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Proposed Regulation Agency Background Document

Agency name	Department (Board) of Juvenile Justice
Virginia Administrative Code (VAC) Chapter citation(s)	6VAC35-30; 6VAC35-35 (new chapter); 6VAC35-20-69; 6VAC35-101-350
VAC Chapter title(s)	Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs; Regulation Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities (new chapter); Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities; Regulation Governing Juvenile Secure Detention Centers
Action title	Comprehensive review of regulatory provisions governing state reimbursement of local juvenile residential facility costs and establishment of new chapter outlining the process for localities not seeking reimbursement
Date this document prepared	September 29, 2023, Updated May 7, 2025, Updated March 12, 2026

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Regulation 6VAC35-30, the Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs ("reimbursement regulations"), currently establishes the processes locally operated and commission operated juvenile detention centers and DJJ-regulated locally or regionally operated juvenile

group homes and similar residential facilities must follow when they construct, renovate, enlarge, or otherwise alter such facilities. This action involves a comprehensive overhaul of Chapter 30 to eliminate outdated provisions, simplify practices for all localities engaging in such projects, and establish a new chapter, 6VAC35-35, to create a process for localities with no intention of seeking reimbursement for such projects through any available mechanisms. The action also makes conforming changes to 6VAC35-20 (Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities) and 6VAC35-101 (Regulation Governing Juvenile Secure Detention Centers).

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

"CPSM" means Construction and Professional Services Manual.

"DIBR" means documents incorporated by reference.

"JDC" means juvenile detention center.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The proposed regulatory changes are the result of the department's determination, after conducting a periodic review, that the regulations were outdated, unclear, and needlessly burdensome for localities not seeking reimbursement. The amendments were not prompted by any federal, state, or local mandate.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The promulgating entity is the Board of Juvenile Justice. Section 16.1-309.5 of the Code of Virginia directs the Commonwealth to reimburse localities for "one-half the cost of construction, enlargement, renovation, purchase, or rental of a detention home or other facilities the plans and specifications of which were approved by the Board and the Governor, in accordance with the statute. Additionally, the statute directs the Board to promulgate regulations, including criteria for evaluating requests for such reimbursement and "to ensure the geographically equitable distribution of state funds provided for such purpose." Additionally, § 16.1-309.9 directs the board to approve minimum standards for the construction and equipment of detention homes or other facilities" and gives the board the authority to prohibit the placement of juveniles in places of residence which do not comply with these minimum standards. Finally, the board is entrusted with general, discretionary authority to establish regulations pursuant to § 66-10, which authorizes the board to promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

Although the governing statute requires the Commonwealth to reimburse localities for qualifying projects, since 2005, the General Assembly has included language in the Appropriation Act that prohibits the board from approving funds for state reimbursement of applicable construction, enlargement, or renovation costs for these facilities. The Act allows an exception only for emergency maintenance projects needed to resolve immediate life safety issues and approved by the board and the Secretary of Public Safety and Homeland Security. This regulation chapter and several other chapters within the board’s regulations require localities constructing, renovating, or otherwise modifying eligible juvenile facilities to undergo an arduous process involving the completion of reports tied specifically to funding, despite the fact that reimbursement funding available through the mandated process has been frozen for several years, and most localities choose not to avail themselves of alternative mechanisms for state funding. The department expects these regulatory changes to enhance efficiency for localities altering applicable juvenile facilities. Allowing this expedited process for facility projects with no state funding reduces the burden on existing local resources so that such resources can be better directed to the youth residing in these facilities.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

The department is recommending the following new provisions be added to Chapter 30 as summarized below:

- Section 15, limiting the chapter’s application to localities seeking reimbursement or seeking to preserve the option for reimbursement funding and requiring localities not seeking reimbursement to comply with a newly created chapter;
- Section 115, setting a three-year deadline for localities to execute a construction contract after the board approves the locality’s planning study;
- Section 185, directing DJJ to establish guidelines for submitting required documents; and

The department is recommending the following additional amendments to Chapter 30 as summarized below:

- Section 35, changing the locality’s required submissions during the prescreening;
- Sections 40, 80, 120, and 130, converting business day references in the regulation to calendar days;
- Sections 42 and 90, setting out specific timelines for DJJ’s review of certain documents;
- Section 45, establishing a process for localities pursuing state reimbursement for qualifying emergency maintenance projects;
- Section 60, modifying and clarifying the criteria and processes by which the board should make its reimbursement funding recommendation;
- Section 65, repealing the funding formula currently required to determine construction costs;
- Sections 90, 100, 130, 150, and 180, removing the directive that localities comply with DJJ procedures;
- Section 110, changing the scenarios that trigger a possible suspension of the review process and DJJ’s required response;

- Section 130, modifying the process for submission during the construction stage of the project and identifying the scenarios that constitute a substantive change during the project’s construction stage;
- Section 140, changing the locality’s process for final inspection of the project;
- Section 160, removing the language authorizing reimbursement for privately contracted projects; and
- Section 180, setting out a process for reimbursements when the request exceeds the previously requested amount.

The department recommends creating a new chapter, Chapter 35, to establish a process to address projects for which a locality is not seeking reimbursement from the Commonwealth. Section 10 establishes definitions for this chapter, and sections 20 through 100 detail the process for these projects.

The department recommends conforming changes to 6VAC35-20-69 and 6VAC35-101-350.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

The department believes the proposed amendments to this chapter will benefit the public, the department, and the board. Each of the proposed amendments is intended to streamline and clarify the process for localities seeking to construct new juvenile residential facilities or modify existing facilities, regardless of whether the state reimburses the locality for the project. Removing some of the bureaucratic hurdles associated with obtaining reimbursement for such projects through other available channels and allowing for an expedited process for nonreimbursement requests will smooth the path for completion of the project to the benefit of the residents in these facilities and the staff responsible for their care. Eliminating the outdated, prescriptive funding formula on which localities seeking reimbursement base their estimated construction costs will allow the locality greater flexibility in determining construction costs. Requiring localities that forego the reimbursement process to provide DJJ with a project overview, rather than the more detailed statement of need and planning study documents, and allowing DJJ to remain involved throughout various stages of the project will help ensure that the construction or modification is consistent with industry standards, thereby ensuring the safety of juveniles residing in such facilities.

The department believes there are no disadvantages of this action to the public, the agency, or the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

The department is not aware of any proposed amendments to this regulation that are more restrictive than applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

The department is not aware of other state agencies that will be particularly affected by the proposed changes.

Localities Particularly Affected

Only those localities that are modifying eligible existing local juvenile residential facilities or constructing new facilities will be subject to one of the two regulatory chapters. The department is aware of only one locality currently engaged in a qualifying project. Because the locality has been planning construction for several years, it will not be subject to these proposed amendments.

Other Entities Particularly Affected

The proposed amendments would impact architect/engineers and contractors who take on these projects.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including:</p> <ul style="list-style-type: none"> a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources. 	<p>Regardless of whether the project in question falls under the reimbursement regulations or the regulations governing locally funded projects, DJJ will remain involved in the project under the proposed amendments. The proposed changes for nonreimbursement projects, however, will mean fewer resources devoted to the review of unnecessary documents and DJJ playing a diminished role in the review process. While DJJ anticipates some indirect savings resulting from these regulatory changes, the department does not have sufficient information to determine the extent of these savings.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the</p>	<p>The proposed changes are not expected to impact other state agencies.</p>

regulatory change, including a delineation of one-time versus on-going expenditures.	
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	Both DJJ and the board are expected to reap the greatest benefit of the proposed changes. The proposal will make the process for constructing, modifying or seeking reimbursement for DJJ-regulated facility projects more efficient.

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees, or revenues resulting from the regulatory change.	Localities that fall under the new regulation will be relieved of the burden of completing various reports and processes required under the reimbursement regulation. This should generate savings for those localities; however the department does not have sufficient information to predict the amount of savings.
Benefits the regulatory change is designed to produce.	The regulatory changes are intended to simplify the process for localities involved in qualifying construction and modification projects, with the ultimate goal of creating a safer environment for juveniles residing in these facilities.

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	The regulatory amendments will impact architect/engineers and contractors involved in these local construction, renovation, and similar projects.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated, and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	The number of architect/engineering firms and contractors impacted will depend on the number of qualifying projects and the scope of such projects. The department does not have sufficient information to make this determination.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees;	The department does not have sufficient information to determine the projected savings to the architect/engineering firms and contractors that will be impacted by the regulatory changes.

d) purchases of equipment or services; and e) time required to comply with the requirements.	
Benefits the regulatory change is designed to produce.	The regulatory changes are intended to streamline and simplify the process for A/E firms and contractors involved in these projects.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

The department conducted an analysis to determine whether other viable alternatives are available and preferable to the proposed regulatory amendments. Because state reimbursement funding has been frozen for some time, one possible option would be repealing the regulation in its entirety. Repealing the regulation would conflict with § 16.1-309.5, which directs the board to promulgate such regulations. Retaining the existing regulation would maintain the current requirement that all facility construction or modifications must undergo the process set out in regulation, even in the absence of reimbursement funding. The department believes that establishing a new regulatory chapter with an expedited process for reviewing such projects is the least burdensome alternative to ensure compliance with the statutory directive while maintaining DJJ's involvement and oversight over these projects.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

The proposed regulatory amendments include a few of the alternative regulatory methods identified here. The proposed amendments require less stringent reporting requirements, as regulants not seeking reimbursement will be subject to an expedited process that relieves them of the burden of completing several reports required under the reimbursement regulations. The proposed amendments remove some of the deadlines currently imposed on localities seeking reimbursement.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

According to the Agency Background Document at the NOIRA stage, the NOIRA did not announce a periodic review or a small business impact review. The department conducted an initial periodic review of several regulatory chapters in 2019, thus eliminating the need for a subsequent review as part of this comprehensive regulatory overhaul. Therefore, this form is not reporting the results of a periodic review.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

At the NOIRA stage, the public comment period ended on March 3, 2021 and yielded no public comments.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The Department of Juvenile Justice is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency’s regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Kenneth Davis; P.O. Box 1110, Richmond, Virginia 23218-1110; (804) 807-0486;

Kenneth.Davis@djj.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of this stage of this regulatory action.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between the existing VAC Chapter(s) and the proposed regulation. If the existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
30-10	N/A	Introduction: The existing regulation provides an explanation of the governing statute and explains the purpose of the regulation.	The proposal repeals this introduction section The Registrar’s office has recommended state agencies and boards remove these purpose statements from their regulations.
30-20	5	The existing regulation sets out definitions for terms used throughout the chapter in Section 20, following the Introduction Section.	Consistent with the Style Manual’s directive, the proposal moves the definitions to Section 5, making it the first section in the chapter. This change is nonsubstantive and will have no impact. The proposal also adds definitions for terms not defined in the existing regulation, including construction, Construction and Professional Services Manual, day, emergency, enlargement or expansion, renovation, and written.
30-15	N/A	The current regulation lacks an applicability section; however language throughout the regulation makes it clear that localities engaged in construction, renovation, or other alterations of juvenile residential facilities are required to comply with the chapter.	The proposal limits the chapter’s application to localities seeking state reimbursement through alternative mechanisms (such as by legislative enactment or for emergency maintenance projects) or seeking to preserve the option for reimbursement in the future should such funding be reinstated. Localities not seeking reimbursement will be subject to a new regulatory chapter and no longer need to comply with this chapter. The proposal makes conforming changes to 6VAC35-

			20-69 and 6VAC35-101-350. These changes are intended to simplify the process for localities making modifications to eligible juvenile facilities, whether or not they intend to seek state reimbursement funding.
30-35	N/A	Prescreening: The existing regulation establishes a process for localities planning construction, renovation, enlargement or expansion of local juvenile facilities. Localities must provide DJJ with a description of the project and a graphic showing proposed structural changes, and based on that information, DJJ must determine, within 30 days, under which of three categories the proposal falls. New construction and similar projects expected to affect the facility's compliance with board regulations, result in a change in certification or licensure status, or result in increased square footage are subject to this chapter, while for other facility enhancements, the sponsor must submit a project overview and cost estimates to the board. Routine maintenance projects and minor changes do not fall within the scope of this regulation and must be managed informally through a process established in DJJ procedures.	The proposal modifies the language to require an initial graphic only if available. Additionally, the proposal clarifies that projects within the first category include construction, enlargement, or other modification projects, and that construction projects do not fall within the second category. Additionally, the project overview submitted for the second category of projects must briefly describe the project, justify its necessity, and include other pertinent information, as needed. Finally, the proposal eliminates the third category of projects and moves to Section 15 (Applicability) the provision excluding minor projects from this chapter's jurisdiction. In so doing, the proposal clarifies that routine maintenance and other minor projects need not undergo the prescreening process mandated in this section. The proposal also emphasizes that the department will consider a project to fall under the first two categories only if the sponsor is requesting reimbursement.
30-40	40 and 42	Reimbursement request: Currently, this section establishes the process for submission and consideration of the needs assessment, planning study, and other materials. DJJ must advise the sponsor of deadlines for submissions to ensure inclusion in its budget request to the Governor and for legislative consideration. The sponsor must submit a needs assessment, which	The proposal clarifies that DJJ's advisement regarding deadlines may be made to the sponsor or the designated representative. The proposal moves the provisions involving the process for submission and review of the needs assessment and planning study to a newly created section (Section 42) and moves the information required in the needs assessment and planning study currently captured in the applicable definitions into this new section. The proposal gives DJJ a 45-day deadline to review the needs assessment once

		<p>the board must consider at its next regularly scheduled meeting. DJJ must advise the sponsor of the board’s decision in writing within seven business days. If the board approves the needs assessment, the sponsor then provides DJJ with a planning study explaining how the project is the most appropriate and cost-effective means of addressing the identified needs. The board must consider the planning study at its next regularly scheduled meeting and, if approved, shall recommend the amount of state reimbursement and forward the submissions to the Governor for approval.</p>	<p>submitted and directs the board to consider the needs assessment as soon as reasonably practicable following DJJ’s review, rather than at its next regularly scheduled meeting. This change ensures DJJ has sufficient time to prepare additional materials needed for board consideration. In the hopes of simplifying the process, the proposal also changes the deadline for DJJ’s advisement regarding the board’s decision on the needs assessment from seven business days to 10 calendar days. The term “days” is added and defined in Section 5, for purposes of this and other sections of the chapter,” as “calendar days.” DJJ must provide a written record once the board adopts its minutes. The proposal directs the board to consider the planning study as soon as reasonably practicable, rather than at its next regularly scheduled meeting and makes additional changes of a technical nature. These changes are intended to help simplify the process for localities seeking reimbursement or seeking to preserve the option for future reimbursement.</p>
30-45	N/A	<p>Effect of legislative moratorium: Subsection A directs a locality’s sponsor to comply with this chapter even when the legislature has issued a moratorium on construction and construction cost.</p>	<p>The proposal amends subsection A to provide that compliance with this chapter is necessary only for localities wishing to preserve the option for future reimbursement funding during a legislative moratorium. The proposal clarifies that in any case, the moratorium would apply to reimbursement, rather than the applicable construction. A similar change is made to subsection B. The proposal adds a new subsection C to clarify that reimbursement funding remains available for emergency maintenance projects needed to resolve immediate life safety issues, provided the Appropriation Act authorizes such reimbursement. This is consistent with language that has been added in the Appropriation Act since 2005. The proposal also establishes the process for obtaining such reimbursement, which begins with following the prescreening requirements in Section 35. Although the Appropriation Act allows for this reimbursement funding in emergencies, the regulation does not expressly provide a process for obtaining such reimbursement. Finally, the proposal</p>

			<p>makes several technical amendments. These changes are consistent with the overall objective of simplification for localities engaging in these projects.</p>
30-60	N/A	<p>Criteria for board funding recommendation: Subsection C of the existing regulation requires sponsors to determine their construction costs based on the § 65 funding formula, and to review the economy of such costs in relation to the adjusted median cost of local facilities. Subsection D requires a review of the proposal for efficiency and allows the board specific authority to either adjust the requested amount upwards or downwards in certain scenarios, such as when the project excludes functional areas of the facility or when the building’s efficiency ratio is less than 65. The board must base these adjustments on the gross square footage of the conditions multiplied by the adjusted median cost of the proposed gross square foot cost of the facility, whichever is less.</p>	<p>The proposal amends subsection C by removing reference to the § 65 funding formula and giving the sponsor the discretion to determine construction costs without using the formula. The board may use comparable projects completed within the last five years as a basis for this review. Additionally, for renovation projects, the proposal directs the board to consider, among other information, whether the proposed changes are consistent with federal and state statutes and regulations as a basis for construction economy. Finally, the proposal clarifies the board’s authority to make adjustments regarding the reimbursement request. Rather than allowing for an adjustment of the reimbursement amount requested, the proposal allows the board to adjust the estimated project cost eligible for reimbursement. The intent of this amendment is to accurately reflect the process. The amount the locality requests does not change based on the economy of construction costs; rather, the board considers that amount and has the discretion to adjust the amount that will be eligible for reimbursement based on whether the proposed costs are economical. The proposal strikes the language directing board adjustments to be based on a specific formula. These changes give the board more flexibility in determining to what extent the locality’s estimated construction costs are appropriate and eligible for reimbursement.</p>
30-65	N/A	<p>Funding formula: The existing regulation requires localities to calculate their estimated construction costs using a complex funding formula based on the cost per square foot figure in the R.S. Means Construction Cost 2009 data resource, along with the area allowance per bed and various other figures.</p>	<p>Due to concerns regarding its prescriptive nature and unreliability, the proposal repeals the funding formula and allows the architect/engineer to determine construction costs based on its expertise. The funding formula relies on figures derived from adult jails despite the fact that juvenile secure detention centers and other locally operated juvenile residential facilities that fall within the scope of these regulations have different populations and are structured differently to accommodate those populations. The proposal makes</p>

			conforming amendments to the definitions section, striking the terms “area allowance per bed” and board-approved funding formula. DJJ believes these changes will make the process less burdensome for localities seeking reimbursement and for the board, as it considers these reimbursement requests.
30-70	N/A	Funding priorities: This section directs the board to prioritize reimbursement requests so that state funds are distributed equitably and requires the board to ordinarily give preference to reimbursement requests for regionalized local facilities, absent a health, safety, or welfare risk requiring priority.	The proposal strikes the language suggesting that there are scenarios, apart from those generating health, safety, or welfare risks, that would require the board to give preference for facilities serving fewer than three localities. The proposal makes additional, technical changes. These changes are intended as clarification and will have no additional impact.
30-80	N/A	Board recommendations to the Governor: Subsection A of the existing regulation requires DJJ to provide written notification to the sponsor within seven business days of its ultimate recommendation regarding reimbursement.	The proposal changes the deadline for DJJ’s notification from seven business days to 10 calendar days according to the new definition for “day” in Section 5. This change is intended to simplify the process, and is not expected to substantially increase the required deadlines in this chapter. The proposal makes additional technical changes that will have no impact.
30-90	N/A	Preliminary design: Subsection A of the existing regulation directs the sponsor to provide DJJ with preliminary design documents defined in the CPSM and required by DJJ procedures. Subsection B requires DJJ to review the preliminary design documents to ensure they comply with applicable statutes, regulations, and guidance documents incorporated into this regulation. Subsection B also directs DJJ to communicate any required changes to the sponsor in writing. The sponsor is then required to provide DJJ with a written response.	The proposal removes the requirement to comply with written procedures, which currently violates the incorporation by reference rule in 1VAC7-10-140 . DJJ will update and release its Step-by-Step Guidelines and Minimum Standards for Construction as standalone guidance documents localities can consult to better understand the construction and reimbursement processes, but these documents will no longer be deemed a part of the regulation. The proposal amends subsection B to set a 45-day deadline for DJJ’s review of these documents, providing DJJ and localities clear direction on the appropriate time frame for review. The proposal makes several technical changes, none of which will impact localities or DJJ.
30-100	N/A	Construction documents: In both subsections A, and C, the current regulation directs	The proposal removes the reference to written procedures as a violation of 1VAC7-10-140. DJJ will continue to

		the sponsor and DJJ to comply with DJJ-approved procedures regarding the sponsor's submission of construction documents and DJJ's advisement upon reviewing such documents.	release these procedures as standalone guidance, but they will no longer be deemed a part of the regulation. The proposal makes several technical changes, none of which will impact localities or DJJ.
30-110	N/A	Change order process: Under the current regulation, if a substantive change in the project's scope, an increase in the estimated cost of construction, or a change in operational staff requirements occurs during project development, DJJ must suspend the review process until the project is resubmitted to the board for additional review.	The proposal replaces the catchline with "design change process" to better reflect what occurs at this stage. This technical change will have no additional impact. The proposal also makes DJJ's review suspension discretionary, rather than mandatory and strikes changes in operational staff requirements as an event that can trigger this discretionary suspension. The proposal provides that only those additional costs of construction for which the locality is seeking reimbursement can potentially trigger the suspension, and not any increase in the construction costs. Finally, the proposal gives DJJ the discretion to determine next steps, which may include requiring the locality to repeat some steps in the process. Giving DJJ this additional discretion and narrowing the categories of events triggering this discretion will reduce the number of projects returned for additional board consideration, reduce delays in the review process, and make the process more efficient.
N/A	30-115	N/A	Failure to initiate construction within three years: The proposal adds a new provision giving localities three years to execute a construction contract after the board notes its approval of the planning study, but allows the sponsor to submit a written request for an extension to the board. While this change may further delay the construction process, it recognizes the significant changes that may occur within a three-year time period and the possibility that the board may need to revisit its recommendation.
30-120	N/A	Bidding: The current regulation directs the locality to submit bidding materials to DJJ, who must forward comments within five business days, after which time, the sponsor shall provide a subsequent written response within 10 business	The proposal modifies the timeline for DJJ to forward comments in response to the bid documents from five business days to seven calendar days and eliminates the deadline for the locality's response. The department believes these changes will simplify the process for localities involved in these qualifying projects without significantly changing the deadlines for review and comment.

		days of receiving DJJ's comments.	
30-130	N/A	<p>Construction: Subsection A of the existing regulation mandates that the sponsor submit monthly inspection or progress reports by the 15th day of the month following the inspection or when the progress report came due. DJJ shall notify the sponsor in writing within 10 business days after receiving the report of issues with the project or report. If the locality does not meet these deadlines, this creates grounds to deny some or all of the reimbursement. Subsection B directs the locality to submit substantive changes that occur during the construction phase to DJJ for review and approval before executing the change and limits eligibility for reimbursement to those changes approved according to DJJ procedure. Failure to seek and obtain such approval may give the board grounds for full or partial denial of reimbursement funding.</p>	<p>The proposal amends subsection A so that both an inspection and progress report must be submitted monthly to give DJJ advanced notice of issues the sponsor is encountering. If issues are uncovered in either submission, the sponsor must explain the issue and the plan for addressing it. The proposal allows the sponsor to establish a schedule for the monthly submission, rather than complying with a prescribed regulatory deadline. Additionally, the proposal changes DJJ's notification deadline from 10 business days to 14 calendar days after receiving the report and moves the provision regarding consequences for failure to meet these deadlines to the compliance section. The proposal amends subsection B to establish the scenarios constituting a substantive change, which include: (i) project cost increases of \$50,000 or more or (ii) accumulated change orders exceeding 25% of the original contract amount. These clear boundaries eliminate the need to reference DJJ's procedures and the concern regarding improper incorporation by reference. Finally, the proposal moves the language that establishes the potential consequences for failing to obtain the required approvals for such substantive changes to the compliance section. The proposal makes additional technical changes that will have no impact.</p>
30-140	N/A	<p>Final inspection: The existing regulation requires the sponsor to establish a schedule for final inspection of the project once construction is completed.</p>	<p>The proposal replaces this mandate with language directing the sponsor to ensure final inspection of the project. While useful, the existence of a schedule does not guarantee that the inspections will be carried out. The proposal places the focus on the inspection, rather than the schedule. DJJ believes localities engaged in these construction projects and seeking reimbursement would have ensured project inspection, but this change makes that requirement clear. The proposal makes additional technical changes that will have no impact.</p>
30-150	N/A	<p>Record documents: The current regulation requires record documents be prepared as defined in the</p>	<p>The proposal removes the reference to written procedures as a violation of 1VAC7-10-140. DJJ will continue to release these procedures as standalone</p>

		CPSM and in accordance with DJJ procedures.	guidance, but they will no longer be deemed a part of the regulation.
30-160	N/A	Private construction of juvenile facilities: The existing regulation summarizes the Code provision authorizing private contracting for financing, site selection, acquisition, or design and construction of local detention homes or other secure facilities and provides that such localities shall receive state reimbursement in the same manner as other eligible localities under this chapter.	The proposal removes the superfluous summary of § 16.1-322.5 and moves from Section 170 the provision authorizing localities to enter into such private construction contracts. The proposal instructs localities to certify and submit documentation to the board demonstrating compliance with the applicable statutory requirements before executing such contracts. The proposal precludes the board from approving any such contracts that do not satisfy the applicable statutory requirements. Finally, the proposal removes language authorizing reimbursement for such privately contracted projects. DJJ is not aware of any private construction contracts in which the state provided reimbursement; as such, this change will have no additional impact.
30-170	30-160	Requirements for contract authorization: The existing provision directs sponsors to certify and submit documentation demonstrating statutory compliance before they may enter into a contract for private construction.	The proposal repeals this section and moves its content to § 160. This is a technical change that will have no additional impact.
30-180	N/A	Request for final reimbursement for all projects: Currently, subsection A directs the sponsor to submit the documentation specified by DJJ procedures to DJJ upon completing the project. Subsection B gives DJJ 90 days after receiving such documentation to authorize reimbursement if the final requested amount does not exceed the amount initially recommended (including the contingency). The request must be in the form specified by DJJ. Subsection C directs the sponsor, if the final reimbursement request exceeds the amount initially recommended, to justify the increase and submit the adjusted reimbursement	The proposal removes the language in subsection A requiring reference to written procedures, instead directing the sponsor to submit a written request for final reimbursement along with documentation supporting the request. This change eliminates any concern regarding violation of the incorporation by reference rule. Because it is consistent with the practice outlined in DJJ's current procedures, the proposal will not have a significant impact. The proposal amends subsection B by striking reference to the contingency and removing language requiring the request to conform to DJJ specifications. The contingency was part of the funding formula recommended for repeal making this reference unnecessary. These changes will make the process more efficient and less burdensome for localities seeking current or future state reimbursement. The proposal adds language limiting the reimbursement

		request to the board and the Governor or designee for approval.	amount to 50% of the project costs, consistent with the statutory language. To avoid having the entire reimbursement amount withheld while the Governor and board consider the amended request, the proposal amends subsection C to require DJJ to proceed with processing the initial reimbursement amount within the 90-day time period, while the sponsor submits a written adjusted reimbursement request for any amount over that which was initially approved. Finally, the proposal adds clarifying language that reimbursement funding is contingent on a legislative appropriation of such funds.
N/A	30-185	N/A	Guidelines for document submission: The proposal directs DJJ to establish guidelines governing the form and process for the required submissions in this chapter. This change will alert regulants to the existence of guidance regarding the submission process; however the guidance will not be considered a regulatory requirement.
30-190	N/A	Compliance: The existing regulation lists potential consequences for failing to comply with the chapter, including forfeiting board certification or DJJ approval to house residents in the facility, consistent with the Certification Regulations.	The proposal makes a technical change to provide the full, proper name of the Certification Regulations.
DIBR	N/A	The existing regulation lists the Step by Step Procedures, CPSM, and R.S. Means Facilities Construction documents as the documents incorporated by reference into the regulation.	The proposal removes the Step-by-Step procedures and R.S. Means document from the DIBR list. The Step-by-Step document was developed by DJJ and its inclusion as a DIBR violates 1VAC7-10-140. Striking the funding formula in Section 65 eliminates the need to reference the R.S. Means document; therefore there is no need to include it in the DIBR.
20-69	N/A	Newly opened...facilities: The existing Certification regulation requires that new construction, expansions, and renovations in juvenile residential facilities conform to the governing provisions of various regulatory chapters including Chapter 30 (State Reimbursement Regulations).	The proposal strikes the reference to the reimbursement regulations and provides that if a locality is seeking reimbursement for such projects on local juvenile residential facilities or seeking to preserve the option to obtain reimbursement, only then is compliance with the reimbursement regulations necessary. For projects not involving reimbursement, the provisions of Chapter 35 shall apply.

101-350	N/A	<p>Buildings and inspections: The existing provision requires compliance with the reimbursement regulations for planned construction, renovation, enlargement, or expansion of a JDC.</p>	<p>The proposal limits the application of these reimbursement regulations to local projects involving a current or future reimbursement request and requires compliance with Chapter 35 for all other requirements.</p>
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If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

New chapter-section number	New requirements to be added to VAC	Other regulations and laws that apply	Change, intent, rationale, and likely impact of new requirements
35-10	<p>Definitions: The proposal sets up a new regulatory scheme for eligible construction, renovation, expansion or similar projects involving local juvenile facilities if no state reimbursement will be sought, either now or in the future. This new section sets out definitions for terms used in the chapter.</p>	§ 16.1-309.9	<p>Many of the definitions in this chapter mirror those in the reimbursement regulations. Unlike the reimbursement regulations, however, this chapter's definition for renovation does not include changes to equipment. Changes to equipment are part of the reimbursement definition for renovation so that localities can include these renovation costs in their reimbursement requests. Because localities are not seeking reimbursement under this chapter, there is no need to include equipment changes in the definition for renovation.</p>
35-20	<p>Applicability: The proposal adds an applicability section limiting the chapter's application to localities not seeking reimbursement for eligible projects.</p>	§ 16.1-309.9	<p>This new chapter seeks to establish an expedited process for localities with no plans to pursue state reimbursement for local juvenile facility projects. As such, this applicability section indicates that the chapter applies exclusively to these local projects.</p>
35-30	<p>Prescreening: The proposal provides for a prescreening process that classifies projects under this chapter or the reimbursement regulations. Routine maintenance projects and other projects involving minor changes to the facility will be exempt from both chapters.</p>	§ 16.1-309.9	<p>As the prescreening process in this chapter mirrors the process under the reimbursement regulations, these changes will have no significant additional impact.</p>
35-40	<p>Project overview: For projects subject to this chapter, the sponsor shall prepare a project overview that includes a description of the proposed or existing program, the proposed project, architectural and</p>	§ 16.1-309.9	<p>The project overview is intended to replace the needs assessment and planning study required in the reimbursement regulations. These documents demonstrate the need for the project in question and show that the proposed project is the most efficient means for addressing the need. In the</p>

	<p>engineering drawings, and an anticipated schedule for completion. DJJ must review the project overview and provide comments regarding compliance with applicable statutes, regulations, and guidance documents. The sponsor, in turn, must respond, in writing, to all such comments.</p>		<p>absence of a reimbursement request, the Commonwealth should not need this information. This change will relieve some of the burden on localities involved in these projects.</p>
35-50	<p>Construction documents: This section directs the sponsor to submit construction documents, including complete working drawings, specifications, and review approvals to DJJ. In turn, DJJ shall review these documents and, as with the project overview, communicate recommended changes to the sponsor in writing. Subsequently, the sponsor must provide DJJ with a written response, addressing all issues DJJ outlines before the project proceed to the next stage.</p>	§ 16.1-309.9	<p>The proposal is similar to the construction documents stage in the reimbursement regulations except, under reimbursement regulations, DJJ can compel the locality to change its construction documents. Because the construction is not tied to reimbursement under this chapter, DJJ only has the authority to recommend changes to the construction documents, but cannot require the locality to amend such documents. Because the locality is not seeking reimbursement, DJJ will have no role in the bidding phase. These changes to the process will relieve the burden on localities associated with DJJ's review of these documents.</p>
35-60	<p>Design change process: Under the proposal, substantive changes in the project's scope give DJJ the discretion to suspend the review process and determine next steps.</p>	§ 16.1-309.9	<p>This language is very similar to the requirement under the state reimbursement regulations, as proposed. The change is not expected to have a significant impact.</p>
35-70	<p>Construction: The proposal directs the sponsor to provide DJJ with a written explanation of any substantive changes that occur during the construction phase of the project to enable DJJ to review and comment before the change is executed.</p>	§ 16.1-309.9	<p>The proposal deviates from the reimbursement regulations in that DJJ has no authorization to approve or reject such changes during the construction phase. This is largely due to the fact that such substantive changes under the reimbursement regulations would have impacted the amount of reimbursement to which the locality was entitled. In the absence of such reimbursement, DJJ's authority to intervene is decreased.</p>
35-80	<p>Final inspection: Under the proposal, once construction is complete, the sponsor must fulfill a number of requirements to ensure final inspection of the project including, for</p>	§ 16.1-309.9	<p>The proposal mirrors the final inspection requirements under the state reimbursement regulations. Therefore, this new language will have no additional impact.</p>

	example, notifying DJJ and certain other regulatory agencies, documenting the correction of deficiencies, and submitting a report of completed actions to DJJ and appropriate reviewing agencies. Once final inspection and corrective actions are completed, the sponsor shall provide DJJ with copies of all required letters verifying approval of the completed projects and certify project completion to DJJ .		
35-90	Record documents: The proposal directs the sponsor to ensure that its architect modifies and marks as "Record" the original drawings and specifications so that they reflect the actual project construction.	§ 16.1-309.9	The proposal differs from the state reimbursement regulations in that these documents need not comply with the state's Construction and Professional Services Manual, given that state reimbursement funding is not a component of these regulations. This change will eliminate the burden on localities associated with compliance.
35-100	Compliance: The proposal provides that a locality that fails to comply with this chapter might forfeit its board certification or DJJ approval to house residents in the facility.	§ 16.1-309.9	The proposal is consistent with § 16.1-309.9's language directing the state board to approve minimum standards for the construction of detention homes or other facilities and giving the board the authority to prohibit the placement of juveniles in any place of residence which does not comply with these minimum standards.

If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.

If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.

Table 3: Changes to the Emergency Regulation

Emergency chapter-section number	New chapter-section number, if applicable	Current <u>emergency</u> requirement	Change, intent, rationale, and likely impact of new or changed requirements since emergency stage
N/A	N/A	N/A	N/A