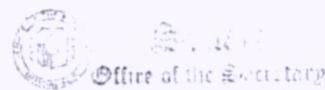


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



SENATE
S. B. No. 824

19 JUL 30 A9:15

RECEIVED

Introduced by Senator SONNY ANGARA

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

EXPLANATORY NOTE

Since 2010, much has been achieved in the drive against corruption in the public service. Government is slowly regaining the trust and confidence of the citizenry, after years of being cast under a long shadow of doubt. In fact, the Philippines ranked 99th out of 180 countries in the Corruption Perceptions Index of the Transparency International report for 2018, 12 notches lower than its rank in the previous year.

The 2017 Global Corruption Barometer of Transparency International also affirms this, showing that the Philippines was among a handful of countries where comparatively more people reported that they believe corruption in their society has decreased.

The survey also pinpoints that more than half of the respondents, particularly young people, believed that *ordinary people* could make a difference in the fight against corruption.

Government must leverage this civic spirit, especially toward realizing Section 11, Article 1 of the Philippine Constitution, stating that public office is a public trust. It carries the obligation to craft and implement a framework that enables, even *incentivizes*, citizens to contribute in exposing any government misconduct.

The 2017 survey even highlights the need “for better whistleblower protection and effective reporting mechanisms” and noted that encouraging victims to report corruption is the most effective way to stop it.

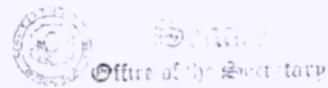
The proposed measure institutionalizes such a framework by defining the security, protection and benefits afforded to whistleblowers.

By enabling citizens to speak up about any wrongdoing in the government, this measure adds to other mechanisms already in place that help restore credibility, integrity and accountability in public service.



SONNY ANGARA

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



SENATE
S. B. No. 824

*19 JUL 30 A9:15

Introduced by Senator SONNY ANGARA

RECEIVED BY

J

AN ACT

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

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 Protection, Security and Benefit Act of 2019."

3 Sec. 2. *Declaration of Policy.* – Public office is a public trust. It is the policy of 4 the State to promote and ensure full accountability in the conduct of its officers and 5 employees, and exact full retribution from those who shall engage in graft and 6 corrupt practices. Towards this 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 investigation and prosecution of
9 corrupt and erring public officials and employees; and
10 c) Encourage and facilitate the disclosure of corrupt conduct and practices in the
11 public service by providing benefits and protection to whistleblowers.

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

14 Sec. 3. *Definition of Terms.* – As used in this Act, the following terms are
15 hereby defined as follows:

- 1 a) *Acts constituting graft and corruption* refer to any conduct, act or omission of
2 public officers and employees which are covered by, or constitute as
3 violations of:
- 4 1. Republic Act No. 3019, otherwise known as the "Anti-Graft and Corrupt
5 Practices Act";
6 2. Sections 7, 8 and 9 of Republic Act No. 6713, otherwise known as the
7 "Code of Conduct and Ethical Standards for Public Officials and
8 Employees";
9 3. Republic Act No. 7080, entitled "An Act Defining and Penalizing the
10 Crime of Plunder";
11 4. Presidential Decree No. 46, entitled "Making it Punishable for Public
12 Officials and Employees to Receive, and for Private Persons to Give,
13 Gifts on Any Occasion, Including Christmas"; and
14 5. Title VII, Book Two of the Revised Penal Code on "Crimes Committed
15 by Public Officers".
- 16 b) *Council* refers to the Whistleblower Benefits and Protection Council created
17 pursuant to Section 29 of this Act.
- 18 c) *Informant* refers to any person who has personal knowledge or access to
19 data, events or information, of any conduct constituting graft and corruption
20 as defined under this Act by public officer/s and employee/s, and who shall
21 deliberately disclose of individual, collective or organized conduct constituting
22 graft and corruption as provided in this Act.
- 23 d) *Program* refers to the "Whistleblower Protection, Security and Benefit
24 Program" which the Council shall formulate and implement pursuant to this
25 Act.
- 26 e) *Public officer* refers to any person holding any public office in the Government
27 of the Republic of the Philippines by virtue of an appointment, election or
28 contract.
- 29 f) *Whistleblower* refers to an informant admitted into the Program of the Council
30 in accordance with this Act and its rules and regulations.
- 31 g) *Reprisal* refers to any negative or obstructive response or reaction to a
32 disclosure made under this Act aimed at, pertaining to, or against a

1 whistleblower or any of the members of the family and relatives up to the
2 second degree of consanguinity or affinity.

3 h) *Reprisal in workplace* refers to any discriminatory conduct or policies against
4 a whistleblower which affect promotion or job assignment including undue
5 negative performance appraisal, unusual and unwarranted close monitoring
6 by supervisors, unwarranted criticisms or avoidance by co-employees,
7 blacklisting from other job opportunities or prejudicial transfers by reason of a
8 disclosure made under this Act.

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

15 Sec. 5. *Admission to the Program.* – Whistleblowers admitted into the
16 Program shall be entitled to the protection and benefits under this Act: *Provided,*
17 That all the following requisites concur:

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

29 Sec. 6. *Necessity of Testimony.* – The testimony of a whistleblower in court
30 shall not be necessary for the entitlement to the benefits and protection under this
31 Act, subject to the provision of Section 17 herein. In the event that the
32 whistleblower’s testimony is determined by the Council to be necessary and

1 indispensable to the success of an investigation or the prosecution of a case, the
2 whistleblower shall be entitled to the additional benefits and protection under
3 Republic Act No. 6981, otherwise known as the "Witness Protection, Security and
4 Benefit Act".

5 *Sec. 7. Memorandum of Agreement with the Whistleblower.* – As a
6 prerequisite to the availment of the protection and benefits under this Act, a
7 whistleblower shall enter into a Memorandum of Agreement with the Department of
8 Justice (DOJ) which shall set forth the whistleblower's responsibilities including the
9 following:

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

22 *Sec. 8. Breach of the Memorandum of Agreement.* – Substantial breach of the
23 Memorandum of Agreement shall be a ground for the immediate termination of the
24 protection and benefits provided under this Act. The Council shall send notice to a
25 whistleblower concerned, stating therein the reason for such termination. In view
26 thereof, a whistleblower shall be afforded reasonable time to take appropriate and
27 necessary protection and security measures.

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

30 *Sec. 9. Protection Against Other Actions.* – A whistleblower or an informant
31 who has made a disclosure under this Act shall not be subject to any liability in any

1 proceeding. Any disclosure made or any document submitted to the Council shall be
2 inadmissible in evidence against the whistleblower.

3 This protection shall also operate as immunity in favor of a whistleblower or
4 informant against any action or proceeding taken against the whistleblower by any
5 person subject of a disclosure, by reason thereof and acts in relation to subject of
6 disclosure. Provided, however, that the protection against any action or proceeding
7 shall not be available in cases of deliberate and voluntary giving of false or
8 misleading information, and of any unjustified recantation of testimony by a
9 whistleblower.

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

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

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

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

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

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

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

7 The prohibition on disclosure under this section shall apply to any person who
8 has become privy to any confidential information, whether officially or by other
9 means.

10 Sec. 14. *Protection Against Disciplinary Action or Reprisals.* – A whistleblower
11 who has made or is believed or suspected to have made a disclosure under this Act
12 is not liable to disciplinary action for making said disclosure.

13 Prohibited acts under this section include reprisals in the workplace or
14 prejudicial conduct towards a whistleblower such as: discriminatory actions behind
15 policies and procedures, unwarranted reprimand, punitive transfers, malicious
16 referral to a psychiatrist or counselor, and unfounded or baseless poor performance
17 reviews. Other prejudicial actions include obstruction of an investigation, withdrawal
18 of essential resources, undue reports and the attachment of false personnel files or
19 notes.

20 Sec. 15. *Security and Protection of a Whistleblower.* – When determined to be
21 necessary and appropriate by the Council, a whistleblower, even if the disclosure is
22 made in confidence, shall be entitled to personal security. For this purpose, the
23 Council may request any law enforcement agency for assistance. Should, at any
24 time, the identity of the whistleblower be revealed, or anonymity compromised, the
25 whistleblower may, upon the recommendation of the Council, be entitled to the
26 benefits of Republic Act No. 6981, in addition to the other benefits under this Act.

27 Sec. 16. *Confidentiality of the Proceedings.* – All proceedings before the
28 Council involving application and/or enjoyment of the benefits under this Act,
29 including any action taken thereon, shall be confidential in nature. No information
30 or documents given or submitted in support thereof shall be released except upon
31 written order of the Council, and provided such disclosure shall not endanger the life
32 of a whistleblower.

1 Sec. 17. *Financial Rewards for Whistleblowers.* – The whistleblower shall be
2 entitled to a corresponding monetary reward in accordance with the following
3 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	P100,000.00	P 50,000.00
Upon completion of the testimony of the whistleblower	P100,000.00	P 50,000.00

4 For cases capable of pecuniary estimation, such as plunder, forfeiture of ill-gotten wealth, bribery, malversation and damage or injury to government, the 5 whistleblower shall be entitled to an additional reward of ten percent (10%) of the 6 actual amount recovered by final judgment.

7 Sec. 18. *Return of the Amount Received as Financial Rewards.* – A 8 whistleblower admitted into the Program who deliberately and voluntarily gives false 9 or misleading information in connection with conduct constituting graft and 10 corruption as defined under this Act or who unjustifiably recants testimony shall, in 11 addition to the penalties provided in Section 21 and Section 22 of this Act, be 12 required to return all the amounts received as financial rewards.

13 Sec. 19. *Mandatory Posting of Abstract.* – All government agencies, offices, 14 bureaus and LGUs, including government-owned or -controlled corporations, 15 whether or not with original charters, shall conspicuously display an abstract of this 16 Act and the rights and protections of whistleblowers or informants. Such abstract 17 shall be provided in the rules and regulations to be promulgated pursuant to Section 18 31 of this Act.

19 All government agencies, offices, bureaus and LGUs, including government-owned 20 and -controlled corporations, whether or not with original charters, are 21 likewise required to put in place internal procedures for dealing with whistleblowers 22 or informants, consistent with the provisions of this Act and the rules and 23

1 regulations. Said internal procedure shall be widely disseminated to all the public
2 employees.

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

7 Sec. 21. *Penalty for Giving False and Misleading Information.* – The penalty of
8 imprisonment of not less than six (6) years but not more than twelve (12) years and
9 a fine of not more than One hundred thousand pesos (Php100,000.00) shall be
10 imposed upon a whistleblower who deliberately and voluntarily gives false or
11 misleading information in connection with conduct constituting graft and corruption
12 under this Act. If the offender is a public officer or employee, the penalty of
13 dismissal from the service and the accessory penalty of perpetual absolute
14 disqualification from holding public office shall also be imposed. In addition, the
15 offender may be held criminally and civilly liable under existing laws.

16 Sec. 22. *Penalty for Unjustified Recantation.* – The unjustified recantation of
17 testimony by a whistleblower shall constitute an offense and shall be punishable by
18 a penalty of imprisonment of not less than four (4) years but not more than six (6)
19 years.

20 Sec. 23. *Penalty for Reprisal Against Whistleblower.* – The penalty of
21 imprisonment of not less than six (6) years but not more than twelve (12) years or a
22 fine of not more than One hundred thousand pesos (Php100,000.00), or both, at the
23 discretion of the court shall be imposed upon any person who shall commit any act
24 of reprisal as defined in this Act against a whistleblower and/or hinders, delays,
25 prevents or dissuades said whistleblower from:

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

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

5 In addition, the penalty of dismissal from the service and the accessory
6 penalty of perpetual absolute disqualification from holding public office shall be
7 imposed upon an offender who is a public officer or employee.

8 Sec. 24. *Penalty for Violation of Confidentiality.* – The penalty of
9 imprisonment of not less than six (6) months but not more than six (6) years shall
10 be imposed upon any person who shall violate the protection of confidentiality of a
11 protected disclosure under Sections 10, 11, 13 and 16 of this Act. The penalty of
12 dismissal from the service and the accessory penalty of temporary absolute
13 disqualification from holding public office shall also be imposed upon an offender
14 who is a public officer or employee. In addition, the offender shall be civilly liable to
15 indemnify the whistleblower or informant in such amount of damages as may be
16 awarded and deemed reasonable by a competent court.

17 Sec. 25. *Penalty for Reprisal in the Workplace.* – The penalty of imprisonment
18 of not more than six (6) years but not more than twelve (12) years shall be imposed
19 upon any person who shall commit any act of reprisal in the workplace as defined in
20 this Act, against a whistleblower or believed or suspected to be one. The penalty of
21 dismissal from the service and the accessory penalty of temporary absolute
22 disqualification from holding public office shall also be imposed upon an offender
23 who is a public officer or employee. In addition, the offender shall be civilly liable to
24 indemnify the whistleblower in such amount of damages as may be awarded and
25 deemed reasonable by a competent court. Towards this end, an aggrieved
26 whistleblower shall be entitled to the provisional remedy of injunction against any
27 reprisal in the workplace, prejudicial conduct, or discriminatory treatment by reason
28 of whistleblower's disclosure.

29 The proceedings herein shall be independent of any action that an aggrieved
30 person may take before the Civil Service Commission or the DOLE for unfair or
31 discriminatory practices, backwages, or other labor disputes, or before other quasi-

1 judicial agencies that may or may not have arisen from a disclosure or believed or
2 suspected disclosure.

3 Sec. 26. *Penalty for Discriminatory Hiring.* – The penalty of imprisonment of
4 not more than six (6) months shall be imposed upon any person who shall deny a
5 qualified applicant for employment, or who shall reject an application for
6 employment solely on the ground that an applicant is a whistleblower or informant
7 for the State. If the offender is a corporation, partnership, association, or any
8 juridical person, the penalty shall be imposed upon the president, partner, manager
9 and/or any responsible officer who participated in the commission of the offense.

10 The penalty of dismissal from the service and the accessory penalty of
11 suspension of the right to hold public office shall also be imposed upon the offender
12 who is a public officer or employee.

13 In addition, the offender shall be civilly liable to indemnify the whistleblower
14 in such amount of damages as may be awarded and deemed reasonable by a
15 competent court.

16 Sec. 27. *Failure to Post Abstract.* – The failure to post an abstract required
17 under Section 19 of this Act shall constitute an offense and shall be punishable with
18 a fine of One hundred thousand pesos (Php100,000.00) for the first offense. The
19 amount shall be doubled for every succeeding offense, and punishable with
20 imprisonment of not more than six (6) months at the discretion of the court. For
21 this purpose, the president, general manager, or head of agency, office or bureau
22 shall be held criminally liable and shall suffer the accessory penalty of suspension of
23 the right to hold public office.

24 Sec. 28. *Failure to Act or Report to the Council.* – Any person under obligation
25 to report a disclosure under this Act to the Council, who fails to do so within a period
26 of two (2) months, or who fails to act thereon or cause an investigation thereof,
27 shall be held liable and shall suffer the penalty of not more than one (1) month
28 imprisonment or a fine of not more than Fifty thousand pesos (Php50,000.00) at the
29 discretion of the court.

30 Sec. 29. *Whistleblower Benefits and Protection Council.* – A Whistleblower
31 Benefits and Protection Council is hereby created composed of the Overall Deputy
32 Ombudsman as Chairperson, and the following as members:

- 1 a) Prosecutor General, DOJ;
- 2 b) Special Prosecutor, Ombudsman;
- 3 c) Witness Protection Program Director, DOJ;
- 4 d) Executive Director, Anti-Money Laundering Council;
- 5 e) Director, Legal Service, Philippine National Police, in case the respondent is a
6 member thereof;
- 7 f) The Judge Advocate General of the Armed Forces of the Philippines, in case
8 the respondent is a member thereof;
- 9 g) A representative from the civil society/nongovernment organization involved
10 in anti-corruption and good governance to be appointed by the Chairperson
11 of the Council, upon the recommendation of the members thereof; and
- 12 h) A representative from the business sector to be appointed by the Chairperson
13 of the Council, upon the recommendation of the Philippine Chamber of
14 Commerce and Industry.

15 The existing personnel of the Office of the Ombudsman shall serve as
16 secretariat to the Council.

17 Sec. 30. *Powers and Functions of the Council.* – In addition to its powers and
18 functions under existing laws, the Council shall have the following powers and
19 functions:

- 20 a) Monitor, coordinate and evaluate all efforts relative to the implementation and
21 enforcement of the provisions of this Act;
- 22 b) Evaluate the disclosure and qualification of whistleblowers or informants for
23 coverage within this Act, and make the appropriate decision on their
24 entitlement to the benefits extended herein;
- 25 c) Undertake, in coordination and cooperation with the private and public
26 sectors, an information campaign to educate the public on the provisions and
27 benefits of this Act;
- 28 d) Develop plans and implement programs to further encourage whistleblowers
29 or informants on graft and corrupt activities with a view to effective
30 deterrence and/or prosecution;

- 1 e) Control and administer, consistent with the provisions and purposes of this
- 2 Act, the protection and benefits of whistleblowers in connection with the
- 3 cases within the coverage of Section 4 of this Act;
- 4 f) Call upon, or deputize any department, bureau, office or any other
- 5 government agency or public official to assist in the effective implementation
- 6 and enforcement of this Act; and
- 7 g) Grant immunity in accordance with the provisions of this Act and its
- 8 implementing rules and regulations.

9 Sec. 31. *Appropriations.* – The amount necessary to carry out the provisions
10 of this Act shall be included in the annual General Appropriations Act.

11 Sec. 32. *Implementing Rules and Regulations.* – The Council shall promulgate
12 such rules and regulations as may be necessary to implement the intent and
13 purposes of this Act. Said rules and regulations shall be published in two (2)
14 newspapers of general circulation.

15 Sec. 33. *Separability Clause.* – If any portion or provision of this Act is
16 subsequently declared invalid or unconstitutional, other provisions hereof which are
17 not affected thereby shall remain in full force and effect.

18 Sec. 34. *Repealing Clause.* – All other laws, acts, presidential decrees,
19 executive orders, presidential proclamations, issuances, rules and regulations, or
20 parts thereof which are contrary to or inconsistent with any of the provisions of this
21 Act are hereby repealed, amended, or modified accordingly.

22 Sec. 35. *Effectivity.* – This Act shall take effect fifteen (15) days after its
23 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,