



## Final Regulation Agency Background Document

<b>Agency name</b>	Department (Board) of Juvenile Justice
<b>Virginia Administrative Code (VAC) citation</b>	6VAC35-101
<b>Regulation title</b>	REGULATION GOVERNING JUVENILE SECURE DETENTION CENTERS
<b>Action title</b>	Comprehensive review of all regulatory provisions governing juvenile secure detention centers that are currently contained in 6VAC35-51 and 6VAC35-140. Combines and streamlines the regulations into a single regulation (proposed 6VAC35-101).
<b>Date this document prepared</b>	January 12, 2012

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.*

This action (1) combines all regulatory requirements relating to juvenile secure detention centers currently contained in (i) the Standards for Juvenile Residential Facilities (6VAC35-140) and (ii) the Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51) into one regulation and (2) includes a comprehensive review of all regulatory requirements for juvenile secure detention centers. The proposed regulation has sections for: (1) general provisions; (2) administration and personnel; (3) physical environment; (4) safety and security; (5) residents' rights; (6) program operation; (7) work programs; (8) health care services; and (9) behavior management. Facility specific parts are also included; i.e., postdispositional detention.

The recommended changes since the proposed stage are in response to the public comments received. The majority of the changes relate to the adoption of requirements pertaining to the department's zero-

tolerance policy regarding abuse in juvenile secure detention centers in the training and residents' rights sections. Other amendments relate to the reporting of serious incidents and suspected child abuse and neglect, staff and volunteer training and retraining, searches of residents, residents' rights, room confinement, and restraints.

**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.*

On June 9, 2010, the Board of Juvenile Justice authorized the advancement of the Regulation Governing Juvenile Secure Detention Centers, 6VAC35-101, as amended, to the Final Stage of the regulatory process.

**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.*

Section 16.1-322.7 of the Code of Virginia requires the Board of Juvenile Justice to "make, adopt and promulgate regulations" governing the operation of local or regional detention centers. This mandate requires the regulation of the minimum standards for the administration and operation of the facilities.

Section 16.1-309.9 of the Code of Virginia requires the Board of Juvenile Justice to "approve minimum standards for the construction and equipment of detention homes or other facilities and for food, clothing, medical attention, and supervision of juveniles to be housed in these facilities and programs."

The Board of Juvenile Justice is entrusted with the 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."

The promulgating entity is the Board of Juvenile Justice.

**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.*

The Board of Juvenile Justice regulates three distinct types of facilities: (1) juvenile correctional centers; (2) detention centers; and (3) group homes/halfway houses. At present, these facilities are regulated by the board and are governed by two separate regulations: (1) the Standards for Juvenile Residential

Facilities (6VAC35-140) and (2) the Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51).

The department has had several ideations of regulations governing the residential facilities regulated by the board. Earlier, the department had five separate regulations governing secure detention homes, post-dispositional confinement in secure detention, pre- and post-dispositional group homes, and juvenile correctional centers. These regulations applied to the facilities in conjunction with the Standards for the Interdepartmental Regulation of Children's Residential Facilities (the "CORE" regulation), which went into effect in 1981.

The Board of Juvenile Justice's Standards for Juvenile Residential Facilities (6VAC35-140) was promulgated by the board, was most recently reviewed and revised in May 2005, and consists of the board's regulations for all facilities it regulates. This regulation establishes the minimum standards for residential facilities in the Commonwealth's juvenile justice system and covers program operations, health care, personnel, facility safety, and physical environment. It contains additional provisions for secure custody facilities, boot camps, work camps, juvenile industries, and independent living programs.

The Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51) is a reenactment of the "CORE" regulation in its entirety as a board regulation. This regulation was adopted by the board in September 2008 in order to comply with the requirements of Chapter 873 of the 2008 Acts of the General Assembly, which mandated the repeal of the "CORE" regulation and action to be taken by the affected boards by October 31, 2009. This regulation has more expansive provisions than 6VAC35-140 and also contains minimum requirements for the different facilities regulated by the board.

Throughout the years, problems have been identified in implementing the requirements contained in these two separate regulations, due to the distinct nature of the three types of facilities regulated by the board. Accordingly, the board has approved consolidating the current regulatory requirements for residential programs and separating them into three regulations governing (1) juvenile correctional centers; (2) detention centers; and (3) group homes/halfway houses. This revamping of the regulatory scheme was done in conjunction with a comprehensive review of the current provisions. The review was done with the goals of enhancing the clarity of the regulatory requirements and achieving improvements 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 facilities, they will be able to run the facilities more smoothly and can utilize any extra resources for supporting the needs of the residents, thus maintaining 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 primary intent of this regulatory overhaul is to reduce confusion in applying the regulatory requirements in each type of facility regulated by the board (juvenile correctional centers, secure detention centers, and group homes/halfway houses). Each provision was reviewed as to whether it was (1) appropriate for the type of facility; (2) clear in its intent and effect; and (3) necessary for the proper

management of the facility. Amendments were made to accommodate the juvenile secure detention centers' specific needs and to enhance program and service requirements to best provide for the residents.

**The following is a summary of the changes made to the regulation since the proposed stage:**

- Serious incident reports (6VAC35-101-80):
  - Add that notice of serious incidents will be done "in accordance with department procedures."
  - Add a requirement that the parents of all residents be notified if an incident at the facility occurs involving a resident's death (provided such notice does not violate confidentiality requirements or interfere with any investigation or prosecution).
- Suspected child abuse and neglect (6VAC35-101-90): Add a requirement that procedures include "measures to be taken to ensure the safety of the resident and staff" when child abuse or neglect is suspected.
- Reporting criminal activity (6VAC35-101-95): Add clarifying language that such reporting includes any physical abuse, sexual abuse, or sexual harassment.
- Required initial training (6VAC35-101-190):
  - Add requirement that staff who perform the duties involved in new resident orientation and admission be trained prior to performing such duties.
  - Amend the required initial training requirements to clarify that such training must include the actions that are prohibited in facilities; i.e., abuse, discrimination, unsanitary living conditions, denial of health care.
- Retraining (6VAC35-101-200): Amend the required initial training requirements to clarify that such training must include the actions that are prohibited in facilities; i.e., abuse, discrimination, unsanitary living conditions, denial of health care.
- Volunteer and intern orientation and training (6VAC35-101-300): Add a requirement that training include the actions prohibited in facilities; i.e., abuse, discrimination, unsanitary living conditions, denial of health care.
- Personnel records (6VAC35-101-310): Change the requirement that the records include "written references or notations of oral references" to "documentation of reference checks."
- Maintenance of residents' records (6VAC35-101-330): Require health care records to be maintained separately (proposed draft was permissive).
- Toilet facilities (6VAC35-101-420):
  - Remove duplicative language provided in subsection A.
  - Change "areas" to "rooms" to reflect the requirement for "wet cells" in new construction (currently provided in the guide specifications for local facility construction required by the board's reimbursement regulation, 6VAC25-30).
- Disposal of garbage and management of hazardous materials (6VAC35-101-450): Add medical waste as materials that must be stored, used, and disposed of in appropriate receptacles in accordance with applicable federal, state, and local requirements.

- Emergency and evacuation procedures (6VAC35-101-510 (F)): Change the 72-hour reporting requirement to a 24-hour reporting requirement to be consistent with the provisions of 6VAC35-101-80 (serious incident reports).
- Contraband (6VAC35-101-550): Add clarifying provisions regarding the ability to search "other individuals" at the facility for contraband.
- Searches of residents (6VAC35-101-560): Add requirement that all patdown and frisk searches must be conducted by staff of the same sex of the resident being searched, except in emergencies.
- Weapons (6VAC35-101-600): Amend to ensure a list of weapons does not preclude inclusion of other prohibited weapons; i.e., tasers and stun guns.
- Prohibited actions (6VAC35-101-650):
  - Add clarifying language that any form of "physical abuse, sexual abuse, or sexual harassment are prohibited."
  - Remove "involuntary" before "use of pharmacological restraints" as unnecessary language because use of any pharmacological restraint is prohibited. (Note: This does not include PRN or prescribed psychotropic medications.)
  - Remove the "physical" before "disability" describing a class where discrimination is prohibited.
  - Include a prohibition against discrimination on the basis of sexual orientation.\*
  - Add a cross-reference to the training requirements (which have been added to the required initial training, retraining, and volunteer and intern orientation and training sections).

\* NOTE: The language in subdivision 13 has changed since originally approved by the Board, after first approved by the Board in June 2010, through the Executive Branch Review, it was determined that the proposed language exceeding the Board's rulemaking authority. On January 10, 2012, the Board approved alternative language. The alternative language is in the proposed draft.
- Contact with attorneys, courts, and law enforcement (6VAC35-101-690): Modify the definition of legal representative to include attorneys visiting for the purpose of consultation upon the request of the resident.
- Personal necessities (6VAC35-101-700): Require clothes and shoes to be appropriate for indoor and outdoor use by changing "or" to "and."
- Residents' privacy (6VAC35-101-730): Add language clarifying that the exception for viewing a resident during certain activities for mental health purposes applies when the resident exhibits suicidal or self-injurious behaviors.
- Admission and orientation (6VAC35-101-800):
  - Add requirement that residents be oriented on their rights including, but not limited to, the prohibited actions.
  - Add language to require staff to inquire of the residents' parents or legal guardians regarding any immediate medical concerns or conditions the resident may have.

- Mental health screening (6VAC35-101-820): Add a requirement that the staff administering the mental health screening be trained.
- Residents' health care records (6VAC35-101-1030): Delete the provision regarding the maintenance of the records as this is governed by 6VAC35-101-330 (maintenance of residents' records).
- First aid kits (6VAC35-101-1040): Require first aid kits to have an inventory of the contents.
- Administrative confinement (6VAC35-101-1110): Add a requirement that administrative confinement be used only as a last resort when less restrictive measures are inadequate to keep residents safe.
- Monitoring residents placed in mechanical restraints (6VAC35-101-1140): Add a clarifying statement that the 15-minute checks will check circulation as required by procedures and that, if a resident is in restraints for more than two hours in a 24-hour period a medical professional, in addition to a mental health professional, should be consulted.
- Case management (6VAC35-101-1220): Revert the language to the existing language currently contained in 6VAC35-51-760.
- The following changes are recommended in order to ensure that the facilities are following the current recommendations or guidance from the applicable agencies.
  - Employee tuberculosis screening and follow-up & Tuberculosis screening (resident) (6VAC35-101-155 and 6VAC35-101-990): Remove the reference to the Department of Health's tuberculosis guidelines.
  - Nutrition (6VAC35-101-740): Remove the reference to U.S.D.A. guidelines.
  - Medication (6VAC35-101-1060): Remove the reference to the Board of Nurses' medication training curriculum.
  - Health screening at admission (6VAC35-101-980): Remove the requirements for facilities to use a specific form for the health screenings at admission.
- Moved certain sections to more appropriate parts.

**The following is a summary of the overall changes made from the current regulatory scheme (6VAC35-140 and 6VAC35-51):**

- Contains only those provisions relating to that type of facility's operation and management.
- Removes any responsibilities of the department, regulatory authority, or the board currently included in the regulations; i.e., issuance of license/certificate and sanctions.
- Reorganizes the order of the regulatory provisions and groups the provisions with similar provisions. The proposed regulation has sections for: (1) general provisions; (2) administration and personnel; (3) physical environment; (4) safety and security; (5) residents' rights; (6) program operation; (7) work programs; (8) health care services; and (9) behavior management. Facility specific parts are included as needed; i.e., postdispositional detention programs.
- The following changes are proposed to General Provisions:

- Deletes many definitions (such as the definition of "day" and "therapy"); changes definitions to correspond with those used in other regulations; and, where appropriate, incorporates definitions into the substantive provisions of the regulation. Adds definitions for "direct care staff," "direct supervision," "regulatory authority," and "written."
  - Cross-references the board's Certification Regulation (6VAC35-20) for consistency in application of variances.
  - Allows serious incident and child protective services reports to be noted in the resident's case record and documented elsewhere. Mirrors recent changes adopted by the Department of Social Services in its residential regulation.
- The following changes are proposed in Administration and Personnel:
- Amends the provisions relating to community relationships and adopts different provisions specific to the type of setting and locations.
  - Amends the background checks section to conform with the board variance issued November 2008.
  - Reworks the training sections. Separates (1) orientation; (2) required initial training; and (3) retraining.
  - Adds a requirement for staff who transport residents to report any changes in their license status.
  - Clusters all provisions relating to volunteers together.
  - Reworks the staff and resident tuberculosis screening requirements to conform with the language of the Division of Tuberculosis Control in the Department of Health.
  - Removes the requirement to retain face sheets permanently.
  - Amends the qualifications section to require the facility to follow the procedures of the governing authority or locality and ensure employees meet applicable job qualifications.
- The following changes are proposed to Physical Environment:
- Amends requirements relating to fire inspections.
  - Groups all space utilization requirements into one section, and removes the current regulatory requirements to accommodate study space and all requirements relating to live-in staff.
  - Cross-references the board's reimbursement regulations (6VAC35-30) for new construction.
  - Requires same-sex sleeping rooms (not sleeping areas), and deletes the prohibition of having more than four residents in a sleeping area.
  - Adopts board policy language regarding the facility's smoking prohibitions.
  - Deletes the space requirements for a dining area.
- The following changes are proposed to Safety and Security:
- Clarifies the requirements for residents and contract workers in implementing and training on the emergency/evacuation plan.
  - Reworks the searches of residents section to address facility-specific issues.
  - Prohibits weapons on the premises except by law enforcement.
- The following changes are proposed to Residents' Rights:
- Changes requirement to mail visitation procedure from within 24 hours to by "the end of the next business day."
  - Adds a section titled "Contact with attorneys, courts, and law enforcement."
  - Removes the provisions regarding incontinent residents.

- Removes the requirements for the facility to have a witness present when mail is examined by staff, to hold cash and stamps for the residents, and for the residents to be able to send correspondence at their own expense. Retains the requirement for the facility to provide two stamps per week and to allow correspondence with attorney/courts.
  - Allows an exception to the privacy provision when mental health issues require constant supervision.
- The following changes are proposed to Program Operation:
- Separates and reworks the sections regarding individual service plans and quarterly reports.
  - Requires one staff member certified in first-aid and CPR for every 16 residents present.
  - Current regulation requires one staff member certified in first-aid/CPR to be present whenever residents are being supervised.
- The health care sections are reworked and updated.
- The following changes are proposed to Behavior Management:
- Changes the requirement for all residents to have a behavior support plan to a requirement for a plan to be developed when there is a need for supports in addition to those provided for in the behavior management program.
  - Reworks the disciplinary process for an expedited process in detention centers.
  - Reworks all provisions relating to room confinement, isolation, and administrative segregation.
  - Prohibits the use of chemical agents.
- Redrafts confusing language and deletes unnecessary verbiage.
- Makes other technical and stylistic changes, such as deleting provisions that are duplicative of other regulatory or statutory requirements.
- Deletes those provisions that do not apply to juvenile secure detention centers.

**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.*

The Board of Juvenile Justice serves as the regulatory authority for secure residential facilities, both juvenile correctional centers and local detention centers, and the group homes/halfway houses operated by or funded through the department. Currently, these facilities are governed by two separate regulations: (1) the Standards for Juvenile Residential Facilities (6VAC35-140) and (2) the Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51), unless specifically exempted.

The current regulatory scheme has several difficulties in application. Each regulation has the full force and effect of law. Unfortunately, some of the provisions are contradictory or conflict. Additionally, there



are numerous exclusions for the different types of facilities from a variety of regulatory provisions. Sometimes it is unclear exactly which facilities are exempted and to which section or subsection such exceptions are applicable.

To address these issues the department considered two courses of action: (1) consolidate the two existing regulations into one or (2) separate the two regulations into three regulations, one for each different "type" of facility regulated by the board.

Due to the distinct characteristics of the types of facilities regulated by the Board of Juvenile Justice and the complexity of applying a single regulation to the appropriate facility, it was concluded that it would be difficult to regulate all such facilities in one single regulation. The board approved pursuing the second course of action. Thus, the department is proposing separate regulations for the three distinct types of facilities it regulates: (1) juvenile correctional centers; (2) detention centers; and (3) group homes/halfway houses.

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 facilities, they will be able to run the facilities more smoothly and can utilize any extra resources for supporting the needs of the residents, thus maintaining the overall rehabilitation and community safety goals of the department.

This regulation poses no known 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
40	Addresses requirements related to the certification of a facility.	Deleted reference to license (also done throughout the regulation).	The department does not license residential facilities, it certifies them.
60	Requires the facility to self-report any lawsuits or settlements against the facility that deal with the health, welfare, or the safety of the residents.	Changed "self-reported" to "reported."	Technical change.
75	Requirement for operational procedures.	Moved from other section (850).	Technical change.
80	Requires serious incidents, including death, to be reported within 24 hours.	Adds language that all serious incidents be reported in accordance with department procedures. Adds a new provision that the parents of all residents will be notified of any incident involving the death of a	Clarify the importance of serious incident reporting; have regulatory provisions align with department procedures (which have tiered reporting

Section number	Requirement at proposed stage	What has changed	Rationale for change
		resident, provided confidentiality and prosecution will not be affected by the disclosure.	requirements depending on the severity of the incident); separate incidents involving the death of a resident as this circumstance requires special consideration, particularly in local, community-based facilities.
90	Addresses process to be followed in cases of suspected child abuse or neglect.	Adds a requirement that measures will be taken to ensure the safety of the resident and the staff when there is an incident involving suspected child abuse or neglect.	To ensure uniformity in procedures relating to a facility's response to an incident involving suspected child abuse or neglect.
95	Requires staff and the superintendent to report certain criminal activity by residents and staff.	Adds language specifying that the applicable criminal activity includes any physical abuse, sexual abuse, or sexual harassment of residents. Moved from other section (230).	Clarifying language on the scope of the applicable criminal activity. Other technical changes.
155	Requires tuberculosis control practices to be in accordance with specific Department of Health policies and guidelines.	Moved from other section (320). Deletes reference to specific Department of Health policies and guidelines.	This allows the facilities to follow the current guidance and recommendations of the Department of Health rather than stagnating with those guidelines in existence at the time the regulation becomes effective.
190	Requires training on residents' rights.	Clarifies that the residents' rights training includes training on the right to be free of all forms of abuse.	Clarifying amendment (in accord with public comment and proposed Prison Rape Elimination Act [PREA] standards).
190		Adds a requirement that employees who conduct resident admission and orientation are trained prior to performing that duty.	Amended to ensure that all orientation and admission requirements are consistently performed by requiring staff to be trained in these duties.
200	Requires retraining on residents' rights.	Clarifies that the residents' rights retraining includes training on the right to be free of all forms of abuse.	Clarifying amendment (in accord with public comment and proposed PREA standards).

Section number	Requirement at proposed stage	What has changed	Rationale for change
230		Moves to other section (95)	Technical change.
300	Requires volunteers and interns to be trained on residents' rights.	Clarifies that the residents' rights training includes training on the right to be free of all forms of abuse.	Clarifying amendment (in accord with public comment and proposed PREA standards).
310	Requires records to be maintained in a certain manner.	Changes language regarding reference checks.	Technical change.
320		Moved to other section (155).	Technical change.
420	Requires certain number of toilet facilities per resident.	Removes duplicative language. Other technical changes.	Technical change.
450	Requires flammable, toxic, and caustic materials to be stored, used, and disposed of in accordance with applicable laws.	Adds "medical" to the list of materials.	Medical waste is currently managed in accordance with applicable changes. This change is in response to a public comment as it fits naturally in this section.
510	Sets forth the requirements for emergency and evacuation procedures.	Changes the required reporting of incidents time from 72 to 24 hours. Adds cross-reference to section containing other reporting requirements.	Harmonizes the reporting requirements with this section with that in section 80 (serious incident reports).
550	Requires security procedures for the searches of the buildings and premises (section 480 allows for the search of residents).	Adds "and other individuals" to the required procedure components.	Response to public comment as the juvenile detention centers conduct searches of visitors and procedures related thereto are in place (and would now be required per the regulation).
560	Sets forth requirements for the searches of residents.	Adds a requirement that patdown and frisk searches be conducted by staff of the same sex as the resident being searched (except in emergencies). Other technical changes.	Corrects a drafting error and brings this provision in line with the current regulatory requirements.
650	Lists the actions that may not be taken against residents.	Clarifies right to be free from any action that is abusive, including the right to be free from sexual abuse, physical abuse, and sexual harassment.	Clarifying amendment (in accord with public comment and proposed PREA standards).
650	Prohibits the use of involuntary	Deletes duplicative language.	Technical change.

Section number	Requirement at proposed stage	What has changed	Rationale for change
	pharmacological restraints.		
650	Prohibits discrimination against residents on the basis of race, religion, national origin, sex, or physical disability.	Expands the anti-discrimination clause to address all forms of disability and sexual orientation.	The change in disability scope aligns the language with federal law. The addition of sexual orientation is in response to public comment and in accord with the requirements of the proposed PREA standards. * NOTE: The language in subdivision 13 has changed since originally approved by the Board, after first approved by the Board in June 2010, through the Executive Branch Review, it was determined that the proposed language exceeding the Board's rulemaking authority. On January 10, 2012, the Board approved alternative language. The alternative language is in the proposed draft.
650		Adds a cross-reference to the requirement that employees are trained in, volunteers and interns are oriented on, and residents are oriented on the prohibited actions.	Technical change.
680	Sets forth the requirements regarding resident visitation.	Changes "except" to "; and any such limitation shall be implemented."	Corrects a drafting error.
690	Sets forth the residents' rights regarding contact with attorneys, the courts, and law enforcement.	Adds attorney visiting for the purpose of consultation to the definition of legal representative.	This is in response to public comment and allows attorney visitation for the purpose of consultation.
700	Requires clothes and shoes for indoor or outdoor use.	Requires clothes and shoes for indoor and outdoor use.	Reverts to existing language in response to a comment from the Department of Planning

Section number	Requirement at proposed stage	What has changed	Rationale for change
			and Budget at the proposed stage.
700	Requires linens to be changed at a minimum of every seven days.	Adds language that the linens should be changed more often if needed.	Clarifying amendment added as requested in public comment.
720	Requires an adequate supply of size-appropriate clothing and shoes for indoor or outdoor use.	Deletes this section.	Removes duplicative language as size-appropriate clothing and shoes for indoor and outdoor wear is required by section 700(A)(2).
730	Sets forth provisions regarding the protection of a resident's privacy.	Adds language to the mental health exception that it is applicable in circumstances involving self-injurious behaviors or suicidal ideations or attempts.	Clarifies circumstances in which the privacy exception is applicable.
740	Requires meals to be in accordance with the nutritional requirements of the USDA guidelines.	Removes reference to the guidelines.	This allows the facilities to follow the current guidance and recommendations of the federal nutrition and dietary requirements rather than stagnating with those guidelines in existence at the time the regulation becomes effective.
800	Sets forth the requirements for resident admission and orientation.	Adds a requirement that parents or legal guardians are asked about any immediate medical concerns or conditions the resident may have at admission.	Seeks to provide additional information to the facility at intake in order to effectuate the residents' medical needs have been appropriately addressed.
800	Sets forth the requirements for resident admission and orientation.	Adds the requirement that staff who perform the admission and orientation duties be trained prior to performing these duties.	Amends to ensure that all orientation and admission requirements are consistently performed by requiring staff to be trained in these duties.
820	Addresses the requirements of the mental health screening at admission.	Adds the requirement that the person administering the screening be trained.	Technical change in accordance with the applicable statute and requirement that direct care staff be trained by health care personnel when performing health

Section number	Requirement at proposed stage	What has changed	Rationale for change
			care related duties.
850		Moves to another section (75)	Technical change.
980	Requires a health screening at admission to be done using a health screening form.	Deletes the reference to a specific form.	Allows flexibility for the form to change.
990	Requires tuberculosis screening and control practices to be in accordance with specific Department of Health policies and guidelines.	Moves from other section. Deletes reference to specific Department of Health policies and guidelines.	This allows the facilities to follow the current guidance and recommendations of the Department of Health rather than stagnating with those guidelines in existence at the time the regulation becomes effective.
1030	Sets forth requirements for residents' health care records.	Deletes subsection B.	The requirements in subsection B are already provided for in section 330 (maintenance of residents' records).
1040	Sets forth the requirements for first aid kits.	Adds a requirement that the kits be stocked "in accordance with an inventory of contents."	In response to public comment, this allows the facilities to determine the minimum required contents of the first aid kits.
1060	Requires employees who administer medication to receive training in accord with the Department of Health's curriculum.	Removes reference to the specific curriculum, and adds a reference to the governing statutes.	This allows the facilities to follow the current curriculum and recommendations of the Department of Health rather than stagnating with those guidelines in existence at the time the regulation becomes effective.
1110	Sets forth the requirements related to the administrative confinement of juveniles.	Adds a provision that such confinement is utilized only as a last resort for the safety of the juveniles and staff.	In response to public comment; mirrors the board policy related to confinement.
1140	Sets forth requirements for monitoring residents in mechanical restraints.	Adds requirement that the 15-minute checks include the monitoring of the residents' circulation in accordance with the required mechanical restraint procedure.	In response to public comment, this acknowledges the importance of checking the resident's medical status while deferring to the specific requirements

Section number	Requirement at proposed stage	What has changed	Rationale for change
			of the facility's procedures.
1140	Sets forth requirements for monitoring residents in mechanical restraints.	Adds the requirement that, if a resident is in restraints for more than two hours in a 24-hour period, a health care provider, in addition to a mental health professional, should be consulted.	In response to public comment, this focuses on the issues, both medical and mental health, which may complicate the use of mechanical restraints and adds an additional protection for residents.
1220	Sets forth the requirements for case management services.	Reverts to the current requirements.	In response to public comment (to avoid confusion in implementation), the current requirements are clearer and more specific.
Forms & Incorporated Documents		Delete all as references in applicable sections have been deleted.	See comments in applicable regulatory sections.
			Additional technical/nonsubstantive changes were made throughout the document.

**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.*

Commenter	Comment	Agency response
1- General comment.  MAJDC (Mid-Atlantic Juvenile Detention Center) JustChildren FAVY (Families & Allies of Virginia Youth) RJDC (Richmond Juvenile Detention Center)	The proposed Prison Rape Elimination Act (PREA) standards should be incorporated into the residential regulation.	Thank you for your comment. The department has a policy of zero tolerance of any form of abuse against individuals residing in facilities regulated by the board and agrees that keeping residents free from any form of abuse is of the utmost importance. The zero-tolerance policy is taken very seriously by the 24 regulated juvenile detention centers. The juvenile detention centers have been strategically implementing the proposed PREA standards; however, the proposed PREA standards are not final and may be subject to amendment by the United

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		<p>States Department of Justice prior to adoption. Thus, the department, at this time, is not recommending incorporating the proposed PREA standards, in their entirety, into the juvenile detention center (JDC) regulations. If such action were taken, it is possible that the state regulations would conflict with the federal regulations. Moreover, once the proposed PREA standards become final, the regulated facilities must abide by all provisions and a separate board-adopted regulatory requirement in these regulations would not be necessary. The department anticipates, once the final standards are adopted, requesting the board to issue a policy statement indicating its support of the standards. After the final standards are adopted and become mandatory, the auditing of compliance, separate and apart from the department's current certification process, of such standards will be subject to the requirements of the Prison Rape Elimination Act of 2003. The current proposed PREA standards require any audit to be "independent" and thus completed by a group other than the department's Certification Unit (as the Certification Unit does not meet the standard's definitional requirements to complete the audit). During this "independent" audit, each facility will be assessed specifically for compliance with the PREA standards. Consequently, incorporating the PREA requirements into the board's residential standards would result in duplicative work as both the Certification Unit and the separate and independent auditors would be assessing compliance. This course of action is consistent with that involving other mandatory requirements. Historically, the board has not incorporated the occupational and health, fire, and health standards into its residential regulations as compliance is assessed and measured by</p>



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		<p>non-departmental groups; i.e., Department of Health and the Fire Marshal. As such, the department recommends that the board act accordingly in this instance to avoid duplicative work. The department wishes to express that this in no way negates the importance of the PREA standards. When the proposed PREA standards are finalized the detention centers will be responsible for compliance and such compliance will be of primary importance.</p>
<p>2- General comment.</p> <p>JustChildren</p>	<p>The regulation should incorporate the following proposed PREA standards.</p> <p><b>PP-1 Zero tolerance of sexual abuse:</b> The agency has a written policy mandating zero tolerance toward all forms of sexual abuse and enforces that policy by ensuring all of its facilities comply with the PREA standards. The agency employs or designates a PREA coordinator to develop, implement, and oversee agency efforts to comply with the PREA standards. <i>Consider amending 6VAC35-101-650 (Prohibited actions).</i></p> <p><b>TR-1 Employee training:</b> The agency trains all employees to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and under relevant federal, state, and local law. The agency trains all employees to communicate effectively and professionally with all residents. Additionally, the agency trains all employees on a resident's right to be free from sexual abuse, the right of residents and employees to be free from retaliation for reporting sexual abuse, the dynamics of sexual abuse in confinement, and the common reactions of sexual abuse victims. Current employees are educated as soon as possible following the agency's adoption of the PREA standards, and the agency provides periodic refresher information to all employees to ensure that they know the agency's most current sexual abuse policies and procedures. The agency maintains written documentation showing</p>	<p>Thank you for your comment. Please see the response to the first comment regarding adopting the proposed PREA standards. Additionally, please be advised that the department recommends clarifying language be added to 6VAC35-101-650 (Prohibited actions), which will specifically list a prohibition against "physical abuse, sexual abuse, and sexual harassment." The department also recommends specific reference to the prohibited actions in the three training sections - 6VAC35-101-190 (Required initial training), 6VAC35-101-200 (Retraining), and 6VAC35-101-300 (Volunteer and intern orientation and training). Furthermore, the department recommends that a specific reference to training residents on their right to not be subjected to the prohibited acts be added to the resident orientation provided for in 6VAC35-101-800 (Admission and orientation). Also, the department recommends an amendment to 6VAC35-101-1110 (Administrative confinement) that such placements occur only as a last resort for the safety of residents.</p>

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	<p>employee signatures verifying that employees understand the training they have received. <b><i>Consider amending 6VAC35-101-190 (Required initial training) and 6VAC35-101-200 (Retraining).</i></b></p> <p><b>TR-2 Volunteer and contractor training:</b>                      The agency ensures that all volunteers and contractors who have contact with residents have been trained on their responsibilities under the agency's sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and relevant federal, state, and local law. The level and type of training provided to volunteers and contractors is based on the services they provide and level of contact they have with residents, but all volunteers and contractors who have contact with residents must be notified of the agency's zero-tolerance policy regarding sexual abuse. Volunteers must also be trained in how to report sexual abuse. The agency maintains written documentation showing volunteer and contractor signatures verifying that they understand the training they have received. <b><i>Consider amending 6VAC35-101-270 (Volunteer and intern orientation and training).</i></b></p> <p><b>TR-3 Resident education:</b>                      During the intake process, staff inform residents of the agency's zero-tolerance policy regarding sexual abuse and how to report incidents or suspicions of sexual abuse in an age-appropriate fashion. Within a reasonably brief period of time following the intake process, the agency provides comprehensive, age-appropriate education to residents regarding their right to be free from sexual abuse and to be free from retaliation for reporting abuse, the dynamics of sexual abuse in confinement, the common reactions of sexual abuse victims, and agency sexual abuse response policies and procedures. Current residents are educated as soon as possible following the agency's adoption of the PREA standards, and the agency provides periodic refresher information to all residents to ensure that they know the agency's most current sexual abuse policies and procedures. The agency provides resident education in formats accessible to all residents, including those who</p>	

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	<p>are Limited English Proficiency (LEP), deaf, visually impaired, or otherwise disabled as well as inmates who have limited reading skills. The agency maintains written documentation of resident participation in these education sessions. <b><i>Consider amending 6VAC35-101-800 (Admission and orientation).</i></b></p> <p><b>TR-5 Specialized training: Medical and mental health care:</b>                      The agency ensures that all full- and part-time medical and mental health care practitioners working in its facilities have been trained in how to detect and assess signs of sexual abuse and that all medical practitioners are trained in how to preserve physical evidence of sexual abuse. All medical and mental health care practitioners must be trained in how to respond effectively and professionally to young victims of sexual abuse and how and to whom to report allegations or suspicions of sexual abuse. The agency maintains documentation that medical and mental health practitioners have received this specialized training. <b><i>Consider amending 6VAC35-101-190 (Required initial training) and 6VAC35-101-200 (Retraining).</i></b></p> <p><b>AP-2 Placement of residents in housing, bed, program, education, and work assignments:</b>                      Employees use all information obtained about the resident at intake and subsequently to make placement decisions for each resident on an individualized basis with the goal of keeping all residents safe and free from sexual abuse. When determining housing, bed, program, education and work assignments for residents, employees must take into account a resident's age; the nature of his or her offense; any mental or physical disability or mental illness; any history of sexual victimization or engaging in sexual abuse; his or her level of emotional and cognitive development; his or her identification as lesbian, gay, bisexual, or transgender; and any other information obtained about the resident (AP-1). Residents may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be</p>	

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	<p>arranged. <b>Consider amending 6VAC35-101-830 (Classification plan) and 6VAC35-101-1110 (Administrative confinement).</b></p> <p><b>RE-1 Resident reporting:</b>                      The facility provides multiple internal ways for residents to report easily, privately, and securely sexual abuse, retaliation by other residents or staff for reporting sexual abuse, and staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse. The facility also provides at least one way for residents to report the abuse to an outside public entity or office not affiliated with the agency that has agreed to receive reports and forward them to the facility head (RP-3). Staff accept reports made verbally, in writing, anonymously, and from third parties and immediately put into writing any verbal reports. <b>Consider adding section 6VAC35-101-95 (Resident reporting).</b></p> <p><b>RE-3 Resident access to outside support services and legal representation:</b>                      In addition to providing on-site mental health care services, the facility provides residents with access to outside victim advocates for emotional support services related to sexual abuse. The facility provides such access by giving residents the current mailing addresses and telephone numbers, including toll-free hotline numbers, of local, State, and/or national victim advocacy or rape crisis organizations and enabling reasonable communication between residents and these organizations. The facility ensures that communications with such advocates are private, to the extent allowable by federal, state, and local law. The facility informs residents, prior to giving them access, of the extent to which such communications will be private, confidential, and/or privileged. The facility also provides residents with unimpeded access to their attorney or other legal representation and their families. <b>Consider adding 6VAC35-101-1025 (Resident access to outside support services).</b></p> <p><b>IN-1 Duty to investigate:</b>                      The facility investigates all allegations of sexual abuse, including third-party and anonymous</p>	

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	<p>reports, and notifies victims and/or other complainants in writing of investigation outcomes and any disciplinary or criminal sanctions, regardless of the source of the allegation. If additional parties were notified of the allegation (OR-1), the facility notifies those parties in writing of investigation outcomes. All investigations are carried through to completion, regardless of whether the alleged abuser or victim remains at the facility and regardless of whether the source of the allegation recants his or her allegation. <b><i>Consider adding a section 6VAC35-101-91 (Duty to investigate).</i></b></p>	
<p>3- General comment.  RJDC</p>	<p>We also noticed that the reference to Accreditation by the American Correctional Association is not mentioned in this regulation. Will ACA Accreditation continue to be used as a measure of compliance with Board of Juvenile Justice (BJJ) standards for certification purposes?</p>	<p>Thank you for your comment. You are correct the provision currently contained in 6VAC35-140-22 (National accreditation is deemed compliance with the standards) has been removed from the proposed regulation. This was decided because the (1) facility requirements, (2) certification audit procedures, and (3) monitoring process of the board standards and those of the American Correctional Association are not the same. Such accreditation would involve some, but not all board standards, and, in assessing compliance, does not look at the same quality or quantity of measures of compliance. Accordingly, the department recommends maintaining the deletion to ensure continued facility monitoring and auditing in accordance with the board's Certification Regulation (6VAC35-20) of all regulatory requirements. However, this does not prohibit a facility from choosing dual certification.</p>
<p>4- General comment.  DJJ staff</p>	<p>In tuberculosis (TB) sections, remove reference to guidelines.  Applicable to: 6VAC35-101-320, 6VAC35-101-990, and Documents Incorporated by Reference.</p>	<p>Thank you for the comment. The intent of referencing the requirements of the Department of Health's Division of Tuberculosis Control is to have a fluid document that allows the regulation to mirror the current recommendations of the Department of Health. As such, the department recommends removing the reference to a specific Department of Health policy (both in the regulation and in the documents incorporated by</p>

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<p>5- General comment.</p> <p>DJJ staff</p>	<p>Remove reference to medication training curriculum.</p> <p>Applicable to: 6VAC35-101-190 and 6VAC35-101-1060.</p>	<p>reference) and inserting language that would require regulated facilities to follow the current recommendations of the Virginia Department of Health for tuberculosis detection and screening.</p> <p>Thank you for the comment. The intent of referencing the requirements of the Department of Health's medication training curriculum is to have a fluid document that allows the regulation to mirror the current requirements of the Department of Health. As such, the department recommends removing the reference to a specific curriculum (both in the regulation and in the documents incorporated by reference) and inserting language that would require regulated facilities to follow the current requirements of the Virginia Department of Health by cross-referencing the governing statutory authority.</p>
<p>6- General comment.</p> <p>VA CURE (Virginia – Citizens United for the Rehabilitation of Errants)</p>	<p>The following concepts should be incorporated in the proposed regulations:</p> <ul style="list-style-type: none"> <li>- Ongoing education of juveniles/residents on the importance of reporting incidents must be provided.</li> <li>- Easy access to reporting of problems by juveniles and staff must be available.</li> <li>- Education of staff on consequences of not reporting suspected child abuse must be emphasized and staff should sign a document acknowledging the requirements.</li> <li>- Support background checks for volunteers and contractors as well as for DJJ staff.</li> <li>- No closets – the shoe closets at RDC, for example – or other spaces for potential assaults or sexual activities should be allowed in rooms used by juveniles.</li> <li>- Periodic unannounced room checks at all facilities should be performed by monitors.</li> </ul>	<p>Thank you for your comment. The department appreciates your concern for the safety of the residents.</p> <ul style="list-style-type: none"> <li>o Residents undergo an extensive orientation upon initial admission to a JDC (see 6VAC35-101-800).</li> <li>o Additionally, residents are oriented to the grievance procedure; and it is posted in places easily accessible to residents.</li> <li>o Staff are required to report any suspected child abuse and neglect and are trained as to the proper reporting of any suspected abuse or neglect and of any serious incidents. Moreover, staff are trained as to the rights of residents and the role of the grievance procedure.</li> <li>o To further reinforce the importance of the department's zero tolerance of abuse, the department recommends the training sections (6VAC35-101-180, 6VAC35-101-190, and 6VAC35-101-200) be amended to specifically require training on residents' rights, which includes the prohibition of any physical or sexual abuse or sexual harassment.</li> <li>o Documentation of such training is</li> </ul>

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		<p>retained by the facility as it has the burden of proving compliance with the regulatory requirements during its audits during the certification process.</p> <ul style="list-style-type: none"> <li>○ All volunteers and contractors who will be alone with residents must undergo background checks and, if background checks are not completed, the JDCs must follow procedures for the supervision of such persons (see 6VAC35-101-170 (D)).</li> <li>○ Storage of necessary, surplus, and miscellaneous items is necessary for the proper functioning of a JDC. In fact, the regulations require storage space (see 6VAC35-101-470 (A)(6)). However, residents must be supervised, if access is allowed into such spaces, at all times (see 6VAC35-101-890 and 6VAC35-101-900) in order to sufficiently supervise and keep residents safe.</li> </ul> <p>Finally, when residents are confined to a room, staff must check on the residents twice every hour, and the Certification Unit reviews room check logs to ascertain compliance with the applicable regulatory requirement (see 6VAC35-101-1100).</p>
<p>7-6VAC35-101-80. Serious incident reports.</p> <p>RJDC</p>	<p>Standards are "soft" on required time frames for reporting; i.e., evacuation 72 hours. Unlikely major event would become public and notice should be immediate.</p> <p>Several of the standards require that serious incidents be reported to specific individuals within a specific time period. In this specific standard, for example, the juvenile detention center (JDC) is required to notify the court service unit (CSU), the parent or legal guardian, and the DJJ Director or his or her designee within 24 hours in the event of a serious incident, accident, illness, injury to resident, death, suspected abuse, or fire or other emergency. In this day of "instant media," a resident's family, his or her parent, and the DJJ Director need to be notified within two hours of the event. These individuals should not learn of the incident via the media.</p>	<p>Thank you for the comment. The department has a procedure, followed by detention centers, that classifies types of offenses requiring reporting and the required time frames for reporting. In order to clarify the regulatory requirement, the department recommends language be inserted into section 80 requiring any notice of serious incidents to be done "in accordance with department procedures." The department also recommends making a technical change to the reporting time frames listed in the emergency and evacuation procedures (section 510). The department does not recommend any additional specificity be added to the regulation as this is operational and is more appropriately addressed in procedures.</p>

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	<p>The State of Florida, Department of Juvenile Justice, has specific reporting requirements for similar incidents that would be of great value to the board and the department. These requirements can be found at the Florida DJJ Website.</p>	
<p>8-6VAC35-101-80. Serious incident reports.  Murphy-Thomas</p>	<p>Should require that notice should be sent via first-class mail within 24 hours? Are parents/guardians going to receive a copy of the written report required by subsection C? If any incidents involve bodily harm, will the parents/guardians be part of the decision on health care?</p> <p>Parent should be notified when child is involved in incidents involving injury or assault.</p> <p>This section should be amended to clearly state when and how notice is provided to parents.</p>	<p>Thank you for the comment. The department has an intricate procedure that classifies types of offenses, which the detention centers must follow (see recommended change in the previous comment). Also, please note the following:</p> <ul style="list-style-type: none"> <li>• The regulation and procedure require parents to be notified if a serious incident results in injury to their child, including those resulting from assaults.</li> <li>• If notice were required to be via first class mail, then the recipients of the notice would not receive it until approximately three days after the incident. The department does not wish to add any impediment or delay to the notification requirements. On an individual facility or parent basis, such procedures may be implemented; i.e., at the request of the parent or as circumstances necessitate.</li> </ul> <p>While parents receive notice of any serious incident involving their child, a copy of the incident report is not required. These are operational and may involve confidential information; i.e., other residents.</p>
<p>9-6VAC35-101-80. Serious incident reports.  FAVY MAJDC</p>	<p>Add a requirement to report any incidents or suspected incidents of sexual victimization as a serious incident report.</p> <p>This is in line with the National Prison Rape Elimination Commission (NPREC) recommendations for juvenile facilities: "Upon receiving any allegation of sexual abuse, the facility head must immediately report the allegation to the agency head, the juvenile court that handled the victim's case or the victim's judge of record, and the victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal</p>	<p>Thank you for your comment. The department has an intricate procedure that classifies types of offenses, which includes incidents of sexual abuse and sexual harassment and suspected child abuse or neglect (see recommended change to add reference to the procedure in section 80 in an earlier comment). Also, any such incidents involving staff would fall under the required reporting of criminal activities or child abuse or neglect and any involving a resident as an alleged perpetrator would constitute assault,</p>



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	<p>guardians should not be notified."</p>	<p>which are included in the serious incidents required to be reported (and subject to the notice requirements). Accordingly, these incidents are already considered reportable serious incidents. Please see the response to the first comment for more details relating to the adoption of the proposed PREA standards.</p>
<p>10-6VAC35-101-80. Serious incident reports.  FAVY</p>	<p>Required reporting should include instances of:</p> <ul style="list-style-type: none"> <li>- Sexual victimization,</li> <li>- Restraints (physical and mechanical), and</li> <li>- Use of force.</li> </ul> <p>Incidents involving the use of force, physical restraints - and in the case of JCCs and detention centers, the use of mechanical restraints - should also be reported, unless the mechanical restraint is incidental to transporting a resident.</p> <p>These types of incidents may be implied by the phrase "serious incident," but since that term is not defined, it's better to have these explicitly listed as reportable events in each regulation.</p> <p>The proposed regulations on physical and mechanical restraint (6VAC35-71-1130, 6VAC35-71-1180, and 6VAC35-101-1090) only call for uses of restraint to be documented in the resident's record (6VAC35-71-1180 adds the option of a central log book). Requiring them to be reported as serious incidents will enable the board and the department to monitor the use of these techniques and will appropriately inform families and CSUs.</p>	<p>Thank you for your comment. The department has an intricate procedure that classifies types of offenses, which includes incidents of sexual abuse and sexual harassment and suspected child abuse or neglect (see recommended change to add reference to the procedure in section 80 in an earlier comment). Also, incidents involving staff victimizing residents would fall under the required reporting of criminal activities or child abuse or neglect and any involving a resident victimizing a resident would constitute assault, which are included in the serious incidents required to be reported. Any restraints or use of force that are considered serious incidents; i.e., result in injury to a resident, are subject to the notice provision. Use of force is not defined, and the definition of restraint is very expansive. It includes any "application of behavior intervention techniques involving a physical intervention to prevent an individual from moving all or part of that individual's body." Thus, such instances include any circumstances where a staff places a hand on a resident's body; i.e., shoulder or arm, to redirect movement. However, requiring notice in accordance with section 80 for each such instance would be very burdensome. Also, please note that the Certification Unit during the audit process reviews a random sampling of records of restraint for compliance with the applicable regulatory requirements. Accordingly, the department does not recommend any change to the proposed regulation</p>

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<p>11-6VAC35-101-80. Serious incident reports.  VA CURE</p>	<p>Should the awful happen and a juvenile/resident die while incarcerated at a facility, or a staff member die while on duty at a facility, all parents of residents in that facility should be notified.</p>	<p>relative to this comment.  Thank you for your comment. The department recognizes the serious nature of any incident that results in the death of a resident or staff member at the facility and the concern it may cause for the parents of other residents at the facility. Given that detention centers are in the community and operated by the locality or a commission, the department recommends adding a provision for notice to all parents if a resident dies at the facility with the caveats that such notice shall be in compliance with the requirements of confidentiality and will not interfere with any police or child abuse or neglect investigation or prosecution of any case related to the death.</p>
<p>12-6VAC35-101-90. Suspected child abuse or neglect.  VA CURE</p>	<p>The regulation should expand its specific requirements to staff, residents, and contractors on training, reporting of potential abuse, and on implementing periodic surveys of staff and juveniles in the regulations.</p>	<p>Thank you for your comment. Please note that the proposed regulation would require all staff to be oriented on the mandatory reporting requirements (see 6VAC35-101-180); direct care staff and employees who will be responsible for the direct supervision of residents to complete initial training in mandatory reporting prior to working alone with residents (see 6VAC35-101-190); direct care staff to be retrained on mandatory reporting (see 6VAC35-101-200); and volunteers and interns to be trained on their duties and responsibilities (see 6VAC35-101-300). Accordingly, the department does not recommend any additional change in the training requirements. The department is unclear on the intent of the commenter's suggestion that the regulation should contain a specific requirement "on implementing periodic surveys of staff and juveniles in the regulations." However, the Certification Unit, in conducting audits and monitoring visits (as provided in 6VAC35-20) interviews both staff and residents regarding certain regulatory requirements.</p>
<p>13-6VAC35-101-90.</p>	<p>The standard is silent about what happens to staff or the child during the period of</p>	<p>Thank you very much for your comment. While current practice</p>

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<p>Suspected child abuse or neglect.</p> <p>RJDC</p>	<p>investigation. Staff should be removed from contact with children.</p> <p>This standard should include the steps that are being taken to ensure the continued safety and well being of the resident. This may include assigning the accused employee in a non-contact position pending the outcome of the investigation.</p>	<p>requires the protection of the resident from the alleged abusing party and some local departments of social services require facility's to develop a "plan of action," the department recognizes the importance of having this addressed in regulation. Accordingly, the department recommends adding a requirement that the procedures relating to suspected child abuse and neglect address the "measures to be taken to ensure the safety of the resident and the staff."</p>
<p>14-6VAC35-101-90. Suspected child abuse or neglect.</p> <p>VDSS</p>	<p>Should include all ways provided for in the Code for reporting.</p>	<p>Thank you for your comment. The current provision contains a cross-reference to the applicable Code section, thus providing an easy reference, if needed. Moreover, the requirements of the Code of Virginia supersede the regulation and do not need to be included in their entirety in regulations.</p>
<p>15-6VAC35-101-100. Grievance procedure.</p> <p>VA CURE</p>	<p>The grievance sections should be enhanced, particularly as a tool to prevent child abuse. Also, the DJJ Board should receive an aggregated report on grievances as well as a random selection of actual grievances to become familiar with the types of issues reported. Each facility should maintain all grievances and provide periodic reports to the DJJ Board.</p>	<p>Thank you for your comment. The board may, at any time, request a report on the number of grievances. Such a requirement need not be mandated by regulation and could result in the utilization of resources for a report about which the board does not have an interest. Please note that facilities do retain documentation of grievances for three years, and a sample of the grievances is reviewed and residents are interviewed as to the grievance process during the Certification Unit audit process. Accordingly, the department does not recommend any changes to the proposed regulation.</p>
<p>16-6VAC35-101-180. Required initial orientation.</p> <p>RJDC</p>	<p>In some cases, employees have been arrested in another jurisdiction and have not reported their arrest to the detention administration. To protect residents and staff, the detention administrator should request that a local law-enforcement agency check employee names against the National Criminal Information Center (NCIC) to identify any employees who may have been arrested in the proceeding year.</p> <p>The standards should emphasize to the facility</p>	<p>Thank you for your comment. The current and proposed background check requirements mandate a check of the FBI criminal database. This check would indicate any out-of-state convictions and should address the commenter's concerns. Also, please note that staff are required to report any criminal activities, and facilities may run annual checks based on ability and resources (as such a new mandate</p>

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	about mobility of staff and running annual police checks against the NCIC records.	would result in additional cost to the facility). Thus, the department is not recommending adopting the proposed change.
17-6VAC35-101-190. Required initial training.  RJDC	Should not prohibited actions (6VAC35-101-650) be included in the list of required initial training?  Training should also be provided on the Prison Rape Elimination Act and how it applies to juvenile detention facilities. This could be included in the training on Maintaining Appropriate Professional Relationships.	Thank you for your comment. The department recommends that the initial training and retraining sections be amended to cross-reference training on the resident's rights, including, but not limited to, the prohibited actions provided for in 6VAC35-101-650.
18-6VAC35-101-190. Required initial training.  VA CURE	All DJJ staff, including Headquarters staff, should be required to visit a JDC or JCC so as to be generally familiar with the services and facilities that DJJ provides.	Thank you for your comment. There is nothing prohibiting staff from visiting JCCs and JDCs at the discretion of the facility. The proposed change appears to be addressing a performance issue that would be more appropriately addressed in procedures or performance reviews, particularly in light that such visits would not be of professional benefit to certain staff classes of employees; i.e., budget and accounting. Moreover, please note that DJJ staff are not subject to the requirements of the JDC regulation.
19-6VAC35-101-190. Required initial training.  Kauffman	Training of staff should involve awareness of and sensitivity on how to work with residents and appropriately communicate and talk about parents who are lesbian, gay, bisexual, or transgender (LGBT).	Thank you for your comment. The required initial training requires staff to be trained in (1) maintaining appropriate professional relationships and (2) interaction among staff and residents. The proposed change would be inclusive in this training. Moreover, the specific components of these trainings would be more appropriately addressed in procedures or curriculum. Accordingly, the department does not recommend adopting the proposed change.
20-6VAC35-101-190. Required initial training.  FAVY MAJDC VA CURE	Adolescent behavior training should be required for any JCOs who are hired from the adult correctional facilities before they begin to work with the juveniles.  Training and retraining* for direct care staff in all three types of facilities should include: 1. Basic training in adolescent development (especially social, emotional, and	Thank you for your comment. The department understands the importance of appropriate training for all staff working with residents. The current and proposed regulation requires 40 hours of training, which includes training in (1) maintaining appropriate professional relationships and (2) appropriate interaction among staff and

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	<p>psychological);</p> <ol style="list-style-type: none"> <li>2. Training in working appropriately and respectfully with lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth;</li> <li>3. Training in identifying, preventing, and reporting sexual victimization of youth.</li> </ol> <p>Training in these three areas should be specifically required so that direct care staff all has the knowledge and skills to understand and work appropriately with all youth in these facilities.</p> <p>Adolescents are not merely small adults. Those who work with closely them need to have a basic understanding of their development in order to respond to them appropriately.</p> <p>The Child Welfare League of America Best Practice Guidelines for Serving LGBTQ in Out-of-Home Care notes that agencies should "adopt a policy that explicitly prohibits harassment and discrimination on the basis of actual or perceived sexual orientation, gender identity and other protected categories." It further says that child welfare and juvenile justice agencies should "provide both initial and ongoing training to all agency personnel on the application of the nondiscrimination policy and on working with LGBT youth effectively. Training is a crucial aspect of creating cultural change because it reinforces the agency's commitment to providing appropriate and inclusive care."</p> <p>The proposed Prison Rape Elimination Act standards mandate that agencies train all employees "to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and under relevant federal, state, and local law. The agency trains all employees to communicate effectively and professionally with all residents. Additionally, the agency trains all employees on a resident's right to be free from sexual abuse, the right of residents and employees to be free from retaliation for reporting sexual abuse, the</p>	<p>residents. While the proposed changes may be "best practices" for training curriculum, the specific components of these trainings would be more appropriately addressed in procedures or curriculum as each facility must train staff for competency in their positions, and facilities should be afforded some flexibility in setting training plans and curriculums. Please note that the third proposed change is reflective of a proposed PREA standard. For a comprehensive department response relating to all proposed PREA standards, please see the response to the first comment.</p>

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	<p>dynamics of sexual abuse in confinement, and the common reactions of sexual abuse victims."</p> <p>*Retraining should be addressed in section 200 (Retraining).</p>	
<p>21- Proposed section: 225: Grievance against staff.  MAJDC</p>	<p>To protect youth from sexual and other abuse, personnel records and background checks should include any grievances made against the employee by residents, including a written explanation of the circumstances leading to the grievance, the administrative procedure followed, and the result of the grievance.</p>	<p>Thank you for your comment. Current practice includes maintaining a separate file of grievances for three years. If the grievance equates to suspected child abuse or neglect, the procedures for Child Protective Service (CPS) reporting and documentation are followed. If the CPS complaint is founded, it is maintained in the CPS registry. Also, if the grievance results in disciplinary action against staff, the documentation of that action is maintained in the employee's personnel file. Thus, the department does not recommend any change to the proposed regulation.</p>
<p>22- 6VAC35-101-230. Reporting criminal activity.  DJJ staff</p>	<p>Move to Part 1, General Provisions. This is more consistent with serious incident reporting.</p>	<p>Thank you for your comment. The department recommends adopting the proposed change as this regulatory requirement would be more appropriately placed in the General Provisions (recommended to be moved to section 95).</p>
<p>23- 6VAC35-101-240. Notification of change in driver's license status.  RJDC</p>	<p>How soon after a conviction does a juvenile detention employee have to report any change in his or her driver's license status? If an employee is arrested for DUI, he or she should be required to report that to the detention administrator on the next working day.</p>	<p>Thank you for your comment. A DUI is a criminal activity and must be reported as provided in 6VAC35-101-230 (recommended to be moved to section 95). The time frames are procedural and more appropriately addressed in the facility's procedures.</p>
<p>24- 6VAC35-101-240. Notification of change in driver's license status.  DJJ staff</p>	<p>Remove. This is a staff performance issue. Conditions of employment require staff to have a valid driver's license and to report any revocations. Staff accountability is addressed via the Standards of Conduct; therefore, this requirement should be included in policy and procedures. Additionally, this would be difficult to audit.</p>	<p>Thank you for your comment. The department agrees that this is a performance/procedural issue, as state law requires all drivers to be licensed. However, given the risk to residents that may occur if this requirement is not enforced, the department recommends retaining this provision for consistency across all JDCs.</p>
<p>25- Part I, Article 5 (starting at 270).  Murphy-Thomas</p>	<p>Facilities should have provisions to allow for parents to volunteer, including a packet provided to them upon admission regarding volunteer opportunities.</p>	<p>Thank you for your comment. The regulation does not prohibit this action. Any such decision would be facility based, thus subject to the provisions applicable to volunteers. The</p>

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		department does not recommend including this mandate in the regulation. This would be more appropriately addressed in procedures.
<p>26-6VAC35-101-280. Selection and duties of volunteers and interns.</p> <p>RJDC</p>	<p>There appears to be an inconsistency between this standard and the standard that follows 6VAC35-101-290. In this standard, it states in paragraph D, "Volunteers and interns shall neither be responsible for the duties of direct care staff nor for the direct supervision of the residents."</p> <p>In standard 6VAC35-101-290, however, it states in paragraph A, "Any individual who (i) volunteers on a regular basis or is an intern and (ii) will be alone with a resident in the performance of that person's duties shall be subject to the background check requirements in 6VAC35-101-170 A (Employee and volunteer background checks)."</p>	<p>Thank you for your comment. The two provisions serve different goals. Background checks are required if the individual volunteers on a regular basis and will be alone with a resident. There may be individuals who do not meet these criteria but may meet confidentially with residents. In such cases, the individual (if no background check has been completed) will be under the visual supervision of direct care staff. However, under no circumstances will volunteers serve as direct care staff (responsible for the supervision of residents and the security of the facility). In all cases, the direct care staff will be visually supervising the residents; i.e., via camera or window.</p>
<p>27-6VAC35-101-300. Volunteer and intern orientation and training.</p> <p>RJDC</p>	<p>Prohibited actions (6VAC35-101-650) should be included in this training, as well.</p>	<p>Thank you for your comment. The department recommends that the initial training and retraining sections cross-reference the prohibited actions section.</p>
<p>28-6VAC35-101-320. Employee tuberculosis screening and follow-up.</p> <p>DJJ staff</p>	<p>Move to Part II, Administration and Personnel.</p>	<p>Thank you for your comment. The department agrees that these requirements would be more appropriately addressed in Part II and recommends moving it to proposed new section 155.</p>
<p>29-6VAC35-101-330. Maintenance of residents' records.</p> <p>RJDC</p>	<p>The way that paragraph B is written, it would appear that a separate health record is optional. The standard reads, "A separate health record may be kept on each resident."</p> <p>Change the "may" to a "shall" regarding the separate health records.</p>	<p>Given the different required retention periods, the department recommends changing the "may" to "shall." Also, the department recommends deleting subsection B in 6VAC35-101-1030 as this is duplicative of the provisions in section 330.</p>
<p>30-6VAC35-101-330. Maintenance of residents' records.</p>	<p>Virginia CURE supports the protection of the records. Add to the proposed regulations a provision that breaches of the confidentiality of the records, whether written or automated, be</p>	<p>Thank you for your comment. The department recognizes the importance of maintaining the confidentiality of residents' records and has included, in</p>

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VA CURE	documented to the DJJ facility superintendent, DJJ information officers, juvenile/resident, and his or her parents.	the proposed regulation, a cross-reference to the applicable citations in the Code of Virginia. Included in the notion that the records must be maintained confidentially is that any breach violates that requirement. Therefore, the department does not recommend adopting the proposed change.
31-6VAC35-101-370. Alternate power source.  RJDC	There is no requirement to test the alternate power source annually.	Thank you for your comment. Such equipment must be tested quarterly as provided in 6VAC35-101-360 (A). Accordingly, the department does not recommend adopting the proposed change.
32-6VAC35-101-420. Toilet facilities.  RJDC	Paragraph B states, "There shall be toilet facilities available for resident use in all sleeping areas for each detention center constructed after January 1, 1998." Does this mean individual sleeping rooms should be equipped with a toilet and sink; i.e., wet rooms?  Paragraph C appears to be inconsistent with paragraph A. Paragraph A says, "There shall be at least one toilet, one hand basin, and one shower or bathtub in each living unit." Paragraph C provides ratios of one to four.	Thank you for your comment. The department agrees that the language is duplicative and recommends clarifying amendments.
33-6VAC35-101-450. Disposal of garbage and management of hazardous materials.  RJDC	A third paragraph, "C" would probably be helpful to specifically address medical hazardous waste. It could read, "C. Medical hazardous waste shall be collected and disposed of in a manner consistent with applicable laws and regulations."	Thank you for your comment. The department recommends adopting the proposed change (adding medical to subsection B).
34-6VAC35-101-450. Disposal of garbage and management of hazardous materials.  VA CURE	Recycling. There is a requirement for disposal of refuse in the proposed regulations. We suggest the DJJ Board add recycling as a requirement for staff and juveniles.	Thank you for your comment. The regulations do not prohibit recycling in the facilities and does not recommend mandating it in the proposed regulation. Such practices would be more appropriately addressed in procedures.
35-6VAC35-101-480. Kitchen operation and safety.  RJDC	Can residents be used to sweep/clean the floor in the dining area?	Thank you for your question. As drafted, residents would be prohibited from working in the detention center's food service. Sweeping and cleaning the floor is generally considered a maintenance/janitorial duty (versus food



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		preparation, service, and clean-up). The department anticipates that any interpretation of this standard would be consistent with those meanings.
<p>36-6VAC35-101-510. Emergency and evacuation procedures.</p> <p>RJDC</p>	<p>This standard needs to include in the emergency response procedures how residents will be transported to alternate sites. In addition, written memorandums of understanding should be required between juvenile detention centers when facilities are used as alternate sites during an evacuation.</p> <p>In paragraph F the standard says "the detention center first should respond and stabilize the disaster or emergency." This may not be possible. If a train derails, for example, there may be only minutes to evacuate the building. There is no way the facility can "stabilize that situation." The standard also refers to notification of various parties, including the Director of DJJ. It refers to notification within 72 hours. Please refer to the Florida DJJ standards. The parties should be notified within two hours of the beginning of the evacuation.</p>	<p>Thank you for your comment. The department recognizes the importance of comprehensive emergency and evacuation plans. Each facility is required to have emergency/disaster plans that would include steps, including relocation, necessary to protect the residents. In fact, the regulation requires evacuation procedures. Accordingly, the department does not recommend mandating such provisions in the proposed regulation.</p> <p>Please see the response to comment 7 regarding the reporting and notice requirements.</p>
<p>37-6VAC35-101-550. Contraband.</p> <p>RJDC</p>	<p>The standards do not appear to address searching staff, visitors, interns, volunteers, and contractors.</p>	<p>Thank you for your comment. The department recommends adding "other individuals" to 6VAC35-101-550 to ensure the scope of the regulation is clear.</p>
<p>38-6VAC35-101-550. Contraband.</p> <p>VA CURE</p>	<p>Visitors are searched when they arrive for visitation. Residents are periodically searched. Nevertheless, contraband, including chewing tobacco, money, CDs, and worse, are found on-site at DJJ facilities. Staff should also be searched on a spot basis to assure that all on-site individuals have the potential for unannounced searches.</p>	<p>Thank you for your comment. The department takes the existence of contraband at facilities very seriously and is vigilant in its efforts to eradicate any such practices. The regulation does not prohibit searches of staff (particularly in light of the change recommended in response to the previous comment) and would be more appropriately addressed in procedures.</p>
<p>39-6VAC35-101-560. Searches of residents.</p> <p>JustChildren MAJDC</p>	<p>National Prison Rape Elimination Commission (NPREC) Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Juvenile Facilities suggest: Except in the case of emergency or other extraordinary or unforeseen circumstances, the facility restricts nonmedical staff from viewing residents of the opposite gender who are nude or performing bodily functions and similarly restricts cross-gender pat-down searches. (PP-4 Limits to</p>	<p>Thank you for your comment. The facilities currently restrict cross-sex searches, except in emergencies, and recommends incorporating the proposed change into section 560 of the proposed regulation.</p>

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	<p>cross-gender viewing and searches).</p> <p>We recommend adoption of this standard for all three facility types.</p>	
<p>40-6VAC35-101-580. Telephone access and emergency numbers.</p> <p>MAJDC VA CURE</p>	<p>MAJDC: The proposed regulations only provide emergency telephone access to staff and to residents away from the facility. To further provide protection to youth in the facilities, emergency, non-pay telephone access should be available to all youth 24 hours a day.</p> <p>VA CURE: Phone access to call family is very important. The regulation should establish a low threshold for affordability of phone calls to family by a DJJ resident and monitor it.</p>	<p>Thank you for your comment. Given the nature of the detention centers, it would be impractical to allow general access to telephones 24/7. Residents may submit grievances or report to staff. Thus, the department does not recommend adopting the proposed change.</p>
<p>41-6VAC35-101-580. Telephone access and emergency numbers.</p> <p>RJDC</p>	<p>In paragraph B, are you referring to a staff member's personal phone number that can be called in an emergency?</p>	<p>Thank you for your question. The proposed regulation is silent as to what number should be provided. This may be personal or business. The specific requirements would be more appropriately provided for in procedures.</p>
<p>42-6VAC35-600. Weapons.</p> <p>RJDC</p>	<p>Tasers and stun guns should be included in the standard.</p>	<p>Thank you for your comment. The proposed regulation uses the term "and other weapon," which can include tasers and stun guns. A facility may so define this term in its procedures. Thus, the department is not recommending adopting the proposed change.</p>
<p>43-6VAC35-101-650. Prohibited actions.</p> <p>RJDC</p>	<p>Training requirements should be added to this standard and crossed-referenced with the training standards.</p>	<p>Thank you for your comment. The department recommends including the training requirement in all training sections (190, 200, and 300). Including a cross-reference in this section is not necessary.</p>
<p>44-6VAC35-101-650. Prohibited actions. #13, Involuntary use of pharmacological restraints.</p> <p>DJJ staff</p>	<p>Delete "involuntary." Residents cannot voluntarily request medication.</p>	<p>Thank you for your comment. The department recommends adopting the proposed change to reduce any confusion as to whether the use of pharmacological restraints to control behavior is prohibited.</p>
<p>45-6VAC35-101-650. Prohibited actions.</p>	<p>Add "actual or perceived sexual orientation and gender identity and expression" to the non-discrimination clause for each facility.</p>	<p>Thank you for your comment. The department recommends two changes to the nondiscrimination</p>

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FAVY	<p>The Child Welfare League of America and Lambda Legal note that "Many young people who are lesbian, gay, bisexual, transgender or questioning their sexual orientation or gender identity ("LGBTQ") and in the custody of the juvenile justice and delinquency systems are unsafe in their placements....<sup>1</sup>" They go on to affirm that "LGBTQ youth should be placed in facilities that have LGBTQ-inclusive nondiscrimination policies and where qualified staff have been trained to protect and support LGBTQ youth."</p> <p>In Executive Directive 1 (2010)<sup>2</sup>, Governor McDonnell wrote: "The Virginia Human Rights Act recognizes the unlawfulness of conduct that violates any Virginia or federal statute or regulation governing discrimination against certain enumerated classes of persons. The Equal Protection Clause of the United States Constitution prohibits discrimination without a rational basis against any class of persons. Discrimination based on factors such as one's sexual orientation or parental status violates the Equal Protection Clause of the United States Constitution. Therefore, discrimination against enumerated classes of persons set forth in the Virginia Human Rights Act or discrimination against any class of persons without a rational basis is prohibited."</p> <p>Listing these additional categories will make it clear to staff, youth, and families that harassment and discrimination of LGBTQ youth is illegal and will not be tolerated.</p>	<p>subdivision of this section. First, it recommends deleting the word "physical" before "disability" to ensure all disabled individuals are covered. Second, it recommends including "sexual orientation" as a factor by which residents may not be discriminated. The detention centers must equally and appropriately serve all juveniles ordered to them by the courts of the Commonwealth and must seek to ensure that all residents are subject to the same protections. Given the emphasis of such protection in the proposed PREA standards, the department supports its inclusion in the regulation.</p> <p>* NOTE: The language in subdivision 13 has changed since originally approved by the Board, after first approved by the Board in June 2010, through the Executive Branch Review, it was determined that the proposed language exceeding the Board's rulemaking authority. On January 10, 2012, the Board approved alternative language. The alternative language is in the proposed draft.</p>
46-6VAC35-101-660. Residents' mail.  VA CURE	We support the requirement in the regulations that packages must be delivered to the resident within 48 hours as there have been reports of long hold-ups.	Thank you for your comment. This provision is already contained in the regulation at 6VAC35-101-660 (E).
47-6VAC35-101-680. Visitation.  RJDC VA CURE	RJDC: At a minimum, should visitation not be scheduled at least once a week, unless security demands, health concerns, or other emergencies make visitation difficult? The standard needs to give some guidance for the auditors.	Thank you for your comment. The department supports maintaining strong family relationships during any period of commitment and, except in rare occasions; i.e., H1N1, weather, visitation is held weekly in all facilities.

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	<p>VA CURE: Visitation opportunities that include weekend and weekday/evening times should be required at all facilities.</p>	<p>However, given the different sizes and nature of the detention centers, conducting additional visitation may be difficult. Setting the operational standards for visitation should be managed at the facility procedural level and not in regulation. Thus, the department is not recommending adopting the proposed change.</p>
<p>48-6VAC35-101-690. Contact with attorneys, courts, and law enforcement.  UR/MAJDC JustChildren</p>	<p>MAJDC: The proposed regulation requires proof that the attorney has been retained. This is a problem because generally an attorney and client have an initial meeting before the attorney is officially retained. The proposed regulation would prevent juveniles from initial consultations, retaining willing attorneys, and a guiding hand through the juvenile justice system.</p> <p>The definition of "legal representative" for the purposes of mail and contact with attorneys should be expanded to:</p> <p>"For the purpose of this section a legal representative is defined as an attorney licensed to practice law in the Commonwealth of Virginia or admitted pro hac vice for a specific case or a paralegal, investigator, or law student, or other representative from the attorney's office. Evidence that the attorney has been retained shall not be required prior to permitting access. A juvenile who wants to contact an attorney or other legal representative shall request and be provided assistance from DJJ staff at the facility. "</p> <p>To require that youth have a retainer agreement with counsel before they can even see them is an undue burden on the youth's ability to gain the assistance of counsel in order to access the courts since youth will generally need to talk to counsel before they can decide to retain them even if they are pro bono.</p> <p>JustChildren: Courts have recognized the rights that both youth and adult prisoners have to access the courts. While adult facilities have a number of ways they can assure meaningful</p>	<p>Thank you for your comment. A secure facility, as required by the Constitution, may place only reasonable limitations on contacts with attorneys. The department acknowledges the restrictive nature of the proposed language (as consultations are generally required prior to retention) and, thus, recommends adding language to address this circumstance.</p>

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	<p>access to the courts, including law libraries and other forms of assistance, in a juvenile setting we cannot expect children to serve as jailhouse lawyers.</p> <p>With regard to the requirement that attorneys present evidence that they have been retained prior to permitting access, we would like to make two points. First, the Virginia Department of Corrections does not require that a retainer be produced prior to the scheduling of a legal visit. Second, retainers are protected by attorney client confidentiality and are not to be shared outside of that relationship.</p> <p>While we appreciate DJJ's inclusion of this regulation that allows youth access to counsel, we would recommend the following changes to insure that said access is appropriate and adequate.</p> <p>In 6VAC35-101 make the following amendments to Section A: "For the purpose of this section a legal representative is defined as an attorney licensed to practice law in the Commonwealth of Virginia or admitted pro hac vice for a specific case or a paralegal, investigator, or law student, or other representative from the attorney's office."</p>	
<p>49-6VAC35-101-700. Personal necessities.  DPB</p>	<p>Change "or" to "and" in (A)(2).</p>	<p>Thank you for your comment. The department recommends adopting the proposed change.</p>
<p>50-6VAC35-101-730. Residents' privacy.  RJDC</p>	<p>The word "security" should be added to the following phrase, "except when constant supervision is necessary to protect the resident due to <i>security</i> or mental health issues."</p>	<p>Thank you for the comment. One of detention center's primary responsibilities is providing security (keeping residents secure from access to the community). Thus, to add such an exception would be to allow the practice at all times. To clarify the scope of the exception, the department recommends adding language that the mental health exception applies in cases involving suicidal ideations and self-injurious behavior.</p>
<p>51-6VAC35-101-730.</p>	<p>While JustChildren appreciates the need to keep youth safe while in the care of DJJ, the privacy</p>	<p>Thank you for your comment. Section 730 does mandate, except in</p>

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<p>Residents' privacy.</p> <p>JustChildren MAJDC</p>	<p>rights of these youth should be protected. National Prison Rape Elimination Commission (NPREC) Standards for the Prevention, Detection, Response, and Monitoring of Sexual Abuse in Juvenile Facilities suggest: Except in the case of emergency or other extraordinary or unforeseen circumstances, the facility restricts nonmedical staff from viewing residents of the opposite gender who are nude or performing bodily functions and similarly restricts cross-gender pat-down searches. (PP-4 Limits to cross-gender viewing and searches).</p> <p>We recommend adoption of this standard for all three facility types.</p>	<p>extraordinary circumstances, that residents' bathing, dressing, or conducting toileting activities are provided with privacy from cross-sex supervision. While the language is a little different from the proposed PREA standard, the effect is the same (including the recommended changes listed in the response to the previous comment). Thus, the department does not recommend adopting the proposed change. For a more detailed response regarding the adoption of the proposed PREA standards, please review the agency's response to the first comment above.</p>
<p>52-6VAC35-101-740.</p> <p>Nutrition.</p> <p>RJDC</p>	<p>The American Correctional Association Standards state, "Written policy, procedure, and practice require that at least three meals, of which two are hot, are provided at regular meal times during each 24-hour period, with no more than 14 hours between the evening meal and breakfast. Provided basic nutritional goals are met, variations may be allowed based on weekend and holiday food service demands." (Standards for Juvenile Detention Facilities, Third Edition, 3-JDF-4A-13).</p>	<p>Thank you for your comment. The department is retaining the current regulatory requirement regarding timing of meals. Facilities may choose to serve meals earlier than indicated in the regulation (as these are minimum requirements). Accordingly, the department does not recommend adopting the proposed change.</p>
<p>53-6VAC35-101-740.</p> <p>Nutrition.</p> <p>VA CURE</p>	<p>The proposed regulation references meeting the minimum requirements of the U.S. Dietary Guidelines. Please revise to state that DJJ menus must exceed the minimum requirements. Also, please require that the Dietary Guidelines being used are for growing adolescents, not adults. Also, please require that daily menus meet the U.S. Center for Disease Control and Prevention's "5-a-Day" serving of fruits and vegetables.</p> <p>All juveniles at intake who are found to be obese must have a special health plan to help improve health and reduce weight.</p> <p>The weight of each juvenile should be monitored so that if a juvenile becomes obese while at a DJJ facility, a special health plan can be developed.</p>	<p>Thank you for your comment. The regulation accommodates special diets for weight gain, weight loss, and other special medical conditions. The federal guidelines are fluid and adopting specific menu provisions may result in this regulation being in conflict with that recommended by the USDA, CDC, or HHS. Thus, the department does not recommend adopting the proposed change.</p>
<p>54-6VAC35-101-770.</p>	<p>Outdoor Recreation. Reports are that use of outdoor recreation is very limited at some</p>	<p>Thank you for your comment. The existing and proposed regulations</p>

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<p>Recreation.</p> <p>VA CURE</p>	<p>facilities. Provide in the regulations for minimum once weekly outdoor exercise.</p> <p>Indoor Recreation. Require that active exercise options other than basketball are provided.</p>	<p>require the facilities to follow their recreation programs and to provide outdoor recreation whenever practicable. The regulation also requires any deviations from the plan to be documented. The specific requirements of the program; i.e., what types of indoor activities, are operational and would be more appropriately addressed in procedures. Moreover, mandating a specific weekly requirement may result in facilities being found in noncompliance for circumstances beyond their control; i.e., environmental conditions, security issues, gang problems. As such, the department does not recommend adopting the proposed change.</p>
<p>55- Education (removed in the proposed regulation).</p> <p>VA CURE</p>	<p>Retain the current requirement that residents be enrolled in school within five days. See 6VAC35-51-920. Education.</p> <p>Do not make the proposed change that allows for a five business day delay to get a child enrolled in school. It is too long, unless the state allows that length of time for parents to enroll children after relocations. At many facilities, school continues four quarters of the year. Also, the proposed regulation should provide that the Department of Correctional Education and DJJ have a process to enroll a juvenile should he or she arrive at a DJJ facility during a break. Please clarify which department is referred to as "facility staff" in the proposed regulation.</p>	<p>Thank you for your comment. Please note that each JDC has an educational program that is operated by the local educational authority (LEA) and is regulated by the Department of Education (DOE). The LEA is subject to the compulsory school education laws. As the LEA and DOE are not subject to this regulation, the department does not recommend incorporating any requirements relating to educational programs and services in this regulation.</p>
<p>56- 6VAC35-101-800. Admission and orientation.</p> <p>RJDC</p>	<p>Within what time period should a resident have an orientation to the behavior management program? Is this something a detention center should be explaining to a resident in the middle of the night?</p> <p>The Prison Rape Elimination Act standards also require that residents be given an orientation on avoiding and reporting sexual abuse.</p>	<p>Thank you for the question. The regulation states that the orientation must be done at intake. The specific time frames are operational and would be more appropriately addressed in facility procedures.</p>
<p>57- 6VAC35-101-800. Admission and orientation.</p>	<p>Complete health assessments should be done at intake.</p> <p>The child's legal guardian should be contacted and specifically asked about the child's medical</p>	<p>Thank you for your comment. A health assessment must be completed during intake. However, most of the information is obtained from the resident (with some information from</p>

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Harrington	<p>history and condition within the first few hours of being detained (in case they have medicines, etc.)</p> <p>This could also be addressed in 6VAC35-101-980 (Health screenings at admission).</p>	<p>the CSUs). Parents are notified about the admission, and the facility may inquire about or the parent may provide important medical information. However, given the importance of having information on any special medical needs, the department recommends adding such an inquiry when contacting the parents.</p>
<p>58-6VAC35-101-800. Admission and orientation.</p> <p>Harris</p>	<p>Parents should be provided with the contact information of an individual at the facility who can be contacted to provide information and answer any questions.</p>	<p>Thank you for your comment. The proposed requirement is incorporated into subsection A of 6VAC35-101-800, which requires the facility to provide each parent or legal guardian with contact information for an individual at the facility to whom inquiries on assigned cases may be addressed.</p>
<p>59-6VAC35-101-820. Mental health screening.</p> <p>RJDC</p>	<p>In paragraph A.2., it states, "The administration of an objective mental health screening instrument within 48 hours of admission." Does this include weekends and holidays?</p> <p>Under the definitions section at the beginning of the regulation, the term "qualified mental health professional" (QMHP) needs to be included.</p>	<p>Thank you for the question and comment. The administration of the mental health screenings does include weekends and holidays. This is derived from a specific statutory provision that does not exclude weekends and holidays. Thus, the regulation does not either. Regarding the QMHP, the department, instead of defining that term, is recommending inserting language that requires the person administering the health assessment (versus evaluation) be trained.</p>
<p>60-6VAC35-101-830. Classification plan.</p> <p>RJDC</p>	<p>This is another area where the Prison Rape Elimination Act standards should be reviewed.</p>	<p>Thank you for your comment. Please see the agency response to the first comment above regarding incorporating the proposed PREA standards into the board's regulation.</p>
<p>61-6VAC35-101-830. Classification plan.</p> <p>JustChildren MAJDC</p>	<p>The regulation should adopt the Prison Rape Elimination Act standards and provide that all information obtained about the resident at intake and subsequently is used to make placement decisions for each resident on an individualized basis with the goal of keeping all residents safe and free from sexual abuse.</p> <p>When determining housing, bed, program, education, and work assignments for residents, the facility should take into account (1) a resident's age; (2) the nature of his or her offense; (3) any mental or physical disability or mental illness; (4) any history of sexual victim-</p>	<p>Thank you for your comment. The department does not recommend adopting the recommended changes as they are more appropriately addressed in procedures. Please see the agency response to the first comment above regarding incorporating the proposed PREA standards into the board's regulation.</p>



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	<p>ization or engaging in sexual abuse; (5) his or her level of emotional and cognitive development; (5) his or her identification as lesbian, gay, bisexual, or transgender; and (6) any other information obtained about the resident (AP-1).</p> <p>The regulation should state that residents may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged. This could be addressed in 6VAC35-101-1110 (Administrative confinement).</p>	
<p>62-6VAC35-101-850. Operational procedures.</p> <p>DJJ staff</p>	<p>Move to Part I, General Provisions.</p>	<p>Thank you for your comment. The department recommends moving this section to Part I as a more logical place for the requirement.</p>
<p>63-6VAC35-101-870. Written communication between staff; daily log.</p> <p>RJDC</p>	<p>Should the standard state that log books should be bound books with pre-numbered pages?</p>	<p>Thank you for your comment. The department does not recommend adopting the recommended change as this is operational and would be more appropriately addressed in procedures. The current proposed language allows facilities flexibility in the format of log books as most appropriately meets their needs.</p>
<p>64-6VAC35-101-870. Written communication between staff; daily log.</p> <p>DJJ staff</p>	<p>Move to Part VI, Article 3, Supervision.</p>	<p>Thank you for your comment. The department recognizes that there are numerous opinions on the appropriate ordering and placement of the sections. The department declines to recommend adopting the recommended change.</p>
<p>65-6VAC35-101-1000. Residents' medical examination; responsibility for preexisting conditions.</p> <p>RJDC</p>	<p>In many cases, juveniles are admitted to juvenile detention with preexisting dental conditions that require immediate attention. In these cases, who should pay?</p>	<p>Thank you for your question. The existing and proposed regulation states that the facility is not responsible for preexisting conditions as the child's insurance will cover (except as provided in section 1000 if there is no insurance).</p>
<p>66-</p>	<p>The suicide prevention program should also</p>	<p>Thank you for your comment. The</p>

Commenter	Comment	Agency response
<p>6VAC35-101-1020. Suicide prevention.</p> <p>RJDC</p>	<p>include a walk-through of the facility by the administration to identify potential suicide hazards in the facility.</p>	<p>regulation does not prohibit a facility walk-through. The proposed requirements are operational and may be more appropriately addressed in procedures. Thus, the department does not recommend adopting the proposed change.</p>
<p>67-6VAC35-101-1040. First aid kits.</p> <p>RJDC</p>	<p>Should the health authority say what should and should not be in a First Aid kit?</p> <p>ACA Standard 3-JDF-4C-28 states, "Written policy, procedure, and practice require that first aid kit(s) are available. The responsible physician approves the contents, number, location, and procedure for periodic inspection of the kit(s)."</p>	<p>Thank you for your comment. The department recommends adding a requirement that the kits contain an inventory of contents but declines to recommend the additional requirements as these would be more appropriately addressed in facility procedures.</p>
<p>68-6VAC35-101-1050. Hospitalization and other outside medical treatment of residents.</p> <p>RJDC</p>	<p>Who has the authority to send a resident to the hospital should be spelled out in the agency procedure.</p>	<p>Thank you very much for your comment. This is governed by the Code of Virginia (§ 54.1-2969) and, thus, need not be repeated in the regulation.</p>
<p>69-6VAC35-101-1050. Hospitalization and other outside medical treatment of residents.</p> <p>Murphy-Thomas FAVY</p>	<p>Murphy-Thomas: Parents should also be provided notification of and involved in health care decisions.</p> <p>FAVY: The regulations should contain a provision for parents or legal guardians to be present when a resident needs non-emergency outside medical care, such as elective surgery, or when a resident is hospitalized. This enables youth to maintain their right to visits, allows parents and guardians to be present at an especially vulnerable time, and, in the case of minors, to participate in treatment decisions as needed. Written procedures can ensure the continuing secure supervision of the resident during this time, whether parents or guardians are present or not.</p> <p>Note that the old regulation for juvenile residential facilities envisioned the possibility of parents or guardians accompanying youth in need of hospital care or other outside medical treatment:</p>	<p>Thank you for your comment. The facilities must account for security, health, and family relationship issues when residents receive treatment outside of the detention centers. Parents are involved in health care decisions as provided in § 54.1-2969 of the Code of Virginia and are generally consulted regarding health care decisions and notified, in advance of treatment, in the majority of cases; but in some instances it may not be appropriate. This statute contains numerous provisions regarding the age of consent, graduated consent, and the role of parents in the health care decisions when the child is in the physical custody of an agency of the Commonwealth. The department and the detention centers must follow all relevant provisions. Thus the determination of parental involvement generally involves a case-by-case determination and adopting the proposed regulatory change may result</p>

Commenter	Comment	Agency response
	<p>6VAC35-140-230. Hospitalization and other outside medical treatment of residents.</p> <p>A. When a resident of a juvenile residential facility needs hospital care or other medical treatment outside the facility,</p> <ol style="list-style-type: none"> <li>1. the resident shall be transported safely, and</li> <li>2. a parent or legal guardian, a staff member, or a law-enforcement officer, as appropriate, shall accompany the resident and stay at least during admission and, in the case of securely detained or committed residents, until appropriate security arrangements are made.</li> </ol> <p>B. If a parent or legal guardian does not accompany the resident to the hospital or other medical treatment outside the facility, the parent or legal guardian shall be informed that the resident was taken outside the facility for medical attention as soon as is practicable.</p>	<p>in a regulation in violation of the statute.</p>
<p>70-6VAC35-101-1080. Disciplinary process.</p> <p>Tim Dotson</p>	<p>In the review of the violation, it states the facility must "provide, upon the request of the resident, for an impartial staff member to assist the resident in the conduct of the review." Is this staff member of the resident's choice, or any impartial staff member available?</p>	<p>Thank you for your question. In adding this language it was discussed that "impartial" would be a staff (i) not involved in the incident; (ii) not involved in the disciplinary process; and (iii) without any information that would bias the interactions. The regulations do not require the resident to choose. A facility may allow this, but this would be based on each facility's individual procedures and practices.</p>
<p>71-6VAC35-101-1080. Disciplinary process.</p> <p>RJDC</p>	<p>Paragraph B.2. states, "A disciplinary report shall not be required when a resident is placed in his room for a "cooling off" period, in accordance with written procedures, that does not exceed 60 minutes." This is not a good idea and could be used against the facility in litigation. Either the time should be changed to a maximum of 15 minutes of "cooling off" without a report, or a report should be required whenever a resident is placed in their room for disciplinary reasons, including "cooling off."</p>	<p>Thank you for your comment. This provision was derived from the existing regulation to allow the resident the opportunity to calm down without additional behavioral interventions or consequences. Any confinement must be documented and is subject to the room check requirement. Thus, the department is not recommending adopting the proposed changes.</p>
<p>72-6VAC35-101-1100. Room confinement and isolation.</p> <p>RJDC</p>	<p>Thirty-minute checks are not enough. ACA Standard 3-JDF-3E-04 states, "Juveniles placed in confinement are checked visually by staff at least every 15 minutes and are visited at least once each day by personnel from administrative, clinical, social work, religious, or medical units."</p>	<p>Thank you for your comment. The regulation does not preclude facilities' making checks at less than 30-minute intervals. In fact, many facilities' procedures require 15-minute checks. However, the department recommends retaining the existing standard to allow</p>

Commenter	Comment	Agency response
<p>73-6VAC35-101-1100. Room confinement and isolation.</p> <p>RJDC</p>	<p>Paragraph I states, "During isolation, the resident is not permitted to participate in activities with other residents and all activities are restricted, with the exception of (i) eating, (ii) sleeping, (iii) personal hygiene, (iv) reading, and (v) writing." School should be added to the activity that is not just "permitted" but required. Many times, a youth who has difficulty reading, writing, or doing math will create a disturbance or a problem that will result in room time, simply to avoid the embarrassment of "looking dumb" in front of his or her peers in the school setting. When a resident is given room confinement, provisions should be made to ensure that the resident continues to receive academic instruction. If a parent kept their child out of school for up to five days for disciplinary reasons, the parent would be getting a truancy notice.</p>	<p>flexibility in operations; i.e., if the procedure changes to twice in a 30-minute period or more frequent.</p> <p>Thank you for your comment. Please note that each JDC has an educational program that is operated by the local educational authority (the LEA). The LEA is subject to the compulsory school education laws and is regulated by the Board of Education (DOE). As the LEA and DOE are not subject to this regulation, the department does not recommend incorporating any requirements relating to educational programs and services in this regulation. Under current practice, participation in an educational program generally has a precondition of certain conduct of the participants, and isolation temporarily removes certain residents who exhibit maladaptive behaviors or are subject to disciplinary actions (similar to detention and suspension in the public schools). Thereafter, residents will return to educational programs. However, some detention centers have academic instruction in room confinement (as independently negotiated with the LEA). Given the individual nature of the agreements between LEAs and JDCs, the department is not recommending adopting the proposed changes.</p>
<p>74-6VAC35-101-1100. Room confinement and isolation.</p> <p>JustChildren</p>	<p>JustChildren opposes the use of long term isolation for punishment unless there has been an objective determination that the youth is of danger to himself or others. Youth held in isolation for extended periods of time are particularly vulnerable and are known to commit suicide at higher rates.</p> <p>JustChildren encourages the adoption of regulations that more closely mirror the following CJCA's Performance Based Standards (PBS) recommended regulations:</p> <p>OEP14: The facility staff must record when youths are held in isolation whether in an</p>	<p>Thank you for your comment. The department understands the importance of limitations on the use of isolation in juvenile facilities and supports the provisions in proposed sections 1100 and 1110, which limit the number of days a juvenile may be confined and requires additional supervision when confined. Currently, a resident must be alone in the room during isolation. If a juvenile is in isolation for 24-hours, the facility superintendent must be contacted, or for 72-hours, the director or designee must be contacted (see 6VAC35-101-1100). Additionally, the</p>

Commenter	Comment	Agency response
	<p>individual room or cell or whether it is an isolation/segregation unit or dorm.</p> <p>OEP15: All events and incidents resulting in isolation should be examined to determine if isolation could have been avoided or its use shortened.</p> <p>OEP16: The facility reviews all incidences of isolation routinely for appropriateness, length of isolation, and monitoring of youths in isolation.</p> <p>OEP17: Facility and agency administration make frequent spot checks of isolation rooms and units. These checks are conducted during off-hours inclusive of evenings, holidays, and weekends.</p> <p>OP10: Policies govern the use and duration of isolation and room confinement. This policy includes a provision calling for the internal review of each incidence of isolation. Such provision also requires that the oversight agency also conduct regular reviews of isolation inclusive of the monitoring of youths while in isolation.</p> <p>OP11: Staff is trained to follow policies governing the use and duration of isolation and room confinement.</p> <p>OP12: The adolescent development portion of staff training presents the negative repercussions and ineffectiveness of long-term isolation and the rationale for shorter brief isolation periods.</p> <p>OP13: Isolation is used to neutralize out of control behavior and redirects it into positive behavior and should not be used as punishment.</p>	<p>superintendent or designee must make daily contact with residents in confinement, and room checks are completed every half an hour by regulation. The facility's administration reviews disciplinary reports and use of isolation (see 6VAC35-101-1070(B)(7)) and, during the audit process, the Certification Unit reviews a sample to ensure compliance with the regulatory requirements. All staff are trained on the behavior management program and behavior interventions (see 6VAC35-101-190). Specific curriculum components are operational and would be more appropriately addressed in procedures. Please note the behavior management program must address work toward achieving positive behaviors (see 6VAC35-101-1070).</p>
<p>75-6VAC35-101-1110. Administrative confinement.  JustChildren</p>	<p>The regulation should state that residents may be isolated from others only as a last resort when less restrictive measures are inadequate to keep them and other residents safe, and then only until an alternative means of keeping all residents safe can be arranged. This could be addressed in 6VAC35-101-830 (Classification plan).</p>	<p>Thank you for your comment. The department recommends adding language regarding placement as a last resort for the safety of the resident to this section.</p>
<p>76-6VAC35-101-1140. Monitoring residents placed in mechanical restraints.  DJJ staff RJDC</p>	<p>DJJ staff: This section is confusing and may conflict. I think subsection B was intended for medical consult for the checking of the restraints to ensure good circulation and not bad effects of being in restraints for an extended period of time. This is not reflected in the regulation.</p> <p>RJDC: When a resident is placed in mechanical</p>	<p>Thank you for your comment. The department recommends clarifying that the 15-minute checks (in (A)(2)) should include monitoring the resident's circulation in accordance with applicable procedures as provided for in 6VAC35-101-1130 and add the requirement for consultation with a health care provider if a resident is in</p>

Commenter	Comment	Agency response
	restraints for more than two hours cumulatively in a 24-hour period, the health care provider or nurse should be consulted, in addition to the consult with the mental health professional.	restraints for more than two hours cumulatively in a 24-hour period.
79-6VAC35-101-1220. Case management.  DJJ staff	Revert to existing regulation.	Thank you for your comment. The department recommends adopting the proposed change.

**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.*

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
10	<p>Definitions. Defines the following terms:</p> <ul style="list-style-type: none"> <li>-Annual (uses 13 month definition as previously adopted in the Interdepartmental regulations).</li> <li>-Behavior management (positive reinforcements and constructive addressing of inappropriate behaviors).</li> <li>-Board (of Juvenile Justice)</li> <li>-Case record/record (resident's information).</li> <li>-Contraband (unauthorized items).</li> <li>-Department (of Juvenile Justice).</li> <li>-Detention center (juvenile secure custody facility that is not a juvenile correctional center).</li> <li>-Direct care staff (individuals responsible for the care of residents and security of the facility).</li> <li>-Direct supervision (working with residents while not in the presence of</li> </ul>	<p>The current definitions governing detention centers are provided in 6VAC35-51-10 and 6VAC35-140-10.</p>	<p>The proposed section defines the terms used in the regulation, which are distinct to detention centers or assume a specific meaning when applied in the current context.</p> <p>From the existing regulations the following changes were made:</p> <p>(1) Definitions were deleted because the terms are not unique (such as the definition of "day" or "therapy") or because the terms are not or are no longer used in the proposed regulation (such as the definition of "good character and reputation").</p> <p>(2) Definitions used only once in the proposed regulation were moved to the applicable section, and definitions specific to volunteers and health care services were moved to the corresponding parts.</p> <p>(3) Definitions were modified to conform to changes in laws and other applicable regulations and to more appropriately reflect applicability in detention centers.</p> <p>(4) Definitions were added for terms</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>direct care staff).</p> <ul style="list-style-type: none"> <li>-Director (of the Department).</li> <li>-Emergency (unexpected events; examples provided).</li> <li>-Facility administrator (responsible for daily, on-site operation of facility).</li> <li>-Health care record (medical record).</li> <li>-Health care services (medical, dental, and mental health services).</li> <li>-Health trained personnel (trained by licensed health care provider to perform certain services).</li> <li>-Individual service plan/ service plan (goals and objectives for residents during commitment).</li> <li>-Living unit (where residents sleep and reside).</li> <li>-On duty (time when staff are responsible for the direct supervision of residents).</li> <li>-Parent/legal guardian (includes biological, adoptive, court appointed, and delegated).</li> <li>-Postdispositional detention program (residents in program of detention center with disposition of greater than 30 days' confinement).</li> <li>-Premises (tract of land and structure of detention center).</li> <li>-Regulatory authority (the board or the department).</li> <li>-Resident (individual committed and residing in a facility).</li> <li>-Rules of conduct (behavioral expectations and available sanctions).</li> <li>-Written (electronic or hard copy).</li> </ul>		<p>used in the proposed regulation (such as "direct care staff," "direct supervision," and "written").</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
20	Applicability: Indicates which sections apply to detention generally or postdispositional detention programs specifically.	6VAC35-130-30 states the provisions of the regulation apply to the type of juvenile residential facility indicated.	The proposed section clarifies which parts apply to detention generally or postdispositional detention programs specifically.
30	Previous regulations terminated: Enactment of this Chapter will replace the current regulations governing detention centers (6VAC35-51 and 6VAC35-140).	None.	The proposed section indicates the effect of enacting this Chapter on the current regulatory scheme. This Chapter will replace 6VAC35-51 and 6VAC35-140 relating to the certification of detention centers.
40	Certification: Requires all detention centers to (i) demonstrate compliance with the board's Certification Regulation (6VAC35-20); (ii) maintain current certification demonstrating such compliance; (iii) retain documentation of such compliance for a minimum of three years; and (iv) post the record of certification. The section also has some language specific to the certification process.	6VAC35-20 governs the Board of Juvenile Justice's facilities' certification process. 6VAC35-20 provides the general requirements for certification. It requires facilities to be in substantial compliance with the regulation and to comply with terms of licensure, the regulation, other applicable laws and regulation, and its procedures. It also requires some reporting to the regulatory authority and a procedure manual to be accessible to staff and details some responsibilities of the regulatory authority. 6VAC35-51-240 states that facilities with adult residents must comply with the standards and provide separate accommodations as required by the regulatory authority.	The proposed section states that detention centers are also subject to the board's Certification Regulation (6VAC35-20) and must comply with this Chapter and the Certification Regulation, maintain documentation of compliance, and keep a current certificate of compliance. The proposed regulation focuses solely on the responsibilities of the detention center and does not address the responsibilities of the regulatory authority. By including a cross-reference to the Certification Regulation, this section clearly states the applicability and importance of complying with both this Chapter and the Certification Regulation.
50	Relationship to the regulatory authority: Requires detention centers to provide the regulatory authority with any reports or	6VAC35-20 governs the Board of Juvenile Justice's facilities' certification process. 6VAC35-20 provides the	The proposed section clarifies the necessity of facilities to work with the regulatory authority in the certification process.



Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>records necessary to establish compliance with this Chapter and inform it of any change in operation that would affect certification.</p>	<p>general requirements for certification. It requires facilities to be in substantial compliance with the regulation and to comply with terms of licensure, the regulation, other applicable laws and regulation, and its procedures. It also requires some reporting to the regulatory authority and a procedure manual to be accessible to staff and details some responsibilities of the regulatory authority. 6VAC35-51-110 requires facilities to follow the terms of the certification, to request changes in operation in advance, and to not implement any change without prior approval. 6VAC35-51-230 requires facilities provide appropriate documentation to the regulatory authority and for any change in administration to be reported within five working days.</p>	
60	<p>Relationship with the department: Requires detention centers to notify the director of any significant change in administrative structure and report any lawsuits or settlements that may be related to the health and safety of residents.</p>	6VAC35-51-70.	<p>The proposed section clarifies what information must be reported to the department.</p>
70	<p>Variances: Authorizes a facility administrator to seek a variance in accordance with the board's Certification Regulation</p>	<p>6VAC35-51-150 sets three criteria for the issuance of the variance. It also states that the variance must be</p>	<p>The proposed section allows facilities to seek a variance to a regulatory requirement (under the conditions and provisions of the board's Certification</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	(6VAC35-20), and prohibits implementation of a variance prior to obtaining the approval of the board.	approved prior to implementation.	Regulation). This section recognizes that special circumstances may warrant variances from certain provisions for specific facilities.
75	Operational procedures: Requires operational procedures to be accessible to all staff.	6VAC35-140-760 requires maintaining institutional operating procedures that are consistent with standard operating procedures.	The proposed section is consistent with the current regulatory provisions.
80	Serious incident reports: Requires certain serious incidents, accidents, and illnesses to be reported to the director, a resident's parent/legal guardian, and supervising agency within 24 hours, in accordance with department procedures. Also requires the parents or legal guardians of all residents to be notified in instances involving the death of a resident (if such notice may be made without violating confidentiality and will not impede the prosecution of any case). Also requires documentation of such incidents and required reporting.	6VAC35-51-1030 requires serious incidents to be reported to the placing agency and the parent/guardian within 24 hours and serious illness or injuries to be reported to the regulatory authority within 24 hours. It lists components of the required documentation.	The proposed section requires the facilities to report certain serious incidents to the director, parents, and supervising court service unit (CSU). It also contains documentation requirements, including noting in the resident's record, but allows flexibility as to how the documentation is retained. It also cross-references reporting child abuse or neglect (section 90) so that all reports are done appropriately.
90	Suspected child abuse or neglect: Requires procedures for handling, reporting, and cooperating with investigations of suspected child abuse or neglect. Also requires reporting and documentation of such cases to be done in accordance with the requirements for serious incidents in section 80.	Section 63.2-1509 of the Code of Virginia mandates the reporting of any suspected child abuse or neglect by staff in children's residential facilities. 6VAC35-51-1040 requires procedures for handling, reporting, and documenting Child Protective Services (CPS) allegations.	The proposed section requires reporting of suspected child abuse or neglect in accordance with the governing statute. It also requires facilities to follow procedures for reporting, handling, and documenting such cases. It does allow flexibility as to how the documentation is retained (under the notification and documentation requirements for serious incident reports in section 80 and defers to procedures as long as the incident is noted in the resident's

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
95	Reporting criminal activity: Requires staff to report any criminal activity by staff or residents and the facility administrator to report such activity as required by procedures. It further requires staff to cooperate in any investigations.	6VAC35-140-130 requires facilities to mandate staff report all known criminal activities by staff and residents.	record). The proposed section clarifies the responsibilities of the staff and facility administrator regarding reporting criminal activity.
100	Grievance procedure: Requires the facility administrator to ensure compliance with the department's grievance procedure. Also specifies certain requirements of the procedure, orientation of the residents to the procedure, and cooperation in handling any complaints.	6VAC35-51-1050 requires procedures governing grievances and lists required components. 6VAC35-140-70 requires residents to be oriented to and have continuing access to a grievance procedure. It requires the procedure to provide for resident participation, documentations, timely responses, one level of appeal, administrative review, protection from reprisal, emergency hearings, and document retention.	The proposed section, consistent with current regulatory requirements, requires facilities to follow certain specific procedures relating to the ability of residents to file grievances while at a facility. It includes the existing requirement that such procedures shall be posted in an area accessible to the parents and the requirement for residents to be orientated to the procedures and for the procedures to be posted in an area accessible to residents.
110	Responsibilities of the governing authority: Requires the governing body or authority of the detention center to be identified and for the governing authority to appoint a facility administrator. Also requires the facility to have a "decision-making" plan, which includes an organizational chart and has the requirement that a staff person with the appropriate qualifications for facility administrator be identified to assume such duties when needed. Also requires a	6VAC35-51-170 requires the identification of the entity responsible for establishing compliance and any person or entity to whom legal duties are delegated. 6VAC35-51-180 requires the appointment of a facility administrator, a written decision-making plan, a statement of the facility's objectives and target population, and quality control procedures.	The proposed section, consistent with the current regulatory scheme, details certain requirements of the governing authority and the facility administrator dealing with the overall functioning of the facility.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	program/service effectiveness/improvement program.		
120	Insurance: Requires documentation of appropriate liability and vehicle insurance. Also requires staff who use personal vehicles for official business to be informed of the applicable insurance requirements and provide documentation of such.	6VAC35-51-200 requires facilities to have liability insurance and provide documentation of vehicle insurance (if used to transport residents). Also requires staff handling funds to be bonded/indemnified. 6VAC35-140-160 requires liability insurance for employees, volunteers, and the premises. It also requires vehicle insurance for facility vehicles and staff to be given notice of the need to insure a personal vehicle used for work.	The proposed section streamlines the provisions relating to insurance and retains the major substantive components.
130	Participation of residents in human research: Requires the facility's governing authority to approve procedures regarding the use of residents as subjects of human research. It contains a provision regarding the confidentiality of resident information and records and allows the facility to require progress reports and a final report of the research.	6VAC35-51-660 requires procedures for resident participation in human research.	The proposed section clarifies the responsibilities of the facility should it chose to have residents as subjects of human research.
140	Job descriptions: Requires a written job description for each position in the facility with four required elements. Also requires that the job description be provided to the employee prior to assuming the position duties.	6VAC35-51-280 requires job descriptions for each position.	The proposed section is consistent with the current regulatory requirements.
150	Qualifications: Requires facilities to follow the qualification requirements	6VAC35-51-270 requires position qualifications to be established and	The proposed section removes provisions from the current regulatory scheme that are not

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	of the locality, the governing authority, or the Department of Human Resource Management (DHRM).	DHRM to serve as the default for qualifications absent one set by the provider. It also requires qualified and procedurally aware employees and contractors to maintain sufficient qualifications for the services provided. 6VAC35-51-630 requires facilities with contractors who provide educational, counseling, psychological, medical, or other services to show proof of contractual agreements or staff expertise.	applicable to facilities regulated by the board and clarifies that applicants must be subject to predetermined qualification requirements.
155	Employee tuberculosis screening and follow-up: Requires staff to have an up-to-date TB screening before starting work at facilities. Also requires subsequent screenings under certain circumstances and requires all screenings, prevention, and treatment to be conducted in accordance with the requirements of the Division of TB Control at the Virginia Department of health (VDH).	6VAC35-51-250 requires health information to be maintained on employees and residents in all facilities. It also requires TB testing and subsequent TB evaluations.	The proposed section allows flexibility in practice in order to conform with the recommendations and requirements of the Division of TB Control at VDH.
160	Physical examination: Requires staff to have a pre-employment physical if the position requires a particular set of physical abilities. Also allows for annual re-examinations.	6VAC35-140-270 requires pre-employment physicals when a position requires a particular set of physical abilities. It also allows for annual re-examinations.	The proposed section is consistent with the current regulatory requirements.
170	Employee and volunteer background checks: Requires background checks to be performed, in accordance with § 63.2-1726 of the Code of Virginia for staff prior to	Sections 66-24 and 63.2-1726 of the Code of Virginia require background checks on all staff in children's residential facilities prior to such staff working	The proposed section is changed in accordance with recent statutory changes (Chapter 873 of the 2008 Acts of the General Assembly) and a 2008 variance to the applicable regulation. This section allows the

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	working alone with residents. Also requires procedures for the supervision of non-employee persons who have contact with residents.	alone with residents. 6VAC35-140-260 requires background checks to be completed on all staff who work alone with residents.	conditional hire of employees pending fingerprint results if the individual is informed such employment is contingent upon the successful completion of the background check and if that individual is not allowed to be alone with residents and is supervised by staff whose background checks are completed when working with residents pending return of the fingerprint results.
180	Required initial orientation: Requires all employees to be oriented on 17 components specific to the facility before their eighth work day at the facility. It cross-references the volunteer orientation section.	6VAC35-140-280 requires initial orientation in accordance with the job description and an annual training plan. It requires orientation, prior to assuming job duties, in the program, rules, residents' rights, disciplinary procedures, emergency procedures, and documentation requirements.	The proposed section creates a separate orientation section with specific requirements for all employees. Facility staff currently receive an extensive orientation during their first week of work. This section merely clarifies the requirements on which staff are currently being oriented.
190	Required initial training: Requires (1) all employees to have training necessary to be competent in their positions; (2) contractors to be trained to perform their positions in a correctional environment; (3) direct care staff to have 40 hours of initial training including training in 11 specific areas; (4) staff who administer medications to complete required trainings prior to administering medication; (5) staff who admit and orient residents to be trained in those duties; and (6) staff authorized to restrain residents to be trained within 90 days of hire and	6VAC35-51-310(A) requires initial training (1) in seven days for behavior management procedures; (2) within 14 days before being alone supervising residents for emergency planning issues; and (3) within 30 days in CPS, reporting, maintaining relationships, suicide prevention, standard precautions, good neighbor, and siting. It addresses the medication training program and the quality improvement plan. It also requires enrollment in CPR/first-aid classes within 30 days.	The proposed section pulls together many current regulatory provisions. In the current scheme, there are many different deadlines for completing training (seven, 14, and 30 days, and before working with children). The timing for training requirements is streamlined to require all trainings to be completed for direct care staff prior to being responsible for the supervision of residents. Direct care staff currently undergo extensive initial training, which already incorporates the required components of this section.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	before applying any restraint techniques. It allows contract providers to have credentials to satisfy the training requirement (although they must be oriented per the previous section and cross-references the volunteer training section).	6VAC35-140-280 requires direct care staff to be trained in the rules of conduct for residents, rationale for the rules, and applicable sanctions.	
200	Retraining: Requires all staff to receive retraining sufficient to meet any professional development needs, with direct care staff to have 40 hours annually. All staff are required to be retrained in emergency procedures. Direct care staff must have retraining in seven specific areas. Staff who administer medications must receive annual refresher training on the administration of medication. Staff who apply physical or mechanical restraints must receive annual retraining on such use. Allows contract providers to have credentials to satisfy the training requirement and specifies that failure to be properly retrained prohibits staff from working directly with residents.	6VAC35-51-310(B) requires staff, volunteers, and contractors to be retrained annually in emergency procedures; medication administrators to undergo medication administration retraining; direct care staff to undergo retraining in behavior management techniques; and all staff to be retrained in CPS reporting, maintaining relationships, and suicide prevention. Subsection (C) requires all full-time staff to undergo 15 additional hours of training. Subsection (D) requires procedures for other staff training, and (E) requires retraining based on needs and competencies. 6VAC35-140-280 requires 40 hours of training annually and retraining in the regulation, suicide prevention, special residents' medical needs, health screenings, and mechanical restraints.	The proposed section clearly details the retraining requirements. It retains the required hours of annual training from the current regulations.
210	Written personnel procedures: Requires written personnel procedures to be accessible	6VAC35-51-290 requires each facility to have provider-approved personnel policies	The proposed section is consistent with the current regulatory requirements.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	to staff.	accessible to staff. It further requires the facilities to implement procedures to ensure employees are qualified for the positions.	
220	Code of ethics: Requires facilities to have standards of conduct available to all employees.	6VAC35-140-275 requires all facilities to have a code of ethics that requires a provision prohibiting employees from using their official position to secure privileges or engaging in activities that constitute conflicts of interest.	Current regulations and procedures require a code of ethics. The proposed section deletes the specific requirement that the standards of conduct include a prohibition of using one's position for personal gain. This requirement is procedural and currently contained in the department's code of ethics.
240	Notification of change in driver's license status: Requires staff who may transport residents to maintain a valid driver's license and report any change in license status to the facility administrator or designee.	6VAC35-51-1010, in part, requires any staff involved in the transportation of residents to comply with laws relating to the licensure of driving.	The proposed section reiterates the requirement for staff who transport residents to be appropriately licensed. It adds an affirmative obligation for staff members to report any applicable change in licensure status.
250	Political activity: Requires procedures regarding political activities at the detention center.	6VAC35-140-295 requires facilities to have procedures governing political activity (campaigning, lobbying, etc.) at the facility.	The proposed section is consistent with the existing regulations.
260	Physical or mental health of personnel: Requires staff who are a risk to residents or others to be removed from the direct care or supervision of residents. It allows the facility to require an evaluation prior to that individual returning to direct care or supervision duties. Also requires records to be confidentially and separately maintained.	6VAC35-51-260 allows a facility to require an employee to undergo an examination if residents' safety is at risk and, if a condition is indicated, to remove the employee from contact with residents. 6VAC35-140-706 allows the facility administrator of a postdispositional program to remove staff from work duties when that staff has a condition that may jeopardize the safety of residents.	The proposed section is modified for consistency with ADAA.



Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
270	Definition of volunteers or interns: Defines volunteers and interns.	6VAC35-51-10 and 6VAC35-140-10 define volunteers.	The proposed section modifies the definition to include interns, as applicable provisions apply equally to volunteers and interns.
280	Selection and duties of volunteers and interns: Requires facilities to follow procedures regarding the selection and use of volunteers. The procedures must contain a provision for evaluating persons wishing to associate with residents. Also requires volunteers to have the appropriate qualifications for any services provided; requires any volunteer responsibilities to be clearly defined in writing; and prohibits volunteers from being responsible for the duties of direct care staff.	6VAC35-51-400 requires procedures for the selection and use of volunteers; prohibits volunteers from providing basic services; requires the responsibilities to be clearly defined in writing; and requires all volunteers/interns to be qualified for any services rendered. 6VAC35-51-950(B) requires facilities to implement procedures for evaluating groups/individuals to associate with residents and whether such association is in the residents' best interests.	The proposed section consolidates the responsibilities regarding the selection and use of volunteers. It is consistent with current regulatory requirements and with department procedures.
290	Background checks for volunteers and interns: Requires individuals who volunteer on a regular basis or intern in the facility or individuals designated as leaders of volunteer groups to undergo applicable background checks and such checks to be documented. Also requires facilities to implement procedures for supervising volunteers who have not had background checks who have contact with residents.	Sections 66-24 and 63.2-1726 of the Code of Virginia require background checks on all individuals who volunteer on a regular basis and will be alone with residents. 6VAC35-51-300 requires personnel records to retain proof of the completed background checks. 6VAC35-140-260 requires background checks on personnel.	The proposed section requires background checks on volunteers and interns consistent with the requirements of the Code of Virginia, board regulations, and department procedures.
300	Volunteer and intern orientation and training: Requires certain volunteers and interns to be oriented on eight items and trained,	6VAC35-51-310 and 6VAC35-140-280 require certain trainings/orientation for volunteers. 6VAC35-51-1060	The proposed section extracts the orientation and training requirements for volunteers from the existing regulatory structure and consolidates them in one

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	within 30 days of their start date, on procedures applicable to their duties and responsibilities in the event of a facility evacuation.	requires volunteers to be trained in emergency procedures.	section.
310	Personnel records: Requires personnel records for each employee or volunteer/intern on whom background checks are required. It lists nine necessary parts of the record and requires health records to be maintained separately. Also specifies that volunteer and contract service providers' records may contain only the record of compliance with any required background checks.	6VAC35-51-300 requires updated personnel records (including separate health records). It lists the specific components.	This section is consistent with the current regulatory scheme.
330	Maintenance of residents' records: Requires a case record and a separate health care record to be maintained for each resident. The records are to be kept confidential and released only in accordance with applicable sections of the Code of Virginia. A procedure shall govern the maintenance of the records and shall address specific requirements regarding confidentiality.	6VAC35-51-640 requires a case record and a separate health record for each resident to be maintained uniformly and confidentially with governing procedures (components listed). The face sheet must be retained permanently.	The proposed section is consistent with current regulatory requirements. It also no longer requires records to be maintained in metal containers (as a cabinet or container that protects against fire and flood may now be of a substance other than metal). It also cross-references the statute governing confidentiality of residents' records in order to provide a reminder to facilities that any distribution of the records must be in accordance with these statutes.
340	Face sheet: Requires a face sheet to be maintained on each resident. It lists specific components on the document and requires it to be maintained as changes occur.	6VAC35-51-700 requires a face sheet and details specific components.	The proposed section removes some of the procedural language and requirements to maintain information on the face sheet that is already, and more appropriately, maintained elsewhere (thus reducing duplicity in practice). The face sheets are no longer required to be maintained permanently.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
350	Buildings and inspections: Requires new construction, major renovations, and temporary structures to be inspected and approved by appropriate building officials (as documented by a current certificate of occupancy). It requires facilities to maintain documentation of annual fire inspections (as required by the building code). Also requires annual inspections of sanitation, sewage, water, and food systems.	6VAC35-51-420 requires a certificate of occupancy for all buildings; annual fire inspections; annual inspections of sanitation, sewer, water, food service operations, and swimming pools; the buildings to be suitable to the designated purposes; and any building plans to be approved by the regulatory authority.	The proposed section clarifies what the facilities' responsibilities are regarding annual inspections. The current regulatory scheme requires fire inspections to be conducted annually (defined as once every 13 months). However, facilities do not conduct the fire inspections. For detention centers, these inspections are conducted by the local fire inspectors who operate within their own time frames and procedures for inspecting residential facilities. As inspections may exceed the 13-month maximum contained in the current regulation, the proposed regulation adds some flexibility for the facilities by requiring them to attempt to schedule an "annual" inspection and to (1) maintain documentation of the current certification and (2) document attempts to schedule inspections (and any necessary follow-up seeking inspections) should such inspections not be completed within the 13-month period.
360	Equipment and systems inspections and maintenance: Requires safety, emergency, and communications equipment and systems to be tested and maintained according to the manufacturer's requirements or procedure (but must be done at least quarterly). If such a system is defective, facilities must immediately repair, remove, or replace the defective equipment.	6VAC35-140-310 requires the inspection of safety, emergency, and communications systems at least quarterly and more frequently if required by the manufacturer's instructions. 6VAC35-140-320 requires facilities to take immediate steps to repair or replace defective equipment.	The proposed section is consistent with the current regulatory scheme. It provides additional guidance by having the facility administrator maintain a listing of all safety, emergency, and communications equipment and systems subject to the requirements of this section.
370	Alternate power source: Requires facilities to have access to an alternative	6VAC35-140-615 requires secure facilities to have access to an	The proposed section is consistent with the current regulatory provision.

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	power source for use in an emergency.	alternative power source to maintain essential services in an emergency.	
380	Heating and cooling systems and ventilation: Requires heat to be distributed to all rooms so that the temperature is not below 68°F. Also requires rooms to be ventilated when temperatures exceed 80°F.	6VAC35-51-430 requires heat to be evenly distributed and to be no lower than 68°F, natural or mechanical ventilation to the outside in all rooms, and air-conditioning/fans in all rooms where temperatures exceed 80°F.	The proposed section is consistent with the current regulatory provision.
390	Lighting: Requires sleeping and activity areas to have natural lighting; lighting to be sufficient for the activities being performed; and night lighting to be sufficient to observe residents. Also requires flashlights to be available for each direct care staff and outside entrances and parking areas to be lighted.	6VAC35-51-440 requires electric lighting to be sufficient for activities being performed, continuous at night, and in outside entrances and parking areas. It also requires flashlights to be available for all staff at night. 6VAC35-140-330 requires natural lighting in sleeping/activity areas and lighting at night to be sufficient to observe the residents.	The proposed section is consistent with the current regulatory provision.
400	Plumbing and water supply; temperature: Requires plumbing to be operational, an adequate supply of hot and cold running water, and precautions to be taken to avoid scalding by hot water.	6VAC35-51-450 requires plumbing to be maintained in good operating condition, an adequate supply of running water, and precautions to be taken to prevent scalding (water temperature between 100-120°F).	The proposed section is consistent with the current regulatory provision.
410	Drinking water: Requires all sleeping areas (in facilities constructed after 1/1/1998) and all activity areas to have fresh drinking water for residents' use.	6VAC35-140-520 requires fresh drinking water and toilet facilities in all sleeping and activities areas (applies only to secure facilities).	The proposed section is consistent with the current regulatory provision.
420	Toilet facilities: Requires a specific number of toilets,	6VAC35-51-460 sets the requirements for the	The proposed section is consistent with the current

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	sinks, and showers for a specific number of residents and staff; toilet facilities available in all sleeping areas (if constructed after 1/1/1998); and one bathtub in the facility.	number of toilets, sinks, showers, and tubs in a facility.	regulatory provision.
430	Sleeping areas: Requires separate sleeping rooms for males and females; beds to be a certain distance apart; mattresses to be fire retardant; and sleeping areas to comply with square footage requirements. Also requires the environment of sleeping areas to be conducive to rest.	6VAC35-51-480 requires, in part, separate same-sex sleeping areas; no more than four residents to a room (except if allowed by the board in JCCs); three feet between beds; specific square footage requirements for bedrooms; and sleeping areas that are conducive to sleep and rest. 6VAC35-51-500 requires provisions for privacy from routine sight supervision, video, and audio monitoring by permission of regulatory authority.	The proposed section addresses issues specific to resident sleeping areas. It removes the provision regarding no more than four residents to a room.
440	Furnishings: Requires furnishings to be safe, clean, and suitable for use.	6VAC35-51-590(A) requires all furnishings and equipment to be safe, clean, and suitable.	The proposed section is consistent with the current regulatory provision.
450	Disposal of garbage and management of hazardous materials: Requires the facility to provide for the collection and legal disposal of all garbage and waste materials, including flammable, toxic, and medical materials.	6VAC35-51-600(B) requires facilities to provide for the legal disposal of waste.	The proposed section is consistent with the current regulatory provision.
460	Smoking prohibition: Prohibits residents from using tobacco products and staff from using tobacco products in any area where residents can see or smell the product.	6VAC35-51-490 prohibits smoking in living areas and areas where residents participate in programs. Board policy 20-107 prohibits use of tobacco products in locations	The proposed section adopts the language from the board policy.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		where residents may see or smell such use.	
470	Space utilization: Requires each facility to have space, which may be used interchangeably, for specific activities, including indoor and outside recreation, school classrooms, kitchen and dining, laundry, storage, visiting, administrative activities, educational programming, and medical practice.	6VAC35-51-510 requires group homes to have a living room with a "home-like" environment and all facilities to have indoor recreation space with appropriate materials and, if more than 13 residents, that space must be separate from the living room. 6VAC35-51-530(B) requires adequate kitchen facilities. 6VAC35-51-540 requires laundry areas, if done at the facility. 6VAC35-51-550 requires storage space. 6VAC35-51-570 requires office space for administrative activities. 6VAC35-51-580, in part, requires all facilities to have an outdoor recreation area. 6VAC35-51-580(C) requires outdoor recreation space. 6VAC35-140-90 requires residential facilities to have a designated visiting area. 6VAC35-140-100 requires facilities that operate school programs to provide school classrooms. 6VAC35-140-470 requires secure facilities to have a central medical room with examination facilities.	The proposed section consolidates numerous existing regulations.
480	Kitchen operation and safety: Requires inventory and control of culinary	6VAC35-51-530 requires meals to be served on tables and chairs,	The proposed section is consistent with current regulations.

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	equipment that is located in areas where residents are reasonably expected to have access; walk-in refrigerators to have emergency exits; and kitchen and dining linens to be cleaned in bleach. Also prohibits residents from working in food service.	adequate kitchen facilities, and walk-in refrigerators to be equipped with emergency exits. 6VAC35-51-600(D) requires bleach to be used to launder bed, bath, table, and kitchen linens. 6VAC35-140-490, in part, requires all secure facilities to (i) have procedures governing access to food and utensils and (ii) the inventory and control of certain equipment.	
490	Maintenance of the buildings and grounds: Requires all buildings and grounds to be safe, maintained, and reasonably free of clutter, rubbish, foul odors, pests, and vermin.	6VAC35-51-580, in part, requires the buildings and grounds to be maintained. 6VAC35-51-600(A) and (C) require all buildings to be well-ventilated and free of odors and flies and vermin.	The proposed section is consistent with the current regulatory sections.
500	Animals on the premises: Requires any animals housed at the facility to have clean sleeping areas and adequate food and water and to be housed separate from sleeping and activity areas and the water supply. Any animals must be up to date on any required testing and inoculations. The premises should be kept free of stray animals.	6VAC35-51-610 requires animals maintained on the premises to be housed away from certain areas, provided clean quarters and adequate food/water, and tested/licensed. It also requires the premises to be free of stray animals.	The proposed section is consistent with the current regulatory provisions.
510	Emergency and evacuation procedures: Requires a fire prevention plan and an emergency preparedness and response plan, which is reviewed annually, with six different components, including required procedures. It requires all employees to be trained and	6VAC35-51-480 requires, in part, special egress for physically handicapped residents. 6VAC35-51-1060 lists required components of each facility's emergency preparedness and response plan and mandates training,	All facilities currently have comprehensive emergency and evacuation plans. The proposed section is consistent with such plans, removes some procedural language, and adapts the responsibilities of residents, volunteers, and contractors to apply in the correctional environment.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>prepared to implement the plan; volunteers and contractors to be trained in their responsibilities in implementing the evacuation plan; and residents to be informed of their responsibilities in implementing emergency and evacuation procedures. Also requires notification to parents, the director, and the regulatory authority within 24 hours after the incident is stabilized; evacuation routes to be posted; evacuation drills to be conducted and documented; and a designated employee to ensure the plan and drill requirements are met.</p>	<p>orientation, notice, drills, and review/monitoring. 6VAC35-140-340(A) requires each facility to have a fire prevention plan that provides for adequate fire protection service.</p>	
520	<p>Control center: Requires a control center, which is to be staffed 24 hours a day.</p>	<p>6VAC35-140-600 requires a control center, staffed 24 hours a day, in each secure facility.</p>	<p>The proposed section is consistent with the current regulatory provisions.</p>
530	<p>Control of perimeter: Requires a written plan for controlling residents' and public access to the perimeter.</p>	<p>6VAC35-140-630 requires secure facilities to have a written plan for the control of the perimeter and for pedestrians/vehicles to enter/exit at designated points.</p>	<p>The proposed section is consistent with the current regulatory provisions.</p>
540	<p>Escapes: Requires a written procedure for handling any escapes or unauthorized absences from facilities.</p>	<p>6VAC35-140-640 requires secure facilities to have procedures to govern actions taken after escapes/AWOLs.</p>	<p>The proposed section is consistent with the current regulatory provisions.</p>
550	<p>Contraband: Requires procedures for dealing with contraband and searching the premises and other individuals.</p>	<p>6VAC35-140-120 requires facilities to have procedures for the control, detection, and disposition of contraband. 6VAC35-140-580 requires procedures for regular searches of the secure facilities, which provide for respecting</p>	<p>The proposed section is consistent with the current regulatory provisions.</p>



Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		residents' rights to their own property.	
560	Searches of residents: Requires procedures to govern all searches in detention centers. It details specific required components of general procedures and specific procedures for strip and body cavity searches.	6VAC35-51-850 prohibits strip searches unless allowed by other regulations or by court order; requires procedures if patdown searches are conducted; and lists required components of patdown procedures. 6VAC35-140-590 requires procedures limiting searches to the minimum amount of touching necessary and restricting who may perform body cavity and strip searches.	The proposed section clarifies the parameters and requirements for the searches of residents in a correctional setting.
570	Communications systems: Requires a means of communicating between the living units and the control center and the ability for the facility to communicate in emergencies.	6VAC35-140-610 requires secure facilities to have a means for communication (i) between the living areas and the control center; (ii) in emergency situations; and (iii) between the facility and the community.	The proposed section is consistent with the current regulatory provisions.
580	Telephone access and emergency numbers: Requires there to be one nonpay telephone in all areas where residents sleep or participate in activities. It requires an emergency contact number for staff. Also requires an emergency telephone number to be provided to the resident and the person responsible for the care of the resident when the resident is away from the facility and not under the supervision of direct care staff or law enforcement.	6VAC35-51-590(B) requires a telephone accessible to staff. 6VAC35-51-840 requires an emergency telephone number where staff may be reached at all times and for residents away from the facility to be provided with an emergency phone number.	The proposed section clarifies when an emergency number must be provided to the resident and responsible adults. It now requires a number to be provided to residents and the responsible party when a resident leaves the facility in the absence of staff or police and removes the existing requirement to maintain an emergency number to contact staff.

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590	Keys: Requires detention centers to have written key control plans; fire and emergency keys to be instantly identifiable to the touch; and different master keys for interior and exterior secure areas.	6VAC35-140-620 requires secure facilities to (i) have a key control plan, (ii) to have fire/emergency keys instantly identifiable to the touch, and (iii) different master keys for internal and external doors.	The proposed section is consistent with existing regulations.
600	Weapons: Prohibits weapons on the premises except in the possession of law enforcement responding to emergencies or if law enforcement enters the facilities on official business and firearms are locked outside the secure perimeter.	6VAC35-51-220 requires procedures for the possession of firearms that must restrict use except if in possession of security/law enforcement, locked, or used by a resident with permission.	The proposed section clarifies when and how weapons may be on the premises by prohibiting them, generally with two exceptions for law enforcement.
610	Area and equipment restrictions: Requires procedures to govern the inventory and control of all security, maintenance, recreational, and medical equipment located in the facilities where residents may be present.	6VAC35-140-490 requires all secure facilities to have procedures governing (i) access to food and utensils and (ii) the inventory and control of certain equipment.	The proposed section is consistent with the current regulatory provisions.
620	Power equipment: Requires safety rules for the use and maintenance of power tools.	6VAC35-51-1010 requires safety rules for the maintenance of power equipment.	The proposed section is consistent with the current regulatory provisions.
630	Transportation: Requires each facility to have transportation available for routine and emergency transportation; written safety rules for the transportation of residents and the use of vehicles; and a procedure for the verification of appropriate licensure status for staff who transport residents.	6VAC35-51-1010(A) and (B) require transportation of residents to be done in accordance with applicable laws and for each facility to have safety rules for transportation and, in subsection (C), for the maintenance of vehicles. 6VAC35-140-140 requires the facility to have transportation available for routine and emergency transportation. 6VAC35-140-540(E)	The proposed section is consistent with the current regulatory provisions.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		requires secure facilities to follow procedures for the transportation of residents outside the facility.	
640	Transportation of residents; transfer to department: Requires each facility to have transportation available for routine and emergency transportation; written safety rules for the transportation of residents and the use and maintenance of vehicles; and a procedure for the verification of appropriate licensure status for staff who transport residents. Also requires certain information to accompany residents or be sent to the facility within 24 hours of transfer.	6VAC35-51-1010(A) and (B) require transportation of residents to be done in accordance with applicable laws and for each facility to have safety rules for transportation and, in subsection (C), for the maintenance of vehicles. 6VAC35-140-140 requires the facility to have transportation available for routine and emergency transportation. 6VAC35-140-540(E) requires secure facilities to follow procedures for the transportation of residents outside the facility.	The proposed section is consistent with the current regulatory provisions.
650	Prohibited actions: Lists 14 specific actions prohibited in the facilities with a broad statement that the Constitution must be followed.	6VAC35-51-880 lists 13 acts that are prohibited in all facilities. 6VAC35-140-50 requires procedures mandating nondiscrimination, equal programming, reasonable accommodation for residents with disabilities, and prohibiting cruel and unusual punishment.	The proposed section clarifies the actions prohibited in detention centers; adds nondiscrimination, including disability and sexual orientation, and use of pharmacological restraints to this section. It contains a broad statement reminder that the list is not exhaustive and any constitutionally prohibited actions are also prohibited. * NOTE: The language in subdivision 13 has changed since originally approved by the Board, after first approved by the Board in June 2010, through the Executive Branch Review, it was determined that the proposed language exceeding the Board's rulemaking

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
			authority. On January 10, 2012, the Board approved alternative language. The alternative language is in the proposed draft.
660	Residents' mail: Details the specific circumstances and manner in which residents' mail may be delayed, reviewed, or withheld. It differentiates between legal and nonlegal mainly in its requirements. Also contains requirements regarding outgoing mail, access to postage, and mail received after a resident has left the facility.	6VAC35-140-75 details circumstances when mail may be read, censored, or rejected.	The proposed section contains some clarifying changes and is consistent with the current regulatory provisions.
670	Telephone calls: Requires telephone calls to be permitted in accordance with procedures that account for facilities' needs and resident behavior.	6VAC35-140-80 requires facilities to allow residents to have reasonable access to a telephone.	The proposed section is modified to account for the unique setting in a secure facility. The reasonable access language is changed to a requirement to be permitted use in accordance with procedures.
680	Visitation: Requires residents to have reasonable access to visitation with immediate family members and legal guardians. It requires visitation procedures that account for facility needs, resident and visitor behaviors, and a focus on strong family and community relationships. Also requires the procedure to be sent to the parent by the end of the next business day after admission.	6VAC35-51-990 requires procedures for flexible visitation unless governed by other regulations. It also sets time frames in which copies of the visitation procedure should be provided to the parents/guardians. 6VAC35-51-1000 requires written permission of the resident's family prior to any visit at the homes of staff. 6VAC35-140-90 requires visitation consistent with procedures in a designated visiting area with the ability for residents and visitors to have physical contact.	The proposed section clarifies the facilities' responsibilities relating to visitation. It contains language that residents have a general right to visitation subject to reasonable limitations. From the current regulatory scheme, it changes the requirement to mail copies of the visitation procedure from 24 hours after admission to the end of the next business day after admission.

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690	Contact with attorneys, courts, and law enforcement: Requires facilities to allow residents to have uncensored, confidential communications with their attorneys, subject to reasonable restrictions; prohibits denial of access to the courts; and requires procedures for when a resident consents to questioning by law enforcement that prohibits staff from coercing a resident's decision.	6VAC35-140-570 requires secure facilities to follow procedures for obtaining and documenting a resident's consent prior to questioning by the police. It also prohibits staff from playing "any role" in allowing contacts with police.	The proposed section adopts the major substantive components of the current regulation. It also adds parts relating to contact with attorneys and courts (both of which are constitutionally protected).
700	Personal necessities: Requires the facility to provide the resident with four items of personal necessity at intake. The items must be clean and in good repair upon issuance and must be replenished as needed. Also requires linens to be changed or cleaned with bleach every seven days and blankets to be cleaned or changed as needed.	6VAC35-51-470 requires an adequate supply of personal necessities to be available to residents; washcloths and towels to be cleaned weekly; and incontinent residents to have special provisions. 6VAC35-51-480 requires, in part, clean mattresses, pillows, blankets, and linens; linens to be cleaned weekly. 6VAC35-51-960 requires provisions to be made for resident clothing; requires residents of group homes to have age- and community-appropriate clothing; allows residents to participate in the selection of the clothes; and requires residents to be allowed to take personal clothing upon release/discharge.	The proposed section clarifies the cleaning and replacement provisions and incorporates several related parts of the current regulations into one section.
710	Showers: Requires residents to have the opportunity to shower daily.	6VAC35-140-300 requires facilities to give residents the opportunity to shower daily.	The proposed section is consistent with current regulations.

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730	Residents' privacy: Requires residents to have privacy from routine sight supervision by staff of the opposite sex when the resident is bathing, dressing, or conducting toilet activities. It allows an exception when constant supervision is needed due to a mental health condition involving self-injurious behavior or suicidal ideations or attempts.	6VAC35-51-500 requires provisions for privacy from routine sight supervision, video, and audio monitoring by permission of regulatory authority.	The proposed section adds an allowance for constant supervision if needed due to the resident's mental status. This provision is intended to address a quandary into which staff are currently placed regarding the necessary supervision of suicidal youth.
740	Nutrition: Requires facilities to provide residents with three nutritionally balanced meals daily. It allows special diets or alternative dietary schedules when ordered by a doctor or when necessary due to the residents' religious practices.	6VAC35-51-820 requires each facility to provide a nutritious daily diet, keep menus, provide special diets if ordered or religiously mandated, prohibit staff from eating other food in front of residents, limit the time between meals, provide earlier meals if necessary, and obtain approval to extend time between meals on evenings and weekends.	The proposed section is generally consistent with the current regulatory provisions. It amends the provision regarding the maximum duration between meals on weekends and holidays and allows an extension of time between the evening and morning meal if authorized by the facility administrator. (Under the current scheme, this extension could be authorized by the department, which has never denied a request.)
750	Reading materials: Requires reading materials to be available to all residents.	6VAC35-140-500 requires reading materials to be available to all residents and for secure facilities to follow procedures governing youth access.	The proposed section is consistent with the current regulatory provisions.
760	Religion: Prohibits residents from being required or coerced to participate in or be unreasonably denied participation in religious activities and for the procedure to be accessible to residents.	6VAC35-51-930 requires procedures for resident participation in religious activities to be available to residents and for no resident to be coerced to participate in religious activities.	The proposed section is consistent with the current regulatory provisions.
770	Recreation: Requires each facility to have a recreational program plan with five required	6VAC35-51-940 requires a written description of the facility's recreation program and lists five	The proposed section is consistent with the current regulatory provisions.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>components. Also requires the plan to address how residents will be screened for participation and supervised while participating.</p>	<p>required components. It also requires safety and specific overnight recreational and out-of-state trip procedures. 6VAC35-140-530 requires secure facilities to (i) have indoor and outdoor recreation areas; (ii) provide an opportunity for large muscle exercise daily; (iii) document circumstances prohibiting outdoor recreation; and (iv) provide a variety of fixed and movable equipment for indoor and outdoor recreation periods.</p>	
780	<p>Residents' funds: Requires residents' funds to be used only for three specific purposes.</p>	<p>6VAC35-51-970 requires JCCs and group homes to provide opportunities for residents to learn the value of money and to have procedures regarding allowances. It requires all facilities to have procedures for the management of residents' funds and for such funds to be used for the residents' benefit. 6VAC35-140-110 requires residents' funds to be used for their benefit, to pay court ordered fines/fees, or to pay restitution.</p>	<p>The proposed section streamlines the current regulatory provisions.</p>
790	<p>Fundraising: Requires permission from the resident's parents and the resident's consent prior to participating in fundraising activities.</p>	<p>6VAC35-51-210 requires written permission from the parent/legal guardian and permission from the resident (if 14 or older) prior to participation in fundraising activities.</p>	<p>The proposed section is consistent with current regulations.</p>
800	<p>Admission and orientation: Lists what facilities must do</p>	<p>6VAC35-140-60 requires procedures governing</p>	<p>The proposed section is consistent with the current</p>

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	upon admission of a resident. It has procedural requirements and lists the items on which residents must be oriented.	admission and orientation to include verification of authority of placement, search of the resident, health screening, notice of admission, interview of the resident, explanation of the program, and assignment to a room. 6VAC35-140-65 requires an orientation to the facility covering the rules and sanctions and requiring assistance to any resident with literacy difficulties.	regulatory provisions and adds a requirement for parents or legal guardians to be asked about any immediate medical concerns or conditions of the resident.
810	Residents' personal possessions: Requires residents' property to be inventoried upon intake, contraband to be disposed of, and other items to be returned to the resident at discharge. Unclaimed property shall be disposed of in accordance with written procedures.	6VAC35-140-480 requires secure facilities to inventory personal possessions upon admission and dispose of unclaimed property 90 days after a documented attempt to return the property.	The proposed section is consistent with the current regulatory provisions but removes some procedural language.
820	Mental health screening: Requires each resident to undergo the statutorily required mental health screening, completed by trained staff, at intake with an assessment within 24 hours, if indicated. It details the required components of the screening (interview, observation, and objective instrument).	6VAC35-140-430 requires mental health screening and assessment, if indicated, in detention centers. Section 16.1-248.2 of the Code of Virginia requires a mental health screening of residents as part of the intake process with an assessment to be completed within 24 hours by the CSB, if indicated as needed in the screening.	The proposed section is consistent with the governing statute and current regulatory provisions. It adds language requiring specific components of the process.
830	Classification plan: Requires residents to be assigned to sleeping rooms and living units in accordance with each	6VAC35-140-440 requires use of a classification plan for the assignment of sleeping rooms and living units in	The proposed section is consistent with the current regulatory provisions.



Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	facility's classification plan, which accounts for facility design, staffing, residents' behavior, and characteristics of each resident.	secure facilities. It also requires placements by the department to provide for a systematic decrease in supervision and increase in resident responsibility.	
840	Discharge: Requires residents to be released in accordance with procedures. It requires discharge only to the legal guardian or legally authorized resident and that a copy of the court order authorizing release to be in the case record. Also requires current medication information to be provided to the appropriate person at that time.	6VAC35-51-730 requires facilities to have criteria for discharge; retain discharge summary or court order and documentation of discharge/court order; release only to authorized person; and information for continuing care to be provided to the authorized person. 6VAC35-140-180 requires releases to be in accordance with procedures.	The proposed section contains clarifying amendments due to the distinct nature of detention centers. It also removes procedural language and provisions that are not appropriate in secure facilities.
860	Structured programming: Requires each facility to have structured daily routines that are available to residents upon admission and appropriate to the residents' needs, and provide appropriate supervision and services. Deviations from the routine must be documented.	6VAC35-51-710 requires an initial plan to be developed for all residents within three days of admission. 6VAC35-51-780(A) and (B) require a structured program of care and a daily routine. Subsection (F) requires the routine to account for appropriate sleep and rest; (G) requires the promotion of good hygiene; and (H) requires compliance with facility/local curfews.	The proposed section no longer requires a plan to be drafted within three days of admission. This requirement is replaced by the provision requiring residents to be able to participate in programming upon admission. Given the structured environment in detention centers, the requirement to develop a plan (which usually involves participating in the behavior management and educational programs) was evaluated as duplicative responsibilities for staff. Procedural language was also removed.
870	Written communication between staff; daily log: Requires a daily log to be maintained to inform staff of issues experienced by the residents. It requires the log	6VAC35-51-780(C), (D), and (E) require a daily communication log documenting significant happenings (including health complaints) and	The proposed section is consistent with current regulations.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	entries to have the date, time, and the name of the person writing the entry. Also requires electronic logs to prevent the overwriting of entries.	the identification of the author and time. 6VAC35-140-170 requires electronic log books to have protections to prevent entries from being overwritten.	
880	Additional assignments of direct care staff: Requires direct care staff to assume non-direct care responsibilities when they do not interfere with direct care duties. Also prohibits residents from being solely responsible for support functions.	6VAC35-51-410 states direct care staff may perform other duties only if they do not interfere with supervisory responsibilities. It also prohibits residents from being solely responsible for support functions.	The proposed section is consistent with current regulations.
890	Staff supervision of residents: Requires staff supervision to be 24/7; staff not to work more than six consecutive days or 16 consecutive hours; and staff to have an average of two rest days per week. It requires one trained direct care staff actively supervising residents; requires procedures for contingency staffing planning and to govern the movement of residents; and prohibits residents from controlling other residents.	6VAC35-51-830 prohibits direct care staff from working more than six consecutive days or more than 16 hours in a row and requires an average of two rest days per week every four weeks. Subsection (D) requires one trained direct care staff and a staff certified in CPR/first aid to be present when residents are present. Subsection (F) does not apply. 6VAC35-140-540(A) requires 24-hour, awake supervision. Subsection (B) sets requirements for supervision by a staff of the opposite sex from the resident. Subsection (G) prohibits residents from controlling other residents unless part of an approved program.	The proposed section is consistent with current regulations.
900	Staffing pattern: Requires a 1:10 staff-to-resident ratio during the day and a 1:16 ratio during hours residents	6VAC35-140-545 requires a 1:10 awake and 1:16 asleep staff-to-resident ratio. It requires	The proposed section is consistent with the current regulatory provisions.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	are scheduled to sleep. Also requires one staff to be on duty in every building or living unit where residents are sleeping.	one staff per floor and in each building.	
910	Outside personnel working in the detention center: Requires staff to monitor any situation where outside personnel work in the presence of residents; and prohibits adult inmates from having direct contact or interactions with residents.	6VAC35-140-290 requires facilities to monitor outside personnel performing work in the presence of residents and the separation of adult inmates from residents. 6VAC35-140-540(F) prohibits service personnel from working in secure facilities where they may have contact with residents (unless supervised). This provision was retained.	The proposed section is consistent with the current regulatory provisions.
920	Work and employment: Requires work assignments to be appropriate to the age, health, ability, and service plan of residents; and prohibits work assignments from interfering with school, meals, or sleep. Also requires the facility administrator to evaluate the fairness of pay for the work performed.	6VAC35-51-980 sets requirements for the assignment of chores and for work assignments outside the facility, including evaluating the fairness of pay.	The proposed section is consistent with the current regulatory provisions.
930	Health authority: Requires the facilities to designate a health authority who organizes, plans, and monitors health care services.	6VAC35-140-460 requires secure facilities to designate a health authority.	The proposed section is consistent with the current regulatory provisions.
940	Provision of health care services: Requires nursing staff to follow applicable laws and other health trained staff to provide care within their training and certification.	6VAC35-140-192 requires nurses to perform treatment pursuant to verbal or written orders.	The proposed section is consistent with the current regulatory provisions.
950	Health care procedures: Requires procedures in five areas relating to the	6VAC35-51-790 requires certain health care procedures for routine	The proposed section is consistent with the current regulatory provisions.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	provision of routine and emergency services. Also requires certain information on each resident to be readily available in case of an emergency.	and emergency services.	
960	Health trained personnel: Requires health trained personnel to provide care appropriate to their level of training and for the facility to maintain documentation of such trainings or certifications.	This requirement was previously included in the definition of "health trained staff person."	The proposed section is consistent with the current regulatory provisions.
970	Consent to and refusal of health care services: Requires, if applicable, for parents to be advised of the material facts relating to any proposed health care procedures and for all procedures to be provided in accordance with § 54.1-2969 of the Code of Virginia. Also includes a provision that the resident may refuse care and care may be rendered against a resident's will in accordance with applicable laws.	6VAC35-140-210 requires facilities to have procedures to (i) obtain consent as required by law; (ii) allow resident to refuse treatment; and (iii) to provide care against a resident's will consistent with applicable laws. Board policy 12-005 states a resident may refuse health care in accordance with applicable laws.	The proposed section cross-references the applicable statute and is consistent with the current regulatory provisions.
980	Health screening at admission: Requires residents to be screened at admission and kept separate from the general population if the screening reveals residents pose a health risk to themselves or others. If a resident is a risk, the section requires immediate health care services to be provided.	6VAC35-140-190 requires facilities to perform a preliminary health screening on residents before being admitted to the general population; to separate residents who pose a risk; and to provide necessary health care immediately.	The proposed section clarifies that residents deemed to be presenting a risk are kept separate from the general population only until such time as they are no longer considered a risk.
990	Tuberculosis screening: Requires TB screening within seven days of placement and the screening to be in accordance with the recommendations of the	6VAC35-51-800(B) and (C) require TB screening at admission and annually.	The proposed section is modified in order to (1) allow the admission of residents with TB (since court ordered) but to keep such residents separate from the general population and (2) allow

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	Division of TB Control at the Virginia Department of Health (VDH).		flexibility in practice in order to be in conformity with the recommendations and requirements of the Division of TB Control at VDH.
1000	Residents' medical examination; responsibility for preexisting conditions: Requires an intake physical examination within five days of admission. Also states that the detention home is not responsible for paying medical expenses for treatment of preexisting conditions.	6VAC35-51-800(A) requires an entrance physical examination. The proposed regulation retains this requirement. Subsection (G) requires documentation on annual dental exams (except for respite, shelter care, and detention centers). 6VAC35-140-450 requires a physical examination within five days of admission and states the detention centers are not financially responsible for the treatment of preexisting conditions.	The proposed section is consistent with the current regulatory provisions.
1010	Infectious or communicable diseases: Requires residents with known communicable diseases to be housed separate from the general population unless a physician certifies otherwise. Requires procedures for staff actions and training regarding communicable diseases.	6VAC35-51-800(F) prohibits admission of a resident with a communicable disease. 6VAC35-140-200 requires staff to be trained in universal precautions and on how to manage residents with communicable diseases.	The proposed section modifies the existing regulatory requirements to allow admission (since such admission is court ordered) but to keep such residents separate from the general population.
1020	Suicide prevention: Requires a suicide intervention plan and staff to be trained in the suicide prevention program.	6VAC35-140-250 requires all facilities to implement a suicide prevention and intervention program.	The proposed section is consistent with the current regulatory provisions.
1030	Residents' health care records: Requires residents' health records to be maintained and lists certain required contents. Also requires the health records to be kept confidential, accessible in case of	6VAC35-51-800(D) and (E) list contents of the health records. Subsection (H) requires notation of medical complaints and a summary of symptoms and treatment.	The proposed section is consistent with the current regulatory provisions.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	emergencies, and available to authorized staff as allowed by law.	6VAC35-140-220 requires health records to be kept confidentially, accessible in case of emergency, and available to authorized staff.	
1040	First aid kits: Requires each facility to have first aid kits maintained in accordance with written procedures governing maintenance, stocking, and readiness for use. Also requires the first aid kits be accessible for use in emergencies.	6VAC35-51-800(K) requires a well-stocked first aid kit.	The proposed section adds a requirement for procedures to address maintenance and restocking.
1050	Hospitalization and other outside medical treatment of residents: Requires residents who receive out-of-facility treatment to be transported safely, accompanied by staff (unless being transported for involuntary inpatient psychiatric treatment). Also requires the parents or legal guardians to be notified of the treatment as soon as practicable.	6VAC35-140-230 requires residents needing health care services outside the facility to be transported safely and to be accompanied by appropriate persons. It also requires the parents/guardians to be notified of treatment outside the facility as soon as practicable.	The proposed section clarifies who may accompany residents for medical treatment outside the facility and when notification must occur.
1060	Medication: Contains complex procedures regarding the maintenance of and administration of medication and protocol when medication is refused. It requires proper labeling and storage; staff who administer medication to be trained and annually retrained and informed of any known side effects of the medication; procedures for over-the-counter medication; all medication to be administered in accordance with physicians' orders; medication administration records, with	6VAC35-51-810 details extensive procedures regarding medications.	The proposed section adds an allowance for medication to be on the person of the resident if ordered by the physician; i.e., inhalers, and requires the notation of administration and refusals. The provisions are consistent with the current regulatory provisions.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>specific required components, to be maintained; medication incidents (formerly referred to as medication errors) to be addressed, treated, and documented; medication refusals to be documented; unused medications to be legally disposed; the telephone numbers for poison control to be near each nonpay telephone; and syringes and other medical implements to be locked and inventoried.</p>		
1070	<p>Behavior management: Requires each facility to implement a behavior management program and lists seven required components of the program's governing procedures. Also requires any substantive revisions to the program to be provided to the residents and staff prior to implementation.</p>	<p>6VAC35-51-900(A), (B), and (C) require procedures on (i) the rules of conduct, (ii) the behavior management techniques, and (iii) training, orientation, and dissemination of information on the behavior management program. Subsections (K) and (L) require the procedures to be reviewed annually and for staff trained in the behavior management program to be present any time residents are present.</p>	<p>The proposed section is consistent with the current regulatory provisions.</p>
1080	<p>Disciplinary process: Requires procedures governing the disciplinary process to provide for graduated sanctions in, training on, and documentation of the process. Also requires, when a resident is alleged to have violated a rule of conduct for a disciplinary report to be completed and the charge to be explained to the resident; the resident</p>	<p>6VAC35-140-550 requires detention centers to have guidelines for resolving minor behavior issues and all secure facilities to follow procedures for rule violations. This section requires specific due process protections and protocols for handling rule violations.</p>	<p>The proposed draft reworks the entire disciplinary process to expedite review as appropriate in a detention center environment (shorter lengths of stay; fluctuating population).</p>

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	<p>to be given a chance to admit or deny, and, if denied, to have a hearing with a neutral person. It requires the neutral review to be completed within 12 hours and the resident to be informed of the outcome and the right to appeal. It further requires the appeal to be completed within 24 hours of the alleged rule violation. Contains specific procedural language and specifies what documentation should be maintained and retained.</p>		
1090	<p>Physical restraint: Details when and how physical restraint may be used (as a last resort, when other interventions have failed, and necessary to control a risk to the safety of the resident, others, or the public). It requires specific procedures governing restraint to include training, documentation, review, and a focus on de-escalation.</p>	<p>6VAC35-51-900(D) through (J) require procedures governing the use of physical restraint, place restrictions on when and who may use restraints, and require documentation each time a resident is restrained.</p>	<p>The proposed section contains the major substantive components from the existing regulation and adds a requirement for training in crisis prevention and intervention techniques, the specific purpose for the review of the report, and a requirement to identify the control techniques that are appropriate to identified levels of risk.</p>
1100	<p>Room confinement and isolation: Requires facilities to follow procedures on when and how residents may be confined to a locked room. It requires any such resident (i) to be visually observed every 30 minutes (or more frequently if needed); (ii) to have the opportunity for one hour of out-of-room exercise (unless circumstances justify otherwise); and (iii) have a means to communicate with staff. Also requires the facility administrator to be notified if the resident is in</p>	<p>6VAC35-51-910 prohibits seclusion unless allowed by other regulations. 6VAC35-140-560 requires secure facilities to have procedures regarding when a resident may be confined to a room. It requires (i) 30-minute checks in all circumstances and 15-minute checks when residents are on suicide watch; (ii) confined residents to have the opportunity for one hour of exercise every 24</p>	<p>The proposed section is modified from the current regulatory scheme to account for the population in detention centers. It includes language regarding staff actions when confined residents exhibit self-injurious behaviors.</p>



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	<p>the room for longer than 24 hours and someone in a position higher than the facility administrator to be notified if it extends past 72 hours. The facility administrator must make personal contact with confined residents daily; and, if residents exhibit self-injurious behaviors, the staff shall consult a mental health professional and monitor according to procedures.</p>	<p>hours; (iii) the superintendent to be notified when residents are confined more than 24 hours and the regulatory authority when it exceeds 72 hours; and (iv) the director or designee to make personal contact with residents each day of confinement.</p>	
1110	<p>Administrative confinement: Requires residents in administrative segregation (i) to be housed in single or double rooms, with single rooms reserved for special needs groups as necessary; and (ii) to be afforded the same basic living conditions as the general population.</p>	<p>6VAC35-140-560(G) requires the same basic living conditions and programming to be available to residents in administrative confinement as in the general population. 6VAC35-140-730(B) requires JCCs' residents in segregation to be no more than two to a room. Subsection (C) requires JCCs' residents with severe medical difficulties or severe mental illness (SMI), who are sexual predators, or who are likely to be exploited to be in single rooms when indicated.</p>	<p>The proposed section is consistent with the current regulatory provisions.</p>
1120	<p>Chemical agents: Prohibits the use of chemical agents by staff in facilities.</p>	<p>6VAC35-140-660 allows use of pepper spray with board approval in certain circumstances. Board policy 18-005 prohibits staff from using chemical agents in facilities regulated by the board.</p>	<p>The proposed section adopts the board policy language.</p>
1130	<p>Mechanical restraints: Requires procedures governing the use of mechanical restraints to</p>	<p>6VAC35-51-890 prohibits use of mechanical restraints unless allowed by other</p>	<p>The proposed section is consistent with the current regulatory provisions.</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>have six required components, including when, why, and how restraints shall be used. Also requires documentation of any use.</p>	<p>regulation and of any use of pharmacological restraints.                      6VAC35-140-670 allows the use of mechanical restraints in secure facilities. It requires a procedure, notification, and documentation. It also prohibits such use for punishment or for residents to be attached to fixed objects with mechanical restraints.                      6VAC35-140-680 requires staff to be trained in the use of mechanical restraints prior to applying them and specifies some training requirements.</p>	
1140	<p>Monitoring residents placed in mechanical restraints: Requires residents placed in restraints to be visually checked every 15 minutes (and more often if warranted) and for staff to provide basic comforts to such residents. Also requires a mental health and health care consultation for residents in restraints for more than two hours in a 24-hour period and if residents exhibit self-injurious behaviors.</p>	<p>6VAC35-140-690 requires secure facilities to follow procedures for ensuring residents' comfort, making personal checks every 15 minutes, and constantly supervising self-injurious behavior (SIB) cases when residents are in restraints.                      6VAC35-140-700 requires secure facilities to consult with a mental health professional when residents have been restrained for more than two hours cumulative in a 24-hour period and if mental health problems are indicated.</p>	<p>The proposed section is consistent with the current regulatory provisions and provides clarifying language for when residents in restraints exhibit self-injurious behaviors.</p>
1150	<p>Restraints for medical and mental health purposes: Requires a procedure to govern the use of restraints for medical and mental health purposes.</p>	<p>6VAC35-140-685 requires secure facilities to follow certain required procedures for the restraint of residents for medical and mental</p>	<p>The proposed section is consistent with the current regulatory provisions.</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
1160	Approval of postdispositional detention programs: Requires post-dispositional detention programs to be approved by the board.	health purposes. 6VAC35-140-701 requires postdispositional programs to be approved by the board.	The proposed section is consistent with current regulatory provisions.
1170	Agreement with court service unit: Requires postdispositional detention programs to have an agreement with the court service unit (CSU) defining the relationships and responsibilities of each.	6VAC35-140-702 requires postdispositional programs to have an agreement with the CSU defining relationships and responsibilities of each.	The proposed section is consistent with current regulatory provisions.
1180	Placements in postdispositional detention programs: Requires a facility that has a postdispositional program to have procedures for facility utilization; certain documentation; assessments; and evaluation of residents going outside the secure perimeter for services. Also lists some required components of the program and cites when an assessment for appropriateness must be done.	6VAC35-140-707 requires written procedures for facility utilization; certain documentation requirements and services; the assessments to be conducted upon request; and consideration of certain factors prior to a resident leaving the detention center for programs or services.	The proposed section is consistent with current regulatory provisions. The circumstances under which the assessments for appropriateness of placement have been clarified.
1190	Program description: Requires a written statement of eight elements of the postdispositional programs.	6VAC35-140-703 requires a written description of the postdispositional program, services, and criteria for participation and completion.	The proposed section is consistent with current regulatory provisions.
1200	Individual service plans in postdispositional detention programs: Requires service plans to be developed within 30 days of admission. It lists required components of the service plan, who must participate in the development, and who must	6VAC35-51-720(A), (B), and (C) require an individual service plan (ISP) to be developed within 30 days of admission and list required components. They also require progress to be	The proposed section separates the requirements of individual service plans from progress reports and modifies the required participants to require invitations, as the facility does not have control over whether outside individuals choose to participate.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	be invited to participate in its development.	documented and the plan to be reviewed every 90 days. Subsection (F) requires the ISP to be signed and dated; (G) requires staff to be able to describe the ISP; (H) details who should be involved in the ISP development and updating; and (I) addresses who receives a copy.	
1210	Progress reports in postdispositional detention programs: Requires documented reviews of residents' progress, in accordance with § 16.1-284.1 of the Code of Virginia, that shall report on three components and shall include the date of development and signature of developer.	6VAC35-51-720(D) requires residents' progress to be reviewed every 90 days. Subsections (D) and (E) deal with components of the review; (F) requires it to be signed and dated; (H) details who should be involved; and (I) lists to whom copies should be provided. Section 16.1-284.1 of the Code of Virginia requires the court to review the case monthly to determine whether "the purpose of the order of confinement has been achieved."	This section removes the requirement in the current regulatory scheme for quarterly reports and requires residents' progress to be reviewed in accordance with § 16.1-284.1 of the Code of Virginia (thus, monthly given the mandated court reviews). As the statutory review was more frequent than the regulatory provision, the statutory requirement was adopted.
1220	Case management services in postdispositional detention programs: Requires the facility to provide and document the provision of case management services that addresses the residents' adjustment, supportive counseling, transitional issues, and communications with staff, parents/legal guardians, the CSU, and community resources, as appropriate.	6VAC35-51-760 requires each postdispositional program to provide case management services. It enumerates issues to be addressed and requires documentation.	The proposed section is consistent with the current regulatory requirements.

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1230	Residents' health care records in postdispositional detention programs: Requires health records for residents to be maintained and to include insurance information and written consent for emergency treatment.	6VAC35-51-790(B)(3) and (5) relate to required information to be in the record. 6VAC35-51-800 requires maintenance of health care records on residents in postdispositional programs.	The proposed section is consistent with current regulatory provisions.
1240	Services by licensed professionals in postdispositional detention programs: Requires appropriate licensing for any licensed practitioner to whom residents are referred for services.	6VAC35-140-705 requires appropriate licensing for any licensed professional in private practice to whom residents are referred for services	The proposed section is consistent with current regulatory provisions.
1250	Delivery of medication in postdispositional detention programs: Requires a procedure for administration of medication (which must detail whether self-medication is authorized).	6VAC35-140-708 requires postdispositional programs to follow procedures for self-administration of medication.	The proposed section is consistent with current regulatory provisions.
1260	Residents' paid employment in postdispositional detention programs: Allows residents to be paid for employment while at the facility, subject to the facility administrator's review and approval.	6VAC35-140-704 allows paid employment of postdispositional residents in accordance with applicable regulations.	The proposed section is consistent with current regulatory provisions.
1270	Release from a postdispositional detention program: Requires certain information to accompany the resident upon release.	6VAC35-51-740 requires certain information to accompany the resident upon release.	The proposed section is consistent with current regulatory provisions.

**Completely deleted sections of existing regulations:**

- 6VAC35-51-20. Interdepartmental cooperation.
- 6VAC35-51-30. Applications. (Addresses applications to become a children's residential facility.)
- 6VAC35-51-40. Investigation. (Mandates DJJ to inspect and investigate children's residential facilities.)
- 6VAC35-51-50. Review of facilities. (Requires DJJ to review facilities during the period of certification to monitor compliance with the regulation and to notify localities of any health/safety violations.)
- 6VAC35-51-60. Posting of information. (Requires DJJ to post information on its website.)
- 6VAC35-51-80. Written corrective action plans. (Requires plans to be submitted for each provision on which a facility is found noncompliant.)
- 6VAC35-51-90. Licenses/certificates. (Details terms of certification that may be issued by the board.)

6VAC35-51-100. Application fees. (Lists fees for initial application and renewal.)

6VAC35-51-110. Modification. (Addresses when and how certification may be modified; also states that a facility may not implement any contemplated change prior to approval of the regulatory authority.)

6VAC35-51-120. Denial. (Lists circumstances when an application for licensure may be denied.)

6VAC35-51-130. Revocation. (Lists when a certificate may be revoked.)

6VAC35-51-140. Summary suspension. (Details the procedure for the summary suspension of a facility's licensure.)

6VAC35-51-160. Investigation of complaints and allegations. (Requires DJJ to investigate complaints against a facility it regulates.)

6VAC35-51-190. Fiscal accountability. (Requires certain facilities to prepare end of the year financial documents, to have a bookkeeping system, and to have procedures for the handling of facility funds.)

6VAC35-51-320. Staff supervision. (Requires procedures regarding the supervision of staff; including type, frequency, and documentation.)

6VAC35-51-330. Applicant. (Lists requirements applicant must meet prior to consideration for initial licensure.)

6VAC35-51-340. Chief administrative officer. (Lists the responsibilities and qualifications of a CAO.)

6VAC35-51-350. Program director. (Lists the responsibilities and qualifications of a program director.)

6VAC35-51-360. Case manager. (Lists the responsibilities and qualifications of a case manager.)

6VAC35-51-370. Child care supervisor. (Lists the responsibilities and qualifications of a child care supervisor.)

6VAC35-51-380. Child care staff. (Lists the responsibilities and qualifications of a child care staff.)

6VAC35-51-390. Relief staff. (Allows qualified relief staff to be used as needed to meet programming needs.)

6VAC35-51-650. Interstate Compact on the Placement of Children. (Details requirements when discharging a resident to a residence in another state.)

6VAC35-51-730. Resident transfer between facilities operated by the same sponsor. (Requires documentation for intrasystem transfers, unless by court order.)

6VAC35-51-770. Therapy. (Requires therapy to be provided by a licensed professional or someone supervised by a licensed professional, unless exempted.)

6VAC35-51-920. Education. (Requires residents to be enrolled in school within five days of admission and for providers to provide certain services related thereto; it also requires study time.)

6VAC35-51-1000. Resident visitation at the homes of staff. (Allows visitation at the homes of staff with permission from the legal guardian and placing agency.)

6VAC35-51 FORMS

6VAC35-140-20. Other applicable standards. (Indicates these regulations coexist with the Interdepartmental regulation.)

6VAC35-140-22. National accreditation is deemed compliance with these standards. (Allows accreditation by ACA to show compliance with this chapter.)

6VAC35-140-23. Outcome-based and performance-based standards authorized. (Allows an exemption from a regulatory provision for the implementation of a performance-based alternative standard.)

6VAC35-140-24. Regulation establishes policy. (States the authority of the board to promulgate regulations.)

6VAC35-140-30. Applicability. (States applicability of the regulatory provisions.)

6VAC35-140-40. Previous regulations terminated. (States impact of regulation on other provisions.)

6VAC35-140-45. General requirement. (Requires facilities to comply with applicable laws and regulations.)

6VAC35-140-150. Nonresidential programs and services. (Requires nonresidential services offered by juvenile facilities to comply with applicable laws and regulations.)

6VAC35-140-790. Junior ROTC program. (Requires JROTC to have a description of criteria for entrance, retention, termination, and how discipline and sanctions will be applied.)

**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.*

The proposed regulation may affect small businesses in as much as a small business provides a program or service subject to this regulation. Having clear, concise, and consistent requirements across facilities (i) provides such entities with clear requirements and (ii) ensures consistency in such requirements throughout the Commonwealth. The proposed amendments would streamline the compliance and reporting requirements while not affecting the quality of services provided in facilities and to administrators subject to the regulation or the ability of the board or department to oversee such functioning and thus would benefit any affected small businesses.

**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.*

This regulatory action should have a positive impact on families when residents receive services through a facility's program or staff member. To the extent the regulation improves those services or promotes health and safety in those services, they should have a positive impact on families. The regulation will serve to bolster family relationships and communities given the focus on preventing delinquency and promoting youth development. The regulation is not expected to have any impact on disposable family income.