

TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 26 TAC §553.132(g)(1)(A)

<u>Number of licensed beds</u>	<u>Area Per Bed Minimum in square feet</u>
<u>17-39</u>	<u>13</u>
<u>40-59</u>	<u>12</u>
<u>60 or more</u>	<u>10</u>

Figure: 26 TAC §553.132(g)(2)(A)

<u>Number of licensed beds</u>	<u>Area Per Bed Minimum in square feet</u>
<u>17-39</u>	<u>13</u>
<u>40-59</u>	<u>12</u>
<u>60 or more</u>	<u>10</u>

Figure: 26 TAC §553.142(g)(1)(A)

<u>Number of licensed beds</u>	<u>Area Per Bed Minimum in square feet</u>
<u>17-39</u>	<u>13</u>
<u>40-59</u>	<u>12</u>
<u>60 or more</u>	<u>10</u>

Figure: 26 TAC §553.142(g)(2)(A)

<u>Number of licensed beds</u>	<u>Area Per Bed Minimum in square feet</u>
<u>17-39</u>	<u>13</u>
<u>40-59</u>	<u>12</u>
<u>60 or more</u>	<u>10</u>

Figure: 26 TAC §553.232(g)(1)(A)

<u>Number of licensed beds</u>	<u>Area Per Bed Minimum in square feet</u>
<u>17-39</u>	<u>13</u>
<u>40-59</u>	<u>12</u>
<u>60 or more</u>	<u>10</u>

Figure: 26 TAC §553.232(g)(2)(A)

<u>Number of licensed beds</u>	<u>Area Per Bed Minimum in square feet</u>
<u>17-39</u>	<u>13</u>
<u>40-59</u>	<u>12</u>
<u>60 or more</u>	<u>10</u>

Figure: 26 TAC §553.242(g)(1)(A)

<u>Number of licensed beds</u>	<u>Area Per Bed Minimum in square feet</u>
<u>17-39</u>	<u>13</u>
<u>40-59</u>	<u>12</u>
<u>60 or more</u>	<u>10</u>

Figure: 26 TAC §553.242(g)(2)(A)

<u>Number of licensed beds</u>	<u>Area Per Bed Minimum in square feet</u>
<u>17-39</u>	<u>13</u>
<u>40-59</u>	<u>12</u>
<u>60 or more</u>	<u>10</u>

Texas Health and Human Services Commission (HHSC)

Information Regarding Authorized Electronic Monitoring

A resident, or the resident's guardian or legally authorized representative, is entitled to conduct authorized electronic monitoring (AEM) under Health and Safety Code §247.003. To request AEM, you, your guardian, or your legally authorized representative, must:

- (1) complete the Request for Authorized Electronic Monitoring form (available from the facility);
- (2) obtain the consent of other residents, if any, in your room, using the Consent to Authorized Electronic Monitoring form (available from the facility); and
- (3) give the form to the facility manager or designee.

Who may request AEM?

- (1) The resident, if the resident has capacity to request AEM and has not been judicially declared to lack the required capacity.
- (2) The guardian of the resident, if the resident has been judicially declared to lack the required capacity.
- (3) The legally authorized representative of the resident if the resident does not have capacity to request AEM and has not been judicially declared to lack the required capacity.

Who determines if the resident does not have the capacity to request AEM?

The resident's practitioner will make the determination regarding the resident's capacity to request AEM. When the resident's practitioner has determined the resident lacks capacity to request AEM, a person from the following list, in order of priority, may act as the resident's legally authorized representative for the limited purpose of requesting AEM:

- (1) a person named in the resident's medical power of attorney or another advance directive;
- (2) the resident's spouse;
- (3) an adult child of the resident who has the waiver and consent of all other qualified adult children of the resident to act as the sole decision-maker;

- (4) a majority of the resident's reasonably available adult children;
- (5) the resident's parents; or
- (6) the individual clearly identified to act for the resident by the resident before the resident became incapacitated or the resident's nearest living relative.

Who must consent to AEM?

- (1) Any other resident residing in the room.
- (2) The guardian of the other resident, if the resident has been judicially declared to lack the required capacity.
- (3) The legally authorized representative of the other resident if the resident does not have capacity to sign the form but has not been judicially declared to lack the required capacity. The legally authorized representative is determined by following the procedure for determining a legally authorized representative, as stated above, under "Who determines if the resident does not have the capacity to request AEM?"

Can a resident be discharged or refused admittance for requesting AEM?

A facility may not refuse to admit an individual and may not discharge a resident because of a request to conduct AEM. If either of these situations occur, you should report the occurrence to the local office of Long-term Care Regulation, HHSC.

What about covert electronic monitoring?

A facility may not discharge a resident because covert electronic monitoring is being conducted by or on behalf of a resident. A facility attempting to discharge a resident because of covert electronic monitoring should be reported to the local office of Long-term Care Regulation-, HHSC.

What is required if a covert electronic monitoring device is discovered?

If a covert electronic monitoring device is discovered by a facility and is no longer covert as defined in §553.3 of this chapter (relating to Definitions), the resident must meet all requirements for AEM before monitoring is allowed to continue.

Is notice of AEM required?

Anyone conducting AEM must post and maintain a conspicuous notice at the entrance to the resident's room. The notice must state that an electronic monitoring device is monitoring the room.

What is required for the installation of monitoring equipment?

The resident, or the resident's guardian or legally authorized representative, must pay for all costs associated with conducting AEM, including installation in compliance with life safety and electrical codes, maintenance, removal of the equipment, posting and removal of the notice, or repair following removal of the equipment and notice, other than the cost of electricity.

A facility may require an electronic monitoring device to be installed in a manner that is safe for residents, employees, or visitors who may be moving about the room. A facility may also require that AEM be conducted in plain view.

The facility must make reasonable physical accommodation for AEM, which includes providing:

- (1) a reasonably secure place to mount the video surveillance camera or other electronic monitoring device; and
- (2) access to power sources for the video surveillance camera or other electronic monitoring device.

If the facility refuses to permit AEM or fails to make reasonable physical accommodations for AEM, you should report the facility's refusal to the local office of Long-term Care Regulation, HHSC.

Are facilities subject to administrative penalties for violations of the electronic monitoring rules?

Yes. HHSC may assess an administrative penalty (see §553.751 of this chapter (relating to Administrative Penalties)) against a facility for each instance in which the facility:

- (1) refuses to permit a resident, or the resident's guardian or legally authorized representative, to conduct AEM;
- (2) refuses to admit an individual or discharges a resident because of a request to conduct AEM;
- (3) discharges a resident because covert electronic monitoring is being conducted by or on behalf of the resident; or
- (4) violates any other provision relating to AEM.

How does AEM affect the reporting of abuse and neglect?

Section 553.293 of this subchapter (relating to Abuse, Neglect, or Exploitation Reportable to HHSC by Facilities) requires facility staff to report abuse or neglect. If abuse or neglect has occurred, the most important thing is to report it. Abuse and neglect cannot be addressed unless reported.

For purposes of the duty to report abuse or neglect, the following apply:

- (1) A person who is conducting electronic monitoring on behalf of a resident is considered to have viewed or listened to a recording made by the electronic monitoring device on or before the 14th day after the date the recording is made.
- (2) If a resident, who has capacity to determine that the resident has been abused or neglected and who is conducting electronic monitoring, gives a recording made by the electronic monitoring device to a person and directs the person to view or listen to the recording to determine whether abuse or neglect has occurred, the person to whom the resident gives the recording is considered to have viewed or listened to the recording on or before the seventh day after the date the person receives the recording.
- (3) A person is required to report abuse based on the person's viewing of or listening to a recording only if an incident of abuse is indicated on the recording. A person is required to report neglect based on the person's viewing of or listening to a recording only if it is clear from viewing or listening to the recording that neglect has occurred.
- (4) If abuse or neglect of the resident is reported to the facility and the facility requests a copy of any relevant recording made by an electronic monitoring device, the person who possesses the recording must provide the facility with a copy at the facility's expense. The cost of the copy cannot exceed the community standard.
- (5) A person who sends more than one recording to HHSC must identify each recording on which the person believes an incident of abuse or evidence of neglect may be found. Tapes or recordings should identify the place on the recording that an incident of abuse or evidence of neglect may be found.

What is required for the use of a recording by an agency or court?

- (a) Subject to applicable rules of evidence and procedure, a recording created through the use of covert monitoring or AEM may be admitted into evidence in a civil or criminal court action or administrative proceeding.
- (b) A court or administrative agency may not admit into evidence a recording created using covert monitoring or AEM or take or authorize action based on the recording unless:
 - (1) the recording shows the time and date the events on the recording occurred, if the recording is a video recording;
 - (2) the contents of the recording have not been edited or artificially enhanced; and
 - (3) any transfer of the contents of the recording was done by a qualified professional and the contents were not altered if the contents have been transferred from the original format to another technological format.

Are there additional provisions of the law?

A person who places an electronic monitoring device in the room of a resident or who uses or discloses a recording made by the device may be civilly liable for any unlawful violation of the privacy rights of another.

A person who covertly places an electronic monitoring device in the room of a resident or who consents to or acquiesces in the covert placement of the device in the room of a resident has waived any privacy right the person may have had in connection with images or sounds that may be acquired by the device.

Signature of Resident/Person Signing of Behalf of Resident Date

PAROLE PANEL VOTING CODES AND OPTIONS

The voting panels of the Texas Board of Pardons and Paroles do not vote just “yes” or “no” on parole cases. The panels have a number of voting options for parole approval. The Board may withdraw an approval vote at any time if new information is received.

<u>Approval Votes</u>	
FI-1	Release the offender when eligible.
FI-2 (Month/Year)	Release on a specified future date.
FI-3R	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion.
FI-4R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than four (4) months from specified date. Such TDCJ program shall be the Sex Offender Education Program (SOEP).
FI-5	Transfer to In-Prison Therapeutic Community Program (IPTC). Release to aftercare component only after completion of IPTC program.
FI-6	Transfer to a DWI Program and release to a continuum of care program.
FI-6R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and no earlier than six (6) months from specified date. Such TDCJ program may include the Pre-Release Therapeutic Community (PRTC), Female Cognitive Pre-Release Program (FCPRP), Substance Use Education Program (SUEP), or any other approved tier program.
FI-7R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than seven (7) months from the specified date. Such TDCJ program shall be the Serious and Violent Offender Reentry Initiative (SVORI).
FI-9R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than nine (9) months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-9).
FI-18R (Month/Year)	Transfer to a TDCJ rehabilitation treatment program. Release to parole only after program completion and no earlier than 18 months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-18).
CU/FI (Month/Year- Cause Number)	Designate the date on which the offender serving consecutive sentences would have been eligible for release on parole if the offender had been sentenced to serve a single sentence. This date shall be within a three-year incarceration period following the panel decision.
RMS	Release to mandatory supervision.

PAROLE PANEL VOTING CODES AND OPTIONS

<u>Denial Votes</u>	
NR (Month/Year)	Deny parole and set time for next parole consideration. The next review date (month/year) for an offender may be set at any date after the first anniversary of the date of denial and before the fifth anniversary of the denial. If the offender is serving a sentence under Section 481.115, Health and Safety Code involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121, the next review date (month/year) shall begin as soon as practicable after the first anniversary of the date of denial.
SERVE ALL (SA)	Deny parole with no regular subsequent review, requiring offender to serve balance of sentence, unless eligible for mandatory supervision consideration prior to projected release date. In no event shall this be utilized if the offender's projected release date is greater than five (5) years from the date of the panel decision, or over one (1) year from the date of the panel decision for offenders serving a sentence for an offense under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.21 of that code.
CU/NR (Month/Year- Cause Number)	Deny favorable action. The next review date (month/year) may be set at any date in the five-year incarceration period following the panel decision date, but in no event shall it be less than one calendar year from the panel decision date. If the offender is serving a sentence for an offense under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121 of that code, the next review date (month/year) shall begin as soon as practicable after the first anniversary of the denial.
CU/SA (Month/Year- Cause Number)	Deny release and order serve-all, but in no event shall this be utilized if the offender's maximum expiration date is over five (5) years from the date of the panel decision, or over one (1) year from the date of the panel decision for offenders serving a sentence for an offense under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121 of that code.
DMS (Month/Year)	Deny release to mandatory supervision and set the next mandatory supervision review date one (1) year from the panel decision date.

Figure: 37 TAC §145.12(4)

ACTION UPON REVIEW; VOTING OPTIONS

Parole Vote		Established Required Program
FI-1	Release the offender when eligible.	
FI-2 (Month/Year)	Release on a specified future date.	
FI-3R	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion.	Changes Habits and Achieving New Goals to Empower Success (CHANGES) Cognitive Intervention Program (CIP) Strength Through Restoration, Vision and Empowerment (STRIVE) Truth, Healing, Restoration, Independence, Vision, Empowerment (THRIVE)
FI-4R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than four months from specified date.	Sex Offender Education Program (SOEP)
FI-5	Transfer to In-Prison Therapeutic Community Program (IPTC). Release to aftercare component only after completion of IPTC program.	In-Prison Therapeutic Community Program (IPTC)
FI-6	Transfer to a DWI Program and release to a continuum of care program.	In-Prison Driving While Intoxicated Recovery Program (DWI)
FI-6R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and no earlier than six months from specified date.	Female Cognitive Pre-Release Program Pre-Release Therapeutic Community (PRTC) Substance Use Education Program (SUEP)
FI-7R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than seven months from the specified date.	Serious and Violent Offender Reentry Initiative (SVORI)
FI-9R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than nine months from specified date.	Sex Offender Treatment Program (9 Month) (SOTP-9).
FI-18R (Month/Year)	Transfer to a TDCJ rehabilitation treatment program. Release to parole only after program completion and no earlier than 18 months from specified date.	Sex Offender Treatment Program (18 month) (SOTP-18).

In addition to the above programs, the BPP has discretion to allow similar completed programs to satisfy the program requirement.

Figure: 37 TAC §145.13(b)

ACTION UPON REVIEW; CONSECUTIVE (CUMULATIVE) VOTING OPTIONS

CU/FI (Month/Year Cause Number)	Designate the date on which the offender serving consecutive sentences would have been eligible for release on parole if the offender had been sentenced to serve a single sentence. This date shall be within a three-year incarceration period following the panel decision.
CU/NR (Month/Year Cause Number)	Deny favorable action. The next review date (month/year) may be set at any date in the five-year incarceration period following the panel decision date, but in no event shall it be less than one calendar year from the panel decision date. If the offender is serving a sentence for an offense under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121 of that code, the next review date (month/year) shall begin as soon as practicable after the first anniversary of the denial.
CU/SA (Month/Year Cause Number)	Deny release and order serve-all, but in no event shall this be utilized if the offender's maximum expiration date is over five (5) years from the date of the panel decision, or over one (1) year from the date of the panel decision for offenders serving a sentence for an offense under Section 481.115, Health and Safety Code, involving a controlled substance listed in Penalty Group 1, or an offense under Section 481.1151, 481.116, 481.1161, 481.117, 481.118, or 481.121 of that code.

Figure: 37 TAC §145.15(a)(2)

ACTION UPON REVIEW; EXTRAORDINARY VOTE – VOTING OPTIONS

<u>Approval Voting Options</u>	
FI-1	Release the offender when eligible.
FI-4R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than four (4) months from specified date. Such TDCJ program shall be the Sex Offender Education Program (SOEP).
FI-9R (Month/Year)	Transfer to a TDCJ rehabilitation program. Release to parole only after program completion and not earlier than nine (9) months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-9).
FI-18R (Month/Year)	Transfer to a TDCJ rehabilitation treatment program. Release to parole only after program completion and no earlier than 18 months from specified date. Such TDCJ program shall be the Sex Offender Treatment Program (SOTP-18).

Figure: 37 TAC §145.15(a)(3)

ACTION UPON REVIEW; EXTRAORDINARY VOTE – VOTING OPTIONS

<u>Denial Voting Options</u>	
NR (Month/Year)	For offenders convicted of or serving a sentence for a capital felony, other than a life sentence, or an offense under Sections 20A.03, 21.02, or 21.11(a)(1), Penal Code, or who are required under Section 508.145(c), Government Code to serve 35 calendar years before becoming eligible: Deny release and set the next review date for 36 or 60 months following the panel decision. For offenders convicted of or serving a sentence for a capital felony with a life sentence, who are eligible for parole, or an offense under Section 22.021, Penal Code: Deny release and set the next review date for 36, 60, 84, or 120 months following the panel decision date.
SA	For offenders convicted of or serving a sentence for a capital felony, other than a life sentence, or an offense under Sections 20A.03, 21.02, or 21.11(a)(1), Penal Code, or who are required under Section 508.145(c), Government Code to serve 35 calendar years before becoming eligible: If their minimum or maximum expiration date is less than 60 months away, they will continue to serve their sentence until that date. For offenders convicted of or serving a sentence for a capital felony with a life sentence, who are eligible for parole, or an offense under Section 22.021, Penal Code: If their minimum or maximum expiration date is less than 120 months away, they will continue to serve their sentence until that date.

Figure: 37 TAC §145.15(b)

ACTION UPON REVIEW; EXTRAORDINARY VOTE – VOTING OPTIONS

<u>Consecutive Sentence Voting Options</u>	
CU/FI (Month/Year-Cause Number)	A favorable parole action that designates the date an offender would have been released if the offender had been sentenced to serve a single sentence.
CU/NR (Month/Year-Cause Number)	For offenders convicted of or serving a sentence for a capital felony, other than a life sentence, or an offense under Sections 20A.03, 21.02, or 21.11(a)(1), Penal Code, or who are required under Section 508.145(c), Government Code to serve 35 calendar years before becoming eligible: Deny release and set the next review date for 36 or 60 months following the panel decision date. For offenders convicted of or serving a sentence for a capital felony with a life sentence, who are eligible for parole, or an offense under Section 22.021, Penal Code: Deny release and set the next review date for 36, 60, 84, or 120 months following the panel decision date.
CU/SA (Month/Year-Cause Number)	For offenders convicted of or serving a sentence for a capital felony, other than a life sentence, or an offense under Sections 20A.03, 21.02, or 21.11(a)(1), Penal Code, or who are required under Section 508.145(c), Government Code to serve 35 calendar years before becoming eligible: Deny release and order serve-all if the offender is within 60 months of their maximum expiration date. For offenders convicted of or serving a sentence for a capital felony with a life sentence, who are eligible for parole, or an offense under Section 22.021, Penal Code: Deny release and order serve-all if the offender is within 120 months of their maximum expiration date.

Figure: 37 TAC §145.15(c)

ACTION UPON REVIEW; EXTRAORDINARY VOTE – VOTING OPTIONS

<u>Mandatory Supervision Voting Options</u>	
RMS	Release to mandatory supervision.
DMS (Month/Year)	Deny release to mandatory supervision and set the next mandatory supervision review date one year from the panel decision date.

Figure: 37 TAC §145.18(b)(2)

MRIS VOTING OPTIONS

Approve MRIS	The MRIS panel shall provide appropriate reasons for the decision to approve MRIS. The MRIS panel shall vote FI-1 and impose Special Condition O.35. This condition specifies that the offender shall comply with the terms and conditions of the MRIS Program and abide by the TCOOMMI-approved release plan. At any time, this condition is in effect, the offender shall remain under the care of a physician and in a medically suitable placement.
Deny MRIS	The MRIS panel shall provide appropriate reasons for the decision to deny MRIS.