

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 2027 Act, a person who was found guilty except**

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.

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 2027 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 2027 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 2027 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 2027 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 2027 Act being necessary for the immediate preservation
30 of the public peace, health and safety, an emergency is declared to exist, and this
31 2027 Act takes effect on its passage.

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