

WAC 381-90-052 Release determination for juvenile board cases.

(1)(a) RCW 10.95.030(3) requires that any convicted person sentenced under its provisions shall be subject to a board hearing to determine releasability. The hearing shall be held on the first available hearing date following the completion of the court-imposed minimum term.

(b) No later than 180 days prior to the expiration of the minimum term, the department shall conduct, and the individual shall participate in a psychological evaluation. The evaluation shall include, but is not limited to:

(i) A prediction based upon administration of actuarial risk assessment instruments and the criminal history of the person, of the likelihood that the individual will engage in future criminal behavior if released on conditions to be set by the board;

(ii) The institutional progress report(s) covering the inmate's adjustment, achievement, infractions, and program participation during incarceration;

(iii) Prior psychiatric or psychological reports such as IQ appraisals or personality inventories;

(iv) Behavioral details of the crime(s) of conviction, such as law enforcement reports, prosecutor's statements, court records, and presentence investigation reports;

(v) The department's risk management level and the sex offender notification level (if applicable).

(2) According to the provisions of RCW 9.94A.730, any person who meets the specified criteria may petition the board for early release. The hearing will be held upon receipt of a psychological evaluation and after completion of appropriate notifications pursuant to RCW 9.95.422.

(a) If an individual does not meet eligibility criteria, the board will notify the person of the denial of their petition, and will provide information whether the individual will be eligible to petition at a future date.

(b) No later than 180 days from the receipt of the approved petition for early release, the department shall conduct, and the individual shall participate in a psychological evaluation. The evaluation shall include information as noted under subsection (1)(b) of this section.

(c) RCW 9.95.422 requires that the board must provide notice of release hearings, a copy of the petition for early release, and any evaluation or information relevant to the release decision without redaction, except as provided by law, to the sentencing court, the prosecuting attorney, and the crime victim or surviving family member upon request, at least 90 days prior to the early release hearing.

(3) For hearings held under either RCW 10.95.030(3) or 9.94A.730, the board shall determine whether it is more likely than not the individual will engage in new criminal law violations if released to the community in spite of board-imposed conditions of community custody. The board decision related to an individual's likelihood of criminal reoffense is based upon a preponderance of the evidence.

(4) In making a release decision, the board may also consider:

(a) An end of sentence review committee report if the individual has been convicted of an offense with sexual elements;

(b) A psychological report;

(c) Rehabilitative efforts and the length of time necessary for the individual to complete treatment and programming;

(d) The individual's failure to participate in required evaluations;

(e) The individual's proposed release plan;

(f) Testimony of relevant persons related to the case to include but not limited to the case manager or designee and any relevant treatment providers or designee; and

(g) Other pertinent information.

(5) If the board finds an individual sentenced under RCW 10.95.030(3) not releasable, the board may add up to five years to the minimum term. Subsequent hearings will be held approximately 90 days prior to the expiration of the minimum term.

(a) The individual may request an earlier review when they have completed required treatment or programming.

(b) The board retains the authority to schedule an earlier review at its discretion.

(6) If the board finds an individual who filed a petition for early release consideration pursuant to RCW 9.94A.730 not releasable, the individual may file a new petition for early release five years from the date of the denial, or at an earlier date as set by the board.

(7) RCW 9.95.422 requires that the board provide comprehensive minutes of all related meetings and hearings on petitions for early release filed pursuant to RCW 9.94A.730 within 30 days of the meeting or hearing. Minutes will be posted to the public website of the board.

[WSR 23-14-109, § 381-90-052, filed 7/3/23, effective 8/3/23.]

Reviser's note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.