

Tools for Safe and Smart Bail System Changes: Preventive Detention

Blog post by Lisel Petis dated Dec. 7, 2023.

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Standard of Proof	<p>A standard of proof is a legal or evidentiary threshold of certainty or evidence needed to establish a particular fact or claim in a legal proceeding. Levels of standard of proof vary. In relation to preventive detention, standards of proof are often as follows (from highest to lowest):</p> <ul style="list-style-type: none">● Proof evident, presumption great● Clear and convincing● Preponderance of the evidence● Judicial discretion
Presumptions	<p>Presumptions are when a judge must presume a certain outcome unless evidence and arguments are sufficient to rebut such presumption. There can be presumptions of release or of detention, often limited to specific offenses.</p>
Automatic Reviews or Reconsideration	<p>An automatic review or reconsideration for bail, when someone continues to be detained, is a legal process that mandates a periodic reevaluation of the detention decision to ensure it remains justified, typically based on new evidence or changed circumstances.</p>
Other Considerations	<p>Some jurisdictions require a demonstration that no set of conditions could mitigate the risk of flight or danger to public safety if the individual were to be released.</p>
Speedy Trial Considerations	<p>Speedy trial is a legal principle that guarantees a prompt and timely resolution of a criminal case. If someone remains in custody, speedy trial is often a shorter timeframe that ensures the defendant is not held in pretrial detention for an extended or unjustified period.</p>