

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. _____

1384



Introduced By Representative Fredenil H. Castro

AN ACT
STRENGTHENING THE WITNESS PROTECTION, SECURITY AND BENEFIT PROGRAM,
AMENDING FOR THE PURPOSE PUBLIC ACT NO. 6981, OTHERWISE KNOWN AS
THE "WITNESS PROTECTION, SECURITY AND BENEFIT ACT", AND APPROPRIATING
ADDITIONAL FUNDS THEREFOR

EXPLANATORY NOTE

The three (3) branches of the government, the Executive, the Legislative, and the Judicial, were created to complement and support each other. An equally important role of the said three (3) branches is to serve and act as check and balance for one another. The legislative branch --- both the Senate and the House of Representatives --- aside from their law making function, has further taken an active role in checking and/or investigating the abuses and failures of government officials. In discharging this function of investigating corrupt and erring public officials, witnesses and whistle-blowers play an important role in bringing out the truth and ultimately, for the successful prosecution of those corrupt and erring government officials. However, conflict arises when the government officials being investigated are from the executive branch, which is also the branch in charge of witness protection.

Accordingly, it is necessary that the Senate and the House of Representatives have their own separate witness protection, security and benefit program for their own resource persons and/or witnesses.

Hence, the approval of this bill is fervently sought.

FREDENIL H. CASTRO
Representative, 2nd Dist. Capiz

HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 1384

Introduced by Representative Fredenil H. Castro

AN ACT
STRENGTHENING THE WITNESS PROTECTION, SECURITY AND BENEFIT PROGRAM, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 6981, OTHERWISE KNOWN AS THE "WITNESS PROTECTION, SECURITY AND BENEFIT ACT", AND PROVIDING ADDITIONAL FUNDS THEREFOR

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

SECTION 1. Sections 3, 4, 5, 6, 7 and 8 of Republic Act No. 6981, otherwise known as the "Witness Protection, Security and Benefit Act", are hereby amended to read as follows:

"SEC. 3. *Admission into the Program.* — Any person who has witnessed or has knowledge or information on the commission of a crime and has testified or is testifying or about to testify before any judicial or quasi-judicial body, or before any investigating authority, may be admitted into the Program: *Provided, That:*

"a) The offense [in] **FOR** which [his] **THE** testimony will be used is a grave felony as defined under the Revised Penal Code, or its equivalent under special laws;

"b) [His] **THE** testimony can be substantially corroborated in its material points;

"c) [He] **THE** WITNESS or any member of [his] **THE** WITNESS' family within the second [civil] degree of consanguinity or affinity is subjected to threats to [his] life or bodily injury or there is a likelihood that [he] **THE** WITNESS will be killed, forced, intimidated, harassed or corrupted [to prevent him] **SO AS TO BE PREVENTED** from testifying, or to testify falsely or evasively, because or on account of [his] **THE** testimony GIVEN; and

"d) [He] **THE** WITNESS is not a law enforcement officer, [even if he would be testifying] **UNLESS THE TESTIMONY TO BE GIVEN WILL BE** against other law enforcement officers [in such a

case, only the immediate members of his family may avail themselves of the protection provided for under this Act.]

"If the Department, after examination of said applicant and other relevant facts, is convinced that the requirements of this Act and its implementing rules and regulations have been complied with, it shall admit said applicant to the Program, require said witness to execute a sworn statement detailing his knowledge or information on the commission of the crime, and thereafter issue the proper certification, for purposes of this Act, any such person admitted to the Program shall be known as the Witness."

"SEC. 4. *Witness in Legislative Investigations.* - In case of legislative investigations in aid of legislation, [a witness,] THE SENATE OF THE PHILIPPINES OR THE HOUSE OF REPRESENTATIVES, AS THE CASE MAY BE, MAY PROVIDE FOR A SEPARATE 'WITNESS PROTECTION, SECURITY AND BENEFIT PROGRAM' FOR ITS RESOURCE PERSONS AND/OR WITNESSES. THE WITNESS AND/OR RESOURCE PERSON, [with his express consent,] may be admitted into the Program upon THE WRITTEN APPLICATION AND the recommendation of the legislative committee where [his] THE testimony is needed when in its judgment there is a pressing necessity [therefor] FOR THE WITNESS' TESTIMONY OR THE PRODUCTION OF DOCUMENTS OR EVIDENCE IN POSSESSION OR CUSTODY OF THE WITNESS: *Provided,* That such recommendation is approved by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

'THE SENATE OF THE PHILIPPINES OR THE HOUSE OF REPRESENTATIVES, AS THE CASE MAY BE, SHALL HAVE PRIMARY JURISDICTION IN THE ADMINISTRATION AND IMPLEMENTATION OF THE LEGISLATIVE WITNESS PROTECTION, SECURITY AND BENEFIT PROGRAM. CONGRESS MAY REQUEST THE NECESSARY ASSISTANCE FROM ANY DEPARTMENT, BUREAU, OFFICE OR ANY OTHER EXECUTIVE AGENCY TO ASSIST IN THE IMPLEMENTATION OF THE PROGRAM: *PROVIDED, HOWEVER,* THAT IN THE EVENT THAT A CRIMINAL CASE HAS BEEN INSTITUTED, FOR PRELIMINARY INVESTIGATION OR FILING OF A CASE IN COURT, IN RELATION TO THE SUBJECT OF THE LEGISLATIVE INQUIRY, ANY WITNESS TO THE CRIMINAL CASE COVERED BY THE LEGISLATIVE WITNESS PROTECTION, SECURITY AND BENEFIT PROGRAM SHALL BE TURNED OVER TO THE WITNESS PROTECTION, SECURITY AND BENEFIT PROGRAM ADMINISTERED BY THE DEPARTMENT OF JUSTICE: *PROVIDED, FURTHER,* THAT ANY WITNESS TO A CRIMINAL CASE WHO IS COVERED BY THE PROGRAM ADMINISTERED BY THE DEPARTMENT OF JUSTICE SHALL CONTINUE TO BE COVERED AND SHALL

REMAIN UNDER SUCH PROGRAM NOTWITHSTANDING ANY LEGISLATIVE INQUIRY THAT MAY BE INITIATED THEREAFTER WHERE SUCH WITNESS MAY BE CALLED UPON TO TESTIFY AS A RESOURCE PERSON.

"ANY WITNESS COVERED BY THE LEGISLATIVE WITNESS PROTECTION, SECURITY AND BENEFIT PROGRAM SHALL ENJOY THE SAME RIGHTS AND BENEFITS, BEAR THE SAME RESPONSIBILITIES AND SHALL BE SUBJECT TO THE SAME CONDITIONS AS PROVIDED FOR IN THIS ACT.

"TO EFFECTIVELY CARRY OUT THIS PROVISION, CONGRESS SHALL PROVIDE FUNDING FOR THE IMPLEMENTATION OF ITS OWN WITNESS PROTECTION, SECURITY AND BENEFIT PROGRAM AND PROMULGATE ITS OWN RULES AND REGULATIONS."

"SEC. 5. *Memorandum of Agreement (MOA) with the Person to be Protected*. — [Before a person is provided] AS A PREREQUISITE TO THE AVAILMENT OF THE protection under this Act, [he shall first execute] THE WITNESS SHALL ENTER INTO a memorandum of agreement WITH THE DEPARTMENT, which shall set forth [his] CERTAIN responsibilities including:

"a) To testify before and provide information to all appropriate law enforcement officials concerning all appropriate proceedings in connection with or arising from the activities involved in the offense charged;

"b) To avoid the commission of a crime;

"c) To take all necessary precautions to avoid detection by others of the facts concerning the protection provided [him] under this Act;

"d) To comply with legal obligations and civil judgments against [him] ONE'S PERSON,

"e) To cooperate with respect to all reasonable requests of officers and employees of the Government who are providing protection under this Act, [and]

"f) To regularly inform the appropriate program official of [his] current activities and address[.];

"G) NOT TO COMMUNICATE WITH ANY ADVERSE PARTY OR NEGOTIATE FOR OR ENTER INTO, AN AMICABLE SETTLEMENT ON THE CIVIL OR CRIMINAL ASPECT OF THE OFFENSE SUBJECT OF THE CASE OR INVESTIGATION; AND

"H) TO COMPLY WITH SUCH OTHER CONDITIONS AS THE SECRETARY OF JUSTICE MAY DEEM PROPER TO IMPOSE FOR THE SUCCESSFUL INVESTIGATION OR PROSECUTION OF THE CASE OR TO PRESERVE THE INTEGRITY OF THE PROGRAM."

"SEC. 6. *Breach of Memorandum of Agreement*.-- Substantial breach of the memorandum of agreement shall be a ground for the

IMMEDIATE termination of the **BENEFITS AND** protection provided under this Act; *Provided, However,* That before terminating such protection, [The Secretary of Justice shall send notice to the person involved of the termination of the **BENEFITS AND** protection provided under this Act, stating therein the reason for such termination.]

"SEC. 7. *Confidentiality [of Proceedings].* — All [proceedings] **MATTERS** involving [application for] admission **AND COVERAGE** [into] **UNDER** the Program [and the action taken thereon] shall be confidential in nature [.] **AND [N]** No information or documents [given or submitted in support thereof] **RELATIVE THERETO** shall be released except upon written order of the Department or the proper court.

"Any person who violates the confidentiality of said proceedings shall upon conviction be punished with imprisonment of not less than [one (1) year] **FOUR (4) YEARS** but not more than six (6) years and deprivation of the right to hold a public office or employment for a period of five (5) years.

"**NO INJUNCTION OR TEMPORARY RESTRAINING ORDER SHALL BE ISSUED BY ANY COURT ENJOINING THE ADMISSION OF THE WITNESS IN THE PROGRAM BY THE DEPARTMENT.**"

"SEC. 8. *Rights and Benefits.* — The Witness shall have the **RIGHT TO SECURITY AND PROTECTION AS WELL AS THE FOLLOWING** [rights and] benefits"

"a) To have a secure housing facility until he has testified or until the threat, intimidation or harassment disappears or is reduced to a manageable or tolerable level. When the circumstances warrant, the Witness shall be entitled to relocation and/or change of personal identity at the expense of the Program. This right **TO A SECURE HOUSING FACILITY AND RELOCATION** may be extended to any member of the family of the Witness within the second [civil] degree of consanguinity or affinity.

"**A CHANGE OF PERSONAL IDENTITY** may include **OF NAME. THE SECRETARY OF JUSTICE, UPON APPLICATION OF THE WITNESS COVERED UNDER THE PROGRAM AND IN ACCORDANCE WITH THE RULES WHICH THE DEPARTMENT SHALL HEREAFTER PROMULGATE, MAY ORDER A CHANGE OF THE FIRST NAME, MIDDLE NAME AND/OR FAMILY NAME OF THE WITNESS COVERED, WITHOUT NEED OF A SEPARATE JUDICIAL ORDER OR ADMINISTRATIVE PROCEEDINGS. PURSUANT TO SUCH ORDER, THE SECRETARY OF JUSTICE MAY DIRECT ALL CONCERNED AGENCIES OF THE GOVERNMENT TO MAKE THE NECESSARY ENTRIES IN THEIR RESPECTIVE REGISTRIES IN SUCH A MANNER THAT ENSURES THE CONFIDENTIALITY OF THE PROCEEDINGS**

AND AVOID A DISCLOSURE OF THE IDENTITY OF THE WITNESS.

"b) The Department shall, whenever practicable, assist the Witness in obtaining a means of livelihood. The Witness relocated pursuant to this Act shall be entitled to a financial assistance from the Program [for his support and that of his family] in such amount and for such duration as the Department shall determine.

"c) In no case shall the Witness be removed from or demoted in work because or on account of [his] ONE'S absences due to [his] attendance before any judicial or quasi-judicial body or investigating authority, including legislative investigations in aid of legislation, in going thereto and in coming therefrom. *Provided*, That his employer is notified through a certification issued by the Department, within a period of thirty (30) days from the date when the Witness last reported for work. *Provided, further*, That in the case of prolonged transfer or permanent relocation, the employer shall have the option to remove the Witness from employment after securing clearance from the Department, upon the recommendation of the Department of Labor and Employment.

"Any Witness who failed to report for work because of witness duty shall be paid [his] BY ONE'S EMPLOYER THE equivalent salaries or wages corresponding to the number of days of absence occasioned by the Program. For purposes of this Act, any fraction of a day shall constitute a full day salary or wage. This provision shall be applicable to both government and private employees.

"d) To be provided with reasonable traveling expenses and subsistence allowance by the Program in such amount as the Department may determine for his attendance in the court, body or authority where his testimony is required, as well as conferences and interviews with prosecutors or investigating officers.

"e) To be provided with NECESSARY free medical attention, treatment, hospitalization and medicines PARTICULARLY for any injury, [on illness OR ANY OTHER MEDICAL CONDITION incurred or suffered by [him because of] THE WITNESS OR BY THE SPOUSE AND MINOR OR DEPENDENT CHILDREN WHILE ON witness duty OR WHILE IN THE TEMPORARY SHELTER PROVIDED BY THE PROGRAM in any [private or] public hospital, clinic, or at any such institution at the expense of the Program.

"WITNESS DUTY SHALL INCLUDE THE ATTENDANCE OF THE WITNESS IN THE COURT, BODY OR AUTHORITY WHERE THE TESTIMONY IS REQUIRED AS WELL AS CONFERENCES AND INTERVIEWS WITH PROSECUTORS OR INVESTIGATING OFFICERS. A WITNESS WHO IS RELOCATED TO AN ACCREDITED WITNESS PROTECTION, SECURITY AND BENEFIT PROGRAM TEMPORARY SHELTER SHALL BE CONSIDERED TO BE UNDER WITNESS DUTY FOR THE DURATION OF STAY IN SAID TEMPORARY SHELTER."

"f) If a Witness is killed because of [this] participation in the Program, [this] THE WITNESS' heirs shall be entitled to a burial benefit of not less than Ten thousand pesos (P10,000.00) from the Program exclusive of any other similar benefits [he] THE WITNESS may be entitled to under other existing laws.

"g) [In case of death or permanent incapacity, his] THE WITNESS' minor or dependent children shall be entitled to free education AND/OR EDUCATIONAL ASSISTANCE, from primary to college level in any state [or private] school, college or university [as may be determined by the Department.] as long as they shall have qualified thereto. THE EDUCATIONAL BENEFITS HEREIN PROVIDED CAN BE AVAILED BY THE WITNESS' MINOR OR DEPENDENT CHILDREN FOR PRIMARY, SECONDARY AND TERTIARY EDUCATION, BUT IN THE LATTER CASE, NOT TO EXCEED FIVE (5) YEARS.

SECTION 2. Sections 10 and 12 of the same Act are hereby amended to read as follows:

"SEC. 10. [State Witness] ADMISSION OF OFFENDERS.— Any person who has participated in the commission of a crime and desires to be a witness for the [State] GOVERNMENT, can apply and, if qualified as determined in this Act and by the Department, shall be admitted into the Program whenever the following circumstances are present.

"a) The offense in which [this] THE testimony will be used is a grave felony as defined under the Revised Penal Code or its equivalent under special laws;

"b) There is absolute necessity for [this] THE testimony;

"c) There is no other direct evidence available for the proper prosecution of the offense committed.

"d) [His] testimony can be substantially corroborated on its material points,

"e) [He] THE PERSON does not appear to be most guilty, and

"f) [He] THE PERSON has not at any time been convicted of any crime involving moral turpitude.

"THE ADMISSION OF A PERSON TO THE PROGRAM IS DISTINCT AND SEPARATE FROM A DISCHARGE OF AN ACCUSED FROM AN INFORMATION OR CRIMINAL COMPLAINT BY THE COURT IN ORDER THAT SAID ACCUSED MAY BE A STATE WITNESS PURSUANT TO SECTION 17 OF RULE 119 OF THE REVISED RULES OF COURT."

An accused discharged from an information or criminal complaint by the court in order that [he] THE ACCUSED may be a State Witness pursuant to [Sections 9 and 10] SECTION 17 of Rule 119 of the Revised Rules of Court may, upon [his] petition, be admitted to the Program [if he complies] UPON COMPLIANCE with the other requirements of this Act. Nothing in this Act shall prevent the

discharge of an accused], so that he can be used] **WHO QUALIFIED** as [a] State Witness under **SECTION 17**, Rule 119 of the Revised Rules of Court."

"SEC. 12. *Effect of Admission of a [State] Witness into the Program.* — The certification of admission into the Program by the Department shall be given full faith and credit by the provincial or city prosecutor who is required not to include the Witness in the criminal complaint or information and if included therein, to petition the court for [his] THE discharge PURSUANT TO THIS ACT in order that [he] ONE can be utilized as a [State] Witness FOR THE PROSECUTION [The court shall order the discharge and exclusion of the said accused from the information.]

"Admission into the Program shall AUTOMATICALLY entitle such [State] COVERED Witness to immunity from criminal prosecution for the offense or offenses in which [his] THE testimony will be given or used and [all the rights and benefits provided under Section 8 hereof] THE COURT SHALL ORDER THE DISCHARGE AND EXCLUSION OF THE SAID WITNESS FROM THE INFORMATION."

SECTION 3. A new section (Section 12-A) shall be inserted between Section 12 and Section 13 of the same Act, which shall read as follows.

"SEC. 12-A. PERPETUATION OF TESTIMONY. — A WITNESS ONCE ADMITTED INTO THE PROGRAM SHALL PERPETUATE THE TESTIMONY PURSUANT TO RULE 134 OF THE REVISED RULES OF COURT."

SECTION 4. Sections 13, 14, 15 and 17 of the same Act are hereby amended to read as follows:

"SEC. 13. *Failure or Refusal of the Witness to COOPERATE OR testify.* — [Any Witness registered in the Program who fails or refuses to testify or to continue to testify without just cause when lawfully obliged to do so, shall be prosecuted for contempt. If he testifies falsely or evasively, he shall be liable to prosecution for perjury. If a State Witness fails or refuses to testify, or testifies falsely or evasively, or violates any condition accompanying such immunity without just cause as determined in a hearing by the proper court, his immunity shall be removed and he shall be subject to contempt or criminal prosecution, Moreover, the enjoyment of all rights and benefits under this Act shall be deemed terminated.]

"[The Witness may, however, purge himself of the continuations acts by testifying at any appropriate stage of the proceedings.]

"A WITNESS COVERED UNDER THE PROGRAM WHO UNJUSTLY FAILS OR REFUSES TO COOPERATE OR TESTIFY IN THE INVESTIGATION OR PROSECUTION OF A CASE OR WHO GIVES FALSE OR MIS LEADING

TESTIMONY SHALL BE CRIMINALLY PROSECUTED AND SHALL, UPON CONVICTION, SUFFER THE PENALTY OF IMPRISONMENT OF NOT LESS THAN FOUR (4) YEARS BUT NOT EXCEEDING SIX (6) YEARS. THE WITNESS SHALL ALSO BE REQUIRED TO RESTITUTE ALL THE PROGRAM'S EXPENSES RELATIVE TO HIS COVERAGE WITHOUT PREJUDICE TO PROSECUTE ON FOR CONTEMPT UNDER OTHER EXISTING LAWS."

"SEC. 14. *Compelled Testimony*.— Any Witness admitted into the Program pursuant to Sections 3 and 10 of this Act cannot refuse to testify or give evidence or produce books, documents, records, or writings [he] necessary for the prosecution of the offense or offenses for which [he] ONE has been admitted into the Program on the ground of the constitutional right against self-incrimination. [but he] SAID WITNESS shall enjoy immunity from criminal prosecution and [cannot] SHALL NOT be subjected to any penalty or forfeiture for any transaction, matter or thing concerning his compelled testimony or books, documents, records or writings produced.

"In case of refusal of said Witness to testify or give evidence or produce books, documents, records, or writings, on the ground of the right against self-incrimination, and the state prosecutor or investigator believes that such evidence is absolutely necessary for a successful prosecution of the offense or offenses charged or under investigation, he, with the prior approval of the Department shall file a petition with the appropriate court for the issuance of an order requiring said Witness to testify, give evidence or produce the books, documents, records, and writings described, and the court shall issue the proper order.

"The court, upon motion of the state prosecutor or investigator, shall order the arrest and detention of the Witness in any jail contiguous to the place of trial or investigation until such time that the Witness is willing to give such testimony or produce such documentary evidence."

"SEC. 15. [Perjury or] Contempt.— No Witness shall be exempt from prosecution for [perjury or] contempt committed while giving testimony or producing evidence under compulsion pursuant to this Act. [The penalty next higher in degree shall be imposed in case of conviction for perjury,] The procedure prescribed under Rule 71 of the Rules of Court shall be followed in contempt proceedings but the penalty to be imposed shall not be less than one (1) month but not more than one (1) year imprisonment."

"SEC. 17. *Penalty for Harassment of Witness*.— any person who harasses a Witness [and thereby hinders, delays, prevents or dissuades a Witness] BY REASON OF THE SWORN STATEMENT OR TESTIMONY GIVEN BY THE LATTER, OR WHO ATTEMPTS TO HINDER, DELAY, PREVENT OR DISSUADE THE WITNESS

from:

"a) Attending or testifying before any judicial or quasi-judicial body or investigating authority;

"b) Reporting to a law enforcement officer or judge the commission or possible commission of an offense, or a violation of conditions or 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 [Three thousand pesos (P3 000.00)] **TWENTY THOUSAND PESOS (P20,000.00)** or suffer imprisonment of not less than [six (6) months] **TWO (2) YEARS** but not more than [one (1) year,] **FOUR (4) YEARS.** [or both. He shall also suffer the penalty of perpetual disqualification from holding public office in case of a public officer.]

"IN ADDITION, THE PENALTY OF PERPETUAL DISQUALIFICATION FROM HOLDING PUBLIC OFFICE SHALL BE IMPOSED UPON THE OFFENDER WHO IS A PUBLIC OFFICER."

SECTION 5. A new section (Section 17-A) is hereby inserted in Republic Act No. 6981 which shall read as follows:

"SEC. 17-A. CONSTRUCTION OF PROVISIONS. — IN CASE OF DOUBT, ANY PROVISION OF THIS ACT SHALL BE CONSTRUED IN FAVOR OF THE ADMISSION OF THE WITNESS."

SECTION 6. Appropriations.— *The amount necessary to carry out the provisions of this Act shall be included in the annual General Appropriations Act.*

SECTION 7. Rules and Regulations.— *The Department of Justice shall promulgate the necessary rules and regulations to implement this Act.*

SECTION 8. Separability Clause.— *If any section or provision of this Act shall be declared unconstitutional or invalid, such shall not invalidate any other section of this Act.*

SECTION 9. Repealing Clause.— *All laws, decrees, orders, rules, regulations, ordinances or parts thereof which are inconsistent with this Act are hereby repealed or modified accordingly.*

SECTION 10. Effectivity Clause.— *This Act shall take effect fifteen (15) days after its complete publication in at least two (2) general newspapers of national circulation.*

Approved,