



HOUSE OF REPRESENTATIVES

H. No. 5395

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ILAGAN, MARIANO, PALATINO, DE JESUS, TINIO, FERRER (J.), FUA,
ARNAIZ, NOGRALES, SYJUCO, TEODORO AND CABALUNA, PER
COMMITTEE REPORT NO. 1481

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 Philippines in
Congress assembled.*

1 SECTION 1. *Short Title.* – This Act shall be known as the
2 “Recognizance 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
6 confronting the criminal justice system such as protracted trials, prolonged
7 resolution of cases, lack of legal representation, lack of judges, inability to post
8 bail bond, congestion in jails, and lack of opportunity to reform and
9 rehabilitate offenders. In consonance with the principle of presumption of
10 innocence, the 1987 Philippine Constitution recognizes and guarantees the

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

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

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

20 (a) Before or after conviction by the Metropolitan Trial Court,
21 Municipal Trial Court, Municipal Trial Court in Cities and Municipal Circuit
22 Trial Court; and

23 (b) Before conviction by the Regional Trial Court: *Provided, further,*
24 That a person in custody for a period equal to or more than the minimum of the
25 principal penalty prescribed for the offense charged, without application of the
26 Indeterminate Sentence Law, or any modifying circumstance, shall be released
27 on the person's recognizance.

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

5 (a) A sworn declaration by the person in custody of his indigency or
6 incapacity either to post a cash bail or profer any personal or real property
7 acceptable as sufficient sureties for a bail bond;

8 (b) A certification issued by the head of the social welfare and
9 development office of the municipality or city where the accused actually
10 resides, that the accused is indigent;

11 (c) The person in custody has been arraigned; and

12 (d) The court has notified the city or municipal sanggunian where the
13 accused resides of the application for recognizance. The sanggunian shall act
14 on the request for comments or opposition to the application within ten (10)
15 days from receipt of the notice. The action of the sanggunian shall be in the
16 form of a resolution, and shall be duly approved by the mayor, and subject to
17 the following conditions:

18 (1) Any motion for the adoption of a resolution for the purpose of this
19 Act duly made before the sanggunian shall be considered as an urgent matter
20 and shall take precedence over any other business thereof: *Provided,* That a
21 special session may be called to consider such proposed resolution;

22 (2) The presiding officer of the sanggunian shall ensure that its
23 secretary shall submit any resolution adopted under this Act within twenty-four
24 (24) hours from its passage to the mayor who shall act on it within the same
25 period of time from receipt thereof;

26 (3) If the mayor or any person acting as such, pursuant to law, fails to
27 act on the said resolution within twenty-four (24) hours from receipt thereof,
28 the same shall be deemed to have been acted upon favorably by the mayor;

1 (4) If the mayor or any person acting as such, pursuant to law,
2 disapproves the resolution, the resolution shall be returned within twenty-four
3 (24) hours from disapproval thereof to the sanggunian presiding officer or
4 secretary who shall be responsible in informing every member thereof that the
5 sanggunian shall meet in special session within twenty-four (24) hours from
6 receipt of the veto for the sole purpose of considering to override the veto
7 made by the mayor.

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

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

19 (f) The court shall notify the public prosecutor of the date of hearing
20 therefor within twenty-four (24) hours from the filing of the application for
21 release on recognizance in favor of the accused: *Provided*, That such hearing
22 shall be held not earlier than twenty-four (24) hours nor later than forty-eight
23 (48) hours from the receipt of notice by the prosecutor: *Provided, further*,
24 That during said hearing, the prosecutor shall be ready to submit the
25 recommendations regarding the application made under this Act, wherein no
26 motion for postponement shall be entertained.

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

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

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

8 (c) The accused had been found to have previously escaped from legal
9 confinement, evaded sentence or has violated the conditions of bail or release
10 on recognizance without valid justification;

11 (d) The accused had previously committed a crime while on probation,
12 parole or under conditional pardon;

13 (e) The personal circumstances of the accused or nature of the facts
14 surrounding his case indicate the probability of flight if released on
15 recognizance; or

16 (f) There is a great risk that the accused may commit another crime
17 during the dependency of the case.

18 SEC. 7. *Qualifications of the Custodian of the Person Released on*
19 *Recognizance.* – The custodian of the person released on recognizance must
20 have the following qualifications:

21 (a) A person of good repute and probity;

22 (b) A resident of the barangay where the applicant resides;

23 (c) Must not be a relative of the applicant within the fourth degree of
24 consanguinity or affinity; and

25 (d) Must belong to any of the following sectors and institutions:
26 church, academe, social welfare, health sector, cause-oriented groups,
27 charitable organizations or organizations engaged in the rehabilitation of
28 offenders.

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

5 SEC. 8. *Role of the Probation Officer.* – Upon release of the person on
6 recognizance to the custodian, the court shall issue an order directing the
7 Probation Office concerned to monitor and evaluate the activities of such
8 person. The Probation Office concerned shall submit a written report
9 containing its findings and recommendations on the activities of the person
10 released on recognizance on a monthly basis to determine whether or not the
11 conditions for his release have been complied with. The prosecution including
12 the private complainant, if any, shall be given a copy of such report.

13 SEC. 9. *Arrest of a Person Released on Recognizance.* – The court
14 shall order the arrest of the accused, who shall forthwith be placed under
15 detention, due to any of the following circumstances:

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

18 (b) If the accused fails to appear at the trial or whenever required by
19 the abovementioned court or any other competent court without justification,
20 despite due notice;

21 (c) If the accused is the subject of a complaint for the commission of
22 another offense involving moral turpitude and the public prosecutor or the
23 mayor in the area where the offense is committed recommends the arrest to the
24 court; or

25 (d) If it is shown that the accused committed an act of harassment such
26 as, but not limited to, stalking, intimidating or otherwise vexing private
27 complainant, prosecutor or witnesses in the case pending against the accused:

28 *Provided,* That upon the issuance by the court of such order, the accused shall

1 likewise become the proper subject of a citizen's arrest pursuant to the Rules of
2 Court.

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

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

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

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

Approved,

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