

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Program Services Division: Health Care Services Rule: HIV/AIDS ACA: 4-JCF-4C-25 3-JCRF-4C-22 Statutes: Health and Safety Code §81.050 Code of Criminal Procedure, Article 18.22	Effective Date: 12/1/16 Page: 1 of 3 Replaces: GAP.380.9197, 4/15/15
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RULE

(a) **Purpose.**

This rule provides for a safe and healthy environment for youth in Texas Juvenile Justice Department (TJJD) residential facilities by offering HIV/AIDS education, testing, and counseling/treatment and by ensuring compliance with confidentiality and reporting laws. Each youth is treated equally, and every youth's right to privacy is respected.

(b) **Definitions.**

- (1) **AIDS**--Acquired immune deficiency syndrome, as defined by the Centers for Disease Control and Prevention (CDC).
- (2) **HIV**--Human immunodeficiency virus.
- (3) **Test Result**--Any statement indicating that an identifiable individual has or has not been tested for HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS. This includes a statement or assertion that the individual is positive, negative, at risk, or has or does not have a certain level of antigen or antibody.

(c) **Testing.**

- (1) Testing for HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS is part of routine laboratory testing performed when a youth is admitted to TJJD and does not require a specific consent form.
- (2) Youth have the right to refuse HIV testing in writing, including routine HIV testing performed during admission, except as provided by law.
- (3) HIV testing is not performed routinely as a result of an assault.
- (4) HIV testing may be performed on a youth only when:
 - (A) the youth is admitted to TJJD;
 - (B) the testing is requested by the youth and/or the testing is performed with the youth's consent after his/her admission to TJJD;
 - (C) the testing is compelled by a Texas Department of State Health Services (DSHS) order or court order following a request made by TJJD staff in accordance with [§81.050 of the Texas Health and Safety Code](#);
 - (D) the testing is compelled by a court order following a request made by TJJD staff in accordance with [Article 18.22 of the Texas Code of Criminal Procedure](#); and/or
 - (E) the testing is directed by a warrant obtained by the TJJD Office of Inspector General or other law enforcement entity.

- (5) Blood may be collected for HIV testing only by nurses, medical providers, or DSHS or its local testing designee.
- (6) Post-test counseling is provided for youth with positive HIV test results. Pre-test counseling is provided for any HIV test conducted after admission to TJJD.

(d) **Confidentiality.**

- (1) HIV test results or a youth's HIV/AIDS status are confidential and may be released or disclosed only by health care staff and only to:
 - (A) the TJJD medical director;
 - (B) the TJJD director of nursing;
 - (C) a physician, nurse, or other health care personnel who has a legitimate need to know the information to provide for the youth's health and welfare;
 - (D) the youth's parent/guardian if the youth is under 18 years of age or with the youth's consent if the youth is at least 18 years of age;
 - (E) any person designated on a signed release from the youth or the youth's parent/guardian, as appropriate. The written consent must state that HIV test results are to be released; or
 - (F) any person with a right pursuant to law to obtain the information.
- (2) TJJD staff who request testing in accordance with [§81.050 of the Texas Health and Safety Code](#) or [Article 18.22 of the Texas Code of Criminal Procedure](#) have a right to receive the test results from the entity specified in the applicable statute.

(e) **Reporting.**

As required by state law, TJJD reports any AIDS cases or the HIV-positive status of a youth diagnosed by a physician in accordance with CDC standards to the appropriate DSHS authority through the facility medical provider.

(f) **Housing.**

HIV-positive youth are not segregated from the general population based solely on positive HIV status. Housing assignments are made in accordance with [§380.8524 of this title](#).

(g) **Treatment.**

HIV-positive youth are referred immediately to appropriate health care facilities or specialists for further evaluation, treatment, and counseling.

(h) **Access to Services.**

Youth in TJJD facilities are not denied equal access to appropriate medical services because of their HIV/AIDS status.

(i) **Education.**

- (1) TJJD provides educational information to youth regarding HIV/AIDS as follows.
 - (A) All youth participate in an educational session when admitted to TJJD.
 - (B) Education may continue as part of the academic program.
 - (C) Medical staff educate youth as indicated and/or as requested.

- (2) HIV/AIDS education for youth is based upon current, accurate, scientific information provided by officially recognized authorities on public health. Information is communicated in a manner that youth comprehend and that is sensitive to cultural and other differences.
- (3) Educational programs address topics including, but not limited to:
 - (A) disease and disease process;
 - (B) signs and symptoms;
 - (C) modes of HIV transmission, including high-risk and criminal behaviors that are potential risks for HIV transmission during confinement and after release;
 - (D) methods of preventing HIV transmission; and
 - (E) confidentiality of medical information and the civil and criminal penalties for failing to comply.
- (j) **Training.**
 - (1) All TJJJ direct-care staff members receive training initially during orientation and annually thereafter.
 - (2) Staff at TJJJ district offices and Central Office receive educational information annually.

See [HSP.07.04](#) for implementation procedures.