

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
1st Regular Session

House Bill No. 933

HOUSE OF REPRESENTATIVES

RECEIVED

DATE: 04 JUL 2016

TIME: 4:29 pm

BY: [Signature]

REGISTRATION UNIT
BILLS AND INDEX SERVICE

Introduced by Hon. Francis Gerald Aguinaldo Abaya

EXPLANATORY NOTE

With the view of combating corruption in the government, one of the best ways to discover and prosecute erring public officials is through the information from reliable witnesses to the corrupt acts of these public officers. However, the lack of a legal framework for giving rewards and protection to informers has resulted in minimal protection to the informant and his family from possible retaliation, trial by publicity or an outright miscarriage of justice. Moreover, the strong societal pressure from the possible stigma that may attach to an informant caused by divulging information detrimental to a neighbor or colleague more often than not outweighs any motivation to speak up.

With these scenarios, corrupt government officials and employees are emboldened to continue their nefarious activities as they feel little fear or exposure. At the same time, the potential informants are discouraged and demotivated because they anticipate nothing but further hardship when they evaluate the effects of any act of disclosure.

Thus a mechanism to secure the person of the informant and counter the stigma of ostracism must be set up so that any potential informer on graft and corrupt activities will not hesitate to come out in the open. This bill seeks to support the efforts of the Government to rid itself of corruption by setting up a system of rewards and protection for informants and their families.

This bill will set up such a mechanism specifically by (1) establishing a monetary-based rewards system for the benefit of the informers, (2) protecting informants against reprisals and against civil or criminal liability when they make public interest 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.

For the foregoing reasons, the approval of this bill is earnestly sought.


FRANCIS GERALD AGUINALDO ABAYA
Representative, First District, Cavite

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **933**

Introduced by Hon. Francis Gerald Aguinaldo Abaya

AN ACT PROVIDING PROTECTION AND BENEFITS TO PERSONS WHO DISCLOSE CONDUCT CONSTITUTING GRAFT AND CORRUPTION AND TO WITNESSES FOR THE PROSECUTION THEREOF, PROVIDING PENALTIES FOR VIOLATIONS HEREOF, AND FOR OTHER PURPOSES

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

ARTICLE I

GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the “Informers and Anti-Corruption Witnesses Protection Act of 2016”.

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

- a. Maintain honest and high standards of integrity in the public service;
- b. Safeguard the national interest through the prosecution of corrupt and erring public officers and employees; and
- c. Encourage and facilitate the disclosure of corrupt conduct and incidences of corruption in the public service by providing benefits and protection to said persons who disclose corrupt conduct and incidences of corruption in the public service and to those who testify for the prosecution thereof.

Nothing in this Act shall diminish or restrict the entitlement, receipt or enjoyment by an informer or qualified witnesses of more or higher benefits provided in existing laws.

SECTION 3. Definition of Terms. – As used in this Act, the following terms shall have the following meanings:

- a. “Protected disclosure” shall mean the deliberate and voluntary disclosure of individual, collective or organization conduct constituting graft and corruption as defined under Section 4 of this Act, by person who has or had privileged or personal knowledge or access to data, events or information, in accordance with the provisions of this Act;
- b. “Informer” shall mean any person who shall make a protected disclosure, in confidence or publicly, before any qualified person, office or agency as defined under Section 15 of this Act, any conduct constituting graft and corruption. The term, however, shall not include a public officer or employee who makes a disclosure in connection with a matter subject of his official investigation;
- c. “Public officers and employees” shall mean elective or appointive officials and employees, whether permanent or temporary, of the national or local government, whether in the career or non-career service, including police, military and other law enforcement personnel. This includes officer and employees of government-owned or controlled corporations, whether or not with original charters. The term shall also include any person having similar designation, in any private corporation;
- d. “Employee” shall mean nay person who is made to suffer work by, or who renders 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

1 and relatives up to the fourth degree of consanguinity or affinity. It
2 includes, but is not limited to, civil, administrative, or criminal
3 proceedings commenced or pursued against the informer or any of
4 the members of his family and relatives up to the second degree of
5 consanguinity or affinity by reason of the disclosure made under this
6 Act, as well as retaliatory action in the workplace.

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

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

17 **ARTICLE II**

18 **COVERAGE OF PROTECTED DISCLOSURE**

19 **SECTION 4. Coverage.** – Conduct constituting graft and corruption, whether
20 or not consummated or commenced before the effectivity of this Act, which is subject
21 to the protected disclosure under this Act shall mean conduct, acts or omissions of
22 public officers or employees solely, or in conspiracy or cooperation with private
23 persons, which are covered by, or amount to violation of:

- 24 a. Republic Act No. 3019;
- 25 b. Republic Act No. 1379;
- 26 c. Republic Act No. 6713;
- 27 d. Republic Act No. 7080;
- 28 e. Presidential Decree No. 46; and
- 29 f. Titles II and VII of Book Two of the Revised Penal Code.

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

34 **ARTICLE III**

RIGHTS AND BENEFITS OF INFORMERS

SECTION 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.

SECTION 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.

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

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

- a. His identity;
- b. The subject matter of his disclosure; and
- c. The person to whom such disclosure was made

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

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

- a. The informer consents in writing prior to the disclosure of the information;

1 b. The disclosure is indispensable and essential, having regard to the
2 necessary proceedings to be taken after the disclosure; or

3 c. The disclosure or referral is made pursuant to an obligation under this Act.

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

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

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

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

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

1 prolonged absence due to transfer or permanent relocation under this Act, the
2 employer shall have the option to remove the informer from employment after
3 securing clearance from the Office of the Ombudsman, which shall bind the
4 Department of Labor and Employment.

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

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

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

19 For cases not susceptible of pecuniary estimation, the informer shall receive
20 an 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)

21
22 During the pendency of the case, however, the informer shall be advanced
23 the amount equivalent to not less than Twenty-Five Percent (25%) of the total reward
24 due consistent with the nature of the case and the amount involved and deemed

1 recoverable. This shall be given in accordance with the rules and regulations
2 implementing this Act.

3 Persons under Section 24 c, d, and e shall not be qualified to receive the
4 benefits under this Section.

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

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

17 18 **ARTICLE IV**

19 **CONDITIONS FOR BENEFITS OF A PROTECTED DISCLOSURE**

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

- 23 a. The disclosure is made voluntarily, in writing and under oath;
- 24 b. The disclosure relates to conduct constituting graft and corruption under
25 Section 4 of this Act;
- 26 c. The disclosure pertains to a matter not yet the subject of a complaint
27 already filed with, or investigated by the Office of the Ombudsman or by
28 any other investigating agency; unless, if in the opinion of the
29 Ombudsman, the disclosures are necessary for the effective and
30 successive and successful prosecution, or essential for the acquisition of
31 material evidence not yet in its possession;
- 32 d. The disclosure is made before any qualified person, office or agency as
33 defined under Section 15 of this Act;

- 1 e. The informer assists or participates in the proceedings commenced to
2 enforce the provisions of this Act in connection with the subject matter of
3 his disclosure;
4 f. The information given by the informer can be supported by other material
5 evidence; and
6 g. The information disclosed leads to a successful conduct of investigation
7 and gathering of evidence sufficient to sustain a finding of probable cause
8 for the filing of a criminal indictment before the court of competent
9 jurisdiction, or of a *prima facie* case for the filing of a petition for forfeiture
10 of ill-gotten wealth under Republic Act No. 1379.

11 **SECTION 15. *Qualified Person, Office or Agency.*** – A qualified person,
12 office or agency before which a protected disclosure can be made shall include:

- 13 a. Officials and employees of the Office of the Ombudsman;
14 b. Secretaries and Undersecretaries of Departments;
15 c. Members of Congress;
16 d. Local chief executives of local government units;
17 e. Heads of public offices, agencies, bureaus and government-owned or
18 controlled corporations;
19 f. Prosecutors and officials of the Department of Justice; and
20 g. Members of the Armed Forces of the Philippines, the Philippine National
21 Police, the National Bureau of Investigation and other law enforcement
22 offices; and
23 h. Members of the media.

24 **SECTION 16. *Necessity for Testimony.*** – Unless found by the Office of the
25 Ombudsman to be necessary and indispensable for the successful prosecution of
26 the persons subject of the protected disclosure, the testimony of the informer in court
27 shall not be necessary for the receipt or enjoyment by the informer of the benefits of
28 this Act. In the event that the informer's testimony is required he shall be entitled to
29 the additional benefits and protection of the *Legal Protection Service*.

30 **SECTION 17. *Unprotected Disclosures.*** – The following disclosures shall
31 not be deemed a protected disclosure under this Act:

- 32 a. Disclosures made by a public officer or employee in connection with
33 a matter subject of his official investigation;

- 1 b. Disclosures which later appear to be groundless or without basis.
2 An investigation may be declined or discontinued if it shows that
3 the disclosure was made without reasonable grounds;
4 c. Disclosures concerning merits of government policy, unless the
5 same is contrary to law or covered by Section 4 of this Act;
6 d. False or misleading disclosures; and
7 e. Disclosures that were later retracted by the informer for any reason.
8 Such person shall lose the right to claim benefit or protection under
9 this Act for the same or future disclosures.

10 **SECTION 18. *Disclosures Made by a Party.*** – A disclosure made by a
11 person who is himself a party to the disclosed conduct constituting graft and
12 corruption, whether as a principal, accomplice or accessory, is deemed a protected
13 disclosure under this Act and such person shall be entitled to the benefits of an
14 informer, provided:

- 15 a. The informer complies with the conditions under Section 14 hereof;
16 b. The informer has not been previously convicted by final judgment of a
17 crime involving moral turpitude; and
18 c. The informer shall agree to stand as witness for the State and later testify
19 in accordance with his disclosures.

20 Said person shall be immune from any kind of prosecution respecting the
21 manner on which he testified.

22 **SECTION 19. *Disclosures Prior to this Act.*** – A disclosure made prior to the
23 effectivity of this Act shall be deemed a protected disclosure entitled to protection
24 under this Act, provided all the conditions herein are satisfied.

25 26 **ARTICLE V**

27 **OTHER RIGHTS AND OBLIGATIONS**

28 **SECTION 20. *Disclosures Made Before Qualified Persons.*** – Any person
29 under Section 15 of this Act to whom a disclosure was made shall have the following
30 obligations:

- 31 a. Maintain and protect the confidentiality of the identity of the informer;
32 b. Maintain and protect the confidentiality of the subject matter of the
33 disclosure, until measures have been taken to assure the protection and

1 well-being of the informer, and the said disclosure and subject matter
2 thereof had been reported to the Office of the Ombudsman; and

- 3 c. Report the disclosure and its full details within thirty (30) days from such
4 disclosure to the Office of the Ombudsman for its proper investigation and
5 the processing of the informer to qualify under the protection and benefits
6 of this Act.

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

- 10 a. Maintain and protect the confidentiality of the identity of the informer;
11 b. Maintain and protect the confidentiality of the subject matter of the
12 disclosure; and
13 c. Report the disclosure and its full details within sixty (60) days from such
14 disclosure to the Office of the Ombudsman or any of the qualified persons
15 enumerated under Section 15 of this Act.

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

23 24 **ARTICLE VI**

25 **LEGAL PROTECTION SERVICE**

26 **SECTION 22. *Legal Protection Service.*** – A protection program for the
27 benefit and protection of the informers and witnesses of the Office of the
28 Ombudsman in pursuit of the provisions of this Act, and which is called the Office of
29 the Ombudsman's *Legal Protection Service*, is hereby created. Said *Legal Protection*
30 *Service* shall be responsible for the processing, determination and/or granting of
31 benefits to informers and/or qualified witnesses under this Act.

32 **SECTION 23. *Coverage.*** – The *Legal Protection Service* contemplated in this
33 Act and which is to be administered by the Office of the Ombudsman and shall cover
34 only those offenses or conduct constituting graft and corruption specified under

1 Section 4 of this Act. The Department of Justice shall continue to administer its
2 Witness Protection Program under Republic Act No. 6981 as to other cases.

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

- 6 a. Informers whose testimony is found by the Office of the Ombudsman
7 to be necessary and indispensable for the successful prosecution of
8 the persons subject of the protected disclosure under Section 16 of
9 this Act;
- 10 b. Persons covered by Section 18 of this Act who disclose conduct
11 constituting graft and corruption prior to the discovery thereof or prior
12 to the filing of any complaint thereon, or the conduct of any
13 investigation in connection therewith;
- 14 c. State Witness as defined in this Act;
- 15 d. Persons discharged under Section 17, Rule 119 of the Revised
16 Rules on Criminal Procedure; and
- 17 e. Such other persons who qualify under the provisions of this Act.

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

25 **SECTION 26. *Rights and Benefits of Qualified Witnesses.*** – When
26 necessary, qualified witnesses under this Act shall have the following rights and
27 benefits:

- 28 a. Personal and bodily security and protection;
- 29 b. A secure housing facility until he has testified or until the threat,
30 intimidation or harassment disappears or is reduced to a manageable or
31 tolerable level. When the circumstances warrant, the witness shall be
32 entitled to relocation and/or change of personal identity at the expense of
33 the government. This right may be extended to any member of the family
34 of the witness within the second civil degree of consanguinity or affinity;

- 1 c. Assistance from the government, or through the Office of the Ombudsman,
2 in obtaining a means of livelihood. Further, should the witness be
3 relocated pursuant to this Act, he shall be entitled to a financial assistance
4 for his support and that of his family in such amount and for such duration
5 as the Office of the Ombudsman may determine;
- 6 d. Compensation in the amount equivalent to his salaries or wages for such
7 number of days of absence occasioned by the necessity to stand as
8 witness for the State. For the purposes of this Act, any fraction of a day
9 shall constitute a full day salary or wage. This provision shall be applicable
10 to both government and private employees;
- 11 e. Reasonable traveling expenses and subsistence allowance in such
12 amount as the Office of the Ombudsman may provide in accordance with
13 the implementing rules and regulations of this Act, for his attendance and
14 presence at court, office, authority or other places pursuant to his
15 discharge of his obligations herein;
- 16 f. Free medical treatment, hospitalization and medicines for any injury or
17 illness incurred or suffered by him because of witness duty in any private
18 or public hospital, clinic, or at any such institution at the expense of the
19 government;
- 20 g. Financial benefits, in the event that the witness is killed because of or in
21 connection with the discharge of his obligations under this Act, in the
22 amount of One Hundred Thousand Pesos (P 100,000.00), exclusive of any
23 other similar benefits he may be entitled to under other existing laws;
- 24 h. In case of death or permanent incapacity, his minor or dependent children
25 shall be entitled to free education, from primary to college level in any
26 State college or university, as may be determined by the Office of the
27 Ombudsman, as long as they shall have qualified thereto; and
- 28 i. Protection against disciplinary action or reprisals, including prejudicial and
29 discriminatory treatment in the workplace, as defined in Section 10 of this
30 Act.

31 **SECTION 27. Conditions for Enjoyment of Rights and Benefits.** – To be
32 qualified for the rights and benefits under the foregoing section, the person must
33 have witnessed or has personal knowledge or information on the commission of a
34 crime subject hereof and has testified or is testifying or about to testify before any

1 judicial or quasi-judicial body, or before any investigating authority, and must satisfy
2 the following conditions:

- 3 a. The offense that shall be proven by the testimony must be among
4 those enumerated in Section 4 of this Act;
- 5 b. There is absolute necessity for his testimony;
- 6 c. There is no other direct evidence available for the proper
7 prosecution of the offense committed;
- 8 d. His testimony can be substantially corroborated on its material
9 points;
- 10 e. He does not appear to be the most guilty; and
- 11 f. He has not at any time been convicted of any crime involving moral
12 turpitude.

13 **SECTION 28. *Personal Security and Protection.*** – To be entitled to
14 personal security and protection, a witness who satisfies the foregoing requirements,
15 or members of his family within the second degree of consanguinity or affinity, must
16 be the subject of threats to life or bodily harm or injury or, if in the opinion of the
17 Ombudsman, there is a likelihood of such threat, force, intimidation, harassment or
18 corruption to prevent said witness from testifying, or to cause him to testify falsely, or
19 evasively on account of his testimony.

20 **SECTION 29. *Law Enforcers as Witnesses.*** – Nothing in this Act shall
21 disqualify a law enforcement officer, otherwise qualified to stand as witness for the
22 State, from being entitled to the full protection and benefits of the *Legal Protection*
23 *Service*; *Provided*, however, that the matter for which his testimony is necessary is
24 not the matter subject of his official investigation or inquiry.

25 **SECTION 30. *Formal Requirements.*** – Any person desiring to be placed
26 under the coverage of the *Legal Protection Service* of the Office of the Ombudsman
27 and who shall stand as a witness for the State, shall execute a sworn statement
28 detailing his knowledge or information, which he shall warrant to be the truth, on the
29 commission of the offenses within the coverage of Section 4 of this Act, as well as a
30 *Memorandum of Agreement*.

31 **SECTION 31. *Memorandum of Agreement.*** – Before a person is provided
32 protection as an informer or witness for the State, he shall first execute a
33 *Memorandum of Agreement* which shall set forth his responsibilities including the
34 following:

- a. Except insofar as provided in Section 16 of this Act for informers, 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 subject matter thereof;
- 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;
- 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.

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

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

SECTION 34. Speedy Hearing or Trial. – In any case where a person qualified as a witness for the State and under protection of the *Legal Protection Service* of the Office of the Ombudsman shall testify, the judicial or quasi-judicial body, or investigating authority shall assure a speedy hearing or trial on such case

1 and shall endeavor to finish said proceeding within three (3) months from the filing of
2 the case.

3 **SECTION 35. *Immunity.*** – A qualified witness shall be immune from criminal
4 prosecution for the offense or offenses about which he gave or will give his
5 testimony, or in which connection his testimony shall be used.

6 **SECTION 36. *Restitution.*** – For a witness under Section 25 of this Act to
7 qualify as a witness under the *Legal Protection Service* of the Office of the
8 Ombudsman and enjoy its rights and benefits, he shall, in addition to the other
9 conditions herein, retribute or compensate the government in such amount or
10 amounts, or properties he may have received by reason, or in consideration of, his
11 participation in the conduct constituting graft and corruption subject of his testimony.

12 **SECTION 37. *Failure or Refusal of the Witness to Testify.*** – Any qualified
13 witness enjoying the benefits under the *Legal Protection Service* who fails or refuses
14 to testify, or to continue to testify, or who adversely varies his testimony without just
15 cause, shall be prosecuted for contempt. If he testifies falsely or evasively, he shall
16 be liable to persecution for perjury. Any of the foregoing shall be sufficient for the
17 termination of the benefits and protection under this Act and the loss of his other
18 rights herein, including his immunity from criminal prosecution.

19 **SECTION 38. *Compelled Testimony.*** – Any witness qualified under or
20 pursuant to Section 25 of this Act cannot refuse to testify or decline the production of
21 evidence, including bank documents, books, financial documents, records or writings
22 necessary for the understanding or prosecution of the offense or offenses for which
23 he has agreed to testify. However, he shall enjoy immunity from criminal prosecution
24 and cannot be subjected to any penalty or forfeiture for any transaction, matter or
25 thing concerning his compelled testimony or production of books, documents,
26 records and writings.

27 In case of refusal of said witness to testify or give evidence or produce books,
28 documents, records, or writings, on the ground of the right against self-incrimination,
29 and the Office of the Ombudsman believes that such evidence is absolutely
30 necessary for a successful prosecution of the offense or offenses charged or under
31 investigation, the Office of the Ombudsman shall, even during the pendency of an
32 investigation and prior to the commencement of an action in court, file a petition with
33 the appropriate court for the issuance of an order requiring such testimony, or

1 production of evidence, books, documents, records, and writings described, and the
2 court shall issue the proper order.

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

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

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

- 13 a. Supervise, monitor and coordinate all efforts relative to the
14 implementation and enforcement of the provisions of this Act;
- 15 b. Investigate all disclosures made under this Act and prosecute the
16 same, when warranted;
- 17 c. Evaluate the qualification of informers and witnesses for coverage
18 within this Act, and make the appropriate decision on their
19 entitlement to the benefits extended herein;
- 20 d. Undertake, in coordination and cooperation with the private and
21 public sectors, an information campaign to educate the public on the
22 provisions and benefits of this Act;
- 23 e. Develop plans and implement programs to further encourage
24 informers on graft and corrupt activities with a view to effective
25 deterrence and/or prosecution;
- 26 f. Control and administer, consistent with the provisions and purpose
27 of this Act, a *Legal Protection Service* for the protection and benefit
28 of the informers and witnesses of the State in connection with the
29 cases within the coverage of Section 4 of this Act;
- 30 g. Call upon or deputize any department, bureau, office or any other
31 government agency or public official, to assist in the effective
32 implementation and enforcement of this Act; and
- 33 h. Grant immunity in accordance with provisions of this Act and its
34 implementing rules and regulations.

shall be penalized with a fine in the amount of Fifty Thousand Pesos (P 50,000.00). For purposes of exacting the fine, the president, manager, or head of office, bureau or agency shall be held responsible.

SECTION 45. *Failure to Act or Report to the Office of the Ombudsman.* –

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

SECTION 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 12 (12) years, in addition to other criminal and civil liability he may incur under existing laws.

SECTION 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.

