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HOUSE OF REPRESENTATIVES
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H. B. No. 419

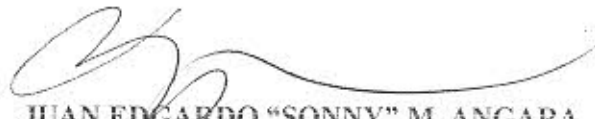
Introduced by HONORABLE JUAN EDGARDO "SONNY" M. ANGARA

EXPLANATORY NOTE

A comparative study of the laws of various nations dealing with anti-corruption efforts and good government, will show that the Philippines has some very good laws on these matters. Oftentimes, however, these laws have no deterrent effect against perpetrators of government corruption because there is little incentive for persons to expose such acts. Many fear reprisal or disturbance should they expose such acts. Thus, conviction rates are quite low and many acts of corruption are merely tolerated.

There is a need for a legal mechanism to secure the person of the informant must be set up so that any potential informer on graft and corruption activities will not hesitate to come out in the open. This bill will set up such mechanism specifically by (1) establishing an incentive based rewards system for the benefit of informers, (2) protecting informants when they make disclosures, (3) ensuring that public disclosures are made to the proper public entity and not the media, (4) ensuring that the inappropriate publication of unsubstantiated disclosures does not damage the reputation of those accused and (5) ensuring that proper records on disclosures are kept.

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


JUAN EDGARDO "SONNY" M. ANGARA
Representative
Lone District, Province of Aurora

H. B. No. 419

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10 Introduced by Honorable JUAN EDGARDO "SONNY" M. ANGARA
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15 AN ACT
16 PROVIDING PROTECTION AND REWARDS TO PERSONS WHO
17 DISCLOSE CONDUCT CONSTITUTING GRAFT AND CORRUPTION
18 AND TO WITNESSES FOR THE PROSECUTION THEREOF, PROVIDING
19 PENALTIES FOR VIOLATION HEREOF, AND FOR OTHER PURPOSES
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22 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*
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24

25 ARTICLE I
26
27 GENERAL PROVISIONS
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29

30 SECTION 1. *Short Title.* – This Act shall be known as the “*Good Government Witness*
31 *Protection Program Act of 2010*”
32

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

- 36 (a) maintain honest and high standards of integrity in the public service;
37 (b) safeguard the national interest through the prosecution of corrupt and erring public officers
38 and employees; and
39 (c) encourage and facilitate the disclosure of corrupt conduct and incidences of corruption in the
40 public service by providing benefits and protection to said persons who disclose corrupt
41 conduct and incidences of corruption in the public service and to testify for the protection
42 thereof.
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1 Nothing in this Act shall diminish or restrict the entitlement, receipt or enjoyment
2 by an informer or qualified witnesses of more or higher benefits provided in existing
3 laws.

4 SEC. 3. *Definition of Terms.* -As used in this Act, the following terms shall have the
5 following meanings:

6 (a) "*Protected disclosure*" shall mean the deliberate and voluntary disclosure of
7 individual, collective or organizational conduct constituting graft and corruption
8 as defined under Section 4 of this Act, by a person who has or had privileged or
9 personal knowledge or access to data, events or information, in accordance with
10 the provisions of this Act.

11 (b) "*Informer*" shall mean any person who shall make a protected disclosure, in
12 confidence or publicly, before any qualified person, office or agency as defined
13 under Section 15 of this Act, any conduct constituting graft and corruption. The
14 term, however, shall not include a public officer or employee who makes a
15 disclosure in connection with a matter subject of his official investigation.

16 (c) "*Public officers and employees*" shall mean elective or appointive officials and
17 employees, whether permanent or temporary, of the national or local
18 government, whether in the career or non-career service, including police,
19 military and other law enforcement personnel. This includes officers and
20 employees of government-owned or controlled corporations, whether or not with
21 original charters. The term shall also include any person who has been appointed,
22 designated or named by the government as its agent, representative, nominee, or
23 any person having similar designation, in any private corporation.

24 (d) "*Employee*" shall mean any person who is made to suffer work by, or who renders
25 service for, an employer. The term shall include public officers and employees as

defined in this Act, as well as any person considered an "employee" under the Labor Code.

(e) "Employer" shall mean any individual, partnership, association, corporation, or entity, including the government, or any person or group of persons who shall act directly or indirectly, for or on behalf of said individual, partnership, association, corporation or entity, who employs an employee as defined in this Act.

(f) "Retaliatory Action" shall mean reprisals and negative or obstructive responses or reactions to the disclosure made under this Act aimed at, or pertaining to, the informer or any of the members of his family and relatives up to the fourth degree of consanguinity or affinity. It includes, but is not limited to, civil, administrative or criminal proceedings commenced or pursued against the informer or any of the members of his family and relatives up to the second degree of consanguinity or affinity by reason of the disclosure made under this Act, as well as retaliatory action in the workplace.

(g) "Retaliatory action in the workplace" shall mean discriminatory conduct or policies which affect promotion or job assignment, including undue negative performance appraisals, close monitoring by supervisors, undue criticism or avoidance by co-workers, blacklisting from other job opportunities or prejudicial transfers by reason of the disclosure made under this Act.

(h) "Qualified Witness" shall mean a person qualified and admitted into the Legal Protection Service of the Office of the Ombudsman in accordance with this Act.

ARTICLE II

COVERAGE OF PROTECTED DISCLOSURE

SEC. 4. *Coverage.* - Conduct constituting graft and corruption, whether or not consummated or commenced before the effectivity of this Act, which is subject to the

protected disclosure under this Act shall mean conduct, acts or omissions of public officers or employees solely, or in conspiracy or cooperation with private persons, which are covered by, or amount to violations of:

(a) Republic Act No. 3019;

(b) Republic Act No. 1379;

(c) Republic Act No. 6713;

(d) Republic Act No. 7080;

(e) Presidential Decree No. 46; and

(f) Titles II and VII of Book Two of the Revised Penal Code.

The protected disclosure under this Act shall also include disclosures as to prejudicial conduct, acts or omissions, within the jurisdiction of the Office of the Ombudsman under Republic Act No. 6770.

ARTICLE III

RIGHTS AND BENEFITS OF INFORMERS

SEC. 5. *Protection Against Other Actions.* - Any person who has made a protected disclosure under this Act shall not be subject to any liability, whether administrative, civil, criminal or other proceedings, for making a protected disclosure and no action, claim or demand may be taken or made of, or against, the informer for making the disclosure. This protection shall also operate as immunity in favor of the informer against any action or proceeding taken against him by any person subject of the protected disclosure and by reason thereof.

SEC. 6. *Defense of Privileged Communication.* - Any person who has made a protected 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 a qualified person, office or agency as defined under Section 15 of this Act.

1 *SEC. 7. No Breach of Duty of Confidentiality.* - A person who has made a protected
2 disclosure under this Act on whom a provision of law, regulation, issuance, practice, or other
3 convention, imposes a duty to maintain confidentiality with respect to any information
4 disclosed, is considered not to have committed a breach thereof.

5 *SEC. 8. Confidentiality.* - Except insofar as allowed by this Act, at all times during and
6 after the protected disclosure, and throughout and after any proceeding taken thereafter, the
7 informer is entitled to absolute confidentiality as to:

- 8 (a) his identity;
- 9 (b) the subject matter of his disclosure; and
- 10 (c) the person to whom such disclosure was made.

11 There shall be no such confidentiality in his identity if the informer makes a public
12 disclosure of the conduct constituting graft and corruption; unless, notwithstanding such
13 public disclosure, he has taken means and measures obviously intended to preserve his
14 anonymity.

15 *SEC. 9. Confidential Information.* - No person to whom a protected disclosure has
16 been made or referred shall disclose any information that may identify or tend to identify the
17 informer or reveal the subject matter of such disclosure, except only as to the following
18 circumstances:

- 19 (a) the informer consents in writing prior to the disclosure of the information;
- 20 (b) the disclosure is indispensable and essential, having regard to the necessary
21 proceedings to be taken after the disclosure; or
- 22 (c) the disclosure or referral is made pursuant to an obligation under this Act.

23 The prohibition on disclosure under this Section shall apply to any person who has
24 become privy to any confidential information, whether officially or by other means.

1 *SEC. 10. Protection Against Disciplinary Action or Reprisals.* - A person who has made
2 or is believed or suspected to have made a protected disclosure under this Act is not liable to
3 disciplinary action for making such protected disclosure. Prohibited acts under this Section
4 include retaliatory action in the workplace or prejudicial conduct towards informers for
5 making said disclosures, such as: discriminatory actions veiled behind policy and procedure,
6 mostly to avoid claims of victimization; reprimand; punitive transfer; referral to a
7 psychiatrist or counselor; and undue poor performance reviews. Other prejudicial conducts
8 include obstruction of the investigation, withdrawal of essential resources, adverse reports
9 and the attachment of unfair personnel file notes.

10 To this end, any employer shall discourage and impose sanctions on reprisals based on
11 workplace interaction, which shall include workplace ostracism, questions and attacks on
12 motives, accusations of disloyalty and dysfunction, public humiliation, and the denial of
13 work necessary for promotion. Any employer who does, causes or encourages retaliatory
14 action or reprisal against a informer or anyone believed or suspected to have made a
15 protected disclosure shall be liable for an offense defined under this Act. Any employee who
16 refuses to follow orders of an employer that would cause them to violate any provision of
17 this Act shall likewise be protected from reprisals and retaliatory action in the workplace.

18 For purposes of this protection against retaliatory action in the workplace, prejudicial
19 conduct, or discriminatory treatment against a informer or a person believed or suspected to
20 be one, an employment applicant shall be deemed an employee and entitled to such
21 protection.

22 In no case shall a informer be removed from, or demoted in, work because or on
23 account of his absences necessitated by his discharge of his duties under this Act; *Provided,*
24 *however,* that his employer shall be notified through a certification issued by the Office of
25 the Ombudsman, within a period of thirty (30) days from the date when the informer last

1 reported for work; *Provided, further*, that in the case of prolonged absence due to transfer or
2 permanent relocation under this Act, the employer shall have the option to remove the
3 informer from employment after securing clearance from the Office of the Ombudsman,
4 which shall bind the Department of Labor and Employment.

5 **SEC. 11. *Security and Protection of the Informer.*** - When determined to be necessary
6 and appropriate by the Office of the Ombudsman, a informer, even if the disclosure is made
7 in confidence, shall be entitled to personal security. Should, at anytime, the identity of the
8 informer be revealed, or his anonymity compromised, the informer shall, in addition to the
9 other benefits of a informer under this Act, and when warranted, be entitled to the
10 applicable additional benefits of the *Legal Protection Service* established under this Act.

11 **SEC. 12. *Financial Reward for Informers.*** -The informer shall be entitled to a
12 corresponding monetary reward in accordance with the provisions of this Act and its
13 implementing rules and regulations.

14 For cases susceptible to pecuniary estimation, such as Plunder, forfeiture of ill-gotten
15 wealth, bribery, malversation and damage or injury to government, the informer shall be
16 entitled to ten percent (10%) of the amount recovered by final judgment.

17 For cases not susceptible of pecuniary estimation, the informer shall receive an
18 amount in accordance with the following schedule:

SALARY GRADE OF MOST SENIOR RESPONDENT	FINANCIAL REWARD OF QUALIFIED INFORMER
33	Ten Million Pesos (P 10,000,000.00)
32	Seven Million Pesos (P 7,000,000.00)
31	Six Million Pesos (P 6,000,000.00)
30	Five Million Pesos (P 5,000,000.00)
29	Four Million Pesos (P 4,000,000.00)
28	Three Million Pesos (P 3,000,000.00)
27	Two Million Pesos (P 2,000,000.00)
26	One Million Pesos (P 1,000,000.00)
21 to 25	Seven Hundred Thousand Pesos (P 700,000.00)
16 to 20	Five Hundred Thousand Pesos (P 500,000.00)
11 to 15	Three Hundred Thousand Pesos (P 300,000.00)
6 to 10	Two Hundred Thousand Pesos (P 200,000.00)
1 to 5	One Hundred Thousand Pesos (P 100,000.00)

1 During the pendency of the case, however, the informer shall be advanced the
2 amount equivalent to not less than Twenty-Five Percent (25%) of the total reward due
3 consistent with the nature of the case and the amount involved and deemed recoverable.
4 This shall be given in accordance with the rules and regulations implementing this Act.

5 Persons under Section 24 (c), (d), and (e) shall not be qualified to receive the benefits
6 under this Section.

7 SEC. 13. *Abstract.* - All government agencies, offices, bureaus and local government
8 units, including government-owned or controlled corporations, whether or not with original
9 charters, shall conspicuously display an abstract of this Act and the rights and protections of
10 informers, including the obligations of employers under this Act. Such abstract shall be
11 provided in the Rules and Regulations to be promulgated in implementation of this Act.

12 All government agencies, offices, bureaus and local government units, including
13 government-owned or controlled corporations, whether or not with original charters, are
14 likewise required to put in place internal procedures for dealing with informers, consistent
15 with the provisions of this Act and the rules and regulations to be promulgated for its
16 implementation. Said internal procedure shall be widely disseminated to all the employees.

17 ARTICLE IV

18 CONDITIONS FOR BENEFITS OF A PROTECTED DISCLOSURE

19 SEC. 14. *Conditions for Protected Disclosure.* - Informers, whether from the public or
20 private sector, shall be entitled to the benefits under Article III of this Act; provided, that all
21 the following requisites concur:

22 (a) The disclosure is made voluntarily, in writing and under oath.

23 (b) The disclosure relates to conduct constituting graft and corruption under Section 4
24 of this Act.

1 (c) The disclosure pertains to a matter not yet the subject of a complaint already filed
2 with, or investigated by the Office of the Ombudsman or by any other
3 investigating agency; unless, if in the opinion of the Ombudsman, the disclosures
4 are necessary for the effective and successful prosecution, or essential for the
5 acquisition of material evidence not yet in its possession.

6 (d) The disclosure is made before any qualified person, office or agency as defined
7 under Section 15 of this Act.

8 (e) The informer assists or participates in the proceedings commenced to enforce the
9 provisions of this Act in connection with the subject matter of his disclosure.

10 (f) The information given by the informer can be supported by other material
11 evidence, and,

12 (g) The information disclosed leads to a successful conduct of investigation and
13 gathering of evidence sufficient to sustain a finding of probable cause for the filing
14 of a criminal indictment before the court of competent jurisdiction, or of *prima*
15 *facie* case for the filing of a petition for forfeiture of ill-gotten wealth under
16 Republic Act No. 1379.

17 **SEC. 15. *Qualified Person, Office or Agency.*** - A qualified person, office or agency
18 before which a protected disclosure can be made shall include:

19 (a) Officials and employees of the Office of the Ombudsman;

20 (b) Secretaries and Undersecretaries of Departments;

21 (c) Members of Congress;

22 (d) Local chief executives of local government units;

23 (e) Heads of public offices, agencies, bureaus and government-owned or controlled
24 corporations;

25 (f) Prosecutors and officials of the Department of Justice; and

- 1 (g) Members of the Armed Forces of the Philippines, the Philippine National Police,
2 the National Bureau of Investigation and other law enforcement offices; and
3 (h) Members of the media.

4 SEC. 16. *Necessity for Testimony.* - Unless found by the Office of the Ombudsman to
5 be necessary and indispensable for the successful prosecution of the persons subject of the
6 protected disclosure, the testimony of the informer in court shall not be necessary for the
7 receipt or enjoyment by the informer of the benefits of this Act. In the event that the
8 informer's testimony is required, he shall be entitled to the additional benefits and protection
9 of the *Legal Protection Service*.

10 SEC. 17. *Unprotected Disclosures.* - The following disclosures shall not be deemed a
11 protected disclosure under this Act:

- 12 (a) Disclosures made by a public officer or employee in connection with a matter
13 subject of his official investigation;
14 (b) Disclosures which later appear to be groundless or without basis. An
15 investigation may be declined or discontinued if it is shown that the disclosure
16 was made without reasonable grounds;
17 (c) Disclosures concerning merits of government policy, unless the same is contrary
18 to law or covered by Section 4 of this Act;
19 (d) False or misleading disclosures; and
20 (e) Disclosures that were later retracted by the informer for any reason. Such person
21 shall lose the right to claim benefit or protection under this Act for the same or
22 future disclosures.

23 SEC. 18. *Disclosures Made by a Party.* - A disclosure made by a person who is himself
24 a party to the disclosed conduct constituting graft and corruption, whether as a principal,

1 accomplice or accessory, is deemed a protected disclosure under this Act and such person
2 shall be entitled to the benefits of *an* informer; provided,

3 (a) The informer complies with the conditions under Section 14 hereof;

4 (b) The informer has not been previously convicted by final judgment of a crime
5 involving moral turpitude; and

6 (c) The informer shall agree to stand as witness for the State and later testifies in
7 accordance with his disclosures.

8 Said person shall be immune from any kind of prosecution respecting the matter on
9 which he testified.

10 **SEC. 19. *Disclosures Prior to this Act.*** - A disclosure made prior to the effectivity of
11 this Act shall be deemed a protected disclosure entitled to protection under this Act;
12 provided; all the conditions herein are satisfied.

13 ARTICLE V

14 OTHER RIGHTS AND OBLIGATIONS

15 **SEC. 20. *Disclosures Made Before Qualified Persons.*** - Any person under Section 15 of
16 this Act to whom a disclosure was made shall have the following obligations:

17 (a) Maintain and protect the confidentiality of the identity of the informer;

18 (b) Maintain and protect the confidentiality of the subject matter of the disclosure,
19 until measures have been taken to assure the protection and well-being of the
20 informer, and the said disclosure and subject matter thereof had been reported to
21 the Office of the Ombudsman; and

22 (c) Report the disclosure and its full details within thirty (30) days from such
23 disclosure to the Office of the Ombudsman for its proper investigation and the
24 processing of the informer to qualify under the protection and benefits of this
25 Act.

SEC. 21. *Disclosures Made to Other Persons.* - Any person not falling under Section 15 of this Act to whom a disclosure was made shall have the following obligations:

(a) Maintain and protect the confidentiality of the identity of the informer;

(b) Maintain and protect the confidentiality of the subject matter of the disclosure;

and

(c) Report the disclosure and its full details within sixty (60) days from such disclosure to the Office of the Ombudsman or any of the qualified persons enumerated under Section 15 of this Act.

Notwithstanding the provisions of Section 15 of this Act, a disclosure made to a person not included therein shall nevertheless be deemed a protected disclosure; provided that, there is manifest intention on the part of the informer to have the same disclosure referred, forwarded or indorsed to any of the qualified persons under Section 15 of this Act; Provided further, that all the other conditions under this Act are satisfied; and Provided finally, that the disclosure and the subject matter thereof are reported to any qualified person under Section 15 of this Act.

ARTICLE VI

LEGAL PROTECTION SERVICE

SEC. 22. *Legal Protection Service.* - A protection program for the benefit and protection of the informers and witnesses of the Office of the Ombudsman in pursuit of the provisions of this Act, and which is called the Office of the Ombudsman's *Legal Protection Service*, is hereby created. Said *Legal Protection Service* shall be controlled and administered by the Office of the Ombudsman and shall be responsible for the processing, determination and/or granting of benefits to informers and/or qualified witnesses under this Act.

SEC. 23. *Coverage.* - The *Legal Protection Service* contemplated in this Act and which is to be administered by the Office of the Ombudsman shall cover only those offenses or

1 conduct constituting graft and corruption specified under Section 4 of this Act, The
2 Department of Justice shall continue to administer its Witness Protection Program under
3 Republic Act No. 6981 as to other cases.

4 SEC. 24. *Qualified Witnesses.* - The term, as defined in Section 3(h) hereof, and
5 subject to their compliance with the provisions of this Act as determined by the Office of the
6 Ombudsman, shall include the following persons:

7 (a) Informers whose testimony is found by the Office of the Ombudsman to be
8 necessary and indispensable for the successful prosecution of the persons subject
9 of the protected disclosure under Section 16 of this Act;

10 (b) Persons covered by Section 18 of this Act who disclose conduct constituting graft
11 and corruption prior to the discovery thereof or prior to the filing of any
12 complaint thereon, or the conduct of any investigation in connection therewith;

13 (c) State Witness as defined in this Act;

14 (d) Persons discharged under Section 17, Rule 119 of the Revised Rules on Criminal
15 Procedure; and

16 (e) Such other persons who qualify under the provisions of this Act.

17 SEC. 25. *State Witness.* - The term shall mean any person who has participated in the
18 commission of a conduct constituting graft and corruption under Section 4 of this Act and
19 who, being already the subject of an investigation or a respondent or accused in a case
20 already filed with the court or pending with the Office of the Ombudsman or any other
21 tribunal or agency or investigative body, in connection with, or about, the very matter
22 subject of his proposed disclosure and testimony, desires to be a witness for the State.

23 SEC. 26. *Rights and Benefits of Qualified Witnesses.* - When necessary, qualified
24 witnesses under this Act shall have the following rights and benefits:

25 (a) Personal and bodily security and protection;

1 (b) A secure housing facility until he has testified or until the threat, intimidation or
2 harassment disappears or is reduced to a manageable or tolerable level. When the
3 circumstances warrant, the witness shall be entitled to relocation and/or change
4 of personal identity at the expense of the government. This right may be extended
5 to any member of the family of the witness within the second civil degree of
6 consanguinity or affinity;

7 (c) Assistance from the government, or through the Office of the Ombudsman, in
8 obtaining a means of livelihood. Further, should the witness be relocated
9 pursuant to this Act, he shall be entitled to a financial assistance for his support
10 and that of his family in such amount and for such duration as the Office of the
11 Ombudsman may determine;

12 (d) Compensation in the amount equivalent to his salaries or wages for such number
13 of days of absence occasioned by the necessity to stand as witness for the State.
14 For purposes of this Act, any fraction of a day shall constitute a full day salary or
15 wage. This provision shall be applicable to both government and private
16 employees;

17 (e) Reasonable traveling expenses and subsistence allowance in such amount as the
18 Office of the Ombudsman may provide in accordance with the implementing
19 rules and regulations of this Act, for his attendance and presence at court, office,
20 authority or other places pursuant to his discharge of his obligations herein;

21 (f) Free medical treatment, hospitalization and medicines for any injury or illness
22 incurred or suffered by him because of witness duty in any private or public
23 hospital, clinic, or at any such institution at the expense of the government;

24 (g) Financial benefits, in the event that the witness is killed because of or in
25 connection with the discharge of his obligations under this Act, in the amount of

One Hundred Thousand Pesos (P 100,000.00), exclusive of any other similar benefits he may be entitled to under other existing laws;

(h) In case of death or permanent incapacity, his minor or dependent children shall be entitled to free education, from primary to college level in any State college or university, as may be determined by the Office of the Ombudsman, as long as they shall have qualified thereto; and

(i) Protection against disciplinary action or reprisals, including prejudicial and discriminatory treatment in the workplace, as defined in Section 10 of this Act.

SEC. 27. *Conditions for Enjoyment of Rights and Benefits.* - To be qualified for the rights and benefits under the foregoing section, the person must have witnessed or has personal knowledge or information on the commission of a crime subject hereof and has testified or is testifying or about to testify before any judicial or quasi-judicial body, or before any investigating authority, and must satisfy the following conditions:

(a) The offense that shall be proven by the testimony must be among those enumerated in Section 4 of this Act.

(b) There is absolute necessity for his 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 does not appear to be most guilty; and

(f) He has not at any time been convicted of any crime involving moral turpitude.

SEC. 28. *Personal Security and Protection.* - To be entitled to personal security and protection, a witness who satisfies the foregoing requirements, or members of his family within the second degree of consanguinity or affinity, must be the subject of threats to life or bodily harm or injury or, if in the opinion of the Ombudsman, there is a likelihood of such

1 threat, force, intimidation, harassment or corruption to prevent said witness from testifying,
2 or to cause him to testify falsely, or evasively on account of his testimony.

3 SEC. 29. *Law Enforcers as Witnesses.* - Nothing in this Act shall disqualify a law
4 enforcement officer, otherwise qualified to stand as witness for the State, from being entitled
5 to the full protection and benefits of the *Legal Protection Service*; *Provided*, however, that
6 the matter for which his testimony is necessary is not the matter subject of his official
7 investigation or inquiry.

8 SEC. 30. *Formal Requirements.* - Any person desiring to be placed under the coverage
9 of the *Legal Protection Service* of the Office of the Ombudsman and who shall stand as a
10 witness for the State, shall execute a sworn statement detailing his knowledge or
11 information, which he shall warrant to be the truth, on the commission of the offenses
12 within the coverage of Section 4 of this Act, as well as a *Memorandum of Agreement*.

13 SEC. 31. *Memorandum of Agreement.* - Before a person is provided protection as an
14 informer or witness for the State, he shall first execute a *Memorandum of Agreement* which
15 shall set forth his responsibilities including the following:

16 (a) Except insofar as provided in Section 16 of this Act for informers, to testify before
17 and provide information to all appropriate law enforcement officials concerning
18 all appropriate proceedings in connection with or arising from the activities
19 involved in the offense subject matter thereof;

20 (b) To avoid the commission of a crime;

21 (c) To take all necessary precautions to avoid detection by others of the facts
22 concerning the protection provided him under this Act;

23 (d) To comply with legal obligations and civil judgments against him;

24 (e) To cooperate with respect to all reasonable requests of officers and employees of
25 the government who are providing protection under this Act; and

1 (f) To regularly inform the appropriate program official of his current activities and
2 address.

3 SEC. 32. *Breach of the Memorandum of Agreement.* - Substantial breach of the
4 *Memorandum of Agreement* shall be a ground for the termination of the protection provided
5 under this Act; *Provided*, however, that before terminating such protection, the Ombudsman
6 shall send notice to the person involved of the termination of the protection provided under
7 this Act, stating therein the reason for such termination. Reasonable time shall be afforded
8 the witness to take the appropriate and necessary measures for his protection and security in
9 view of the termination of the protection under this Act.

10 SEC. 33. *Confidentiality of Proceedings.* - All proceedings involving application and/or
11 enjoyment of the benefits under the *Legal Protection Service* of the Office of the
12 Ombudsman, including any action taken thereon shall be confidential in nature. No
13 information or documents given or submitted in support thereof shall be released except
14 upon written order of the Office of the Ombudsman, and when, in the opinion of the
15 ombudsman, such disclosure shall not endanger the life of a qualified witness.

16 SEC. 34. *Speedy Hearing or Trial.* - In any case where a person qualified as a witness
17 for the State and under the protection of the *Legal Protection Service* of the Office of the
18 Ombudsman shall testify, the judicial or quasi-judicial body, or investigating authority shall
19 assure a speedy hearing or trial on such case and shall endeavor to finish said proceeding
20 within three (3) months from the filing of the case.

21 SEC. 35. *Immunity.* - A qualified witness shall be immune from criminal prosecution
22 for the offense or offenses about which he gave or will give his testimony, or in which
23 connection his testimony shall be used.

24 SEC. 36. *Restitution.* - For a witness under Section 25 of this Act to qualify as a witness
25 under the *Legal Protection Service* of the Office of the Ombudsman and enjoy its rights and

1 benefits, he shall, in addition to the other conditions herein, retribute or compensate the
2 government in such amount or amounts, or properties he may have received by reason, or in
3 consideration of, his participation in the conduct constituting graft and corruption subject of
4 his testimony.

5 SEC. 37. *Failure or Refusal of the Witness to Testify.* - Any qualified witness enjoying
6 the benefits under the *Legal Protection Service* who fails or refuses to testify, or to continue
7 to testify, or who adversely varies his testimony without just cause, shall be prosecuted for
8 contempt. If he testifies falsely or evasively, he shall be liable to prosecution for perjury. Any
9 of the foregoing shall be sufficient for the termination of the benefits and protection under
10 this Act and the loss of his other rights herein, including his immunity from criminal
11 prosecution.

12 SEC. 38. *Compelled Testimony.* - Any witness qualified under or pursuant to Section
13 25 of this Act cannot refuse to testify or decline the production of evidence, including bank
14 documents, books, financial documents, records or writings necessary for the understanding
15 or prosecution of the offense or offenses for which he has agreed to testify. However, he shall
16 enjoy immunity from criminal prosecution and cannot be subjected to any penalty or
17 forfeiture for any transaction, matter or thing concerning his compelled testimony or
18 production of books, documents, records and writings.

19 In case of refusal of said witness to testify or give evidence or produce books,
20 documents, records, or writings, on the ground of the right against self-incrimination, and
21 the Office of the Ombudsman believes that such evidence is absolutely necessary for a
22 successful prosecution of the offense or offenses charged or under investigation, the Office of
23 the Ombudsman shall, even during the pendency of an investigation and prior to the
24 commencement of an action in court, file a petition with the appropriate court for the

1 issuance of an order requiring such testimony, or production of evidence, books, documents,
2 records, and writings described, and the court shall issue the proper order.

3 In addition, the court, upon motion of the Office of the Ombudsman, shall order the
4 arrest and detention of the witness in any jail at or near the place of trial or investigation
5 until such time that the witness is willing to give such testimony or produce such evidence,
6 books, documents, records, and writings necessary.

7 SEC. 39. *Credibility of Witness.* - In all criminal cases, the fact of the entitlement of
8 the qualified witness to the protection and benefits provided for in this Act shall not be
9 admissible in evidence to diminish or affect his credibility.

10 SEC. 40. *Powers and Functions of the Ombudsman.* - In addition to its powers and
11 functions under existing laws, the Office of the Ombudsman shall have the following powers
12 and functions:

13 (a) Supervise, monitor and coordinate all efforts relative to the implementation and
14 enforcement of the provisions of this Act;

15 (b) Investigate all disclosures made under this Act and prosecute the same, when
16 warranted;

17 (c) Evaluate the qualification of informers and witnesses for coverage within this Act,
18 and make the appropriate decision on their entitlement to the benefits extended
19 herein;

20 (d) Undertake, in coordination and cooperation with the private and public sectors,
21 an information campaign to educate the public on the provisions and benefits of
22 this Act;

23 (e) Develop plans and implement programs to further encourage informers on graft
24 and corrupt activities with a view to effective deterrence and/or prosecution;

- 1 (f) Control and administer, consistent with the provisions and purpose of this Act, a
2 *Legal Protection Service* for the protection and benefit of the informers and
3 witnesses of the State in connection with the cases within the coverage of Section
4 4 of this Act;
- 5 (g) Call upon, or deputize, any department, bureau, office or any other government
6 agency or public official, to assist in the effective implementation and
7 enforcement of this Act; and
- 8 (h) Grant immunity in accordance with provisions of this Act and its implementing
9 rules and regulations.

10 ARTICLE VII

11 REMEDIES AND SANCTIONS

12 SEC. 41. *Violation of Confidentiality.* - Any person who violates the protection of
13 confidentiality of a protected disclosure under Sections 8, 9, 20 and 21 of this Act, and of the
14 confidentiality of proceedings under Section 32 of this Act, shall be guilty of an offense and
15 shall suffer the penalty of not more than six (6) years, but not less than six (6) months
16 imprisonment, and shall be civilly liable to indemnify the informer or qualified witness in
17 such amount of damages as may be awarded and deemed reasonable by a competent court.

18 SEC. 42. *Retaliatory Action in the Work Place.* - Any person who shall make or cause
19 prejudicial conduct and reprisals, as defined in this Act, against an employee who is a
20 informer or believed or suspected to be one, or a qualified witness under this Act, shall be
21 guilty of an offense and shall suffer the penalty of not more than six (6) months
22 imprisonment, and shall be civilly liable to indemnify the informer or qualified witness in
23 such amount of damages as may be awarded and deemed reasonable by a competent court.

1 Towards this end, the aggrieved informer or qualified witness shall be entitled to the
2 provisional remedy of injunction against any retaliatory action in the workplace, prejudicial
3 conduct or discriminatory treatment by reason of the informer's testimony.

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

9 SEC. 43. *Discriminatory Hiring.* - Any person, firm, corporation, office or employer
10 who shall deny employment from a qualified applicant, or who shall reject his application for
11 employment, due to knowledge, belief or suspicion that the applicant is an informer or a
12 witness for the State, shall be guilty of an offense and shall suffer the penalty of not more
13 than two (2) months imprisonment, and shall be civilly liable to indemnify the informer in
14 such amount of damages as may be awarded and deemed reasonable by a competent court.

15 SEC. 44. *Failure of an Employer to Post Abstract.* - The failure to post an *Abstract*
16 required under Section 11 of this Act shall constitute an offense and shall be penalized with a
17 fine in the amount of Fifty Thousand Pesos (P 50,000.00). For purposes of exacting the fine,
18 the president, manager, or head of office, bureau or agency shall be held responsible.

19 SEC. 45. *Failure to Act or Report to the Office of the Ombudsman.* - Any person
20 under obligation to report a disclosure under this Act to the Office of the Ombudsman, who
21 fails to do so within the period prescribed, or who fails to act thereon or cause an
22 investigation thereof, shall be guilty of an offense and shall suffer the penalty of not more
23 than one (1) month imprisonment, and/or a fine amounting of not more than Fifty Thousand
24 Pesos (P 50,000.00).

SEC. 46. *False and Misleading Disclosures and Testimony.* - Any person who deliberately and voluntarily gives false or misleading information or testimony in connection with conduct constituting graft and corruption under this Act shall, unless such act is already punishable by some other law more severely, be guilty of an offense and shall suffer the penalty of imprisonment of not more than twelve (12) years, in addition to other criminal and civil liability he may incur under existing laws.

SEC. 47. *Penalty for Harassment of Witness.* - Any person who harasses a qualified witness and thereby hinders, delays, prevents or dissuades said witness from:

- (a) Attending or testifying before any judicial or quasi-judicial body or investigating authority; or from,
- (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; or from,
- (c) Seeking the arrest of another person in connection with the offense; or from,
- (d) Causing a criminal prosecution, or a proceeding for the revocation of a parole or probation; or from,
- (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 (P 100,000.00) or suffer imprisonment of not less than six (6) months but not more than six (6) years, or both, at the discretion of the court, and shall also suffer the penalty of perpetual disqualification from holding public office in case of a public officer.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

1 SEC. 48. *Implementing Rules and Regulations* - Within six (6) months from the
2 effectivity of this Act, the Office of the Ombudsman shall promulgate the Implementing
3 Rules and Regulations of this Act.

4 SEC. 49. *Appropriations*. - The amount of Two Hundred Million Pesos Only (P
5 200,000,000.00) is hereby appropriated from the Office of the President and released to the
6 Office of the Ombudsman to implement and enforce the provisions of this Act, including the
7 establishment and operation of its *Legal Protection Service*. Thereafter, such funds as are
8 necessary for the effective and continued implementation of this Act shall be taken from,
9 and included in, the annual General Appropriations Act.

10 SEC. 50. *Transition*. - The Witness Protection Program administered by the
11 Department of Justice shall continue to administer and cover witnesses otherwise covered
12 herein by the *Legal Protection Service* of the Office of the Ombudsman, until the Office of
13 the Ombudsman shall have established its own *Legal Protection Service*, promulgated its
14 rules and completed its logistics necessary for the operation of the *Legal Protection Service*,
15 which shall not be more than nine (9) months from the effectivity of this Act.

16 SEC. 51. *Separability Clause*. - If any provision of this Act or the application of such
17 provision to any person or circumstances is declared, with finality, to be invalid or
18 unconstitutional, the same shall not affect the remainder of the Act or its other provisions
19 otherwise completely enforceable and independent of such invalid provision; or the
20 application of such provision to other persons or circumstances.

21 SEC. 52. *Efecectivity Clause*. - This Act shall take effect within fifteen days after its
22 publication in the Official Gazette and in at least two (2) national newspapers of general
23 circulation.

24 SEC. 53. *Repealing Clause*. - All laws, decrees, executive orders, issuances, rules and
25 regulations inconsistent with this Act are hereby repealed or modified accordingly.

Approved,