

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



Senate
Office of the Secretary

'22 AUG -8 A10 :31

SENATE
S. No. 1072

RECEIVED BY: _____

Introduced by Senator Grace Poe

AN ACT
STRENGTHENING THE INSTITUTIONAL CAPACITY OF THE OFFICE OF THE
OMBUDSMAN BY AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT
6770, OTHERWISE KNOWN AS "THE OMBUDSMAN ACT OF 1989," AND
PROVIDING FUNDS THEREFOR

EXPLANATORY NOTE

Article XI of the 1987 Constitution creates the Office of the Ombudsman and mandates it to act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations. As the champion of the people and the preserver of the integrity of the public service, its jurisdiction encompasses all kinds of malfeasance, misfeasance, and nonfeasance committed by any public officer or employee during his/her tenure of office. Republic Act (R.A.) No. 6770, otherwise known as "The Ombudsman Act of 1989", was enacted to enable the Office of the Ombudsman to function and organize itself in accordance with the constitutional provisions and to exercise powers for the effective deterrence of corrupt activities by public officials and employees.

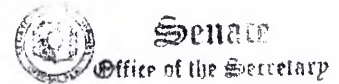
However, the powers provided under R.A. No. 6770 to the Office of the Ombudsman are not still enough to efficiently combat corruption. The investigative and prosecutorial powers of the Ombudsman must be broadened to enhance its ability to build solid cases against erring public officials and employees.

Prosecutors and investigators of the Office of the Ombudsman should be given legal protection and immunity from suits for acts done in line with their duties. Furthermore, there is a need to grant additional investigative and prosecutorial powers to the Office of the Ombudsman. These include, among others, the leeway to employ wiretapping in especially meritorious cases; the power to create its own witness protection and whistleblower program; and immunity from suit arising from the regular exercise of their functions and duties. All these powers will enable the Office of the Ombudsman to effectively and efficiently fulfill its constitutionally-mandated duty.

With the adoption of the proposed amendments to R.A. No. 6770, stronger anti-corruption efforts could be exercised by the Office of the Ombudsman to effectively deter corruption in the government for the benefit of the public interest. These additional powers will keep the Ombudsman from becoming a "toothless tiger" in the fight against increasingly sophisticated and advanced criminals in the government's ranks.

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

1 Section 1. Section 15 of R.A. No. 6770 is hereby amended to read as follows:

2 "SEC. 15. *Powers, Functions and Duties.* – The Office of the Ombudsman
3 shall have the following powers, functions and duties:

4 (1) Investigate and prosecute on its own or on complaint by any
5 person, any act or omission of any public officer or employee, office or
6 agency, when such act or omission appears to be illegal, unjust, improper
7 or inefficient. It has primary jurisdiction over cases cognizable by the
8 Sandiganbayan and, in the exercise of this primary jurisdiction, it may
9 take over, at any stage, from any investigatory agency of Government,
10 the investigation of such cases;

11 **(2) EMPLOY WIRETAPPING AS AN INVESTIGATIVE**
12 **TECHNIQUE WHEN THE CIRCUMSTANCES OF A CASE SO**
13 **WARRANT. FOR THIS PURPOSE, SECTION 3 OF REPUBLIC ACT**
14 **NO. 4200, OTHERWISE KNOWN AS THE ANTI-WIRETAPPING**
15 **LAW, IS HEREBY AMENDED TO INCLUDE CASES INVOLVING**
16 **PLUNDER, VIOLATIONS OF REPUBLIC ACT NO. 3019,**
17 **FORFEITURE OF ILL-GOTTEN WEALTH UNDER REPUBLIC ACT NO.**

1 **1379, CRIMES COMMITTED BY PUBLIC OFFICERS UNDER THE**
2 **REVISED PENAL CODE AND OTHER GRAFT AND CORRUPTION**
3 **OFFENSES IN THE CASES FOR WHICH WIRETAPPING MAY BE**
4 **ALLOWED AFTER AN APPLICATION FOR AND GRANT OF A**
5 **JUDICIAL AUTHORITY;**

6 [(2)](3) Direct, upon complaint or at its own instance, any officer or
7 employee of the Government, or of any subdivision, agency or
8 instrumentality thereof, as well as any government-owned or controlled
9 corporations [~~with original charter~~], to perform and expedite any act or
10 duty required by law, or to stop, prevent, and correct any abuse or
11 impropriety in the performance of duties;

12 [(3)] (4) Direct the officer concerned to take appropriate action
13 against a public officer or employee at fault or who neglects to perform an
14 act or discharge a duty required by law, and recommend [his] **THE SAID**
15 **PUBLIC OFFICER OR EMPLOYEE'S** removal, suspension, demotion,
16 fine, censure, or prosecution, and ensure compliance therewith; or
17 enforce its disciplinary authority as provided in Section 21 of this Act:
18 *Provided*, That the refusal by any officer without just cause to comply with
19 an order of the Ombudsman to remove, suspend, demote, fine, censure,
20 or prosecute an officer or employee who is at fault or who neglects to
21 perform an act or discharge a duty required by law shall be a ground for
22 disciplinary action against said officer;

23 [(4)] (5) Direct the officer concerned, in any appropriate case, and
24 subject to such limitations as it may provide in its rules of procedure, to
25 furnish it with copies of documents relating to contracts or transactions
26 entered into by his office involving the disbursement or use of public
27 funds or properties, and report any irregularity to the Commission on
28 Audit for appropriate action;

29 [(5)] (6) Request any government agency for assistance and
30 information necessary in the discharge of its responsibilities, and to
31 examine, if necessary, pertinent records and documents;

1 ~~[(6)]~~ **(7)** Publicize matters covered by its investigation of the matters
2 mentioned in paragraphs (1), (2), (3), ~~[and]~~ (4), (5), **AND (6)** hereof,
3 when circumstances so warrant and with due prudence: *Provided*, That
4 the Ombudsman under its rules and regulations may determine what
5 cases may not be made public: *Provided, further*, That any publicity
6 issued by the Ombudsman shall be balanced, fair and true;

7 ~~[(7)]~~ **(8)** Determine the causes of inefficiency, red tape,
8 mismanagement, fraud, and corruption in the Government, and make
9 recommendations for their elimination and the observance of high
10 standards of ethics and efficiency;

11 ~~[(8)]~~ **(9)** Administer oaths, issue *subpoena* and *subpoena duces*
12 *tecum*, and take testimony **AT ANY STAGE OF** ~~[in]~~ any investigation or
13 inquiry, **PROVIDED, THAT IN THE COURSE OF SUCH**
14 **INVESTIGATION OR INQUIRY, THE OMBUDSMAN SHALL HAVE**
15 ~~[including]~~ the power to examine and have access to bank **AND OTHER**
16 **FINANCIAL** accounts, ~~[and]~~ records, **AND TRANSACTIONS**;

17 **(10) ENTER, VISIT, INSPECT, OR IF CIRCUMSTANCES**
18 **REQUIRE, BREAK INTO, ANY GOVERNMENT OFFICE OR ANY**
19 **PUBLIC PREMISES, STRUCTURE OR ESTABLISHMENT, IN THE**
20 **LAWFUL COURSE OF AN ONGOING CRIMINAL OR**
21 **ADMINISTRATIVE INVESTIGATION, AND SEIZE ANY OBJECT OR**
22 **ARTICLE FOUND THEREIN WHICH MAY BE USED IN THE SAID**
23 **INVESTIGATION, OR DIRECT ANY PUBLIC OFFICER TO DELIVER**
24 **SUCH OBJECT OR ARTICLE,**

25 ~~[(9)]~~ **(11)** Punish for contempt in accordance with the Rules of
26 Court and under the same procedure and with the same penalties
27 provided therein;

28 ~~[(10)]~~ **(12)** Delegate to the Deputies, or its investigators or
29 representatives such authority or duty as shall ensure the effective
30 exercise or performance of the powers, functions, and duties herein or
31 hereinafter provided;

1 ~~[(11)]~~ **(13)** Investigate and initiate the proper action for the recovery
2 of ill-gotten and/or unexplained wealth amassed after February 25, 1986
3 and the prosecution of the parties involved therein. **PROPERTIES**
4 **LIQUIDATED OR SOLD BY THE GOVERNMENT, AND THOSE**
5 **RECOVERED, FORFEITED, SURRENDERED AND TRANSFERRED TO**
6 **THE GOVERNMENT, SHALL BE EXEMPT FROM THE PAYMENT OF**
7 **ANY NATIONAL OR LOCAL TAXES.**

8 **(14) REPRESENT ITSELF, THE REPUBLIC OF THE**
9 **PHILIPPINES, OR THE PEOPLE OF THE PHILIPPINES IN ANY**
10 **JUDICIAL, ADMINISTRATIVE, CIVIL OR OFFICIAL PROCEEDING**
11 **INVOLVING CASES WITHIN ITS JURISDICTION BEFORE ANY**
12 **COURT, TRIBUNAL, AGENCY, OR OFFICE WITHOUT NEED OF**
13 **PRIOR CLEARANCE, AUTHORITY OR DEPUTATION FROM ANY**
14 **OTHER OFFICE OR AGENCY, INCLUDING THE OFFICE OF THE**
15 **SOLICITOR GENERAL;**

16 **(15) DEPUTIZE PRIVATE LAWYERS TO ACT AS**
17 **INVESTIGATORS OR PROSECUTORS TO ACT UNDER THE DIRECT**
18 **CONTROL AND SUPERVISION OF THE OMBUDSMAN IN CASES**
19 **BEING HANDLED BY THE OFFICE, WHEN SPECIAL AND**
20 **MERITORIOUS CIRCUMSTANCES SO WARRANT, SUBJECT TO**
21 **SUCH RULES AND REGULATIONS, INCLUDING PROVISIONS FOR**
22 **REASONABLE COMPENSATION AND REIMBURSEMENT FOR**
23 **REASONABLE EXPENSES, AS THE OMBUDSMAN WILL**
24 **PROMULGATE; AND**

25 **(16) CREATE AND ADMINISTER ITS OWN WITNESS**
26 **PROTECTION AND WHISTLEBLOWING PROGRAMS AND, FOR**
27 **SUCH PURPOSES, MAINTAIN ITS OWN INTELLIGENCE**
28 **ENFORCEMENT OR PROTECTIVE SERVICES UNIT FOR THE**
29 **PROTECTION OF ITS WITNESSES AND WHISTLEBLOWERS.**

30 The Ombudsman shall give priority to complaints filed against high ranking
31 government officials and/or those occupying supervisory positions, complaints

1 involving grave offenses as well as complaints involving large sums of money
2 and/or properties.

3 Sec. 2. Section 17 of R.A. No. 6770 is hereby amended to read as follows:

4 "SEC 17. *Immunities.* – x x x

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

15 Any refusal to appear or testify pursuant to the foregoing provisions shall
16 be subject to punishment for contempt and removal of the immunity from
17 criminal prosecution. X x x."

18 Sec. 3. Section 25 of R.A. No. 6770 is hereby amended to read as follows:

19 "SEC. 25. *Penalties* –

20 (1) In administrative proceedings under [~~Presidential Decree No. 807~~]
21 **EXECUTIVE ORDER NO. 292 OR THE ADMINISTRATIVE CODE OF**
22 **1987**, the penalties and rules provided therein shall be applied.

23 (2) In other administrative proceedings, the penalty ranging from
24 suspension without pay for one (1) year to dismissal with forfeiture of
25 benefits or a fine ranging from Five Thousand Pesos (P5, 000.00) to twice the
26 amount malversed, illegally taken or lost, or both at the discretion of the
27 Ombudsman, taking into consideration circumstances that mitigate or
28 aggravate the liability of the officer or employee found guilty of the complaint
29 or charges.

30 **THESE PENALTIES MAY BE IMPLEMENTED DURING ELECTION**
31 **PERIOD, AMENDING FOR THIS PURPOSE SECTION 261(X) OF BATAS**
32 **PAMBANSA BLG. 881, OR THE OMNIBUS ELECTION CODE."**

1 Sec. 4. Section 31 of R.A. No. 6770 is hereby amended to read as follows:
2 "Section 31. Designation of Investigators and Prosecutors. — The
3 Ombudsman may utilize the personnel of his office and/or designate or
4 deputize any fiscal, state prosecutor or lawyer in the government service, **OR**
5 **PRIVATE LAWYERS IN ACCORDANCE WITH SECTION 15(15) OF**
6 **THIS ACT**, to act as special investigator or prosecutor to assist in the
7 investigation and prosecution of certain cases. Those designated or deputized
8 to assist him herein provided shall be under his supervision and control.
9 X x x."

10 Sec. 5. Section 27 of R.A. No. 6770 is hereby amended to read as follows:
11 "SEC. 27. *Effectivity and Finality of Decisions.* — (1) All provisional orders of
12 the Office of the Ombudsman are immediately effective and executory.

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

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

18 (2) Errors of law or irregularities have been committed prejudicial
19 to the interest of the movant. The motion for reconsideration shall
20 be resolved within three (3) days from filing: *Provided*, That ONLY one
21 motion for reconsideration shall be entertained.

22 Findings of fact by the Office of the Ombudsman when supported by
23 substantial evidence are conclusive. Any order, directive or decision imposing
24 the penalty of public censure or reprimand, suspension of not more than one
25 (1) **MONTH AND FINE OF NOT MORE THAN ONE (1)** month's salary shall
26 be final and unappealable.

27 In all administrative disciplinary cases, orders, directives, or decisions of the
28 Office of the Ombudsman may be appealed to the ~~[Supreme Court by filing a~~
29 ~~petition for certiorari within ten (10) days from receipt of the written notice of~~
30 ~~the order, directive or decision or denial of the motion for reconsideration in~~
31 ~~accordance with Rule 45 of the Rules of Court.]~~ **COURT OF APPEALS ON A**
32 **VERIFIED PETITION FOR REVIEW UNDER RULE 43 OF THE RULES**

1 **OF COURT. AN APPEAL SHALL NOT STOP THE DECISION FROM**
2 **BEING EXECUTORY.**

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

5 Sec. 6. Insert a new Section 31-A in R.A. No. 6770 to read as follows:

6 **"SEC. 31-A. IMMUNITY FROM SUIT OF OMBUDSMAN**
7 **INVESTIGATORS AND PROSECUTORS. – OMBUDSMAN**
8 **INVESTIGATORS AND PROSECUTORS, INCLUDING THOSE**
9 **DEPUTIZED BY THE OMBUDSMAN PURSUANT TO SECTION 31**
10 **HEREOF, SHALL BE IMMUNE FROM CRIMINAL, ADMINISTRATIVE**
11 **OR CIVIL SUITS ARISING FROM THEIR MANDATE AND THE**
12 **REGULAR EXERCISE OF THEIR OFFICIAL FUNCTIONS."**

13 Sec. 7. Insert a new Section 36-A to R.A. No. 6770 to read as follows:

14 **SEC. 36-A. ILLEGAL DISCLOSURE OF INFORMATION. – IT SHALL**
15 **BE UNLAWFUL FOR A PERSON WHO RECEIVES A SUBPOENA, OTHER**
16 **ORDERS, OR REQUESTS FOR INFORMATION FROM THE OFFICE OF**
17 **THE OMBUDSMAN PURSUANT TO THE EXERCISE OF THE LATTER'S**
18 **POWERS UNDER SECTION 15 HEREOF TO DISCLOSE INFORMATION**
19 **CONCERNING SAID ORDERS OR REQUESTS, AND THE**
20 **PROCEEDINGS RELATED THERETO THAT MAY OBSTRUCT, HINDER**
21 **OR PREJUDICE THE INVESTIGATION OR PROCEEDINGS. ANY**
22 **VIOLATION OF THIS SECTION WILL SUBJECT THE OFFENDER TO**
23 **IMPRISONMENT RANGING FROM SIX (6) MONTHS AND ONE (1)**
24 **DAY TO THREE (3) YEARS, AND A FINE OF NOT LESS THAN FIFTY**
25 **THOUSAND PESOS (P50,000.00) BUT NOT MORE THAN FIVE**
26 **HUNDRED THOUSAND PESOS (P500,000.00).**

27 Sec. 8. *Implementing Rules and Regulations.* – The Ombudsman shall issue,
28 within ninety (90) days after the approval of this Act, the necessary rules and
29 regulation relating to the provisions of this Act.

30 Sec. 9. *Separability Clause.* — If for any reason, any section or provision of
31 this Act is declared to be unconstitutional or invalid, the other sections or provisions
32 hereof which are not affected thereby shall continue to be in full force and effect.

1 Sec. 10. *Repealing Clause.* — All laws, decrees, orders or rules and
2 regulations, and other issuances which are inconsistent with the provisions of this
3 Act are hereby repealed, amended or modified accordingly.

4 Sec. 11. *Effectivity.* — This Act shall take effect fifteen (15) days after its
5 publication in two (2) national newspapers of general circulation.

Approved,