

STATE OF RHODE ISLAND



Department of Corrections

Office of the Director
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The Honorable Robert E. Craven, Sr.
House Committee on Judiciary
82 Smith Street
Providence, RI 02903

March 5, 2024

Re: H7219 – Relating to Health and Safety -- Prevention and Suppression of Contagious Diseases -- HIV/AIDS

Dear Chairperson Craven:

This evening the House Judiciary Committee will consider House Bill #7219. This bill would repeal the required HIV testing for an individual convicted under Chapter 34.1 of Title 11 ("commercial sexual activity"). It would also allow the option for HIV testing for any person convicted under this chapter. The Rhode Island Department of Corrections (RIDOC) is concerned that this legislation may have some unintended consequences within its correctional system.

The Department's Policy 18.68.3 on health care and the right to refuse treatment outlines how and under what circumstances an incarcerated person may refuse treatment. Per the attached policy "An inmate may, at any time of being offered certain health evaluation, treatment, or care, refuse said evaluation, treatment or care," with a number of exceptions. Included in the list of exceptions is HIV testing upon sentencing. This mandatory testing is done to ensure the appropriate treatment is available and/or rendered to any individual who may be HIV positive, and the safety of the incarcerated population and RIDOC staff within our secure sentenced facilities. Allowing such testing to be optional puts the health and wellbeing of all at risk within a correctional setting. It is the Department's hope that such circumstances be prioritized during the consideration of this legislation.

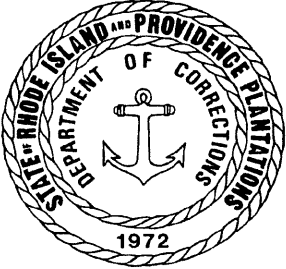

Thank you for the opportunity to comment on this legislation.

Sincerely,

Wayne T. Salisbury Jr.
Acting Director

cc: Honorable Members of the House Judiciary Committee
The Honorable Representatives Tanzi, Shallcross Smith, Potter, McGaw, Handy, Sanchez, and Kislak

RHODE ISLAND DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE

	POLICY NUMBER: 18.68-3 DOC	EFFECTIVE DATE: 10/20/2021	PAGE 1 OF 2
	SUPERCEDES: 18.68-2 DOC	DIRECTOR: 	
SECTION: HEALTH CARE		SUBJECT: RIGHT TO REFUSE TREATMENT	
AUTHORITY: Rhode Island General Laws (RIGL) § 42-56-10(v), Powers of the director			
REFERENCES: NCCHC Standard # J-G-05, Informed Consent and Right to Refuse (important); The most recent version of RIDOC policies 18.65 DOC; <u>Emergency Use of Forced Psychotropic Medications</u> ; 18.72 DOC; <u>Inmate Refusal to Take Nutrition</u> ; <u>Laurie v. Senecal</u> , 666 A.2d 806 (RI 1995)			
INMATE/PUBLIC ACCESS?		<input checked="" type="checkbox"/> YES	
AVAILABLE IN SPANISH?		<input checked="" type="checkbox"/> YES	

I. **PURPOSE:**

The Rhode Island Department of Corrections (RIDOC) will ensure that a mechanism is in place for an inmate to refuse medical treatment, except under limited circumstances.

NOTE: The right to refuse treatment does not supersede the right of the State to preserve life (i.e., suicide attempt, hunger strike, other life-threatening medical condition).

II. **POLICY:**

Policies and defined procedures provide that an inmate can refuse, in writing, certain health treatment and care.

III. PROCEDURES:

- A. An inmate may, at the time of being offered certain health evaluation, treatment, or care, refuse said evaluation, treatment or care.

EXCEPTION: Inmates may NOT refuse:

1. Syphilis testing upon commitment.
 2. TB testing upon commitment and at any time deemed appropriate by the Medical Program Director.
 3. HIV testing upon sentencing.
 4. Isolation ordered by a physician for infection control.
 5. Forced psychotropic medications ordered by a physician on an emergency basis (please see the most recent version of RIDOC policy 18.65 DOC, Emergency Use of Forced Psychotropic Medications).
 6. Court-ordered medication and treatment (court-ordered Petition for Instructions to override their mentally incompetent treatment refusal).
 7. Nutrition, if a hunger strike results in a serious deterioration of health (see the most recent version of RIDOC policy 18.72 DOC, Inmate Refusal to Take Nutrition).
- B. The medical refusal shall be documented on the Release from Responsibility for Medical Treatment form. The requirement for written refusal generally is satisfied by the signature of the inmate on the refusal document, with a witness who acknowledges that the inmate read the refusal form, or had it read to him/her in a language he/she understands.
- C. If an inmate refuses to sign the form, it is to be noted on the form that "Inmate Refused to Sign" and requires a second health care or custody staff witness the form.