

**WAC 381-90-050 Release determination for community custody board cases.** (1) RCW 9.95.420 requires that any convicted person sentenced under the provisions of RCW 9.94A.507 shall be subject to a board hearing to determine releasability. The hearing must be held no later than 90 days before the expiration of the minimum term. However the hearing cannot be held unless the board has received:

(a) The results from the end of sentence review process;  
(b) Recommendations for conditions of community custody from the department.

(2) The end of sentence review committee report may include, but is not limited to:

(a) A prediction based upon the administration of actuarial risk assessment instruments and the sexual and criminal history of the person, of the likelihood that the individual will commit new sex offenses if released;

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

(c) Psychiatric or psychological reports, such as IQ appraisals, personality inventories, actuarial risk assessments and sexual history polygraphs;

(d) Behavioral details of the crime(s) of conviction, such as law enforcement reports, prosecutor's statements, court records, and pre-sentence investigation reports;

(e) Recommendations for conditions of community custody in addition to those set by the sentencing court;

(f) The department's risk management level and the sex offender notification level;

(g) Written confirmation that the individual has had an opportunity to review the information the department is submitting to the board and an opportunity to make a written statement.

(3) The board shall determine whether it is more likely than not that the individual will engage in sex offenses if released to the community in spite of board-imposed conditions of community custody. The board decision related to an individual's likelihood of sexual re-offense is based upon a preponderance of the evidence.

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

(a) The length of time necessary for the individual to complete treatment and programming;

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

(c) The individual's proposed release plan;

(d) 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

(e) Other pertinent information.

(5) If the board finds the individual not releasable, the board may add up to 60 months to the minimum term.

(6) If the individual is found not releasable and time is added to 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.

[WSR 23-14-109, § 381-90-050, filed 7/3/23, effective 8/3/23. Statutory Authority: RCW 34.05.220 (1)(b). WSR 09-08-109, § 381-90-050, filed 3/31/09, effective 5/1/09.]

**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.