

A BILL

FOR

AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND OPERATION OF A PROGRAM TO ENABLE CERTAIN PERSONS TO RECEIVE PROTECTION IN RELATION TO CERTAIN INQUIRIES, INVESTIGATIONS OR PROSECUTIONS

Sponsored by Senator Isiaka Adekeke

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1 1. The purpose of this Act is to promote law enforcement by Purpose
2 facilitating the protection of persons who are involved directly or indirectly
3 in providing assistance in law enforcement matters in relation to:

- 4 (a) activities conducted by the Force; or
- 5 (b) activities conducted by any law enforcement agency or
- 6 international criminal court or tribunal in respect of which an agreement or
- 7 arrangement has been entered into under this act.

8 2. A program to facilitate the protection of witnesses is hereby Establishment
9 established called the Witness Protection Programme to be administered by
10 the Attorney General.

11 3. Subject to this Act, the Attorney General may determine Admission to
12 whether a witness should be admitted to the Programme and the type of program
13 protection to be provided to any protectee in the Programme.

14 4.-(1) A witness shall not be admitted to the Programme unless: Admission to
15 (a) a recommendation for the admission has been made by a law program
16 enforcement agency or an international criminal court or tribunal;

17 (b) the Attorney General has been provided by the witness with
18 such information, in accordance with any regulations made for the purpose,
19 concerning the personal history of the witness as will enable the Attorney
20 General to consider the factors referred to in Section 7 in respect of the

1 witness; and

2 (c) an agreement has been entered into by or on behalf of the witness
3 with the Attorney General setting out the obligations of both parties.

4 (2) Notwithstanding subsection (1), the Attorney General may, in a
5 case of emergency, and for not more than ninety days, provide protection to a
6 person who has not entered into a protection agreement.

Consideration
of factors

7 **5.** The following factors shall be considered in determining whether a
8 witness should be admitted to the Programme:

9 (a) the nature of the risk to the security of the witness;

10 (b) the danger to the community if the witness is admitted to the
11 Programme;

12 (c) the nature of the inquiry, investigation or prosecution involving
13 the witness and the importance of the witness in the matter;

14 (d) the value of the information or evidence given or agreed to be
15 given or of the participation by the witness;

16 (e) the likelihood of the witness being able to adjust to the
17 Programme, having regard to the witness's maturity, judgment and other
18 personal characteristics and the family relationships of the witness;

19 (f) the cost of maintaining the witness in the Programme;

20 (g) alternate methods of protecting the witness without admitting the
21 witness to the Programme; and

22 (h) such other factors as the Attorney General deems relevant.

Deemed terms
of protection
agreement

23 **6.** A protection agreement is deemed to include an obligation:

24 (a) on the part of the Attorney General, to take such reasonable steps
25 as are necessary to provide the protection referred to in the agreement to the
26 protectee; and

27 (b) on the part of the protectee:

28 (i) to give the information or evidence or participate as required in
29 relation to the inquiry, investigation or prosecution to which the protection
30 provided under the agreement relates;

1 (ii) to meet all financial obligations incurred by the protectee that
2 are not by the terms of the agreement payable by the Attorney General;

3 (iii) to meet all legal obligations incurred by the protectee;

4 (iv) to refrain from activities that constitute an offence against an
5 Act of the National Assembly or that might compromise the security of the
6 protectee, another protectee or the Programme; and

7 (v) to accept and give effect to reasonable requests and directions
8 made by the Attorney General in relation to the protection provided to the
9 protectee and the obligations of the protectee.

10 7.-(1) The Attorney General may terminate the protection provided
11 to a protectee if he has evidence that there has been:

Termination of
protection

12 (a) a material misrepresentation or a failure to disclose information
13 relevant to the admission of the protectee to the Programme; or

14 (b) a deliberate and material contravention of the obligations of the
15 protectee under the protection agreement.

16 (2) The Attorney General shall, before terminating the protection
17 provided to a protectee, take reasonable steps to notify the protectee and
18 allow the protectee to make representations concerning the matter.

19 8. Where a decision is taken:

Reasons for
certain decisions

20 (a) to refuse to admit a witness to the Programme, the Attorney
21 General shall provide the law enforcement agency or international criminal
22 court or tribunal that recommended the admission or, in the case of a witness
23 recommended by the Force, the witness, with written reasons to enable the
24 agency, court, tribunal or witness to understand the basis for the decision; or

25 (b) to terminate protection without the consent of a protectee, the
26 Attorney General shall provide the protectee with written reasons to enable
27 the protectee to understand the basis for the decision.

28 9.-(1) Subject to this section, no person shall knowingly disclose,
29 directly or indirectly, information about the location or a change of identity
30 of a protectee or former protectee.

Disclosures
prohibited

- 1 (2) Subsection (1), does not apply:
- 2 (a) to a protectee or former protectee who discloses information about
3 the protectee or former protectee if the disclosure does not endanger the safety
4 of another protectee or former protectee and does not compromise the integrity
5 of the Programme; or
- 6 (b) to a person who discloses information that was disclosed to the
7 person by a protectee or former protectee if the disclosure does not endanger
8 the safety of the protectee or former protectee or another protectee or former
9 protectee and does not compromise the integrity of the Programme.
- 10 (3) Information about the location of a protectee or former protectee
11 may be disclosed by the Attorney General:
- 12 (a) with the consent of the protectee or former protectee;
- 13 (b) if the protectee or former protectee has previously disclosed the
14 information or acted in a manner that results in the disclosure;
- 15 (c) if the disclosure is essential in the public interest for purposes such
16 as:
- 17 (i) the investigation of a serious offence where there is reason to
18 believe that the protectee or former protectee can provide material information
19 or evidence in relation to, or has been involved in the commission of, the
20 offence;
- 21 (ii) the prevention of the commission of a serious offence;
- 22 (iii) national security or national defence; or
- 23 (d) in criminal proceedings where the disclosure is essential to
24 establish the innocence of a person.
- 25 (4) A disclosure of information made to a person under this section
26 does not authorize the person to disclose the information to anyone else.
- 27 (5) The Attorney General shall, before disclosing information about a
28 person in the circumstances referred to in paragraph (3) (b), (c) or (d), take
29 reasonable steps to notify the person and allow the person to make
30 representations concerning the matter.

1 (6) Subsection (5) does not apply if, in the opinion of the Attorney
2 General, the result of notifying the person would impede the investigation of
3 an offence.

4 10. The following factors shall be considered in determining
5 whether information about a person should be disclosed under section 11:

Factors to
considered

6 (a) the reasons for the disclosure;

7 (b) the danger or adverse consequences of the disclosure in relation
8 to the person and the integrity of the Programme;

9 (c) the likelihood that the information will be used solely for the
10 purpose for which the disclosure is made;

11 (d) whether the need for the disclosure can be effectively met by
12 another means; and

13 (e) whether there are effective means available to prevent further
14 disclosure of the information.

15 11. -(1) The Attorney General may enter into an agreement:

Inspector general's
agreements

16 (a) with a law enforcement agency to enable a witness who is
17 involved in activities of the law enforcement agency to be admitted to the
18 Programme;

19 (b) with any state or local Government authority in order to obtain
20 documents and other information that may be required for the protection of a
21 protectee.

22 (2) The Attorney General may enter into a reciprocal arrangement
23 with the government of a foreign jurisdiction to enable a witness who is
24 involved in activities of a law enforcement agency in that jurisdiction to be
25 admitted to the Programme, but no such person may be admitted to Nigeria
26 pursuant to any such arrangement without the consent of the Minister of
27 Interior.

28 (3) The Attorney General may enter into an arrangement with an
29 international criminal court or tribunal to enable a witness who is involved
30 in activities of that court or tribunal to be admitted to the Programme, but no

- 1 such person may be admitted to Nigeria pursuant to any such arrangement
2 without the consent of the Minister of Interior.
- Attorney general's powers 3 **12.** The Attorney, General's powers under this Act, may be exercised
4 on his behalf by any staff authorized to do so.
- Annual report 5 **13.** The Attorney General shall not later than June 30 each year, cause
6 to be submitted to the National Assembly a report on the operation of the
7 programme.
- Regulations 8 **14.** The Attorney General may make regulations for the purpose of
9 giving effect to this Act including, without limiting the generality of the
10 foregoing, regulations:
11 (a) specifying the types of information to be provided in respect of a
12 witness who is being considered for admission to the Programme;
13 (b) respecting the terms that must be included in protection
14 agreements or in agreements or arrangements entered into under section 14;
15 and
16 (c) governing the procedures to be followed in order to involve a
17 protectee in legal proceedings.
- Offences 18 **15.** Every person who contravenes subsection 11 (1) is guilty of an
19 offence and liable on conviction to a fine not exceeding N100,000 or to
20 imprisonment for a term not exceeding five years, or to both.
- Interpretation 21 **16.** In this Act unless the context otherwise requires:
22 "Inspector General" means the Inspector General of Police Force;
23 "Force" means the Nigerian Police Force;
24 "Attorney General" means The Attorney General of the Federation and
25 Minister of Justice;
26 "Programme" means the Witness Protection Program established by Section 4;
27 "Protectee" means a person who is receiving protection under the Program;
28 "Protection", in respect of a protectee, may include relocation, accommodation
29 as well as counselling and financial support for those or any other purposes in
30 order to ensure the security of the protectee or to facilitate the protectee's re-

1 establishment or becoming self sufficient;

2 "protection agreement" means an agreement referred to in paragraph 6(1)(
3 c) that applies in respect of a protectee;

4 "witness" means:

5 (a) a person who has given or has agreed to give information or
6 evidence, or participates or has agreed to participate in a matter, relating to
7 an inquiry or the investigation or prosecution of an offence and who may
8 require protection because of risk to the security of the person arising in
9 relation to the inquiry, investigation or prosecution; or

10 (b) a person who, because of their relationship to or association
11 with a person referred to in paragraph (a), may also require protection for the
12 reasons referred to in that paragraph.

13 17. This bill may be cited as the Witness Protection Programme Citation
14 Bill, 2015.

EXPLANATORY MEMORANDUM

The bill basically seeks to provide for the establishment and operation of a program to enable certain persons to receive protection in relation to certain inquiries, investigations or prosecutions.