

HOUSE OF REPRESENTATIVES
Republic of the Philippines
Quezon City, Metro Manila

Thirteenth Congress
First Regular Session



HOUSE BILL NO. 2909

Introduced by Honorable Ernie D. Clarete

EXPLANATORY NOTE

This bill seeks to institute a Pre-Trial Release Program which will enable all persons arrested and charged with a crime, except heinous crimes, to be released without bail from any detention facility.

The Bill of Rights of the Constitution provides that "No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws." (Article III, Section 1) The provision is a constitutional limitation binding not only on the government but also on each and every one of its branches, agencies or instrumentalities. The protective mantle of the guarantee takes effect not only during the trial proper, but, at the initial stage of every case that may deprive a person of life, liberty or property.

In criminal prosecutions, the accused is pitted against the full might of the State authority with all the resources at its command. To lighten the heavy odds, the Constitution accorded the accused, the right to be presumed innocent until the contrary is proved. (Article III, Section 14 (2)) Arrest and accusation should not be construed as synonymous with guilt.

In the present system, the due process and equal protection clause and the presumption of innocence principle are wantonly violated by the detention of an accused who fails to post bail due to financial constraints, while allowing another accused charged with a more serious offense, but financially capable of posting cash or property bond, to enjoy the rights and privileges of temporary liberty. The inability of poor litigants to post bail, greatly contributed to the overcrowding of jails, unduly exposing mere suspects to emotional and physical abuse, including sexual assaults that renders full rehabilitation unattainable. Temporary imprisonment of accused pending final determination of guilt causes permanent disruption of family and employment relations and substantially increases cost to the government and society.

This bill, therefore, envisions to institute a Pre-Trial Release (PTR) Program that will level the playing field for the rich and the poor who are arrested and charged with a crime, except those charged with heinous crimes. Under the program, a Pre-Trial Release Office shall be created under the Department of Justice. The accused shall fill an application with the proper court, accompanied by a written promise that he/she will appear on such date and time when required by the court. The presiding judge shall assign the case to a PTR Officer who conducts an investigation and gathers information on the accused-applicant for a period of five days, and thereafter submit a report and recommendation to the court. The accused shall be released from detention without bail, upon approval by the court of his/her application for PTR, based on the report and recommendation submitted by the PTR Officer.

When the accused violates any of the terms and conditions of the PTR, a warrant of arrest shall be issued and a trial shall be held within seventy-two hours upon acquiring custody of the accused. The court may reinstate or revoke the PTR. Any accused disqualified from the program is still entitled to exercise the right to bail.

Hence, this proposed measure will facilitate court proceedings, reduce overcrowding in jails, prevent interruption of family relation, minimize employment disruption and allow the accused, rich or poor, to physically, financially and emotionally prepare for his defense.

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



ERNIE D/CLARETE

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**AN ACT PROVIDING FOR A PRE-TRIAL RELEASE FOR THE ACCUSED,
CREATING FOR THE PURPOSE THE PRE-TRIAL RELEASE OFFICE,
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.**

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

SECTION 1. *Short Title.* - This Act shall be known as the "Pre-Trial Release Act of 2002,"

SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the State to accord the accused all the rights guaranteed by the Constitution which includes presumption of innocence until the contrary is proved, the right to due process and equal protection of law. Toward this end, a Pre-Trial Release Program is hereby instituted for those who have been charged with a crime, at any time prior to conviction. The program will enable all persons arrested and charged with a crime to be released from any detention facility where he is confined, based on a written promise to appear in court through frequent monitoring by a Pre-Trial Officer assigned to his case in coordination with a person known within the community who will ensure that the accused will appear in court in lieu of a bail bond to enable him to have access to an Attorney, prepare an adequate defense and be presumed innocent until proven guilty.

SEC. 3. *Definition of Terms.* - For purposes of this Act, following terms shall be defined as follows:

a) "*Pre-Trial Release (PTR)*" - refers to a cost-efficient program wherein the accused is released from jail where he is confined, without bail;

b) "*Pre-Trial Released Accused*" - refers to a person released from detention through Pre-Trial Release;

c) "*Pre-Trial Release Officer (PTRO)*" - refers to a person assigned by the judge from the PTR Office who shall be responsible for gathering and reviewing information about the accused, conduct investigation, and recommend to the court the eligibility of the accused for Pre-Trial Release;

d) "*Presiding Judge*" - refers to a judge who makes the decision on the eligibility of the accused to avail of the benefits of Pre-Trial Release;

SEC. 4. *Pre-Trial Release (PTR) Program.* - The Pre-Trial Release Program, hereinafter referred to as the PTR, is a method of releasing an accused under detention without bail bond: *Provided, however.* That there shall be a written assurance by the accused of his appearance in subsequent court proceedings. This program shall be under the jurisdiction of the Department of Justice (DOJ) in coordination with the Department of Social Welfare and Development (DSWD) and other non-government organizations (NGOs) concerned with the rehabilitation and protection of the accused.

The presiding judge shall assign the case to a PTR Officer assigned to the court that acquired jurisdiction. The PTR Officer shall conduct an investigation and gather information on the accused-applicant for a period of at least five (5) days, and immediately thereafter submit a report and recommendation to the judge. The judge shall evaluate the report and recommendation and may issue the corresponding pre-trial

SEC. 5. *Purposes and Objectives of Pre-Trial Release.* - The PTR shall have the following purposes and objectives:

a) Cause the release of a detained person from jail without bail bond upon favorable recommendation of the PTR Officer assigned to his case in coordination with any known person in the community who will establish the identity and character of the accused, and assure the appearance of the accused in court during the hearing of the case;

b) Reduce overcrowding in jails;

c) Save government expenditures by releasing the accused from confinement;

d) Provide proper and speedy release of eligible accused from custody;

e) Reduce the disruption of family and employment relations;

f) Increase tax revenue for the government with accused continued employment; and

g) Provide cost-efficient mechanism for the release of an accused from jail.

SEC. 6. *Creation of the Pre-Trial Release Office (PTRO).* - There shall be created a Pre-Trial Release Office under the Department of Justice, hereinafter referred to as PTRO, which shall exercise general supervision over all persons covered under the Pre-Trial Release Program.

The PTRO shall have such staff operating units and personnel necessary for the proper performance of its duties and functions.

SEC. 7. *Composition of the Pre-Trial Release Office.* - The Pre-Trial Release Office shall be headed by an Executive Director who shall be appointed by the President of the Philippines. He shall hold office during good behavior unless sooner removed by the President of the Philippines for just cause.

The Executive Director shall receive an annual salary of Four Hundred Twenty Thousand (P420,000.00). He shall exercise the following powers and functions:

- a) Act as the Executive Officer of the Pre-Trial Release Office;
- b) Exercise supervision and control over all Pre-Trial Release Offices;
- c) Submit semi-annual report to the Secretary of Justice concerning the operation, administration and improvement of the PTR Office;
- d) Promulgate the necessary rules and regulations relative to the methods and procedures of the Pre-Trial Release Office;
- e) Recommend to the Secretary of Justice the appointment of subordinate personnel of the Pre-Trial Office; and
- f) Perform such other duties and responsibilities as may be necessary to implement the purposes and objectives of this Act.

SEC. 8. *The Deputy Executive Directors.* - There shall be three (3) Deputy Executive Directors, one each for the islands of Luzon, Visayas and Mindanao. They shall assist the Executive Director and perform such duties as may be assigned to them by the latter and as may be provided by law. They shall likewise be appointed by the President of the Philippines and shall receive an annual salary of Three Hundred Eighty-four Thousand Pesos (P384,000.00).

SEC. 9. *Qualifications of the Executive Director and the Deputy Executive Directors.* - The Executive Director and the Deputy Executive Director must possess the following qualifications:

- a) Must be at least Thirty-five (35) years of age;
- b) Must be of proven competence, probity and good health;
- c) Holder of a Master's Degree in Social Work, Psychology, Sociology, Public Administration, Criminology, Political Science, Education or their equivalent; and
- d) At least five (5) years of supervisory experience.

SEC. 10. *Regional, Provincial and City Pre-Trial Release Officers.* - The Pre-Trial Release Office shall have regional, provincial and city offices organized in accordance with its organizational plan and who shall be appointed by the Secretary of Justice upon recommendation of the Executive Director and in accordance with the Civil Service rules and regulations.

The regional offices shall be headed by a Regional PTR Officer who shall exercise supervision and control over all PTR Officers within his jurisdiction and perform such other duties assigned to him by the Executive Director. He shall have an annual salary of Three Hundred Sixty Thousand Pesos (P360,000.00).

The Regional PTR Officer shall be assisted by an Assistant Regional PTR Officer who shall have an annual salary of Three Hundred Thousand Pesos (P300,000.00).

There shall be at least three (3) PTR Officers in every province and city who shall be appointed by the Secretary of Justice upon recommendation of the Executive Director and in accordance with the Civil Service rules and regulations.

The Provincial or City PTR Officers shall receive an annual salary of Two Hundred Seventy Six Thousand Pesos (P276,000.00) and Two Hundred Sixty-two Thousand Pesos (P262,000.00), respectively, and shall exercise the following powers and functions:

- a) Investigate all persons referred to them for investigations by the court;
- b) Inform the persons availing of the PTR on the terms and conditions of the PTR program;
- c) Keep themselves informed of the conduct and conditions of persons availing of the PTR program under their care and used all suitable means to bring improvement in their conduct;
- d) Maintain a detailed record of persons under their care;
- e) Prepare a list of qualified persons from the DSWD or NGO in the province or city to assist in monitoring the activities of persons under the PTR Program;
- f) Exercise supervision and control over all field assistants, and other personnel; and
- g) Perform such other duties as may be assigned by the Executive Director through the Regional Director.

SEC. 11. *Qualifications of Regional, Assistant Regional, Provincial and City PTR Officers.* - No person shall be appointed Regional or Assistant Regional or Provincial or City PTR Officer unless he possesses the following qualifications:

- a) Holder of a Bachelor's Degree (with a Master's Degree for Regional and Assistant Provincial PTR Officer) major in Police Science, Social Work, Sociology, Psychology, Criminology, or their equivalent;

b) At least three (3) years of experience in work requiring any of the above mentioned related courses; and

c) Preferably a resident of the region, province or city, as the case may be where he shall be appointed.

Moreover, the provincial or city PTR Officers shall be assisted by field assistants and subordinate personnel as may be necessary to enable them to perform their duties efficiently and effectively.

SEC. 12. *Organization.* - Within twelve (12) months from the effectivity of this Act, the Secretary of Justice shall organize the administrative structure of the PTR Office including the staffing patterns of the regional, provincial and city PTR offices with the end in view of achieving the goals and objectives of the PTR Program.

SEC. 13. *Application for Grant of the Benefits of the PTR Program.* - Upon detention or before his arraignment in court, the accused shall file a written application for PTR with the court where his case is filed, stating his personal circumstances, which shall include the following: a) he/she is a Filipino citizen and a resident in the country for at least six (6) months with a verifiable address and references; b) not a flight risk nor a danger to the community; c) not charged of any of the heinous crimes; and d) if applicable, that more than five (5) years has lapsed since his last conviction or release from imprisonment for said offense: *Provided*, That during the last five (5) years, he has shown good behavioral record and has an excellent favorable written recommendation from the PTR Officer handling his case.

SEC. 14. *PTR Applications Endorsed to Pre-Trial Release Officer by the Court.*
- Upon receipt of the PTR application, the court shall designate a Pre-Trial Officer to investigate the accused-applicant for a period of five (5) days, and thereafter submit a

SEC. 15. *Conditions of Release Under the Pre-Trial Release Program.* - The court may require the accused under the PTR Program to comply with any of the following conditions:

a) Report every week in person to the court;
b) Inform the PTR Office in writing of any change in the information written on his/her application such as the name, phone number, address, job status or whenever he/she goes out of town;

c) Hire an attorney to represent him in court;

d) Appear in court on the date and time the trial is set;

e) Submit to alcohol and/or drug test when requested;

f) Participate in alcohol or drug abuse treatment program, if requested;

g) Observe a curfew set by the court;

h) Enroll or maintain enrollment in an educational program;

i) Seek or maintain employment;

j) Participate in social services or render community service at least once a week;

k) Must not be in possession of firearms or other deadly weapons during the release period;

l) Notify the PTR Office once the case is dismissed by the court;

m) Refrain from any other unlawful conduct or criminal activity;
and

n) Avoid all contact with an alleged victim of the crime or a particular witness who may testify concerning the offense.

The PTR Office shall monitor compliance with the terms and conditions of the PTR by the accused under the PTR program. The court may order the termination of the PTR of any accused when the accused violates any of the terms and conditions of the PTR.

SEC. 16. *Submission of the Lists of Accused Under PTR to the Department of Justice by the Pre-Trial Release Officers.* - The PTR Officers concerned shall submit the name of the accused availing of the program to the Department of Justice within sixty (60) days from the date of issuance of the PTR.

SEC. 17. *Confidentiality of Records of PTR Applicants.* - The records of the accused under PTR shall be privileged and shall not be disclosed directly or indirectly to anyone other than the PTR Officer or the court concerned, except that the court in its discretion, may permit any accused or his lawyer to inspect the aforementioned documents or parts thereof whenever the best interest of the accused requires such disclosure. Any government agency engaged in the correction or rehabilitation of offenders may obtain said documents for its official use or reference.

SEC. 18. *Failure to Comply with the Terms and Conditions of Release.* - Upon a verified application by the PTR Officer showing that a condition of release has been violated, or the continued liberty of the person will pose a serious threat to another person, or will result in flight from prosecution, and such other violations, the court may issue a warrant for the arrest of the person without hearing but for said hearing to be held within seventy-two (72) hours after his custody. In situations where the risk is not imminent, the judge shall issue a summon for the person to appear, in lieu of the warrant.

Any person whose release has been revoked should be afforded the safeguards so provided for those detained under the provisions of the Rules of Courts and the Constitution. He shall be brought to trial within sixty (60) days of the revocation or again be released on non-financial conditions based on the offense committed.

However, the court must be informed in writing by the PTR Officer of any violation of the conditions by the person under the PTR Program, and for the latter to be given the opportunity to answer said allegations.

SEC. 19. *Penalties.* - Any violation of the provisions of this Act shall be punishable by imprisonment of not less than six (6) years but not more than ten (10) years or a fine of not more than One Hundred Thousand Pesos (P100,000.00) but not more than Two Hundred Thousand Pesos (P200,000.00) or both, at the discretion of the court. If the offender is a government officer or employee, the imposable penalty shall be imprisonment of not more than ten (10) years or fine of not more than Two Hundred Thousand Pesos (P200,000.00) or both, at the discretion of the court.

SEC. 20. *Implementing Rules and Regulations.* - Within thirty (30) days from the effectivity of this Act, the Department of Justice, in coordination with the Probation Administration and Parole, and other concerned agencies, shall promulgate rules and regulations to effectively implement the provisions of this Act.

SEC. 21. *Appropriations.* - To fully implement the provision of this Act, there is hereby authorized the appropriation of the sum of Fifty Million Pesos (P50,000,000.00) in the General Appropriations Act of the year following its enactment into law. Thereafter, said amount shall be included in the annual appropriations of the National Government.

SEC. 22. *Separability Clause.* - If any provision or section of this Act or the application to any person or circumstance is held to be invalid, the other provisions or sections of this Act, and the application of such provision or section to other persons or circumstances, shall not be affected thereby.

SEC. 23. *Repealing Clause.* - All laws, decrees, executive orders, rules and regulations or parts thereof, and other similar laws inconsistent with this Act, are hereby repealed, amended or modified accordingly.

SEC. 24. *Effectivity.* - This Act shall take effect fifteen (15) days after its complete publication in at least two (2) national newspapers of general circulation.

Approved,