

**STRENGTHENING PROTECTION FOR WHISTLE-BLOWERS  
AND WITNESSES**

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**Strengthening Protection  
for Whistle-blowers and  
Witnesses**

**AN UPDATE ON THE CURRENT  
STATUS OF PENDING LEGISLATION  
ON WITNESS AND  
WHISTLEBLOWER PROTECTION**

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# Current Regime of Protection

Republic Act No. 6981

The Witness Protection,  
Security and Benefit Act

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## Key Features of Witness Protection Act

### **Persons Covered**

Any person who has witnessed or has knowledge or information on the commission of a crime and has testified or is testifying or about to testify before any judicial or quasi-judicial body, or before any investigating authority (Section 3)

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## **Witnesses in a Legislative Investigation**

Section 4 of RA 6981 provides:

In case of legislative investigations in aid of legislation, a witness, with his express consent, may be admitted into the Program upon the recommendation of the legislative committee where his testimony is needed when in its judgment there is pressing necessity therefor: Provided, That such recommendation is approved by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

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## **Extent of Protection**

A person admitted to the Witness Protection Program shall enjoy the rights and benefits described in Section 8 of the Law—which protection essentially refers to the safety and security of the person of the witness and his or her next of kin. It also provides for measures to provide economic security to the witness, (Subsections b and c of Section 8).

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## Implementing Agency

The Department of Justice, through the Secretary of Justice, shall be primarily responsible for the implementation of the Program.

The DOJ may call upon any department, bureau, office or any other executive agency to assist in the implementation of the Program and the latter offices shall be under legal duty and obligation to render such assistance.

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## Problem Areas

### Challenges to Implementation

- Severe lack of funds and other logistics requirements;
- Lack of allied infrastructure to secure witnesses;
- Slow judicial processes;
- Effectivity of Program when State agents or other government officials are involved.

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- Under the existing regime of protection provided by RA 6981, a genuine Conflict of Interest situation arises when state actors or government officials are the subject of disclosures or testimonies of witnesses.
- The very essence of checks and balances is eroded when the safety and well-being of witnesses against illegal acts of government officials, especially members of the executive branch, becomes the responsibility of the same branch of government, (i.e. the DOJ).

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## SAMPLE CASES

- Cases of witness to extra-judicial killings;
- Death of “Ampatuan Massacre” witness Suwaid Upham;
- So-called “whistleblowers” like Rodolfo “Jun” Lozada, Jr. (NBN-ZTE) and Wilfredo Mayor and Sandra Cam (Jueteng).

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## Pending Witness Protection Bills

- SBN 2368- Witness Protection, Security and Benefit Act (Sen. Francis G. Escudero)
- SBN 2173- Witness Protection and Benefit Program For Legislative Investigations (Sen. Francis N. Pangilinan)
- SBN 187- Witness Protection, Security and Benefit Act of 2010 (Sen. Antonio F. Trillanes)

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## Salient Features of Bills Seeking Amendment of RA 6981

- The creation of a separate and independent Witness Protection Program for persons who testify before either houses of Congress during investigations in aid of legislation, which shall be administered by the Senate and the House of Representatives respectively.
- The allowance of the perpetuation of testimony of a witness admitted to the Program in accordance with Rule 134 of the Rules of Court.

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## Pending Whistleblower's Protection Bills

- SBN 2112- Whistleblower Protection Act (Sen. Francis G. Escudero)
- SBN 1883 Whistleblower Protection Act (Sen. Miriam Defensor Santiago)
- SBN 1063 Whistleblowers Act of 2010 (Sen. Manny B. Villar)

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## Rationale for the Proposal for Whistleblower Protection Bills

- To address the gaps in affording protection to persons who come forward to expose corrupt government practices not otherwise provided under RA 6981;
- To provide protection for persons who come forward to expose corrupt practices by private persons and enterprises;
- To strengthen measures aimed at encouraging the disclosure of corrupt conduct and practices in the public service.

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## Salient Features of Whistleblower Protection Bills

- The pending measures seek to provide a definition of what a whistleblower is;
- The pending bills seek to define what “retaliatory action” is with reference to whistleblowers and their superiors;
- Seeks to provide measures to deal with retaliatory actions and reprisals whether within or outside the workplace;

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- Provides measures to secure the confidentiality of the identity of the whistleblower as well as the subject of his or her disclosure
- Seeks to address other modes or manner of exacting retribution from whistleblowers, (e.g. disciplinary actions in the workplace against the whistleblower);
- Seeks to measures for the protection of whistleblowers in conjunction with existing anti-corruption laws, (e.g. RA 3019, RA 6713 and RA 7080 among others);
- Seeks to provide mechanisms for financial rewards for whistleblowers

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➤ **Whistleblower** – shall refer to an informant or any person who has personal knowledge or access to data of any information or event involving acts constituting graft and corruption and chooses to voluntarily disclose the same.

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➤ **Retaliatory Action** – shall refer to any negative or obstructive responses, reactions or reprisals to the disclosure made under this Act aimed at, pertaining to, or against a whistleblower or an informant or any of the members of his/her family and relatives up to the fourth civil degree of consanguinity or affinity. Said actions shall include criminal, civil or administrative proceedings commenced or pursued against said whistleblower or any members of his family or relatives up to the second degree of consanguinity or affinity as well as retaliatory action in the workplace.

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