philippine Chamber of Commerce and Industry.   |                                 |

SECTION 30. **The Whistleblower Benefits and Protection Council Secretariat.** – The Council shall be assisted by an Executive Director who shall head the Secretariat and who shall be appointed by the President upon recommendation of the Chairperson. Provided, That the Executive Director shall be a career officer. The existing personnel of the Office of the Ombudsman shall serve as Secretariat to the Council.

SECTION 31. **Powers and Functions of the Council.** - In addition to its powers and functions under existing laws, the Council shall have the following powers and functions:

- (a) Monitor, coordinate and evaluate all efforts relative to the implementation and enforcement of the provisions of this Act;

- (b) Evaluate the disclosure and qualification of whistleblowers or informants for coverage within this Act, and make the appropriate decision on their entitlement to the benefits extended herein;
- (c) 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;
- (d) Develop plans and implement programs to further encourage whistleblowers or informants on graft and corruption activities with a view to effective deterrence and/or prosecution;
- (e) Control and administer consistent with the provisions and purposes of this Act, the protection and benefits of whistleblowers in connection with the cases within the coverage of Section 4 of this Act;
- (f) Call upon, or deputize any department, bureau or office or any other government agency or public official to assist in the effective implementation and enforcement of this Act; and
- (g) Grant immunity in accordance with the provisions of this Act and its implementing rules and regulations.

SECTION 32. **Appropriations.** – The amount necessary to carry out the provisions of this Act shall be included in the Annual General Appropriations Act.

SECTION 33. **Implementing Rules and Regulations.** – The Council shall promulgate such rules and regulations as may be necessary to implement the intents and purposes of this Act. Said rules and regulations shall be published in at least two (2) newspapers of general circulation.

SECTION 34. **Separability Clause.** – If any portion or provision of this Act or application thereof shall be declared invalid or unconstitutional, the validity of the other parts or provisions shall continue to be in full force and effect.

SECTION 35. **Repealing Clause.** – All laws, decrees, executive issuances, rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed or amended accordingly.

SECTION 30. **Effectivity Clause.** – This Act shall take effect fifteen (15) days following its complete publication in at least two (2) newspapers of general circulation.

Approved,