

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH (15TH) CONGRESS
FIRST REGULAR SESSION

HOUSE BILL NO. **2414**

INTRODUCED BY RODOLFO C. FARIÑAS

EXPLANATORY NOTE:

This is a Bill institutionalizing in our judicial system "**liberty on recognizance**," or the release of a person charged for a criminal offense, before conviction, and who does not have the means to put up sufficient bond or securities to avail of the constitutional right to bail. It seeks to establish a missing but vital component of our judicial system by allowing the depressed sector of our society to be equal with all others in terms of enjoying liberty while the State proves their guilt in the commission of an offense.

The Bill of Rights of our Constitution guarantees that –

Sec. 13. All persons, except those charged with offenses punishable by *reclusion perpetua* when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of *habeas corpus* is suspended. Excessive bail shall not be required. (Article III)

Unfortunately, there are a great number of persons who have the right to bail but end up being deprived of this basic constitutional right and are detained during trial simply because they do not have the financial means to post the bail required by law.

This is a classic case of injustice that victimizes only the poor and smacks of the social justice mandate of our Constitution.

It is, therefore, the noble purpose of this Bill to give the poor "more of the law," by affording them right to be released on recognizance while their cases are pending in court.

The Bill provides for the participation of duly elected local officials, in collaboration with the Department of Social Welfare and Development (DSWD), to ensure that a beneficiary of the proposed law does not have the financial capacity to post bail by sufficient securities.

REP.  C. FARIÑAS

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**AN ACT INSTITUTIONALIZING RECOGNIZANCE AS A MODE OF
GRANTING THE RELEASE OF AN INDIGENT PERSON IN CUSTODY
AS AN ACCUSED IN A CRIMINAL CASE AND FOR OTHER
PURPOSES.**

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

Section 1. *Recognizance defined.* — Recognizance is a mode of securing the release of any person in custody or detention for the commission of an offense but is unable to post bail due to abject poverty. The court where the case of such person has been filed shall allow the release of the accused on recognizance as provided herein, to the custody of a responsible member of the city or municipality where the accused resides.

Section 2. *Release on recognizance as a matter of right guaranteed by the Constitution.* — The release on recognizance of any person in custody or detention for the commission of an offense is a matter of right when the offense is not punishable by death, *reclusion perpetua* or life imprisonment: *Provided*, that the accused or any person on his behalf files the application for such:

- a) Before or after conviction by the Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court and Municipal Circuit Trial Court; or
- b) Before conviction by the Regional Trial Court.

Provided, Further. that a person in custody for a period equal to or more than the minimum of the principal penalty prescribed for the offense charged, without application of the Indeterminate Sentence Law or any modifying circumstance, shall be released on his own recognizance.

Section 3. *Requirements.* — The competent court where a criminal case has been filed against a person covered under the two preceding sections shall order the release of the detained person on recognizance: *Provided,* that all of the following requirements are complied with:

- a) The person in custody declares under oath that he is indigent and does not have the financial capacity to post a cash bail nor is he the owner of any property acceptable as sufficient sureties for a bail bond;
- b) A certification issued by the chairman of the barangay where the accused actually resides, attesting to the truthfulness of the contents of the application filed by the accused;
- c) A certification issued by the head of the social welfare and development office of the municipality or city where the accused actually resides, that the accused is indigent;
- d) A resolution adopted by the *sanggunian* of the city or municipality where the accused actually resides, duly approved by the mayor, recommending the release from custody of the accused, subject to the following conditions and notwithstanding any existing provision of the law to the contrary:
 - i) Any motion for the adoption of a resolution for the purpose of this Act duly made before the *sanggunian* shall be considered as an urgent matter and shall take precedence over any other business thereof: *Provided,* that a special session may be called to consider such proposed resolution;

- ii) The presiding officer of the *sanggunian* shall ensure that its secretary shall submit any resolution adopted under this Act within twenty-four (24) hours from its passage to the mayor who shall act on it within the same period of time from receipt thereof;
- iii) If the mayor or any person acting as such pursuant to law fails to act on the said resolution within twenty-four (24) hours from his receipt thereof, the same shall be deemed to have been acted favorably upon by the mayor;
- iv) If the mayor or any person acting as such pursuant to law disapproves the resolution, he shall return the same within twenty-four (24) hours from his disapproval thereof to the *sanggunian* presiding officer or secretary who shall be responsible in informing every member thereof that the *sanggunian* shall meet in special session within twenty-four (24) hours from receipt of the veto for the sole purpose of considering to override the veto made by the mayor;

For the purpose of this Act, the resolution of the *sanggunian* of the municipality or component city shall be considered final and not subject to the review of the *Sangguniang Panlalawigan*.

- e) The accused shall be properly documented, such as but not limited to, taking passport size photographs of his face and both sides thereof, and undergoing fingerprinting process: *Provided*, that the costs involved for the purpose of this sub-section shall be shouldered by the municipality or city that adopted a resolution for the release of the accused, chargeable to the mandatory five percent (5%) calamity fund in its budget or to any other available fund in its treasury;

- f) The court shall notify the public prosecutor within twenty-four (24) hours from the filing of the application for release on recognizance in favor of the accused the date of hearing thereof: *Provided*, that such hearing shall be held not earlier than twenty-four (24) hours nor later than forty-eight (48) hours from the receipt thereof by the prosecutor: *Provided, further*, that during said hearing, the prosecutor shall be ready to submit his recommendations regarding the application made under this law wherein no motions for postponements shall be entertained.

Section 4. *Assistance of non-government and private organizations.* - If the *sanggunian* fails to override the veto of the mayor as provided in the preceding section, the presiding officer thereof shall transmit the same to the heads of all the private and non-government organizations duly accredited by the *sanggunian* pursuant to Section 109, Republic Act No. 7160, which may consider putting up the bail bond of the applicant pursuant to their existing community or outreach programs;

Section 5. *Disqualifications.* — Any of the following circumstances shall be a valid ground for the court to disqualify an accused from availing of the benefits provided herein:

- a) Making of any untruthful statement by the accused in the sworn statement required under Section 2 (a);
- b) The accused is a recidivist, quasi-recidivist, habitual delinquent, or has committed a crime aggravated by the circumstance of reiteration;
- c) The accused is found to have previously escaped from legal confinement, evaded sentence or has violated the conditions of his bail or release on recognizance without valid justification;

- d) The accused committed the offense while on probation, parole, or under conditional pardon;
- e) The personal circumstances of the accused or nature of the facts surrounding his case indicate the probability of flight if released on recognizance; or
- f) There is a great risk that the accused may commit another crime during the pendency of his case.

Section 6. *Arrest of a person released on recognizance.* — The court shall order the arrest of the accused, and forthwith, placed under detention, under any of the following circumstances:

- a) If it finds meritorious after a summary hearing giving the accused an opportunity to be heard, upon a manifestation made under oath by any person.
- b) Upon the failure of the accused to appear at the trial or whenever required by the above-mentioned court or any other competent court without justification despite due notice;
- c) If the accused is the subject of a complaint for the commission of another offense involving moral turpitude and the public prosecutor or the mayor where the offense is committed recommends to the court for his arrest; or
- d) If it is shown that the accused committed any act of harassment, such as but not limited to stalking, intimidating or otherwise vexing the private complainant, any prosecutor or witness in the case pending against the accused.

Provided, that upon the issuance by the court of such order, the accused shall likewise become the proper subject of a citizen's arrest pursuant to the Rules of Court.

Section 7. *No release on recognizance after final judgment or commencement of sentence; exception.* — The benefits provided under this Act shall not be allowed in favor of an accused after the judgment has become final or when the accused has started serving the sentence: *Provided*, that this prohibition shall not apply to an accused who is entitled to the benefits of the Probation Law if the application for probation is made before the convict starts serving the sentence imposed, in which case, the court shall allow the release on recognizance of the convict to the custody of a responsible member of the city or municipality where the accused actually resides.

Section 8. *Saving Clause.* — If any provision of this Act or the application of such provision to any person or circumstance is declared invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected by such declaration.

Section 9. *Repealing Clause.* — All laws, decrees and orders or parts thereof inconsistent herewith, are deemed repealed or modified accordingly, unless the same are more beneficial to the accused.

Section 10. *Effectivity.* — This Act shall take effect upon its approval.

Approved,

A handwritten signature in black ink, consisting of a stylized 'M' followed by a horizontal line and a small flourish.