

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS

Second Regular Session



COMMITTEE REPORT NO. 1481

10 OCT 2011

Submitted by the Committee on Justice on _____

Re: House Bill No. 5395

Recommending its approval in substitution of House Bill Nos. 180, 2414 and 3145

Sponsors: Representatives Niel C. Tupas, Jr., Gilbert F. Violago, Rodolfo C. Fariñas, Teodoro A. Casiño, Neri Colmenares, Luzviminda C. Ilagan, Rafael V. Mariano, Raymond V. Palatino, Emerenciana A. De Jesus and Antonio L. Tinio

Mr. Speaker:

The Committee on Justice to which were referred House Bill No. 180, introduced by Representative Gilbert F. Violago, entitled:

**"AN ACT
EXEMPTING POOR LITIGANTS FROM POSTING BAIL WHEN
CHARGED WITH NON-CAPITAL OFFENSES FOR THE FIRST
TIME AND FOR OTHER PURPOSES"**

House Bill No. 2414, introduced by Representative Rodolfo C. Fariñas, entitled:

**"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"**

and House Bill No. 3145, introduced by Representative Teddy A. Casiño entitled:

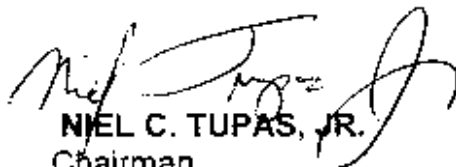
**"AN ACT
PROVIDING FOR A SYSTEM OF RECOGNIZANCE AS A MODE
OF OBTAINING RELEASE FROM DETENTION,
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER
PURPOSES"**

has considered the same and recommends that the attached House Bill No.
5395, entitled:

**"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 approved in substitution of House Bill Nos. 180, 2414 and 3145 with
Representatives Rodolfo C. Fariñas, Joseph Gilbert F. Violago, Teddy A. Casiño,
Niel C. Tupas, Jr., Neri Colmenares, Luzviminda C. Ilagan, Rafael V. Mariano,
Raymond V. Palatino, Emerenciana A. De Jesus, Antonio L. Tinio, Jeffrey P.
Ferrer, Orlando B. Fua, George P. Arnaiz and Kario Alexi B. Nogales as authors
thereof.

Respectfully submitted,



NIEL C. TUPAS, JR.
Chairman
Committee on Justice

The Honorable Speaker
House of Representatives
Quezon City

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. ____ **5395**

Introduced by Representatives Rodolfo C. Fariñas, Joseph Gilbert F. Violago,
Teodoro A. Casiño, Niel C. Tupas, Jr., Neri J. Colmenares, Luzviminda C. Ilagan,
Rafael V. Mariano, Raymond V. Palatino, Emerenciana A. De Jesus, and Antonio
I. Tinio, Jeffrey P. Ferrer, Orlando B. Fua, George P. Arnaiz and Karlo Alexei B.
Nograles

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 House of Representatives of the Republic of the
Philippines in Congress assembled:*

1 SECTION 1. *Short Title.* - This Act shall be known as the "Recognizance
2 Act of 2011."

3 SEC. 2. *Statement of Policy.* - It is the declared policy of the State to
4 promote social justice in all phases of national development, including the
5 promotion of restorative justice as a means to address the problems confronting
6 the criminal justice system such as protracted trials, prolonged resolution of
7 cases, lack of legal representation, lack of judges, inability to post bail bond,
8 congestion in jails, and lack of opportunity to reform and rehabilitate offenders.

1 In consonance with the principle of presumption of innocence, the 1987
2 Philippine Constitution recognizes and guarantees the right to bail or to be
3 released on recognizance as may be provided by law. In furtherance of this
4 policy, the right of persons, except those charged with crimes punishable by
5 death, reclusion perpetua, or life imprisonment, to be released on recognizance
6 before conviction by the Regional Trial Court, irrespective of whether the case
7 was originally filed in or appealed to it, upon compliance with the requirements
8 of this Act, is hereby affirmed, recognized, and guaranteed.

9
10 SEC. 3. *Recognizance Defined.* – Recognizance is a mode of securing the
11 release of any person in custody or detention for the commission of an offense
12 who is unable to post bail due to abject poverty. The court where the case of such
13 person has been filed shall allow the release of the accused on recognizance as
14 provided herein, to the custody of a qualified member of the barangay, city or
15 municipality where the accused resides.

16
17 SEC. 4. *Release on recognizance as a matter of right guaranteed by the*
18 *Constitution.* – The release on recognizance of any person in custody or
19 detention for the commission of an offense is a matter of right when the offense is
20 not punishable by death, reclusion perpetua, or life imprisonment: *Provided,* That
21 the accused or any person on behalf of the accused files the application for such:

1 a) Before or after conviction by the Metropolitan Trial Court, Municipal Trial
2 Court, Municipal Trial Court in Cities, and Municipal Circuit Trial Court;

3 b) Before conviction by the Regional Trial Court;

4 *Provided, further,* That a person in custody for a period equal to or more than the
5 minimum of the principal penalty prescribed for the offense charged, without
6 application of the Indeterminate Sentence Law, or any modifying circumstance,
7 shall be released on the person's recognizance.

8

9 SEC. 5. *Requirements.* - The competent court where a criminal case has
10 been filed against a person covered under this Act shall, upon motion, order the
11 release of the detained person on recognizance to a qualified custodian: *Provided,*
12 That all of the following requirements are complied with:

13 a) a sworn declaration by the person in custody of his
14 indigency or incapacity either to post a cash bail or profer any personal
15 or real property acceptable as sufficient sureties for a bail bond;

16 b) a certification issued by the head of the social welfare and
17 development office of the municipality or city where the accused actually
18 resides, that the accused is indigent;

19 c) the person in custody has been arraigned;

20 d) The court has notified the city or municipal *Sanggunian*
21 where the accused resides of the application for recognizance. The
22 *Sanggunian* shall act on the request for comments or opposition to the

1 application within ten (10) days from receipt of the notice. The action of
2 the *Sanggunian* shall be in the form of a resolution, and shall be duly
3 approved by the mayor, and subject to the following conditions:

- 4 1. Any motion for the adoption of a resolution for the purpose
5 of this Act duly made before the *Sanggunian* shall be
6 considered as an urgent matter and shall take precedence
7 over any other business thereof: *Provided*, That a special
8 session may be called to consider such proposed resolution;
- 9 2. The presiding officer of the *Sanggunian* shall ensure that its
10 secretary shall submit any resolution adopted under this Act
11 within twenty-four (24) hours from its passage to the mayor
12 who shall act on it within the same period of time from
13 receipt thereof;
- 14 3. If the mayor or any person acting as such pursuant to law
15 fails to act on the said resolution within twenty-four (24)
16 hours from receipt thereof, the same shall be deemed to have
17 been acted upon favorably by the mayor;
- 18 4. If the mayor or any person acting as such pursuant to law
19 disapproves the resolution, the resolution shall be returned
20 the same within twenty-four (24) hours from disapproval
21 thereof to the *sanggunian* presiding officer or secretary who
22 shall be responsible in informing every member thereof that

1 the *sanggunian* shall meet in special session within twenty-
2 four (24) hours from receipt of the veto for the sole purpose
3 of considering to override the veto made by the mayor;

4 For the purpose of this Act, the resolution of the
5 *sanggunian* of the municipality or component city shall be
6 considered final and not subject to the review of the
7 *Sangguniang Panlalawigan*, a copy of which shall be
8 forwarded to the trial court within three (3) days from date
9 of resolution.

10
11 c) The accused shall be properly documented, through such
12 processes as, but not limited to, photographic image reproduction of all
13 sides of the face and fingerprinting: *Provided*, That the costs involved for
14 the purpose of this sub-section shall be shouldered by the municipality or
15 city that sought the release of the accused as provided herein, chargeable
16 to the mandatory five percent (5%) calamity fund in its budget or to any
17 other available fund in its treasury;

18 f) The court shall notify the public prosecutor of the date of
19 hearing therefor within twenty-four (24) hours from the filing of the
20 application for release on recognizance in favor of the accused: *Provided*,
21 That such hearing shall be held not earlier than twenty-four (24) hours nor
22 later than forty-eight (48) hours from the receipt of notice by the

1 prosecutor: *Provided, further,* That during said hearing, the prosecutor shall
2 be ready to submit the recommendations regarding the application made
3 under this Act, wherein no motion for postponement shall be entertained.
4

5 SEC. 6. *Disqualifications for Release on Recognizance.* - Any of the
6 following circumstances shall be a valid ground for the court to disqualify an
7 accused from availing of the benefits provided herein:

8 a) The accused had made untruthful statements in his sworn affidavit
9 prescribed under Section 5 (a);

10 b) The accused is a recidivist, quasi-recidivist, habitual delinquent, or has
11 committed a crime aggravated by the circumstance of reiteration;

12 c) The accused had been found to have previously escaped from legal
13 confinement, evaded sentence or has violated the conditions of bail or release or
14 recognizance without valid justification;

15 d) The accused had previously committed a crime while on probation,
16 parole, or under conditional pardon;

17 e) The personal circumstances of the accused or nature of the facts
18 surrounding his case indicate the probability of flight if released on
19 recognizance; or

20 f) There is a great risk that the accused may commit another crime during
21 the pendency of the case.

1 SEC. 7. *Qualifications of the Custodian of the Person Released on*
2 *Recognizance.* – The custodian of the person released on recognizance must have
3 the following qualifications:

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

11 If no person in the barangay where the applicant resides belongs to any of
12 the sectors and institutions listed under paragraph (d) above, the custodian of
13 the person released on recognizance may be from the qualified residents of the
14 city or municipality where the applicant resides.

15
16 SEC. 8. *Role of the Probation Officer.* – Upon release of the person on
17 recognizance to the custodian, the court shall issue an order directing the
18 Probation Office concerned to monitor and evaluate the activities of such person.
19 The Probation Office concerned shall submit a written report containing its
20 findings and recommendation on the activities of the person released on
21 recognizance on a monthly basis to determine whether or not the conditions for

1 his release have been complied with. The prosecution including the private
2 complainant, if any, shall be given a copy of such report.

3

4 SEC. 9. *Arrest of a person released on recognizance.* - The court shall
5 order the arrest of the accused, who shall forthwith be placed under detention.
6 due to any of the following circumstances:

7 a) If it finds meritorious a manifestation made under oath by any person
8 after a summary hearing, giving the accused an opportunity to be heard;

9 b) If the accused fails to appear at the trial or whenever required by the
10 above-mentioned court or any other competent court without justification,
11 despite due notice;

12 c) If the accused is the subject of a complaint for the commission of another
13 offense involving moral turpitude and the public prosecutor or the mayor
14 in the area where the offense is committed recommends the arrest to the
15 court; or

16 d) If it is shown that the accused committed an act of harassment, such as but
17 not limited to stalking, intimidating or otherwise vexing private
18 complainant, prosecutor, or witnesses in the case pending against the
19 accused.

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

1 SEC. 10. *No release on recognizance after final judgment or*
2 *commencement of sentence; exception.* - The benefits provided under this Act
3 shall not be allowed in favor of an accused after the judgment has become final
4 or when the accused has started serving the sentence: *Provided,* That this
5 prohibition shall not apply to an accused who is entitled to the benefits of the
6 Probation Law if the application for probation is made before the convict starts
7 serving the sentence imposed, in which case, the court shall allow the release on
8 recognizance of the convict to the custody of a qualified member of the barangay,
9 city or municipality where the accused actually resides.

10 SEC. 11. *Separability Clause.* - If any provision of this Act or the
11 application of such provision to any person or circumstance is declared invalid,
12 the remainder of the Act or the application of such provision to other persons or
13 circumstances shall not be affected by such declaration.

14
15 SEC. 12. *Repealing Clause.* All laws, decrees and orders or parts thereof
16 inconsistent herewith are deemed repealed or modified accordingly, unless the
17 same are more beneficial to the accused.

18
19 SEC. 13. *Effectivity.* - This Act shall take effect fifteen (15) days after its
20 publication in at least two (2) newspapers of general circulation.

21 *Approved,*

FACT SHEET

House Bill Nos. 180, 2414 & 3145

(Approved by the Committee – June 8, 2011)

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

Introduced by: REPS. JOSEPH GILBERT F. VIOLAGO, RODOLFO C. FARIÑAS, TEDDY A. CASIÑO, NERI JAVIER COLMENARES, LUZVIMINDA C. ILAGAN, RAFAEL V. MARIANO, RAYMOND V. PALATINO, EMERENCIANA A. DE JESUS and ANTONIO L. TINIO

*Committee Referral: Committee on Justice
Committee Chairperson: Hon. NIEL C. TUPAS, JR.*

OBJECTIVES:

- To create an enabling law for the full implementation of release on recognizance as an instrument for temporary release of indigent persons in custody who cannot afford to post bail.
- 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.

KEY PROVISIONS:

- The bills allow the release of any person in custody or detention charged with an offense.
 - HB 180 allows recognizance for crimes punishable by not more than six (6) years imprisonment.
 - HB 2414 and 3145 allows recognizance for crimes not punishable by death, *reclusion perpetua*, and life imprisonment.
- Certain requirements must be met before a detained person may be released on recognizance.
 - HB 180 merely requires that a person be poor and charged with a crime for the first time.
 - HB 2414 requires certifications from the barangay chairman and head of social welfare and development office, as well as a resolution adopted by the Sangguniang Bayan/Panlungsod duly approved by the Mayor

- o HB 3125 requires the affidavits of two (2) persons of good repute and probity, and a report or recommendation from the Recognizance Field Office.
- Upon release on recognizance, the accused must comply with certain conditions which, when violated, will result in his immediate arrest.
- HB 3145 provides for the creation of the Office of the Deputy Administrator for Recognizance, the Recognizance Office in the Parole and Probation Administration Central Office and in every Regional Office thereof, the Recognizance Field Office, and the Provincial and City Chief Recognizance Officers.

RELATED LAWS:

- Sec. 13 Art. III, 1987 Constitution
- Sections 15 and 16, Rule 114 of the Rules on Criminal Procedure (2000)
- Republic Act No. 6036, An Act Providing That Bail Shall Not, With Certain Exceptions, Be Required In Cases Of Violations Of Municipal Or City Ordinances And In Criminal Offenses When The Prescribed Penalty For Such Offenses Is Not Higher Than Arresto Mayor And/Or A Fine Of Two Thousand Pesos Or Both
- Revised Rules on Summary Procedure