

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City

NINETEENTH CONGRESS
First Regular Session



HOUSE BILL No. 5595

Introduced by
ACT Teachers Party-List Rep. FRANCE L. CASTRO,
GABRIELA Women's Party Rep. ARLENE D. BROSAS,
and **KABATAAN Party-List Rep. RAOUL DANNIEL A. MANUEL**

AN ACT
PROVIDING FOR THE INCLUSION OF FRAGILE HEALTH AND/OR
ADVANCED AGE AS GROUNDS FOR THE RELEASE ON RECOGNIZANCE
OF AN ACCUSED, AMENDING FOR THE PURPOSE REPUBLIC ACT 10389
OR THE "RECOGNIZANCE ACT OF 2012"

EXPLANATORY NOTE

Antonio Molina, a bedridden farmer who was charged with trumped up cases, was diagnosed with stage 4 abdominal sarcoma. His doctor gave him only six months to live because of "poor prognosis due to extreme disease based on CT scan." However, the Puerto Princesa Regional Trial Court Branch 51 denied the 66-year-old Molina's omnibus motion for release on recognizance on humanitarian grounds, claiming that it is not a ground for bail.¹ Interestingly the jail authorities reversed themselves and acceded to release Molina on recognizance in their November 15, 2021 letter addressed to Hon. Judge Ambrosio B. De Luna of Branch 51.

But it was too late. Three days later, on Nov. 18, Molina died at the Puerto Princesa City Jail.

Jurisprudence has recognized that the right to bail is cognate to the fundamental right to be presumed innocent. Bail is the security given for the release of a person in custody of the law. It assures the court of one's appearance as required under the conditions specified by the court. It may be given in the form of corporate surety, property bond, cash deposit or recognizance.²

¹ Umil, Anne Marxze. "Palawan court denies ailing political prisoner's plea for compassionate release." Bulatlat, 23 October 2021. <https://www.bulatlat.com/2021/10/23/palawan-court-denied-ailing-political-prisoners-plea-for-compassionate-release/>

² "Bail me out: Remedies after arrest." DivinaLaw, 8 February 2021. <https://www.divinalaw.com/dose-of-law/bail-me-out-remedies-after-arrest/>

Under RA 10389, or the *Recognizance Act of 2012*, release on recognizance means that any person in custody who cannot post bail due to poverty may be given temporary liberty by placing them under the custody of a qualified member of the barangay, city or municipality where the accused resides.

The right to bail Under the 1987 Constitution, is guaranteed for persons accused of a crime, except those punishable by *reclusion perpetua* when evidence of guilt is strong. And even if the offense committed is punishable by *reclusion perpetua* but the evidence of guilt is not strong, the accused may still be released on bail or on recognizance.³

In the 2015 case of *Enrile v. Sandiganbayan*,⁴ the Supreme Court reminds us of the Philippines' responsibility in the international community arising from the national commitment under the Universal Declaration of Human Rights to uphold the fundamental human rights and the dignity and worth of the human person.

To recall, Juan Ponce Enrile and several others were charged with plunder at the Sandiganbayan for their supposed involvement in the diversion and misuse of appropriations under the Priority Development Assistance Fund (PDAF). But he was released on bail due to his fragile health and advanced age. Here, the court explained that the purpose of bail is not to prevent the accused from committing additional crimes, but to guarantee the appearance of the accused at the trial, or whenever so required by the trial court. x x x [B]ail acts as a reconciling mechanism to accommodate both the accused's interest in his provisional liberty before or during the trial, and the society's interest in assuring the accused's presence at trial.

In 2018, bail was also granted even in the case of Imelda Marcos, already convicted by the Sandiganbayan to serve 6 to 11 years in prison for each of the seven (7) counts of anti-corruption law violations. She was convicted for funneling about \$200 million to Swiss foundations in the 1970s as Metropolitan Manila governor. Her case is still pending appeal before the Supreme Court.⁵

“Those who have less in life must have more in law,” has been the long-time injunction held on by courts to show that the poor and marginalized can hope that justice is on their side. However, the respective releases of Enrile and Marcos cannot deny the utterly unfair contrast of the application of the law.

There must be an end to this unfair, even unjust, treatment. The law must be allowed to be enforced and applied to all without regard to economic status or popularity or political influence.

This Bill seeks to make the Constitutional right to bail or to be released on recognizance more accessible not only to those who have less in life but also to those who

³ Sec. 13, Art. III 1987 Constitution

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“Universal Declaration of Human Rights.” United Nations, 1948. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

⁵ Cabico, Gaea Katreena. “Whatever happened to: Graft conviction of Imelda Marcos.” PhilStar, 10 November 2020. <https://www.philstar.com/headlines/2020/11/09/2055672/whatever-happened-to-graft-conviction-imelda-marcos>

are entitled to it. It aims to lessen the burden on the courts in determining who is entitled the right to be granted bail or released on recognizance.

Especially given focus in this amendment is the consideration for PDLs like Antonio Molina, who are considered to belong to the older adults and have fragile health, are sickly or already impaired. Their continued incarceration may just be injurious to or will endanger more their health or life. Other PDLs who may just be as vulnerable are pregnant detainees whose pregnancies pose health risks to them or to the fetuses in their wombs.

Jurisprudence has no definition yet on “advanced age”. But from a medical perspective, geriatrics, a branch of medicine that deals with the problems and diseases of old age and the medical care and treatment of aging people, refer mostly to those 65 years old and up. People in that age range often have multiple or complex health matters and need specialized care.⁶

Corollarily, the Bill also offers to remedy the overly congested penal institutions and correctional facilities all over the country. Taking care of the sickly and elderly persons deprived of liberty is a heavy burden on the penal system that can be unloaded onto the PDL’s respective families. This will not only benefit the State but also the qualified PDLs who will have a better quality of life in spending the remaining days of their lives with their beloved families.

Additionally, the pendency of a criminal case, which has the same or higher penalty to the new crime the accused is charged of, must also be removed as a ground for the disqualification for release on recognizance. This is especially true for sickly and elderly PDLs whose lives or health may be more at risk while they are detained pending their cases.

This Bill was first filed during the 18th Congress by Bayan Muna Party-List Reps. Carlos Zarate, Ferdinand Gaité and Eufemia Cullamat, Gabriela Women’s Party Rep. Arlene Brosas, ACT Teachers Party-List Rep. France Castro and Kabataan Party-List Rep. Sarah Elago.

Hence, the immediate passage of this Bill is earnestly sought.



Rep. FRANCE L. CASTRO
ACT Teachers Party-List



Rep. ARLENE D. BROSAS
GABRIELA Women’s Party



Rep. RAOUL DANNIEL A. MANUE
KABATAAN Party-List

⁶ “What Is a Geriatrician?” WebMD, 29 June 2021. <https://www.webmd.com/a-to-z-guides/what-is-geriatrician>

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AN ACT
PROVIDING FOR THE INCLUSION OF FRAGILE HEALTH AND/OR
ADVANCED AGE AS GROUNDS FOR THE RELEASE OF AN ACCUSED IN A
CRIMINAL CASE, AMENDING FOR THE PURPOSE REPUBLIC ACT 10389
OR THE “RECOGNIZANCE ACT OF 2012”

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

SECTION 1. *Title.* This Act shall be known as “*An Act Amending the Recognizance Law of 2012,*” or simply the “*Antonio Molina Act of 2021.*”

SEC. 2. Sec. 3 of RA 10389, otherwise known as the “*Recognizance Act of 2012,*” is hereby amended to read as follows:

Section 3. *Recognizance Defined.* – Recognizance is a mode of securing the release of any person in custody or detention for the commission of an offense who is unable to post bail due to abject poverty, **IS OF ADVANCED AGE, OR HAS FRAGILE HEALTH AND THAT THE CONTINUED INCARCERATION IS INJURIOUS TO THE DETAINEE’S LIFE OR HEALTH, INCLUDING A WOMAN DETAINEE WHOSE PREGNANCY POSES HEALTH RISK TO HER OR TO THE FETUS IN HER WOMB.** The court where the case of such person has been filed shall allow the release of the accused on recognizance as provided herein, to the custody of a qualified member of the barangay, city or municipality where the accused resides, **OR TO ANY QUALIFIED CUSTODIAN UNDER THIS ACT, SHOULD THE ACCUSED BE A NON-RESIDENT.**

SEC. 3. Sec. 4 of RA 10389, is hereby amended to read as follows:

Section 4. *Duty of the Courts.* – For purposes of stability and uniformity, xxx.

xxx.

FOR PURPOSES OF DETERMINING A DETAINEE'S FRAGILE STATE OF HEALTH, THE APPLICANT SHALL PRESENT A MEDICAL DIAGNOSIS, RECORDS, AND DOCTOR'S CERTIFICATION CLEARLY SHOWING THAT THE CONTINUED INCARCERATION IS INJURIOUS TO OR WILL ENDANGER THE APPLICANT'S HEALTH OR LIFE; OR TO THE LIFE OF THE PREGNANT DETAINEE AND/OR THE FETUS IN HER WOMB.

SEC. 4. Sec. 6 of RA 10389, is hereby amended to read as follows:

Section 6. Requirements. – The competent court where a criminal case has been filed against a person covered under this Act shall, upon motion, order the release of the detained person on recognizance to a qualified custodian: *Provided*, That all of the following requirements are complied with:

(a) xxx;

xxx;

(D) A CERTIFICATION ISSUED BY ANY GOVERNMENT OR LICENSED MEDICAL DOCTOR OF THE DIAGNOSIS ON THE HEALTH OF THE ACCUSED AND SUPPORTING DOCUMENTS OR RECORDS, CLEARLY SHOWING THAT THE ACCUSED'S CONTINUED INCARCERATION IS INJURIOUS TO THE HEALTH OR TO ENDANGER THE LIFE OF THE APPLICANT; OR TO THE LIFE OF THE PREGNANT DETAINEE AND/OR THE FETUS IN HER WOMB;

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

xxx.

SEC. 5. Sec. 7 of RA 10389, is hereby amended to read as follows:

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

(a) xxx

xxx

(e) The personal circumstances of the accused or nature of the facts surrounding his/her case indicate the probability of flight if released on recognizance; **AND**

(f) xxx.; and

~~(g) The accused has a pending criminal case which has the same or higher penalty to the new crime he/she is being accused of.~~

SEC. 6. Sec. 12 of RA 10389, is hereby amended to read as follows:

Section 12. *No Release on Recognizance After Final Judgment or Commencement of Sentence; Exception.* – The benefits provided under this Act shall not be allowed in favor of an accused after the judgment has become final or when the accused has started serving the sentence: *Provided*, That this prohibition shall not apply to an accused who is entitled to the benefits of the Probation Law if the application for probation is made before the convict starts serving the sentence imposed; **PROVIDED FURTHER, THAT, THIS PROHIBITION SHALL ALSO NOT APPLY TO AN ACCUSED WHO IS OF ADVANCED AGE AND / OR HAS FRAGILE HEALTH THAT THE CONTINUED INCARCERATION IS INJURIOUS TO THE HEALTH OR TO ENDANGER THE LIFE OF THE ACCUSED**, in which case, the court shall allow the release on recognizance of the convict to the custody of a qualified member of the barangay, city or municipality where the accused actually resides.

SEC. 7. *Separability clause.* If any section or provision of this Act shall be declared unconstitutional or invalid, the other sections or provisions not affected thereby shall remain in full force and effect.

SEC. 8. *Repealing clause.* All laws, decrees, orders, rules and regulations and other issuance inconsistent with the provisions of this Act are deemed modified, revoked or repealed accordingly.

SEC. 9. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in two (2) leading newspapers of general circulation.

Approved,