

# Targeted GEI Sentencing Reform (Non-Measure 11)

**Purpose:** Create a relief valve for Oregon's Aid and Assist crisis by aligning the maximum GEI commitment/conditional release term with sentencing guidelines for non-Measure 11 cases, while preserving statutory maximum authority for Measure 11, sex crimes, and death cases.

## Why this matters now

Oregon's Aid and Assist system is under sustained strain, and OSH capacity is a key bottleneck. A targeted, non-Measure 11 GEI adjustment helps move less severe, lower-risk cases through the system more proportionately, freeing capacity for competency restoration admissions and reducing pressure that contributes to contempt fines.

## Core principle

Mental Disability should not be an aggravating factor for non-Measure 11 GEI.

## What the proposal does

In **non-Measure 11** GEI cases, set the maximum total period of commitment/conditional release to the **presumptive guidelines sentence** (the sentence the person would have received if convicted), instead of defaulting to the *up to* statutory maximum.

This is not "soft on crime." It is a narrow proportionality fix that:

- focuses on less severe, non-Measure 11 cases,
- preserves discretion and public safety tools for the most serious offenses, and
- helps relieve the OSH / Aid and Assist bottleneck.

## Why it helps the Aid and Assist pipeline

This change functions as a system relief valve by reducing long-tail GEI jurisdiction in less severe cases, which helps:

- reduce unnecessary time in high-level settings when a person does not require that level of care,
- free capacity for competency restoration admissions,
- improve proportionality and consistency for non-Measure 11 cases,
- preserve public safety by leaving the most serious cases fully intact.

## Proposed amendment language (ORS 161.327(7))

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

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

(A) The presumptive sentence the person would have received if convicted of the crime under the sentencing guidelines of the Oregon Criminal Justice Commission, except as provided in subparagraphs (B) and (C) of this paragraph;

(B) Up to the maximum sentence provided by statute for the crime, if the crime is defined in ORS 137.700; or

(C) Up to the maximum sentence provided by statute for the crime, if the crime is a sex crime as defined in ORS 163A.005 or the crime involved causing the death of another person.

(b) Any amount of time a person has spent in custody prior to being found guilty except for insanity shall be included when determining whether the maximum total period of commitment or conditional release for the person has been exceeded.

## Lookback clause (1-year post-conviction relief window)

**Goal:** Provide a limited pathway for people already placed at the **statutory maximum** in non-Measure 11 cases to seek recalculation consistent with the new guidelines cap.

Draft lookback language (modeled on SB 1114, updated for this targeted version)

**SECTION 2.** (1) Notwithstanding ORS 138.510 (3), at any time within one year after the effective date of this 2026 Act, a person who was found guilty except for insanity before the effective date of this 2026 Act may file a petition for post-conviction relief under ORS 138.510 to 138.680 claiming, as grounds for relief, that the person was subject to a total period of commitment and conditional release equal to the statutory maximum sentence for the offense in violation of ORS 161.327 (7), as amended by section 1 of this 2026 Act.

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

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

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

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

(4) Notwithstanding ORS 138.520, if post-conviction relief is granted under this section, the court shall vacate the original judgment of guilty except for insanity and enter a new judgment of guilty except for insanity with a total period of commitment and conditional release in accordance with ORS 161.327 (7), as amended by section 1 of this 2026 Act.

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