

# PRETRIAL DETENTION HEARING PROCESS

The Pretrial Fairness Act eliminates cash bond and replaces it with a constitutionally-rooted process in which a judge decides whether an accused person will be released or detained. This chart highlights the features of the process that will replace cash bond. This system will go into effect in January 2023.

**Under the Act, a person arrested for a crime can be detained in jail in they meet one of the following two standards:**

## Danger Standard

The person poses a real and present threat to the safety of a specific, identifiable person(s)\* and is accused of a qualifying offense.

### Qualifying offenses for danger standard:

Non-probationable, forcible felonies

Sex crimes

Domestic violence crimes

Gun felonies

## Willful Flight Standard

The person has a high likelihood of willful flight to evade prosecution and is accused of a qualifying offense.

### Qualifying offenses for willful flight standard:

Any Class 3 felony or above

or

or

**To detain someone pre-trial, the prosecutor must prove:**

1 The proof is evident or presumption great that the accused person has committed a qualifying offense

2 The person poses a real and present threat to the safety of a specific, identifiable person(s)\*

3 No condition(s) can mitigate the real and present threat to the safety of any person(s)\*

1 The proof is evident or presumption great that the accused person has committed a qualifying offense

2 The person is highly likely to intentionally evade prosecution

3 No condition(s) can mitigate the real and present threat of the defendant's willful flight.

## ADDITIONAL NOTES:

- Judges may grant 24 to 48 hours for attorneys to prepare for the hearing, and the accused person may be jailed during that time
- At the hearing, the accused person has the right to:
  - An attorney
  - Copies of any police reports that the state attorney uses for the hearing

\* Language in the law related to this provision is not consistent