



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 8169



Introduced by Representative PAUL R. DAZA

EXPLANATORY NOTE

Courage is the most important value in ensuring transparency in governance and eradicating corruption and misdeeds in the government and private sector. Whistleblowing takes a lot of courage—and puts significant risks to one's life and economic security—so the society should ensure that such courage and decision will never be wasted.

At the heart of a whistleblower's decision is *pagmamalasakit*—a Filipino value that probably has no exact translation in English. It is deeper than compassion, stronger than consideration, or more profound than mere assistance or support. For how else can governments and the society in general truly address corruption without leads and evidence, which are oftentimes supplied by courageous whistleblowers?

There are likely thousands of cases languishing in courts, waiting to be filed, or facing dismissal due to lack of strong leads and evidence simply because those who may have wanted to speak up had been silenced by fear of retaliation. We know of cases where whistleblowers or potential whistleblowers have lost jobs/opportunities, been forced to resign, been maligned, discredited, and bullied while others continue to suffer in silence, dealing with anxiety, trauma, or even depression. Many if not all of those who ended up jobless or been forced to resign are faced with unexpected financial catastrophe—many of them breadwinners who are caring for young children, siblings, and/or old and sick parents.

The government is at the core of these injustices and sufferings. It is the State's responsibility to ensure that integrity is upheld and justice is served; not the whistleblower's. As the protector of the Constitution and caretaker of people's taxes and dignity, it has the primordial duty to ensure that every peso shelled out and labored over by its citizens is duly accounted for. It must and should always ensure transparency, accountability and integrity in all government and private sector transactions, services, programs, and projects.

Transparency, accountability, and integrity can only be guaranteed if there is a system where the people are empowered to hold public and private entities accountable. This system should ensure the protection of this rare breed of individuals—often misunderstood changemakers or disruptors—who have knowledge of wrongdoing and are willing to report these crimes and misdeeds oftentimes at the risk of their lives and economic security.

Finally, we quote from an important work by democracy and transparency activists, “In the sphere of public administration, the functioning of which is governed by the principles of legality and effectiveness of the government authorities, and also in that of private businesses whose size or turnover effects rights and the interest of the vast majority of the societies in which they operate, **transparency should be the norm and secrecy the exception**” (Levi, Salgado, and Falzoni, 2019).

Therefore, the State must ensure the protection of whistleblowers, acknowledging that those in positions of power itself—by human nature—**will do everything in their power to silence the “few brave” and cover the truth up.**

This proposed law will hopefully start a new regime of courage and truth, a society of integrity and a better Philippines, **where the fight against corruption is not mere lip service but is an important value shared and protected by ALL.**

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



PAUL R. DAZA

Representative, 1st District of Northern Samar



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**AN ACT PROVIDING FOR THE PROTECTION, SECURITY, AND BENEFITS
OF WHISTLEBLOWERS, APPROPRIATING FUNDS THEREFORE, AND FOR
OTHER PURPOSES**

Be enacted by the Senate and House of Representative of the Republic of the Philippines
in Congress assembled:

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

SECTION 2. Declaration of Policy. – It is a recognized principle that both public
and private offices have vested public and societal trust, and therefore the State shall
promote and ensure accountability of their officers and employees in the conduct of their
functions and duties. Toward this end, the State shall:

- (a) Maintain honest and high standards of integrity in both public and private
organizations and services;
- (b) Safeguard the national interest through the prosecution of erring public and
private officials and employees, and repress certain acts of public officers and
private persons alike which constitute graft or corrupt practices;

- (c) Enhance the enforcement of the Philippines' laws on public procurement. This is necessary, not only to prevent and detect procurement-related fraud and corruption in the context of the implementation of the national budget, but also to tackle insufficient enforcement of rules on public procurement by national contracting authorities and contracting entities in relation to the execution of works, the supply of products or the provision of services. Breaches of such rules create distortions of competition, increase costs for doing business, undermine the interests of investors and shareholders and, in general, lower attractiveness for investment and create an uneven playing field for all businesses, thus affecting the proper functioning of the market;
- (d) Enhance the enforcement of the Philippines' laws on matters that relate to the compliance and safety of products in the market, businesses involved in the manufacturing, importation, and distribution chains, financial services, transport safety, environmental protection and governance (including but not limited to handling of toxic and radioactive wastes), food, feed, and drugs safety, consumer protection, public health, privacy and data protection, competition, tax compliance, employment/labor (including but not limited to occupational health and safety), public utilities (including but not limited to water and electricity), and other industries/sectors that deal with high-value commodities or impact the lives of many; and
- (e) Encourage and give protection to individuals disclosing matters relating to corruption and other acts or omissions of public and private officers and employees inimical to government, private organizations, and society at large.

SECTION 3. Definitions. – As used in this Act.

- (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 or on behalf of said individual, partnership, association, corporation or entity, employ an employee as defined 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) “Private officer/employee” shall refer any person holding any office or performing any function or duty in the private sector by virtue of an appointment, election, or contract. Protection should apply to persons having the status of ‘workers’, namely persons who, for a certain period of time, perform services for and under the direction of another person, in return for which they receive remuneration. Protection should, thus, also be granted to workers in non-standard employment relationships, including part-time workers and fixed-term contract or project workers, as well as persons with a contract of employment or project-based relationship with an agency or consultant firm, and other precarious types of relationships where standard forms of protection against unfair treatment are often difficult to apply.

For example, protection should also extend to categories of natural persons, who, while not being ‘workers’ within the meaning stipulated in current rulings such as the Labor Code, can play a key role in exposing breaches of law and may find themselves in a position of economic vulnerability in the context of their work-related activities. For instance, as regards product safety, suppliers are much closer to the source of information about possible unfair and illicit manufacturing, import or distribution practices concerning unsafe products; and

as regards the implementation of government projects, consultants/sub-consultants providing services are in a privileged position to draw attention to breaches they witness.

Such categories of persons, which include self-employed persons providing services, freelance workers, contractors, subcontractors and suppliers, consultants and sub-consultants are typically subject to retaliation, which can take the form, for instance, of early termination or cancellation of a contract for services (or even non-issuance of contract), a license or permit, loss of business, loss of income, coercion, intimidation or harassment, bullying, blacklisting or business boycotting or damage to their reputation.

Shareholders and persons in managerial bodies can also suffer retaliation, for instance in financial terms or in the form of intimidation or harassment, blacklisting or damage to their reputation. Protection should also be granted to persons whose work-based relationship has ended, and to candidates for employment or persons seeking to provide services to an organization, who acquire information on breaches during the recruitment process or pre-contractual negotiation stage, and who could suffer retaliation, for instance in the form of negative employment references, blacklisting, delaying/non-issuance of service/consulting contract while still being expected to report for work, or business boycotting.

The foregoing definitions is applicable to the following legal entities:

- (1) Political parties, trade unions, and business organizations;
- (2) Private entities of any kind which receive public funds when one of the two following circumstances apply:
 - (i) if, over a period of five (5) months, they receive/manage/co-manage

funding, grants, or any other kind of income from government entities to an amount exceeding Thirty Million Pesos (P30,000,000.00);

(ii) when at least 50% of the total annual income (in the year from which the reporting refers to or in the year/s covered by public funding) is in the nature of public funding or subsidy whenever this is in excess of Fifteen (15) Million Pesos (P10,000,000.00);

(3) Private companies in the list of top 1,000 Corporations or whose annual turnover is equal to or exceeds Three Billion Pesos (PhP 3,000,000,000.00), or when they form part of a group of companies whose volume equals or exceeds that figure as reported by the Securities and Exchange Commission (SEC) for the three (3) years prior to the reporting, or when they employ/contract fifty (50) persons or more.

(e) “Other qualified persons” refer to other categories of persons who, while not relying on their work-related activities economically, can nevertheless suffer retaliation for reporting breaches. Retaliation against volunteers and paid or unpaid trainees could take the form of no longer making use of their services, or of giving them a negative employment reference or otherwise damaging their reputation or career prospects.

Protection should be provided against retaliatory measures taken not only directly vis-à-vis reporting persons themselves, but also those that can be taken indirectly, including vis-à-vis facilitators, colleagues or relatives of the reporting person who are also in a work-related connection with the reporting person’s employer or customer or recipient of services. Without prejudice to the protection that trade union representatives or employees’ representatives enjoy in their capacity as such representatives under other laws, they should enjoy the protection provided for under this Act both where they report in their capacity as workers and where they have provided advice and support to the

reporting person. Indirect retaliation also includes actions taken against the legal entity that the reporting person owns, works for or is otherwise connected with in a work-related context, such as denial of provision of services, blacklisting or business boycotting.

Effective detection and prevention of serious harm to the public interest requires that the notion of breach also includes abusive practices, as defined by relevant laws, namely acts or omissions which do not appear to be unlawful in formal terms but defeat the object or the purpose of the law.

- (f) “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; “government” shall also refer to government-funded projects, for example, a project, whose consulting services had been awarded to a private contractor;
- (g) “Breaches” means acts or omissions that:
 - (i) are unlawful and relate to acts and areas falling within the material scope referred to in Section 2; or
 - (ii) defeat the object or the purpose of the rules in acts and areas falling within the material scope referred to in Section 2;
- (h) “Information on breaches” means information, including reasonable suspicions, about actual or potential breaches, which occurred or are very likely to occur in the organization in which the reporting person works or has worked or in another organization with which the reporting person is or was in contact through his or her work, and about attempts to conceal such breaches;
- (i) “Internal reporting” means the oral or written communication of information on breaches within a legal entity in the private or public sector;

- (j) “External reporting” means the oral or written communication of information on breaches to the competent authorities;
- (k) “Public disclosure” or “to publicly disclose” means the making of information on breaches available in the public domain;
- (l) “Facilitator” means a natural person who assists a reporting person in the reporting process in a work-related context, and whose assistance should be confidential;
- (m) “Work-related context” means current or past work activities in the public or private sector through which, irrespective of the nature of those activities, persons acquire information on breaches and within which those persons could suffer retaliation if they reported such information;
- (n) “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, but are not limited to, criminal, civil or administrative proceedings commenced or pursued, or punitive measures or diminution of benefits or retaliatory action in the workplace as defined in this Act, or continual or habitual harassment or bullying—whether in person or online—undertaken against said whistleblower or any of the members of his/her family or relatives up to the fourth civil degree of consanguinity or affinity.
- (o) “Retaliatory action in the workplace” shall mean any discriminatory conduct or policies which affect tenure, promotion, job assignment, or morale, including undue negative performance appraisal, close monitoring by supervisors, unwarranted criticisms or avoidance by co-employees, blacklisting from other

job opportunities or prejudicial transfers, habitual harassment or bullying—whether in person or online—by reason of a disclosure made under this Act.

(p) “Acts constituting improper conduct” shall mean any act or omission of a public or private officer or employee solely, or in cooperation, conspiracy with, or with the assistance of other public or private persons which is covered by or constitute a violation of:

(1) Presidential Decree No. 46 otherwise known as “Making it punishable for Public Officials and Employees to receive, and for Private persons to give, gifts on any occasion, including Christmas”;

(2) Republic Act No. 3019 otherwise known as “Anti-Graft and Corrupt Practices Act.”

(3) Republic Act No. 6713 otherwise known as “An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees”;

(4) Republic Act No. 7080 otherwise known as the “Anti-Plunder Law”;

(5) Title VII of Book Two of the Revised Penal Code on Crimes Committed by Public Officers;

(6) All other laws which penalize or sanction any or omission of a public officer or employee; and

(7) In the case of private sector wrongdoings or illegal practices, all laws that pertain to corruption, estafa, bribery, embezzlement, theft, tax avoidance, fraud, illicit financial flows, infringements of competition, money laundering, terrorist financing, and other such crimes that

involve anomalous/illegal transactions, which are covered in Section 2 (d).

(q) “Whistleblower” or “reporting person” shall refer to any person who has personal knowledge or access to any data, information, fact or event constituting improper conduct; Provided that such person must not have any direct participation in such improper or illegal conduct, or in cases where such person participated in any improper or illegal conduct, such person is not the guiltiest and shall therefore qualify as a state witness against the persons subject of such disclosure.

(r) “Qualified Whistleblower” shall mean a whistleblower qualified and admitted into the Whistleblower’s Program of the Implementing Agency in accordance with this Act and its implementing rules and regulations.

(s) “Implementing Agencies or Agency” shall collectively or individually refer to the Department of Justice (DOJ), the Office of the Ombudsman, the Commission on Human Rights (CHR), and the Public Attorney’s Office (PAO).

(t) “Whistleblower Council” shall refer to the Council created and defined under Section 31 of this Act.

SECTION 4. Coverage. – Notwithstanding the provisions of law on prescription of crimes, this Act shall cover all acts constituting improper conduct irrespective of the time of commission.

SECTION 5. Admission/Qualification to the Program. – Whistleblowers, whether from the public or private sector, shall be entitled to the benefits under this Act, provided, that all the following requisites concur:

(a) The disclosure is voluntary, in writing and under oath;

(b) The disclosure relates to the acts constituting improper conduct; and

(c) The information to be disclosed is admissible in evidence.

SECTION 6. Necessity of Testimony. – The testimony of a qualified whistleblower in court shall not be necessary for the entitlement or enjoyment of the benefits of this Act especially if the information already supplied by him are enough leads for the government to conduct an audit or investigation. It is the State's responsibility to ensure that justice is served, not the whistleblower's. In the event that said whistleblower's testimony is required as determined by the Implementing Agency to be necessary and indispensable for a successful prosecution of a case, or if it is necessary or likely that the whistleblower's identity will be revealed in the course of the proceedings, he/she shall be entitled to the additional benefits and protection under RA. No. 6891 otherwise known as the Witness Protection Program even if the case does not or does not yet constitute a heinous crime or a crime of grave felony, funding for which shall be sourced from the budget as provided by said law.

SECTION 7. – Credibility of a Whistleblower. – Critical to any whistleblowing case is the State's appreciation that perpetrators—by the nature of their characters and position of power—will always attempt to discredit witnesses to the crime or wrongdoing. Therefore, in all cases, the fact of the entitlement of the qualified whistleblower to the protection and benefits provided in this Act shall not be admissible in evidence to diminish or affect his or her credibility.

(a) Persons who report information about threats or harm to the public interest obtained in the context of their work-related activities make use of their right to freedom of expression. The right to freedom of expression and information, enshrined in the Constitution and the Convention for the Protection of Human Rights and Fundamental Freedoms, encompasses the right to receive and impart information as well as the freedom and pluralism of the media.

- (b) To enjoy protection under this law, reporting persons should have reasonable grounds to believe, in light of the circumstances and the information available to them at the time of reporting, that the matters reported by them are true. That requirement is an essential safeguard against malicious and frivolous or abusive reports as it ensures that those who, at the time of the reporting, deliberately and knowingly reported wrong or misleading information do not enjoy protection. At the same time, the requirement ensures that protection is not lost where the reporting person reported inaccurate information on breaches by honest mistake. Similarly, reporting persons should be entitled to protection under this law if they have reasonable grounds to believe that the information reported falls within its scope. The motives of the reporting persons in reporting should be irrelevant in deciding whether they should receive protection.

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

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

- (a) To provide information to and/or testify before any relevant branch/es or agency/ies of government in an appropriate proceeding on facts constituting improper conduct;
- (b) To avoid commission of crime;
- (c) To take all necessary precautions to preclude detection by others of the facts concerning the protection provided him/her under this Act;

- (d) To cooperate with reasonable requests of officers and employees of the government who are providing him/her protection under this Act; and
- (e) To regularly inform the Implementing Agency's program official concerned of his/her current activities and address.

SECTION 10. Breach of Memorandum of Agreement. – breach of the Memorandum of Agreement, provided for in Section 9 hereof, shall be sufficient ground for the termination of the protection and benefits provided under this Act; Provided however, that before terminating the same, the Implementing Agency shall send notice to the qualified whistleblower concerned, stating therein the reason for such termination. Nevertheless, any whistleblower admitted to but later removed from the Program by reasonable grounds may still apply for re-admission in meritorious cases such as when there is obvious threat to his or his immediate family's life.

SECTION 11. Right to Confidentiality and Anonymity. – Except insofar as allowed by this Act, during and after the disclosure, and throughout and after any proceedings taken thereafter, a whistleblower is entitled to absolute confidentiality as to:

- (a) His/her identity, including particulars such as his/her residence and that of his/her family;
- (b) The subject matter of his/her disclosure; and
- (c) The person whom disclosure has been made.

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

SECTION 12. Confidential information. – No person to whom a disclosure has been made or referred to shall divulge any information that may identify or tend to identify a whistleblower or reveal the subject matter of such disclosure, except only as to the following circumstances:

- (a) The whistleblower consents in writing prior to such a disclosure of:
- (b) The disclosure is indispensable and essential as determined by the Implementing Agency, taking into consideration the necessary proceedings to be had after said disclosure; Or –
- (c) The disclosure or referral is made pursuant to an obligation under this Act. The prohibition on disclosure under this Section shall apply to any person who has become privy to any confidential information, whether officially or otherwise.

Whistleblowers can use a reporting channel to communicate the information on breaches in conditions of confidentiality, which is to say making their identity known but clearly indicating that they do not wish it to be made public, or enabling the traceability of their identity (e.g., providing information from which it can be deduced, for example, leaving their IP address visible or not using an anonymous and secure channel). In this case, personal data or any other information revealing the identity of the whistleblower cannot be divulged without his or her express consent. All the authorized personnel or the personnel having access to the information received through a reporting channel, even in an unauthorized or incidental manner, shall be bound by the terms set out in this Act and by the responsibilities arising from the commission of the offenses defined as discovery and disclosure of secrets or confidential information.

Without prejudice to existing obligations to provide for anonymous reporting by virtue of this Act, it should be possible for relevant authorities to decide whether legal entities in the private and public sector and competent authorities are required to accept and follow up on anonymous reports of breaches, which fall within the scope of this law.

However, persons who anonymously reported or who made anonymous public disclosures falling within the scope of this Act and meet its conditions should enjoy protection under this Act if they are subsequently identified and suffer retaliation.

In order to enable effective communication with staff members who are responsible for handling reports, it is necessary that the competent authorities have in place channels that are user-friendly, secure, ensure confidentiality for receiving and handling information provided by the reporting person on breaches, and that enable the durable storage of information to allow for further investigations. This could require that such channels are separated from the general channels through which the competent authorities communicate with the public, such as normal public complaints systems or channels through which the competent authority communicates internally and with third parties in its ordinary course of business.

Staff members of the competent authorities, who are responsible for handling reports should be professionally trained, including on applicable data protection rules, in order to handle reports and to ensure communication with the reporting person, as well as to follow up on the report in a suitable manner.

SECTION 13. Violation of Confidentiality. – Any person who shall, by fault or negligence, violate the protection of confidentiality of a protected disclosure under Sections 11 and 12 of this Act, shall suffer the penalty of not more than two (2) years but not less than one (1) year with the accessory penalty of temporary absolute disqualification for public office, in case of a public officer or employee, or dismissal from employment in the case of private officer or employee, and shall be civilly liable to the whistleblower in such amount of damages as may be awarded and deemed reasonable by the court. The proceedings herein shall be independent of any action that an aggrieved whistleblower may take before the Civil Service Commission or the Department of Labor and Employment for unfair or discriminatory practices, back wages/salaries, professional fees or other forms of compensation, or other labor dispute, or before other quasi-judicial agencies, that may or may not have arisen from a disclosure, or a believed or suspected disclosure.

SECTION 14. Breach of Duty of Confidentiality. – A whistleblower who has made a disclosure under this Act to a person whom a provision of law, regulation, issuance, practice or other convention, imposes upon him/her the duty to maintain confidentiality with respect to any information disclosed, is considered not to have committed a breach thereof.

- (a) It should not be possible to rely on individuals' legal or contractual obligations, such as loyalty clauses in contracts or confidentiality or non-disclosure agreements, so as to preclude reporting, to deny protection or to penalize reporting persons for having reported information on breaches or made a public disclosure where providing the information falling within the scope of such clauses and agreements is necessary for revealing the breach. Where those conditions are met, reporting persons should not incur any kind of liability, be it civil, criminal, administrative or employment-related. It is appropriate that there be protection from liability for the reporting or public disclosure under this Act of information in respect of which the reporting person had reasonable grounds to believe that reporting or public disclosure was necessary to reveal a breach pursuant to this Act. Such protection should not extend to superfluous information that the person revealed without having such reasonable grounds.
- (b) Where reporting persons lawfully acquire or obtain access to the information on breaches reported or the documents containing that information, they should enjoy immunity from liability. This should apply both in cases where reporting persons reveal the content of documents to which they have lawful access as well as in cases where they make copies of such documents or remove them from the premises of the organization where they are employed, in breach of contractual or other clauses stipulating that the relevant documents are the property of the organization. The reporting persons should also enjoy immunity from liability in cases where the acquisition of or access to the relevant information or documents raises an issue of civil, administrative or labor-

related liability. Examples would be cases where the reporting persons acquired the information by accessing the emails of a co-worker or files which they normally do not use within the scope of their work, by taking pictures of the premises of the organization or by accessing locations they do not usually have access to.

- (c) Where the reporting persons acquired or obtained access to the relevant information or documents by deliberately committing a criminal offence, such as physical trespassing or hacking, their criminal liability should remain governed by applicable laws, without prejudice to the protection granted under this Act. Similarly, any other possible liability of the reporting persons arising from acts or omissions which are unrelated to the reporting or are not necessary for revealing a breach pursuant to this Act should remain governed by applicable laws. In those cases, it should be for the courts to assess the liability of the reporting persons in the light of all relevant factual information and taking the individual circumstances of the case into account, including the necessity and proportionality of the act or omission in relation to the report or public disclosure.
- (d) Relevant laws ensure a sufficient and consistent level of civil redress in the event of unlawful acquisition, use, or disclosure of a trade secret. However, it also provides that the acquisition, use, or disclosure of a trade secret is to be considered lawful to the extent that it is allowed by this Act. Persons who disclose trade secrets acquired in a work-related context should only benefit from the protection granted by this Act, including in terms of not incurring civil liability, provided that they meet the conditions laid down by this Act, including that the disclosure was necessary to reveal a breach falling within the material scope of this Act. Where those conditions are met, disclosures of trade secrets are to be considered allowed by law within the context of this Act. Moreover, both this Act and any relevant law should be considered as being complementary and the civil redress measures, procedures, and remedies as

well as exemptions provided for in relevant laws should remain applicable for all disclosures of trade secrets falling outside the scope of this Act. Competent authorities that receive information on breaches that includes trade secrets should ensure that they are not used or disclosed for purposes going beyond what is necessary for proper follow-up of the reports.

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

SECTION 16. Right to information, access to case files, and other material evidence concerning the procedural actions.

- (a) All whistleblowers, including those who have chosen to disclose information anonymously or confidentially, have the right to be informed about the current situation and results of any inquiry, inspection and investigation which may have arisen from their disclosures, with the exception for information which may jeopardize the investigations; and
- (b) Whistleblowers' right of access to this information will be guaranteed ex officio, or at the request of the whistleblower so that he or she will be informed of the state of proceedings at least every sixty (60) calendar days.

SECTION 17. Right to free legal advice and defense. The State shall guarantee utmost support for whistleblowers in the form of free legal advice.

- (a) Whistleblowers considering to report information on breaches have the right to receive prior legal advice, tailored to their specific case at least concerning the information established in this Act;

- (b) Whistleblowers have the right to be advised and assisted by a practicing lawyer—whether public or private—in all proceedings related with communication of information on breaches and in all actions deriving from or resulting from it, as indicated in this Act; Provided that the service of lawyer/s from the Public Attorney's Office (PAO) is considered first before a private counsel may be hired, cost of which shall be provided for by the State in the case of involvement of public officers or employees or the private corporations/entities in the case of private officers or employees;
- (c) From the beginning of the procedure and irrespective of the existence of economic resources to litigate, whistleblowers have the right to immediate *pro bono* legal advice and defense when being charged or investigated in legal proceedings linked with, deriving from, or that are a consequence of their status as such. In any case, it will be the same lawyer appointed *ex officio* who will represent the whistleblower in any procedure derived or consequence of the communication of the information on breaches, both in the primary instance and in the next proceedings;
- (d) Whistleblowers have the status of interested parties in all procedures arising from their disclosure of information. These procedures will be contradictory by nature, and will guarantee, when applicable, confidentiality or the anonymity of the whistleblowers' identity.
- (e) Bar Associations or the Integrated Bar of the Philippines may be invited to participate in the Program and in such a case, will guarantee the specific training of lawyers registered for *ex officio* duty that represent and defend whistleblowers so that they provide effective advice and defense in cases involving corruption and whistleblowers' protection.

- (f) Bar Associations or the Integrated Bar of the Philippines will adopt the necessary measures for the urgent designation of an ex officio lawyer in procedures to be initiated at the request of the whistleblower.
- (g) Bar Associations or the Integrated Bar of the Philippines must provide the information established in this Act Law to the public in an easily understandable and accessible manner. Moreover, they must offer free and individual legal advice services about this information, tailoring the information to the specific case of the whistleblower. In any case, the members assigned to this service must maintain the confidentiality and secrecy of the information to which they gain access. Under no circumstances may these services be subject to retaliations that affect their day-to-day performance.
- (h) When the advice and information indicated in the preceding paragraph is provided by facilitators, like civil society organizations, they must also maintain the confidentiality and secrecy of the information to which they gain access. Public authorities will assure that these facilitators do not suffer from retaliation that may affect their day-to-day performance.

SECTION 18. False and Misleading Disclosures. – Any person who deliberately and maliciously gives false or misleading information in connection with acts or omissions constituting improper conduct shall be guilty of an offense punishable by imprisonment of not less than two (2) years but not more than four (4) years and perpetual absolute disqualification from public office in case of a public officer or employee, without prejudice to other liabilities and under existing laws; in the case of private officer or employee, dismissal from employment in the case of private officer or employee, and shall be civilly liable to the whistleblower in such amount of damages as may be awarded and deemed reasonable by the court.

SECTION 19. Protection against Disciplinary Actions or Reprisals. – A whistleblower who has made or is believed or suspected to have made a disclosure under this Act is not liable to disciplinary action or retaliation for making said disclosure.

(a) Prohibited acts under this section include retaliatory action in a workplace or prejudicial conduct towards a whistleblower, such as;

- (i) discriminatory actions behind policies and procedures;
- (ii) suspension or demotion, lay-off, dismissal or equivalent measures;
- (iii) deterioration of working conditions;
- (iv) withholding of salaries/benefits/reimbursements/expenses or reduction in wages;
- (v) non-issuance of contract, non-renewal of contract, failure to convert a temporary employment contract into a permanent one, where the worker had legitimate expectations that he or she would be offered permanent employment; failure to renew, or early termination of, a temporary employment contract; offering onerous/one-sided/unfair contract (e.g., with gag order, prohibition to seek employment in clientele or competitor firms);
- (vi) undue poor performance reviews, negative performance assessment or employment reference;
- (vii) withholding of promotion;
- (viii) punitive transfers/transfer of duties, change of location of place of work,
- (ix) change in working hours;
- (x) withholding of training;
- (xi) imposition or administering of any disciplinary measure, reprimand or other penalty, including a financial penalty;
- (xii) coercion, intimidation, harassment, bullying, or ostracism;
- (xiii) discrimination, disadvantageous or unfair treatment;
- (xiv) harm, including to the person's reputation, particularly in social media, or financial loss, including loss of business, fees, and loss of income;

(xv) blacklisting on the basis of a sector or industry-wide informal or formal agreement, which may entail that the person will not, in the future, find employment in the sector or industry;

(xvi) early termination or cancellation of a contract for goods or services;

(xvii) cancellation of a license or permit;

(xviii) psychiatric or medical referrals; and

(xix) other prejudicial conducts include obstruction of an investigation, withdrawal of essential resources, undue reports and the attachment of unfair personnel file notes.

(v) To this end, any employer who has discouraged and imposed sanctions or reprisals based on workplace interactions, which shall include workplace ostracism, questions and attacks on motives, accusations of disloyalty and dysfunction, public humiliation or bullying (whether in person or online), and the denial of work or promotion, or who encourages, causes or does retaliatory action or reprisal against a whistleblower, or anyone believed or suspected to be one shall be liable for an offense defined under this Act. Co-workers or colleagues who had similarly committed or instigated such offensive and retaliatory behaviors are also equally liable.

(w) Any employee who refuses to follow orders of employers that could cause them to violate any provision of this Act shall likewise be protected from reprisals and retaliatory action in the workplace.

(x) For purposes of this protection, an applicant for employment or those awaiting formal contracting shall be deemed an employee and entitled to such protection. This means, all other employees as per definition of DOLE—including project-based employees (whether experts/specialists or rank-and-file) in government-funded programs/projects—are considered as employees/workers and therefore, are accorded the same rights and equality before the law. The policy on solidary liability shall also be a clear mandate.

This means that where the Principal is a government agency, responsibility over the whistleblower rests lies in the Principal and *more* especially in cases when the offending party is the private contractor/consultant (e.g., if contractor/consultant retaliates by withholding fees/wages of the whistleblower, the Principal is automatically obliged to pay the back wages/fees of the whistleblower even *without* demand/invoicing or formal complaint/lawsuit in any relevant body like DOLE).

- (y) Effective prevention of breaches requires that protection is granted to persons who provide information necessary to reveal breaches which have already taken place, breaches which have not yet materialized, but are very likely to take place, acts or omissions which the reporting person has reasonable grounds to consider as breaches as well as attempts to conceal breaches. For the same reasons, protection is justified also for persons who do not provide positive evidence but raise reasonable concerns, leads, or suspicions. At the same time, protection should not apply to persons who report information which is already fully available in the public domain or of unsubstantiated rumors and hearsay, unless such had enough basis for further investigation (e.g., corroborative statement, paper trail, or reliable statement from a credible source).

There should be a close link between reporting and the adverse treatment suffered, directly or indirectly, by the reporting person, for that adverse treatment to be considered to be retaliation and consequently for the reporting person to be able to enjoy legal protection in that respect.

- (z) Protection against retaliation as a means of safeguarding freedom of expression and the freedom and pluralism of the media should be provided both to persons who report information about acts or omissions within an organization ('internal reporting') or to an outside authority ('external reporting') and to persons who make such information available in the public domain, for

instance, directly to the public through online platforms or social media, or to the media, elected officials, civil society organizations, trade unions, or professional and business organizations.

Whistleblowers are, in particular, important sources for investigative journalists. Providing effective protection to whistleblowers from retaliation increases legal certainty for potential whistleblowers and thereby encourages whistleblowing also through the media. In this respect, protection of whistleblowers as journalistic sources is crucial for safeguarding the ‘watchdog’ role of investigative journalism in democratic societies.

(aa) In cases where a whistleblower is unable to report to work for a prolonged or indefinite period of time because of his/her status or actions under this Act, and if the whistleblower consents to his/her identity being revealed to the employer, an employer of a whistleblower shall be notified through a certification issued by the Implementing Agency within a period of thirty (30) days, from the date when the whistleblower last reported for work.

SECTION 20. Protection Against Other Actions. – A whistleblower who has made a disclosure under this Act shall not be subject to any liability whether administrative, civil, criminal for making such a disclosure. No action, claim or demand may be taken against a whistleblower for making such disclosure, nor shall any evidence presented be used against him/her in court.

(a) This protection shall also operate as immunity in favor of a whistleblower against any action or proceeding taken against him/her by reason of his/her disclosure. Provided however, that the whistleblower appears to be not the guiltiest.

- (b) If the investigation into the alleged facts by a whistleblower concludes that the law was not breached or that there was no wrongdoing affecting the public interest, there will be no negative consequences for the whistleblower and he will not suffer any penalty or any kind of punitive action. He will continue to enjoy the rights and protection afforded by this Law unless it is proven that the whistleblower knew that the information provided was implausible, inaccurate, or untrue at the time of the reporting. In this case, the whistleblower's conduct will be subject to sanction in accordance with the provisions of this Act.
- (c) With the exception indicated above, the whistleblower will not be held responsible for any harm or damage that may arise from communication or public disclosure of the information reported, and neither will he incur any type of liability or civil or criminal disciplinary action which may derive from these circumstances and, in particular, including those pertaining to possible attacks on honor and reputation, or infringement of regulations concerning copyright, trade secrets, and protection of personal data. These State guarantees are premised on the natural inclination of private persons to avoid harm or trauma to one's self. Therefore, there is an assumption that it is rarely that any person will deliberately want to put himself in so much trouble, risks, and anxieties if the desire is only for any personal or monetary gain.
- (d) Persons making a public disclosure should qualify for protection in cases where, despite internal and external reporting, the breach remains unaddressed, for instance in cases where the breach was not appropriately assessed or investigated or no appropriate remedial action was taken. The appropriateness of the follow-up should be assessed according to objective criteria, linked to the obligation of the competent authorities to assess the accuracy of the allegations and to put an end to any possible breach. The appropriateness of the follow-up will thus depend on the circumstances of each case and of the nature of the rules that have been breached. In particular, a decision by the authorities that a breach

was clearly minor and no further follow-up, other than closure of the procedure, was required could constitute appropriate follow-up pursuant to this Act.

- (e) Persons making a public disclosure directly should also qualify for protection in cases where they have reasonable grounds to believe that there is an imminent or manifest danger to the public interest, or a risk of irreversible damage, including harm to a person's physical integrity. Persons making a public disclosure directly should also qualify for protection where they have reasonable grounds to believe that in the case of external reporting there is a risk of retaliation or there is a low prospect of the breach being effectively addressed, due to the particular circumstances of the case, such as those where evidence could be concealed or destroyed or where an authority could be in collusion with the perpetrator of the breach or involved in the breach.
- (f) Of particular importance for reporting persons are interim remedies pending the resolution of legal proceedings that can be protracted. Particularly, actions of interim relief, as provided for under this Act and other relevant laws, should also be available to reporting persons in order to stop threats, attempts or continuing acts of retaliation, such as harassment or to prevent forms of retaliation, such as dismissal, which might be difficult to reverse after the lapse of lengthy periods and which can ruin the individual financially, a perspective which can seriously discourage potential whistleblowers.

SECTION 21. Discriminatory Hiring. – Any individual, firm, corporation, office or employer who shall deny a qualified applicant of employment, or who shall reject his/her application for employment solely on the ground that the applicant is, was, or will be a whistleblower, shall be guilty of an offense punishable by not more than one (1) year of imprisonment with the accessory penalty of suspension of the right to hold public office, in case of a public officer or employee, and shall be civilly liable to indemnify the whistleblower for damages as may be awarded by the court.

SECTION 22. Proceedings for Retaliatory Action in the Work Place. – Any person who shall commit any retaliatory act in a workplace as defined under this Act, against an employee who is a whistleblower, or believed or suspected to be one, shall be guilty of an offense and shall suffer the penalty as mandated in **Section 23** with the accessory penalty of suspension of the right to hold public office, in case of a public officer or employee, and shall be civilly liable to indemnify a whistleblower in case damages are incurred and as may be awarded by the court.

- (a) Toward this end, the aggrieved whistleblower shall be entitled to the provisional remedy of injunction against any retaliatory action in the workplace, prejudicial conduct or discriminatory treatment by reason of the said whistleblower's intended or actual disclosure.
- (b) Follow-up and feedback should take place within a reasonable timeframe, given the need to promptly address the problem that is the subject of the report, as well as the need to avoid unnecessary public disclosures or prevent harm to the whistleblower and/or his family. Such timeframe should not exceed six (6) months, but could be extended to ten (10) months, where necessary due to the specific circumstances of the case, in particular the nature and complexity of the subject of the report, which may require a lengthy investigation.
- (c) The proceedings herein shall be independent of any action that an aggrieved person may take before the Civil Service Commission or the Department of Labor and Employment for unfair discriminatory practices, back wages/fees/payments, or other labor dispute, or before other Quasi-Judicial agencies that may or may not have arisen from a disclosure, or a believed or suspected disclosure.

SECTION 23. Penalty for Retaliatory Acts against a Whistleblower. – Any person who commits any of the retaliatory acts as defined in this Act against a whistleblower and/or hinders, delays, prevents or dissuades a whistleblower from

- (a) Attending, assisting or testifying before any investigating agency or quasi-judicial body or judicial;
- (b) Reporting to a law enforcement or judge the commission or possible commission of an offense or a violation of conditions of probation, parole, or release pending judicial proceedings;
- (c) Seeking the arrest of another person in connection with the offense;
- (d) Causing a criminal prosecution, or a proceeding for the revocation of a parole or probation; or
- (e) Performing and enjoying the rights and benefits under this Act, or attempts to do so shall be fined not more than One Million Pesos (P 1,000,000.00) or suffer imprisonment of or not less than two (2) years but not more than six (6) years or both at the discretion of a court and shall also suffer the penalty of perpetual disqualification from holding public office in case of a public officer or employee or dismissal from employment in the case of private officer or employee.

SECTION 24. Benefits and Security and Protection of a Qualified whistleblower. – The appropriate remedy for whistleblowers should take the form of actions for reinstatement, for instance, in the event of dismissal, transfer or demotion, or of withholding of training or promotion, or for restoration of a cancelled permit, license or contract; compensation for actual and future financial losses, for example for lost past wages/fees/payments, but also for future loss of income, costs linked to a change of occupation; compensation for other economic damage such as legal expenses and costs of medical treatment, and for intangible damages such as emotional pains, sufferings, stress, and damage to reputation.

- (a) A qualified whistleblower who had been dismissed or lost his job/contract shall be entitled to an allowance equivalent to his/her daily basic financial requirement for him/herself and to allow him to support or contribute to the support of his/her immediate family/household, without the need for any request for said allowance, and that the Implementing Agency determines and approves the reasonableness and timing of such request (e.g., for as long as the case is ongoing or when the life and security of the whistleblower and/or his family is at risk). A qualified whistleblower shall likewise be entitled to housing and personal security for him/herself and is/her immediate family/household regardless of whether the disclosure is made in confidence or in public. In determining such an allowance, a reasonable consideration will be given to the lifestyle, stature, education, and professional background of the whistleblower (e.g., housing allowance that is commensurate to his mortgage or rent at his usual place of residence at the time he decided to become a whistleblower). Accordingly, the Implementing Agency is hereby authorized to allocate funds as provided for in Section 32 hereof for the full satisfaction of the benefits and security and protection of a qualified whistleblower.
- (b) This section is without prejudice to any benefits a qualified whistleblower may be entitled to under R.A. No. 6891, provided that the necessary amount shall be sourced from the budget as provided for in Section 32 hereof and that no duplication of benefit shall ensue.

SECTION 25. Financial Rewards for Whistleblowers. A qualified whistleblower shall be entitled to a corresponding monetary reward on a contingency basis, equivalent to at least ten percentum of the amount which may be recovered, or which the government lost due to the alleged acts of those accused, or the amount of Three Million Pesos (PhP 3,000,000.00), whichever is lower, as a result of his/her disclosure.

SECTION 26. Internal Reporting and Abstract. – For the effective detection and prevention of breaches, it is vital that the relevant information reaches swiftly those

closest to the source of the problem, most able to investigate and with powers to remedy it, where possible. As a principle, therefore, reporting persons should be encouraged to first use internal reporting channels and report to their employer, if such channels are available to them and can reasonably be expected to work. That is the case, in particular, where reporting persons believe that the breach can be effectively addressed within the relevant organization, and that there is no risk of retaliation. As a consequence, legal entities in the private and public sector should establish appropriate internal procedures for receiving and following up on reports. This principle should help foster a culture of good communication and corporate social responsibility in organizations, whereby reporting persons are considered to significantly contribute to self-correction and excellence within the organization.

- (a) In the context of internal reporting, informing, as far as legally possible and in the most comprehensive way possible, the reporting person about the follow-up to the report is crucial for building trust in the effectiveness of the overall system of whistleblower protection and reduces the likelihood of further unnecessary reports or public disclosures. The reporting person should be informed within a reasonable timeframe about the action envisaged or taken as follow-up to the report and the grounds for the choice of that follow-up. Follow-up could include, for instance referral to other channels or procedures in the case of reports exclusively affecting individual rights of the reporting person, closure of the procedure based on lack of sufficient evidence or other grounds, launch of an internal enquiry, and possibly its findings and any measures taken to address the issue raised, referral to a competent authority for further investigation, insofar as such information would not prejudice the internal enquiry or the investigation or affect the rights of the person concerned. In all cases, the reporting person should be informed of the investigation's progress and outcome. It should be possible to ask the reporting person to provide further information, during the course of the investigation, albeit without there being an obligation to provide such information. A reasonable timeframe for informing a reporting person should not exceed three months. Where the

appropriate follow-up is still being determined, the reporting person should be informed about this and about any further feedback to expect.

- (b) All government agencies, offices, bureaus and local government units, including government owned or controlled corporations, whether or not with original charters, shall conspicuously display an abstract of this Act and the rights and protections of whistleblowers, including obligations of employers under this Act. Such abstract shall be provided in the implementing rules and regulations.
- (c) All government agencies, offices, bureaus and local government units, including government owned and controlled corporations, whether or not with original charters, shall likewise put in place internal policy and procedures for dealing with whistleblowers consistent with the provisions of this Act and its implementing rules and regulations. Said internal policy and procedure shall be widely disseminated to all employees.
- (d) All other employers, specifically those in the private sector, shall also conspicuously display an Abstract of this Act and notices of their employees' protections and their obligations under this Act and its implementing rules and regulations.
- (e) For legal entities in the private sector, the obligation to establish internal reporting channels should be commensurate with their size and the level of risk their activities pose to the public interest. All enterprises having 50 or more workers should be subject to the obligation to establish internal reporting channels, irrespective of the nature of their activities, based on their obligation to collect taxes. Following an appropriate risk assessment, Implementing Agencies should also require other enterprises to establish internal reporting channels in specific cases, for instance due to the significant risks that may result from their activities.

(f) In other cases, the use of internal channels cannot reasonably be expected to function properly. This is most notably the case where whistleblowers or reporting persons have valid reasons to believe that they would suffer retaliation in connection with the reporting, including as a result of a breach of confidentiality, or that competent authorities would be better placed to take effective action to address the breach. Competent authorities would be better placed, for example, where the ultimate responsibility holder within the work-related context is involved in the breach, or there is a risk that the breach or related evidence could be concealed or destroyed; or, more generally, the effectiveness of investigative actions by competent authorities might otherwise be jeopardized, such as in the case of reported cartel arrangements and other breaches of competition rules; or the breach requires urgent action, for instance to safeguard the health and safety of persons or to protect the environment. In all cases, persons reporting externally to the competent authorities and, where relevant, to institutions, bodies, offices or agencies should be protected. This Act should also grant protection where laws require the reporting persons to report to the competent national authorities, for instance as part of their job duties and responsibilities or because the breach is a criminal offence.

SECTION 27. Failure of Employer to Post Abstract. – The failure to post an Abstract or internal policy and procedures as required under this Act shall constitute an offense and shall be penalized with a fine in the amount of Five Hundred Thousand Pesos (P 500,000.00) for the first offense. Said amount shall be doubled for every succeeding offense/s.

SECTION 28. Failure to Act or Report the Implementing Agency. – Any person under obligation to report a disclosure under this Act to the Implementing Agency, who fails to do so within the period of two (2) months, or who fails to act thereon or cause an investigation thereof, shall be guilty of an offense and shall suffer the penalty of not less than one (1) year of imprisonment but not more than three (3) years of imprisonment and/

or a fine amounting to not more than Five Hundred Thousand Pesos (P 500,000.00) without prejudice to any other liability that may be imposed upon such person under existing laws.

SECTION 29. Confidentiality of the Proceedings. – All proceedings involving application and/ or enjoyment of the benefits under this Act, 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 Implementing Agency, and provided such disclosure shall not endanger the life of a qualified whistleblower or his immediate family.

SECTION 30. Powers and functions of the Implementing Agencies or Agency
– In addition to their respective powers and functions under existing Laws, the Implementing Agencies shall:

- (a) Supervise, monitor and coordinate all efforts relative to the implementation and enforcement of the provisions of this Act;
- (b) Investigate all disclosures made under this Act, prosecute or recommend prosecution of the same when warranted;
- (c) Evaluate the qualification of the whistleblowers for coverage within this Act, and whichever the case may be, make the appropriate decision on their entitlement to the benefits and security and protection extended herein;
- (d) Undertake, in coordination and cooperation with the private and public sectors, an information campaign to educate the public on the provisions and benefits of this Act;
- (e) Develop plans and implement programs to further encourage whistleblowers on acts constituting conduct with a view to effective deterrence and/ or prosecution;

(f) Control and administer, through coordination and consistent with the provisions and purpose of this Act, the protection and benefits of whistleblowers and the funds necessary to carry out the provisions of this Act;

(g) Call upon, or deputize any department, bureau, office or any other government agency or public official to assist in the effective implementation and enforcement of this Act; and

(h) Grant immunity in accordance with the provisions of this Act and its Implementing rules and regulations.

SECTION 31. Implementing Agency, Option of Whistleblower. – A whistleblower shall have the right to choose which Implementing Agency he/she intends to be admitted and qualified as a whistleblower. As such, the Implementing Agency so chosen shall have the primary jurisdiction and authority to exercise title powers and functions provided for under Section 28 of this Act.

SECTION 32. Congressional Whistleblower Program. - The Senate and the House of Representatives may have their own Whistleblower's Program for resource persons or whistleblowers appearing before them or their respective committees. The resource person or whistleblower, with his/her express consent, may be admitted into the program upon the recommendation of the legislative committee where his/her testimony is needed when in its judgment there is pressing necessity therefore: Provided, that such recommendation is approved by the President of the Senate or the Speaker of the House, whichever the case may be.

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

SECTION 33. Implementing Rules and Regulations. – There is hereby created a Whistleblower Council which shall be composed of the implementing Agencies and headed by the Office of the Solicitor General. The Council shall be primarily and solely responsible for the drafting and promulgation of the necessary Implementing Rules and Regulations for the effective implementation of this Act. The Council's submission to the Congress of the approved IRR and the causing of its publication in at least two (2) newspapers of general circulation shall render the council *functus officio*.

SECTION 34. Funding. – The amount One Hundred Million Pesos (P 100,000,000.00) is hereby authorized to be appropriated out of any funds in the National Treasury not otherwise allocated to carry into effect the purpose of this Act for its first year of implementation. Other funding schemes or sources that may be authorized under existing laws shall be allowed in furtherance hereof or in the next years of implementation.

SECTION 35. Separability Clause. – In the event that a provision of this Act is declared unconstitutional, all others that are not affected shall remain force.

SECTION 36. Repealing Clause. – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with, the provisions of this Act is hereby repealed, modified, amended accordingly.

SECTION 37. Effectivity Clause. – This Act shall take effect fifteen days (15) days after its publication in two (2) newspapers of general circulation.

Approved,