

CIVIL RIGHTS RESOURCE GUIDE FOR INCARCERATED TEXANS (2025)



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While text and citations are, to the best of the authors' knowledge, current as of the publication date, subsequent developments, including legislative actions, court decisions, and TDCJ policy updates, could alter the information in this guide.

This guide is not legal advice. If your civil rights have been violated, please consider consulting with legal counsel.

Introduction

This guide is for people incarcerated in a Texas Department of Criminal Justice (TDCJ) facility and for their loved ones and supporters. Throughout this guide, the term “incarcerated person” refers to anyone currently held in a TDCJ facility.

You Are Not Alone

We know it can be exhausting to try to get help in a system that too often ignores or mistreats you. Asking for medical care, protection, or basic dignity can feel risky, or even pointless, when your concerns have been denied before. This guide is here to remind you: you have rights, and you deserve to be heard. You are not alone in this.

You Still Have Civil Rights

Under the U.S. Constitution and other laws, incarcerated people retain key rights. Even after conviction, you do not give up all of your civil rights. For example, you have the right to:

- Receive medical care, food, clothing, water, and shelter ¹
- Be reasonably safe while in prison²
- Participate in religious services and practice your religion³
- Not be excluded from prison programs because of a disability⁴

Remember

You can enforce these rights by filing a lawsuit. However:

- Lawsuits are hard to win, even with a lawyer
- They often take years
- It’s best to try other solutions first⁵

Note: If you see a word you don’t recognize, check the Glossary at the end of this guide for definitions of legal terms used throughout.

¹*Estelle v. Gamble*, 429 U.S. 97, 104–05 (1976) (holding that deliberate indifference to serious medical needs violates the Eighth Amendment); see also *Farmer v. Brennan*, 511 U.S. 825, 832 (1994).

²*Farmer v. Brennan*, 511 U.S. 825, 832–34 (1994) (prison officials have a duty to ensure reasonable safety and to protect against violence from other incarcerated individuals).

³*Cutter v. Wilkinson*, 544 U.S. 709, 714–16 (2005) (upholding the Religious Land Use and Institutionalized Persons Act (RLUIPA), which protects religious exercise in prison); 42 U.S.C. § 2000cc–1(a).

⁴*Pennsylvania Dep’t of Corr. v. Yeskey*, 524 U.S. 206, 210 (1998) (holding that the ADA applies to state prisons); 42 U.S.C. § 12132.

⁵See *Booth v. Churner*, 532 U.S. 731, 733–34 (2001) (under the Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e(a), prisoners must exhaust administrative remedies before filing suit); *Woodford v. Ngo*, 548 U.S. 81 (2006).

This part of the guide explains how to raise concerns through the TDCJ process before turning to the courts.

If You Have a Problem in Prison, Start Here

Step 1: Try Informal Resolution First

Before filing a grievance, TDCJ expects you to try resolving the issue informally.

This means:

- Talking directly to a staff member or supervisor,
- Submitting an I-60 request form (a blank form is attached at the end of this guide, but you should ask for the most updated copy of this form), or
- Writing a respectful letter to staff explaining the issue.⁶

You must be able to show who you spoke to, when, and what they said if you later file a grievance. If you're afraid of retaliation, a loved one can write to the TDCJ Ombudsman on your behalf. (Contact info is below.)⁷

Other Offices You Can Contact If You're Not Getting the Help You Need

Sometimes unit staff won't fix a problem. These offices may be able to help:

Medical or Mental Health Care

TDCJ Patient Liaison Office
Health Services Division
P.O. Box 99
Huntsville, TX 77340-0099
Phone: (936) 437-4271

Excessive Force or Staff Misconduct

Office of the Inspector General (OIG)
P.O. Box 4003
Huntsville, TX 77342-4003

Time Credit or Release Date Problems

State Counsel for Offenders
P.O. Box 4005
Huntsville, TX 77342-4005

Sexual Assault or Threat of Assault

PREA Ombudsman Office
Sexual Assault Ombudsman
P.O. Box 99 Huntsville, TX 77342-0099

General Support

TDCJ-ID Ombudsman
P.O. Box 99
Huntsville, TX 77342
Phone: (936) 437-6791
Fax: (936) 437-6668

⁶ Texas Department of Criminal Justice, *Offender Orientation Handbook*, at 104-06 (revised 2021), https://www.tdcj.texas.gov/documents/Offender_Orientation_Handbook_English.pdf.

⁷ Texas Department of Criminal Justice, *Ombudsman Program*, <https://www.tdcj.texas.gov/divisions/ombudsman/index.html> (last visited July 10, 2025).

Only outsiders (friends, family, advocates) may contact the Ombudsman on your behalf. Many incarcerated people find it helpful to ask someone on the outside to reach out.

Mailing Tip: You can use truck mail to send forms or letters to any of these offices.

Step 2: File a Grievance (Formal Complaint)

TDCJ has a two-step grievance process. You **must complete both Step 1 and Step 2** before you can file a lawsuit.⁸

What is a Grievance?

A *grievance* is a formal written complaint that an incarcerated person submits to report a problem, violation of rights, or mistreatment they have experienced while in custody. It is the official way to notify prison officials of an issue and request that it be addressed. Submitting a grievance is also required by law before you can take your case to court.⁹

Reasons to File a Grievance

You should file if:

- You are unsafe or your life is in danger
- You need medical or mental health care¹⁰
- You are being physically or sexually abused¹¹
- TDCJ policies are being violated¹²
- You are being threatened by staff or other incarcerated people
- You are being harassed or retaliated against for filing grievances¹³
- You are having trouble accessing the courts¹⁴
- Your property has been lost or damaged¹⁵
- Basic conditions are inhumane (e.g., heat, cold, filth)¹⁶

⁸ *Woodford v. Ngo*, 548 U.S. 81, 90–91 (2006) (prisoners must complete all administrative steps before filing suit under the Prison Litigation Reform Act (PLRA)); see also 42 U.S.C. § 1997e(a).

⁹ See 28 C.F.R. § 40.1(b) (2024) (defining grievance procedures as mechanisms for prisoners to formally voice complaints); Tex. Gov't Code § 501.008 (establishing the TDCJ inmate grievance system); see also 42 U.S.C. § 1997e(a) (2024) (“No action shall be brought... until such administrative remedies as are available are exhausted.”); Texas Dep't of Crim. Just., *Offender Grievance Operations Manual* § I (rev. Jan. 2021), https://www.tdcj.texas.gov/documents/Offender_Grievance_Operations_Manual_English.pdf.

¹⁰ *Supra* note 1.

¹¹ Texas Gov't Code § 501.008 (describing inmate grievance procedures); see also PREA, 34 U.S.C. § 30301 et seq.

¹² TDCJ, *Offender Grievance Operations Manual*, § I (rev. Jan. 2021), https://www.tdcj.texas.gov/documents/Offender_Grievance_Operations_Manual_English.pdf.

¹³ *Barnes v. Dretke*, No. 2:03-CV-299, 2005 WL 770595, at *4 (N.D. Tex. Apr. 6, 2005) (retaliation for using grievance system can violate First Amendment).

¹⁴ *Bounds v. Smith*, 430 U.S. 817, 828 (1977) (recognizing right of access to courts); see also *Lewis v. Casey*, 518 U.S. 343, 351 (1996).

¹⁵ *Hudson v. Palmer*, 468 U.S. 517, 533 (1984) (intentional destruction of property not a constitutional violation if post-deprivation remedy exists).

¹⁶ *Hinojosa v. Livingston*, 807 F.3d 657, 664–65 (5th Cir. 2015) (exposure to extreme heat in Texas prisons can support an Eighth Amendment claim).

How to Fill out the Grievance Form

- You can fill it out yourself—you don't need a lawyer
- Use plain language—you don't need legal terms
- Write clearly in dark ink or type if possible (otherwise use whatever pen/pencil/paper you have)
- Use your name of commitment that TDCJ uses (not nicknames or aliases)
- One issue per form—use a separate form for each problem
- Explain who you spoke to, what happened, and what you want done
- Example: "I want to see a doctor."
- Be respectful—no vulgar or threatening language, using such language could result in your grievance being unanswered.
- Do not attach extra pages. Only attach official TDCJ documents like answered I-60s or sick call requests

Step	What to Do	When to Do it
Step 1	Submit grievance form	Within 15 days of the problem
Step 2	File after Step 1 response or delay	Within 15 days of Step 1 response

If 40 days pass after Step 1 with no response, you may file Step 2.

Remember

File within 15 days of learning about the problem. If you're late, explain why in the form.

After you File

- TDCJ has 40 days (or 45 for medical issues) to respond to Step 1
- If Step 1 is denied or ignored, file Step 2
- TDCJ then has 40–45 days to respond to Step 2
- After 35 days from filing Step 2, you can proceed to court (unless notified of a delay)

Type of Case	Filing Deadline
State court	Within 31 days of Step 2 response
Federal court	Based on the statute of limitations (explained later)

Always keep copies of your returned grievances. They may be difficult to get later and are essential for lawsuits.

Tip: Use the Grievance Log Template, located within the Appendix to record when you submitted this grievance and track any responses or deadlines.

Lawsuits

If TDCJ will not help you, you may be able to file a lawsuit. But lawsuits are not easy, and most incarcerated people lose—even if they have lawyers. Lawsuits can take years and are emotionally draining. You are not alone in feeling discouraged or overwhelmed. This guide is here to help you protect your rights and navigate these challenges.

Remember:

- You must usually complete the grievance process before suing—even if it feels pointless.
- That means filing a Step 1 and Step 2 grievance about every issue.
- You must ask for everything you want (e.g., medical care, protective housing, money for harm you suffered).
- If you skip a step, the court can refuse to consider your case—even if you're right.

Before You Sue:

- Try to get a lawyer. But if you're close to running out of time, you can file without one.
- Do not send original documents to a lawyer unless they say it's okay.
- Most civil lawsuits in Texas must be filed within 2 years of the event that the lawsuit is about.

Filing a Lawsuit for Violations of Constitutional Rights

Section 1983 (a federal law passed in 1871) lets you sue people who violated your constitutional rights.¹⁷ You can use it to sue, for example:

- Guards who used excessive force,
- Medical staff who ignored serious needs,
- Officials who denied you disability accommodations or religious practice.

¹⁷ 42 U.S.C. § 1983 (2024).

Who Can You Sue Under Section 1983?

- You can sue **individual employees who harmed you** (e.g., a specific guard or doctor).
- If you're asking the court to change a policy (not give you money), you should sue the **person or people who are sufficiently connected to enforcing the policy** (and have the authority to do so).¹⁸ This might mean suing in their official capacities the TDCJ Executive, the warden at the unit, particular officers in charge of enforcing certain policies (such as health supervisors) or a combination of these individuals. If you're also suing for money damages, you can sue defendants in both their individual and official capacities.

Who Can't You Sue?

- You cannot sue TDCJ itself—it is not a “person” under the law.¹⁹

Example:

If a guard beats you and the prison refuses to do anything:

- You sue the guard individually for money damages,
- The guard's supervisor (usually the unit warden or the TDCJ director) in their official capacity in their official capacity for an injunction to change the policy.

Prison Litigation Reform Act (PLRA)

This law makes it harder for incarcerated people to file federal lawsuits.

It has four key parts:

1. Exhaustion of Administrative Remedies (42 U.S.C. § 1997e(a))

Before filing a lawsuit, you must “exhaust” available “administrative remedies.” This means you **must use TDCJ's grievance system**. You must:

- File a Step 1 grievance within 15 days of the event, and
- File a Step 2 grievance within 15 days of receiving the Step 1 response.²⁰

Even if:

- Staff don't respond,
- They tell you not to file, or
- They say your issue isn't “grievable” — you still have to try.

¹⁸ *Ex parte Young*, 209 U.S. 123, 159–60 (1908) (state officials may be sued for injunctive relief in official capacity); *Miller v. Tex. Tech Univ. Health Sci. Ctr.*, 421 F.3d 342, 347–48 (5th Cir. 2005).

¹⁹ *Will v. Mich. Dep't of State Police*, 491 U.S. 58, 71 (1989) (states and their agencies are not “persons” under § 1983).

²⁰ 2 U.S.C. § 1997e(a) (2024); *Woodford v. Ngo*, 548 U.S. 81, 90–91 (2006); Texas Dep't of Crim. Just., Offender Grievance Operations Manual, §§ IV–V (rev. Jan. 2021), https://www.tdcj.texas.gov/documents/Offender_Grievance_Operations_Manual_English.pdf.

IMPORTANT: Talking to a guard, sending an I-60, or writing to the warden does not count as a grievance under the law. You must use the official grievance form.

TIP: If you do not complete **both Step 1 and Step 2**, your case will almost always be dismissed. The Grievance Log Template, located within the appendix, can help you prove you followed each required step.

Are there any exceptions?

There are **very few exceptions** to the exhaustion requirement.²¹ Courts only excuse it when the grievance system is truly unavailable, such as:

The grievance system is truly unavailable, such as:

- Prison officials refuse to give you a grievance form,
- You are physically or mentally unable to file,
- You are threatened for trying to file, or
- Staff intentionally ignore or destroy your grievances.

Even then, courts rarely agree that exhaustion was impossible, so it's always safest to file both steps anyway—and keep copies. If your grievance is rejected or returned, you should still appeal to Step 2 and explain what happened.²²

TIP: Attach copies of rejected Step 1 grievances to your Step 2 if needed and explain why you couldn't meet the deadline.

What happens if you don't exhaust?

- Your case will likely be dismissed.
- It may be dismissed “without prejudice” (which means you can re-file), but you could miss your statute of limitations deadline in the meantime.

²¹ *Ross*, 578 U.S. at 643–44 (grievance procedures are unavailable if they are “opaque” or “unknowable,” or officials thwart filing); *Days v. Johnson*, 322 F.3d 863, 867 (5th Cir. 2003), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199 (2007) (physical inability to file due to injury may excuse non-exhaustion); *Turner v. Burnside*, 541 F.3d 1077, 1084 (11th Cir. 2008) (threats of retaliation may render the process unavailable); *Dale v. Lappin*, 376 F.3d 652, 656 (7th Cir. 2004) (allegation that staff ignored grievances must be considered when evaluating availability).

²² *Gates v. Cook*, 376 F.3d 323, 330–31 (5th Cir. 2004) (explaining that PLRA does not toll the statute of limitations unless administrative remedies are actively being pursued).

The grievance process pauses the clock on your legal deadline—but only while you’re properly following the process. As soon as the Step 2 deadline passes or you get a final response, file immediately if you plan to sue.

Remember:

- If you want money damages, you still must go through the grievance system—even though TDCJ doesn’t offer money in grievances.
- If you file a lawsuit asking the court to prevent serious injury, some courts will still hear your case while you finish grievances. But you should still complete the grievance process as soon as possible.

2. Filing Fees (28 U.S.C. § 1915(b))

If you file a lawsuit in federal court, you must pay the full filing fee—even if you don’t have money right now. You can ask the court to let you pay in small monthly installments by submitting a request to proceed in forma pauperis (IFP).²³

See the next section for how to request IFP and file without paying everything up front.²⁴

- As of 2025, the filing fee is \$350.
- If you cannot pay it all at once, you can apply to pay over time.
- You will owe an initial payment of 20% of:
 - the average balance in your prison account,
 - or the average deposits over the past 6 months (whichever is more).
- After that, 20% of each month’s deposits will be taken out until the fee is fully paid.

You must pay the full amount even if the case is dismissed early.

3. Three Strikes Provision (28 U.S.C. § 1915(g))

If you file three lawsuits or appeals that are dismissed as:

- Frivolous (not serious),
- Malicious, or
- Failing to state a claim,

You will not be allowed to file again without paying the entire filing fee up front. This is known as the “three strikes” rule.²⁵

²³ 28 U.S.C. § 1915(b)(1)–(2) (2024); see *Bruce v. Samuels*, 577 U.S. 82, 86 (2016) (explaining the installment formula under the PLRA).

²⁴ 28 U.S.C. § 1914(a) (2024) (sets civil filing fee at \$350, plus a \$55 administrative fee not waived for prisoners); 28 U.S.C. § 1915(b)(1) (initial partial payment calculated from average monthly deposits or balance). 28 U.S.C. § 1915(b)(2) (monthly payments of 20% of the preceding month’s income credited to the prisoner’s account).

²⁵ 28 U.S.C. § 1915(g) (2024); *Coleman v. Tollefson*, 575 U.S. 532, 534–35 (2015).

Important:²⁶

- Even old lawsuits from before the PLRA passed can count as strikes.
- Appeals that are dismissed for the same reasons also count as strikes.

Exception:²⁷

- You can file without paying up front only if you are in immediate danger of serious physical injury. Courts will consider the danger at the time you file, not the time of the original incident.
- This rule makes it especially important to only file lawsuits about serious legal issues, and to follow the rules carefully so your case is not dismissed.

4. Physical Injury Requirement (42 U.S.C. § 1997e(e))

If you are seeking money damages, you must show that you suffered a physical injury.²⁸

- You cannot sue just for emotional or mental harm unless a physical injury is also involved.²⁹
- This rule does not apply to lawsuits asking the court to change prison policy or conditions.³⁰

Courts disagree about what qualifies as a “physical injury,” and whether certain rights violations (like religious discrimination or use of force without injury) can support a money claim.³¹ You should still describe in detail what harm happened to you, even if you’re unsure whether it meets the requirement.

²⁶ *Adepegba v. Hammons*, 103 F.3d 383, 388 (5th Cir. 1996) (pre-PLRA dismissals count as strikes under § 1915(g)); *Patton v. Jefferson Corr. Ctr.*, 136 F.3d 458, 462 (5th Cir. 1998) (dismissed appeals count as separate strikes).

²⁷ 28 U.S.C. § 1915(g); *Baños v. O’Guin*, 144 F.3d 883, 884 (5th Cir. 1998) (threat of imminent danger must exist at time of filing).

²⁸ 42 U.S.C. § 1997e(e) (2024) (“No Federal civil action may be brought by a prisoner... for mental or emotional injury suffered while in custody without a prior showing of physical injury.”).

²⁹ *Siglar v. Hightower*, 112 F.3d 191, 193–94 (5th Cir. 1997) (minor bruising held insufficient to meet physical injury threshold); *Alexander v. Tippah Cnty., Miss.*, 351 F.3d 626, 630 (5th Cir. 2003) (claims for emotional distress barred without physical injury).

³⁰ *Harper v. Showers*, 174 F.3d 716, 719 (5th Cir. 1999) (Section 1997e(e) does not bar claims for injunctive or declaratory relief); *Geiger v. Jowers*, 404 F.3d 371, 375 (5th Cir. 2005).

³¹ See, e.g., *Calhoun v. Hargrove*, 312 F.3d 730, 734–35 (5th Cir. 2002) (constitutional violations may be actionable despite § 1997e(e) limits on damages); *Rowe v. Shake*, 196 F.3d 778, 781–82 (7th Cir. 1999) (denial of access to court may survive without physical injury where only injunctive relief is sought).

How to File a Lawsuit in Texas Federal Court Without Paying the Full Court Filing Fee (In Forma Pauperis)

Step 1: Get the Right Forms

Ask the law library or mailroom for the following:

- IFP application form (also called a “motion to proceed in forma pauperis”)
 - See Appendix for a blank form.
- Section 1983 complaint form
 - See Appendix for a blank form.
- Prisoner Trust Account Certificate or Inmate Account Statement

If your facility does not provide them, you can also write to the Clerk of the U.S. District Court (Southern, Northern, Eastern, or Western District of Texas) and ask for a prisoner civil rights packet.

Step 2: Fill Out the IFP Application

This form asks for:

- Your current income (if any)
- Any assets (bank accounts, property, etc.)
- Monthly expenses (commissary, medical costs, etc.)
- Whether you’ve filed any lawsuits before

Tip: Be honest and complete. The court can deny your request if you leave anything out.

Step 3: Request a Certified Copy of Your Prison Trust Account³²

- Ask the Trust Fund Office or Inmate Accounts Department for a certified copy of your trust account balance and transaction history for the last 6 months.
- This is required by the Prison Litigation Reform Act (PLRA) and must be attached to your IFP request.

Step 4: Assemble and Submit Your Packet³³

Mail all of the following together:

1. Completed IFP application
2. Certified trust account statement
3. Your completed civil rights complaint (e.g., § 1983 form)
4. A cover letter asking the court to file your complaint and grant IFP status

³²28 U.S.C. § 1915(a)(2) (2024) (“A prisoner seeking to bring a civil action... shall submit a certified copy of the trust fund account statement... for the 6-month period immediately preceding the filing of the complaint.”)

³³28 U.S.C. § 1391(b)(2) (2024) (venue is proper in “a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred”).

TIP: Use the Legal Case Timeline Checklist to track your IFP status, complaint filing, and deadlines. Staying organized will help prevent dismissal for missed steps or late filings.

Send your materials to the Clerk of the U.S. District Court in the district where the harm occurred.

How to Know Which Federal District to File In

Texas is divided into four federal districts: Northern, Southern, Eastern, and Western. You must file your lawsuit in the district where the incident happened.

Here's how to figure that out:

- Look up the prison unit address where the harm occurred (not where you are now).
- Use that address to identify which U.S. District Court covers that county.
- You can ask the unit law library or write to the court clerk for help determining the correct district.

Examples:

- If the incident happened at Coffield Unit in Anderson County → Eastern District of Texas
- If it happened at Darrington Unit in Brazoria County → Southern District of Texas
- If it happened at Allred Unit in Wichita County → Northern District of Texas
- If it happened at Montford Unit in Lubbock County → Northern District of Texas
- If it happened at the Hughes Unit in Coryell County → Western District of Texas

Step 5: Wait for the Court to Review Your Request³⁴

- The court will screen your complaint and decide whether to:
 - Grant IFP and allow the case to proceed
 - Deny IFP (if you have enough funds or your claim is frivolous)
- If IFP is granted, the filing fee is not waived—but you can pay it in installments over time, deducted from your prison trust account.

Notes:

- Filing fee (if IFP is granted): \$350, paid in monthly installments (usually 20% of monthly deposits until paid off).
- If your IFP is denied, you'll have to pay the full fee up front to proceed.
- If your complaint is dismissed, you still owe the filing fee.

³⁴ 28 U.S.C. § 1915(e)(2)(B) (2024) (court shall dismiss IFP complaints if “frivolous or malicious,” fail to state a claim, or seek damages from immune defendants); *Neitzke v. Williams*, 490 U.S. 319, 324–25 (1989).

What/Where/How: Legal Claims Reference Table

Type of Claim	Where to File	Potential Governing Law/Form	How to Start the Process
Denial of Medical Care	Federal Court	42 U.S.C. § 1983 – Eighth Amendment	<ol style="list-style-type: none"> 1. File a Step 1 grievance. See Appendix for sample grievance form and language. 2. File a Step 2 appeal if the response is denied or inadequate. 3. Keep copies of all forms and medical requests. 4. Once grievances are exhausted, file a complaint in federal court, using a Section 1983 packet from the U.S. District Court. See Appendix for Blank Section 1983 Form & sample language. 5. Request in forma pauperis (IFP) if you can't afford filing fees. See Appendix for sample IFP form and language.
Medical Malpractice	State Court	Texas Civil Practice & Remedies Code § 74.001 et seq.	<ol style="list-style-type: none"> 1. Give written notice of claim to the facility or medical provider at least 60 days before filing suit. 2. Include a medical release form with your notice (Tex. Civ. Prac. & Rem. Code § 74.052). See Appendix for medical release form. 3. After 60 days, file your lawsuit in Texas state court (usually district or county court). See Medical Malpractice section for an in-depth how-to on filing. 4. Within 120 days of filing, serve an expert report from a qualified medical professional explaining how the care violated standards. 5. Malpractice claims have a 2-year deadline (statute of limitations).
Excessive Use of Force	Federal Court	42 U.S.C. § 1983 – Eighth Amendment	<ol style="list-style-type: none"> 1. Immediately file a grievance with details about the force used, injuries suffered, and names of officers. 2. Appeal the grievance through Step 2. 3. Collect any medical records, witness statements, or photos. 4. After exhausting the grievance process, file a Section 1983 complaint in federal court. See Appendix for Blank Section 1983 Form & sample language. 5. You can file in forma pauperis and ask for appointed counsel.

Type of Claim	Where to File	Potential Governing Law/Form	How to Start the Process
Denial of Disability Accommodations	Federal Court	Americans with Disabilities Act (ADA) / Rehabilitation Act	<ol style="list-style-type: none"> 1. File a grievance asking for the accommodation (e.g., hearing aid, interpreter, wheelchair access, large print). 2. If denied or ignored, appeal through Step 2. 3. Collect medical records, past requests, and written denials. 4. File a federal complaint under the ADA or Rehabilitation Act, explaining the disability, the denied accommodation, and how it impacted you. See Legal Rights of Disabled Incarcerated Persons section for an in-depth how-to on filing. 5. Include evidence that the prison knew of your need and failed to act.
General Negligence	State Court	Texas Tort Claims Act	<ol style="list-style-type: none"> 1. Submit written notice of your injury to the agency responsible (e.g., TDCJ or a county jail) within 6 months of the incident. 2. Include details of the injury, date, location, and responsible staff. 3. Keep copies of all complaints and responses. 4. File your lawsuit in state district or county court. 5. Texas law limits what types of negligence claims can be brought against state agencies — consult legal resources or legal aid if possible.

Medical Care

There are two legal paths to challenge poor medical care in prison:

- Constitutional Claim (Eighth Amendment) – You have a right to receive medical care, including mental health and dental care, while incarcerated.³⁵
- Medical Malpractice Claim – Even non-incarcerated people can file these. You can sue if a doctor treats you incorrectly or below the accepted medical standard.³⁶

Both types of lawsuits are very difficult to win. It is important to know what is required before investing time, effort, or money.

³⁵ *Estelle v 429 U.S. at 103-04 (1976)* (“deliberate indifference to serious medical needs of prisoners constitutes the unnecessary and wanton infliction of pain”).

³⁶ Tex. Civ. Prac. & Rem. Code § 74.001 et seq. (Texas Medical Liability Act, which governs malpractice claims, including by incarcerated individuals).

Requesting Medical Care from TDCJ

Because lawsuits over medical care are very hard to win—and can take years—your best first step is often to ask for help through TDCJ’s internal system. This section explains how to request medical care through the official process.

1. Place a Sick Call

- Get a sick call form from your housing unit.
- Clearly describe your medical problem. Use plain language—no need for legal terms like “deliberate indifference.”
- Be specific: List symptoms, how long you’ve had the issue, and how it’s affecting you.

TDCJ Policy Requires: ³⁷

- All sick call requests must be screened within 24 hours.
- After the initial screening:
 - Urgent or emergent symptoms (such as seizures, chest pain, suicidal thoughts) require immediate access to care.
 - Other medical concerns must be addressed by a licensed healthcare worker within 72 hours.
 - If your request is for medication refills, already-treated issues, or routine follow-ups, you should receive a response within 2 business days.

If you do not receive timely care, continue to Step 2.

2. File an I-60 Request

- Get an I-60 form from your housing unit.
- Clearly explain:
 - What your symptoms are
 - That you already submitted a sick call request
 - That you still have not been seen by medical staff

You do not need to use legal language. Just explain your need for care clearly and respectfully.

3. Contact TDCJ Health Services

Phone (for outside family or friends only): (936) 437-4271

- Health Services may require you to sign a medical release form (available from your unit’s medical department).
- The form must be renewed every 6 months.
- It allows Health Services to speak to your approved outside contact.

³⁷ Texas Department of Criminal Justice, *Offender Orientation Handbook*, at 83–84 (rev. 2021), https://www.tdcj.texas.gov/documents/Offender_Orientation_Handbook_English.pdf (describing medical services timelines).

4. Optional: Contact the TDCJ Ombudsman

A friend or family member can also call the Ombudsman's Office at:

**Texas Department of Criminal Justice
Health Services Division – Office of Professional Standards**

P.O. Box 99

Huntsville, Texas 77342-0099

Phone (for outside family or friends): (936) 437-4271

Note: TDCJ Health Services may require a signed medical release form before speaking with your loved ones. You can request this form from your unit's medical department. It must be renewed every six months.³⁸

5. Document Everything

To protect your rights and strengthen your case:

- Keep copies of all forms (sick call, I-60s)
- Write down the date and details of every request
- If possible, ask someone you trust to keep a record of your symptoms and efforts to seek care
- You can use the “Sample Medical Symptom Log / Incident Tracker” in the Appendix of this guide to help you keep track of your symptoms and efforts.

This documentation may later serve as **evidence of deliberate indifference** if you file a legal claim.

4. Seeing a Free-World Doctor

- You have the right to be evaluated by a private doctor if you can pay for the visit.
- You must cover all costs, and the doctor must be willing to travel to the prison.
- Ask unit staff how to arrange such a visit and what forms are required.³⁹

Constitutional Claims: Deliberate Indifference

The Eighth Amendment bans “cruel and unusual punishment.” That includes deliberate indifference to serious medical needs. To win, you must show:

- You had a serious medical need, and
- Prison staff knew about it and ignored it or caused delays that harmed you.

Examples of “serious medical needs”: Chronic pain, seizures, asthma, injuries, infections, suicidal thoughts, mental illness, significant weight loss.

³⁸ TDCJ Health Services Division, *HIPAA Authorization for Release of Medical Information Form*, https://www.tdcj.texas.gov/divisions/hsd/docs/TDCJ_HIPAA_Authorization_Form.pdf (last visited July 10, 2025).

³⁹ See Tex. Admin. Code tit. 37, § 1.40 (inmates may request non-emergency private medical care at their own expense with prior approval).

Deliberate indifference can include things like:

- Ignoring sick call requests
- Failing to treat worsening symptoms
- Refusing or delaying access to specialists
- Giving obviously incorrect treatment

Even if staff didn't respond to your requests or claimed you weren't eligible for care, you may still be able to show they were responsible—especially if the risk to your health was obvious.

Remember: You can show that staff knew you were at risk from “*the very fact that the risk was obvious.*”⁴⁰ For example:

- Sudden weight loss
- Visible asthma attacks
- Seizures or worsening mobility
- Any condition they could clearly observe

A court may still hold them responsible even if they didn't admit they knew, if they strongly suspected the facts but refused to check or confirm what was likely true.⁴¹

Key Quote: A prison official cannot “*escape liability if the evidence showed that he merely refused to verify underlying facts that he strongly suspected to be true, or declined to confirm inferences of risk that he strongly suspected to exist.*”⁴²

You will likely need an expert witness (a doctor) to testify that your care was improper.

Courts may not find your rights were violated just because:

- You didn't like the treatment
- The treatment didn't work
- A different doctor would've made a different decision⁴³

To learn more about how to file a lawsuit under 42 U.S.C. § 1983, see the section titled “Lawsuits” or “How to File a Deliberate Indifference Claim in Federal Court”, below.

Helpful evidence:

- Copies of medical requests and dates submitted
- Grievances about care delays
- Medical records showing what care was or wasn't given
- Descriptions of visible conditions (e.g., weight loss, seizures)

⁴⁰ *Farmer*, 511 U.S. at 842 (official may be liable based on obviousness of risk). *Id.*

⁴¹ at 843 n.8.

⁴² *Id.*

⁴³ *Estelle*, 429 U.S. at 107 (negligent or unsuccessful treatment does not rise to the level of an Eighth Amendment violation).

You can use the Medical Symptom Log in the Appendix to keep track of your symptoms, care requests, and visible changes to your health.

How to File a Deliberate Indifference Claim in Federal Court

Step 1: Report the Medical Issue Internally

- File a Step 1 grievance explaining what care you needed and didn't get (include symptoms, dates, and who you told).
- If the problem continues or the response is denied, file a Step 2 grievance appeal.
- Keep copies of all forms and medical requests.

Step 2: Gather Evidence

- Save grievance responses, sick call forms, and medical records.
- If your condition was visible (e.g., weight loss, seizures), describe it clearly.
- If others witnessed the problem, ask them to write statements.
- Keep a Medical Symptom Log, a template can be found within the Appendix, to document how long your symptoms lasted, how severe they were, and what steps you took to seek care. This helps show deliberate indifference and supports your case.

Step 3: File a § 1983 Lawsuit in Federal Court

- After finishing the grievance process, write a civil rights complaint under 42 U.S.C. § 1983.
- Explain:
 - What your condition was
 - What care was denied or delayed
 - That staff knew about it and failed to act
 - How it harmed you

Step 4: File a Motion to Proceed In Forma Pauperis (IFP)

- If you can't afford court fees, submit:
 - The IFP form
 - A certified copy of your inmate trust account statement (last 6 months)
 - Your completed complaint
- Mail everything to the Clerk of the U.S. District Court where the incident happened.

Medical Malpractice

You can also take legal action if you are being treated incorrectly by medical staff, even if they are giving you some treatment. This type of lawsuit is called a medical malpractice claim, and it is different from a constitutional claim under the Eighth Amendment.⁴⁴

⁴⁴ See generally *Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (“Medical malpractice does not become a constitutional violation merely because the victim is a prisoner.”).

What is Medical Malpractice?

Medical malpractice means a doctor or nurse made a serious mistake or didn't give you the kind of care that a responsible medical provider should have given.⁴⁵

Unlike constitutional claims, you do not have to prove "deliberate indifference." Instead, you must prove:

- You were under a provider's care, and
- That provider failed to act as a competent professional would, and
- You were harmed as a result

This type of claim might apply if you were given treatment, but it was clearly wrong or made your condition worse.

Examples of possible malpractice:

- Misdiagnosing a broken bone or infection
- Giving the wrong medication or dosage
- Failing to follow up on test results
- Ignoring known allergies or conditions

What Makes These Cases Hard?

In Texas, medical malpractice lawsuits are especially difficult to win, even outside of prison. There are strict rules and deadlines that must be followed.

Important Requirements:

- Expert witness is almost always required: You will need another doctor to review your case and provide a written expert report explaining how your care was below standard.
- Deadline for expert report: You must give this expert report to the person you're suing within 120 days of filing your lawsuit. If you miss this deadline, your case will likely be dismissed.⁴⁶
- Where to file: If you are not also making a constitutional claim (for example, deliberate indifference), you will probably need to file your malpractice case in state court, not federal court.
- It is best to talk to a lawyer first: Because of these strict requirements, it's very important to try to consult a lawyer before filing. Filing incorrectly may prevent you from bringing your case again later.

⁴⁵ Tex. Civ. Prac. & Rem. Code § 74.001(a)(13) (2024) (defining "health care liability claim" as arising from a departure from accepted standards of care).

⁴⁶ *Scoresby v. Santillan*, 346 S.W.3d 546, 549 (Tex. 2011) (failure to timely serve an adequate expert report generally results in dismissal).

How to File a Medical Malpractice Lawsuit in State Court

Medical malpractice lawsuits in Texas are governed by the Texas Civil Practice & Remedies Code § 74.001 et seq. If you are incarcerated and believe medical staff provided negligent or harmful care, here is the process:

Step 1: Send Written Notice of Claim

Before filing your lawsuit, you must notify the facility or medical provider in writing at least 60 days in advance.

- Write a letter stating:
 - That you are filing a health care liability claim
 - A brief summary of what happened (dates, harm caused, staff involved)
- Address the letter to the Texas Department of Criminal Justice (TDCJ) or the medical provider (e.g., UTMB-CMC, Texas Tech), depending on who is responsible.

TIP: To strengthen your grievance, use the Medical Symptom Log, located within the Appendix, to track symptoms, delays, and staff responses. This can help prove ongoing harm and attempts to get care.

Step 2: Include a Medical Authorization Form

Along with your notice letter, you must include a HIPAA-compliant medical release form as required by Tex. Civ. Prac. & Rem. Code § 74.052.

- This form allows the defendant to review your medical records.
- If you don't include it, the defendant can ask the court to dismiss your case.

See Appendix for a sample form you can copy by hand.

Step 3: Wait 60 Days

After mailing your notice and medical release, you must **wait 60 days before filing your lawsuit**. This gives the defendant time to investigate and possibly settle.

TIP: These deadlines are strict. Use the Legal Case Timeline Checklist, located within the appendix, to track your 60-day notice period and expert report deadline so your claim isn't dismissed.

Step 4: Draft and File Your Lawsuit

After 60 days, you can file your lawsuit in state district or county court (typically the court located in the county where the care took place).

Your petition (Texas's word for a complaint) should include:

- The name and address of the defendant(s)
- A description of what happened and how it harmed you
- A statement that the notice and medical release were properly sent
- A request for relief (e.g., money damages)

How to file from prison:

- Mail your petition to the Clerk of the Court in the appropriate Texas county.
You can usually determine the correct court by identifying the county where the incident occurred or where you were convicted. If unsure, ask the law library staff or check the court's website for jurisdiction information.
- Include a cover letter asking the clerk to file your case and notify you of the case number.
- If you cannot afford the filing fee, include a Statement of Inability to Afford.
- Payment of Court Costs (Texas version of the federal IFP form).

Step 5: Send an Expert Report Within 120 Days to the Person You're Suing

After your lawsuit is filed, Texas law requires you to serve an expert medical report within 120 days. This must:

- Be written by a qualified medical expert
- Explain how the care you received violated medical standards
- Explain how the violation caused your injury

Remember: If you do not provide this report on time, your case may be dismissed.

Step 6: Track Deadlines and Respond to Motions

- Keep a calendar of all deadlines (especially the 120-day expert report rule).
- Respond to any motions from the defendant (you may receive motions to dismiss or requests for discovery).
- If you need more time, you can file a motion for extension of time, but do so before deadlines pass.

Important Reminders:

- Statute of Limitations: You must file your lawsuit within 2 years of the injury.⁴⁷
- Filing Fees: State court filing fees vary by county (typically \$250-\$350). Use the Texas IFP form if you can't pay.⁴⁸
- Court Address: Write to the district clerk's office in the county where the medical treatment occurred.

Legal Rights of Disabled Incarcerated People

If you have a disability, the law gives you extra protection, whether you are in prison or not. Two federal laws protect your rights: the Rehabilitation Act and the Americans with

⁴⁷ Tex. Civ. Prac. & Rem. Code § 74.251(a) (two-year statute of limitations for health care liability claims).

⁴⁸ Tex. R. Civ. P. 145(c); see also Texas Office of Court Administration, *Statement of Inability to Afford Payment of Court Costs*, <https://www.txcourts.gov/media/1453609/statement.pdf> (last visited July 10, 2025).

Disabilities Act (ADA). Texas state law also provides additional protections for disabled people in prison.⁴⁹

- The Rehabilitation Act applies to programs (like TDCJ) that receive federal money.⁵⁰
- The ADA applies to all state and local government programs, even if they don't get federal money.⁵¹

Under both laws, Texas Department of Criminal Justice (TDCJ) must make sure you can access programs, services, and facilities—even if you have a physical, mental, or developmental disability. Although the ADA and Rehabilitation Act are very similar, one key difference is how they allow you to sue the state. In most situations, you can bring a lawsuit under both laws at the same time.⁵²

What Counts as a Disability?

You are considered legally disabled under the ADA and Rehabilitation Act if:⁵³

1. You have a physical or mental condition that substantially limits one or more major life activities (like walking, seeing, breathing, or thinking);
2. You have a history of such a condition (even if you're not currently limited); or
3. You are treated as if you have a disability, even if you don't.

Examples of disabilities:

- Mental illness (e.g., bipolar disorder, schizophrenia, PTSD)
- Physical impairments (e.g., mobility issues, chronic illness, paralysis)
- Sensory disabilities (e.g., blindness, deafness)
- Intellectual or developmental disabilities
- Serious medical conditions (e.g., epilepsy, diabetes)

Examples of “major life activities”:

- Walking, seeing, hearing, speaking, breathing
- Learning, reading, concentrating
- Caring for oneself, working, interacting with others

⁴⁹ See, e.g., Tex. Gov't Code § 501.150 (requiring accommodations for persons with disabilities in the Texas prison system).

⁵⁰ 29 U.S.C. § 794(a) (2024) (Section 504 of the Rehabilitation Act prohibits disability discrimination by programs receiving federal funds).

⁵¹ 42 U.S.C. § 12132 (2024) (Title II of the ADA applies to “public entities,” including state prisons).

⁵² *Pennsylvania Dep't of Corr. v. Yeskey*, 524 U.S. 206, 210 (1998) (ADA applies to state prisons and requires access to prison programs for qualified inmates with disabilities); See, e.g., *Frame v. City of Arlington*, 657 F.3d 215, 223–24 (5th Cir. 2011) (discussing overlapping remedies under ADA and Rehabilitation Act).

⁵³ 42 U.S.C. § 12102(1); 29 U.S.C. § 705(20)(B); 42 U.S.C. § 12102(2)(A)–(B) (listing examples of major life activities and bodily functions); see also 28 C.F.R. § 35.108(d) (regulations under Title II of the ADA).

Courts decide whether you are legally disabled based on the facts of your case. You should explain exactly what your condition is and how it limits your everyday activities. Use clear language and be specific.

What Rights Do Disabled People Have in Prison?

Under the ADA and Rehabilitation Act, you cannot be denied access to prison programs or services because of your disability.⁵⁴ This means you have the right to:

Reasonable accommodations: Adjustments or changes to help you participate in programs, such as:

- Using an accessible shower or toilet
- Receiving materials in Braille or audio
- Being housed in a location that accommodates mobility aids
- Being assigned to a lower bunk if you have a balance disorder or joint pain⁵⁵

Equal participation in programs such as:

- Religious services
- Educational classes
- Work assignments
- Recreation or visitation

Freedom from discrimination:

- Not being punished or segregated because of a disability
- Not being denied medical or mental health care because of your condition⁵⁶

What Rights Can be Enforced?

Usually, if you want to sue over a civil rights violation, you have to sue an individual prison official under a law called Section 1983. But with the ADA and Rehabilitation Act, you can sue TDCJ directly.⁵⁷ This can make your case easier to file and prove.

However, there is a legal concept called sovereign immunity, which says the state government can't be sued unless it agrees to be sued. Congress can "waive" (remove) this immunity when it passes laws like the ADA—but only in certain situations.

- Under the ADA, whether the state can be sued depends on whether your rights under the Constitution were also violated. If the ADA is being used to stop a constitutional violation, the lawsuit can go forward.
- In other cases, the ADA can still be used to prevent discrimination even if your constitutional rights weren't technically violated—but those cases are harder to win.

⁵⁴ 42 U.S.C. § 12132 (2024); 29 U.S.C. § 794(a) (2024); *Pennsylvania Dep't of Corr. v. Yeskey*, 524 U.S. 206, 210 (1998).

⁵⁵ See 28 C.F.R. § 35.130(b)(7); *Tennessee v. Lane*, 541 U.S. 509, 532–33 (2004).

⁵⁶ *Pierce v. County of Orange*, 526 F.3d 1190, 1220–21 (9th Cir. 2008) (failure to accommodate mental health needs could violate ADA).

⁵⁷ *United States v. Georgia*, 546 U.S. 151, 159 (2006).

- The Rehabilitation Act is stronger when it comes to immunity. If TDCJ accepts federal money (which it does), it has already agreed to be sued under this law.

Best Practice: If you are suing for disability discrimination, file your lawsuit under both the ADA and the Rehabilitation Act to protect your rights.⁵⁸

Examples of Successful Disability Claims

Courts have ruled in favor of disabled incarcerated people in a variety of contexts. Most of the examples below come from outside the Fifth Circuit and are not binding precedent in Texas. However, they show how courts across the country—including in Texas—have applied the ADA and Rehabilitation Act to protect the rights of incarcerated people.

Supreme Court & Other Circuits

- **Denied use of wheelchairs in showers and restrooms:** *Tennessee v. Lane*, 541 U.S. 509 (2004) – Although focused on courthouse access, the Supreme Court affirmed that Title II of the ADA applies to access to public services, including corrections settings.⁵⁹
- **No accessible bathrooms or showers for people in wheelchairs:** *Armstrong v. Schwarzenegger*, 622 F.3d 1058 (9th Cir. 2010) – California’s prison system violated the ADA by failing to provide accessible restrooms and showers for people in wheelchairs⁶⁰
- **Couldn’t access dining halls, rec areas, visitation rooms, or libraries:** *Jaros v. Illinois Dep’t of Corrections*, 684 F.3d 667 (7th Cir. 2012) – Denial of access to basic programs due to mobility impairment could violate both the ADA and Rehabilitation Act.⁶¹
- **Denied sign language interpreters during education and treatment programs:** *Chisolm v. McManimon*, 275 F.3d 315 (3d Cir. 2001) – Deaf individual denied interpreter services for programs and medical care allowed to proceed under ADA.⁶²
- **Solitary confinement of mentally ill people without care:** *Disability Rights Montana, Inc. v. Batista*, No. CV 15-22-H-DLC, 2016 WL 5396684 (D. Mont. Sept. 27, 2016) – Court found placing people with serious mental illness in solitary without treatment could violate both the ADA and Rehabilitation Act.⁶³
- **Excluded from work or education due to disability:** *Kiman v. N.H. Dep’t of Corr.*, 451 F.3d 274 (1st Cir. 2006) – ALS patient denied access to prison work and recreation stated a valid ADA claim. *Bonner v. Lewis*, No. 1:06-CV-664, 2008 WL 904895 (W.D. Mich. Mar. 31, 2008) – Excluding someone from job assignments due to seizure disorder supported a potential ADA violation.⁶⁴

⁵⁸ See *Chisolm v. McManimon*, 275 F.3d 315, 322 (3d Cir. 2001).

⁵⁹ *Tennessee v. Lane*, 541 U.S. at 533–34.

⁶⁰ *Armstrong v. Schwarzenegger*, 622 F.3d 1058, 1065 (9th Cir. 2010).

⁶¹ *Jaros v. Illinois Dep’t of Corr.*, 684 F.3d 667, 671–72 (7th Cir. 2012).

⁶² *Chisolm*, 275 F.3d at 328–29.

⁶³ *Disability Rights Montana, Inc. v. Batista*, No. CV 15-22-H-DLC, 2016 WL 5396684, at *4–5 (D. Mont. Sept. 27, 2016).

⁶⁴ *Kiman v. N.H. Dep’t of Corr.*, 451 F.3d 274, 285 (1st Cir. 2006); *Bonner v. Lewis*, No. 1:06-CV-664, 2008 WL 904895, at *4–5 (W.D. Mich. Mar. 31, 2008).

Fifth Circuit & Texas Cases (Binding in Texas)

- **Failure to accommodate hearing impairment in medical care and housing:** *Delano-Pyle v. Victoria County, Tex.*, 302 F.3d 567 (5th Cir. 2002) – A jail violated the ADA and Rehabilitation Act by failing to provide interpretation for a deaf detainee during booking, housing, and medical evaluations.⁶⁵
- **ADA applies to state prisons, including TDCJ:** *Hay v. Thaler*, 470 F. App'x 411 (5th Cir. 2012) – Although the pro se plaintiff's claims were dismissed, the Fifth Circuit affirmed that ADA and Rehab Act claims can be brought against TDCJ, especially when seeking access to programs or services.⁶⁶
- **Mental illness and solitary confinement may support ADA claims:** *McCoy v. Tex. Dep't of Criminal Justice*, No. 6:17-cv-00467, 2019 WL 587419 (E.D. Tex. Feb. 13, 2019) – Denial of treatment and accommodations for a person with PTSD and bipolar disorder stated a plausible ADA claim.⁶⁷

TIP: When filing in Texas, courts are most likely to rely on decisions from the Fifth Circuit or the U.S. Supreme Court, so it helps to highlight examples like *Delano-Pyle* or *McCoy* in your complaint.

How to Sue TDCJ for Disability Discrimination

Using the Americans with Disabilities Act (ADA) and the Rehabilitation Act, if you are being denied access to prison programs, services, or basic needs (like showers or medical care) because of a disability, you may be able to file a lawsuit. You can sue TDCJ directly under the ADA and Rehabilitation Act—you don't have to name an individual officer like in other civil rights lawsuits.⁶⁸ Below is a step-by-step guide to how you start and build your claim.

Step 1: Know if You Qualify

Before you begin, check that your situation meets the legal requirements.

To qualify under the ADA or Rehabilitation Act, you must:

- Have a disability (physical, mental, cognitive, or sensory condition that limits major life activities)
- Be qualified for the program or service you're trying to access (e.g., meals, education, showers, work programs)
- Be excluded or denied access because of your disability⁶⁹

Examples: You use a wheelchair and can't reach the toilet, can't hear announcements without an interpreter, or were removed from a job because of seizures.

⁶⁵ *Delano-Pyle*, 302 F.3d at 574-75.

⁶⁶ *Hay*, 470 F. App'x at 418.

⁶⁷ *McCoy*, 2019 WL 587419, at 4-5.

⁶⁸ See 42 U.S.C. §§ 12132, 794(a).

⁶⁹ *Bragdon v. Abbott*, 524 U.S. 624, 631 (1998).

Step 2: File a Grievance (Required Before Suing)

You must file both Step 1 and Step 2 grievances before filing a lawsuit.⁷⁰

Here's how:

1. In Step 1, clearly explain:
 - a. What your disability is
 - b. What program or access was denied (e.g., showers, classes, meals, medical care)
 - c. That the denial is because of your disability
 - d. What accommodation you are requesting (e.g., interpreter, ramp, alternate job)
2. In Step 2, repeat your request and explain why the Step 1 response was wrong or incomplete.
3. Keep copies of both grievances and any responses.

TIP: Use the word “disability” and the name of your condition to make it clear this is a civil rights issue

Step 3: Gather Evidence

To strengthen your lawsuit, collect:

- Grievance forms (Step 1 and 2)
- Medical or mental health records showing your diagnosis or condition
- Records showing denial of access (e.g., job removal, missing meals, program refusal)
- Statements from witnesses or staff (if possible)
- Any written requests for accommodation that were ignored⁷¹

Step 4: File Your Lawsuit in Federal Court

Once your grievance process is complete (you've exhausted both steps), you can file your lawsuit.

Here's how:

1. Draft a complaint under the ADA and Rehabilitation Act. Include:
 - a. Your disability and how it limits your daily life
 - b. What you were denied (job, program, access)
 - c. That TDCJ receives federal funding (needed for the Rehab Act)
 - d. That you filed grievances but were denied or ignored
2. Ask for specific relief (e.g., the accommodation, policy changes, or damages)

⁷⁰ 42 U.S.C. § 1997e(a); Booth v. Churner, 532 U.S. 731, 733–34 (2001).

⁷¹ Delano-Pyle v. Victoria Cnty., Tex., 302 F.3d 567, 574 (5th Cir. 2002).

3. Submit the complaint to the U.S. District Court that covers the facility where it happened
4. Include a Motion to Proceed In Forma Pauperis (IFP) if you can't pay the filing fee
5. Attach a certified copy of your inmate trust account statement (past 6 months)

Step 5: Include Both Laws in Your Claim

It's best to sue under **both**:

- The ADA (protects against disability discrimination by state agencies)
- The Rehabilitation Act (stronger because TDCJ accepts federal funds and can't claim immunity)

This gives your case more legal support and protects against dismissal.

Summary Checklist

- You have a disability
- You were denied access to something because of it
- You asked for accommodation in Step 1 and Step 2 grievances
- You kept copies of all forms and medical records
- You filed a complaint in federal court under both the ADA and Rehabilitation Act

Life Endangerment & Use of Force

The Constitution protects incarcerated people from harm, but not every injury leads to a lawsuit. To prove your rights were violated, you must show prison officials acted with deliberate indifference or used excessive force without justification.

Under the Eighth Amendment, prison officials must protect you from harm by others in custody. But the law only requires protection when officials know about a serious risk to your safety and fail to act.⁷²

To win a case, you must prove both:

1. **Prison officials knew you were at substantial risk of serious harm.**
 - a. This could include telling staff that another person threatened you.
 - b. Evidence can include grievances, I-60s, or testimony from other incarcerated people.
2. **They ignored or failed to reasonably respond to that risk.**
 - a. Even if harm happens, your rights were not violated if staff responded in a way the court finds "reasonable," even if it didn't work.

Two types of cases can be brought:

- **Specific threats ignored:** You told officials about a threat, and they failed to act.

⁷² Farmer 511 U.S. at 832-33 (1994).

- **General dangerous conditions:** The prison creates or tolerates an environment where violence regularly occurs and no real protections are in place.

You must also connect the prison official's actions (or lack of action) to the harm. Courts may find liability when:

- A guard saw an assault but didn't intervene.
- Staff ignored warning signs or complaints.
- Supervisors failed to train staff or kept dangerous policies in place even after repeated problems.

Each person you sue must be **personally responsible** for what happened. You cannot win just by showing "the prison" was unsafe, you must tie your injury to what a specific person did or didn't do.⁷³

Use of Force by Prison Staff

Prison officials are allowed to use force, but **only if it's necessary to maintain order**.⁷⁴

Your rights may have been violated if:

- Force was used just to punish or hurt you.
- Staff acted "maliciously and sadistically", not to restore discipline.

Factors that courts consider include:

- The need for force.
- Whether the force used was proportional to the situation.
- Whether staff tried to resolve the issue without violence.
- The seriousness of the injury—but even small injuries can violate your rights if the force wasn't justified.

Important: Even if you weren't seriously injured, you may still have a case if the force was used only to cause harm.

Common Examples of Excessive Force Claims

- Being slammed to the ground or beaten after already complying with orders.
- Being sprayed with chemical agents without warning or reason.
- Being kept in restraints in painful positions for long periods.
- Being hit, punched, or tased while restrained or in a cell.⁷⁵

⁷³ Ashcroft v. Iqbal, 556 U.S. 662, 676 (2009).

⁷⁴ Hudson v. McMillian, 503 U.S. 1, 6-7 (1992).

⁷⁵ See Cowart v. Erwin, 837 F.3d 444, 452 (5th Cir. 2016) (force used against compliant person); Hope v. Pelzer, 536 U.S. 730, 738 (2002) (prolonged painful restraints); Valencia v. Wiggins, 981 F.2d 1440, 1446 (5th Cir. 1993) (force used after threat had passed).

How to Sue for Life Endangerment or Excessive Use of Force

If you were assaulted by another incarcerated person or harmed by staff, you may be able to file a lawsuit under the Eighth Amendment. But these cases are hard to win, and you must follow a specific process. Below is a step-by-step guide.

Step 1: Know What You Have to Prove

You need to show that prison staff either:

A. Failed to Protect You from Assault

To win this kind of case, you must prove:

1. Staff knew you were at serious risk (e.g., you told them someone threatened you)
2. They didn't act or failed to respond reasonably
3. You were harmed as a result

This is called a "failure to protect" or "deliberate indifference" case.

B. Used Force Without Justification

To win this kind of case, you must prove:

1. Staff used force to punish or hurt you, not to maintain order
2. The force was malicious, excessive, or unnecessary
3. The force caused injury, even if the injury was minor

This is called an "excessive force" case.

Step 2: File a Grievance About the Incident

Under the Prison Litigation Reform Act (PLRA), you must file both Step 1 and Step 2 grievances before you can sue. How to do it:

- File a Step 1 grievance immediately after the incident (or after learning staff ignored a threat)
 - Include the names of staff or other people involved
 - Say what happened, when, and what you told staff
 - If someone threatened you, describe the threat and who you reported it to
- File a Step 2 grievance if the Step 1 response is denied or doesn't resolve the issue
- Keep copies of all grievances, responses, I-60s, and witness statements if possible

Step 3: Gather Evidence

To build your case, collect:

- Grievance forms and responses
- Use of force reports (you can request these, though they may be denied)
- Medical records showing your injuries
- Witness statements from others who saw what happened
- Photos of injuries (if taken)
- Any I-60s or written reports you filed about threats before the incident

Step 4: File a Federal Lawsuit (42 U.S.C. § 1983)

Once you've finished the grievance process, you can file a civil rights lawsuit in federal court. Here's how:

1. Write a complaint under 42 U.S.C. § 1983, explaining:
 - a. What happened
 - b. Which staff member(s) are responsible
 - c. That you were seriously harmed or put at risk
 - d. That staff ignored threats or used force without need
 - e. That you completed the grievance process
2. Include a Motion to Proceed In Forma Pauperis (IFP) if you can't pay the filing fee
3. Include a certified copy of your trust account statement (last 6 months)
4. Mail all documents to the Clerk of the U.S. District Court in the district where the incident occurred

Step 5: Name the Right Defendants

You must sue **individual staff members**, not just “TDCJ” or “the prison.”

- For a failure to protect case, name the person you told about the threat
- For an excessive force case, name the person who used the force (or supervised it and failed to stop it)
- If a supervisor created policies that allowed the harm, name them and explain how their actions led to the injury⁷⁶

Step 6: Track the Case and Respond to Court Notices

- After you file, the court will screen your complaint to see if it can go forward
- The court may ask you to provide more information or respond to motions
- If your IFP is approved, the court will serve your complaint on the defendants

Religious Rights of Incarcerated People

You Have the Right to Believe

No matter what, you have the right to hold religious beliefs, even if those beliefs are new, uncommon, or not well understood. The First Amendment protects your right to have and express religious beliefs.⁷⁷ Courts do not judge whether your religion is “true” or “mainstream,” but they do require that your belief be sincere.⁷⁸

⁷⁶ Rios v. City of Del Rio, 444 F.3d 417, 421–22 (5th Cir. 2006).

⁷⁷ O'Lone v. Estate of Shabazz, 482 U.S. 342, 348 (1987) (recognizing that inmates retain First Amendment protections, including the free exercise of religion).

⁷⁸ Cutter v. Wilkinson, 544 U.S. 709, 725 n.13 (2005) (“Courts are not arbiters of scriptural interpretation.”).

What Counts as a Religion?

Courts have not defined “religion” in a single way. But they generally ask:⁷⁹

- Does the belief system deal with ultimate questions about life, death, or the meaning of existence?
- Is it comprehensive—not just one personal rule or idea?
- Does it have external signs, such as rituals, holidays, texts, or a community?

Examples of recognized religions in prison cases:

- Christianity, Islam, Judaism
- Rastafarianism
- Native American spiritual practices
- Buddhism, Hinduism, Norse paganism⁸⁰

Belief systems **not always recognized** include individual moral codes or purely political ideologies unless they are tied to a broader religious structure.⁸¹

What Counts as Sincere?

Courts don’t expect you to be perfect, but they **do expect consistency**. They may question your sincerity if:

- You request a religious diet you’ve never followed before
- You switch religions before litigation
- You pick and choose only the parts that benefit you⁸²

But courts also understand that **conversion is real**. A recent change in religion does not automatically mean you’re insincere.⁸³

To support sincerity:

- Document your beliefs (journals, prayer logs)
- Participate consistently in religious activities
- State clearly why a particular practice matters to your faith

⁷⁹ See *Africa v. Pennsylvania*, 662 F.2d 1025, 1032 (3d Cir. 1981) (laying out a framework for what constitutes a religion under the First Amendment).

⁸⁰ See *Cutter*, 544 U.S. at 714–16 (RLUIPA applies broadly to “any exercise of religion, whether or not compelled by, or central to, a system of religious belief”).

⁸¹ *Kaufman v. McCaughtry*, 419 F.3d 678, 682 (7th Cir. 2005) (atheism may be considered a religion for First Amendment purposes; political ideologies are not).

⁸² *Beerheide v. Suthers*, 286 F.3d 1179, 1189 (10th Cir. 2002) (noting factors courts may use to evaluate sincerity).

⁸³ *Reed v. Faulkner*, 842 F.2d 960, 963 (7th Cir. 1988) (acknowledging that changes in religion can be sincere).

First Amendment Rights Are Limited in Prison

While you can believe anything, your right to practice may be restricted by prison rules. Under the First Amendment of the U.S. Constitution, the government can limit your religious practice if:

- The rule is neutral (not targeted at religion), and
- The rule is generally applicable (applies to everyone the same way)⁸⁴

Even if a rule only applies to incarcerated people, it may still count as “generally applicable.” But a rule that applies only to one religion can be challenged.⁸⁵

RLUIPA: A Stronger Law for Religious Practice

Congress passed the **Religious Land Use and Institutionalized Persons Act (RLUIPA)** in 2000 to protect religious practice in prisons.⁸⁶

RLUIPA provides more protection than the First Amendment. It says:

“No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution... unless the government demonstrates that imposition of the burden... is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest.”⁸⁷

This means:

- **Substantial burden** = When a rule or decision seriously limits your ability to follow your religion (e.g., refusing a religious diet, not letting you have religious books, etc.)
- **Compelling government interest** = A very strong reason, like prison safety or security
- **Least restrictive means** = The prison must choose the least limiting way to reach that goal

Under RLUIPA, the prison can’t just say “security,” they must prove the restriction is necessary and narrowly tailored.⁸⁸

State Law Also Helps: Texas has its own version of RLUIPA, the **Texas Religious Freedom Restoration Act**. It provides the **same protection**, so you may have a claim under both state and federal law.⁸⁹

⁸⁴ Employment Div. v. Smith, 494 U.S. 872, 879 (1990) (holding that neutral, generally applicable laws do not violate the First Amendment even if they incidentally burden religious practice).

⁸⁵ Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 531–32 (1993) (striking down ordinances targeting Santería practices as neither neutral nor generally applicable).

⁸⁶ Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc.

⁸⁷ 42 U.S.C. § 2000cc–1(a).

⁸⁸ Holt 574 U.S. at 364–65 (2015) (rejecting Arkansas prison’s policy banning short beards under RLUIPA).

⁸⁹ Tex. Civ. Prac. & Rem. Code §§ 110.001–110.012.

Common Examples of Religious Claims

Incarcerated people have used RLUIPA to win:

- **Halal or kosher meals** (e.g., *Moussazadeh v. Texas Dept. of Criminal Justice*)⁹⁰
- **Beards for Muslim men** (*Holt v. Hobbs*, 574 U.S. 352 (2015))⁹¹
- **Access to prayer oil, books, or ceremonial items**
- **Space and time for group worship**
- **Sign language interpreters** for deaf people in religious programs

How to Use RLUIPA in Court

RLUIPA (Religious Land Use and Institutionalized Persons Act) is one of the strongest tools you can use to protect your right to practice religion in prison. It applies to all incarcerated people in state or federal facilities, including those in TDCJ.⁹²

What You Must Prove:

To bring a claim under RLUIPA, you must prove:

1. **You have a sincere religious belief:** You don't need to prove your religion is mainstream, only that your belief is religious in nature and sincerely held.⁹³
2. **You are being substantially burdened:** The prison is interfering with your ability to follow your religion in a serious way. A small inconvenience is not enough.

Examples include:

- a. Not being allowed to attend worship
- b. Denial of a religious diet
- c. Refusing prayer oil or sacred items
- d. Banning beards required by faith⁹⁴

Once you prove these two things, the burden shifts to the prison.⁹⁵

What the Prison Must Prove

The prison must then prove both:

1. **The restriction serves a “compelling government interest.”** This usually means a serious concern about prison safety or security.
2. **The restriction is the “least restrictive means” of achieving that interest.** The prison has to show there's no less burdensome way to reach the same goal.⁹⁶

⁹⁰ *Moussazadeh v. Tex. Dep't of Crim. Just.*, 703 F.3d 781, 789 (5th Cir. 2012) (noting viable RLUIPA claim for denial of kosher meals).

⁹¹ *Holt*, 574 U.S. at 364.

⁹² See 42 U.S.C. § 2000cc-1(a) (applying RLUIPA to “any institution... in which persons are lawfully confined”).

⁹³ *Cutter v. Wilkinson*, 544 U.S. 709, 725 n.13 (2005) (“Prison officials may appropriately question whether a prisoner’s religiosity, asserted as the basis for a requested accommodation, is authentic.”).

⁹⁴ *Holt* at 352, 361–62 (2015) (prison grooming policy that banned short beards substantially burdened religious exercise under RLUIPA).

⁹⁵ 42 U.S.C. § 2000cc-1(a) (shifting burden to the government after a substantial burden is shown).

⁹⁶ See *Holt*, 574 U.S. at 364–65 (“RLUIPA... requires the government to demonstrate that the compelling interest test is satisfied through application of the challenged law to the particular person.”).

The court will not just take the prison’s word for it, the prison must show real evidence that the restriction is necessary.⁹⁷

Tips for a Strong RLUIPA Claim:

- File grievances showing you asked for the accommodation and were denied
- Explain why the practice is religious and sincerely held
- Describe how the denial substantially burdens your faith
- List less restrictive alternatives the prison could use (e.g., inspecting but not banning religious objects)

How to Frame a Grievance for a Religious Rights Claim

When filing a Step 1 or Step 2 grievance about a religious issue, use clear, respectful language. The goal is to show:

1. **Sincerity**
2. **Burden**
3. **Possible alternatives**

Sample Language Template

I am a practicing [religion]. My faith requires me to [describe the religious practice—e.g., eat halal food, wear religious clothing, grow a beard, possess prayer oil]. I have sincerely practiced this faith since [date or age].

On [date], I requested [item or accommodation] and was denied. This denial prevents me from practicing my religion. It substantially burdens my faith and violates my rights under RLUIPA and the First Amendment.

I respectfully request that the unit reconsider this denial or provide an alternative that allows me to comply with my religious beliefs.

[Optional: List less restrictive alternatives—for example, letting a chaplain inspect oil, allowing a beard of limited length, or providing kosher meals through an existing vendor.]

Common Mistakes to Avoid:

1. Don’t just say, “It’s my religion.” Be specific: what you believe, why it matters, and how the denial affects your practice.
2. Don’t skip the grievance system. You must exhaust administrative remedies before filing a lawsuit.

⁹⁷ *Id.* (“The Department failed to show that denying petitioner a ½-inch beard actually furthers its compelling interest in preventing contraband.”).

When filing a religious rights lawsuit under RLUIPA, you should include documents that support both your sincerity and the burden on your religious practice. Most importantly, you must show that you completed the prison grievance process (Step 1 and Step 2) as required by the Prison Litigation Reform Act (PLRA). If you don't, the court may dismiss your case—even if your rights were violated.

Include:

- Step 1 and Step 2 grievance forms showing you asked for the religious accommodation and were denied (to prove you exhausted the grievance process)
- I-60 request forms asking for religious items, diet, worship access, etc.
- Notes or memos from chaplains showing your religious request or their response
- Printed materials explaining the religious importance of the item or practice (e.g., scripture, religious organization guidance, personal reflection)
- A personal statement or journal entry describing your belief, how long you've followed it, and why it matters

If you no longer have grievance forms:

Say so in your complaint and explain why (e.g., lost, never returned). You can still describe what you filed, what response you got, and when. But if possible, request a copy from the law library or file an I-60 asking to review your grievance file.

Summary - What You Can Do:

If your religion is being burdened, try the following steps:

1. File a written request (I-60) explaining what religious practice you need and why.

a. Example: "I am requesting a Kosher diet because I am an observant Jewish inmate. I have kept Kosher for 15 years and it is a central part of my religious beliefs."

2. File a Step 1 and Step 2 grievance if your request is denied. Be clear about what was denied and how it violates your rights.

3. Gather evidence of:

a. Your sincerity

i. *Examples:*

1. Copies of past I-60s requesting religious items or accommodations
2. Letters from chaplains or other inmates confirming your participation in services
3. Personal written statement describing how long you've practiced and what it means to you

b. The burden

i. *Examples:*

1. Denial notices or grievance responses showing you were refused religious meals or items

2. A written statement explaining how being denied affects your ability to practice (e.g., “I cannot pray properly without a prayer rug,” or “Missing fast days breaks my religious obligations”)
3. Photos of confiscated religious materials, if possible

c. Alternatives the prison could use instead

i. *Examples:*

1. Suggesting changes to existing policy, like supervised group worship at a different time
2. Describing how other facilities allow the practice without disruption
3. Statements from clergy or advocacy groups supporting the feasibility of your request

3. **Ask supporters to call or write** on your behalf to the TDCJ Chaplaincy Office or Ombudsman.

Excessive Heat & Cold

What rights do incarcerated people have?

Under the Eighth Amendment, you have the right to be protected from extreme temperatures that could harm your health. This includes both excessive heat and extreme cold.

To show a constitutional violation, you must prove **three things**:

1. Prison officials knew about the dangerous heat or cold.
2. The temperature created a serious risk to your health.
3. The prison did nothing to fix it (or didn't do enough).

When Does Excessive Heat or Cold Violate the Constitution?

- Courts have recognized that exposing incarcerated people to extreme heat, especially when the heat index exceeds 90°F, can violate the Eighth Amendment. While the Constitution does not always require air conditioning, it does require prison officials to take reasonable steps to protect medically vulnerable individuals, like those with diabetes or heart disease.⁹⁸
- Courts have held that cold temperatures may rise to the level of cruel and unusual punishment when:
 - The exposure is prolonged or repeated
 - Basic protective measures (e.g., coats, blankets, shelter) are denied
 - Prison officials fail to act despite knowing the risk⁹⁹

⁹⁸ *Ball v. LeBlanc*, 792 F.3d 584, 596 (5th Cir. 2015).

⁹⁹ *Palmer v. Johnson*, 193 F.3d 346, 353 (5th Cir. 1999).

Examples of Successful Excessive Heat or Cold Claims

- ***Bernie Tiede et al. v. Bryan Collier & TDCJ*** (U.S. District Court, W.D. Texas, March 26, 2025) Judge Robert Pitman ruled that the extreme heat inside Texas prisons without air conditioning is “plainly unconstitutional” under the Eighth Amendment, though he declined to impose an immediate injunction requiring AC installation due to its cost. The case will proceed to trial, with inmates seeking a declaration of unconstitutional conditions and protective relief.¹⁰⁰
- ***Blackmon v. Garza***, No. 6:20-CV-517, 2021 WL 4321342 (E.D. Tex. June 15, 2021) The court ruled that even without requiring full air conditioning, prison officials must provide basic accommodations—such as ice water, fans, or access to cooler areas—for individuals with medical needs (e.g., diabetes or hypertension). Failure to do so may constitute deliberate indifference under the Eighth Amendment.¹⁰¹
- ***Ball v. LeBlanc***, 792 F.3d 584 (5th Cir. 2015) The Fifth Circuit held that conditions on Louisiana’s death row were unconstitutional because prison officials failed to mitigate extreme heat risks. Temperatures frequently exceeded 90°F, and the court found this posed a substantial risk of serious harm to people with medical conditions. The ruling emphasized the state’s obligation to implement remedial measures to protect vulnerable individuals.¹⁰²
- ***Palmer v. Johnson***, 193 F.3d 346 (5th Cir. 1999) The Fifth Circuit found an Eighth Amendment violation when incarcerated individuals were forced to spend the night outdoors in freezing rain without shelter. The court emphasized the lack of basic protection against severe weather.¹⁰³

Practical Tips

- Keep records of indoor temperatures (if possible), number of days of exposure, and whether any medical conditions worsened.
- Document attempts to get help (I-60s, grievances, sick call forms, letters to wardens).
- Ask staff for cooling measures or winter gear in writing.
- Family/friends can call the TDCJ Ombudsman or submit complaints to oversight agencies.

Exposure to Toxic or Hazardous Conditions

What rights do incarcerated people have?

Incarcerated people also have a constitutional right to be free from environmental hazards that pose a serious risk to health.¹⁰⁴ Courts have recognized this right when prison officials knowingly expose individuals to:

¹⁰⁰ *Tiede v. Collier*, No. 1:23-CV-01004-RP (W.D. Tex. Mar. 26, 2025).

¹⁰¹ *Blackmon v. Garza*, No. 6:20-CV-517, 2021 WL 4321342, at *2-3 (E.D. Tex. June 15, 2021).

¹⁰² *Id.* at 98.

¹⁰³ *Id.* at 99.

¹⁰⁴ *Helling v. McKinney*, 509 U.S. 25, 33-35 (1993).

- Asbestos or mold
- Contaminated water
- Pesticides and industrial chemicals
- Raw sewage or human waste
- Second-hand smoke

Examples of Constitutional Violations

- **Contaminated water:** *Mays v. Springborn*, 575 F.3d 643 (7th Cir. 2009).¹⁰⁵
- **Sewage overflow in cells:** *Fruit v. Norris*, 905 F.2d 1147 (8th Cir. 1990).¹⁰⁶
- **Raw sewage leaks near food prep:** *Gates v. Cook*, 376 F.3d 323 (5th Cir. 2004).¹⁰⁷
- **Second-hand smoke:** *Helling v. McKinney*, 509 U.S. 25 (1993).¹⁰⁸
- **Toxic fumes from pesticides:** *Wallis v. Baldwin*, 70 F.3d 1074 (9th Cir. 1995).¹⁰⁹

Filing a Claim for Exposure to Toxic or Hazardous Conditions

To succeed in a claim about exposure to toxic or hazardous conditions, you must prove:

1. The hazard is objectively dangerous; it creates an unreasonable risk of serious harm.
2. Prison officials knew about the hazard.
3. They ignored or failed to address the risk despite that knowledge.¹¹⁰

This is a high bar. You will need specific evidence that the prison knew about the danger and failed to respond. That can include prior complaints, inspection reports, expert statements, or medical records.

What Is Not Enough

- Mere discomfort (e.g., “dusty air” or “bad smells”) is usually not enough unless there is proof of serious health harm.
- If the exposure is brief, courts may not consider it unconstitutional.¹¹¹
- If the same conditions exist in the free-world workplace, some courts view them as acceptable (though this standard is controversial).¹¹²

104 *Helling v. McKinney*, 509 U.S. 25, 33–35 (1993).

105 *Mays v. Springborn*, 575 F.3d 643, 648–49 (7th Cir. 2009).

106 *Fruit v. Norris*, 905 F.2d 1147, 1150–51 (8th Cir. 1990).

107 *Gates v. Cook*, 376 F.3d 323, 339–40 (5th Cir. 2004).

108 *Helling*, 509 U.S. at 35–36 (holding that long-term exposure to second-hand smoke can violate the Eighth Amendment).

109 *Wallis v. Baldwin*, 70 F.3d 1074, 1076–78 (9th Cir. 1995).

110 See *Gates*, 376 F.3d at 339 (explaining deliberate indifference to sewage and chemical exposure).

111 *Harris v. Fleming*, 839 F.2d 1232, 1235–36 (7th Cir. 1988) (short-term exposure to dirty conditions without long-term harm found insufficient).

112 *Mays*, 575 F.3d at 648–49 (noting that courts may compare prison exposure to public standards, especially if it reflects common workplace risks).

Filing Outside Complaints

Even if a court denies your constitutional claim, you may be able to file complaints with:

- Texas Commission on Environmental Quality (TCEQ)
- Occupational Safety and Health Administration (OSHA)
- The Environmental Protection Agency, county health departments, or fire marshals

These agencies can inspect facilities and may issue citations. These records can also be used in a later lawsuit to show prison officials knew about the risks.

Supporting Your Claim

- Ask for a copy of any internal TDCJ inspections.
- Have outside supporters file public records requests.
- Submit affidavits from people who observed the hazard or experienced health impacts.
- Try to collect the dates, duration, and physical symptoms connected to the hazard.

Sexual Assault and the Prison Rape Elimination Act (PREA)

You Have the Right to Be Free from Sexual Abuse—No Exceptions

The Prison Rape Elimination Act (PREA) is a federal law passed in 2003 that protects people in prison from sexual abuse and harassment.¹¹³ TDCJ is legally required to take all reports seriously, investigate them, and take steps to keep you safe—regardless of your sentence, gender identity, or sexual history.

What Counts as Sexual Abuse or Harassment?

Under PREA and the law, **you cannot legally consent to sex with a staff member.**¹¹⁴

All of the following are violations:

- Being forced, threatened, or manipulated into sexual acts by staff or another incarcerated person
- Sexual touching (even if over clothes) that is unwanted or abusive
- Verbal sexual harassment, such as repeated sexual comments, threats, or propositions
- Invasion of privacy (e.g., being watched while undressing or using the toilet without reason)
- Retaliation for reporting abuse (e.g., being moved to segregation, denied privileges, or threatened)¹¹⁵

¹¹³ Prison Rape Elimination Act of 2003, 34 U.S.C. §§ 30301–30309.

¹¹⁴ 28 C.F.R. § 115.6; *Carr v. Allison*, No. 2:13-CV-271, 2015 WL 2354430 (E.D. Tex. May 15, 2015) (holding that any sexual contact between staff and incarcerated people is presumed nonconsensual under PREA).

¹¹⁵ 28 C.F.R. § 115.67 (prohibiting retaliation against reporters of sexual abuse).

Even if you think staff or others won't believe you, you have the right to report what happened. It is **not your fault** if someone abuses or harasses you.

LGBTQIA+ Rights in Texas Prisons

Everyone Deserves Safety and Dignity—Including LGBTQIA+ People

Lesbian, gay, bisexual, transgender, queer, intersex, asexual, and gender-diverse people face higher risks of **violence, harassment, isolation, and denial of healthcare** in prison.¹¹⁶ But you still have constitutional and civil rights.

TDCJ policies, PREA, and federal court rulings require that LGBTQIA+ people be protected from:

- Sexual assault or harassment
- Targeted violence or threats
- Discrimination in housing, work, or programs
- Denial of medically necessary care¹¹⁷

Housing and Safety Concerns

TDCJ may try to house you based on your sex assigned at birth—but under PREA and federal case law, they must also consider:

- Your gender identity
- Your personal safety
- Past experiences of abuse¹¹⁸

If you are transgender or gender nonconforming and feel unsafe, you can request a vulnerability assessment or protective housing. TDCJ may not place you in restrictive housing (segregation) just because of your identity unless no other option is available.¹¹⁹

You can file a grievance if:

- You were denied housing based on safety concerns
- You were placed in isolation without cause
- You were harassed or threatened and staff ignored your requests for help

¹¹⁶ *Farmer* 511 U.S. at 832–34 (1994) (transgender woman subjected to repeated sexual assaults in prison); Nat'l PREA Resource Ctr., *LGBTQI Youth and Adults in Confinement*, <https://www.prearesourcecenter.org/training-technical-assistance/prc-resources/lgbtqi-youth-and-adults-confinement>.

¹¹⁷ *Doe v. Bell*, 194 F. Supp. 2d 640, 657 (S.D.N.Y. 2002) (transgender youth subjected to harassment entitled to protections under federal law).

¹¹⁸ 28 C.F.R. § 115.42(c) (housing decisions must be based on individualized assessment including gender identity and safety).

¹¹⁹ *Id.* § 115.42(g) (segregation for LGBTQ individuals must be a last resort, and reviewed regularly).

Access to Health Care

If you are transgender, you have a right to request medically necessary care, which may include:

- **Hormone therapy or continuation of treatment**
- **Mental health support for gender dysphoria**
- **Referrals to specialists if needed**

TDCJ must not deny you treatment simply because you are incarcerated. Courts have ruled that refusing care for gender dysphoria may violate the Eighth Amendment.¹²⁰

If you're denied care:

- File a Step 1 grievance
- Submit an I-60 to medical staff
- Ask family to call the Health Services Ombudsman on your behalf

Harassment and Verbal Abuse

If staff or others make homophobic or transphobic comments, call you slurs, or refuse to use your preferred name or gender identity, you can:

- File a grievance for harassment or violation of TDCJ policy
- Document the dates and what was said
- Keep records of I-60s or informal complaints

You may not be able to force staff to use pronouns, but ongoing verbal abuse can amount to a civil rights violation—especially if it is paired with denial of services, medical care, or safety protections.¹²¹

¹²⁰ *Edmo v. Corizon, Inc.*, 935 F.3d 757, 795–96 (9th Cir. 2019) (denial of gender-affirming surgery and care may constitute cruel and unusual punishment under the Eighth Amendment).

¹²¹ *Brown v. Plata*, 563 U.S. 493, 510–12 (2011) (holding systemic failure to provide adequate medical care violates constitutional rights); see also *Tate v. Wexford Health Sources*, No. 3:18-cv-1988, 2022 WL 1578191 (S.D. Ill. May 19, 2022) (transgender woman's claims of denial of pronoun use and hormone care allowed to proceed under the Eighth and Fourteenth Amendments).

How to Report Sexual Abuse or Harassment

There are multiple ways to report a PREA violation. You can use any of these options—whichever feels safest:

1. **Tell a staff member in person.** Any officer or supervisor is supposed to take your report seriously and forward it to the unit PREA coordinator.
2. **File an emergency grievance.** Check the box for “emergency” and state clearly that your safety is at risk due to sexual assault, threat of assault, or retaliation for reporting. TDCJ must respond quickly.
3. **Submit an I-60 to the unit warden or PREA coordinator.** Ask for protective housing or medical care.
4. **Ask someone on the outside to contact the PREA Ombudsman Office on your behalf.**
5. **Mail a letter directly to the Ombudsman.** You can use truck mail for this.

<p>PREA Ombudsman Office P.O. Box 99 Huntsville, TX 77342-0099</p>

What Happens After You Report?

TDCJ must:

- Document and investigate your report
- Offer medical care and a forensic exam (sometimes called a “rape kit”) if the assault occurred recently
- Offer mental health counseling or crisis support
- Keep you separated from the person who harmed you

You can also request **protective custody, transfer to a different housing unit,** or other changes to protect your safety.

TDCJ is not allowed to punish you for reporting—even if they don’t believe your story or can’t confirm the details. If they do, this may count as retaliation and can be grieved or raised in a lawsuit.

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Tips for Protecting Yourself and Documenting Abuse

- Write down dates, names, and what happened—keep a log if you can
- Ask witnesses to write statements (if safe)
- Save copies of I-60s, grievances, or medical requests related to the incident
- Ask someone outside to keep a copy of what you send, in case it disappears

Legal Options

If TDCJ ignores or mishandles your report, you may be able to file a **lawsuit under 42 U.S.C. § 1983** for:

- Failure to protect
- Use of excessive force (if the abuse was by staff)
- Deliberate indifference to serious risk or harm
- Retaliation for reporting sexual abuse

To sue, you must first complete the **Step 1 and Step 2 grievance process**. If you fear retaliation or can’t file safely, describe that in your grievance or complaint.

*See the section “**How to Sue for Life Endangerment or Excessive Use of Force**” for a full explanation of what you must prove and how to build your case under the Eighth Amendment. See the section “**Filing a Civil Rights Lawsuit Under § 1983**” for step-by-step instructions on exhausting grievances, gathering evidence, and drafting your complaint.*

Disciplinary Sanctions and Your Legal Rights

If you are punished through a disciplinary hearing, you may have a right to challenge that punishment under the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

The Fourteenth Amendment protects people from being deprived of life, liberty, or property without due process of law. For incarcerated people, this protection does not apply to every kind of punishment—but it does apply to some.

Courts look at two questions when deciding if your due process rights were violated:

- 1. Do you have a protected liberty or property interest at stake?**
- 2. If so, did you get a fair process before that interest was taken away?**

Do You Have a Liberty or Property Interest?

Not all punishments require due process. Under *Sandin v. Conner*, 515 U.S. 472 (1995), courts only require due process if the punishment creates an “atypical and significant hardship” compared to ordinary prison life.¹²²

To succeed, you must show:

- The conditions of your punishment were **more harsh** than normal prison life—for example, extreme solitary confinement, prolonged sensory deprivation, or inhumane physical conditions.
- The hardship had a meaningful impact on your sentence or living conditions—such as loss of earned good time, transfer to high-security segregation, or removal from rehabilitative programs.
- There is a state-created liberty interest—a law, regulation, or policy that limits the prison’s ability to impose such punishments without procedures.

You must provide **specific evidence** of how your punishment compares to the general population and how it affected your sentence or conditions.

You likely DO have a protected liberty interest when:

- You lose earned good time credits that would shorten your sentence. See *Teague v. Quarterman*, 482 F.3d 769 (5th Cir. 2007).¹²³
- You are held in long-term solitary confinement under harsh conditions, especially without regular review. See *Wilkinson v. Austin*, 545 U.S. 209 (2005).¹²⁴

You likely DO NOT have a protected liberty interest when:

- You are briefly placed in administrative segregation.
- You are moved to a different job, cell, or unit.
- You temporarily lose commissary, visitation, or recreation privileges.
- You are denied parole—Texas law does not recognize parole as a protected liberty interest.¹²⁵

What Is “Due Process” and What Are You Entitled To?

Due process means the government must treat you fairly before it takes away your liberty, property, or other important rights. In the prison context, this applies when the punishment goes beyond ordinary conditions of confinement—like losing good time credits or being placed in long-term solitary confinement.

¹²²*Sandin v. Conner*, 515 U.S. 472, 484 (1995).

¹²³*Teague v. Quarterman*, 482 F.3d 769, 776 (5th Cir. 2007).

¹²⁴*Wilkinson v. Austin*, 545 U.S. 209, 224 (2005).

¹²⁵*Greenholtz v. Inmates of Neb. Penal & Corr. Complex*, 442 U.S. 1, 7 (1979).

If a protected liberty or property interest is involved, the Constitution requires certain basic protections before the punishment is imposed.

According to *Wolff v. McDonnell*, 418 U.S. 539 (1974), you are entitled to the following minimum procedures:¹²⁶

1. Notice of the charges at least 24 hours before your hearing.
2. Access to the evidence used against you, unless there is a specific security concern.
3. A written statement explaining the outcome and the reasons for the decision.
4. An opportunity to present evidence, including witnesses and documents, if doing so doesn't pose a security risk.
5. A chance to cross-examine witnesses, unless good cause is found for denying confrontation.

Important: The prison does not have to follow courtroom-level procedures. The standard is whether there is “some evidence” to support the outcome—this means any relevant, reliable information, even if it's weak or disputed.¹²⁷

Courts do not re-weigh evidence or second-guess prison staff unless the process is clearly unfair or arbitrary.

What If You Lost Good Time?

If your punishment resulted in the loss of good time credits that could affect your release date, **you must first overturn the conviction** before you can sue for damages.

Steps:

1. **File a grievance** through the TDCJ system.
2. **File a state habeas petition** (a legal request to overturn the disciplinary conviction).
3. **Then file a federal habeas petition** under 28 U.S.C. § 2254.

Only after doing all of this can you file a civil rights lawsuit under 42 U.S.C. § 1983.¹²⁸

Time Limits:

- You have 1 year from the date of the disciplinary conviction to file a federal habeas petition.

Additional Notes

- Courts have upheld the revocation of good time credits as a serious deprivation requiring due process.
- If you were denied witnesses, documents, or advance notice, and this made a difference in your hearing, mention it in your grievance and in court.

¹²⁶ *Wolff v. McDonnell*, 418 U.S. 539, 563–67 (1974).

¹²⁷ *Superintendent v. Hill*, 472 U.S. 445, 455 (1985).

¹²⁸ *Edwards v. Balisok*, 520 U.S. 641, 648 (1997).

- If the hearing officer or staff acted with bias, that can also be a due process violation.
- Keep copies of all paperwork, including notices, hearing reports, witness requests, grievances, and appeals.

Summary:

- Not all prison punishments trigger constitutional protections—only those involving major hardships or good time credits.
- You are entitled to basic fairness, not a full court trial.
- You must exhaust prison grievance procedures and habeas review before filing a lawsuit for money damages.
- Document everything and be specific about how your punishment was worse than normal conditions.

Seeking Legal Assistance from the ACLU of Texas

The **American Civil Liberties Union (ACLU) of Texas** handles a small number of civil rights cases, including prison conditions and violations of free speech, religion, or disability rights. The ACLU does **not** handle criminal cases.

To request help, write to:

ACLU of Texas

P.O. Box 8306

Houston, TX 77288-8306

Your letter should include:

- Your full name and TDCJ number
- A clear and detailed explanation of what happened
- What steps you've already taken (such as grievances filed)
- What help you are asking for

Do not send original documents. Keep copies of everything, especially grievances, I-60s, and medical requests. The ACLU does **not** return documents.

Note: The ACLU receives a high volume of letters and accepts **less than 1%** of the requests it receives. You may not receive a reply. You should continue seeking help elsewhere while waiting.

Seeking Legal Assistance from the Texas Civil Rights Project (TCRP)

The **Texas Civil Rights Project (TCRP)** accepts a limited number of civil cases involving prison conditions, disability discrimination, and other constitutional violations. TCRP does **not** take criminal cases.

To request help, you must have **already filed a Step 2 grievance**. Then write to:

Texas Civil Rights Project

P.O. Box 17757

Austin, TX 78760

Your letter should include:

- Your full name and TDCJ number
- A detailed description of the issue
- Steps you've taken (especially grievance documentation)
- What help you are requesting

Do not send original documents. TCRP does not return them. Keep all originals for future legal use.

Note: TCRP also receives a large number of requests. You may not get a response. Continue looking for other legal support while you wait.

Seeking Legal Assistance from the Texas Defender Service (TDS)

Texas Defender Service (TDS) assists with **serious felony and capital cases**, including post-conviction relief and parole review. TDS **does not** handle purely civil lawsuits.

If your civil rights were violated in connection to a **criminal case**—such as poor legal representation, wrongful conviction, or abuse on death row—or if you have a **parole review at least 8 months away**, you may write to:

Texas Defender Service

P.O. Box 82236
Austin, TX 78708

Your letter should include:

- Your name and TDCJ number
- A detailed description of your situation
- What you've done so far to fix it
- What help you are asking for

Do not send original documents. TDS does not return them. Keep your own copies.

Note: TDS has limited staff and accepts only a small number of cases. They review letters as time allows. Continue contacting other legal aid groups while waiting.

Glossary

For your reference, here are a list of some of the legal terms used in this handbook and their definitions.

- **Appeal** — in courts, and within the TDCJ system, an appeal allows you to request that your claims be reviewed again.
- **Complaint** — in courts, a complaint is the document you file to start your lawsuit. A complaint details the facts of your case and your argument for why the law was broken.
- **Constitutional Right/Violation** — a Constitutional right is a right that is listed in the U.S. Constitution. A Constitutional violation occurs when someone, like the TDCJ, does not obey the Constitution. The law library should have resources that you can use to determine if your problem is a violation of a Constitutional right.
- **De minimis** — in courts, the Latin phrase “*de minimis*” refers to facts or issues that are too small for the court to bother considering.
- **Defendant** — if you file a lawsuit claiming that someone violated your civil rights, the person who violated your rights is the defendant (and you are the plaintiff.)
- **Deliberate indifference** — “deliberate indifference” is a standard that the courts use in helping them determine whether someone violated your rights or not. To see how this standard is applied in specific types of rights violations, please see the sections entitled “Medical Care”, “Life Endangerment”, and “Exposure to Environmental Hazards or Toxic Materials.”
- **Filing Fee** — courts typically charge you a specific amount of money when you file a lawsuit, called a filing fee. If you do not currently have the amount of money needed to file your suit, you can use a payment plan, see the section entitled “Filing Fees” for more information about these payment plans.
- **Frivolous Suit** — a court can throw out your lawsuit (or individual documents that you file for your lawsuit) if they decide it is frivolous. Frivolous suits include all suits that the court believes are filed in bad faith.
- **General Negligence** - Failure to use reasonable care, resulting in harm or risk of harm to another person. In legal terms, negligence happens when someone does not act as a reasonably careful person would in the same situation, and that failure causes.

injury or damage.

- **Incarcerated Person** — for the purposes of this guide, a person held in a TDCJ facility.
- **Injunction** — to stop someone (like a TDCJ employee) from doing something, a court issues an injunction. Injunctions are court statements that prohibit specific people from doing specific behaviors.
- **Plaintiff** — if you file a lawsuit you are the plaintiff. The person you file the lawsuit against (like a TDCJ employee) is the defendant.
- **Proper Claim** — a proper claim is a reasonable argument for why the facts lead to the request you are making of the court, in the time frame in which you are making the request. Proper claims are based on existing laws and previous court decisions. While including a proper claim does not guarantee that a court will give you what you want, they will not consider your case unless you include a proper claim in your complaint.
- **Statute of Limitations** — you cannot file a lawsuit whenever you want, you must file your suit within the time limit imposed by law. In Texas, most lawsuits must be filed within two years of the occurrence of the incident the suit is about. Review the section entitled “Lawsuits” to help you determine what the statute of limitations is for your case.
- **Writ of habeas corpus** — is a way to get in front of a judge to determine if your incarceration is lawful. The law library should have materials explaining how this works and how you can attempt to use it.

Appendix

Sample Step 1 Completed Grievance Form for Medical Care

Name: James Carter TDCJ #: 01945672
Unit: Ramsey Unit Housing/Cell: A-3-112
Date: June 15, 2025
Issue Type: Medical Care

I have asthma and have been having breathing problems for the last two weeks. I submitted sick call requests on June 3, June 6, and June 10, but have not been seen. I also submitted an I-60 to the medical department on June 12.

My condition is getting worse. I wheeze when I lie down and have to sleep sitting up. On June 13, I had a coughing fit during count and Officer Bennett saw me struggling to breathe, but just told me to go to my bunk.

I am afraid this could turn into a serious asthma attack. I've gone without medication or an inhaler since arriving at Ramsey.

I am requesting to be seen by a doctor immediately and to receive an inhaler or other asthma medication as soon as possible.

Signature: James Carter Date: June 15, 2025

Sample Step 2 Completed Grievance Form for Medical Care (Appeal of Denial or Inaction)

Name: *James Carter*
TDCJ #: *01945672*
Unit: *Ramsey Unit*
Housing/Cell: *A-3-112*
Date: *July 6, 2025*

This is a Step 2 appeal of my Step 1 grievance, originally filed on: *June 15, 2025*
Step 1 Grievance Tracking Number (if known): *Not provided*

Why I am appealing (check all that apply):

- I received no response within the required time
- The response I received was incorrect or incomplete
- The issue has not been fixed

- I am still being harmed
- Other: _____

Explain why you disagree with the Step 1 response and what needs to happen now:

I am appealing because my Step 1 grievance was ignored or did not result in any medical care. I still have not been seen by medical staff and have not received any treatment or inhaler, even though I have submitted multiple sick call requests and an I-60. My breathing problems continue to worsen, and I remain at risk of a serious asthma attack. I am still wheezing and cannot sleep lying down. I am requesting immediate medical attention and access to an inhaler or other asthma medication.

Signature: *James Carter*

Date: *July 6, 2025*

Grievance Log Template

Use this log to track each grievance you file. Keep a copy of all written forms and note when you send or receive responses. This helps protect your legal rights under the PLRA.

Grievance Number	Date Filed	Facility. Unit	Issue Type (e.g., medical, staff abuse, heat)	Staff Involved (if any)	Date of Response	Outcome	Appeal Filed? (Y/N)	Date of Appeal	Final Decision Date

Sample Medical Symptom Log / Incident Tracker

Use this log to document ongoing symptoms, medical emergencies, delays in care, and any attempts you made to get help. This can support Eighth Amendment claims or show deliberate indifference.

Start Date: _____ Name: _____ TDCJ #: _____

Date	Symptom(s) or Incident	Pain Level (1-10)	Actions Taken (sick call, I-60, etc.)	Staff Notified / Response	Notes (worsening, impact)

6/1/2025	Chest pain, shortness of breath	7	Filed sick call form	Officer Jimenez – no response	Couldn't sleep, chest tightness
6/3/2025	Same symptoms + dizziness	8	Verbal request to medical during pill line	Nurse said "you're not on the list"	Missed chow, laid in bunk all day
6/6/2025	Symptoms worsening, coughing fits	9	Filed another sick call + I-60 to HSA	No response as of 6/8	Scared of asthma attack
...					

Legal Case Timeline Checklist

This checklist helps you track major deadlines and filings for common legal actions (civil rights claims, medical malpractice, IFP status, etc.)

Name: _____ TDCJ #: _____ Facility: _____

Grievance Process (PLRA Requirement):

- Step 1 Grievance Filed: _____
- Response Received: _____
- Step 2 Appeal Filed: _____
- Final Decision Received: _____

Federal Lawsuit (42 U.S.C. § 1983):

- Complaint Drafted: _____
- IFP Form Completed: _____
- Trust Account Statement Requested: _____
- Full Packet Mailed to Court: _____
- Case Number Received: _____
- Court Screening Order Issued: _____

Medical Malpractice (Texas Civil Code §§ 74.051-.052):

- Notice of Claim Sent to Medical Provider: _____
- HIPAA Medical Release Included (Required): _____
- 60-Day Waiting Period Ends: _____
- Lawsuit Filed in State Court: _____
- Expert Report Due (120 Days After Filing): _____

Other Important Deadlines: Statute of Limitations (2 years from injury): _____

- ADA/504 Accommodation Request Filed: _____
- Retaliation or Reprisal Report Filed (if needed): _____
- Supporting Declarations/Witness Statements Completed: _____

Attach any:

- Grievances
- Medical Logs
- Letters to staff
- Rejection notices
- Court letters

In Forma Pauperis (IFP) Motion – Sample

This is a sample motion for incarcerated individuals to request a fee waiver when filing a § 1983 complaint in **Texas federal court**. It should be submitted **with** the complaint and a certified copy of their trust account statement for the previous 6 months.

UNITED STATES DISTRICT COURT

**[Insert appropriate district: Southern / Eastern / Western / Northern]
District of Texas**

[Your Full Name],

Plaintiff

TDCJ #: _____

Unit: _____

v.

[Name(s) of Defendants],

Defendants

Civil Action No: _____ (To be filled in by the Clerk)

MOTION TO PROCEED IN FORMA PAUPERIS

I, **[Your Name]**, hereby respectfully ask the Court to allow me to proceed **in forma pauperis** (without prepayment of fees) under 28 U.S.C. § 1915.

1. I am currently incarcerated at [Unit Name], TDCJ # [TDCJ Number].
2. I have no source of income, property, or financial assistance.
3. I am unable to pay the filing fee because I have no money in my inmate trust account or earn less than \$20 per month.
4. I am attaching a certified trust fund account statement showing the balance and transactions for the past six months, as required by law.

I request that the Court grant this motion and permit my complaint to proceed without full prepayment of the filing fee.

Respectfully submitted,
Signature: _____
Printed Name: _____
TDCJ #: _____
Date: _____

ATTACHMENTS:

- Certified Inmate Trust Account Statement
- Completed Civil Rights Complaint
- This Motion

Sample Cover Letter to Clerk (Federal Complaint Submission)

Use this letter to explain what you are sending and what you are requesting from the Clerk's Office.

[Your Name]

TDCJ #: [Your TDCJ Number]

[Unit Name]

[Unit Address]

[Date]

Clerk of Court

[Insert full address of U.S. District Court]

[City, State ZIP]

RE: Civil Rights Complaint – Request to Proceed In Forma Pauperis

Dear Clerk of Court,

I am an incarcerated person at [Unit Name], and I am submitting the following documents for filing:

- A § 1983 civil rights complaint
- A Motion to Proceed In Forma Pauperis
- A certified copy of my inmate trust account statement

I respectfully request that the Court file my complaint and grant my motion to proceed without prepayment of the filing fee under 28 U.S.C. § 1915.

Please send me confirmation that the case has been received and a docket number if possible. I also request that the Court notify me of any missing documents or further steps I must take.

Thank you for your time and assistance.

Respectfully,

[Your Full Name]

TDCJ #: [Your Number]

[Facility Name]

Section 1983 and PLRA Case Timeline Checklist

This checklist helps track important deadlines and actions in a lawsuit under Section 1983. Meeting these deadlines is especially important because of the Prison Litigation Reform Act (PLRA).

Task or Deadline	Recommended Timeframe	Date Completed	Notes
Injury or Rights Violation Occurred	Day 0		
Grievance Filed (Step 1)	Within 5-15 days of incident (varies by facility)		
Grievance Response Received	Varies by facility		
Appeal of Grievance Filed (if denied or ignored)	Typically within 5-10 days of denial		
Final Grievance Decision or Exhaustion of Appeals	Required before filing lawsuit		
Complaint Filed in Court (Section 1983 lawsuit)	Within statute of limitations (usually 1-2 years)		
In Forma Pauperis Application (if needed)	When filing lawsuit		
Court Screens Case for Dismissal or Service	Weeks to months		
Discovery and Motions Begin	After service of complaint		

Disability Accommodation Request Letter (ADA / Section 504)

This is a plain-language letter an incarcerated person can submit to request accommodations under the **Americans with Disabilities Act (ADA)** or **Section 504 of the Rehabilitation Act**. It should be submitted to the Unit ADA Coordinator and attached to any Step 1 grievance if ignored.

To: Unit ADA Coordinator / Warden

From: [Your Full Name]

TDCJ #: [Your Number]

Date: [Today's Date]

Unit: [Unit Name]

Subject: Disability Accommodation Request (ADA / Section 504)

Dear ADA Coordinator,

I am submitting this letter to formally request a disability accommodation under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

My disability is: [brief description: e.g., “I use a wheelchair due to spinal cord injury” or “I have hearing loss and require an interpreter.”]

The problem is: [describe how the disability limits access — e.g., “I cannot safely use the shower without grab bars,” or “I cannot understand educational programs without an interpreter.”]

I am requesting the following accommodation(s):

- Access to an accessible shower/toilet
- A mobility device (wheelchair, cane, walker)
- Transfer to an accessible housing unit
- Communication assistance (sign language interpreter, TTY phone, etc.)
- Assistive device (hearing aid, eyeglasses, etc.)
- Other: _____

Please consider this my formal accommodation request. I also request a written response within 15 days as required.

Thank you for your attention to this matter.

Sincerely,

[Signature]

[Printed Name]

TDCJ # _____

Medical Malpractice Notice of Claim Letter (Texas)

Texas Civil Practice & Remedies Code § 74.051-.052

Before filing a malpractice lawsuit, incarcerated people must give **written notice** of the claim **at least 60 days in advance and** include a **HIPAA-compliant medical release form**.

NOTICE OF CLAIM - MEDICAL NEGLIGENCE

To: [Name of Medical Provider / Medical Department / UTMB / TDCJ Health Services]

From: [Your Full Name]

TDCJ #: [Your Number]

Unit: [Facility Name]

Date: [Today's Date]

Dear [Provider or Administrator's Name],

This letter serves as formal **notice of a health care liability claim** under Texas Civil Practice and Remedies Code §§ 74.051-.052.

I am an incarcerated person in the custody of TDCJ. I suffered serious harm due to negligent medical care on or about [insert date or range]. Specifically, [brief description of what happened — e.g., “my serious infection went untreated for weeks after repeated sick call requests, leading to hospitalization”].

Under Texas law, this letter begins the required 60-day notice period before filing suit. Enclosed is a signed HIPAA medical release form that authorizes the disclosure of my medical records.

If you have any questions or require additional information, I can be reached by mail at the address listed above.

Sincerely,

[Signature]

[Printed Name]

TDCJ #: _____

HIPAA-Compliant Medical Records Release Form

This form complies with **Tex. Civ. Prac. & Rem. Code § 74.052** and should be included with any malpractice notice letter.

AUTHORIZATION FOR RELEASE OF PROTECTED HEALTH INFORMATION

I, **[Your Full Name]**, authorize the disclosure of my health records as follows:

Patient Name: _____

TDCJ #: _____

Date of Birth: _____

Records to be Released To:

[Insert name of medical provider / attorney / court / yourself]

Information to be Released:

- All medical records
- Diagnoses, test results, treatment plans, prescriptions
- Mental health, substance use, or HIV records (if applicable)

Purpose: Evaluation of a medical negligence claim under Texas Civil Practice and Remedies Code § 74.051.

This authorization is valid for 180 days from the date of signature unless revoked in writing. I understand that I have the right to revoke this authorization at any time.

Signature: _____

Printed Name: _____

TDCJ #: _____

Date: _____



Texas Department of Criminal Justice

STEP 1 OFFENDER GRIEVANCE FORM

!""#\$%&'(%&!)*+ &
Grievance #: _____
Date Received: _____
Date Due: _____
Grievance Code: _____
Investigator ID #: _____
Extension Date: _____
Date Retd to Offender: _____

Offender Name: _____ TDCJ # _____

Unit: _____ Housing Assignment: _____

Unit where incident occurred: _____

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? _____ When? _____

What was their response? _____

What action was taken? _____

State your grievance in the space provided. Please state who, what, when, where and disciplinary case number if appropriate.

[Large blank area with horizontal lines for writing the grievance]

YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM (OVER)

Action Requested to resolve your Complaint.

Offender Signature: _____ **Date:** _____

Grievance Response:

Signature Authority: _____ **Date:** _____
If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when corrections are made.

- 1. Grievable time period has expired.
- 2. Submission in excess of 1 every 7 days. *
- 3. Originals not submitted. *
- 4. Inappropriate/Excessive attachments. *
- 5. No documented attempt at informal resolution. *
- 6. No requested relief is stated. *
- 7. Malicious use of vulgar, indecent, or physically threatening language. *
- 8. The issue presented is not grievable.
- 9. Redundant, Refer to grievance # _____
- 10. Illegible/Incomprehensible. *
- 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

OFFICE USE ONLY

Initial Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	
<u>2nd Submission</u>	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	
<u>3rd Submission</u>	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	

Acción que usted solicita para resolver su problema.

Firma del Ofensor: _____ Fecha: _____

Decisión Administrativa:

Firma de la Autoridad: _____ Fecha: _____

Si usted no esta satisfecho con la respuestra del Paso 1, (I-127). Usted puede enviar el Paso 2 (I-128) al Investigador de Quejas de la unidad dentro de 15 días de la fecha de la respuesta del Paso 1. Escriba la razon de su apelación en la forma del Paso 2.

Su Queja fue regresada por las siguientes razones:

**Presente su queja cuando haya corregido su error en el formulario.*

- 1. El límite establecido de 15 días para presentar su queja ha terminado.
- 2. Presentó mas de una queja en el período establecido de 7 días.*
- 3. La forma original no fue presentada. *
- 4. La queja tiene páginas excesivas o inapropiadas. *
- 5. No hay documentación que indique que usted trato de resolver su queja informalmente.*
- 6. No indicó que remedio solicita para resolver su problema.*
- 7. Contiene lenguaje vulgar, indecente o amenazador físicamente. *
- 8. Su problema no se puede solucionar presentando esta queja. *
- 9. Ya presentó esta queja anteriormente, queja # _____
- 10. No se puede leer, no se entiende. *
- 11. No es apropiado. *

UGI Printed Name/Signature: _____

La aplicación del criterio de revisión para esta queja no se espera que afecte adversamente la salud del ofensor.

Medical Signature Authority: _____

OFFICE USE ONLY

Para Uso De La Oficina Solamente

Initial Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

2nd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

3rd Submission UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

Offender Signature: _____ **Date:** _____

Grievance Response:

Signature Authority: _____ **Date:** _____

Returned because: *Resubmit this form when corrections are made.

- 1. Grievable time period has expired.
- 2. Illegible/Incomprehensible. *
- 3. Originals not submitted. *
- 4. Inappropriate/Excessive attachments. *
- 5. Malicious use of vulgar, indecent, or physically threatening language. *
- 6. Inappropriate. *

CGO Staff Signature: _____

OFFICE USE ONLY	
Initial Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened	<input type="checkbox"/> Improperly Submitted
Comments: _____	
Date Returned to Offender: _____	
2nd Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened	<input type="checkbox"/> Improperly Submitted
Comments: _____	
Date Returned to Offender: _____	
3rd Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened	<input type="checkbox"/> Improperly Submitted
Comments: _____	
Date Returned to Offender: _____	

Firma del Ofensor: _____ Fecha: _____

Respuesta Administrativa en referencia a su apelacion:

Firma de la Autoridad: _____ Fecha: _____

Su queja fue regresada por las siguientes razones:

*Presente esta forma otra vez cuando haya hecho las correcciones

- 1. El periodo para presentar su queja ha terminado. *
- 2. No se puede leer, no se entiende. *
- 3. El documento original no fue presentado. *
- 4. La queja tiene páginas excesivas o inapropiadas. *
- 5. Contiene lenguaje vulgar, indecente o amenazador físicamente. *
- 6. No es apropiado.*

CGO Staff Signature: _____

OFFICE USE ONLY	
Para Uso De La Oficina Solamente	
Initial Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened	<input type="checkbox"/> Improperly Submitted
Comments: _____	
Date Returned to Offender: _____	
2nd Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened	<input type="checkbox"/> Improperly Submitted
Comments: _____	
Date Returned to Offender: _____	
3rd Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened	<input type="checkbox"/> Improperly Submitted
Comments: _____	
Date Returned to Offender: _____	

American Civil Liberties Union of Texas

P.O. Box 8306
Houston, TX 77288-8306

Texas Civil Rights Project (TCRP)

PO Box 17757
Austin, TX 78760
512-474-5073

Grassroots Leadership

7910 Cameron Rd
Austin, Tx 78754

4407 New Orleans Str
Houston, Tx 77020

www.grassrootsleadership.org

Texas Defender Services (TDS)

PO Box 82236
Austin, TX 78708

Pure Justice

5380 W. 34th St. 305
Houston, TX 77092

Texas Center for Justice & Equity

8708 S. Congress Avenue
STE 500-216
Austin, Texas 78745

Texas Inmate Family Association

P. O. Box 1071
Goliad, Texas 77963
512-371-0900

www.tifa.org