

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5044



Introduced by Representative **MARLYN L. PRIMICIAS-AGABAS**

EXPLANATORY NOTE

Reeling from the previous administration, the 1987 Constitution was adopted creating the Office of the Ombudsman steadfast in its purpose to protect the people by acting on any complaints filed in against public official or employees of the Government, or any subdivisions, agency or instrumentality including government-owned or controlled corporations. Consequently, Republic Act No. 6770 otherwise known as "The Ombudsman Act of 1989" was enacted to implement the constitutional provision thereon. It is at the foremost in fighting of graft and corruption. However, as time went on, the powers provided under R.A. No. 6770 are no longer enough to combat graft and corruption, thus its prevalence and the continued increase in the number of cases.

Therefore, in view of the challenges and difficulties being experienced by the Office of the Ombudsman, it is proposed to grant the office additional investigative and prosecutorial powers and other powers necessary to effectively implement graft laws.

Passage of the law is therefore earnestly sought.

A handwritten signature in black ink, appearing to read "Marlyn L. Primicias-Agabas", with a checkmark at the end.

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Sixteenth Congress
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HOUSE BILL NO. **5044**

Introduced by **REPRESENTATIVE MARLYN L. PRIMICIAS-AGABAS**

AN ACT
STRENGTHENING THE INSTITUTIONAL CAPACITY OF THE OFFICE OF THE OMBUDSMAN BY
AMENDING CERTAIN PROVISIONS OF R.A. NO. 6770, OTHERWISE KNOWN AS "THE
OMBUDSMAN ACT OF 1989," AND PROVIDING FUNDS THEREFOR

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

- 1 **SECTION 1.** Section 15 of R.A. No. 6770 is hereby amended to read as follows:
- 2 "SEC. 15. Powers, Functions and Duties. – The Office of the Ombudsman shall have
- 3 the following powers, functions and duties:
- 4
- 5 (1) Investigate and prosecute on its own or on complaint by any person, any act or
- 6 omission of any public officer or employee, office or agency, when such act or
- 7 omission appears to be illegal, unjust, improper or inefficient; ~~[It has primary~~
- 8 ~~jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of~~
- 9 ~~this primary jurisdiction, it may take over, at any stage, from any investigatory~~
- 10 ~~agency of Government, the investigation of such cases;]~~
- 11 (2) EMPLOY WIRETAPPING AS AN INVESTIGATIVE TECHNIQUE WHEN THE
- 12 CIRCUMSTANCES OF A CASE SO WARRANT. FOR THIS PURPOSE,
- 13 SECTION 3 OF REPUBLIC ACT NO. 4200, OTHERWISE KNOWN AS THE
- 14 ANTI-WIRETAPPING LAW, IS HEREBY AMENDED TO INCLUDE CASES
- 15 INVOLVING PLUNDER, VIOLATIONS OF REPUBLIC ACT NO. 3019,
- 16 FORFEITURE OF ILL-GOTTEN WEALTH UNDER REPUBLIC ACT NO. 1379,
- 17 CRIMES COMMITTED BY PUBLIC OFFICERS UNDER THE REVISED PENAL
- 18 CODE AND OTHER GRAFT AND CORRUPTION OFFENSES IN THE CASES
- 19 FOR WHICH WIRETAPPING MAY BE ALLOWED AFTER AN APPLICATION
- 20 FOR AND GRANT OF A JUDICIAL AUTHORITY;
- 21 (3) EXERCISE EXCLUSIVE JURISDICTION OVER CASES COGNIZABLE BY THE
- 22 SANDIGANBAYAN AND, PURSUANT TO SUCH EXCLUSIVE JURISDICTION,
- 23 TAKE OVER, AT ANY STAGE, FROM ANY INVESTIGATORY AGENCY OF
- 24 GOVERNMENT, THE INVESTIGATION OF SUCH CASES, IF, IN ITS
- 25 DETERMINATION, PUBLIC INTEREST WILL BE SERVED THEREBY;
- 26 (4) ~~[(2)]~~ Direct, upon complaint or at its own instance, any officer or employee of the
- 27 Government, or of any subdivision, agency or instrumentality thereof, as well as

any government-owned or controlled corporations ~~[with original charter]~~, to perform and expedite any act or duty required by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties;

- (5) ~~[(3)]~~ Direct the [officer] concerned HEAD OF AGENCY OR OFFICIAL to take appropriate action against a public officer or employee at fault or who neglects to perform an act or discharge a duty required by law, and [recommend], FOR SUCH PURPOSE, ORDER SAID HEAD OF AGENCY OR OFFICIAL TO IMPLEMENT AN ORDER FOR ~~[his]~~ THE SAID PUBLIC OFFICER OR EMPLOYEE'S removal, suspension, demotion, fine, ensure, or prosecution ~~[and ensure compliance therewith; or enforce]~~ IN LINE WITH its disciplinary authority as provided in Section 21 of this Act: *Provided*, that the refusal by any officer without just cause to comply with an order of the Ombudsman to remove, suspend, demote, fine, censure, or prosecute an officer or⁴ employee who is at fault or neglects to perform an act or discharge a duty required by law shall be a ground for disciplinary action against said officer;
- (6) ~~[(4)]~~ Direct the officer concerned, in any appropriate case, and subject to such limitations as it may provide in its rules of procedure, to furnish it with copies of documents relating to contracts or transactions entered into by his office involving the disbursement or use of public funds or properties, and report any irregularity to the Commission on Audit for appropriate action;
- (7) ~~[(5)]~~ Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents;
- (8) ~~[(6)]~~ Publicize matters covered by its investigation of the matters mentioned in paragraphs (1), (2), ~~[(3) and]~~ (4), (5), (6) AND (7) hereof, when circumstances so warrant and with due prudence: *Provided*, That the Ombudsman under its rules and regulations may determine what cases may not be made public: *Provided, further*, that any publicity issued by the Ombudsman shall be balanced, fair and true;
- (9) ~~[(7)]~~ Determine the causes of inefficiency, red tape, mismanagement, fraud, and corruption in the Government, and make recommendations for their elimination and the observance of high standards of ethics and efficiency;
- (10) ~~[(8)]~~ Administer oaths, issue subpoena and subpoena duces tecum [,] TO COMPEL AND SECURE THE COMPULSORY ATTENDANCE OF ANY WITNESS OR THE PRODUCTION OF EVIDENCE WHEREVER THE SAME MAY BE FOUND, and take testimony AT ANY STAGE OF [in] any investigation or inquiry, PROVIDED, THAT IN THE COURSE OF SUCH INVESTIGATION OR INQUIRY, THE OMBUDSMAN SHALL HAVE [including] the power to examine and have access to bank AND NON-BANK accounts, records AND TRANSACTIONS, SUCH AS DEPOSITS, TRUSTS, INVESTMENTS, EVEN PRIOR TO THE FILING OF A CASE BEFORE A COURT OF COMPETENT JURISDICTION, NOTWITHSTANDING THE PROVISIONS OF REPUBLIC ACT NO. 1405, AS AMENDED; REPUBLIC ACT NO. 6426, AS AMENDED, REPUBLIC ACT NO. 8791 AND REPUBLIC ACT NO. 9160, AS AMENDED, AND OTHER LAWS;

1 (11) ENTER, VISIT, INSPECT, OR IF CIRCUMSTANCES REQUIRE, BREAK INTO
2 ANY GOVERNMENT OFFICE OR ANY PUBLIC PREMISES STRUCTURE OR
3 ESTABLISHMENT, IN THE LAWFUL COURSE OF AN ONGOING CRIMINAL
4 OR ADMINISTRATIVE INVESTIGATION, AND SEIZE ANY OBJECT OR
5 ARTICLE FOUND THEREIN WHICH MAY BE USED IN THE SAID
6 INVESTIGATION, OR DIRECT ANY PUBLIC OFFICER TO DELIVER SUCH
7 OBJECT OR ARTICLE, PURSUANT TO SUCH RULES AND REGULATIONS
8 THAT THE OMBUDSMAN MUST PROMULGATE TO GOVERN THE EXERCISE
9 OF THE FOREGOING POWER;

10
11 (12) ~~[(9)]~~ Punish for contempt in accordance with ~~[the Rules of Court]~~ ITS OWN
12 RULES and ~~[under the same procedure]~~ with the ~~[same]~~ penalties provided
13 ~~[therein]~~ UNDER SECTION 36 OF THIS ACT.

14
15 (13) ~~[(10)]~~ Delegate to the Deputies, or its investigators or representatives such
16 authority or duty as shall ensure the effective exercise or performance of the
17 powers, functions, and duties herein of hereinafter provided;

18
19 (14) ~~[(11)]~~ Investigate and initiate the proper action for the recovery of ill-gotten
20 and/or unexplained wealth amassed after February 25, 1986 and the prosecution
21 of the parties involved therein. IN THE FILING AND PROSECUTION OF SUCH
22 ACTIONS, THE REPUBLIC OF THE PHILIPPINES SHALL BE EXEMPT FROM
23 THE FILING OF ANY BOND OR THE PAYMENT OF ANY FEES AND
24 CHARGES, PROPERTIES LIQUIDATED OR SOLD BY THE GOVERNMENT,
25 AND THOSE RECOVERED, FORFEITED, SURRENDERED AND
26 TRANSFERRED TO THE GOVERNMENT, SHALL BE EXEMPT FROM THE
27 PAYMENT OF ANY NATIONAL OR LOCAL TAXES.
28

29 **SEC. 2.** Insert new paragraphs (15, (16) and (17) to Section 15 of R.A. No. 6770 to read as
30 follows:

31
32 (15) REPRESENT ITSELF, THE REPUBLIC OF THE PHILIPPINES, OR THE
33 PEOPLE OF THE PHILIPPINES IN ANY JUDICIAL, ADMINISTRATIVE, CIVIL
34 OR OFFICIAL PROCEEDING INVOLVING CASES WITHIN ITS JURISDICTION
35 BEFORE ANY COURT, TRIBUNAL, AGENCY, OR OFFICE WITHOUT NEED
36 OF PRIOR CLEARANCE, AUTHORITY OR DEPUTATION FROM ANY OTHER
37 OFFICE OR AGENCY, INCLUDING THE OFFICE OF THE SOLICITOR
38 GENERAL;

39
40 (16) DEPUTIZE PRIVATE LAWYERS TO ACT AS INVESTIGATORS OR
41 PROSECUTORS TO ACT UNDER THE DIRECT CONTROL AND
42 SUPERVISION OF THE OMBUDSMAN IN CASES BEING HANDLED BY THE
43 OFFICE, WHEN SPECIAL AND MERITORIOUS CIRCUMSTANCES SO
44 WARRANT, SUBJECT TO SUCH RULES AND REGULATIONS, INCLUDING
45 PROVISIONS FOR REASONABLE COMPENSATION AND REIMBURSEMENT
46 FOR REASONABLE EXPENSES, AS THE OMBUDSMAN WILL PROMULGATE;
47 AND

48
49 (17) CREATE AND ADMINISTER ITS OWN WITNESS PROTECTION AND
50 WHISTLEBLOWING PROGRAMS AND, FOR SUCH PURPOSES, MAINTAIN
51 ITS OWN INTELLIGENCE ENFORCEMENT OR PROTECTIVE SERVICES
52 UNIT FOR THE PROTECTION OF ITS WITNESSES AND WHISTLEBLOWERS.

1
2 The Ombudsman shall give priority to complaints filed against high ranking
3 government officials and/or those occupying supervisory positions,
4 complaints involving grave offenses as well as complaints involving large
5 sums of money and/ properties.
6

7 **SEC. 3.** Section 17 of R.A. 6770 is hereby amended to read as follows:
8

9 "SEC. 17. *Immunities.* – x x x
10

11 Under such terms and conditions as it may determine, ~~[taking into account~~
12 ~~the pertinent provisions of the Rules of Court]~~ the Ombudsman may grant immunity
13 from criminal prosecution to any person whose testimony or whose possession and
14 production of documents or other evidence may be necessary to determine the truth
15 in any hearing, inquiry or proceeding being conducted by the Ombudsman or under
16 its authority, in the performance or in the furtherance of its constitutional functions
17 and statutory objectives. The immunity granted under this and the immediately
18 preceding paragraph shall not exempt the witness from criminal prosecution for
19 perjury or false testimony nor shall he be exempt from demotion or removal from
20 office.
21

22 Any refusal to appear or testify pursuant to the foregoing provisions shall be
23 subject to punishment for contempt and removal of the immunity from criminal
24 prosecution.
25

26 **SEC. 4.** Section 25 of R.A. No. 6770 is hereby amended to read as follows:
27

28 "SEC. 25. *Penalties.* –
29

30 (1) In administrative proceedings under ~~[Presidential Decree No. 807]~~
31 EXECUTIVE ORDER NO. 292, THE OFFENSES DEFINED AND the penalties ~~[and~~
32 ~~rules]~~ provided therein shall be applied.
33

34 (2) In other administrative proceedings, the penalty ranging from
35 suspension without pay for one (1) year to dismissal with forfeiture of benefits or a
36 fine ranging from Five Thousand Pesos (5,000.00) to twice the amount malversed
37 illegally taken or lost, or both at the discretion of the Ombudsman, taken into
38 consideration circumstances that mitigate or aggravate the liability of the officer or
39 employee found guilty of the complaint or charges.
40

41 THESE PENALTIES MAY BE IMPLEMENTED DURING ELECTION
42 PERIOD, AMENDING FOR THIS PURPOSE SECTION 261 (X) OF BATAS
43 PAMBANSA BLG. 881, OR THE OMNIBUS ELECTION CODE."
44

45 **SEC. 5.** Section 27 of R.A. No. 6770 is hereby amended to read as follows:
46

47 "SEC. 27. *Effectivity and Finality of Decisions.* – (1) All provisional orders
48 of the Office of the Ombudsman are immediately effective and executory.
49

50 A motion for reconsideration of any order, directive or decision of the Office of
51 the Ombudsman must be filed within five (5) day after receipt of written notice and
52 shall be entertained only on any of the following grounds:

1
2 (1) New evidence has been discovered which materially affects the
3 order, directive or decision;

4 (2) Errors of law or irregularities have been committed prejudicial to the
5 interest of the movant. ~~[The motion for reconsideration shall be resolved within three~~
6 ~~(3) days from filing; Provided, That]~~ ONLY one motion for reconsideration shall be
7 entertained.

8 Findings of fact by the Office of the Ombudsman when supported by
9 substantial evidence are conclusive. Any order, directive decision imposing the
10 penalty of public censure or reprimand, suspension of not more than one (1) MONTH
11 AND FINE OF NOT MORE THAT ONE (1) MONTH'S SALARY shall be final and
12 unappealable.

13 In all administrative disciplinary cases, orders, directives, or decisions of the
14 Office of the Ombudsman may be appealed to the COURT OF APPEALS ON A
15 VERIFIED PETITION FOR REVIEW UNDER RULE 43 OF THE RULES OF COURT.
16 AN APPEAL SHALL NOT STOP THE DECISION FROM BEING EXECUTORY.

17 The above rules may be amended or modified by the Office of the
18 Ombudsman as the interest of justice may require."

19 SEC. 6. Insert a new Section 31-A to R.A. No. 6770 to read as follows:

20 SEC. 31-A. *IMMUNITY FROM SUIT OF OMBUDSMAN INVESTIGATORS*
21 *AND PROSECUTORS.* – OMBUDSMAN IVESTIGATORS AND PROSECUTORS,
22 INCLUDING THOSE DEPUTIZED BY THE OMBUDSMAN PURSUANT TO
23 SECTION 31 HEREOF, SHALL BE IMMUNE FROM CRIMINAL, ADMINISTRATIVE
24 OR CIVIL SUITS ARISING FROM THEIR MANDATE AND THE REGULAR
25 EXERCISE OF THEIR OFFICIAL FUNCTIONS.

26 SEC. 7. Section 32, paragraph (3) of R.A. No. 6770 is hereby amended to read as follows:

27 "SEC. 32. Rights and Duties of Witness. – x x x

28 (3) If a person refuses to respond to the Ombudsman's or his Deputy's subpoena,
29 or refuses to be examined, or engages in obstructive conduct, the Ombudsman or
30 his Deputy shall issue an order directing the person to appear before him to show
31 cause why he should not be punished for contempt. ~~[The contempt proceedings~~
32 ~~shall be conducted pursuant to the provisions of the Rules of Court.]~~"
33

34 SEC. 8. Section 36 of R.A. No. 6770 is hereby amended to read as follows:

35 "SEC. 36. *Penalties for Obstruction.* – Any person who willfully obstructs or
36 hinders the proper exercise of the functions of the Office of the Ombudsman, or who
37 willfully misleads or attempts to mislead the Ombudsman, his Deputies, and the
38 Special Prosecutor in replying to their inquiries shall be punished by a fine of not
39 exceeding Five thousand pesos (P5,000.00)

40 ANY PERSON GUILTY OF MISBEHAVIOR IN THE PRESENCE OF OR SO
41 NEAR AN OFFICER OF THE OFFICE OF THE OMBUDSMAN AS TO OBSTRUCT

1 OR INTERRUPT THE PROCEEDINGS BEFORE THE SAME, INCLUDING
2 DISRESPECT TOWARD THE HEARING OFFICER, OFFENSIVE PERSONALITIES
3 TOWARD OTHERS, OR REFUSAL TO BE SWORN OR TO ANSWER AS A
4 WITNESS OR TO SUBSCRIBE AN AFFIDAVIT OR DEPOSITION WHEN
5 LAWFULLY REQUIRED TO DO SO, MAY BE SUMMARILY ADJUDGED IN
6 CONTEMPT BY SUCH HEARING OFFICER, SUBJECT TO THE APPROVAL OF
7 THE OMBUDSMAN, AND PUNISHED BY A FINE NOT EXCEEDING FIVE
8 THOUSAND PESOS (P5,000.00) OR IMPRISONMENT NOT EXCEEDING TEN
9 (10) DAYS WITHOUT PREJUDICE TO THE FILING OF A CRIMINAL CASE
10 UNDER PRESIDENTIAL DECREE NO. 1829

11 ANY IMPROPER CONDUCT TENDING DIRECTLY OR INDIRECTLY, TO
12 IMPEDE, OBSTRUCT, DEGRADE THE ADMINISTRATION OF JUSTICE, OR ANY
13 INVESTIGATION BEING CONDUCTED BY THE OFFICE OF THE OMBUDSMAN
14 SHALL CONSTITUTE AS INDIRECT CONTEMPT, AND SHALL AFTER NOTICE
15 AND HEARING, BE PUNISHED WITH THE SAME PENALTIES AS DIRECT
16 CONTEMPT.

17 TO ENFORCE THE PROVISIONS OF THIS SECTION, THE OFFICE OF
18 THE OMBUDSMAN MAY, IF NECESSARY, REQUEST THE ASSISTANCE OF
19 ANY LAW ENFORCEMENT OFFICE OR DEPUTIZE ANY LAW ENFORCEMENT
20 OFFICER TO ASSIST IN THE EXECUTION OF ANY ORDER ISSUED FOR SAID
21 PURPOSE."

22 SEC. 9. Insert a new Section 36-A to R.A. No. 6770 to read as follows:

23 Sec. 36-A. ILLEGAL DISCLOSURE OF INFORMATION. - IT SHALL BE
24 UNLAWFUL FOR ANY PERSON WHO RECEIVES A SUBPOENA, OTHER
25 ORDERS, OR REQUESTS FOR INFORMATION FROM THE OFFICE OF THE
26 OMBUDSMAN PURSUANT TO THE EXERCISE OF THE LATTER'S POWERS
27 UNDER SECTION 15 HEREOF TO DISCLOSE TO ANY PERSON ANY
28 INFORMATION CONCERNING SAID ORDERS OR REQUESTS, AND THE
29 PROCEEDINGS RELATING THERETO. ANY VIOLATION OF THIS SECTION
30 WILL SUBJECT THE OFFENDER TO IMPRISONMENT RANGING FROM SIX (6)
31 MONTHS AND ONE (1) DAY TO THREE (3) YEARS, AND A FINE OF NOT LESS
32 THAN FIFTY THOUSAND PESOS (P50,000.00) BUT NOT MORE THAN FIVE
33 HUNDRED THOUSAND PESOS (P500,000.00).

34 SEC. 10. Rules and Regulations. - The Ombudsman shall issue, within ninety (90) days after
35 the approval of this Act, the necessary rule and regulation relating to the administrative aspects of the
36 provisions of this Act.

37 SEC. 11. Separability Clause. - If for any reason, any section or provision of this Act is
38 declared to be unconstitutional or invalid, the other sections or provisions hereof which are not
39 affected thereby shall continue to be in full force and effect.

40 SEC. 12. Repealing Clause. - All laws, decrees, orders, or rules and regulations, and other
41 issuances which are inconsistent with the provisions of this Act are hereby repealed, amended or
42 modified accordingly.

43 Approved,