RCW 9.94A.728 Release prior to expiration of sentence. (1) No incarcerated individual serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(a) An incarcerated individual may earn early release time as authorized by RCW 9.94A.729;

(b) An incarcerated individual may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, incarcerated individuals may leave a correctional facility when in the custody of a corrections officer or officers;

(c)(i) The secretary may authorize an extraordinary medical placement for an incarcerated individual when all of the following conditions exist:

(A) The incarcerated individual has been assessed by two physicians and is determined to be one of the following:

(I) Affected by a permanent or degenerative medical condition to such a degree that the individual does not presently, and likely will not in the future, pose a threat to public safety; or

(II) In ill health and is expected to die within six months and does not presently, and likely will not in the future, pose a threat to public safety;

(B) The incarcerated individual has been assessed as low risk to the community at the time of release; and

(C) It is expected that granting the extraordinary medical placement will result in a cost savings to the state.

(ii) An incarcerated individual sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(iii) The secretary shall require electronic monitoring for all individuals in extraordinary medical placement unless the electronic monitoring equipment is detrimental to the individual's health, interferes with the function of the individual's medical equipment, or results in the loss of funding for the individual's medical care, in which case, an alternative type of monitoring shall be utilized. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(iv) The secretary may revoke an extraordinary medical placement under this subsection (1)(c) at any time.

(v) Persistent offenders are not eligible for extraordinary medical placement;

(d) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release:

(i) For reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances; or

(ii) Pursuant to RCW 9.94A.885;

(e) No more than the final 18 months of the incarcerated individual's term of confinement may be served in partial confinement for aiding the incarcerated individual with: Finding work as part of the work release program under chapter 72.65 RCW; [or] reestablishing himself or herself in the community as part of the parenting program in RCW 9.94A.6551. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

(f)(i) No more than the final nine months of the incarcerated individual's term of confinement may be served in partial confinement

as home detention as part of the graduated reentry program developed by the department under RCW 9.94A.733(1)(a);

(ii) For eligible incarcerated individuals under RCW 9.94A.733(1)(b), after serving at least three months in total confinement in a state correctional facility, an incarcerated individual may serve no more than the final 18 months of the incarcerated individual's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department;

(g) The governor may pardon any incarcerated individual;

(h) The department may release an incarcerated individual from confinement any time within 10 days before a release date calculated under this section;

(i) An incarcerated individual may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870;

(j) Notwithstanding any other provisions of this section, an incarcerated individual sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540; and

(k) Any individual convicted of one or more crimes committed prior to the individual's 18th birthday may be released from confinement pursuant to RCW 9.94A.730.

(2) Notwithstanding any other provision of this section, an incarcerated individual entitled to vacation of a conviction or the recalculation of his or her offender score pursuant to *State v. Blake*, No. 96873-0 (Feb. 25, 2021), may be released from confinement pursuant to a court order if the incarcerated individual has already served a period of confinement that exceeds his or her new standard range. This provision does not create an independent right to release from confinement prior to resentencing.

(3) Individuals residing in a juvenile correctional facility placement pursuant to RCW 72.01.410(1)(a) are not subject to the limitations in this section. [2025 c 407 s 6; 2025 c 371 s 6; 2023 c 358 s 1. Prior: 2021 c 311 s 19; 2021 c 266 s 2; 2018 c 166 s 2; prior: 2015 c 156 s 1; 2015 c 134 s 3; 2010 c 224 s 6; prior: 2009 c 455 s 2; (2009 c 455 s 1 expired August 1, 2009); 2009 c 441 s 1; 2009 c 399 s 1; 2008 c 231 s 34; 2007 c 483 s 304; 2004 c 176 s 6; 2003 c 379 s 1; prior: 2002 c 290 s 21; 2002 c 50 s 2; 2000 c 28 s 28; prior: 1999 c 324 s 1; 1999 c 37 s 1; 1996 c 199 s 2; 1995 c 129 s 7 (Initiative Measure No. 159); 1992 c 145 s 8; 1990 c 3 s 202; 1989 c 248 s 2; prior: 1988 c 153 s 3; 1988 c 3 s 1; 1984 c 209 s 8; 1982 c 192 s 6; 1981 c 137 s 15. Formerly RCW 9.94A.150.]

Reviser's note: This section was amended by 2025 c 371 s 6 and by 2025 c 407 s 6, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Retroactive application—Findings—Intent—2025 c 407: See notes following RCW 9.94A.6551.

Effective date—2021 c 311 ss 1-11 and 13-21: See note following RCW 71.24.115.

Retroactive application—2021 c 266: See note following RCW 9.94A.733.

Effective date—2015 c 134: See note following RCW 9.94A.501.

Effective date—2009 c 455 s 2: "Section 2 of this act takes effect August 1, 2009." [2009 c 455 s 5.]

Expiration date—2009 c 455 s 1: "Section 1 of this act expires August 1, 2009." [2009 c 455 s 6.]

Effective date—2009 c 441: "This act takes effect August 1, 2009." [2009 c 441 s 2.]

Effective date—2009 c 399: "This act takes effect August 1, 2009." [2009 c 399 s 2.]

Intent—Application—Application of repealers—Effective date—2008 c 231: See notes following RCW 9.94A.701.

Severability—2008 c 231: See note following RCW 9.94A.500.

Findings—2007 c 483: See RCW 72.78.005.

Severability—Effective date—2004 c 176: See notes following RCW 9.94A.515.

Severability—2003 c 379: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2003 c 379 s 28.]

Effective dates—2003 c 379: "(1) Sections 1 through 12, 20, and 28 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2003.

(2) Sections 13 through 19 and 21 through 27 of this act take effect October 1, 2003." [2003 c 379 s 29.]

Effective date—2002 c 290 ss 7-11 and 14-23: See note following RCW 9.94A.515.

Intent—2002 c 290: See note following RCW 9.94A.517.

Intent—2002 c 50: "The legislature has determined in RCW 9.94A.728(2) that the department of corrections may transfer offenders to community custody status in lieu of earned release time in accordance with a program developed by the department of corrections. It is the legislature's intent, in response to: *In re: Capello 106 Wn.App. 576 (2001)*, to clarify the law to reflect that the secretary of the department has, and has had since enactment of the community placement act of 1988, the authority to require all offenders, eligible for release to community custody status in lieu of earned release, to provide a release plan that includes an approved residence

and living arrangement prior to any transfer to the community." [2002 c 50 s 1.]

Application—2002 c 50: "This act applies to all offenders with community placement or community custody terms currently incarcerated either before, on, or after March 14, 2002." [2002 c 50 s 3.]

Severability—2002 c 50: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2002 c 50 s 4.]

Effective date—2002 c 50: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 14, 2002]." [2002 c 50 s 5.]

Technical correction bill—2000 c 28: See note following RCW 9.94A.015.

Severability—1996 c 199: See note following RCW 9.94A.505.

Findings and intent—Short title—Severability—Captions not law—1995 c 129: See notes following RCW 9.94A.510.

Application—1989 c 248: See note following RCW 9.92.151.

Effective date—Application of increased sanctions—1988 c 153: See notes following RCW 9.94A.030.

Effective dates—1984 c 209: See note following RCW 9.94A.030.

Effective date—1981 c 137: See RCW 9.94A.905.