



Understanding Measure 11 and Proposed Changes

Executive Summary

Measure 11 provides minimum sentence requirements for Oregon’s most physically and sexually violent crimes. Proposed by the people—not politicians or prosecutors—Measure 11 represents reform of a criminal justice system that failed to protect crime victims and communities.

Before Measure 11, violent crime rates in Oregon skyrocketed, sentences announced in court were misleading and inequitable, and victims of sexual assault (especially women and children) were frequently denied justice. In the over 25 years since its passage, Measure 11 has provided a safer, more transparent and more just sentencing scheme.

Measure 11 has made Oregonians safer. After Measure 11 passed, Oregon’s violent crime rate dropped dramatically and more than anywhere else in the nation. As a result Oregon is a nationwide leader today at prioritizing limited prison beds for violent offenders.

Oregon voters today strongly support Measure 11. Measure 11 passed with 65% of the vote in 1994, it was reaffirmed in 2000 by 73% of the vote, and statewide polls have gauged voter support at 72% in 2013 and 78% in 2020.

Measure 11 addresses conduct not color. While racial and ethnic disparities exist in the justice system and require attention, multiple independent studies demonstrate that Measure 11 has not contributed to racial and ethnic disparities in the prison population.

Measure 11 sentences allow for judicial discretion. Under current Oregon law, judges may reduce any Measure 11 sentence if they determine that justice requires it or certain circumstances are present.

Measure 11 sentences are transparent. Measure 11 prohibits early release and ensures that the sentence announced in court is the sentence actually served by the offender. Like anyone serving a prison sentence in Oregon, those sentenced under Measure 11 are eligible to participate in treatment, education and training programs while in prison.

Measure 11 sentences are reasonable.

Crime Example	Measure 11	Proposed Legislation
Raping a teenager at knifepoint	8.3 years	2.8 years or probation
Intentionally suffocating a baby and causing permanent blindness	7.5 years	2.8 years or probation
Attempted Murder	7.5 years	2.8 years or probation
Filming an adult raping a child	5.8 years	7.2 months or probation

Oregon’s sentencing laws are complicated. Please consult with your local District Attorney for additional information regarding current law and the impact of proposed changes. The attached fact sheet and chart provide additional information.



Measure 11 Fact Sheet

History

- Ballot Measure 11 was passed by Oregon voters in 1994 and became effective on April 1, 1995.
- Voters have overwhelmingly supported Measure 11 twice. In 1994 it was passed with 65.64% of the vote¹ and in 2000 voters rejected an effort to repeal Measure 11 by 73.49% of the vote.²
- Along with Measure 11, Oregon voters also passed Measure 10 which requires a supermajority vote by the legislature to change Measure 11.³
- Opinion polls demonstrate continued support for Measure 11. A statewide poll in 2013 demonstrated 72% of Oregon voters oppose repealing Measure 11.⁴ Another statewide poll in 2020 showed 78.3% of Oregon voters oppose repealing Measure 11.⁵

How Measure 11 works

- Measure 11 provides minimum sentences for defendants who are convicted of Oregon's most physically violent and sexually violent felony crimes. A chart listing Measure 11 crimes and sentences is attached.
- Measure 11 applies only to violent crimes.
- Measure 11 provides transparent, uniform and equitable sentencing for crime victims and the public, requiring convicted defendants to serve their entire prison sentence without early release.
- Measure 11 offenders can still participate in work, education, and treatment program opportunities—they just cannot have their sentences reduced.
- Measure 11 sentences are not truly “mandatory.” Judges often have the power and ability to use their discretion to impose a lesser sentence provided they make particular findings in open court.⁶

¹ [https://ballotpedia.org/Oregon_Mandatory_Sentences_for_Listed_Felonies_Measure_11_\(1994\)](https://ballotpedia.org/Oregon_Mandatory_Sentences_for_Listed_Felonies_Measure_11_(1994)) and <http://records.sos.state.or.us/ORSOSWebDrawer/RecordView/7593835>

² [https://ballotpedia.org/Oregon_Repeal_of_Mandatory_Minimum_Sentences_Measure_94_\(2000\)](https://ballotpedia.org/Oregon_Repeal_of_Mandatory_Minimum_Sentences_Measure_94_(2000)) and <http://records.sos.state.or.us/ORSOSWebDrawer/RecordView/6920724>

³ [https://ballotpedia.org/Oregon_Legislature_Cannot_Reduce_Voter-Approved_Sentence_Without_Supermajority_Measure_10_\(1994\)](https://ballotpedia.org/Oregon_Legislature_Cannot_Reduce_Voter-Approved_Sentence_Without_Supermajority_Measure_10_(1994)) and <http://records.sos.state.or.us/ORSOSWebDrawer/RecordView/7593835>

⁴ <https://www.crimevictimsunited.org/news/2013/pr-2013-04-16.pdf>

⁵ https://washcoda.s3-us-west-2.amazonaws.com/s3fs-public/FINAL_ODAStatement.pdf?MhvoQIydZYgcqm6EHV7.LIfW_RdVbX3z and https://f089a6f3-e440-4f12-9600-0d9903293503.filesusr.com/ugd/818f22_93baf9ce1d8d4f1b94f0303c14bab6d2.pdf

⁶ See [ORS 137.712](#) (allowing judges to impose less prison time or no prison time for certain Measure 11 crimes including second degree manslaughter, assault, kidnapping, robbery, rape, sodomy, unlawful sexual penetration, and first degree sexual abuse); see also [State v Rodriguez/Buck, 347 Or 46 \(2009\)](#) (allowing judges to impose less prison time or no prison time if the Measure 11 sentence is too severe based on the circumstances of the case).

Impacts of Measure 11

- **Measure 11 triggered a dramatic drop in violent crime**

When voters passed Measure 11 in 1994, violent crime rates in Oregon were at historically high levels. Since the passage of Measure 11, violent crime dropped by over 50%⁷, dropping to its lowest level since the 1960s.⁸

While violent crime declined nationwide during this period, Oregon's violent crime rate declined more than anywhere else in the nation. In the first seven years after Measure 11, Oregon's violent crime rate dropped by 44%, more than any other state in the nation.⁹

- The following chart illustrates FBI violent crime rate for Oregon as compared to the United States following the passage of Measure 11

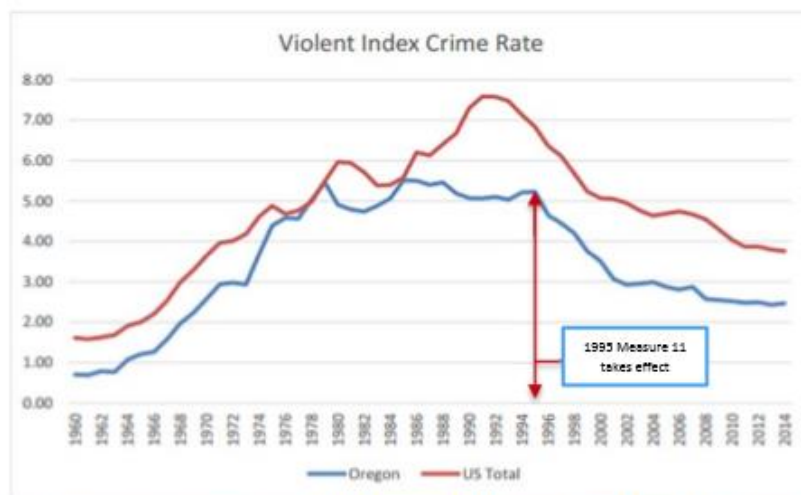


Figure 1 Source: Oregon Criminal Justice Commission. [2015 Release of FBI Uniform Crime Reports for Oregon \(September 26, 2016\)](#)

- **Measure 11 addresses conduct not color**

Measure 11 promotes uniform minimum sentences and address conduct not color. While racial disparities remain present in Oregon's prison system and require continued attention, Measure 11 is not the cause of those disparities. Data demonstrates that some disparities have actually decreased following passage of Measure 11.

- In **2004** the RAND Corporation was asked by Oregon's Criminal Justice Commission (CJC) to conduct a study regarding the implementation and outcomes of Measure 11.¹⁰ Among its findings, the study concluded:

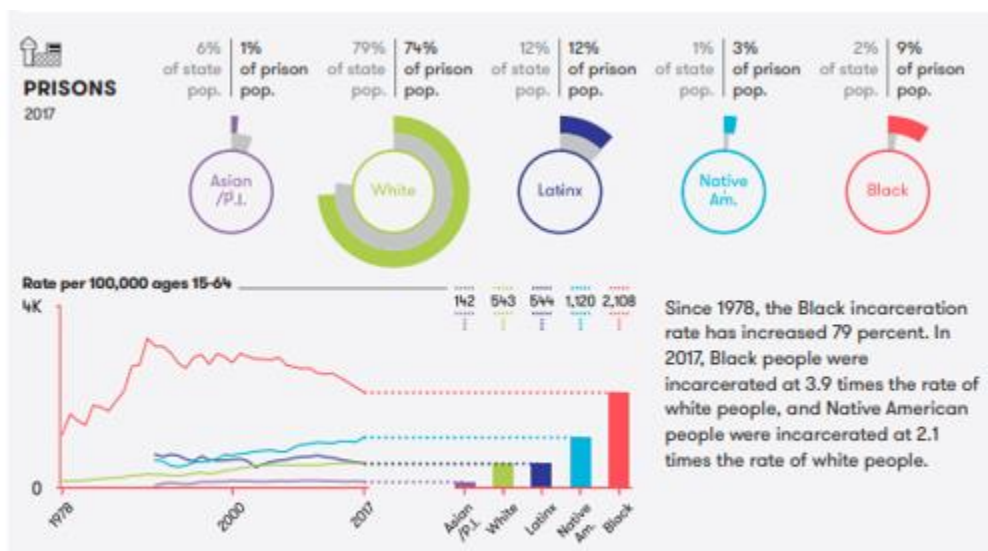
⁷ See FBI Index 1 violent crime rates per 100,000 population; see also Oregon Legislative Fiscal Office, Correctional Spending Trends, September 2011, p. 8.

⁸ FBI Crime in the United States Uniform Crime Reporting Series

⁹ See <https://crime-data-explorer.fr.cloud.gov/explorer/national/united-states/crime> (FBI data for violent crimes shows Oregon leading the nation in violent crime drop between 1995 and 2002 with a 44% drop compared to the national average of 28%)

¹⁰ https://www.rand.org/pubs/technical_reports/TR142.html

- “[W]hile non-whites are in fact disproportionately represented within Oregon’s offender population, there is no evidence that Measure 11 has exacerbated this disparity.”
 - “The data suggest that the implementation of Measure 11 did not introduce bias toward minority offenders.”
- In **2011** the CJC reviewed 16 years of Measure 11 data. The CJC characterized the “typical M11 offender” as white (74%), male (91%), adult (89%) with no prior adult felony convictions.¹¹
- In **2019** the Vera Institute released a report with data that shows since the effective date of Measure 11 in 1995, Oregon’s white incarceration rate has increased, Black incarceration rate has decreased, and Latinx incarceration rate has remained relatively steady.¹²



Source: Vera Institute

- In **2021** an analysis of Oregon prison data from 1994 to present showed that while racial disparities in Oregon’s prison population remain present and require attention, they have *decreased* while Measure 11 has been in effect.
 - Between 1994 and 2021, the prison population disparity for African American inmates reduced by half, prison population disparity for Hispanic inmates was eliminated, and prison population disparity for Native Americans has remained unchanged.¹³

¹¹ <https://media.oregonlive.com/pacific-northwest-news/other/Measure%2011%20Analysis%20030911.pdf>

¹² <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-oregon.pdf>

¹³ Application of the Relative Rate Index (a tool used to measure disparities in populations) to data obtained from the Oregon Department of Corrections shows that between 1994 and January 2021 prison population disparity for African-American inmates reduced by half (going from 8.2:1 to 4.2:1), prison population disparity for Hispanic inmates was eliminated (going from 2.61:1 to less than 1:1), and the prison population disparity for Native American inmates remained essentially unchanged (from 1.72:1 to 1.77:1). During this same time period, the prison

- **Measure 11 helps reduce disparities in prison sentencing**

Measure 11 provides a uniform sentence for Oregon's most violent crimes regardless of the offender's criminal history. By contrast, the sentencing guidelines and current legislative proposals allow criminal history to play a significant role in determining an offender's sentence. If criminal history scores are disproportionate for certain demographic groups, then relying on criminal history will worsen these disparities.

- **Measure 11 focuses Oregon's prisons on violent offenders**

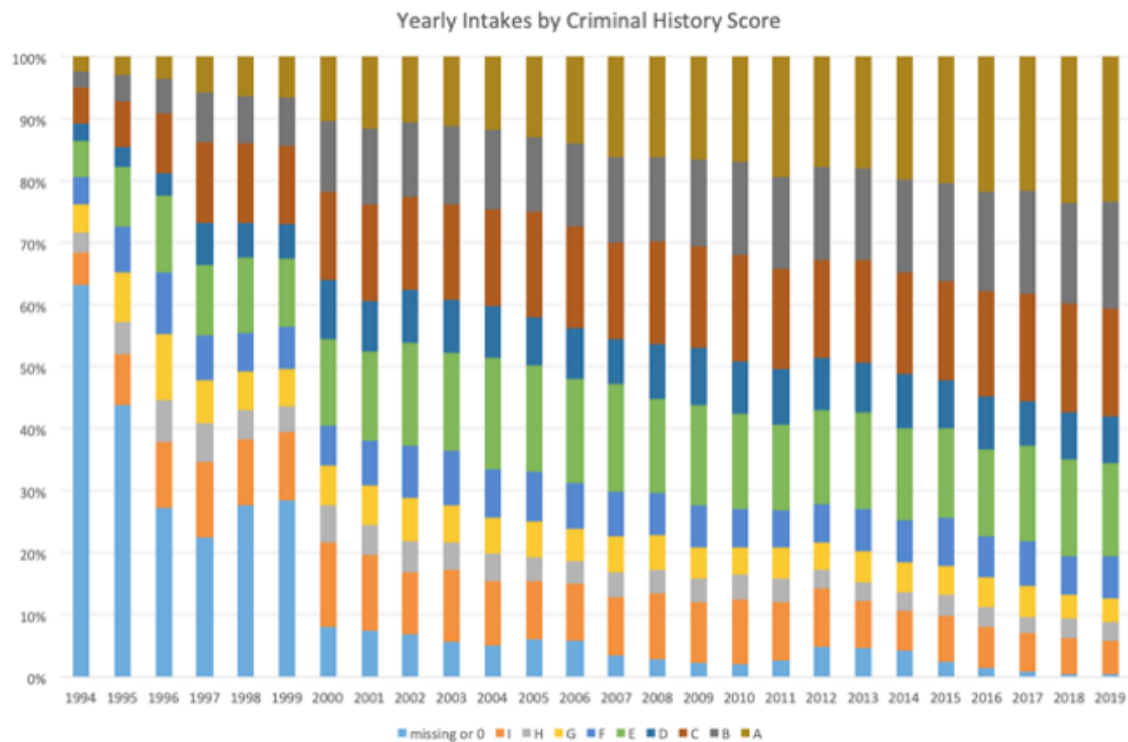
Measure 11 has allowed Oregon to focus its limited prison beds on violent offenders more than most states in the nation.

- 73.5% of Oregon prison inmates are serving a sentence for a violent felony, including Measure 11 crimes.¹⁴ Oregon is a leader in the nation in use of prison beds for violent offenders.¹⁵
- The graphic below from the Criminal Justice Commission demonstrates how the population of offenders serving prison sentences over the past 20+ years have grown increasingly more violent.

population disparity for white inmates increased from .787:1 to .861:1. While disparities remain in the prison system, the data does not demonstrate an increase in prison population disparities for those demographic groups while Measure 11 has been in effect.

¹⁴ <https://www.oregon.gov/doc/Documents/inmate-profile.pdf>

¹⁵ <https://www.bjs.gov/content/pub/pdf/p18.pdf>



Source: Criminal Justice Commission

Criminal history categories for offenders is ranked on a continuum alphabetically from most serious criminal history “A” (signifying multiple prior person felony convictions) to least serious “I” (signifying no prior felony or A misdemeanor convictions). OAR 213-04-007

- **Measure 11 provides transparent sentences for victims and the public**
 Measure 11 sentences are accurate and understandable. When a judge announces a sentence in court, the victim and public can trust that the offender will serve that entire sentence. Prior to Measure 11, judges would pronounce a sentence but offenders would serve a far lesser sentence.
 - If Measure 11 were repealed, Oregon’s sentencing laws would not only require the sentence announced in court to be significantly lower, but that announced sentence could be further reduced by as much as 40% or more through various prison time reduction programs or judicial discretion.¹⁶ Many of the Measure 11 repeal bills would allow judges to impose probation (no incarceration) for any crime.

¹⁶ Time reduction programs include earned time (ET), short term transitional leave (STTL) and alternative incarceration programs (AIPs) pursuant to ORS 137.751.

Conclusion

Oregon's criminal justice system should continue to reform and evolve to ensure it reflects the current values and needs of our community. Areas of attention include combatting racial and ethnic disparities, improving responses to mental health, and addressing root causes of crime including childhood trauma and addiction. In so doing, we must maintain aspects of our criminal justice system that have proven to be effective and fair. Measure 11 is a twice voter-approved ballot measure that has kept Oregonians safe and provided justice to victims of violent physical and sexual assaults.

Understanding 2021 Proposed Changes to Measure 11 Sentences

Crime	Example	Measure 11 Sentence ⁱ	New Presumptive Sentence with ET ⁱⁱ Reductions in SB 191, SB 401, HB 2002, and HB 2172 (with ET and AIP reductions – not applicable to SB 191) ⁱⁱⁱ	Guideline Sentence ^{iv} with ET Reductions in SB 401, HB 2002, and HB 2172 (with ET and AIP reductions)
Aggravated Vehicular Homicide	Driving a car while intoxicated and with a previous manslaughter conviction and causing a crash that kills another person	20 years	16 years (12.6 years)	6.1 years (4.6 years) or probation
Arson 1 (CS ^v 10)	Intentionally starting a fire in an apartment that causes serious physical injury to a firefighter	7.5 years	6 years (4.6 years)	3.9 years (2.8 years) or probation
Assault 1 (CS 10)	Intentionally suffocating a baby and causing permanent brain injury	7.5 years	6 years (4.6 years)	3.9 years (2.8 years) or probation
Assault 1 (CS 9)	Intentionally shooting a person with a gun and causing permanent paralysis	7.5 years	6 years (4.6 years)	2.3 years (1.6 years) or probation



Crime	Example	Measure 11 Sentence	New Presumptive Sentence with ET Reductions in SB 191, SB 401, HB 2002, and HB 2172 (with ET and AIP reductions – not applicable to SB 191)	Guideline Sentence with ET Reductions in SB 401, HB 2002, and HB 2172 (with ET and AIP reductions)
Assault 2	Intentionally stabbing a person with a knife and causing a non-life threatening injury	5.8 years	<u>SB 191, SB 401, and HB 2172</u> 4.7 years (3.5 years)	<u>SB 401 and HB 2172</u> 2.3 years (1.6 years) or probation
Attempted Aggravated Murder	Shooting a child with a gun in an intentional and premeditated attempt to kill the child, but the child lives	10 years	8 years (6.2 years)	3.9 years (2.8 years) or probation



Crime	Example	Measure 11 Sentence	New Presumptive Sentence with ET Reductions in SB 191, SB 401, HB 2002, and HB 2172 (with ET and AIP reductions – not applicable to SB 191)	Guideline Sentence with ET Reductions in SB 401, HB 2002, and HB 2172 (with ET and AIP reductions)
Attempted Murder 1	Attempting to kill another person and being paid to do it	7.5 years	6 years (4.6 years)	3.9 years (2.8 years) or probation
Attempted Murder 2	Attempting to kill another person	7.5 years	6 years (4.6 years)	2.3 years (1.6 years) or probation
Compelling Prostitution	Causing a child to engage in prostitution	5.8 years	4.7 years (3.5 years)	1.1 years (7.2 months) or probation
Kidnapping 1	Taking a teenager or adult with the intent of raping them	7.5 years	6 years (4.6 years)	3.9 years (2.8 years) or probation



Crime	Example	Measure 11 Sentence	New Presumptive Sentence with ET Reductions in SB 191, SB 401, HB 2002, and HB 2172 (with ET and AIP reductions – not applicable to SB 191)	Guideline Sentence with ET Reductions in SB 401, HB 2002, and HB 2172 (with ET and AIP reductions)
Kidnapping 1 (sex crime where victim is a child under 12)	Taking a child under 12 with the intent of raping them	25 years	20 years (15.8 years)	3.9 years (2.8 years) or probation
Kidnapping 2	Taking an adult from one place to another so that they cannot be found	5.8 years	4.7 years (3.5 years)	2.3 years (1.6 years) or probation
Manslaughter 1	Firing a gun into a crowd without caring whether anyone is killed and actually killing someone	10 years	8 years (6.2 years)	3.9 years (2.8 years) or probation
Manslaughter 2 (CS 9)	Recklessly killing someone while driving under the influence of intoxicants	6.3 years	5 years (3.8 years)	2.3 years (1.6 years) or probation



Crime	Example	Measure 11 Sentence	New Presumptive Sentence with ET Reductions in SB 191, SB 401, HB 2002, and HB 2172 (with ET and AIP reductions – not applicable to SB 191)	Guideline Sentence with ET Reductions in SB 401, HB 2002, and HB 2172 (with ET and AIP reductions)
Manslaughter 2 (CS 8)	Driving by a home and recklessly firing a gun into the home and killing someone inside	6.3 years	5 years (3.8 years)	1.1 years (7.2 months) or probation
Rape 1 (of a child under 12)	Raping a child under 12	25 years	20 years (15.8 years)	3.9 years (2.8 years) or probation
Rape 1 (CS 10)	Forcibly raping a teenager or adult at gunpoint	8.3 years	6.7 years (5.1 years)	3.9 years (2.8 years) or probation
Rape 1 (CS 9)	Forcibly raping a teenager or adult without threatening use of a weapon	8.3 years	6.7 years (5.1 years)	2.3 years (1.6 years) or probation
Rape 2	Raping a child aged 12 or 13	6.3 years	5 years (3.8 years)	1.1 years (7.2 months) or probation



Crime	Example	Measure 11 Sentence	New Presumptive Sentence with ET Reductions in SB 191, SB 401, HB 2002, and HB 2172 (with ET and AIP reductions – not applicable to SB 191)	Guideline Sentence with ET Reductions in, SB 401, HB 2002, and HB 2172 (with ET and AIP reductions)
Robbery 1	Holding up a convenience store by pointing a loaded gun at the cashier	7.5 years	6 years (4.6 years)	2.3 years (1.6 years) or probation
Robbery 2	Holding up a convenience store by pointing a realistic looking replica gun	5.8 years	<u>SB 191, SB 401, and HB 2172</u> 4.7 years (3.5 years) <u>HB 2002</u> 2 years (1.4 years)	<u>SB 401 and HB 2172</u> 2.3 years (1.6 years) or probation <u>HB 2002</u> 2 years (1.4 years) or probation
Sex Abuse 1	Fondling the vaginal area of a child under 14	6.3 years	<u>SB 191, SB 401, and HB 2172</u> 5 years (3.8 years) <u>HB 2002</u> 2 years (1.4 years)	1.1 years (7.2 months) or probation



Crime	Example	Measure 11 Sentence	New Presumptive Sentence with ET Reductions in SB 191, SB 401, HB 2002, and HB 2172 (with ET and AIP reductions – not applicable to SB 191)	Guideline Sentence with ET Reductions in SB 401, HB 2002, and HB 2172 (with ET and AIP reductions)
Unlawful Sexual Penetration 1 (of a child under 12)	Inserting a foreign object into the vagina or anus of a child under 12	25 years	20 years (15.8 years)	3.9 years (2.8 years) or probation
Unlawful Sexual Penetration 1 (CS 10)	Forcibly inserting a foreign object into the vagina or anus of a teenager or adult at gunpoint	8.3 years	6.7 years (5.1 years)	3.9 years (2.8 years) or probation
Unlawful Sexual Penetration 1 (CS 9)	Forcibly inserting a foreign object into the vagina or anus of a teenager or adult	8.3 years	6.7 years (5.1 years)	2.3 years (1.6 years) or probation
Unlawful Sexual Penetration 2	Inserting a foreign object into the vagina or anus of a child aged 12 or 13	6.3 years	5 years (3.8 years)	1.1 years (7.2 months) or probation
Sodomy 1 (of a child under 12)	An adult engaging in anal or oral intercourse with a child under 12	25 years	20 years (15.8 years)	3.9 years (2.8 years) or probation



Crime	Example	Measure 11 Sentence	New Presumptive Sentence with ET Reductions in SB 191, SB 401, HB 2002, and HB 2172 (with ET and AIP reductions – not applicable to SB 191)	Guideline Sentence with ET Reductions in SB 401, HB 2002, and HB 2172 (with ET and AIP reductions)
Sodomy 1 (CS 10)	Forcing a teenager or adult to engage in anal or oral intercourse at gunpoint	8.3 years	6.7 years (5.1 years)	3.9 years (2.8 years) or probation
Sodomy 1 (CS 9)	Forcing a teenager or adult to engage in anal or oral intercourse	8.3 years	6.7 years (5.1 years)	2.3 years (1.6 years) or probation
Sodomy 2	Engaging in anal or oral intercourse with child aged 12 or 13	6.3 years	5 years (3.8 years)	1.1 years (7.2 months) or probation
Using a Child in a Display of Sexually Explicit Conduct	Filming an adult raping a child	5.8 years	4.7 years (3.5 years)	1.1 years (7.2 months) or probation



Endnotes

ⁱ Oregon voters passed Measure 11 in 1994 and again affirmed it in 2000. Since that time, the legislature has made incremental modifications for adult offenders such as adding several additional minimum sentence crimes, increasing certain sentences and creating an “opt out” provision to allow for greater judicial discretion on certain crimes. These laws are collectively found in ORS 137.700 and ORS 137.712 and are commonly referred to as “Measure 11.”

ⁱⁱ SB 401, HB 2002, and HB 2172 amend the presumptive sentence for the listed offenses by permitting eligibility for Earned Time (ET), Alternative Incarceration Programs (AIP) and Short Term Transitional Leave (STTL). ET can reduce an offender’s sentence by up to 20%; AIP can reduce an offender’s sentence by an additional 20%, plus three months of non-prison leave; and STTL can reduce an offender’s sentence by up to four months (an offender may not receive both AIP and STTL). SB 191 would allow a 20% ET reduction on an offender’s presumptive sentence (including retroactively to offenders previously sentenced and in DOC custody), but not AIP or STTL.

ⁱⁱⁱ Presently, offenders sentenced under Measure 11 are prohibited from receiving sentence reductions for AIP and STTL by administrative rule. The sentences in parentheses assume that the DOC will amend its rules to allow AIP or that a statutory change will override the OAR.

^{iv} SB 401, HB 2002, and HB 2172 allow judges to sentence defendants based on the felony sentencing grid, instead of using the presumptive sentence. The sentences in this column equal the duration of those minimum sentences. OAR Chapter 213, Divisions 5 and 8 also permit a sentencing judge to make certain findings and impose a probationary sentence instead of these guideline prison sentences.

^v “CS” denotes the crime seriousness score assigned to the crime by the Criminal Justice Commission. The CS score is noted only when there are other versions of the same charge that carry a different penalty.

^{vi} HB 2002 differs from SB 191, SB 401, and HB 2172 by further reducing the sentences for three Measure 11 crimes: Assault 2, Robbery 2, and Sex Abuse 1.

