

Senate Bill 1114

Sponsored by Senator GELSER BLOUIN

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act limits how long a person found GEI can be committed or under supervision. (Flesch Readability Score: 61.8).

Limits the total term of commitment and conditional release for certain persons found guilty except for insanity to the sentence the person would have received under the sentencing guidelines or as required by a mandatory minimum sentence.

Establishes a process by which certain persons found guilty except for insanity and subject to a total period of commitment or conditional release equal to the statutory maximum sentence for the offense may petition for post-conviction relief.

A BILL FOR AN ACT

1 Relating to guilty except for insanity; creating new provisions; and amending ORS 161.327.

2 **Be It Enacted by the People of the State of Oregon:**

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

4 161.327. (1) After the defendant is found guilty except for insanity pursuant to ORS 161.319, if
5 the court finds by a preponderance of the evidence that a person found guilty except for insanity
6 of a felony is affected by a qualifying mental disorder and presents a substantial danger to others,
7 the court shall order as follows:
8

9 (a) If the court finds that the person is not a proper subject for conditional release, the court
10 shall order the person committed to a state hospital or, if the person is under 18 years of age, to a
11 secure intensive community inpatient facility for custody, care and treatment. When the court orders
12 a person committed under this paragraph, the court shall place the person under the jurisdiction
13 of the Psychiatric Security Review Board.

14 (b) If the court finds that the person can be adequately controlled with supervision and treat-
15 ment if conditionally released and that necessary supervision and treatment are available, the court
16 shall order the person conditionally released.

17 (2)(a) If a party intends to request conditional release under this section, the party shall, as soon
18 as practicable, notify the opposing party, the court and the board of the request. The party re-
19 questing conditional release shall make every effort to provide the notification in a manner that
20 allows sufficient time to carry out the provisions described in this subsection before the court de-
21 termination on conditional release.

22 (b) Upon receipt of a request for conditional release under this section:

23 (A) If the most serious offense in the charging instrument is a Class C felony, the court shall
24 order that a local mental health program designated by the board consult with the person to de-
25 termine whether the necessary supervision and treatment for the person are available in the com-
26 munity and appropriate for the person and shall order the release of any records to the program
27 director that are necessary to complete the consultation.

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.

1 (B) If the most serious offense in the charging instrument is a Class A or Class B felony, the
2 court may order that a local mental health program designated by the board consult with the person
3 to determine whether the necessary supervision and treatment for the person are available in the
4 community and appropriate for the person. If the court orders the consultation, the court shall fur-
5 ther order the release of any records to the program director that are necessary to complete the
6 consultation.

7 (3)(a) If the outcome of a consultation described in subsection (2)(b) of this section indicates that
8 the necessary supervision and treatment are available in the community and appropriate for the
9 person, the local mental health program shall evaluate the person to determine whether the person
10 can be adequately controlled with supervision and treatment if conditionally released, and the pro-
11 gram director shall provide to the court and to the board a report of the findings resulting from the
12 consultation, a report of the findings resulting from the evaluation and recommendations for treat-
13 ment.

14 (b) If the outcome of a consultation described in subsection (2)(b) of this section indicates that
15 the necessary supervision and treatment for the person are not available in the community or not
16 appropriate for the person, the program director shall submit to the court and to the board a report
17 of the findings resulting from the consultation and may include any recommendations for treatment.

18 (4) In determining whether a person should be conditionally released, the court:

19 (a) May order evaluations and examinations as provided in ORS 161.336 (3) and 161.346 (2) or
20 as otherwise needed by the court;

21 (b) Shall act in conformance with subsection (2)(b) of this section concerning an order for a local
22 mental health program designated by the board to consult with the person;

23 (c) Shall have as its primary concern the protection of society; and

24 (d) May not order conditional release without a report from the consultation described in sub-
25 section (2)(b) of this section and the evaluation described in subsection [(3)(b)] **(3)(a)** of this section.

26 (5) When a person is conditionally released under this section, the person is subject to those
27 supervisory orders of the court as are in the best interests of justice, the protection of society and
28 the welfare of the person. The court shall designate a person or state, county or local agency to
29 supervise the person upon release, subject to those conditions as the court directs in the order for
30 conditional release. Prior to the designation, the court shall notify the person or agency to whom
31 conditional release is contemplated and provide the person or agency an opportunity to be heard
32 before the court. After receiving an order entered under subsection (1)(b) of this section, the person
33 or agency designated shall assume supervision of the person pursuant to the direction of the board.
34 The person or agency designated as supervisor shall be required to report in writing no less than
35 once per month to the board concerning the supervised person's compliance with the conditions of
36 release.

37 (6) Upon placing a person on conditional release, the court shall within one judicial day provide
38 to the board an electronic copy of the conditional release order. The court shall additionally notify
39 the board in writing of the supervisor appointed and all other conditions of release, and the person
40 shall be on conditional release pending hearing before the board. Upon compliance with this sec-
41 tion, the court's jurisdiction over the person is terminated.

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

45 **(A) The presumptive sentence the person would have received if convicted of the crime**

1 under the sentencing guidelines of the Oregon Criminal Justice Commission, except as pro-
 2 vided in subparagraphs (B) and (C) of this paragraph;

3 (B) The mandatory minimum sentence the person would have received for the crime
 4 under ORS 137.700 or any other statute, if the crime is subject to a mandatory minimum
 5 sentence; or

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

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

11 (8) An order of the court under this section is a final order appealable by the person found
 12 guilty except for insanity in accordance with ORS 19.205 (5). Notwithstanding ORS 19.255, notice
 13 of an appeal under this section shall be served and filed within 90 days after the order appealed from
 14 is entered in the register. The person shall be entitled on appeal to suitable counsel possessing
 15 skills and experience commensurate with the nature and complexity of the case. If the person is fi-
 16 nancially eligible, suitable counsel shall be appointed in the manner provided in ORS 138.500 (1), and
 17 the compensation for counsel and costs and expenses of the person necessary to the appeal shall be
 18 determined and paid as provided in ORS 138.500.

19 (9) Following the order described in subsection (1) of this section, the court shall notify the
 20 person of the right to appeal and the right to a hearing before the board in accordance with ORS
 21 161.336 (5) and 161.341 (3).

22 (10) The board shall hold a review hearing within 90 days for a person conditionally released
 23 under this section.

24 (11) The board shall establish by rule standards for the consultations described in subsection
 25 (2)(b) of this section and the evaluations described in subsection (3)(a) of this section.

26 **SECTION 2. (1) Notwithstanding ORS 138.510 (3), at any time within one year after the**
 27 **effective date of this 2025 Act, a person who was found guilty except for insanity before the**
 28 **effective date of this 2025 Act may file a petition for post-conviction relief under ORS 138.510**
 29 **to 138.680 claiming, as grounds for relief, that the person was subject to a total period of**
 30 **commitment and conditional release equal to the statutory maximum sentence for the of-**
 31 **fense in violation of ORS 161.327 (7), as amended by section 1 of this 2025 Act.**

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

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

36 (a) The person was found guilty except for insanity and subject to a total period of com-
 37 mitment and conditional release equal to the statutory maximum sentence for the offense;
 38 and

39 (b) The use of the statutory maximum sentence to determine the total period of com-
 40 mitment and conditional release is not in conformance with ORS 161.327 (7), as amended by
 41 section 1 of this 2025 Act.

42 (4) Notwithstanding ORS 138.520, if post-conviction relief is granted under this section,
 43 the court shall vacate the original judgment of guilty except for insanity and enter a new
 44 judgment of guilty except for insanity with a total period of commitment and conditional
 45 release in accordance with ORS 161.327 (7), as amended by section 1 of this 2025 Act.

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

3 **SECTION 3.** **(1) Section 2 of this 2025 Act is repealed on January 2, 2028.**

4 **(2) The repeal of section 2 of this 2025 Act does not affect a petition for post-conviction**
5 **relief described in section 2 of this 2025 Act filed within the time limitations described in**
6 **section 2 of this 2025 Act.**

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