

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL No. **3145**

*Introduced by Reps. TEDDY A. CASIÑO, NERI JAVIER COLMENARES,
LUZVIMINDA C. ILAGAN, RAFAEL V. MARIANO, RAYMOND V. PALATINO
EMERENCIANA A. DE JESUS and ANTONIO L. TINIO*

EXPLANATORY NOTE

The 1987 Philippine Constitution allows two (2) modes by which a person under custody may be released temporarily from detention before conviction of the offense charged – (1) bail, and (2) release on recognizance as may be provided by law, to wit:

“Article III, Section 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. xxx.” (Emphasis supplied)

Recognizance is “an obligation of record, entered into before some court or magistrate duly authorized to take it, with the condition to do some particular act or acts, the usual condition being the appearance of the accused for trial.”

Under the present state of the law, release on recognizance is implemented only in a very limited scope under the Rules of Criminal Procedure, and the application thereof is based on the discretion of the court. The reason for this is that the Supreme Court, while it has the sole power to promulgate the rules of procedure under Article VIII, Section 5 (5) of the 1987 Philippine Constitution, it cannot promulgate the rules for the full implementation of release on recognizance because of the necessity for an enabling law as stated in the above-quoted Article III, Section 13.

Thus, this measure is intended to serve as the enabling law for the full implementation of release on recognizance as an instrument for temporary release.

The 1986 Constitutional Commission deliberations made clear the role of Congress in the enactment of such an enabling law, to wit:

“FR. BERNAS: In addition to bail, there is an explicit recognition here of recognizance as an instrument for temporary release as may be provided by law. The details on how recognizance can be obtained or when it is applicable is left to legislation. (I RECORD 675)” (Emphasis supplied)

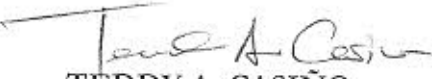
Moreover, this measure is a means to promote the principle of restorative justice especially among poor litigants who have yet to be convicted but are detained due to their inability to post bail or

due to a simple lack of an enabling law on recognizance. Such measure would give the members of a community a bigger and more proactive role in reforming suspected offenders and upholding a fair system of justice.

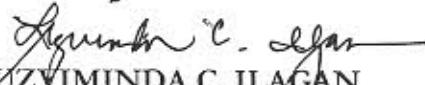
This proposed law is also one way to address other problems confronting the criminal justice system such as protracted trials, prolonged resolution of cases, lack of legal representation, lack of judges, congestion in jails, and lack of opportunity to reform and rehabilitate the offenders.

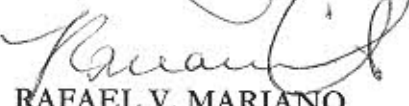
For these reasons, the immediate approval of this measure is earnestly sought.

Approved,

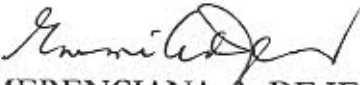

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AN ACT
PROVIDING FOR A SYSTEM OF RECOGNIZANCE AS A MODE FOR
OBTAINING RELEASE FROM DETENTION, APPROPRIATING
FUNDS THEREFOR, AND FOR OTHER PURPOSES

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

SECTION 1. Title. – This Act shall be known as the “Recognizance Act of 2010.”

SECTION 2. *Statement of Policy.* – It is the declared policy of the State to promote social justice in all phases of national development, including the promotion of restorative justice as a means to address the problems confronting the criminal justice system such as protracted trials, prolonged resolution of cases, lack of legal representation, lack of judges, inability to post bail bond, congestion in jails, and lack of opportunity to reform and rehabilitate the offender. As part of this policy and in consonance with the principle of presumption of innocence, the 1987 Philippine Constitution recognizes and guarantees the right to bail or to be released on recognizance as may be provided by law. In furtherance of this policy, the right of persons, except those charged with crimes punishable by death, reclusion perpetua, or life imprisonment, to be released on recognizance before conviction by the Regional Trial Court, irrespective of whether the case was originally filed in or appealed to it, upon compliance with the requirements of this Act is hereby affirmed, recognized, and guaranteed.

SECTION 3. *Definition of Terms.* – For purposes of this Act, the following terms shall be defined as follows:

- (a) “Recognizance” is an obligation of record, entered into before some court duly authorized to take it, with the condition to do some particular act or acts, the usual condition being the appearance of the accused for trial.
- (b) “Person Released on Recognizance” is a person in custody and is released on recognizance from detention.

SECTION 5. *Disqualifications for Release on Recognizance.* – An applicant who seeks to be released on recognizance must possess none of any of the following disqualifications:

- (a) That he is a danger to the community;
- (b) That the circumstances of his case indicate the probability of flight if released on recognizance;
- (c) That he is a recidivist, quasi-recidivist, or habitual delinquent, or has been previously convicted of a crime aggravated by the circumstance of reiteration;
- (d) That he has previously escaped from legal confinement, evaded sentence, or violated the conditions of his previous bail or release on recognizance, if any, without valid justification;
- (e) That he has previously committed a crime while under probation, parole, or conditional pardon; or
- (f) That there is undue risk that he may commit another crime if released on recognizance.

SECTION 6. *Application for Release on Recognizance.* – At any time before conviction by the Regional Trial Court, irrespective of whether the case was originally filed in or appealed to it, any person in custody possessing all the qualifications and none of any of the disqualifications may file a verified written application for his release on recognizance with the court where the case is pending.

The application shall state that the applicant possesses all the qualifications and none of any of the disqualifications, and shall prove the same by supporting affidavits and documents: Provided, That the application shall be supported by affidavits of at least two (2) persons stating their favorable recommendation thereto and declaring their undertaking to guarantee the appearance of the applicant in court whenever required or ordered to do so.

Any person in custody who is not yet charged in court may apply for release on recognizance with any court in the province, city, or municipality where he is held.

SECTION 7. *Persons Making Favorable Recommendation.* – The two (2) persons who shall make such favorable recommendation and undertaking in accordance with the second paragraph of the next preceding section must have the following qualifications:

- (a) A person of good repute and probity;
- (b) A resident of the barangay where the applicant resides;
- (c) Must not be a relative of the applicant within the fourth degree of consanguinity or affinity; and
- (d) Must belong to any of the following sectors and institutions: church, academe, social welfare, health sector, cause-oriented groups, charitable organizations, or organizations engaged in the rehabilitation of offenders.

If no person, in the barangay where the applicant resides, belongs to any of the sectors and institutions listed under paragraph (d) above, or only one person thereof belongs to said sectors and institutions, the other person or persons, as the case may be, who shall make such recommendation and undertaking may be from the qualified residents of the city or municipality where the applicant resides.

SECTION 8. *Endorsement of Application to Recognizance Office.* – Upon receipt of the application for recognizance, together with all the supporting documents and affidavits, the court shall forward a copy of the same to the Chief Recognizance Officer of the Recognizance Field Office in the city or province concerned. An order shall be issued by the court directing the Chief Recognizance Officer or any of his Recognizance Officers to conduct an investigation on the eligibility of the applicant to be released on recognizance. The prosecution shall be given a copy of the application, together with the supporting documents and affidavits, and the order.

The Recognizance Field Office concerned shall submit a written report and recommendation on the veracity of the allegations stated in the application and in its supporting documents and affidavits to the court within twenty (20) calendar days from receipt of the copy of the application and order. Such period may be extended by the court upon showing of justifiable grounds.

SECTION 9. *Action of the Court.* – The judge of the court issuing the order shall make an evaluation of the report and recommendation made by the Recognizance Field Office concerned, and of the written opposition of the prosecution, if any, and shall make a decision within ten (10) calendar days from receipt thereof on whether to grant the application.

SECTION 10. *Right of Prosecution to Contest the Application.* – The prosecution has the right to oppose the application, and submit the same to the court within twenty (20) calendar days from receipt of the copy of the application and order, on any of the following grounds:

- (a) That the applicant does not possess all the qualifications;
- (b) That he possesses any of the disqualifications; and
- (c) That the application is not supported by the affidavits of at least two (2) persons in accordance with Sections 6 and 7 hereof.

The court shall deny the application or revoke the order of release, if the application is already granted, based on any of the above-stated grounds.

SECTION 11. *General Conditions of Release on Recognizance.* – Every order of release on recognizance issued by the court shall contain the following general conditions:

- (a) The release on recognizance shall be effective upon approval, and unless cancelled, shall remain in force at all stages of the case until promulgation of the judgment of the Regional Trial Court, irrespective of whether the case was originally filed in or appealed to it;
- (b) The accused shall appear before the proper court whenever required by the court or by the Rules of Court; and

(c) The failure of the accused to appear at the trial without justification and despite due notice shall be deemed a waiver of his right to be present thereat. In such case, the trial may proceed in absentia.

SECTION 12. *Particular Conditions of Release on Recognizance.* – Every order of release on recognizance issued by the court shall contain the following particular conditions requiring that the person released on recognizance shall:

- (a) Present himself to the recognizance officer designated to undertake his supervision at such place as may be specified in the order within seventy-two hours from receipt of said order;
- (b) Report to the recognizance officer designated at least once a month at such time and place as specified by said officer; and
- (c) Undergo and cooperate with a supervision program prepared and approved by the Chief Recognizance Officer concerned.

The court may also require the person released on recognizance, as the circumstances would require, to:

- (a) Meet his family responsibilities;
- (b) Devote himself to a specific employment and not to change said employment without the prior written approval of the recognizance officer;
- (c) Undergo medical, psychological, or psychiatric examination and treatment and enter and remain in specified institution, when required for that purpose;
- (d) Pursue a prescribed secular study or vocational training;
- (e) Attend or reside in a facility established for instruction, recreation, or residence of persons released on recognizance;
- (f) Refrain from visiting houses of ill-repute;
- (g) Abstain from drinking intoxicating beverages to excess;
- (h) Refrain from carrying any firearm or deadly weapon;
- (i) Permit the recognizance officer or a volunteer recognizance aide to visit his home and place of work;
- (j) Reside at premises approved by it and not to change his residence without its prior written approval;
- (k) Avoid all contact with the offended party or members of the immediate family thereof or any witness who may testify against him; or

(l) Satisfy any other condition related to the rehabilitation of the person released on recognizance and not unduly restrictive of his liberty or incompatible with his freedom of conscience.

SECTION 13. *Office of the Deputy Administrator for Recognizance.* – The Office of the Deputy Administrator for Recognizance is hereby created in the Parole and Probation Administration and shall be headed by a Deputy Administrator for Recognizance.

SECTION 14. *Deputy Administrator for Recognizance.* – There shall be a Deputy Administrator for Recognizance who shall be appointed by the President of the Philippines upon the recommendation of the Secretary of Justice, and shall receive an annual salary equivalent to that of an incumbent Deputy Administrator of the Parole and Probation Administration

SECTION 15. *Qualifications of Deputy Administrator for Recognizance.* – To be eligible for appointment as Deputy Administrator for Recognizance, he or she must be of proven competence and integrity, at least 35 years of age, holder of a master's degree or its equivalent in either criminology, social work, corrections, penology, psychology, sociology, public administration, law, police, science, police administration, or related fields, and should have at least five years of supervisory experience, or be a member of the Philippine Bar with at least seven years of supervisory experience.

SECTION 16. *Recognizance Office.* – A Recognizance Office is hereby created in the Parole and Probation Administration Central Office and in every Regional Office thereof. The Recognizance Office in the Central Office shall be headed by the Deputy Administrator for Recognizance. The Recognizance Office in the Regional Office shall be headed by the Regional Director concerned: Provided, That the Administrator shall exercise supervision and control over all recognizance offices and field offices.

SECTION 17. *The Regional Director.* – The incumbent Regional Director of the Parole and Probation Administration shall head the Recognizance Office and shall exercise supervision and control over all recognizance officers within his or her jurisdiction.

SECTION 18. *Recognizance Field Office.* – A Recognizance Field Office is hereby created in every provincial and city office of the Parole and Probation Administration. The Chief Recognizance Officer shall head such provincial or city recognizance field office.

SECTION 19. *Provincial and City Chief Recognizance Officers.* – There shall be a Chief Recognizance Officer in each province and city and who shall be appointed by the Secretary of Justice upon the recommendation of the Administrator and in accordance with civil service law and rules.

The Chief Recognizance Officer shall receive an annual salary equivalent to that of an incumbent Chief Parole and Probation Administration. His or her duties shall be as follows:

- (a) Investigate all persons referred to him/her for investigation by the proper court or the Administrator, or refer the same to his/her subordinate officers;
- (b) Instruct all persons released on recognizance under his supervision or that of his/her subordinate officers on the terms and conditions of their being released on recognizance;

- (c) Keep himself/herself informed of the conduct and conditions of persons released on recognizance under his/her charge or that of his/her subordinate officers and use all suitable methods to bring about an improvement in their conduct and conditions;
- (d) Maintain a detailed record of his/her work or that of his/her subordinate officers and submit such written reports as may be required by the Administration or the court having jurisdiction over the persons under his/her supervision or that of his/her subordinate officers;
- (e) Prepare a list of qualified residents of the province or city where he/she is assigned who are willing to act as volunteer recognizance aides;
- (f) Supervise the training of volunteer recognizance aides and oversee the latter's supervision of persons released on recognizance;
- (g) Exercise supervision and control over all recognizance officers, volunteer recognizance aides, and other personnel; and
- (h) Perform such duties as may be assigned by the court or the Administration.

SECTION 20. *Miscellaneous Powers of Provincial and City Chief Recognizance Officers.* – Provincial or City Chief Recognizance Officers shall have the authority within their territorial jurisdiction to administer oaths and acknowledgements and to take depositions in connection with their duties and functions under this Act. They shall also have, with respect to persons released on recognizance under their care or that of their respective subordinate officers, the powers of a police officer.

SECTION. 21. *Qualifications of Provincial and City Chief Recognizance Officers.* – No person shall be appointed Provincial or City Chief Recognizance Officer unless he/she is a person of proven competence and integrity, possesses at least a bachelor's degree with a major in social work, sociology, psychology, criminology, penology, corrections, police science, police administration, or related fields and has at least three years of experience in work requiring any of the above-mentioned disciplines, or is a member of the Philippine Bar with at least three years of supervisory experience.

Whenever practicable, the Provincial or City Chief Recognizance Officer shall be appointed from among qualified residents of the province or city where he will be assigned to work.

SECTION. 22. *Recognizance Officers.* – A Provincial or City Chief Recognizance Officer shall be assisted by such recognizance officers as may be necessary to enable him/her to carry out his/her duties effectively: Provided, That in Metro Manila cities, other major cities, and provinces, there shall be appointed at least ten (10) recognizance officers, and in other cities, at least five (5) recognizance officers.

Such recognizance officers shall be appointed in accordance with civil service law and rules.

SECTION 23. *Modification of Conditions of Release on Recognizance.* – During the period a person is released on recognizance, the court may, upon application of either the person released on recognizance or the recognizance officer, revise or modify the conditions of the order of release on recognizance. The court shall notify the person released on recognizance, the recognizance

officer, and the prosecution of the filing of such an application so as to give the parties an opportunity to be heard thereon. The court shall inform in writing the recognizance officer, the person released on recognizance, and the prosecution of any change in the conditions of the release on recognizance.

SECTION 24. *Control and Supervision of Persons Released on Recognizance.* – The person released on recognizance and his/her recognizance program shall be under the control of the court which placed him/her on recognizance subject to actual supervision and visitation by a recognizance officer.

Whenever a person released on recognizance is permitted to reside in a place under the jurisdiction of another court, control over him/her shall be transferred to the Executive Judge of the Regional Trial Court of that place, and in such case, a copy of the order of release on recognizance, the investigation report, and other pertinent records shall be furnished said Executive Judge. Thereafter, the Executive Judge to whom jurisdiction over the person released on recognizance is transferred shall have the power with respect to him/her that was previously possessed by the court which granted the release on recognizance.

SECTION 25. *Volunteer Recognizance Aides.* – To assist the Provincial or City Recognizance Officers in the supervision of persons released, the Administrator may appoint citizens of good repute and probity to act as recognizance aides.

Recognizance aides shall not receive any regular compensation for services except for reasonable travel allowance. They shall hold office for such period as may be determined by the Administrator. Their qualifications and maximum case loads shall be provided in the rules promulgated pursuant to this Act.

SECTION 26. *Confidentiality of Records.* – The records of a person already released on recognizance obtained under this Act shall be privileged and shall not be disclosed directly or indirectly to anyone other than the Administration or the court concerned, except that the court, in its discretion, may permit the person released on recognizance or his/her attorney to inspect the same or parts thereof whenever the best interest of the said person makes such disclosure desirable or helpful. Provided that any government office or agency or any other institution engaged in the correction or rehabilitation of offenders may, if necessary, obtain copies of the said records for its official use from the proper court or the Administration.

SECTION. 27. *Arrest of Person Released on Recognizance; Subsequent Dispositions.* – At any time during the release on recognizance, the court shall issue a warrant for the arrest of a person under recognizance for any serious violation of the conditions of the release on recognizance. The person under recognizance, once arrested and detained, shall immediately be brought before the court for a hearing of the violation charged.

In case the violation is alleged to be not serious, the court shall issue a subpoena, in lieu of a warrant of arrest, requiring the person under recognizance to appear before the court within the period stated therein for a hearing of the violation charged.

In the hearing, which shall be summary in nature, the person under recognizance shall have the right to be informed of the violation charged and to adduce evidence in his favor. The court shall not be bound by the technical rules of evidence but may inform itself of all the facts which are

material and relevant to ascertain the veracity of the charge. The State shall be represented by a prosecuting attorney in any contested hearing. If the violation is established, the court may revoke or continue his release on recognizance and modify the conditions thereof. If revoked, the court shall order the person under recognizance to be detained. An order revoking the grant of recognizance or modifying the terms and conditions shall not be appealable.

SECTION 28. *Recognizance not a bar to objections on illegal arrest, lack of or irregular preliminary investigation.* – An application for or grant of release on recognizance shall not bar the accused from challenging the validity of his arrest or the legality of the warrant issued therefore, or from assailing the regularity or questioning the absence of a preliminary investigation of the charge against him, provided that he raises them before entering his plea. The court shall resolve the matter as early as practicable but not later than the start of the trial of the case.

SECTION 29. *Allowance for Good Conduct and Who Grants Allowances.* – If the person released on recognizance is convicted, and the judgment of conviction has become final, the good conduct and behavior of such person during the time that he was under recognizance shall entitle him to the following deductions from the period of his sentence:

1. During the first two years of imprisonment, he shall be allowed a deduction of five days for each month of good behavior;
2. During the third to the fifth year, inclusive, of his imprisonment he shall be allowed a deduction of eight days for each month of good behavior;
3. During the sixth to the tenth year, inclusive, of his imprisonment, he shall be allowed a deduction of ten days for each month of good behavior; and
4. During the eleventh and successive years of his imprisonment, he shall be allowed a deduction of fifteen days for each month of good behavior.

Provided, That whenever justified and upon the favorable recommendation of the Chief Recognizance Officer concerned, the Director of Prisons shall grant the allowances for good conduct. Provided further, that such allowances once granted shall not be revoked.

SECTION 30. *Violation of Confidential Nature of Recognizance Records.* – The penalty of imprisonment ranging from six months and one day to six years or a fine ranging from twenty thousand pesos to fifty thousand pesos or both at the discretion of the court shall be imposed upon any person who violates Section 26 hereof.

SECTION 31. *Appropriations.* – There is hereby authorized the appropriation of the sum of One Hundred Million Pesos from the allocation of the Department of Justice under the General Appropriations Act to carry out the purposes of this Act. Thereafter, such amount shall be included in the annual appropriations of the Parole and Parole Administration.

SECTION 32. *Repealing Clause.* – All laws, acts, decrees, executive orders, issuances, and rules and regulations or parts thereof which are contrary to and inconsistent with any provisions of this Act are hereby repealed, amended or modified accordingly.

SECTION 33. *Separability Clause.* – If any provision of this Act is subsequently declared unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

SECTION 34. Effectivity Clause. - This Act shall take effect fifteen (15) days after its complete publication either in the Official Gazette or in a newspaper of general circulation in the Philippines.

Approved,