

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

House Bill No. **7685**



Introduced by **MAGDALO Party-List Representative**
HON. GARY C. ALEJANO

EXPLANATORY NOTE

As an exercise of responsible citizenship, whistleblowing against corruption can help create new societal and organizational cultures and values that emphasize integrity and honesty in the workplace. As a courageous act, whistleblowing against corruption can create inspiring stories that may, in the long run, reduce people's tolerance for questionable practices of doing business and public service.

In the Philippines, initiatives to encourage whistleblowing are not new. In fact, several laws encourage whistleblowing to curb bribery and other corrupt practices. However, the existing legal framework barely meets the need for whistleblower's protection and support. Considering the risks of whistleblowing in a culture that has a high tolerance for corruption, the existing legal framework fails to provide attractive incentives for actual whistleblowing.

Thus, I filed this measure in the hope that it would help in curtailing graft and corruption in government by ensuring the security of whistle blowers who divulge the erring practices of public officials and employees. I also hope that the passage of this bill will counter the stigma of ostracism frequently suffered by whistleblowers.

As Former Senator Diokno had said:

“Why be honest, when it pays to be dishonest? Why fight for others, when they won't fight for you? – or even for themselves? ... the answer I think lies in what life means to you. If life means having a good time, money, fame, power, security – then you don't need principles, all you need are techniques. On the other hand, if happiness counts more than a good time, respect more than fame, right more than power, and peace of soul more than security; if death doesn't end life but transforms it, then you must be true to yourself and to God and to love the truth and justice and freedom that are God's other names.”

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


GARY C. ALEJANO
Representative

Magdalo Para sa Pilipino Party-List

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AN ACT
PROVIDING FOR PROTECTION, SECURITY AND OTHER BENEFITS FOR
WHISTLEBLOWERS

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

SECTION 1. Short Title. – This Act shall be known as the “Whistleblower Protection Act of 2018”

SEC. 2. Declaration of Policy. – Public Office is a public trust. It is the policy of the State to promote and ensure full accountability in the conduct of its officers and employees, and exact full retribution from those who shall engage in improper conduct. Toward this end, the State shall:

- A. Maintain honesty and promote high standards of integrity in the public service;
- B. Safeguard the national interest through the prosecution of corrupt and erring public officials and employees; and
- C. Encourage and facilitate the disclosure of corrupt conduct and practices in the public service by providing benefits prescribed under existing laws.

SEC. 3. Definitions. – As used in this Act, the following terms shall be defined as follows:

- A. “Employer” shall mean any individual, partnership, association, corporation or entity, including the government, or any person or group of persons who shall directly or indirectly for on behalf of said individual, partnership, association, corporation or entity, employ an employee as defines in this Act.
- B. “Employee” shall mean any person who is made to 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.
- C. “Public officer/employee” shall refer to any person holding any office or performing any function or duty in the Government of the Republic of the Philippines by virtue of an appointment, election or contract.
- D. “Government” shall include the National Government, and any of its subdivisions, agencies or instrumentalities, including government-owned and controlled corporations and their subsidiaries, and Local Government Units.
- E. “Retaliatory action” shall refer to any negative or obstructive response, reaction or reprisal to a disclosure made under this Act aimed at, pertaining to, or against a whistleblower or any of the members of his/her family and relatives up to the fourth civil degree of consanguinity or affinity. Said actions shall include criminal, civil or administrative proceedings

1 commended or pursued against said whistleblower or any of the members of his/her family
2 or relatives up to the fourth civil degree of consanguinity or affinity as well as any
3 retaliatory action in the workplace.

4
5 F. "Retaliatory action in the workplace" shall mean any discriminatory conduct or policies
6 which affect promotion or job assignment including undue negative performance appraisal,
7 close monitoring by supervisors, unwarranted criticisms or avoidance by co-employees,
8 blacklisting from other job opportunities or prejudicial transfers by reason of a disclosure
9 made under this Act.

10
11 G. "Acts constituting improper conduct" shall mean any act or omission of a public officer or
12 employee solely, or in cooperation, conspiracy with, or with the assistance of, private
13 persons which is covered by or constitute a violation of:

14 1. Presidential Decree No. 46 otherwise known as "Making it punishable for Public
15 Officials and Employees to receive, and for Private persons to give, gifts on any
16 occasion, including Christmas;"

17
18 2. Republic Act No. 3019 otherwise known as "Anti-Graft and Corrupt Practices Act;"

19
20 3. Republic Act No. 6713 otherwise known as "An Act Establishing a Code of Conduct
21 and Ethical Standards for Public Officials and Employees;"

22
23 4. Republic Act No. 7080 otherwise known as the "Anti-Plunder Law;"

24
25 5. Title VII of Book Two of the Revised Penal Code on Crimes Committed by Public
26 Officers; and

27
28 6. All other laws which penalize or sanction any act or omission of a public officer or
29 employee.

30
31 H. "Whistleblower" shall refer to any person who has personal knowledge or access to any data,
32 information, fact or event constituting improper conduct; *Provided*, that such person must
33 not have any direct participation in such improper conduct, or in cases where such person
34 participated in any improper conduct, such person is not the most guilty and shall therefore
35 qualify as a state witness against the persons subject of such disclosure.

36
37 I. "Qualified Whistleblower" shall mean a whistleblower qualified and admitted into the
38 Whistleblower's Program of the Implementing Agency in accordance with this Act and is
39 implementing rules and regulations.

40 J. "Implementing Agencies or Agency" shall collectively or individually refer to the
41 Department of Justice (DOJ), the Office of the Ombudsman, the Commission on Human
42 Rights (CHR), and the Public Attorney's Office (PAO)

43
44 K. "Whistleblower Council" shall refer to the council defined under Section 31 of this Act.

45
46 **SEC. 4. Coverage.** – Notwithstanding the provisions of law on prescription of crimes, this
47 Act shall cover all acts constituting improper conduct irrespective of the time or commission
48 thereof.

49
50 **SEC. 5. Admission/Qualification for the Program.** – Whistleblowers, whether from the
51 public or private sector, shall be entitled to the benefits provided under this Act, *Provided*, That
52 all the following requisites concur:

53 A. The disclosure is voluntary, in writing and under oath;

54
55 B. The disclosure relates to acts constituting improper conduct; and

56
57 C. The information to be disclosed is admissible in evidence.

1 **SEC. 6. Necessity of Testimony.** – The testimony of a qualified whistleblower in court shall
2 not be necessary for the entitlement or enjoyment of the benefits of this Act. In the event that
3 the said whistleblower's testimony is required as found by the Implementing Agency to be
4 necessary and indispensable for a successful prosecution of a case, he/she shall be entitled to the
5 additional benefits and protection provided under R.A. No. 6891 otherwise known as the
6 Witness Protection Program, funding for which shall be sourced from the budget as provided
7 under Section 32 hereof.

8
9 **SEC. 7. Credibility of a Whistleblower.** – In all cases, the fact of the entitlement of the
10 qualified whistleblower to the protection and benefits provided in this Act shall not be admissible
11 in evidence to diminish or affect his credibility.

12
13 **SEC. 8. Perpetuation of Testimony.** – Once admitted into the program, a whistleblower may
14 perpetuate his/her testimony pursuant to Rule 134 of the Revised Rules of Court.

15
16 **SEC. 9. Memorandum of Agreement with the Person to be Protected.** – Before a person is
17 provided protection and benefits as a whistleblower for the State, he/she shall first execute a
18 Memorandum of Agreement with the Implementing Agency which shall set forth his/her
19 responsibilities as follows:

- 20 A. To provide information to and testify before all branches or agencies of government in an
21 appropriate proceeding on facts constituting improper conduct;
22
23 B. To avoid commission of crime;
24
25 C. To take all necessary precautions to preclude detection by others of the facts concerning the
26 protection provided him/her under this Act;
27
28 D. To cooperate with all reasonable requests of officers and employees of the government who
29 are providing him/her protection under this Act; and
30
31 E. To regularly inform the Implementing Agency's program official concerned of his/her
32 current activities and address.

33
34 **SEC. 10. Breach of the Memorandum of Agreement.** – Substantial breach of the
35 Memorandum of Agreement, provided in Section 9 hereof shall be sufficient ground for the
36 termination of the protection and benefits provided under this Act; *Provided*, however, that
37 before terminating the protection and benefits extended to him/her, the Implementing Agency
38 shall send notice to the qualified whistleblower concerned, stating therein the reason for such
39 termination and shall give him/her sufficient opportunity to explain and respond to such notice.

40
41 **SEC. 11. Confidentiality.** – Except insofar as allowed by this Act, during and after the
42 disclosure, and throughout and after any proceedings undertaken thereafter, a whistleblower is
43 entitled to absolute confidentiality as to:

- 44 A. His/her identity;
45
46 B. The subject matter of his/her disclosure; and
47
48 C. The person to whom such disclosure has been made.

49
50 There shall be no such confidentiality regarding his/her identity if a whistleblower makes
51 a public disclosure of acts constituting improper conduct unless, notwithstanding such public
52 disclosure, he/she has taken means obviously intended to preserve his/her anonymity.

53
54 **SEC. 12. Confidentiality of Information.** – No person to whom a disclosure has been made
55 or referred to shall divulge any information that may identify or tend to identify a whistleblower
56 or reveal the subject matter of such disclosure, except only as to the following circumstances:

- 57 A. The whistleblower consents in writing prior to such a disclosure of;

1
2 B. The disclosure is indispensable and essential as determined by the Implementing Agency,
3 taking into consideration the necessary proceedings to be had after said disclosure; or

4
5 C. The disclosure or referral is made pursuant to an obligation under this Act. The prohibition
6 on disclosure under this Section shall apply to any person who has become privy to any
7 confidential information, whether officially or otherwise.

8
9 **SEC. 13. *Violation of Confidentiality.*** – Any person who shall violate the protection of
10 confidentiality of a protected disclosure under Sections 11 and 12 of this Act, shall suffer the
11 penalty of imprisonment of not less than six (6) months but not more than one (1) year with the
12 accessory penalty of temporary absolute disqualification for public office, in case of a public
13 officer or employee, and shall be civilly liable to the whistleblower in such amount of damages
14 as may be awarded and deemed reasonable by the court.

15
16 The proceedings herein shall be independent of any action that an aggrieved whistleblower
17 may take before the Civil Service Commission of the Department of Labor and Employment for
18 unfair or discriminatory practices, back wages, or other labor dispute, or before other quasi-
19 judicial agencies that may or may not have arisen from a disclosure, or a believed or suspected
20 disclosure.

21
22 **SEC. 14. *No Breach of Duty of Confidentiality.*** – A whistleblower who has made a
23 disclosure under this Act upon whom a provision of law, regulation, issuance, practice or other
24 convention, imposes upon him/her the duty to maintain confidentiality with respect to any
25 information disclosed to him/her shall be considered not to have committed a breach thereof.

26
27 **SEC. 15. *Defense of Privileged Communication.*** – A whistleblower who has made a
28 disclosure under this Act shall have in any other injury or proceeding the defense of absolute
29 privileged communication with respect to the subject matter of his/her disclosure or information
30 given to the proper authorities.

31
32 **SEC. 16. *False and Misleading Disclosures.*** – Any person found guilty of deliberately and
33 voluntarily gives false or misleading information in connection with acts or omissions
34 constituting improper conduct shall suffer imprisonment for a period of one (1) year and one (1)
35 day up to two (2) years at the discretion of the court as well as perpetual absolute disqualification
36 from holding public office, in case of a public officer or employee, without prejudice to other
37 liabilities under existing laws.

38
39 **SEC. 17. *Protection against Disciplinary Action or Reprisals and Prohibited Acts.*** – A
40 whistleblower who has made or is believed or suspected to have made a disclosure under this Act
41 shall not be liable to disciplinary action for making said disclosure.

42
43 Prohibited acts under this section include retaliatory action in a workplace or prejudicial
44 conduct towards a whistleblower, such as: discriminatory actions, reprimand, punitive transfers,
45 unwarranted referral to psychiatrist or counselor, and undue or inappropriate poor or failing
46 performance reviews. Other prejudicial conducts include obstruction of an investigation,
47 withdrawal of essential resources, alteration of policies and procedures, undue reports and the
48 attachment of unfair personnel file notes.

49
50 Any employer who has undertaken reprisals and/or initiated disciplinary actions and/or
51 imposed sanctions or other forms of retaliatory actions, including but not limited to workplace
52 ostracism, questions and attacks on motives, accusations of disloyalty and dysfunction, public
53 humiliation and the denial of work or promotion, or who encourages, causes or commits, directly
54 or indirectly, retaliatory action or reprisals against a whistleblower, or anyone believed or
55 suspected to be one, shall be liable for the offense defined under this Act.

1 Any officer or employee who refuses to follow orders of superior that would cause them to
2 violate any provision of this Act shall likewise be protected from reprisals and retaliatory action
3 in the workplace.

4
5 For purposes of this protection, an applicant for employment shall be deemed an employee
6 and entitled to such protection.

7
8 *Provided, however,* That an employer of a whistleblower shall be notified through a
9 certification issued by the Implementing Agency within a period of thirty (30) days, from the
10 date when the whistleblower last reported for work. *Provided, further,* That an employer shall
11 have the option to remove said whistleblower from employment after securing a clearance from
12 the Civil Service Commission and the Department of Labor and Employment, as may be
13 appropriate, in case of a prolonged absence due to transfer or permanent relocation under this
14 Act or R.A. No. 6891.

15
16 **SEC. 18. Protection against other Actions.** – A whistleblower who has made a disclosure
17 under this Act shall not be subject to any liability, whether administrative, civil, or criminal, for
18 making such a disclosure. No action, claim or demand may be taken against a whistleblower for
19 making such disclosure, not shall any evidence presented be used against him/her in court.

20
21 This protection shall also operate as immunity in favor of a whistleblower against any action
22 or proceeding taken against him/her by reason of his/her disclosure.

23
24 *Provided, however,* that the whistleblower does not appear to be the most guilty in the
25 commission of the act or acts constituting improper conduct.

26
27 **SEC. 19. Discriminatory Hiring.** – Any individual, firm, corporation, office or employer
28 who shall deny a qualified applicant of employment, or who shall reject his/her application for
29 employment solely on the ground that the applicant is or will be a whistleblower, shall be guilty
30 of an offense punishable by not more than six (6) months imprisonment with the accessory
31 penalty of suspension of the right to hold public office, in case of a public officer or employee,
32 and shall be civilly liable to indemnify the whistleblower for such damages as may be awarded
33 by the court.

34
35 **SEC. 20. Retaliatory Action in the Workplace.** – Any person who shall commit any
36 retaliatory act in a workplace as defined under this Act, against an employee who is a
37 whistleblower, or believed or suspected to be one, shall be guilty of an offense and shall suffer
38 the penalty of not more than six (6) months imprisonment with the accessory penalty of
39 suspension of the right to hold public office, in case of a public officer or employee, and shall be
40 civilly liable to indemnify a whistleblower in case damages are incurred and as may be awarded
41 by the court.

42
43 The aggrieved whistleblower shall be entitled to the provisional remedy of injunction against
44 any retaliatory action in the workplace, prejudicial conduct or discriminatory treatment by reason
45 of the said whistleblower's intended or actual disclosure.

46
47 The proceedings herein shall be independent of any action that an aggrieved person may take
48 before the Civil Service Commission of the Department of Labor and Employment for unfair
49 discriminatory practices, back wages, or other labor dispute, or before other quasi-judicial
50 agencies that may or may not have arisen from a disclosure, or a believed or suspected
51 disclosure.

52
53 **SEC. 21. Penalty for Retaliatory Acts against a Whistleblower.** – Any person who commits
54 any of the retaliatory acts as defined in this Act against a whistleblower and/or who hinders,
55 delays, prevents or dissuades a whistleblower from:

56 A. Attending, assisting or testifying, before any investigating agency and/or judicial or quasi-
57 judicial body;

- 1
2 B. Reporting to a law enforcement agency, public official and/or the judiciary the commission
3 or possible commission of an offense or a violation of conditions of probation, parole, or
4 release pending judicial proceedings;
5 C. Seeking the arrest of another person in connection with the offense;
6
7 D. Causing a criminal prosecution, or a proceeding for the revocation of a parole or probation;
8 or
9
10 E. Performing and enjoying the rights and benefits under this Act, or who attempts to do so
11 shall be fined not more than One Hundred Thousand Pesos (Php 100,000.00) and/or suffer
12 imprisonment of not less than six (6) months but not more than six (6) years or both at the
13 discretion of a court and shall also suffer the penalty of perpetual disqualification from
14 holding public office in case of a public officer or employee.

15
16 **SEC. 22. Benefits and Security and Protection of a Qualified Whistleblower.** – A qualified
17 whistleblower shall be entitled to an allowance sufficient for his/her daily basic financial
18 requirements considering his personal circumstances, provided he/she requests for said
19 allowance and the Implementing Agency determines and approves the reasonableness of such
20 request, in accordance with the implementing rules and regulations of this Act.

21
22 A qualified whistleblower shall likewise be entitled to housing and personal security
23 regardless of whether the disclosure is made in confidence or in public. Accordingly, the
24 Implementing Agency is hereby authorized to allocate funds and resources as provided for in
25 Section 32 hereof for the full satisfaction of the benefits and security and protection of a
26 qualified whistleblower, in accordance with the implementing rules and regulations of this Act.

27
28 This section is without prejudice to any benefits a qualified whistleblower may be entitled to
29 under R.A. No. 6891 provided that the necessary amount shall be sourced from the budget as
30 provided for in Section 32 hereof and that no duplication of benefit shall ensue.

31
32 **SEC. 23. Financial Rewards for Whistleblower.** – A qualified whistleblower shall be
33 entitled to a monetary reward on a contingency basis, equivalent to at least ten per centum (10%)
34 of the amount which may be recovered as a result of his disclosure or the amount of One Million
35 Pesos (Php 1,000,000.00), whichever is lower.

36
37 **SEC. 24. Abstract.** – All government agencies, offices, bureaus and local government units,
38 including government owned or controlled corporations, whether or not with original charters,
39 shall conspicuously display an abstract of this Act and the rights and protections of
40 whistleblowers, including the obligations of employers under this Act. Such abstract shall be
41 provided in the implementing rules and regulations.

42
43 All government agencies, offices, bureaus and local government units, including government
44 owned and controlled corporations, whether or not with original charters, shall likewise put in
45 place internal procedures for dealing with whistleblowers, consistent with the provisions of this
46 Act and its implementing rules and regulations. Said internal procedure shall be widely
47 disseminated to all employees.

48
49 All other employers, specifically those in the private sector, shall also conspicuously display
50 notices of their employee's protections and their obligations under this Act and its implementing
51 rules and regulations.

52
53 **SEC. 25. Failure of an Employer to Post Abstract.** – The failure to post an Abstract or to
54 adopt internal procedures as requires under Section 24 of this Act shall constitute an offense and
55 shall be penalized with a fine in the amount of One Hundred Thousand Pesos (Php 100,000.00)
56 for the first offense. Said amount shall be doubled for every succeeding offense/s.

1 **SEC. 26. Failure to Act or Report to the Implementing Agency.** – Any person under
2 obligation to report a disclosure under this Act to the Implementing Agency but who fails to do
3 so within the period of two (2) months, or who fails to act thereon or cause an investigation
4 thereof, shall be guilty of an offense and shall suffer the penalty of not more than six (6) months
5 imprisonment, and/or a fine amounting to not more than Three Hundred Thousand Pesos (Php
6 300,000.00) without prejudice to any other liability that may be imposed upon such person under
7 existing laws.

8
9 **SEC. 27. Confidentiality of the Proceedings.** – All proceedings involving application and/or
10 enjoyment of the benefits under this Act, including any action taken thereon, shall be
11 confidential in nature. No information or documents given or submitted in support thereof shall
12 be released except upon written order of the Implementing Agency, and provided such disclosure
13 shall not endanger the life of a qualified whistleblower.

14
15 **SEC. 28. Powers and Functions of the Implementing Agencies or Agency.** – In addition to
16 their respective powers and functions under existing laws, the Implementing Agencies shall:

- 17 A. Supervise, monitor and coordinate all efforts relative to the implementation and enforcement
18 of the provisions of this Act;
19
20 B. Investigate all disclosures made under this Act, prosecute or recommend prosecution of the
21 same when warranted;
22
23 C. Evaluate the qualification of whistleblowers for coverage under this Act, and whenever
24 appropriate, make the appropriate decision on their entitlement to the benefits and security
25 and protection extended herein;
26
27 D. Undertake, in coordination and cooperation with the private and public sectors, an
28 information campaign to educate the public on the provisions and benefits of this Act;
29
30 E. Develop plans and implement programs to further encourage whistleblowers with a view for
31 effective deterrence and/or prosecution of improper conduct as well as acts amounting to
32 graft and corrupt practices;
33
34 F. Control and administer, through coordination and consistent with the provisions and purpose
35 of this Act, the protection and benefits of whistleblowers and the funds necessary to carry out
36 the provisions of this Act;
37
38 G. Call upon, or deputize any department, bureau, office or any other government agency or
39 public official to assist in the effective implementation and enforcement of this Act; and
40
41 H. Grant immunity in accordance with the provisions of this Act and its implementing rules and
42 regulation.

43
44 **SEC. 29. Implementing Agency, Option of Whistleblower.** – A whistleblower shall have the
45 right to indicate his preference as to the Implementing Agency he/she intends to be admitted
46 and/or qualifies in as a whistleblower. The Implementing Agency so chosen shall have the
47 primary jurisdiction and authority to exercise the powers and functions provided for under
48 Section 28 of this Act.

49 **SEC. 30. Congressional Whistleblower Program.** – The Senate and the House of
50 Representatives may have their own Whistleblower's Program for resource persons and/or
51 whistleblowers appearing before them or their respective committees.

52
53 The resource person and/or whistleblower, with his/her express consent, may be admitted
54 into the program upon the recommendation of the legislative committee where his/her testimony
55 is needed when in its judgment there is pressing necessity therefor: *Provided*, that such

1 recommendation is approved by the President of the Senate or the Speaker of the House,
2 whichever the case may be.

3
4 The Senate or the House of Representatives, as the case may be, shall have primary
5 jurisdiction in the administration and implementation of the program independent from any other
6 agency of government when the investigation of the safety of the resource person or
7 whistleblower shall be prejudiced.

8
9 **SEC. 31. Implementing Rules and Regulations.** – There is hereby created a Whistleblower
10 Council which shall be composed of the Implementing Agencies and headed by the Office of the
11 Solicitor General.

12
13 The Council shall be primarily and solely responsible for the drafting and promulgating of
14 the necessary Implementing Rules and Regulations (IRR) for the effective implementation of this
15 Act. The Council's submission to Congress of the approved IRR and the causing of its
16 publication in at least two (2) newspapers of general circulation shall render the council *functus*
17 *officio*.

18
19 **SEC. 32. Funding.** – The amount One Hundred Million Pesos (Php 100,000,000.00) is
20 hereby authorized to be appropriated out of any funds in the National Treasury not otherwise
21 allocated to carry into effect the purpose of this Act.

22
23 Other funding schemes or sources that may be authorized under existing laws shall be
24 allowed in furtherance hereof.

25
26 **SEC. 33. Separability Clause.** – If any provision or part hereof, is held invalid or
27 unconstitutional, the remainder of the law or the provisions not otherwise affected thereby shall
28 remain valid and subsisting.

29
30 **SEC. 34. Repealing Clause.** – Any law, presidential decree or issuance, executive order,
31 letter of instruction, administrative order, rule or regulation contrary to or inconsistent with, the
32 provisions of this Act, is hereby repealed, modifies, or amended accordingly.

33
34 **SEC. 35. Effectivity Clause.** – This Act shall take effect fifteen (15) days after its
35 publication in the Official Gazette or at least two (2) newspapers of general circulation.

Approved,