

10 Day OSH Non-Hospital Level of Care Ready to Place

Proposed amendments (ORS 161.370 and ORS 161.371)

Dr. Pinals (Court Monitor in the Mink/Bowman Aid & Assist litigation) reports in her December 6, 2025 report:

<https://www.oregon.gov/oha/OSH/reports/2025.12.06-Oregon-Mink-Bowman-Court-Monitor-Report.pdf>

About one-third of people admitted to OSH for competency restoration are already **“Ready to Place” (RTP) into the community by day 10**. In 2025 (Jan–Oct), **32.4%** of OSH admissions eligible for the 10-Day RTP assessment were found RTP by day 10, and the report states these individuals “go on the RTP list and wait along with others for much longer.” See Table 10 Below.

That is a throughput emergency.

When OSH beds are used for people who do not need hospital level of care, the system backs up immediately: people ordered under ORS 161.370 wait in jail for admission, the state falls out of compliance with the 7-day admission requirement, and counties, courts, defense, prosecutors, and families are forced into a destabilizing cycle. The monitor’s report describes a growing waitlist and increasing average wait times for admission.

[This bill concept](#) makes the “10-Day RTP” assessment meaningful by creating a clear, mandatory legal trigger that forces an early placement decision and starts the community placement process sooner, without changing the restoration standards, public safety protections, or court oversight.

Mink/Bowman
Court Monitor 2nd Report
12/6/25

As depicted in **Table 10**, approximately 32.4% of the 577 individuals eligible for RTP assessments admitted to OSH are ready to place in the community by day 10. Yet these individuals go on the RTP list and wait along with others for much longer.

Table 10. RTP 10-Day RTP Assessment Outcomes (August 2022 through October 2025)

Year	10-Day RTP Assessments	Patients Found RTP	Percent Found RTP
2022 (Aug-Dec)	205	87	42.4%
2023	648	250	38.6%
2024	596	170	28.5%
2025 (Jan-Oct)	577	187	32.4%
Total	2,026	694	34.3%

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What this amendment does

- Converts the “10-Day Ready To Place assessment” from a data point into a decision point.
- Requires OSH to file a notice by day 10 when OSH’s own clinical judgment is that hospital level of care is no longer necessary, so the statutory community placement process begins immediately.
- Requires OHA to define “hospital level of care” for this decision in rules and to standardize forms, so the decision is consistent across OSH, counties, and courts and defensible in contested cases.
- Improves accountability on the front end by requiring OSH to file an admission-date notice within one judicial day, establishing a clear start date so courts can track the **10-day RTP determination/notice deadline** and spot bottlenecks early.

Why this helps (throughput, not leniency)

1. It frees beds for the people who truly need hospital-level restoration.

If roughly one-third of admissions can safely be served in community restoration or another appropriate setting by day 10, then every day they remain in a hospital bed is a day someone else sits in jail waiting for admission.

2. It uses the existing public-safety safeguards.

Nothing in this amendment eliminates secure placement determinations, victim-rights protections, court hearings, or the ability of either party to object. It simply makes OSH’s “no longer hospital level of care” determination happen early enough to matter.

3. It reduces the “RTP list” as a holding pattern.

The monitor reports that people who are RTP by day 10 still end up on an RTP list and wait for much longer. This amendment forces the system to start acting on that day-10 finding immediately.

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Why this is an emergency now

- The state is currently out of compliance with the 7-day admission requirement, and wait times are increasing with escalating contempt fines of **\$500,000** for the last 3 months.
- The monitor's December 2025 report describes a growing waitlist and shows that a large share of OSH admissions do not need hospital level of care by day 10.
- Jail backlogs, delayed restoration admissions, and preventable hospital bed use are not abstract problems: they are daily system failures that risk public safety, due process, and the stability of Oregon's entire forensic continuum.

This is a targeted, operationally realistic fix that can be enacted in a short session because it relies on existing statutory structure and directs OHA to implement the clinical standard by rule.

Strategy note (vehicle value)

A short-session Aid & Assist emergency bill that is tightly tied to the Mink/Bowman monitor's findings creates a credible ORS 161 legislative vehicle. Because the same OSH bed pressure drives both Aid & Assist delays and GEI discharge bottlenecks, the Legislature can pair this throughput amendment with a narrow, non-Measure 11 GEI commitment-length alignment section as part of an integrated "right bed, right time" package.

Proposed amendments (ORS 161.370 and ORS 161.371)

1 **SECTION 1.** ORS 161.370 is amended to read:

2 161.370. **(9) Within one judicial day after a defendant is admitted to the**
3 **custody of the superintendent of a state mental hospital or director of a facility**
4 **designated by the Oregon Health Authority under this section, the superintendent**
5 **or director shall file notice of the date of admission with the committing court.**
6 **The clerk of the court shall cause copies of the notice to be delivered to the**
7 **district attorney and to counsel for the defendant.**

8 **SECTION 2.** ORS 161.371 is amended to read:

9 161.371. **(3)(a) Notwithstanding subsection (2) of this section, not later than 10**
10 **days from the defendant's delivery into the superintendent's or director's custody,**
11 **if the superintendent of the state mental hospital or director of the facility to which the**
12 **defendant is committed determines that a hospital level of care is no longer necessary due to**
13 **the acuity of symptoms of the defendant's qualifying mental disorder, the superintendent or**
14 **director [may] shall file notice of the determination with the court. The superintendent of**
15 **the state mental hospital or director of the facility to which the defendant is**
16 **committed may file subsequent notices under this paragraph at any time during**
17 **the period of commitment if the superintendent/director again determines that a**
18 **hospital level of care is no longer necessary.** Upon receipt of the notice, the court shall
19 order that a community mental health program director or the director's designee, within
20 five judicial days:

21 _____
22 161.371. **(11) The Oregon Health Authority shall adopt rules establishing**
23 **clinical and operational standards for determinations under subsection (3)(a) of**
24 **this section, including standards for what constitutes "hospital level of care" for**
25 **purposes of subsection (3)(a) of this section and standardized forms for notices**
26 **filed under subsection (3)(a) of this section.**

27 **SECTION 3.** This 2026 Act being necessary for the immediate preservation
28 of the public peace, health and safety, an emergency is declared to exist, and this
29 2026 Act takes effect on its passage.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

Targeted GEI Commitment Length Reform (Non-Measure 11)

Public safety maintained

The bill preserves statutory-maximum authority for highest-risk cases and maintains court discretion.

This reform does not change conditional release eligibility or PSRB decisions.

- **Proposed ORS 161.327 (7)(a)(A)** Use sentencing guidelines by default for the least severe cases while allowing a higher **fixed maximum** when the court finds **substantial and compelling reasons** and states them in the GEI judgment.
- **Proposed ORS 161.327 (7)(a)(B)** keeps *up to* the statutory maximum for: **Measure 11 (ORS 137.700)**, **mandatory minimums**, and **death cases**.
- **Proposed ORS 161.327 (7)(a)(C)** changes sex crimes (ORS 163A.005) from *up to* the statutory maximum to the statutory maximum in all qualifying cases.

Why we need this

Oregon's Criminal Code expressly requires proportionate, non-arbitrary penalties. ORS 161.025 (1)(e)-(g) directs the state to differentiate on reasonable grounds between serious and minor offenses, prescribe penalties proportionate to offense seriousness while recognizing differences in rehabilitation potential, and safeguard people against excessive, disproportionate, or arbitrary punishment.

Although GEI jurisdiction is not a punishment, a conduct-based maximum term should still reflect the proportionality of the underlying offense. Aligning the default GEI maximum term with the presumptive sentencing guidelines in appropriate non-Measure 11 cases advances these purposes, while preserving statutory-maximum authority and individualized court findings where warranted.

Under current law, GEI maximum jurisdiction commonly defaults to "*up to* the statutory maximum" even in lower-severity, non-Measure 11 cases. That long-tail jurisdiction can consume scarce OSH and community resources that are urgently needed for higher-acuity PSRB cases and Aid and Assist admissions. This bill makes the maximum term more proportional for appropriate cases and preserves the statutory maximum for the most serious offenses.

Many Affected People Are Already on Conditional Release

Many of the people this reform would affect are already living in the community on conditional release under PSRB supervision. This proposal does not change release decisions or supervision conditions. It only adjusts the outer maximum term in certain non-Measure 11 cases, so its impact often falls on individuals who have already demonstrated stability under structured oversight.

Emergency justification

Oregon's Aid and Assist system is under active court enforcement of the seven-day admission standard, and contempt fines are currently **\$500,000 per month**. OSH bed shortages delay competency restoration for people charged with crimes, increasing public safety risk and driving ongoing fiscal harm. This bill is an emergency measure to relieve that bottleneck while preserving maximum authority where needed.

Proposed amendment language (ORS 161.327 (7)); Section 2 (Lookback Clause (PCR)); Section 3 (Emergency Clause).

1 **SECTION 1.** ORS 161.327 is amended to read:

2 161.327. (7)(a) The total period of commitment or conditional release under ORS
3 161.315 to 161.351 may not exceed [*the maximum sentence provided by statute for the crime*
4 *for which the person was found guilty except for insanity.*]:

5 **(A) The presumptive sentence the person would have received if convicted**
6 **of the crime under the sentencing guidelines of the Oregon Criminal Justice**
7 **Commission, except as provided in subparagraphs (B) and (C) of this paragraph.**
8 **At the time the court enters the judgment of guilty except for insanity, the court**
9 **may set a total period of commitment or conditional release up to the maximum**
10 **sentence provided by statute for the crime only upon motion filed by the state**
11 **before entry of judgment and if the court finds substantial and compelling reasons**
12 **justifying a deviation from the presumptive sentence. Any such findings must be**
13 **based solely on facts reflected in the record of conviction, including facts**
14 **necessarily found by the trier of fact, facts admitted by the person in open court,**
15 **or the fact of a prior conviction. The court shall set forth the specific basis for its**
16 **decision in the judgment, and the total period set under this subparagraph**
17 **establishes a fixed maximum;**

18 **(B) Up to the maximum sentence provided by statute for the crime, if the**
19 **crime is listed in ORS 137.700, or if the crime is subject to a mandatory minimum**
20 **sentence under any other statute, or if the crime involved causing the death of**
21 **another person; or**

22 **(C) The statutory maximum sentence, mandatory in all cases, if the offense**
23 **is a sex crime as defined in ORS 163A.005.**

24 **(b) For purposes of paragraph (a)(A) of this subsection, “presumptive**
25 **sentence” includes any term of probation and any term of post-prison supervision**
26 **that would have been imposed if the person had been convicted of the crime. Any**
27 **portion of the presumptive sentence described in this paragraph shall be served**
28 **only under the jurisdiction of the Psychiatric Security Review Board as**
29 **commitment or conditional release, and the judgment may not impose a separate**
30 **term of probation or post-prison supervision.**

31 **SECTION 2. (1) Notwithstanding ORS 138.510 (3), at any time within one**
32 **year after the effective date of this 2026 Act, a person who was found guilty except**

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Proposed amendment language (ORS 161.327 (7)); Section 2 (Lookback Clause (PCR)); Section 3 (Emergency Clause).

1 for insanity before the effective date of this 2026 Act may file a petition for
2 post-conviction relief under ORS 138.510 to 138.680 claiming, as grounds for relief,
3 that the person was subject to a total period of commitment and conditional
4 release equal to the statutory maximum sentence for the offense in violation of
5 ORS 161.327 (7), as amended by section 1 of this 2026 Act.

6 (2) ORS 138.550 does not apply to petitions for post-conviction relief
7 described in this section.

8 (3) Notwithstanding ORS 138.530, in a post-conviction relief proceeding
9 under this section, the petitioner has the burden of proving, by a preponderance
10 of the evidence, that:

11 (a) The person was found guilty except for insanity and subject to a total
12 period of commitment and conditional release equal to the statutory maximum
13 sentence for the offense; and

14 (b) The use of the statutory maximum sentence to determine the total
15 period of commitment and conditional release is not in conformance with ORS
16 161.327 (7), as amended by section 1 of this 2026 Act.

17 (4) Notwithstanding ORS 138.520, if post-conviction relief is granted under
18 this section, the court shall vacate the original judgment of guilty except for
19 insanity and enter a new judgment of guilty except for insanity with a total period
20 of commitment and conditional release in accordance with ORS 161.327 (7), as
21 amended by section 1 of this 2026 Act. In determining whether the maximum total
22 period of commitment or conditional release under the new judgment has been
23 exceeded, and in calculating any remaining period, the court shall include any
24 time previously served on the original judgment, including time in custody, time
25 in commitment, and time on conditional release.

26 (5) Except as otherwise provided in this section, all provisions of ORS
27 138.510 to 138.680 apply to petitions for post-conviction relief described in this
28 section.

29 **SECTION 3.** This 2026 Act being necessary for the immediate preservation
30 of the public peace, health and safety, an emergency is declared to exist, and this
31 2026 Act takes effect on its passage.

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