



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila
Thirteenth Congress
First Regular Session



HOUSE BILL NO. 4346

Introduced by Honorable Jose G. Solis

EXPLANATORY NOTE

This bill seeks to institute the Provisional Release Program which will enable accused persons charged of crimes other than those considered heinous, be released from detention without necessarily posting bail.

In criminal prosecutions, an accused is matched against the full might of the State, which has all the resources at its command. To level the playing field, the Constitution, in its Bill of Rights, accords an accused certain rights which eases the heavy odds against him. The right of an accused includes the following: to be presumed innocent until the contrary is proven, to be released on bail, to due process of law and to the equal protection of the laws. These are just some of the rights guaranteed under the Constitution.

However, although presumed innocent until proven guilty, persons charged with a crime who fail to post bail have to suffer time in jail. And while incarcerated, they are exposed to emotional, physical, and sometimes even sexual abuse. Furthermore, such imprisonment pending final determination of their guilt or innocence causes permanent strains on their families and employment relations.

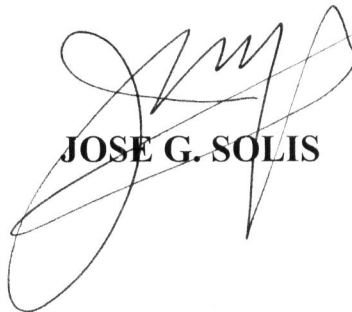
To address this socio-economic malaise, this bill is being proposed. Under the proposed program, a person detained and charged with a crime other than that considered as heinous, may apply for provisional release with the Court having jurisdiction over his case. The presiding judge shall assign

the case to the Provisional Release Board of the province or city where the case is pending which shall conduct an investigation and gather information regarding the feasibility of releasing the accused-applicant without bail, subject to some terms and conditions.

Among the terms and conditions for a provisional release is that the accused-applicant must tender a written promise to the court that he shall appear before the court on such dates and times as the court requires. Violation of any of the terms or conditions of the provisional release shall result in its revocation and the issuance of a warrant of arrest for the accused.

This proposed measure is likewise envisioned to reduce over crowding in jails, prevent interruption of family relations, and minimize employment disruption, among others. This will also allow an 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.



JOSE G. SOLIS



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AN ACT
INSTITUTING THE PROVISIONAL RELEASE PROGRAM,
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
"Provisional Release Act of 2005".

SEC. 2. *Declaration of Policy.* — It is hereby declared the policy
of the State to accord every accused person all the rights guaranteed by the
Constitution. Toward this end, a Provisional Release Program is hereby
instituted. The Program will enable all accused persons charged and
detained for a crime, except those considered heinous, to be released from
detention without posting bail on the condition that he shall abide by all the
terms of his provisional release.

SEC. 3. *Provisional Release Program.* – The Provisional Release Program, hereinafter referred to as the Program, is a means of releasing an accused under detention without posting bail: *Provided*, That the accused shall tender a written promise to the court having jurisdiction over him that he shall appear before such court on the dates and times as maybe required by the court: *Provided, further*, That he shall abide by all the other terms and conditions imposed on him for his provisional release.

The Program shall be under the jurisdiction of the Department of Justice (DOJ) in coordination with the Department of Local Government (DILG) and the Bureau of Jail Management and Penology (BJMP).

SEC. 4. *Purposes and Objectives of the Provisional Release Program.* – The Program shall have the following purposes and objectives:

- a) Cause the release from detention of a person accused of crime, except those considered heinous crimes, without having to post bail;
- b) reduce overcrowding in jails;
- c) reduce government expenses in maintaining jails and other detentions facilities;
- d) minimize disruption of family and employment relations of an accused;

e) provide a cost-efficient mechanism for the release of an accused from detention.

SEC. 5. *Creation and Composition of Provisional Release Board.*

– There shall be established a Provisional Release Board hereinafter referred to as the Board, in every province and city. The Board shall be headed by the executive judge of the province or city as chairman and composed of the provincial or city prosecutor, a representative of the Department of Social Welfare and Development, a representative of the Commission on Human Rights, and a lawyer from the Public Attorneys Office as members.

SEC. 6. *Compensation.* – The Chairman and each member of the Board shall be entitled to receive a *per diem* of two thousand five hundred pesos (P2,500) and one thousand five hundred pesos (P1,500) respectively, for actual attendance at every meeting of the Board, and in addition, thereto, reimbursement of actual and necessary traveling expenses incurred in the performance of their duties: *Provided, however,* That in no case shall the Chairman receive a total monthly *per diem* of more than twenty five thousand pesos (P25,000) nor the members to receive a total monthly *per diem* of more than fifteen thousand pesos (P15,000).

SEC. 7. *Application to the Program.* – At any time before final judgment, an accused who is under detention may file, through his counsel, an application for provisional release with the court having jurisdiction over him. The application must contain the accused's personal circumstances, the crime he is accused of, three personal references, previous criminal records, other pending criminal cases, if any, and a written promise that the accused shall appear before the court at the times and dates as the court may require.

SEC. 8. *Provisional Release Application to be Endorsed to the Board by the Court.* – Upon receipt of an accused's provisional release application the court shall forward said application to the Board of the province or city where the accused is detained. The Board shall study the possibility of releasing the accused-applicant without posting bail. The Board shall take into consideration the flight risk of the accused as well as his inability to post bail before recommending his provisional release to the court. The court having jurisdiction over the accused shall decide whether or not to grant an accused provisional release based on the recommendation of the Board.

SEC. 9. *Conditions for Provisional Release.* – Any person granted provisional release under the Program shall be required to comply with any of the following conditions at the discretion of the court:

- a) Report in person at least once a month to the Court, having jurisdiction over him.
- b) Appear in Court on the dates and times the Court shall require.
- c) Inform the Court in writing of any change in the information written on his application for provisional-release.
- d) Submit to drug testing whenever required by the Court.
- e) Observe a curfew set by the court.
- f) Seek and maintain employment.
- g) Refrain from any unlawful conduct or criminal activity.
- h) Any other similar condition that the court may deem fit.

The provisional release of an accused shall be terminated when he violates any term or condition of his provisional release and as such the court shall issue a warrant for his immediate arrest.

SEC. 10. *Confidentiality of Records and Reports of the Board.* –

All records, reports, and recommendations made by the Board or submitted to it by the accused-applicant shall be deemed confidential and may only be disclosed upon a lawful order of the court.

SEC. 11. *Implementing Rules and Regulations.* – Within thirty (30) days from the effectivity of this Act, the Department of Justice

shall promulgate the rules and regulations to effectively implement the provisions of this Act.

SEC. 12. *Appropriations.* – The sum of fifty million pesos (P50,000,000) is hereby authorized to be appropriated, from the funds of the National Treasury not otherwise appropriated, to finance the establishment and organization of the Provisional Release Program. Thereafter, such amount as shall be necessary for the efficient implementation of the Program shall be included in the annual General Appropriations Act.

SEC. 13. *Separability Clause.* – If any provision or section of this Act or the application to any person or circumstance be held 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. 14. *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 and modified accordingly.

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

Approved,