

7 JUL 18 2015

SENATE

S.B. NO. 1248

RECORDED BY



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Introduced by Senator Francis N. Pangilinan

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### EXPLANATORY NOTE

Article III, Section 1 of the Constitution provides that *"No person shall be deprived of life, liberty, or property without the due process of law, nor shall any person be denied the equal protection of the laws"*. Likewise, Section 14(2) of the same Article guarantees the right of the accused and one of which is presumption of innocence until the contrary is proved. Corollary to these rights, Section 13 of the same Article provides that *"All persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law"*. Thus, an accused may be released through either financial or non-financial means, i.e., bail or recognizance.

In line with this above-stated policies, there is a need to enact a legislative measure to address the problem of overcrowding in jails due to imprisonment resulting from failure of most accused to post bail due to financial constraints. Only those capable of posting cash or property bond through surety companies have the chance to enjoy the privilege of temporary release before trial. First time and youthful offenders are exposed to the physical and emotional strains of jail that make rehabilitation harder for them. Besides, they are prone to all sorts of abuses including sexual assaults. The reported abuses against detainees and chaos inside prison cells may also be attributed to this problem. Due to this predicament and considering the physical condition of our jails especially in Metro Manila, detainees awaiting determination of their cases are subjected to physical and mental torture, violative of basic human rights.

This bill, therefor, seeks to provide for a Pre-Trial Release (PTR) programs for all persons arrested and charged with a crime, except those charged with heinous crimes. Thus, a Pre-Trial Release Officer shall be created under the Department of Justice. The officer shall serve the various courts in their jurisdiction. Under the proposed bill, accused eligible to this program will be immediately released from detention without bail, upon approval by the court of his/her application for PTR, based on the report/evaluation submitted by the Pre-Trial Release Officer. Filing of application for PTR by accused shall be accompanied by a written promise that he/she will appear in the court on the stated date and time on all proceedings of their cases. Eligibility of the accused for PTR is determined whether or not they can be safely released into the community and there is an assurance that they will comply with the terms and conditions set forth in their release documents. However, accused who shall be disqualified from the PTR program can still avail of this right to bail under the Constitution. Those who qualify but fail to comply with its terms and conditions shall be issued a warrant of arrest and a trial shall be held within seventy-two (72) hours after his custody. Where the risk is not imminent, the judge may issue a summon for him to appear in the court in lieu of the warrant. Within sixty (60) days upon revocation of the PTR, the accused shall be brought to trial or may be released on non-financial conditions.

The proposed measure will greatly facilitate court proceedings considering that it will not interrupt family relations and no work disruption will occur, thus, accused is physically, financially, and emotionally prepared for his defense. Moreover, substantial cost to defendants and to society due to detention prior to trial will be reduced.

In view of the foregoing, early passage of this measure is earnestly requested.




FRANCIS N. PANGILINAN

FOURTEENTH CONGRESS OF THE REPUBLIC }  
OF THE PHILIPPINES }  
First Regular Session }

7 JUL 18

SENATE

S.B. NO. 1248

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AN ACT

PROVIDING FOR A PRE-TRIAL RELEASE FOR THE ACCUSED, CREATING FOR THE PURPOSE THE PRE-TRIAL RELEASE OFFICE (PTRO), APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

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

1 SECTION 1. *Short Title.* - This Act shall be known as the "Pre-Trial Release Act of 2007".

2 SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the State to accord the  
3 accused all the rights guaranteed by the Constitution which includes presumption of innocence until the  
4 contrary is proved, the right to due process and equal protection of the law. Towards this end, a Pre-Trial  
5 Release Program is hereby instituted for those who have been charged with a crime, at any time prior to  
6 conviction. The Program will enable all persons arrested and charged with a crime to be released from any  
7 detention facility where he is confined, based on a written promise to appear in court through frequent  
8 monitoring by a Pre-Trial Officer assigned to his case in coordination with a person known within the  
9 community who will ensure that the accused will appear in court in lieu of a bail bond to enable him to have  
10 access to attorney, prepare an adequate defense and be presumed innocent until proven guilty.

11 SEC. 3. *Definition of Terms.* - For purposes of this Act, the following terms shall be defined as  
12 follows:

13 (a) *Pre-Trial Release (PTR)* - refers to a cost-efficient program wherein the accused released  
14 from jail where he is confined, without bail;

15 (b) *Pre-Trial Release Accused* - refers to a person released from detention through Pre-Trial  
16 Release;

17 (c) *Pre-Trial Release Officer (PTRO)* - refers to a person assigned by the Judge for the PTR  
18 Office shall be responsible for gathering and reviewing information about the accused, conduct  
19 investigation, and recommend to the court the eligibility of the accused for Pre-Trial Release; and

1 (d) *Presiding Judge* - refers to a person who makes the final decision on eligibility of the  
2 accused to avail of the benefits of Pre-Trial Release.

3 **SEC. 4. *Pre-Trial Release Program.*** - The Pre-Trial Release Program, hereinafter referred to as  
4 the PTRP, is a method of releasing an accused under detention without the bail bond: *Provided, however,*  
5 That there shall be a written assurance by the accused of his appearance in subsequent court proceedings.  
6 This program shall be under the jurisdiction of the Department of Justice (DOJ) in coordination with the  
7 Department of Social Welfare and Development (DSWD) and other non-government organizations (NGOs)  
8 concerned with the rehabilitation and protection of the accused.

9 The presiding judge shall assign the case to any PTR Officer assigned in the area to conduct an  
10 investigation and gathering information on the accused applicant for a period of at least five (5) days, and  
11 immediately thereafter submit a report and recommendation to the judge. The judge shall evaluate the  
12 report and recommendation and issue the corresponding pre-trial release.

13 **SEC. 5. *Purposes and Objectives of Pre-Trial Release.*** - The PTR shall have the following  
14 purposes and objectives:

15 (a) Cause the release of a detained person from jail without bail bond or upon the favorable  
16 recommendation of PTR Officer concerned with his case in coordination with any known persons in the  
17 community who will:

- 18 (1) establish the identity of the accused;
- 19 (2) establish community ties of the accused;
- 20 (3) assure the appearance of the accused by releasing the accused from hearing of the  
21 case;

- 22 (b) Reduce overcrowding in jails;
- 23 (c) Save the government of expenditures by releasing accused from confinement;
- 24 (d) Provide speedy and fair release of eligible accused from custody;
- 25 (e) Reduce family and employment disruptions;
- 26 (f) Increase tax revenue for the government with accused continued employment; and
- 27 (g) Provide cost-efficient mechanism for release of accused from jail.

1           **SEC. 6. *Creation of the Pre-Trial Release Officer (PTRO).*** - There shall be created a Pre-Trial  
2 Release Officer under the Department of Justice, hereinafter referred to as PTRO, who shall exercise  
3 general supervision over all persons arrested and charged with all crimes except heinous crimes.

4           The PTRO shall have such staff operating units and personnel necessary for the proper  
5 performance of his duties and functions.

6           **SEC. 7. *Composition of the PTR Office.*** - The PTR Office shall be headed by the Executive  
7 Director who shall be appointed by the President of the Philippines. He shall hold office during good  
8 behavior unless sooner removed by the President for just cause.

9           The Executive Director shall receive an annual salary of at least Four hundred twenty thousand  
10 pesos (P420,000.00). He shall have the following powers and functions:

- 11           (a) Act as the Executive Officer of the PTR Office;
- 12           (b) Exercise supervision and control over all PTR Offices nationwide;
- 13           (c) Submit semi-annual reports to the Secretary of Justice concerning the operation,  
14 administration and improvement of the PTR Office;
- 15           (d) Promulgate the necessary rules relative to the methods and procedures of the PTR Office;
- 16           (e) Recommended to the Secretary of Justice the appointment of the subordinate personnel of  
17 the PTR Office; and
- 18           (f) Perform such other duties and responsibilities as may be necessary to attain its objectives.

19           **SEC. 8. *The Deputy Executive Director.*** - There shall be three (3) Deputy Executive Directors,  
20 one for each island of Luzon, Visayas and Mindanao. They shall assist the Executive Director and perform  
21 such duties as may be assigned to them by the latter as may be provided by law. They shall likewise be  
22 appointed by the President of the Philippines and shall receive an annual salary of at least Three hundred  
23 eighty-four thousand pesos (P384,000.00).

24           **SEC. 9. *Qualifications of the Executive Director and the Deputy Executive Directors.*** - To be  
25 eligible for appointment as Executive Director or Deputy Executive Director, he must possess the following  
26 qualifications:

- 27           (a) Must be at least thirty-five (35) years of age;
- 28           (b) Must be of proven competence, probity and good health;

1 (c) Holder of a master's degree, or its equivalent or must have accomplished all the academic  
2 requirements of a master's degree in social work, psychology, sociology, public administration, criminology,  
3 political science, education or other related fields; and

4 (d) At least five (5) years of supervisory experience.

5 **SEC. 10. Regional, Provincial and City PTR Officers.** - The PTRO shall have regional, provincial,  
6 and city offices organized in accordance with its organizational plan and who shall be appointed by the  
7 Secretary of Justice upon recommendation of the Executive Director and in accordance with Civil Service  
8 rules and regulations.

9 The regional offices shall be headed by a Regional PTR Officer and shall exercise supervision and  
10 control over all PTR Officers within its jurisdiction and such duties as may be assigned to him by the  
11 Executive Director. He shall have an annual salary of at least Three hundred sixty thousand (₱360,000.00)

12 He shall, whenever necessary, be assisted by an assistant Regional PTR Officer and shall have an  
13 annual salary of Three hundred thousand pesos (₱300,000.00)

14 There shall be at least three (3) PTR Officers in every province and city who shall be appointed by  
15 the Secretary of Justice upon recommendation of the Executive Director and in accordance with the Civil  
16 Service rules and regulations.

17 The provincial or city PTR Officers shall receive an annual salary of Two hundred seventy-six  
18 thousand pesos (₱276,000.00) and Two hundred sixty-two thousand pesos (₱262,000.00), respectively,  
19 and shall have the following functions:

20 (a) Investigate all persons referred to them for investigation by the court;

21 (b) Inform the persons availing of the conduct and conditions of the PTR Program;

22 (c) Keep themselves informed of the conduct and condition of persons availing of the PTR  
23 Program under their care and use all suitable means to bring improvement in their conduct;

24 (d) Maintain a detailed record of persons under their care;

25 (e) Prepare a list of qualified persons from the DSWD or any NGO of the province or city to  
26 assist in monitoring the activities of persons under the PTR Program;

27 (f) Exercise supervision and control over all field assistants and other personnel; and

28 (g) Perform such other duties as may be assigned by the Executive Director through the  
29 Regional Director.

1           **SEC. 11. Qualifications of Regional, Assistant Regional, Provincial and City PTR Officers.** - No  
2 person shall be appointed Regional or Assistant Regional or Provincial or City PTR Officer unless he  
3 possess any of the following qualifications:

4           (a) Holder of a bachelor's degree (with a master's degree for Regional and Assistant Provincial  
5 PTR Officer) major in political science, social work, sociology, psychology, criminology or other related  
6 fields;

7           (b) At least three (3) years of experience in work requiring any of the above-mentioned related  
8 courses; and

9           (c) Preferably a resident of the region, province or city, as the case may be, where he shall be  
10 appointed.

11           Moreover, the provincial or city PTR Officers shall be assisted by field assistants and subordinate  
12 personnel as may be necessary to enable them to perform their duties efficiently and effectively.

13           **SEC. 12. Organization.** - Within twelve (12) months from the approval of this Act, the Secretary  
14 of Justice shall organize the administrative structure of the PTR office including the staffing patterns of the  
15 regional, provincial and city PTR offices with the end in view of achieving the goals and objectives of the  
16 PTR Program.

17           **SEC. 13. Application for Grant of the Benefit of the PTR Program.** - Upon detention or before his  
18 arraignment in court, the accused shall file a written application for PTR with the court where his case is  
19 filed through his counsel stating his personal circumstances, which include the following: (a) he/she is a  
20 Filipino citizen and a resident in the country for at least six (6) months with a verifiable address and  
21 references; (b) not a flight risks nor a danger to the community; (c) not charged of any heinous crime; and  
22 (d) that more than five (5) years has lapsed since his last conviction or release from imprisonment of said  
23 offense: *Provided*, That during the five (5) years, he has shown good behavioral record and has an  
24 excellent favorable written recommendation from the PTR Officer handling his case: *Provided, further*, That  
25 in case the accused is still to be arraigned but is already in detention, he can still avail of said privilege.

26           **SEC. 14. PTR Application Endorsed to Pre-Trial Release Officer by the Court.** - Upon receipt of  
27 the PTR application, the court shall designate a Pre-Trial Officer to investigate the accused-applicant and  
28 submit a report to the requesting court within three (3) days from receipt thereof.

1           **SEC. 15. *Conditions of Release Under Pre-Trial Release Program.*** - The PTR Officer shall  
2 monitor the accused under the PTR Program who shall be required to comply with any of the following  
3 conditions, at the discretion of the court:

- 4           (a) Report every week in person to the court;
- 5           (b) Inform the PTR Office in writing of any change in the information written on his/her  
6 application such as the name, phone number, address, job status or whenever he/she goes out of town;
- 7           (c) Hire an attorney to represent him in court;
- 8           (d) Appear in court on the date and time the trial is set;
- 9           (e) Submit for alcohol and/or drug testing, when requested;
- 10          (f) Participate in alcohol and/or drug abuse treatment program, if requested;
- 11          (g) Observe a curfew set by the court;
- 12          (h) Enroll or maintain enrollment in an educational program;
- 13          (i) Seek or maintain employment;
- 14          (j) Participate in social services or render community service at least once a week;
- 15          (k) Must not be in possession of firearms or other deadly weapons during the release period;
- 16          (l) Notify the PTR Office once the case is dismissed by the court;
- 17          (m) Refrain from any other unlawful conduct or criminal activity; and
- 18          (n) Avoid all contacts with an alleged victim of the crime and with a potential witness who may  
19 testify concerning the offense.

20           The court shall order the termination of the PTR of any accused when the accused violates any of  
21 the terms and conditions of the PTR.

22           **SEC. 16. *Submission of the List of Accused Under PTR to the Department of Justice by the Pre-***  
23 *Trial Release Officers.* - The PTR Officers concerned shall submit the list of accused availing to the  
24 person of the program to the DOJ through the court, not later than sixty (60) days for reference purposes.

25           **SEC. 17. *Confidentiality of Records of PTR Applicants.*** - The records of those accused under  
26 PTR shall not be disclosed directly or indirectly to anyone other than the PTR Officer or the court  
27 concerned, except that the courts in its discretion, permit any accused or his lawyer to inspect the  
28 aforementioned documents or parts thereof whenever the best interest of the accused makes such

1 disclosure helpful: *Provided, however,* That any government agency engaged in the correction or  
2 rehabilitation of offenders may obtain said documents for its official use or reference.

3       **SEC. 18. *Failure to Comply with Condition of Release.*** - Upon a verified application by the PTR  
4 Officer showing that a condition of release has been violated, or the continued liberty of the person will  
5 pose a serious threat to another person, or will result in flight from prosecution, and such other violations,  
6 the court may issue a warrant for the arrest of the person without hearing but for said hearing to be held  
7 within seventy-two (72) hours after his custody. In situations where the risk is not imminent, the judge shall  
8 issue a summon for the person to appear, in lieu of the warrant. Any person whose release has been  
9 revoked should be afforded the safeguards so provided for those detained under the provisions of the  
10 Rules of Court and the Constitution. He shall be brought to trial within sixty (60) days of the revocation or  
11 again be released on non-financial conditions based on the offense committed.

12       However, the court must be informed in writing by the PTR Officer of any violation of the conditions  
13 by the person under the PTR Program, and for the latter to be given the opportunity to answer said  
14 allegations.

15       **SEC. 19. *Penalties.*** - Any willful violation of the provisions of this Act shall be punished by  
16 imprisonment of not less than six (6) years or a fine of not less than One hundred thousand pesos  
17 (₱100,000.00) or both, at the discretion of the court. If the offender is a government officer or employee, the  
18 penalty to be imposed shall be imprisonment of not less than ten (10) years or fine of not less than Two  
19 hundred thousand pesos (₱200,000.00) or both, at the discretion of the court.

20       **SEC. 20. *Implementing Rules and Regulations.*** - Within thirty (30) days from the effectivity of this  
21 Act, the Department of Justice, in coordination with the Parole and Probation Administration and other  
22 concerned agencies, shall promulgate the rules and regulations to effectively implement the provisions of  
23 this Act.

24       **SEC. 21. *Appropriations.*** - There is hereby authorized the appropriation of the sum of Fifty million  
25 pesos (₱50,000,000.00) in the *General Appropriations Act* to effectively carry out the purpose of this Act.  
26 Thereafter, said amount shall be included in the annual appropriations of the national government.

27       **SEC. 22. *Separability Clause.*** - If any provision or section of this Act or the application to any  
28 person or circumstance is held to be invalid, the other provisions or sections of this Act, and the application  
29 of such provision or section to other persons or circumstances, shall not be affected thereby.



1           **SEC. 23. *Repealing Clause.*** - All laws, decrees, executive orders, rules and regulations, or parts  
2 thereof, and other similar laws inconsistent with this Act, are hereby repealed, amended or modified  
3 accordingly.

4           **SEC. 24. *Effectivity.*** - This Act shall take effect fifteen (15) days after its complete publication in  
5 the *Official Gazette* or in at least two (2) national newspaper s of general circulation.

Approved,