



## Clarifying the Pre-Trial Fairness Act – House Bill 1095

### Transition to new system

Q: What happens to those currently detained on Jan. 1?

A: Those currently detained can request to have the new system applied to their situation. To make this manageable for courts, there will be a tiered system for granting hearings on these requests. These hearings are to determine whether they should be released.

- Lowest level offenses (example: petty shoplifting) hearings must be within 7 days of request.
- Those detained but considered flight risks would get hearings within 60 days.
- Those considered to be potential threats to safety get hearings within 90 days.

This system is designed to give the court extended time to examine requests involving more serious cases.

### Trespassing

Q: Can police detain or arrest someone from trespassing?

A: Yes. The Pretrial Fairness Act always allowed this. This amendment clarifies that a police officer can arrest someone for trespassing if:

- The person poses a threat to the community or any person;
- \*Arrest is necessary because criminal activity persists after issuance of the citation; or
- The accused has an obvious medical or mental health issue that poses a risk to their safety.

If the above conditions are not present, a citation would be issued.

\*Note: This provision was added to clarify the intent of the initial Pretrial Fairness Act.

### Dangerousness standard

Makes consistent throughout the entire act what a prosecutor must show to detain an individual on grounds the individual is a threat. This “dangerousness standard” is: the person poses a real and present threat to any person or persons or the community, based on the specific, explainable facts of the case.

### Detention net

Adds non-probationable felonies, forcible felonies, hate crimes, attempts of crimes that are otherwise detainable, and others to the list of crimes that qualify someone for detention. The

underlying goal for all of this is that dangerous people should be detained while those who merely lack resources and do not pose a threat should not.

### **Judicial arrest warrants**

Clarifies that judges can issue arrest warrants or summons when someone misses their court date. They currently lack this flexibility.

A summons is an official notice to appear in court.

An arrest warrant tells police to arrest and detain.

Also clarifies what constitutes “willful flight” to stress that the intent is to detain those who are actively evading prosecution, not someone who failed to appear in court because, for example, they missed their bus.