

Chapter: Rules for State-Operated Programs and Facilities	Effective Date: 5/1/22
Subchapter: Admission, Placement, Release, and Discharge	
Division: Program Completion and Release	Page: 1 of 3
Rule: Transfer of Youth with Determinate Sentences Adjudicated for Capital Murder	Replaces: GAP.380.8569, 12/1/16
Statutes: HR Code §244.015 ; Education Code §30.106 ; Family Code §54.0491	

RULE

(a) **Purpose.**

This rule establishes criteria and the approval process for transferring sentenced offenders adjudicated for capital murder to the Texas Department of Criminal Justice-Parole Division (TDCJ-PD) or the Texas Department of Criminal Justice-Correctional Institutions Division (TDCJ-CID).

(b) **Applicability.**

This rule applies only to sentenced offenders adjudicated for capital murder.

(c) **General Provisions.**

- (1) A detainer or bench warrant is not an automatic bar to earned release. The Texas Juvenile Justice Department (TJJD) releases youth to authorities pursuant to a warrant.
- (2) TJJD reviews each youth's progress:
 - (A) six months after admission to TJJD;
 - (B) when the youth becomes 16 years of age;
 - (C) when the youth becomes 18 years of age and again at 18 years and six months of age to determine eligibility or make a recommendation for transfer to TDCJ-CID or TDCJ-PD; and
 - (D) at other times as appropriate, such as after a major rule violation has been proven at a Level II hearing.
- (3) Youth whose committing offense is capital murder must serve the entire minimum period of confinement applicable to the youth's committing offense in high-restriction facilities unless:
 - (A) the youth is transferred by the committing court to TDCJ-CID;
 - (B) the youth is approved by the committing court to attain parole status before completion of the minimum period of confinement; or
 - (C) the youth's sentence expires before the minimum period of confinement expires.
- (4) A youth who has not received court approval to transfer to TDCJ-CID must be transferred to TDCJ-PD no later than age 19.
- (5) TJJD jurisdiction is terminated and a youth is discharged when:
 - (A) the youth is transferred to TDCJ; or
 - (B) the youth's sentence has expired, except when the youth is committed to TJJD under concurrent determinate and indeterminate commitment orders as described in [§380.8525 of this chapter](#).

(d) **Recommendation for Committing Court upon Termination of TJJD's Jurisdiction.**

TJJD makes a recommendation to the committing court for transfer to TDCJ-PD or TDCJ-CID before a youth turns 19. TJJD considers the following factors in forming its recommendation:

- (1) length of stay in TJJD;
- (2) youth's progress in the rehabilitation program;
- (3) youth's behavior while in TJJD;
- (4) youth's offense/delinquent history; and
- (5) any other relevant factors, such as:
 - (A) risk factors and protective factors the youth possesses, as identified in the psychological evaluation;
 - (B) the welfare of the community; and
 - (C) participation in or completion of statutorily required rehabilitation programming, including but not limited to:
 - (i) participation in a reading improvement program for identified youth to the extent required under [§380.9155 of this chapter](#);
 - (ii) participation in a positive behavior support system to the extent required under §380.9155 of this chapter; and
 - (iii) completion of at least 12 hours of a gang intervention education program, if required by court order.

(e) **Transfer to TDCJ-CID before Termination of TJJD's Jurisdiction.**

TJJD may request a juvenile court hearing to recommend transfer of a youth in a high-restriction facility to TDCJ-CID if the following criteria are met:

- (1) the youth is at least age 16; and
- (2) the youth has spent at least six months in high-restriction facilities, which is counted as follows:
 - (A) if the youth received a determinate sentence for conduct that occurred in the community, the six months begins upon admission to TJJD; or
 - (B) if the youth received a determinate sentence for conduct that occurred in a TJJD or contract facility, the six months begins upon the youth's initial admission to TJJD, regardless of whether the initial admission resulted from a determinate or indeterminate commitment; and
- (3) the youth has not completed the sentence; and
- (4) the youth meets at least one of the following behavior criteria:
 - (A) the youth has committed a felony or Class A misdemeanor while assigned to a residential facility; or
 - (B) the youth has committed major rule violations as proven at a Level II hearing on three or more occasions; or

- (C) the youth has engaged in conduct that has resulted in at least five security program admissions or extensions in one month or ten in three months (see [§380.9740 of this chapter](#) for information on the security program); or
 - (D) the youth has demonstrated an unwillingness to progress in the rehabilitation program due to persistent non-compliance with objectives; and
- (5) alternative interventions have been tried without success; and
- (6) the youth's conduct indicates that the welfare of the community requires the transfer.
- (f) **Approval Process for Transfer to TDCJ-CID or TDCJ-PD.**
- (1) Before staff submit a recommendation for transfer to TDCJ-CID or TDCJ-PD, a determinate sentence review shall be held.
 - (2) TJJD notifies the youth and the youth's parent/guardian of a pending determinate sentence review. The notification informs the recipients that they have the opportunity to present information in person or to submit written comments to TJJD. The notification also specifies the date by which the comments or the request to present in-person information must be received.
 - (3) Approval from the final decision authority is required before requesting a hearing with the committing juvenile court.
 - (4) The final decision authority ensures the youth's community reentry/transition plan adequately addresses risk factors before approving the transfer from a high-restriction facility to TDCJ-PD.
 - (5) A youth may not be transferred to TDCJ-CID unless the committing juvenile court orders the transfer.
- (g) **Active Warrants.**
- At least ten calendar days before the youth's transfer, TJJD notifies any entity that has issued an active warrant for the youth.

See [Case Management Standards, Chapter 2](#), for transfer procedures.