

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Third Regular Session

House Bill No. **8346**



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

EXPLANATORY NOTE

A government should be under the rule of law and not of men. To maintain peaceful governance under the rule of law, the state should have an effective justice system, which includes, among other elements, an impartial tribunal, ready representation for the accused, and a competent prosecuting arm on behalf of the state and its people.

The National Prosecution Service (NPS) is the prosecution arm of the Department of Justice (DOJ) whose members, the public prosecutors, are the ones who stand before our Courts of Justice to represent the People and the aggrieved in a criminal case. They are mandated to uphold the rule of law as a component of the justice system.

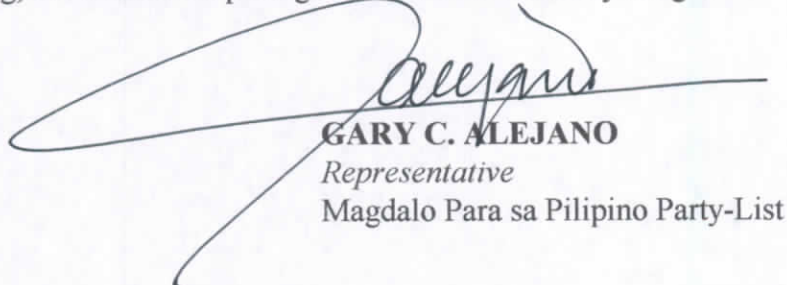
The National Prosecution Service was created thru Republic Act No. 10071 which shall primarily be responsible for the preliminary investigation and prosecution of all cases involving violations of penal laws. It is independent from the Department of Justice in order to ensure precise fact-finding investigation and righteousness through fair execution of laws.

This measure seeks to professionalize and further strengthen the NPS thru the following:

- 1) Creating an independent and autonomous National Prosecution Service, with its own organizational structure separate and distinct from the Department of Justice;
- 2) Giving the Prosecutor General leadership, control and supervision over it; and
- 3) Providing additional benefits and incentives to NPS prosecutors in the form of forfeitable leave privilege, hazard pay, and survivorship.

With this proposed measure, we hope that we would be able to strengthen public trust toward the Prosecution Service and, in the process, help advance democracy and rule of law in the country.

In view of the foregoing, the immediate passage of the Bill is earnestly sought.


GARY C. ALEJANO
Representative
Magdalo Para sa Pilipino Party-List

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AN ACT
TO FURTHER STRENGTHEN AND REORGANIZE THE NATIONAL
PROSECUTION SERVICE AMENDING FOR THE PURPOSE REPUBLIC ACT NO.
10071, AND APPROPRIATING FUNDS THEREFOR

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

1 **SEC. 1.** Section 2 of Republic Act No. 10071 is hereby amended to read as follows:
2

3 **Section 2. Scope.** – The constituent offices herein covered shall refer to the
4 offices enumerated under Section 3-A of Republic Act No. 10071, as
5 amended, that compose the National Prosecution Service as created and
6 establish in the succeeding sections.
7

8 **SEC.2.** Section 3 of Republic Act No. 10071 is hereby amended to read as follows:
9

10 **Section 3. Creation and Mandate of the National Prosecution Service.** There
11 is hereby created and established an independent and autonomous National
12 Prosecution Service (NPS) to be headed by a Prosecutor General and attached
13 to the Department of Justice. The NPS shall be primarily responsible for the
14 investigation and prosecution of all cases involving violation of penal laws.
15

16 **SEC.3.** A new Section 3-A is hereby inserted in RA 10071 to read as follows:
17

18 **Section 3-A. Organizational Structure.** The NPS shall be composed of the
19 following constituent offices or units:
20

21 (1) Office of the Prosecutor General, which shall be assisted by the following
22 offices, namely;

23 (1.1) Office of the Chief of Staff;

24 (1.2) Office of the Senior Deputy State Prosecutor for Policy and
25 Administration

26 (1.3) Office of the Senior Deputy State Prosecutor for Regional
27 Operations and Filed Services;

28 (1.4) Office of the Senior Deputy State Prosecutor for Projects
29 Managements;

(1.5) Office of the Senior Deputy State Prosecutor for Special Cases and Appeals/ Petitions for Review; and

(1.6) Office of the Senior Deputy State Prosecutor for Internal Affairs.

(2) Line Services consisting of the following:

(2.1) Financial Management Service;

(2.2) Human Resources Management Service;

(2.3) Planning and Statistics Service;

(2.4) Training and Development Service;

(2.5) Research Centre;

(2.6) Case Management Service; and

(2.7) Management Information Service;

(3) Field Offices;

(3.1) Regional Prosecution Office;

(3.2) Provincial Prosecution Office; and

(3.3) City Prosecution Offices.

The following positions/items shall be directly under the Office of the Prosecutor General:

(a) Five (5) Senior Deputy State Prosecutors who shall each head the foregoing Offices mentioned above [paragraphs (1.2) to (1.6)];

(b) Twenty (20) Deputy State Prosecutors;

(c) Thirty five (35) Senior Assistant State prosecutors;

(d) Eighty (80) Assistant State Prosecutors; and

(e) Twenty (20) Associate State Prosecutors.

SEC.4. Section 4 of Republic Act No. 10071 is hereby deleted.

SEC.5. Section 5 of Republic Act No. 10071 is hereby amended to read as follows:

SEC.5. Powers and Functions of the Office of the Prosecutor General. The Prosecutor General shall have the following powers and functions:

(1) Appoint, upon the recommendation of the Human Resources Management Service in accordance with a selection and promotion standards and process that shall be established immediately after the effectivity of this Act, the officials and personnel of the National Prosecution Service from the rank of Prosecutor I up to Prosecutor V, but excluding Senior Deputy State Prosecutors and Regional Prosecutors, who shall be appointed by the President upon the recommendation of the Prosecutor General;

(2) Act directly on any matter involving crime against national security, act of terrorism, and in any case where there is probability of miscarriage of justice, within the jurisdiction of the constituent offices of the National Prosecution Service;

- (3) Create and organize various divisions/task forces within the NPS that will focus in the investigation and prosecution of crimes involving national and/or public interest;
- (4) Issue policy guidelines and develop plans, programs and projects relative to the investigation and prosecution of criminal cases;
- (5) Act as counsel for the People of the Philippines in any case involving or arising from a criminal complaint investigated by any of its prosecutors and pending before any trial court;
- (6) Represent the National Prosecution Service, in a concurrent capacity with the Office of the Solicitor General, before the Court of Appeals and Supreme Court in all cases elevated to said courts by way of appeal, certiorari or petition for review involving decisions, issues and incidents arising from criminal cases prosecuted by the National Prosecution Service before any trial court;
- (7) Investigate or cause to be investigated, administrative complaints against prosecutors, other prosecution officers and other personnel in the Office of the Prosecutor General and the various line services;
- (8) Prepare legal opinions on queries involving violations of the Revised Penal Code and special penal laws;
- (9) Monitor all criminal cases filed with the National Prosecution Service, maintain updated records of the status of each case, and adopt such systems and procedures as will expedite the monitoring and disposition of cases;
- (10) Require the constituent offices to submit their respective annual budget proposals and to prepare the budget of the National Prosecution Service;
- (11) Approve the appointment of personnel in the Office of the Prosecutor General and in the line services in accordance with the qualification, skills and competency standards as shall be established by the Human Resources Management Service of the NPS;
- (12) Approve the transfer of prosecution support staff in the Office of the Prosecutor General and in the line services, and exercise disciplinary action over them in accordance with the Civil Service Law, and other existing laws and regulations;
- (13) Approve attendance of prosecutors and support staff in the Office of the Prosecutor General and of Regional Prosecutors in official conferences, seminars and other training programs;

1 (14) Approve the following requests of Regional Prosecutors and of
2 prosecutors and personnel in the Office of the Prosecutor General:
3 official leave of absence, with or without pay, overtime services; official
4 and personal travel; permission to exercise profession or to engage in
5 business outside of office hours; and claims and benefits under existing
6 laws;

7
8 (15) Approve requests of prosecutors and other personnel of the NPS in the
9 regional prosecution offices for official leave of absence, with or without
10 pay, for a period exceeding one (1) year, and for official travel outside of
11 the respective regions; and
12

13 (16) Other powers and functions inherent in a head of agency, and that are
14 relevant and necessary for the fulfillment of the mandate of the NPS.
15

16 **SEC.6.** Section 6 of Republic Act No. 10071 is hereby amended to read as follows:
17

18 **Section 6. Regional Prosecution Office.-** There shall be at each
19 administrative region, including the National Capital Region (NCR), a
20 Regional Prosecution Office to be headed by a Regional Prosecutor who shall
21 be assisted by one (1) Deputy Regional Prosecutor who shall be assisted by
22 one (1) Deputy Regional Prosecutor, one (1) Senior Assistant Regional
23 Prosecutor, three (3) Assistant Regional Prosecutors, and three (3) Associate
24 Regional Prosecutors.

25 **SEC.7.** Section 7 of Republic Act No. 10071 is hereby amended to read as follows:
26

27 **Section 7. Powers and Functions of the Regional Prosecutor.-** The Regional
28 Prosecutor shall, under the control and supervision of the Office of the
29 Prosecutor General, have the following powers and functions:
30

31 (a) Implement policies, plans, programs, memoranda, orders, circulars and
32 rules and regulations of the OPG relative to the investigation and
33 prosecution of criminal cases in his/her region;
34

35 (b) Exercise immediate administrative supervision over all provincial and city
36 prosecutors and other prosecuting officers for provinces and cities
37 comprised within his/her region.
38

39 (c) Prosecute any case arising within the region;
40

41 (d) When so delegated by the Office of the Prosecutor General, resolve with
42 finality appeals from or petitions for review of judgments and orders of
43 provincial and city prosecutors and their assistants within the region in
44 cases where the imposable penalty is at least prision mayor, or its
45 equivalent. This notwithstanding, the Office of the Prosecutor General is
46 not precluded from exercising his power or review over such resolutions of
47 the Regional Prosecutor in instances where lies grave abuse of discretion

on the part of the Regional Prosecutor, and from determining the extent of the coverage of the power of review of the Regional Prosecutors;

(e) Designate a prosecutor from any office of the provincial or city prosecutor within the region as Acting Provincial or City Prosecutor to investigate and prosecute a case in instances where parties question the partiality or bias of a particular city or provincial prosecutor or where the city or provincial prosecutor voluntarily inhibits himself/herself by reason of relationship to any of the parties within the sixth (6th) civil degree of consanguinity or affinity;

(f) With respect to his/her regional office and the offices of the provincial and city prosecutors within his region, he/she shall:

- (1) Approve the appointment of support personnel in accordance with the qualification, skills and competency standards as may be established by the Human Resources Management Service of the NPS;
- (2) Approve the transfer of support personnel within the jurisdiction of the regional office and exercise disciplinary actions over them in accordance with the Civil Service law, other existing laws and regulations;
- (3) Approve the following requests of prosecutors and personnel within the region: official leave of absence, with or without pay, for a period not exceeding one (1) year; overtime services; official travel within the region; permission to exercise their profession or to engage in business outside of office hours; and claims and benefits under existing laws;
- (4) Exercise immediate administrative supervision over all provincial and city prosecutors, their assistants and all other prosecuting officers of the provinces and cities within his/her region;
- (5) Investigate administrative complaints against prosecutors and other prosecuting officers within the region and submit his/her recommendation to the Office of the Prosecutor General, which shall, after review thereof and where warranted, impose the corresponding administrative sanction/s in accordance with law;
- (6) Approve attendance of personnel in conferences, seminars and other training programs within the region;
- (7) Prepare the budget for the region for approval of the Office of the Prosecutor General and administer the same;
- (8) Approve requisition for supplies, materials and equipment, as well as books, periodicals and the like and other items for the region in accordance with the approved supply procurement program;
- (9) Negotiate and conclude contracts for services or for furnishing supplies, materials and equipment and the likes within the budgetary limits set for the region;
- (10) Within his/her region, monitor the submission of all reports as may be required by the Office of the Prosecutor General;

- (11) Coordinate with the regional offices of other departments, bureaus and agencies of the government and with local governments units in the region; and
- (12) Perform such other duties and functions as may be provided by law or as may further be delegated by the Office of the Prosecutor General.

SEC.8. The last paragraph of Section 8 of Republic Act No. 10071 shall be deleted, and the said Section shall now read as follows:

Section 8. *The Provincial Prosecutor or City Prosecutor.*- There shall be for each province or city a Provincial or City Prosecutor, as the case may be, who shall be assisted by at least one (1) Deputy Provincial Prosecutor or Deputy City Prosecutor and such number of assistant and associate prosecutors as provided for hereinafter. *Provided, however,* that whenever a new province or city is created, it shall have a provincial prosecutor or city prosecutor, a deputy provincial prosecutor or deputy city prosecutor and such number of assistant and associate prosecutors as there are court branches therein at the ration of two (2) prosecutors for each branch of regional trial court, one (1) prosecutor for each branch of metropolitan trial court or municipal trial court in cities, and one (1) prosecutor for every two (2) municipal trial courts in municipalities or branches thereof or municipal circuit trial courts.

Upon the establishment of the new province or city, position items of Prosecutor of the Office of the Provincial Prosecutor for the mother province in excess of the new equivalent pursuant to the ratio established above for the courts or branches thereof that remained to be served by the office shall be transferred automatically to the Office of the provincial Prosecutor or Office of the City Prosecutor for the new province or city, as the case may be: *Provided, further,* That when all or almost all of the regional trial court branches are seated at the city, the number of prosecutors for the city shall be proportional to the territorial jurisdiction covered by such branches of the courts.

In case a province is reverted to the mother province or a city is reconverted into a municipality for whatever reason, all the prosecution position items of the Office of the Provincial Prosecutor or Office of the City Prosecutor shall go the Office of the Provincial Prosecutor for the mother province: *Provided, however,* That the position title provincial prosecutor or city prosecutor for the former province or city shall be changed to Assistant Provincial Prosecutor or Associate Prosecutor, as the case may be, and shall have the corresponding rank provided in Section 15.

SEC. 9. The first paragraph of Section 9 of Republic Act No. 10071 shall be deleted, and the said Section shall now read as follows:

Section 9. *Powers and Functions of the Provincial or City Prosecutor.* The Provincial or City Prosecutor shall:

- (a) Investigate and/or cause to be investigated all charges of crimes, misdemeanors and violations of penal laws and ordinances within their respective jurisdictions, and have the necessary information or complaint prepared or made and filed against the persons accused. In the conduct of such investigations he or any of

- 1 his/her assistants shall receive the statements under oath or take oral evidence of
2 witnesses, and for this purpose may by subpoena summon witnesses to appear and
3 testify under oath before him/her, and the attendance or evidence of an absent or
4 recalcitrant witness may be enforced by application to any trial court; and
5 (b) Have charge of the prosecution of all crimes, misdemeanors and violations of city
6 or municipal ordinances in the courts at the province or city and therein discharge
7 all the duties incident to the institutions of Section 5 hereof.
8

9 **SEC.10.** Section 12 of Republic Act No. 10071 is hereby amended to read as follows:
10

11 **Section 12. *Realignment of the Position Items.***- Upon the approval of this
12 Act, the Office of the Prosecutor General shall transfer vacant excess position
13 items of prosecutors to the cities within the province or to the province of
14 which the cities used to be municipalities or to other cities within the province:
15 *Provided, however,* That if the position items are occupied, they shall be
16 transferred as soon as they become vacant or when the incumbent prosecutors
17 consent to their transfer.
18

19 When new cities or provinces are created and court branch seats are realigned
20 or redistributed, the Office of the Prosecutor General shall correspondingly
21 create or realign position items of prosecutors to the new cities or provinces
22 from the province without prejudice to the provision of Section 8 hereof.
23

24 After the approval of this Act, branches of the Regional Trial Court that are
25 seated in the city hitherto try and hear criminal cases filed by either the office
26 of the provincial prosecutor or office of the city prosecutor shall
27 proportionally divide themselves into branches where criminal and other cases
28 filed, and those to be prosecuted and or defended by the Office of the
29 Provincial Prosecutor shall be exclusively raffled to, tried and heard, and
30 branches where criminal and other cases filed, and those to be prosecuted or
31 defended by the Office of the City Prosecutor shall exclusively raffled to, tried
32 and heard. Upon such division, the Office of the Prosecutor General shall also
33 realign position items of prosecutor of the Office of the Provincial Prosecutor
34 and the Office of the City Prosecutor affected.
35

36 **SEC.11.** Section 14 of Republic Act No. 10071 is hereby amended to read as follows:
37

38 **Section 14. *Qualifications, Rank and Appointment of the Prosecutor***
39 ***General.***- The Prosecutor General is a cabinet rank and shall have the same
40 qualifications for appointment, rank, category, prerogatives, salary grade and
41 salaries, allowances, emoluments, and other privileges, shall be subject to the
42 same inhibitions and disqualifications, and shall enjoy the same retirement and
43 other benefits as those of an Associate Justice of the Supreme Court and shall
44 be appointed by the President.
45

46 **SEC.12.** Section 16 of Republic Act No. 10071 is hereby amended to read as follows:
47

48 **Section 16. *Qualifications, Ranks, and Appointments of Prosecutors and***
49 ***Prosecutors, and other Prosecution Officers.***- Prosecutors with the rank of
50 Prosecutor V shall have the same qualifications for appointment, rank,

category, prerogatives, salary grade, and salaries, allowances, and emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefits as those of an associate justice of the Court of Appeals.

Prosecutors with rank of Prosecutor IV shall have the same qualifications for appointment, rank, category, prerogatives, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefit as those of a Judge of the Regional Trial Court.

Prosecutors with the rank of Prosecutor III shall have the same qualifications for appointment, rank, category, prerogatives, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefit as those of a Judge of the Metropolitan Trial Court.

Prosecutors with the rank of Prosecutor II shall have the same qualifications for appointment, rank, category, prerogatives, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefit as those of a Judge of the Municipal Trial Court in cities.

Prosecutors with the rank of Prosecutor I shall have the same qualifications for appointment, rank, category, prerogatives, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefit as those of a Judge of the Metropolitan Trial Court in municipalities.

Any increase after the approval of this Act in the salaries, allowances or retirement benefits or any upgrading of the grades or levels thereof of any or all of the Justice or Judges referred to herein to whom said emoluments are assimilated shall apply to the corresponding prosecutors.

All the above prosecutors shall be selected from among qualified and professionally trained members of the legal profession who are of proven integrity and competence, as determined by the Human Resource Management Service of the NPS in accordance with the selection and promotion standards and process that must be established immediately after the effectivity of this Act. All prosecutors of the NPS, including the Prosecutor General, shall serve until they reach the age of sixty five (65) years old: *Provided, however,* That the ages of "seventy (70) years" and "sixty-five (65) years" and the years of service "twenty (20) years" provided in Republic Act No. 910, as amended, and other retirement laws for judges, shall be understood as "sixty-five (65) years" and "sixty (60) years," and fifteen (15) years," respectively, when applied to prosecutors.

The 'qualifications for appointment' mentioned in this Section and in Section 14 of this Act shall be in addition to the requirements of prosecutorial

1 experience, skills, and competencies that shall be established by the Human
2 Resources Management Services of the NPS as herein provided.

3
4 Subject to Section 20 hereof the salaries, allowances and benefits of all
5 personnel of the National Prosecution Service shall be paid entirely out of
6 national funds and included in the annual appropriations of the DOJ. *Provided*
7 *however*, That this provision is without prejudice to the grant of allowances to
8 the above-mentioned prosecutors by their respective local governments in
9 amounts not exceeding fifty-percent (50%) of their basic salaries; *Provided,*
10 *further*, That the whole of the allowances or portion thereof, whether granted
11 by the national or local government shall be exempt from the income tax.

12 The salaries, allowances and other emoluments herein fixed shall not apply to
13 officers other those of prosecutors in the National Prosecution Service,
14 notwithstanding any provision of law assimilating the salaries of other officers
15 to those herein mentioned.

16
17 **SEC.13.** Section 19 of Republic Act No. 10071 is hereby amended to read as follows:

18
19 **Section 19. *No Undermining of Security of Tenure.***- Nothing in this Act shall
20 be construed to allow the transfer, except as provided herein or in case of
21 temporary assignment, as public interest may require, of any prosecutor to
22 another office or station, or to undermine the security of tenure of incumbent
23 prosecutors as provided in the laws. Such temporary assignment shall not
24 exceed three (3) months without his or her written consent. No chief of
25 prosecution office in the National Prosecution Service shall be detailed or
26 assigned to another office or station, except in a concurrent capacity and with
27 his or her written consent.

28
29 **SEC.14.** A new Section 21-A shall be inserted in Republic Act No. 10071 to read as
30 follows:

31
32 **Section 21-a. *Forfeitable Leave Privilege.*** All prosecutors in the National
33 Prosecution Service shall be entitled annually to thirty (30) days forfeitable
34 leave with pay in addition to the fifteen (15) days vacation leave and fifteen
35 (15) days sick leave privileges provided by law. In the computation thereof,
36 Saturdays, Sunday and holidays shall be excluded.

37
38 The forfeitable leave privilege shall be non-cumulative and non-convertible to
39 cash.

40
41 **SEC.15.** A new Section 21-B shall be inserted in Republic Act No. 10071 to read as
42 follows:

43
44 **Section 21-B. *Hazard Pay.***- All prosecutors in the National Prosecution
45 Service shall, during their incumbency, be entitled to a monthly incentive in
46 the form of a tax-exempt hazard pay in the amount equivalent to twenty-five
47 percent (25%) of their basic salary per month.

1 **SEC.16.** A new Section 21-C shall be inserted in Republic Act No. 10071 to read as
2 follows:

3
4 **Section 21-C. Survivorship Benefits.-** Upon death of any prosecutor of the
5 National Prosecution Service, if said prosecutor has retired or was in the
6 service at the time of death, the surviving legitimate spouse and dependent
7 children of said prosecutor shall be entitled to receive on a monthly basis all
8 the retirement benefits that the deceased was receiving or entitled to receive at
9 the time of death under the provisions of the applicable retirement laws then in
10 force.

11
12 A “dependent” means a legitimate, illegitimate or legally adopted child who is
13 chiefly dependent on the above-enumerated deceased NPS prosecutors, if such
14 dependent is not more than twenty-one (21) years of age, unmarried and not
15 gainfully employed, or if such dependent, regardless of age, is incapable of
16 self-support because of mental or physical defect.

17
18 The said surviving legitimate spouse shall continue to receive such retirement
19 benefits during his/her lifetime or until he/she remarries; *Provided*, that if the
20 surviving legitimate spouse is receiving benefits under existing retirement
21 laws, he/she shall only be entitled to the difference between the amount
22 provided for in this Act and the benefits he/she is receiving; *Provided further*,
23 that said benefits shall be granted all aforementioned prosecutors of the NPS
24 who died or retired prior to the effectivity of this Act.

25
26 Funds for the initial implementation of this Section shall be taken out of the
27 current appropriations for the retirement of the prosecutors of the NPS and/or
28 savings of said office. Thereafter, such sums as may be necessary for the
29 continued implementation of this Section shall be included in the annual
30 general appropriations act.

31
32 **SEC.17.** Section 26 of Republic Act No. 10071 is hereby amended to read as follows:

33
34 **Section 26. Appropriation.-** There is hereby appropriated initially the sum of
35 One Hundred Million Pesos (P100,000,000.00) from the funds of the National
36 Treasury not otherwise appropriated, for the organization and operational
37 expenses of the National Prosecution Service for a period of one (1) year from
38 the effectivity of this Act. The said amount shall be added to the annual budget
39 of the NPS.

40
41 **SEC.18.** A new Section 26-A is hereby inserted in RA 10071 to read as follows:

42
43 **Section 26-A. Implementing Rules and Regulations.** Within sixty (60) days
44 from the effectivity of this Act, the Office of the Prosecutor General, in
45 coordination with the Office of the Secretary of Justice and the Office of the
46 Secretary of Budget and Management, shall promulgate such rules and
47 regulations as may be necessary to carry out the provision of this Act.
48

1 **SEC.19. *Repealing Clause.*** All acts, laws, decrees, executive orders, letters of
2 instructions and regulations or any part thereof which are inconsistent with any provision of
3 this Act are hereby repealed and/or modified accordingly.
4

5 **SEC.20. *Separability Clause.***- If for any reason, any selection or provision of his Act
6 is declared to be unconstitutional or invalid, the other sections or provisions of this Act which
7 are not otherwise affected shall continue in full force and effect.
8

9 **SEC.21. *Effectivity.*** - This Act shall take effect after fifteen (15) days from its
10 publication in the Official Gazette or in two (2) newspaper of general circulation.

Approved,