



## Final Regulation Agency Background Document

<b>Agency name</b>	Department (Board) of Juvenile Justice
<b>Virginia Administrative Code (VAC) citation</b>	6VAC35-150
<b>Regulation title</b>	Regulation for Nonresidential Services
<b>Action title</b>	A comprehensive review of the regulation for clarity and improvement and a revision of the regulation to reflect regulatory and policy changes since this regulation was amended in 2002.
<b>Date this document prepared</b>	November 19, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

The Regulation of Nonresidential Services (6VAC35-150) establishes the minimum requirements for the operation of locally and state-operated court service units and for nonresidential programs available to the juvenile and domestic relations district courts, including those funded through the Virginia Juvenile Community Crime Control Act. The provisions for court service units include guidance for processing delinquency petitions at intake, making decisions whether to detain alleged delinquent juveniles, and supervising probationers and parolees. Additionally, the regulation establishes standards for the development, implementation, operation, and evaluation of the nonresidential community-based programs and services such as those established by the Virginia Juvenile Community Crime Control Act (§16.1-309.2 *et seq.* of the Code of Virginia), which provide treatment and supervision for juveniles.

This regulation was last reviewed in 2002, and, since then, a number of administrative changes have occurred. This regulation was reviewed in light of current practices and in consultation with representatives of locally and state-operated court service units. The changes update regulatory provisions

in light of best practices and with the goal of providing a user-friendly regulatory scheme of which the requirements for compliance are clearly delineated.

The changes (i) update the definition section and terms used for clarity and consistency with other regulations promulgated by the Board of Juvenile Justice (the “Board”); (ii) remove unnecessary verbiage; (iii) amend the background check section in light of recent statutory changes;(iv) clarify the requirements for volunteers and interns; (v) streamline the requirements for all reports to the court; (vi) clarify when procedures should be required for handling non-department funds; (vii) incorporate appropriate cross-references to statutes, regulations, and guidance documents, amended, enacted, or promulgated since the last review; (viii) cross-reference the regulation containing the process for obtaining a variance to regulatory provisions; and (ix) amend the duties of court service unit staff in light of legislative changes since 2002.

Since publication of the regulation at the proposed stage to the final stage, the regulation was changed to (i) amend definitions to track language in statutes and other regulations and delete unnecessary definitions; (ii) add the definition of written to include electronic writings; (iii) delete conflicting language in section 335; (iv) reinsert language in regarding reviews of supervision plans to avoid unintended consequence of possible reduction in reviews; (v) require written notice of a juveniles release from supervision; (vi) amend section 450 to track federal code language; (vii) add a retraining requirement for use of restraints in certain programs; and (viii) correct technical and grammatical issues.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

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The Board of Juvenile Justice authorized the submission of the proposed regulation for advancement to the final stage of the regulatory process at its November 18, 2009, meeting.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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The Board is entrusted with general authority to promulgate regulations by § 66-10 of the Code of Virginia, which states the Board may “promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Director or the Department.”

Additionally, the Board is mandated by §§ 16.1-233 and 16.1-309.9 of the Code of Virginia to issue regulations pertaining to court service units and other nonresidential services. Section 16.1-233 of the Code of Virginia requires the Board to regulate court service unit staff, including their appointment and function, with the goal of establishing, as much as practicable, uniform services for juvenile and domestic relations courts throughout the Commonwealth. Moreover, § 16.1-309.9 of the Code of Virginia requires the Board to regulate the “development, implementation, operation and evaluation of the range of

community-based programs, services and facilities authorized” by the Virginia Juvenile Community Crime Control Act.

The Board of Juvenile Justice is the promulgating entity.

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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Per the requirements in §§ 2.2-4017 and 2-2-4007.1 of the Code of Virginia and Executive Order 36 (2006), the Department conducted a “periodic review” of the regulation, which was submitted through the Regulatory Town Hall on December 27, 2007. A public comment forum was open from January 21 through February 20, 2008, during which no public comments were received. However, during this period, the Department convened a multidisciplinary committee, which consisted of interested employees of the Department’s Divisions of Community Programs and Administration and representatives of locally operated court service units. This committee was formed to review the regulation and determine (1) whether the regulation is supported by statutory authority (as determined by the Office of the Attorney General) and (2) that the regulation is (a) necessary for the protection of public health, safety, and welfare; and (b) clearly written and easily understandable. The committee recommended a comprehensive review of the regulation due to changes in practice, best practices, and statutes since the last review.

The last comprehensive review of the regulation was completed in 2002. Since that time, the Board has promulgated several other regulations as required by law. Sections of these regulations guide the operations of court service units, which are the primary subject of this regulation. Where applicable, those regulations are clearly referenced. The amendments streamline the applicability of each provision. Moreover, during the periodic review period, the regulation was reviewed in light of current statutes, regulations, and practices. As a result of this review, it was determined that a comprehensive review of and substantive changes to the regulation was necessary. The amendments incorporate changes recommended by a committee of individuals representing locally and state-operated court service units. The changes serve to enhance the clarity of the regulation by developing provisions that are reasonable, prudent, and will not impose an unnecessary burden on its regulants or the public.

Having clear, concise regulations is essential to protecting the health, safety, and welfare of residents in juvenile secure detention centers and citizens in the community. With clear expectations for the administrators running these court service units and community nonresidential programs, the units and programs will be able to be run more smoothly. The outcome will become extremely important in this current climate of limited financial resources and will continue to allow for supporting the needs of the juveniles and their families, which, in turn, will support the overall rehabilitation and community safety goals of the Department.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.*

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The regulation contains the following changes:

- 1) Section 10 (Definitions): The definitions and terms were updated for clarity and consistency with other regulations promulgated by the Board and current standards of practice. Several definitions were deleted as they were considered unnecessary or were not needed to be defined due to the common usage of the term.
- 2) Section 10 and 40 (Variances): The term “variance” is defined, and the section of the Board’s Certification Regulation related thereto is cross-referenced.
- 3) Section 10, section 130 (Research), and section 500 (Juvenile participation in research): The term “Human research” is defined, and the provisions related thereto cross-reference the governing statute and regulations, which were enacted after the last review of this regulation.
- 4) Section 55 (Probation officers’ caseload): This section was deleted given the broad nature of the existing verbiage (“other factors” could include anything) and the reality that court service units must comply with any court order for supervision.
- 5) Section 66 (Procedures for handling funds – formerly section 190): This section was amended to govern only those funds over which the Board has regulatory authority.
- 6) Section 70 (Court service unit director and staff): This section was deleted as position descriptions, employee work profiles, and performance plans are required by the state’s Department of Human Resources Management. Additionally, the duties of the directors are, in part, governed by statute.
- 7) Section 80 (Background checks): This section was amended for conformity with the background checks required for children’s residential programs.
- 8) Section 90 (Training): This section was amended to require training as required by an employee’s job duties and training needs. The specific hours of training requirement was removed.
- 9) Section 110 (Volunteers and interns): This section was amended to clarify that the requirements apply to both volunteers and interns; retained the requirement for registration with the Department but deleted the specific purpose as this is a responsibility of the Department and not the specific court service units.
- 10) Section 140 (Records management): Subsection E was deleted as it addresses the contents of files for postdispositional residential care, which is not governed by this regulation. Please note that section 310 was amended to require certain information in the case record for juveniles subject to such placements.
- 11) Section 165 (Custody investigations): This section was deleted as very few court service units are required to complete custody investigations and, of those who continue to be ordered to complete such investigations, the form and content are governed by local court requirements, procedures, and practices.
- 12) Section 200 (Safety and security procedures): Subdivision 1 was added for conformity with required Continuity of Operations (COOP) planning; subdivisions 2 and 3 were amended from current requirements to require training on crisis intervention and prevention techniques for the office and the field.

- 13) Section 210 (Physical force): This section was amended to clearly detail the circumstances under which force may be utilized.
- 14) Section 220 (Searches): This section was amended to clarify that such searches may include a search of the immediate area surrounding the individual.
- 15) Section 260 (Transportation of detained juveniles): Subsection B was deleted as it is governed by the transportation guidelines.
- 16) Sections 270 (Intake duties) and 290 (Intake communications with detention): The references to the juvenile tracking system were removed and replaced with references to the applicable electronic data collection system.
- 17) Section 300 (Predispositionally placed juvenile): This section was amended to clarify when telephone conferencing may be used for court service unit contact with predispositionally placed juveniles.
- 18) Section 310 (Postdispositional detention): This section was amended to clarify that it applied only to postdispositional placement greater than 30 days. It also dictates what information must be contained in the case record when a juvenile is subject to such placement.
- 19) Section 320 (Notice of juvenile's transfer): This section was amended to clarify that the court service unit did not have to separately notify a juvenile's parents of his transfer when the juvenile's parents already had knowledge of the transfer.
- 20) Section 335 (Diversion): The limit on the duration of diversion was extended from 90 to 120 days (except in cases of truancy). After the 120 days, the intake officer is prohibited from filing a petition on the acts of offenses precipitating the initial referral.
- 21) Section 336 (Social histories): This section incorporates, consolidates, and removes specific procedural requirements previously contained in sections 150 (Reports for the court) and 160 (Social history). Many of the requirements for such reports to the court, which are statutorily provided, were deleted.
- 22) Section 350 (Supervision plans for juveniles): Parts addressing issues when a juvenile is in direct care were moved to section 415 (Supervision of juvenile in direct care). Other procedural aspects were deleted and amendments were made to clarify review expectations.
- 23) Section 355 (Supervision of juveniles on electronic monitoring): This section was added to require procedures to govern electronic monitoring programs. (Such procedures were required by former Part III, Article 4.)
- 24) Section 365 (Supervision of adult on probation): This section was added to address specific supervision issues.
- 25) Section 370 (Placements in the community): This section was repealed as such contacts would be required by the supervision plan.
- 26) Section 390 (Transfer of case supervision): This section was amended to clarify when and how case supervision may be transferred both within the Commonwealth and to and from other states.

- 27) Section 400 (Notice of release from supervision): This section was amended to ensure notice is made in writing.
- 28) Section 410 (Commitment information): This section now requires the commitment information to precede (rather than precede *or* accompany) the juvenile's arrival at RDC;
- 29) Section 415 (Supervision of juvenile in direct care): This section was added to address specific supervision issues. This section was amended as the Proposed Stage requires a parole supervision plan to be completed 60 days before the planned early release date for a juvenile in direct care and, if the release is planned before that date, within 30 days of the notice of the earlier release. It allows such notice to be waived by the court service unit director or designee.
- 30) Section 430 (Program and service provider requirements): This section adds to the programmatic prerequisites for programs. It also cross-references the background check requirement for court service units. Thus, section 440 (Employee and volunteer background check) was deleted. It further incorporates the provisions of former sections 590 (Referrals) and 570 (Response to crisis).
- 31) Section 435 (Contracted services): This section was amended to clarify that contracted services are subject to the same standards as programs subject to the regulation.
- 32) Sections 575 (Physical and mechanical restraints and chemical agents in programs and services) and 680 (Physical and mechanical restraints and chemical agents): The provisions relating to physical and mechanical restraints and chemical agents were moved from the article addressing day programs as the provisions are applicable to all service providers and programs subject to this regulation. This section sets forth specific requirements for the use of physical restraints, including a retraining requirement, and prohibits the use of mechanical restraints, except in outreach detention and electronic monitoring, and of chemical agents for the management of behaviors in all programs and services. Thus, section 680 was repealed.
- 33) Sections 600 (Surveillance officers) and 610 (Substance abuse and testing services): These sections were deleted as they are incorporated into the definition of programs or contract services, where were governed by the regulation already.
- 34) Section 615 (Applicability of Part III, Article 2): This section was added to clarify to which programs Article 2 is applicable.
- 35) Section 620 (Supervision of juveniles in alternative day treatment and structured day programs): Subsection B was deleted as some nonresidential programs may provide peer mentoring, etc., and liability requirements would govern the remaining parts.
- 36) Section 640 (Emergency and fire safety in alternative day treatment and structured day programs): This section was broadened to govern different types of emergencies.
- 37) Section 680 (Physical and mechanical restraints and chemical agents): See section 575 above.
- 38) Article 4 (Electronic monitoring): This article was deleted given the procedural aspects of the existing provisions and the applicability of Part III to any such programs. The requirement for procedures is now contained in section 351 (Supervision of juveniles on electronic monitoring).

- 39) Many of the sections were moved or grouped differently for clustering of related provisions:
- Section 62 (Suitable quarters) was moved from section 175 (Suitable quarters) under Budget and Finance to the part dealing with Administration;
  - Section 64 (Prohibited financial transactions) was moved from section 180 (Prohibited financial transactions) under Budget and Finance to the part dealing with Administration;
  - Section 66 (Procedures for handling funds) was moved from 190 (Procedures for handling funds) under Budget and Finance to the part dealing with Administration;
  - Section 336 (Social histories) was moved from 150 (Reports for the court) and 160 (Social history) under Administration to Probation, Parole, and Other Supervision.
  - Section 510 (C) (Case management requirements) now incorporates former section 560 (Individual service or contact plan); and
  - Section 670 (Juveniles' medical needs in alternative day treatment and structured day programs) now incorporates former section 650 (First-aid kits) and 660 (Delivery of medication).
- 40) Also, unnecessary verbiage was deleted (i.e., sections 20 [Previously adopted regulations superseded] and 35 [Establishment of policy] repealed) and other technical and stylistic changes were made.

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
  - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
  - 3) other pertinent matters of interest to the regulated community, government officials, and the public.*
- If there are no disadvantages to the public or the Commonwealth, please indicate.*

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This regulation is essential to protect the public safety by providing for the supervision of delinquent juveniles. The regulation includes standards for both state-operated and locally-operated court service units to ensure that “uniform services, insofar as is practical, will be available to juvenile and domestic relations district courts throughout the Commonwealth.” *See* § 16.1-233 (C) of the Code of Virginia. The regulation provides guidance for processing alleged delinquent juveniles at intake, detaining delinquents, and supervising probationers and parolees in the community.

The regulation further protects the public safety by establishing standards for the development, implementation, operation, and evaluation of the nonresidential community-based programs and services such as those established by the Virginia Juvenile Community Crime Control Act (“VJCCCA”). *See* § 16.1-309.2 *et seq.* of the Code of Virginia. Such VJCCCA programs provide supervision and services to juveniles who are before the court or before a juvenile intake officer with the goal of preventing those juveniles from further penetrating the juvenile justice system.

Having clear, concise, and consistent requirements across localities promotes the health, safety, and welfare of citizens by ensuring consistency in services throughout the Commonwealth. The amendments will streamline the reporting requirements while not affecting (i) the quality of services provided by court service units and program or service providers or (ii) the ability of the Department to oversee such functioning.

There are no disadvantages to the public or the Commonwealth.

## Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
Title		Changes "standards" to "regulation" and deletes "Available to Juvenile and Domestic Relations District Courts."	Changes terms to reflect current nomenclature for regulations.
10		<i>Definition of approved procedure:</i> Changes the requirement for approval from the deputy director of community programs to the director or designee and deleted "standard."	Changes approving person to reflect the delegatory chain of command to the Director to be consistent with such designations across regulations.
10		<i>Definition of human research:</i> Adds "systematic" and "using human subjects" and specific prohibited practices.	Changes mirror definitions in other regulations promulgated by the Board.
10		<i>Definition of nonresidential services:</i> Deletes this definition.	Deletes the definition as it is unnecessary given the plain meaning of nonresidential.
10		<i>Definition of physical restraint:</i> Adds "behavior intervention" and deletes "or a hands on hold" and "when that individual's behavior places him or others at imminent risk." Removes gender specific pronoun.	Changes mirror definitions in other regulations promulgated by the Board.
10		<i>Definition of probation:</i> Adds statutory references; deletes unnecessary verbiage ("under the supervision of a probation officer"); and changes "placement" to "disposition."	Changes make definitions consistent with statutory provisions and removes any confusion regarding probation as a status and not a placement.
10		<i>Definition of program or service:</i> Deletes definition as it adopts the common usage definition and does not need to be separately defined.	Deletes unnecessary definition.
10		<i>Definition of supervision:</i> Adds "probation or."	Adds language to clarify that individuals on probation (via court order) are under supervision as used in this



Section number	Requirement at proposed stage	What has changed	Rationale for change
			Chapter.
10		<i>Definition of time out:</i> Deletes language and adds language redefining time out.	Changes mirror definitions in other regulations promulgated by the Board.
10		<i>Definition of volunteer or intern:</i> Deletes “goods or” and adds “competitive.”	Changes reflect practical definition of volunteers and interns.
10		<i>Definition of written:</i> Adds term and definition.	Adds term to reflect the Commonwealth’s focus on utilizing technology in government.
40		<i>Variiances:</i> Changes the reference to the Certification Regulation.	Changes were necessary because the Certification Regulation is under review, and it is not desirable to limit the reference to one section rather than the entire regulation.
80		<i>Background checks:</i> Adds language clarifying the exception for fingerprint checks.	Clarifies to what subdivisions the limited exception to background checks applies and when the exception is applicable.
110		<i>Volunteers [and interns]:</i> Adds interns and deleted “for liability insurance purposes.”  “Interns” was also added to all sections referencing volunteers for consistency and clarification of the applicability of the provisions.	Clarifies that the requirements apply to volunteers and interns; deletes the requirement that registration be for liability purposes as this is an obligation of the Department and not of the individual CSUs subject to the regulation.
200		<i>Safety and security procedures:</i> Changes “precautions” to “practices” and “manage” to “respond to.”	Makes technical changes to clarify intent.
210		<i>Physical force:</i> Deletes “or with the intent to inflict injury.”	Removes this phrase to avoid confusion in application. Generally inherent in the use of physical force, with the intention for the defense of self or others, is the intent to inflict a type of injury to remove the

Section number	Requirement at proposed stage	What has changed	Rationale for change
			threat.
260		<i>Transportation of detained juveniles:</i> Changes the date of the reference document to “current edition.”	References the document in effect and governing transportation practices. The referenced document is promulgated by multiple entities and, thus, subject to a different review process.
270		<i>Intake duties:</i> Deletes “unless a court has ordered detention.”	Makes a technical change as the duties of an intake officer are separate from those of a judge ordering detention.
300		<i>Predispositionally placed juvenile:</i> Makes technical changes to subsection A.	Clarifies when telephone conferencing may be used for CSU contact with predispositionally placed juveniles.
310		<i>Postdispositional detention:</i> Changes § 16.1-284.4 to 16.1-284.1	Makes a technical change to reflect appropriate statute.
335		<i>Diversion:</i> Deletes subsection C.	Deletes Subsection C to impose clear expectations for CSU staff as it contradicted with subsection D.
336		<i>Social histories:</i> Adds the requirement for social histories to be completed when a juvenile disposition places a juvenile in a postdispositional detention program for more than 30 days.	Section 310 currently requires the case record to contain a social history for a juvenile placed in a postdispositional detention program for more than 30 days. The addition to section 336 is consistent with this requirement and is a technical change listing all times social histories must be completed in one place.
350		<i>Supervision plans for juveniles:</i> Deletes the requirement for a family involvement plan and reinserts the separate reviews with the family and juvenile and by the supervisor.	The removal of the family involvement plan recognizes the different circumstances under which these plans are developed, mainly when juveniles are committed to the Department. Thus,

Section number	Requirement at proposed stage	What has changed	Rationale for change
			the requirement is retained in section 415. The change in the review process reverts to the current language as the initial changes may have had unintended effects to the current process.
390		<i>Transfer of case supervision:</i> Amends subsection B to include transfers to and from another state.	Clarifies that the Interstate Compact applies to transfers both to and from the Commonwealth to other states.
400		<i>Notice of release from supervision:</i> Adds the requirement that the notice of release shall be given in writing.	Changes ensure proper notification of release from supervision.
415		<i>Supervision of juvenile in direct care:</i> Clarifies the notice and plan completion requirements for indeterminately committed juveniles.	Reflects the complexity in planning for the release of indeterminately committed juveniles from direct care. It requires 30 days' notice of the planned release while allowing such notice to be waived by the CSU director or designee.
450		<i>Limitation of contact with juveniles:</i> Changes language regarding level of threat necessary to limit contact.	Makes the provision more closely align with ADA and ADAA.
575 and 680		<i>Physical and mechanical restraints and chemical agents in programs and services:</i> Moves this provision from section 680 to section 575. Amends the language to clarify requirements and adds a provision requiring retraining.	Moves this section as it applies to programs and services generally and not just alternative day treatment and structured day programs. Inserts the retraining requirement to ensure that staff applying restraints are properly certified.
Part III, Article 1		<i>General change:</i> Reinserts "service" or "service providers" to titles and text.	As the definition of "program" or "service" was deleted (see above), reinserts the term "service" in order to provide clarification on the scope of the provisions.

Section number	Requirement at proposed stage	What has changed	Rationale for change
Part III, Article 2		<i>General change:</i> Inserts “in alternative day treatment and structured day programs.”	Makes an addition to the titles to clarify applicability for online users of the regulatory information system.
General		Makes other nonsubstantive technical changes such as correcting grammar or incorrect citations.	

### Public comment

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

Section	Commenter	Comment	Agency response
10	DJJ staff	<i>Individual Supervision Plan:</i> There has been a debate since the introduction of the Youth Assessment and Screening Instrument (YASI) that the CSUs are changing focus toward “Service Plans.” The language used in YASI training and the automated planning module in BADGE software both direct the Community Division toward “service” (as opposed to the older corrections’ model of “supervision”). I recommend removing reference to “supervision plans” from the regulation.	Thank you for your comments. The Department understands that there may be confusion due to an overlap in content (the requirements of a service plan are also required components of the supervision plans). However, it was deemed important to have separate terms for plans applicable to court service units (CSUs) and programs/service providers. The term “supervision plan” is considered appropriate for CSUs as the primary responsibility is for the supervision of juveniles in the legal status of being under the supervision of the Department. Continuation of the term supervision does not preclude the provision of services to be included in the supervision plan and allows for a clear distinction between the role of CSUs and programs/service providers.
10	DJJ staff	<i>Intake officer:</i> Add “and taking appropriate action” or similar words for “Intake Officer.”	Thank you very much for this comment. This section is governed by the provisions of the Code of Virginia, which specifically spells out the functions of intake officers. Including all available options to intake officers would be duplicative of the governing Code provisions (as “duties” incorporates the applicable options available to an intake officer).
10	DJJ staff	<i>Nonresidential services:</i> The	Great comment. The Department

Section	Commenter	Comment	Agency response
		definition for nonresidential services does not make sense. Why is this defined when program or service is defined later?	recommends deleting both the definition of “nonresidential services” and “programs or services” as these both adopt their common definitions and do not need to be defined in the regulation.
10	DJJ staff	<i>Physical restraint:</i> Delete “or a ‘hands on’ hold to prevent the individual from moving his body.”	Thanks for the comment. The Department recommends adopting a definition of “physical restraint” consistent with that proposed in the residential regulations (which does not include the “hands on” language). Given that a restraint is restricting physical movement, “hands on” is clearly inferred and thus not needed as a definitional component; however, the fact that the restraint restricts movement was retained as this distinguishes a restraint from other forms of physical contact.
10	DJJ staff	<i>Probation:</i> In practice our judges use the terms “supervised probation,” and “unsupervised probation.” Some district’s prefer terms like “monitoring” to differentiate from supervised probation. Black’s Law Dictionary is quite specific that, when ordered, the person is under the general supervision of an officer. It also states the person is “convicted,” which is rarely the case in J&DR court. On such technicalities rest our liberty.	Thank you very much for this comment. You bring up a very important point regarding the unique rolls of CSUs in different jurisdictions and the various ways in which such roles are defined and nuanced. Unfortunately, given the distinct relationships between individual CSUs, judges, and communities regarding the monitoring roles and requirements of CSU personnel (some use the terms supervised and unsupervised, only divert or provide “supervised” probation services, some fall in between), containing a bright line distinction in the regulation would not be appropriate at this time. The term probation indicates the legal status regarding placement on probation (thus a violation is a VOP and not a VCO); thus, the definition has been amended to include those Code citations by which a juvenile may be placed on probation.
10	DJJ staff	<i>Probation:</i> I think “probation” is a status not a “placement.”	Thank you. See response above.
10	DJJ staff	<i>Supervision:</i> Supervision needs additional definitional components (such as levels, intensity, or frequency, with a general component referring to the rules of probation or the court order).	Great comment. As stated in the response above to the comment regarding the definition of “probation,” there is some CSU level variation on some of the components of supervision. The specifics for what should be required by supervision are more appropriately addressed in procedures. The definition is recommended to be amended to ensure that probation supervision is included in the general understanding of this term.
10	DJJ staff	<i>Volunteer or intern:</i> Separate volunteer and intern.	Thank you for this comment. The Department understands that there is a difference between

Section	Commenter	Comment	Agency response
			volunteers and interns. However, the requirements for each are the same. We have included “or intern” after references to volunteer to ensure appropriate application to each.
10	DJJ staff	<i>Written:</i> Add a definition that written may be in electronic form.	Great comment. The Department is recommending that a definition of “written” be included in the regulation. Department procedures will then delineate the required form and substance of communications.
55	DJJ staff	<i>Probation officers’ caseload:</i> I recommend retaining some sort of standard regarding probation officers’ caseload. It appears that this may be a decision motivated by limited state revenues and that should not be a consideration. There should be some caseload limitation (even if it is a range like the old 30 to 70). It is unacceptable to not have any number listed and no “limit” on caseloads.	Thank you for your comments. The Department understands the depth of your concern. Unfortunately, the existing regulation does not contain a “limit” on the probation caseload (and any absolute number would be arbitrary without consideration of other supervision-based factors, such as intensity); it just states that certain factors must be considered in caseload management. How many cases are referred to CSUs is subject to the orders issued placing juveniles under probation supervision. Individual CSUs do not have any control over this factor. Additionally, the funding for probation positions is not a function of the individual CSUs. For state-operated CSUs, the Central Office reviews staffing ratios and determines the number of positions funded per CSU. The regulation does not want to contain requirements for a CSU on a regulatory component not within its jurisdiction or control.
70	DJJ staff	<i>Court service unit director and staff:</i> This should be retained.	Thank you for your response. The requirements for minimum qualifications and a statement of duties and responsibilities, performance evaluations and plan, and the duties of the Director are required by DHRM, local human resource Departments, or the Department. Thus, it does not need to be included in the regulation as it is duplicative of other requirements.
80	DJJ staff	<i>Background checks</i> (subsections A and D): The regulation should adopt a frequency requirement on background checks (such as every five years to ensure Department staff or other program staff remain crime and registry free).	Thank you very much for this comment. This is a great idea and may be done presently (it is not required by regulation but also it is not prohibited). In these difficult economic times, it would be cost-prohibitive to make this a requirement for all personnel. Staff are required, by DHRM standards, to report any criminal offenses; and the Department may

Section	Commenter	Comment	Agency response
			conduct follow-up background checks in accordance with approved procedure.
90	DJJ staff	<i>Training:</i> There should be some number of required hours of training.	Thank you for your response. The Department understands that whether to have an on-going hour of training requirement is the subject of much debate. At this time, the Department has chosen to eliminate the arbitrary hours of training and require training in accordance with the staff evaluations and employee work profiles. This change was made so that any training received would improve quality of services, would be appropriate to the staff's needs and position, and would serve to improve the employee's performance. Requiring a specific number of hours has been an issue for long-term employees when limited courses are offered by the Department. Under the proposed language, training would be tailored to individual needs and will, hopefully, serve to improve overall work performance (via supervision and training oversight on an individual level).
110	DJJ staff	<i>Volunteers:</i> The requirement to register with the Department for insurance purposes should have a time trigger. Volunteers should be asked about whether they want to be covered as many have umbrella policies that would suffice.	Thank you very much for your comments. The requirement to register with the Department has been retained because this provision protects the Department as well as the volunteer (and volunteers do not have to provide any validation of appropriate insurance). The Department is recommending this section be modified to include only the responsibility of the CSU (which is to register the volunteer with the Department) and not to retain the responsibility of the Department's Central Office (which is to register the volunteers for liability insurance purposes).
200	DJJ staff	<i>Security and safety procedures</i> (subdivisions 1 and 2): As revised CSUs are required to "implement" "precautions." I recommend this section be revised to require CSUs to develop "procedures" and train staff on how and when to implement the procedures.	Thank you very much for this comment. The Department recommends some drafting changes to alleviate the ambiguity noted in your comment (i.e., change "precautions" to "practices").
200	DJJ staff	<i>Security and safety procedures:</i> This section implies that staff should be trained in restraint, which is not currently the case. Please consider revising this section.	Thank you very much for this comment. The Department recommends some drafting changes to alleviate the ambiguity noted in your comment (i.e., change "manage" to "respond to").

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220	DJJ staff (2)	<i>Searches:</i> The term “immediate area” should be defined; and the appropriate federal statues, regulations, and Virginia and U.S. Constitution should be incorporated so that CSUs will know if practices are in accordance with those documents.	Thank you for this comment. Given that the Fourth Amendment definitions are derived from case law, the Department recommends that additional definitional components not be included in the regulation. However, since such searches may be conducted only after training, it would be appropriate for the training to give the specific parameters of the scope and limitations of the search authority.
220	DJJ staff	<i>Searches:</i> This section should be revised as juveniles under supervision do not lose their rights under the Fourth Amendment - they cannot be searched unless probable cause exists or the search is incident to arrest.	Thank you very much for the comment. Fourth Amendment law is very complicated, thus any searches may be conducted only by appropriately trained personnel and are generally conducted by law enforcement. You are correct that juveniles under the supervision of the Department are not subject to unreasonable searches. However, there are circumstances when CSU personnel may need to conduct reasonable searches (i.e., as provided in probation rules or with consent). Thus, because such searches may be conducted, it would be appropriate for the training to address the circumstances constituting reasonable searches.
230	DJJ staff	<i>Weapons:</i> A. The proposed standard exceeds the authority granted the Board and Department. Section 16.1-237 governs and gives sole authority to the judiciary. B. Section 16.1-237 does not provide limitations on carrying weapons except requiring concealment.	Thank you very much for your comments. The Department understands the implications of § 16.1-238 and believes the regulatory provisions are appropriate. This section does not prohibit staff from seeking judicial authority for carrying weapons; it sets forth procedures for the implementation of the Code allowance in order for there to be safe and uniform application across the Commonwealth.
240	Citizen	<i>Arrest of juvenile by staff:</i> This section should be deleted because it has no substance other than to address following procedure.	Thank you for your response. Given the statutory authority for arrest, the requirement for following a procedure is recommended for retention to ensure that staff are aware of the responsibilities related to and limitations of their arrest powers (which should be appropriately addressed in procedures).
240	DJJ staff	<i>Arrest of juvenile by staff:</i> Section 16.1-237 does not provide limitations on the powers of arrest for probation and parole officers. How and when juveniles may be taken into custody is also governed by the Code. It seems to me the only assumption we can make is that the Legislature intended	Thank you very much for your comments. The Department understands the implications of § 16.1-237 and believes the regulatory provisions are appropriate. Arrests are generally performed by law enforcement but may be, on occasion, executed by probation and parole officers. This section does not prohibit staff from exercising their power of



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		that probation and parole officers effect lawful arrests when they do so.	arrest; it does require any arrests by DJJ staff to be executed in accordance with procedures (with the intent that the procedures for the implementation of the Code allowance will address [i] safety and security issues, [ii] authority and limitations of the arrest powers, and [iii] the promotion of safe and uniform practices across the Commonwealth).
270	DJJ staff	<i>Intake duties</i> (subsection B): The Department should make certain that YASI complies with “Chapter 648 of the 2002 Acts of the Assembly.”	Great comment. Chapter 648 requires DJJ to establish “a uniform risk assessment instrument for use when making a detention decision pursuant to § 16.1-248.1 and when making recommendations to the court at a detention hearing pursuant to § 16.1-250. “The uniform risk assessment instrument and related procedure shall be implemented by each court service unit and distributed to each juvenile court judge...” Thus, the YASI is in accord with the enacting legislation.
280	DJJ staff	<i>Medical and psychiatric emergencies at intake</i> : It appears that this section assumes the youth is in custody before the intake officer (but does not explicitly say that). The regulation should be limited to requiring the intake officer to advise the appropriate individuals and follow referral procedures. Taking the steps in the regulation and making intervention an absolute duty is not appropriate for the regulation (and may increase CSU liability or prescribe it).	Thank you very much for your comments. This section deals with intake duties specifically because the intake officer may not be familiar with the juvenile, the intake function may be performed at any time of day, and the parents may not be present during the intake interview. Thus, the Department finds it appropriate for the regulation to address the responsibilities of intake officers should medical emergencies occur during the intake process. Thus, the Department is retaining the existing regulatory language with a few technical changes.
290	DJJ staff	<i>Intake communication with detention</i> : The current regulation requires communicating “instant offenses.” The proposed regulation should retain this requirement as the instant offenses may be the only information available.	The proposed regulation changed “instant offenses” to “offenses for which the juvenile is being detained including any ancillary offenses.” The Department classified this change as technical (and the detention center should be advised of the offenses on which the juvenile was before the intake officer).
300	DJJ staff	<i>Predispositionally placed juvenile</i> (subsection A): Delete the first reference to what constitutes a “contact” – “... <del>either face to face or via videoconferencing.</del> ...” Later in this section it defines contact to include telephonic as well as face-to-face and videoconferencing.	Thank you very much for this comment. The proposed language was confusing, and this section has been changed to clarify circumstances when telephone conferencing may be utilized. The recommended changes are consistent with current practice and should not have an effect on implementation in the field.
300	DJJ staff	<i>Predispositionally placed juvenile</i> :	Thank you very much for your comments.

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		<p>The intent of the standard is to ensure that a youth recently placed in detention has the opportunity to discuss problems and situations that he is facing soon after the placement. The wording is unclear that the contact is to be made <u>after</u> the youth is detained. Some CSUs claim that meeting with the youth at intake constitutes compliance with this section. I recommend amending the language in this section to clearly indicate that the contact should be made after the juvenile is detained.</p>	<p>The intent of this section is for CSU personnel to have video or in-person contact with the juvenile within five days of being detained. This contact is important to assess the juvenile's adjustment and inform the probation officer of any issues the juvenile may be experiencing or that need to be addressed. However, in jurisdictions where video hearings are utilized and the CSU or court are located far from the detention center, it is important to have flexibility with this requirement. Thus, the individual circumstances in each CSU would be more appropriately addressed in procedures.</p>
310	DJJ staff	<p><i>Postdispositional detention:</i></p> <p>First, § 16.1-284.1 states the "court shall specify conditions for the juvenile's satisfactory completion" of such programs. I see no reason CSUs need to do the court's work. CSU staff currently "suggest" in open court many things and this could be among them.</p> <p>Second, § 16.1-300 governs confidentiality and it appears to my reading that detention home staff may already request access under the Code. Whether they have a legitimate right to a copy of a Social History Investigation (something attorneys are not permitted to retain on their own clients) is not something the Board can correct by standards.</p> <p>Third, requiring a Social History Investigation report in this section is in opposition to the later section "6VAC35-150-336. Social Histories." It seems to me that if the juvenile is in detention for a period of time exceeding 30 days, the provider of rehabilitative services, the detention home, should be taking time to write the report, not CSU personnel. Writing YASI-based social histories for the court or Department is a lengthy process; lengthy enough to</p>	<p>Thanks for your comments. You raise some interesting and complex issues. It is our understanding that detention centers may access resident records pursuant to §§ 16.1-300 (A)(7) for the purposes of obtaining placement and services. This section specifically addresses the destruction of the records; and, thus, it assumes the detention center may have a copy of such records in order to have the ability to destroy (if the juvenile is not admitted). Furthermore, detention centers have a legitimate interest in the case, and the juvenile may benefit from that information being in the file in the increased ability of the postdispositional detention program to adequately assess risks and needs when determining appropriate placement and programmatic components.</p> <p>Additionally, the Department is recommending editing section 336 for consistency in the regulation. A juvenile must have a social history completed at disposition. Therefore, the sharing of this with the detention center when a juvenile is placed in postdispositional detention for greater than 30 days is consistent with the rehabilitative focus of the programs and the mandate that the CSU is involved in treatment planning and progress reporting.</p> <p>Finally, please note that this provision does not require CSUs to assume any duties of the detention center. Detention center staff must complete the assessment for appropriateness</p>

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		<p>recently amend our workload statistics to weight its effect heavier. Use the term “if applicable” similar to the “supervision plan” in subsection 4.</p>	<p>when the juvenile is referred for placement and that report must be provided to the court at disposition. The social history report is separate and apart from the social history. While the social history may inform, the assessment does not alleviate the detention center of its evaluative and treatment responsibilities.</p>
335	DJJ staff	<p><i>Diversion:</i> The Department should consider reworking many parts of the proposed section.</p> <p>First, in subsection A, there should be only one duration reference. Setting different timeframes (90 or 120) is confusing.</p> <p>Subsection B should be omitted in its entirety. The regulation should not address informal supervision. This is too complicated to be addressed in the regulation.</p> <p>Subsection D should be deleted given programmatic variations. For example, one CSU uses Restorative Justice Agreements, which almost always range from six months to one year (and sometimes get extended due to restitution). The regulation should not contain a deadline for filing petitions that is shorter than the statute of limitations (one year). The regulation should defer to the statute of limitations (one year for most of the restorative justice programs because most are misdemeanors).</p>	<p>Your comments raise some good points, and the Department will address each individually.</p> <p>First, subsection A references two dates because the Code specifically restricts truancy to 90 days, and the CSUs generally follow a 120-day rule for all other diversions. The Department does not want to limit all diversions to 90 days and does not have the authority to change the timeframe for truancy. Thus, the two timeframes must remain.</p> <p>Second, subsection B is not intended to distinguish between the different types of supervision. It should be applied generally to diversion (as defined in section 10). Subsection B should serve to clarify that a juvenile may have a subsequent diversion (if allowed by the Code of Virginia) while under a current diversion plan. The Department understands that CSUs manage diversions differently and does not recommend micromanagement of these programs through the regulation; but recommends some basic structure for consistency across the Commonwealth.</p> <p>Finally, the Department notes that the purpose of diversion is removing from formal court intervention those complaints that are more appropriately handled without court action. The intent is to manage quickly low-risk offenders and diversion program,s and the 120-day limitation supports this intent. The petitioner (if a Class 1 misdemeanor or felony) still has the right to seek redress through the magistrate.</p> <p>Please note that the Department recommends the deletion of subsection C to avoid any</p>

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335 (D)	DJJ staff	<p><i>Diversion:</i> When does the clock actually start ticking for “date of the initial referral?” For example, we get a complaint for a shoplifter. We then schedule the shoplifter for a program and the parties attend the program and do community service. There may be two months between receiving the complaint and the next scheduled shoplifter program.</p>	<p>confusion in application.</p> <p>Thank you for your comments. The clock begins to run when the intake officer makes the decision to divert (availability of programs should be considered when developing the 120-day plan). However, this is not a bright-line issue and may have some exceptions and exemptions. The Department will address this issue in the Guidance Document that will be drafted to accompany the regulation. (The Department is required to develop a compliance document by 6VAC35-20-35.)</p>
335	DJJ staff	<p><i>Diversion:</i> The restriction on filing a petition more than 120 days after a case is diverted conflicts with the usual statute of limitations. The statute of limitations on misdemeanor offenses is one year, and there is no limit on the filing of a felony complaint. There are situations where it would make more sense to allow petitions to be filed beyond the 120-day limitation. Here are some examples:</p> <ol style="list-style-type: none"> <li>1. A victim has a change of heart 121 days after agreeing to have the offense handled informally by the intake officer. The intake officer informs the victim of his right to appeal to a magistrate and seek a warrant, upon the issuance of which an intake officer is statutorily obligated to file a petition.</li> <li>2. A juvenile offender is amenable to having the offense handled informally but owes so much restitution to the victim that he cannot have it all paid within 120 days. If the juvenile decides he no longer wants to pay the victim after 120 days, the victim has no recourse, other than civilly, of course.</li> <li>3. A juvenile needs to participate in substance abuse assessment and treatment as part of his diversion plan, but the treatment will need to last longer than 120 days. After 120 days has passed, there is no longer any</li> </ol>	<p>Thanks for your comments. See the response above.</p>

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		accountability for the juvenile.	
335 (C)	DJJ staff	<i>Diversion</i> : Does the reference to “the director or designee” mean the DJJ Director or the CSU director?	Thank you for your response. This references the CSU director. The Department recommends an amendment to this section to clarify applicability.
350	Citizen	<p><i>Supervision plans for juveniles</i>: The proposed change in the wording of this standard significantly alters the current manner in which case records are reviewed. Under the current regulation, the review is a two-step process: (1) the probation officer reviews it with the juvenile and family, and (2) the supervisor reviews the probation officer’s handling of the case.</p> <p>The revision requires that the plan shall be reviewed <i>with</i> a supervisor, not <i>by</i> a supervisor. Unless the Department administration intends to have supervisors address cases in a different way, there will be unintended consequences from this change if the unit is to be in compliance.</p>	Thank you for your comments. The Department did not intend to make a substantive change with the proposed section and would not like to have any ambiguity in application. Thus, the Department recommends amendments to this section that will, hopefully, alleviate your concerns.
350	DJJ staff	<i>Supervision plans for juveniles</i> : The changes made to this standard create unintended consequences. The new standard says that the plan must be reviewed with the child and family from a treatment and case management perspective. The treatment and case management issues are not something that POs should be required to review with juveniles and families.	Thanks for your comments. See the response above. Also, please note that both the PO, with the family and juvenile, and the supervisor should be reviewing the supervision plan from both a treatment and a case management perspective to confirm the appropriateness of the plan.
350 and 415	DJJ staff	<i>Supervision plans for juveniles</i> : If current wording is maintained, the term <i>family involvement plan</i> should be deleted from section 350 because it addresses parole cases and, according to the agency background document, the parole elements have been moved to a different section (415). Section 415 does not address review of the family involvement plan with the juvenile, family, or by/with the supervisor.	Thank you for this comment. You are correct in that the regulation contained a confusing reference to the family involvement plan. The Department recommends removing the reference to a family involvement plan in section 350 to clarify the applicability of the plan in intended circumstances.

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365	DJJ staff	<i>Supervision of adult on probation:</i> I think you violated your new definition of “juvenile.”	Thanks for your comment. This section addresses adult supervision plans for those rare instances when adults convicted in juvenile court are placed under CSU supervision (i.e., misdemeanor family abuse, violation of protective orders, etc.). As some CSUs supervise adult cases (and adults and juveniles are separately defined), the Department recommends retaining this provision to govern such cases.
370	DJJ staff	<p><i>Placements in the community:</i> Section 370 has been deleted, and I assume then that contacts with residents in residential placements will be required to be addressed in the supervision plan. The deletion of this section is a cause for concern.</p> <p>The only process to provide information to the Board that contacts are made with such individuals is through the certification process. If this standard is deleted, the Board will not be made aware of CSUs in non-compliance. With past and anticipated future budget-mandated personnel cuts in regional offices, monitoring of contacts in residential placements will be minimal. Thus, I recommend retaining this section.</p>	<p>Thank you very much for your comments. The Department does not want to reduce the quality of services provided to juveniles under our supervision who are placed in a community residential program. We believe that this will not occur if the proposed change is enacted, as you noted, because the CSU staff are required to have supervision plans. Contacts while in placement will be governed by the requirements of the plan.</p> <p>The files, including supervision plans, and actions of staff are subject to the certification process regardless of placement. This section is recommended for deletion because it was deemed duplicative of existing requirements as it does not set explicit requirements but merely requires contact in accordance with the supervision plan (and section 350 requires the juveniles to be supervised in accordance with the plan).</p>
390 (B)	DJJ staff	<i>Transfer of case supervision to another unit:</i> Section 390 (B) addresses what the Director of the Department may do in compliance with the Code. Such wording should not be in the Nonresidential standards. These standards are intended to address the operations of the CSUs, and the Code-sanctioned actions of the Director should not be included because there is nothing over which the CSU has control. In the case of interstate compact cases, wording should address the actions of the CSU staff, not DJJ’s Director.	Thank you for the comment. You are correct that the language of subsection B was unclear and could be interpreted in several ways. The Department recommends amendments to address your issues.
390 (B)	DJJ staff	<i>Transfer of case supervision to another unit:</i> What about local CSUs? Is the Director going to	Thanks for your comments. All interstate compact cases are subject to the requirements of the Interstate Compact Relating to

Section	Commenter	Comment	Agency response
		govern local CSUs in subsection B?	Juveniles (§ 16.1-323 et seq.) regardless of whether supervision is being provided by a locally or state-operated CSU.
400	DJJ staff	<i>Notice of release from supervision:</i> Include a requirement in the notice of release from supervision that the CSU advise the juvenile of some of the collateral consequences of adjudication/conviction for felony offenses (no hunting until 29...or life, etc.) referencing § 18.2-308.2.	Thank you very much for your comment. The Department understands that it is very difficult for juveniles under the supervision of the Department to know and understand all of the collateral consequences of being adjudicated delinquent or convicted in the Commonwealth. It is the primary responsibility of the juvenile’s attorney to advise of the consequence of any adjudications or trials, and the CSUs should provide information, if available, and referrals as needed (but CSU personnel should not serve as legal advisors). Additionally, the back of the petition does list the firearm prohibitions provided for in § 18.2-308.2 (see also § 16.1-308 of the Code of Virginia).
415 (B)	DJJ staff	<i>Supervision of juvenile in direct care:</i> Does the reference to “the director or designee” mean the DJJ Director or the CSU director?	Thank you for your comment. This reference is to the CSU director. The Department recommends an amendment to clarify applicability.
425	DJJ staff	<i>Applicability:</i> Should subsection B clarify that the CSU does not monitor compliance? Who does?	Thank you for your comment. This section does state that the program or service provider is “responsible for adopting written procedures necessary to implement and for compliance with” the applicable regulations. This section does not place any responsibilities on the CSU, and compliance is monitored by the appropriate licensing agencies or Central Office if the program is part of a VJCCCA plan or subject to a contract with the Department.
490	DJJ staff	<i>Juveniles’ rights:</i> Please consider reworking subdivision (B)(6) to allow for temporary use or use in an emergency (similar to the language in 6VAC35-150-690).	Thank you for your comment. The Department does not recommend a change in this section since it applies to non-locked programs and service providers. The language was added in section 690 to address intensive day treatment programs providing services to juveniles with severe emotional disturbance or with serious mental illnesses that are regulated by the Department of Behavioral Health and Disability Services. Only in the rare instances where that facility’s regulatory authority allows such “time outs” would that be authorized under this regulation. The Department does not want to expand the use of this practice to other types

Section	Commenter	Comment	Agency response
			of programs or service providers. If a specific program is seeking to operationalize a practice currently prohibited, it may seek a variance in accordance with 6VAC35-150-40.
510 (1)	DJJ staff	<i>Case management requirements:</i> What specific demographic information is required? There is a laundry list of demographic type of information.	Thank you for your comment. The specific components would be more appropriately addressed in procedures.
680	DJJ staff	<i>Physical and mechanical restraints and chemical agents:</i> Please reconsider the deletion of former subsection D. This is still necessary. There are times in the community (and sometimes in court) when POs are called upon to assist law enforcement in restraining a juvenile (and/or family member).	Thank you very much for your comment. Please note that the Department recommends moving this section to clarify its application to all programs and services. Also, amendments were made that should address your concerns.

### All changes made in this regulatory action

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
10		Defines terms used in this Chapter.	<ul style="list-style-type: none"> <li>- Updates definitions and terms for clarity and consistency with other regulations promulgated by the Board;</li> <li>- Amends the definition of human research to correspond with the applicable regulatory provision (§ 32.1-162.16);</li> <li>- Adds definitions of adult, court service unit, direct care, individual supervision plan, written, and variance; and</li> <li>- Deletes definitions of counseling, counselor, intensive supervision, local plan, program or service, nonresidential service, shall, substance abuse assessment and testing, supervision plan, surveillance officer, and unit. Deletes these terms are they are not used in the regulation, are defined elsewhere, or do not need to be defined as they are commonly used terms.</li> </ul>



Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
20	repealed	States the previous regulations that were superseded by this Chapter.	Repeals this section as the referenced regulations have been repealed.
30		Details which parts are applicable to which programs.	Clarifies applicability; reduces verbiage.
35	repealed	States the provisions of this Chapter establishes the “programmatically and fiscal policies” of the Board, pursuant to this statutory authority.	Repeals this section as it is unnecessary. The statutory authority is footnoted in the <i>Virginia Register</i> .
40		States that the Board may exempt a subject entity from the requirements of this Chapter.	Amends this section to allow variances in accordance with the Board’s certification standards (6VAC35-20).
50		States the effect of licensure by another agency.	Makes technical changes.
55	repealed	States the probation officer’s caseload shall be determined in accordance with procedures, with specific factors considered.	Repeals this provision as (i) the broad nature of the existing verbiage (“other factors” could include anything) does not set clear parameters; (ii) court service units must comply with any court order for supervision and cannot decline supervision due to any caseload capacity; and (iii) probation officers’ caseloads will be determined by such orders and staffing determinations made by the Department’s Central Office personnel.
(175)	62	Sets forth requirements for suitable quarters (in section 175).	Incorporates the requirements for suitable quarters from section 175. (Note: Section 175 is recommended for repeal). These provisions more appropriately fit in the “Administration” part of this Chapter. Changes the requirement for probation officers to have “access to private office space so equipped that conversations may not be overheard from outside the office” to “access to private office space.” The deleted language was deemed duplicative.
(180)	64	Prohibits court service units from collecting fees, fines, and costs (in section 180).	Incorporates the provisions from section 180. (Note: Section 180 is recommended for repeal.) Adds “court fees and court costs” as fees prohibited from collection by court service units.
(190)	66	Requires procedures for the handling of funds within a court service unit. Also	Incorporates the provisions from section 190. (Note: Section 190 is recommended for repeal.) Amends the existing provision

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
		requires the court service unit to follow applicable laws and regulations when expending state funds (in section 190)	to govern only those funds over which the Board has regulatory authority. Deletes the provision relating to expending state funds as this is duplicative of existing law.
70	repealed	Requires a position description for employees with required qualifications and applicable duties; requires a performance plan and evaluation for each employee annually; and requires court service units' directors to provide reports required by the Department and localities.	Repeals this section as position descriptions, employee work profiles, and performance plans are governed by the Department of Human Resources Management and the Department's Human Resource Department. Additionally, the duties of the Director are, in part, governed by statute.
80		Requires background checks for employees and volunteers.	Amends the section to require the same background checks for nonresidential programs as are required for residential programs regulated by the Board. Clarifies to whom the background check requirement is applicable.
90		Sets forth training requirements for employees and volunteers.	Deletes requirement for specific hours of training for certain positions; opts to require training appropriate to the position's duties and to address any needs identified by the individual and the supervisor, as applicable.
100		Requires certain personnel and operating procedures.	Makes technical changes.
110		Sets forth provisions relating to volunteers.	Adds requirement that the court service unit maintain a description of duties and required qualifications for volunteer positions; amends the section to clarify that the requirements apply both to volunteers and interns; and retains the requirement for registration with the Department while deleting the specific purpose as this is a responsibility of the Department and not the specific court service units.
130		Sets forth requirement for use of juveniles as human subjects.	Cross-references the Board's research regulation, 6VAC35-170 that was enacted since this Chapter was last reviewed.
140		Lists certain information that must be maintained in case records.	Deletes subsection E that requires five specific things to be contained in the case record for juveniles placed in postdispositional care. This subsection addresses the files for the postdispositional

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
			<p>program (at the detention center), which is not governed by this regulation. The CSU case record must contain all information regarding the applicable individual in the Department's possession and must be kept in accordance with Department procedures, which includes this component, as applicable.</p> <p>Section 310 is amended to require some of these documents and this information (social history, court order, reason for placement). Some of these documents would be maintained in the case record at the facility (i.e., financial and tuition arrangements and supervision/ visitation agreements). The only other recommended deleted provision is the requirement to maintain the dates of acceptance and placement; however, this will be contained in the court order.</p> <p>Also, contains some technical changes.</p>
150	repealed	Requires certain demographic information to be included on all reports sent to the court.	Repeals this section. Such reports are subject to the requirements of the courts local rules and practices, the requirement of specific judges and Department procedures. Specific statutory requirements of reports are provided in §§ 16.1-269.2 (transfer report), 16.1-273 (social history), 16.1-274 (custody investigations), and 16.1-285.2 (progress reports for serious offenders). Proposed section 336, addressing the issue of social history, requires identifying and demographic information.
160	336	Sets forth the requirements for social history reports.	Moves this section to proposed section 336. Delineates the four circumstances under which reports must be completed; clarifies when an addendum may be used; and removes unnecessary descriptive language.
165	repealed	Requires custody investigations to be completed in conformance with guidelines relating thereto.	Repeals this section. Custody investigations are subject to § 16.1-274 and very few court service units are required to complete custody investigations. Of those CSUs continuing to be ordered to complete such investigations, the form and content

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
			are governed by the Department of Social Services and local court requirements, procedures, and practices.
175	62	Sets forth requirements for suitable quarters.	Moves requirements to section 62, with amendment (see above).
180	64	Prohibits court service units from collecting fees, fines, and costs.	Moves requirements to section 64, with amendment (see above).
190	66	Requires procedures for the handling of funds within a court service unit. Also requires the court service unit to follow applicable laws and regulations when expending state funds.	Moves requirements to section 66, with amendment (see above).
200		Requires court service units to implement certain security and emergency procedures.	Changes this section to address both security and safety procedures. Adds Subdivision 1 for conformity with required Continuity of Operations (COOP) planning; amends subdivisions 2 and 3 from current requirements to require training on crisis intervention and prevention techniques for the office and in the field; adds natural disasters to the list of events and a training requirement for crisis prevention and intervention techniques.
210		Sets forth the conditions under which physical force may be used.	Adds language from a Board policy regarding any such application; amends this section to clearly detail the circumstances under which force may be utilized.
220		States searches of individuals shall be conducted by trained staff in accordance with procedures.	Expands section to apply searches of an individual's immediate area. Requires searches to be conducted in accordance with all laws and the Constitution.
230		States circumstances under which a probation officer may carry a weapon.	Makes technical changes.
240		Requires probation officers to exercise their powers of arrest in accordance with procedures.	Makes technical changes.
250		Requires cooperation with applicable agencies when a juvenile who fails to report for supervision or escapes/runs away from a	Clarifies circumstances considered absconding, which applies to (i) violations of supervision when a detention order is issued and (ii) any escape/runaway from a residential placement.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
		residential placement.	
260		Provides requirements for transportation of detained juveniles.	Deletes subsection regarding the transportation of such juveniles by court service unit staff as such transportation is governed by the transportation guidelines, and CSU staff do not transport detained juveniles. Also, contains technical changes.
270		Lists certain duties of the intake officer.	Adds subsection C regarding the provision of replacement intake officers in accordance with § 16.1-235.1. Also, contains technical changes (i.e., references to the juvenile tracking system are replaced with references to the available electronic data collection system).
280		Sets forth duties of the intake officer when a juvenile requires emergency treatment.	Makes technical changes.
290		Requires intake officers to provide certain information to detention staff when a juvenile is placed in a detention center.	Deletes subdivision 1 as this is duplicative of the requirements in subdivision 2 (with the added “electronic means” language). Lists “pertinent language” and alerts in the retained and amended language.
300		Lists court service unit staff responsibilities when a juvenile is predispositionally detained.	Amends this section to clarify when telephone conferencing may be used for court service unit contact with predispositionally placed juveniles.
310		Lists court service unit staff responsibilities and record maintenance requirements for postdispositionally detained juveniles.	Contains provisions formerly provided in section 140, which are recommended to be deleted from that section. Clarifies that this section only applies to postdispositional placements greater than 30 day and dictates what information must be contained in the case record when a juvenile is subject to such placement.
320		Requires notice of a youth’s transfer to be provided to the juvenile’s parents or guardians and documented in the case record.	Amends the section to not require such notice if the court service unit staff knows the juvenile’s parent or legal guardian has already been advised of the transfer.
330	repealed	Requires CSU staff to include a juvenile’s parents or guardians in the decision to remove a youth from his home.	Repeals this section. Such removals occur only subject to court order; and, thus, the considerations are made by the court.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
335		Sets forth actions that may be taken on diverted cases.	Extends the length of diversion to 120 days (consistent with a Board variance) except in cases involving truancy, which are statutorily restricted to 90 days. Clarifies timeframes in the case of a subsequent, concurrent diversion. Prohibits the filing of a petition after the expiration of the 120 days.
(160)	336	Sets forth the requirements for social history reports (in section 160).	Moves this section from section 160. (Note: Section 160 is recommended for repeal.) Clarifies the four circumstances under which reports must be completed; clarifies when an addendum may be used; and removes unnecessary descriptive language. It also incorporates, consolidates, and removes specific procedural language previously contained in sections 150 (Reports for the court) and 160 (Social history) as many of the requirements for such reports to the report are statutorily required.
340		Sets forth duties of the probation or parole officer when beginning supervision.	Makes technical changes.
350		Lists requirements of supervision plans.	<p>Deletes subsections B through F. B is deleted as all supervision plans contain a family involvement provision, which is also addressed in current subsection G and proposed subsection A of section 415.</p> <p>Moves the provisions regarding planning during a juvenile's commitment (subsections C, D, and E) to proposed section 415.</p> <p>Moves the provisions in subsection F to proposed section 365.</p> <p>Also, contains technical changes to delete procedural components and clarify review expectations.</p>
(Part III, Article 4)	355		Replaces current article Part III, Article 4 (Electronic monitoring) to require procedures for electronic monitoring programs. Electronic monitoring ("EM") program providers are subject to the provisions of Part III. Also, court service

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
			unit staff must comply with Department procedures and the juveniles' supervision plans for any juveniles placed on EM.
	365		Incorporates the provisions from subsection F of current section 350 to address specific supervision issues for adults on probation with CSUs for criminal offenses tried in juvenile court.
370	repealed	Requires court service unit staff to maintain contact with the juvenile and facility staff when a juvenile is placed in residential care.	Repeals this section. The regulation contains specific requirements when a juvenile is predispositionally placed (section 300), postdispositionally placed (section 310), and committed to the Department (proposed section 354). Additionally, section 350 requires compliance with supervision plans. This section was considered unnecessary given these provisions.
380		Requires court service unit staff to follow Department procedures when processing violations of probation or parole.	Makes technical changes.
390		Allows for the transfer of case supervision when a juvenile moves.	Adds provision that the Director of the Department arrange an out-of-state transfer in accordance with applicable statutes. Also, contains technical changes.
400		Requires notice of release from supervision to the parents/guardians.	Makes technical changes.
410		Sets forth information that must accompany the juvenile to the Reception and Diagnostic Center and requires court service unit staff to provide notice if the juvenile is transported unexpectedly from court.	Clarifies when a juvenile may be transported to the Reception and Diagnostic Center. Also, contains technical changes.
415			Incorporates the requirements of current subsections C, D, and E from current section 350. Clarifies the requirement to develop a family involvement plan and report on the family's involvement.
420		Requires court service unit staff to maintain contact with committed juveniles, their families, and the treatment	Makes technical changes.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
		providers.	
425		Details the applicability of Part III.	Clarifies applicability of Part III.
427	repealed	Requires applicable programs to have written policies and procedures for implementing this Chapter.	Repeals this section. The applicable programs are responsible for compliance with this regulation (as monitored and certified by the Department). Implementation of procedures is assumed; and, thus, this section is recommended for repeal.
430		Lists program requirements.	Incorporates the provisions of current section 590 and adds certain statements the programs must have regarding the general character of the services provided and population served. Clearly states requirement for background checks (cross-references the section applicable to court service units). Requires programs providing crisis intervention to have a means by which program participants may access 24-hour crisis intervention and that the way to access the service will be provided to the juvenile in writing. (This provision was moved from current section 570.)
435		Lists requirements for contracted services.	Clearly states that contractors and subcontractors are subject to the requirements of this Chapter.
440	repealed	Requires background checks for certain employees and volunteers	Repeals this section. The background check requirement is provided in subsection C of section 430 that requires background checks to be done as required for court service units.
450		Requires that, when staff may have a condition that places the health or safety of juveniles at risk, staff are removed from contact until the condition is resolved.	Makes technical changes.
460		Requires job descriptions and appropriate licensure/ certification for employees.	Makes technical changes.
470		Requires procedures to deal with medical emergencies.	Makes technical changes.
480		Requires certain procedures to be followed in managing financial records.	Makes technical changes.



<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change, rationale, and consequences</b>
490		Lists certain juvenile rights.	Makes technical changes.
500		Sets certain requirements for juvenile participation in human research.	Deletes substantive provisions and cross-references the Board's research regulation (6VAC35-150-130), which was promulgated after the last review of this regulation.
510		Details case management requirements.	Adds additional requirements for programs that provide counseling, treatment, or supervision of juveniles. Such programs must have an individual service plan for the juvenile to whom services are provided; the service plan must be provided to the court service unit; the provider must document required contacts; and a progress report must be provided to the referring agency. These requirements are currently provided in section 560.
530		Requires the documentation and reporting of certain incidents.	Makes technical changes.
540		Requires reporting of child abuse and neglect.	Makes technical changes.
550		Requires the program to comply with applicable laws for the appropriate maintenance of buildings and grounds.	Makes technical changes.
560	repealed	Details case management requirements for programs that provide counseling, treatment, or supervision.	Repeals this section. Moves the requirements to section 510.
570	repealed	Requires programs providing supervision or direct services to provide juveniles with a means for 24-hour emergency response.	Repeals the section. Moves these provisions to section 430 for programs providing crisis intervention services.
590	repealed	Requires programs that accept referrals to have a statement of the population served and their intake and acceptance criteria and procedures.	Repeals the section. Moves these provisions to section 430.
600	repealed	Sets certain requirements for programs that use surveillance officers.	Repeals this section. Such programs are subject to all of the provisions of Part III. Thus, this section is duplicative and unnecessary.
610	repealed	Sets certain requirements for	Repeals this section. Such programs are

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
		programs that provide substance abuse and testing services.	subject to all of the provisions of Part III. Thus, this section is duplicative and unnecessary.
	615	Details the applicability of Part III, Article 2.	Clarifies the applicability of Part III, Article 2.
620		Requires staff to be present who are trained in first-aid and CPR; prohibits juveniles from managing other juveniles' behavior.	Deletes the prohibition of juveniles managing other juveniles' behavior.
640		Requires fire safety plans, monthly fire drills, and training of staff on fire safety and emergency procedures.	Adds the requirement for both an emergency plan and a fire safety plan and that each program implements certain safety procedures related thereto.
650	repealed	Requires first-aid kits.	Repeals this section. Incorporates this provision into section 670.
660	repealed	Sets certain requirements for the delivery of medication.	Repeals this section. Incorporates this provision into section 670.
670		Requires the program to be notified of juvenile's medical needs and restrictions, as applicable.	Incorporates the requirements of current sections 640 and 650. Also, contains technical changes.
680	repealed	Sets criteria for the use of physical restraint; prohibits the use of mechanical restraint.	Clarifies the circumstances under which application of physical restraint may be appropriate. Also, contains technical changes.
690		Details procedural requirements for the use of time out.	Makes technical changes.
700	repealed	Prohibits use of EM as an automatic condition of supervision.	Repeals this section. Often juveniles are placed on EM by court order or specific program requirements depending on the individual's risk to the community. An absolute prohibition is inappropriate given the complex criteria often considered. Section 355 was amended to require procedures to be implemented regarding criteria for placement in an EM program.
710	repealed	Requires juveniles on EM to live "in their own home or a surrogate home;" parental consent; and parental orientation on the EM device and program rules.	Repeals this section. Often juveniles placed in an EM program do not reside with their or a surrogate family, thus rendering subsection A obsolete. Additionally, juveniles are placed on EM by court order, due to a violation of rules of supervision, or based on a risk assessment, thus requiring parental consent may not be able to be acquired prior to placement in an

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
			EM program. Thus section B is recommended for deletion. However, section 355 was amended to require procedures to be implemented regarding parental involvement when a juvenile is placed on EM.
720	repealed	Requires contact with juveniles on EM and their parents/guardians to be in accordance with the juveniles' supervision or service plans.	Repeals this section. Court service unit staff must comply with the provisions of the juveniles' supervision plans; program providers must comply with the provisions of service plans; and EM staff must provide services in accordance with their contractual agreements and service plans. Additionally, section 355 was amended to require procedures to be implemented regarding required contacts while on EM.
730	repealed	Requires a procedure for responding to tampering and program violations.	Repeals this section. Section 355 was amended to require procedures to be implemented regarding consequences for tampering and program violations.
740	repealed	Prohibits EM from extending beyond 45 days unless specifically approved or court ordered.	Repeals this section. Section 355 was amended to require procedures to be implemented regarding time limits for EM programs.
Docs. Inc. by Ref.		Lists documents incorporated by reference.	Updates the citation for Guidelines for Transporting Juveniles in Detention; deletes the Guidelines for Custody Investigations.

## Regulatory flexibility analysis

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

This regulation may affect small business in as much as a small business provides a program or service subject to this regulation. Having clear, concise, and consistent requirements across localities (i) provides such entities with clear requirements and (ii) ensures consistency in such requirements throughout the Commonwealth. The amendments will streamline the reporting requirements while not affecting the quality of services provided by court service units and program and service providers subject to the

regulation or the ability of the Department to oversee such functioning. Thus, any affected small businesses would benefit.

## Family impact

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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This regulatory action should have a positive impact on families when members receive services through any court service unit or other applicable non-residential services. To the extent the regulation improves those services or promotes health and safety in them, they should have a positive impact on families. The regulation will serve to bolster family relationships and communities due to the focus on preventing delinquency and promoting youth development. The regulation is not expected to have any impact on disposable family income.