

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

FIFTEENTH CONGRESS

Second Regular Session

House Bill No. 6172



Introduced by the Honorable Representatives Elpidio F. Barzaga, Jr. and Rufus B. Rodriguez

EXPLANATORY NOTE

Taking part in the conduct of public affairs is a basic human right increasingly prized by people throughout the world. Humankind, at different times, in its history and with varying degrees of success, has sought ways of involving individuals in community decisions. Today, taking part in government is recognized as a basic human right in every region of the world.

Universally, the right to take part in government is proclaimed and guaranteed by the Universal Declaration on Human Rights (UDHR) to which the Philippines is an original signatory and the International Covenant on Civil and Political Rights (ICCPR) to which the country is a State party.

Both international human rights instruments specifically recognize and acknowledge this important political right of every citizen to suffrage. As aptly stated under Art. 21, par. 3 of the UDHR and mirrored in Article 25 of the ICCPR:

“The will of the people shall be the basis of the authority of government; this will shall be expressed on periodic and genuine elections which shall be by *universal and equal suffrage* and shall be held by secret vote or by equivalent free voting procedures.”

“Universal Suffrage” requires the participation of the broadest pool of voters ensuring that every eligible voter must be included. Reasonable requirements are usually limited to minimum age, nationality and mental capacity and those that are not permissible are economic requirements, excessive residency requirements, restrictions on voting by naturalized citizens, language requirements, literacy requirements, excessive limitations of convicted criminals.

On the other hand, “Equal Suffrage” means that there should be no constituency delimitation and that registration or polling procedures designed to dilute or discount the votes of particular individuals, groups or geographic areas are unacceptable.

Clearly now, the current reality in the Philippines is that persons deprived of liberty (PDLs) or detainees, not otherwise disqualified by law, are effectively prohibited from exercising their right to vote.

Highlighting this violation of international human rights obligations is the fact that while detainees who are currently awaiting trial cannot exercise their right to vote, other persons who are also waiting trial but are otherwise not in detention by reason of availment of bail are allowed to vote. This showcases the discrimination in the exercise of the right to vote which, in effect, imposes additional economic requirement not permissible under human rights standards and principles. Economic status, *i.e.*, inability to post bail by reason of poverty, is clearly discriminatory and violative of the equal protection clause enshrined under the Constitution.

Moreover, no less than the 1987 Philippine Constitution ensures this right of suffrage to all citizens under Section 1, Article V, which provides that,

“Suffrage may be exercised by ALL citizens of the Philippines, not otherwise disqualified by law, who are at least eighteen years of age, and who shall have resided in the Philippines for at least one year and in the place where they propose to vote, for at least six months immediately preceding the election. No literacy, property, or other substantive requirement shall be imposed on the exercise of suffrage.”

The disqualification being referred to pertains to Section 118 of the Omnibus Election Code which provides, in sum, that a person is disqualified by law only when he has been sentenced by final judgment to serve a prison term of at least one year. Conversely, those who are not yet convicted or those convicted with penalty of imprisonment of less than one year, are qualified to vote.

Records of the Bureau of Jail Management and Penology show that as of July 31, 2010, the total jail population district, city and municipal jails under their supervision and control is sixty thousand four hundred eighty three (60,483) inmates. Of this figure, Fifty Seven Thousand Six Hundred Thirty Two (57,632) are awaiting preliminary investigation, trial or promulgation of final judgment.

To ensure the exercise of the right to suffrage of persons deprived of liberty who are qualified to vote, the following mechanisms are hereby being proposed: (a) establishment of regular precincts within the jail, prison or other detention facility premises; (b) allowing the segregation of the ballots of detainee voters from their mother precincts and delivery of the same to the polling place in jail, prison or other detention facility for purposes of voting; (c) application of the local absentee voting to detainees who are residents of another municipality, city or province; and (d) when practicable, through escorted voting.

Passage of this bill is therefore earnestly sought.

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**AN ACT ESTABLISHING MECHANISMS FOR QUALIFIED VOTERS DETAINED
IN JAILS, PRISONS AND OTHER DETENTION FACILITIES TO EXERCISE
THEIR RIGHT OF SUFFRAGE, AMENDING CERTAIN PROVISIONS OF LAW,
AND FOR OTHER PURPOSES**

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

SECTION 1. *Short Title.* - The short title of this Act shall be the “*Detainee Voter’s
Act of 2012*”.

SEC. 2. *Declaration of Policy.* - It is the policy of the State to ensure that all qualified voters, including those detained in jails, prisons and other detention facilities, are provided with opportunities to exercise their right to suffrage. Toward this end, the State shall establish means, mechanisms, and facilities for the attainment of this policy.

SEC. 3. *Definition of Terms.* - As used in this Act, the following terms shall mean:

- a. *Detainee* - Refers to a qualified voter, not otherwise disqualified by law, who is confined in jail, prison or other detention facility under the following circumstances: (1) formally charged for any crime/s and awaiting/undergoing trial; or (2) serving a sentence of imprisonment for less than one (1) year; or (3) whose conviction of crime involving disloyalty to the duly constituted

government such as rebellion, sedition, violation of the firearms law or any crime against national security or for any other crime is on appeal.

- b. *Detainee Precinct.* - Refers to a precinct constituted with the jail, prison or other detention facility as the territorial unit.
- c. *Polling Place.* - Refers to the specific designated area inside a jail, prison or other detention facility where the detainee voters may cast their votes.
- d. *Mother Precinct.* - Refers to the precinct assignment of a registered detainee other than the established detainee precinct.
- e. *Absentee Voting.* - Refers to the voting mechanism where qualified detainee voters who are residents/registered voters of municipalities or cities other than the municipality/city of incarceration may be able to cast their vote through the system of local absentee voting as provided in Executive Order No. 157.
- f. *Escorted Voting.* - Refers to a voting mechanism whereby detainee voters are allowed to cast their vote, with security escort, in the precincts where they are registered which is other than the precinct established inside jail.

SEC. 4. *Detainees' Right to Register and Vote.* - Detention prisoners and those serving their sentence of not more than one (1) year imprisonment are qualified to register and vote, provided, that they possess all the other qualifications required by law and none of the disqualifications.

SEC. 5. *Satellite Registration of Detention Prisoners.* - The Commission on Elections (COMELEC) shall conduct satellite registration for detainees in coordination with the officials of the jail, prison or detention facilities where they are confined and subject to the specific guidelines the Commission shall promulgate.

A detainees who is resident of a municipality or city other than that of the place of incarceration may, if not yet registered, apply for original registration using either his/her original residence previous to incarceration, or the jail, prison or detention facility as a residence, if warranted by the circumstances. If already registered, he/she may apply for transfer of registration records as warranted by the circumstances.

SEC. 6. *Mechanisms for Detainee Voting.* - The Commission on Elections (COMELEC), in coordination with the Bureau of Jail Management and Penology (BJMP),

the Department of the Interior and Local Government (DILG), the Commission on Human Rights (CHR), and civil society organizations (CSOs) shall establish mechanisms to facilitate access and opportunities to detainees to exercise their right of suffrage through any or a combination of any of the following mechanisms: establishment of detainee precinct; segregation and delivery of ballots for detainees; the extension of the local absentee voting for detainees; and escorted voting.

(a) Establishment of Detainee Precinct. Considering the number of qualified registered detainee voters of the place of incarceration, COMELEC may establish a regular precinct in the jail, prison or other detention facility. In coordination with the management of the jail, prison or other detention facility, COMELEC shall establish a polling place inside the facility where the detainees may cast his/her vote on election day.

(b) Segregation and Delivery of Ballots for Detainees.- When the establishment of detainee precinct is not feasible or practicable, or if one is established but there are detainees who opted to retain their original place of registration and have not availed of local absentee voting, the COMELEC may segregate the ballots of detainee voters from their mother precincts and have them delivered to the jail, prison or other detention facility for purposes of voting and have them returned to their mother precincts for purposes of counting. *Provided:* That this option shall be available only for detainees who are registered voters of the same city or municipality of the place of incarceration. *Provided, Further:* That subject the specific guidelines by the COMELEC, the detainee ballots shall be based on the list drawn by COMELEC and annotated by the Board of Election Inspectors (BEIs) of the mother precincts. *Provided, Finally:* That the COMELEC shall, at all times, ensure the security and secrecy of the ballots and uphold the rights of the stakeholders to observe the processes.

For purposes of voting, detainee voters availing of this option shall be allowed to accomplish their ballots in the polling place established for the detainee precinct.

(c) Extension of Local Absentee Voting.- Detainees who are registered voters of another municipality or city may avail of the mechanism for local absentee voting extended to officers and employees of government, as provided in Executive Order No. 157. Detainees availing of the local absentee voting, may however, vote only for national elective positions.

(d) *Escorted Voting.* – Detainee voters who are residents/registered voters of municipalities/cities other than the municipality/city of detention and have not availed of absentee voting may avail of escorted voting; *Provided:* That said detainee voters have obtained court orders allowing them to vote in the polling place where they are registered; *Provided, Further:* That it is logistically feasible on the part of the jail/prison administration to escort the detainee voter to the polling place where he is registered; *Provided, Finally:* That reasonable measures shall be undertaken by the jail/prison administration to secure the safety of detainee voters, prevent their escape and ensure public safety.

SEC. 7. *Right to Information.* - Detainees shall be allowed access to information concerning the electoral processes, the candidates and the issues related thereto. Candidates shall be allowed to campaign inside detention centers during the campaign period, subject to the rules and regulations of the BJMP and the COMELEC.

SEC. 8. *Prohibition on the Transfer of Inmates.* - Six (6) months prior to the date of the election, the transfer of inmates from one jail facility to another shall be prohibited, except in cases of extreme necessity upon order of a competent court.

SEC. 9. *Implementing Rules and Regulations.* – The COMELEC, in consultation with the CHR, the DILG, the BJMP, and CSOs shall promulgate the rules and regulations implementing this Act. In the formulation of the implementing rules and regulations of this Act, the COMELEC shall consider and uphold the right to vote of qualified voters who are detained in district, city, or municipal jails. Such rules and regulations must also give emphasis to protecting the sanctity of the ballot and the peaceful conduct of election within the polling place where the inmates will vote.

SEC. 10. *Appropriations.* - The amount necessary for the implementation of this Act shall be included in the appropriations to be enacted by Congress for the regular elections.

SEC. 11. *Repealing Clause.* All laws, decrees, executive orders, rules and regulations, or parts thereof, inconsistent with the provisions of this Act are repealed accordingly.

SEC. 12. *Separability Clause.* - If any part of this Act is deemed invalid or unconstitutional, the other parts or provisions thereof shall remain valid and effective.

SEC. 13. *Effectivity Clause.* - This Act shall take effect fifteen (15) days following the completion of its publication either in the Official Gazette, or in two (2) newspapers of general circulation in the Philippines.

Approved,