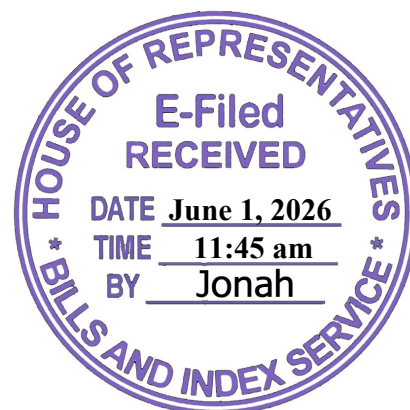


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 9580



Introduced by

HON. ATTY. GERVILLE "JINKY BITRICS" R. LUISTRO

EXPLANATORY NOTE

The right to bail is a constitutional guarantee anchored on the presumption of innocence. Thousands of detainees remain in congested jails, not because they pose a danger to society, but because they are too poor to post bail.

Republic Act No. 10389, otherwise known as the "Recognizance Act of 2012," was enacted to address this inequity by allowing the release of indigent accused persons on recognizance. While the law provides a framework for such release, it does not establish a clear and standardized mechanism for determining indigency or assessing whether posting bail would result in undue hardship. The absence of uniform standards has resulted in inconsistent applications across jurisdictions.

Recent policy discussions have highlighted the urgency of reform. During the Jail Decongestion Summit convened by the Justice Sector Coordinating Council (JSCC) composed of the Supreme Court, the Department of Justice, and the Department of the Interior and Local Government, stakeholders underscored that jail congestion remains a systemic concern largely driven by prolonged pretrial detention and the inability of low-income accused persons to post bail. The Summit emphasized the need for evidence-based release mechanisms, improved bail reform policies, and structured risk assessment tools to ensure that detention prior to conviction is used only when necessary to secure court appearance or protect public safety.

The Summit further recognized that a significant proportion of persons deprived of liberty are charged with non-violent offenses and remain incarcerated solely due to poverty. It recommended stronger coordination among courts, prosecutors, public

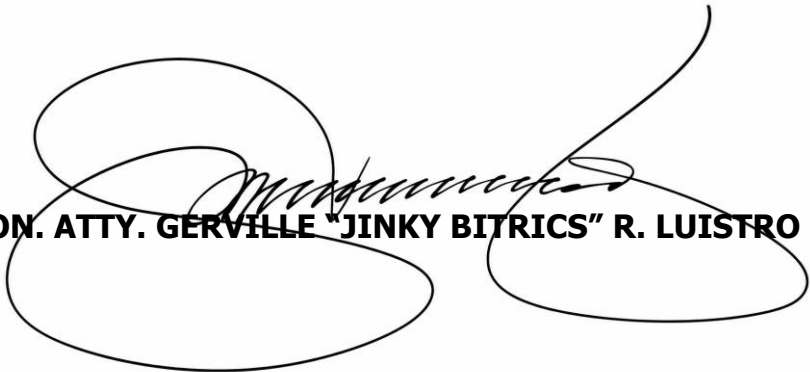
attorneys, and local government units to standardize procedures for indigency determination and pretrial release.

This bill responds directly to those policy recommendations by strengthening and operationalizing the Recognizance Act through the institutionalization of a Financial Capacity Assessment prior to the grant of recognizance.

By introducing financial-based standards, this measure promotes fairness, uniformity, and transparency in the administration of pretrial release. It strengthens judicial discretion through structured guidelines while safeguarding the constitutional rights of the accused.

More importantly, the bill contributes to the urgent national effort to decongest detention facilities. Rational and evidence-based release mechanisms will help alleviate overcrowding, reduce detention costs, improve case flow management, and uphold the dignity of persons awaiting trial. This proposed amendment affirms a simple but fundamental principle: liberty before conviction should not depend on wealth, but on justice and risk.

In view of the foregoing, the immediate passage of this measure is earnestly sought.



HON. ATTY. GERVILLE "JINKY BITRICS" R. LUISTRO

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AN ACT
STRENGTHENING AND EXPANDING THE APPLICATION OF RELEASE ON
RECOGNIZANCE, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 10389,
OTHERWISE KNOWN AS THE "RECOGNIZANCE ACT OF 2012"

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

3
4 **SECTION 1. Short Title.** - This Act shall be known as the "Expanded Release
5 on Recognizance Act."

6
7 **SECTION 2. Declaration of Policy.** - It is hereby declared the policy of the
8 State to uphold the constitutional presumption of innocence, promote social justice,
9 and ensure that poverty shall not be a ground for deprivation of liberty. The State
10 shall strengthen release on recognizance as a primary mode of pretrial release for
11 indigent and near-indigent accused who pose minimal risk of flight or danger to the
12 community, while ensuring accountability and the orderly administration of justice.

13
14 **SECTION 3. Definition of terms.** - For purposes of this Act:

15 (a) "Indigent" shall refer to an accused who qualifies for free legal assistance under
16 the standards of the Public Attorney's Office or the Department of Justice.

17
18 (b) "Near-indigent" shall refer to an accused whose income or financial resources
19 marginally exceed the applicable poverty threshold or indigency cut-off but are
20 insufficient to reasonably afford the required bail without impairing basic
21 subsistence needs, as determined by the court.

1
2 **SECTION 4. Expanded Coverage of Persons Qualified for Release on**
3 **Recognizance.** – Section 6 of Republic Act No. 10389 is hereby amended to read as
4 follows:
5

6 **"SECTION. 6. Requirements.** — The competent court where a criminal case
7 has been filed against a person covered under this Act shall, upon motion, order
8 the release of the detained person on recognizance to a qualified custodian:
9 Provided, That the court, after hearing, determines that the accused is indigent
10 or near-indigent and poses a low risk of flight or danger to the community, and
11 that all of the following requirements are complied with:
12

13 (a) The accused is indigent or near-indigent, as determined by the court
14 through a financial capacity assessment consistent with the indigency standards
15 of the Public Attorney's Office (PAO) and the Department of Justice (DOJ), and
16 is unable to post bail without undue hardship;
17

18 (b) A sworn declaration by the person in custody of his/her indigency or
19 incapacity either to post a cash bail or proffer any personal or real property
20 acceptable as sufficient sureties for a bail bond;
21

22 (c) A certification issued by the head of the social welfare and development
23 office of the municipality or city where the accused actually resides, attesting
24 that the accused is indigent or near-indigent, subject to final determination by
25 the court;
26

27 (d) The person in custody has been arraigned;
28

29 (e) The accused poses a low risk of flight or danger to the community, as
30 determined by the court through a standardized risk assessment tool or
31 guidelines adopted pursuant to rules promulgated by the Supreme Court;
32

33 (f) The court has notified the city or municipal sanggunian where the accused
34 resides of the application for recognizance. The sanggunian shall include in its
35 agenda the notice from the court upon receipt and act on the request for
36 comments or opposition to the application within ten (10) days from receipt of
37 the notice. The action of the sanggunian shall be in the form of a resolution,
38 and shall be duly approved by the mayor, and subject to the following
39 conditions:
40

- 41 1. Any motion for the adoption of a resolution for the purpose of this
42 Act duly made before the sanggunian shall be considered as an
43 urgent matter and shall take precedence over any other business
44 thereof: Provided, That a special session shall be called to consider
45 such proposed resolution if necessary.
46

1 The resolution of the sanggunian shall include a list of recommended
2 organizations from whose members the court may appoint a
3 custodian.

- 4
- 5 2. The presiding officer of the sanggunian shall ensure that its secretary
6 shall submit any resolution adopted under this Act within twenty-four
7 (24) hours from its passage to the mayor who shall act on it within
8 the same period from receipt thereof.
9
- 10 3. If the mayor or any person acting as such, pursuant to law, fails to
11 act on the said resolution within twenty-four (24) hours from receipt
12 thereof, the same shall be deemed to have been acted upon
13 favorably.
14
- 15 4. If the mayor disapproves the resolution, the same shall be returned
16 within twenty-four (24) hours to the sanggunian presiding officer or
17 secretary, who shall inform every member thereof that the
18 sanggunian shall meet in special session within twenty-four (24)
19 hours from receipt of the veto for the sole purpose of considering
20 whether to override the veto.
21

22 For purposes of this Act, the resolution of the sanggunian of the
23 municipality or city shall be considered final and not subject to review
24 by the Sangguniang Panlalawigan. A copy thereof shall be forwarded
25 to the trial court within three (3) days from date of resolution.
26

27 (g) The accused shall be properly documented, through such processes as, but
28 not limited to, photographic image reproduction of all sides of the face and
29 fingerprinting: Provided, That the costs involved for the purpose of this
30 subsection shall be shouldered by the municipality or city that sought the
31 release of the accused, chargeable to the mandatory five percent (5%) calamity
32 fund in its budget or to any other available fund in its treasury;
33

34 (h) The court shall notify the public prosecutor of the date of hearing therefor
35 within twenty-four (24) hours from the filing of the application for release on
36 recognizance in favor of the accused: Provided, That such hearing shall be held
37 not earlier than twenty-four (24) hours nor later than forty-eight (48) hours
38 from receipt of notice by the prosecutor: Provided, further, That during said
39 hearing, the prosecutor shall be ready to submit recommendations regarding
40 the application, and no motion for postponement shall be entertained."
41

42 **SECTION 5. Financial Capacity Assessment** - In determining financial
43 capacity, the court shall consider, among others, the accused's income, employment
44 status, number of dependents, existing debts and liabilities, and other relevant
45 financial obligations.
46

1 (a) **Financial Capacity Assessment.** — Prior to granting release on recognizance,
2 the court shall conduct a summary financial capacity assessment to determine whether the
3 accused is indigent or near-indigent and unable to post bail without undue hardship.

4 In conducting such assessment, the court shall consider:

- 5 1. The gross monthly household income of the accused from all lawful sources;
- 6 2. The number of dependents and total household size;
- 7 3. Mandatory deductions and basic subsistence expenses, including food, shelter,
8 utilities, education, transportation, and medical needs;
- 9 4. Available liquid assets and real or personal property, excluding the primary
10 residence and tools of livelihood;
- 11 5. The amount of bail fixed and its proportion to the disposable income of the
12 accused.

13
14 (b) **Undue Hardship.** — Posting bail shall be deemed to cause undue hardship
15 when payment thereof would substantially impair the ability of the accused or the
16 accused's household to maintain minimum basic subsistence needs for a reasonable
17 period as determined by the court.

18
19 (c) **Nature of Proceedings.** — The financial capacity shall be summary in
20 nature and shall not require a full evidentiary trial. The prosecution shall be given the
21 opportunity to be heard and to present relevant evidence.

22
23 (d) **Burden of Proof.** — The accused shall initially establish indigency or near-
24 indigency through sworn declaration and supporting documentation. The prosecution
25 may rebut the same. The court shall make written findings supporting its
26 determination."

27
28 The Supreme Court is hereby authorized to promulgate rules adopting a
29 standardized risk assessment tool consistent with this Act.

30
31 **SECTION 6. Automatic Review of Prolonged Detention.** - The court shall
32 conduct an automatic review of the custody status of an accused detained beyond the
33 minimum imposable penalty or due to delays not attributable to the accused.

34 **SECTION 7. Implementing Rules and Regulations.** - The Supreme Court,
35 in coordination with concerned agencies, shall promulgate the necessary rules to
36 implement this Act within ninety (90) days from effectivity.

37
38 **SECTION 8. Separability Clause.** - If any provision of this Act is declared
39 unconstitutional, the remaining provisions shall remain in full force and effect.

40
41 **SECTION 9. Repealing Clause.** - All laws, decrees, orders, rules, and
42 regulations inconsistent with this Act are hereby repealed or modified accordingly.

43
44 **SECTION 10. Effectivity.** - This Act shall take effect fifteen (15) days after
45 its publication in the Official Gazette or in a newspaper of general circulation.

46
47 Approved,