



**Virginia
Regulatory
Town Hall**

**Notice of Intended Regulatory Action
Agency Background Document**

Agency Name:	Board of Juvenile Justice
VAC Chapter Number:	6 VAC 35-150
Regulation Title:	Standards for Non-residential Programs Available to Juvenile and Domestic Relations District Courts
Action Title:	Require adherence to Department operating procedures to standardize court services to the greatest extent possible statewide.
Date:	

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The regulation establishes minimum standards for court service staffs and related supportive personnel so that "uniform services, insofar as is practical, will be available to juvenile and domestic relations district courts throughout the Commonwealth." (Code of Virginia § 16.1-233 C.)"

The regulation also establishes standards for the development, implementation, operation and evaluation of the nonresidential community-based programs and services such as those established by the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq. Of the Code of Virginia).

The regulation seeks to balance the goal of establishing statewide minimum levels of service delivery with the goal of permitting program flexibility to meet diverse local circumstances.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

The general authority of the Board of Juvenile Justice to promulgate regulations is found in Code of Virginia § 66-10 (6), which provides that the Board shall have the power and duty "[t]o 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 specific legal authority for regulations governing court services units is Code of Virginia § 16.1-233. C., which directs that "The State Board shall establish minimum standards for court service staffs and related support personnel and promulgate regulations pertaining to their appointment and function to the end that uniform services, insofar as is practical, will be available to juvenile and domestic relations district courts throughout the Commonwealth."

The specific legal authority of the Board to promulgate regulations governing community-based programs available to the juvenile courts is found in Code of Virginia § 16.1-309.9.A., which directs that "The State Board of Juvenile Justice shall develop, promulgate and approve standards for the development, implementation and evaluation of the range of community-based programs, services and facilities authorized by this article."

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

As a result of the periodic review mandated by Executive Order 25 (98), the regulation was found to be partly effective in ensuring uniform statewide services and in permitting program flexibility to meet local circumstances within statewide minimum service levels. A number of

amendments are proposed to enhance the minimum level of services on a statewide basis and ensure more uniformity of services.

Amendments throughout the regulation require adherence to Department procedures in addressing the requirements of the various standards. The goal is to ensure uniform services to the greatest extent possible.

New language at 6 VAC 35-150-270 and 6 VAC 35-150-290 would specifically require the intake officer to make all required entries into the Department's Juvenile Tracking System, as specified in the Department's Manual of Standard Operating Procedures for Court Service Units.

In many standards throughout the regulation, the phrase "written policy, procedure and practice shall provide" would be deleted. The phrase has been interpreted to mean that the Board, the Department or individual court service units must adopt a policy statement for each standard -- in practice often simply repeating the standard verbatim in order to meet this supposed requirement. Proposed new 6 VAC 35-150-35 explains that "these standards individually and collectively establish 'programmatic and fiscal policies' governing the operation of court service units and non-residential programs for which the Department is responsible, as provided for by § 66-10 of the Code of Virginia." Thus, the regulation itself establishes policy regarding the programmatic and fiscal operations of the subject non-residential programs and services, and a separate policy statement reiterating the regulation's policy statement is redundant and unnecessary.

Paragraphs B and G of 6 VAC 35-150-350 are amended to require that a supervision plan be completed within 30 days following disposition. Some court service units have reported interpreted the phrase "after receiving the case" to refer to the case's assignment to an individual probatio officer, and have argued that the time requirement did not apply until the case was individually assigned. The result has been that some juveniles were not placed under active supervision until some time past the 30 days after disposition referenced in the standard. The amendment affirms that the intent of the standard is to ensure that juveniles are timely placed under active supervision in accordance with the order of the court and for the protection of the community.

6 VAC 35-150-420 is amended to require probation officers to "meet with the [committed] youth at least every 90 days during the youth's final 12 months of commitment, and make contact with the youth at least once every 90 days, either in person, by video conference or by telephone, prior to the youth's final 12 months of commitment." This change will permit parole officers to concentrate their in-person efforts on the period of the juvenile's transition and preparation for release from direct care, while allowing broad discretion as to how to maintain contact with a committed juvenile prior during earlier parts of the youth's incarceration.

6 VAC 35-150-440 is amended to clarify that when an agency or program provides direct services or supervision to juveniles, all employees and volunteers who provide such direct service or supervision shall undergo a thorough background check; when an agency or program refers juveniles to other service providers, the referring agency shall require the service provider to document that all persons who provide services or supervision through substantial one-on-one contact with juveniles have undergone a background check. When juveniles were referred to programs whose main focus was other than juvenile treatment (for example, to various agencies

to do community service), the requirement for background checks on persons in these programs who might have incidental but direct contact with juveniles was jeopardizing the referral process.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

A major purpose of the regulation is to ensure that "uniform services, insofar as is practical, will be available to juvenile and domestic relations district courts throughout the Commonwealth" (Code of Virginia Section 16.1-233 C). Inasmuch as the regulation governs both state-operated and locally-operated court service units, the only alternative that would achieve this purpose would be to statutorily mandate various services and service levels on the part of court service units. The Department's position is that the Code of Virginia should not be encumbered with the level of detail that is appropriately included in regulation.

As another alternative, the Department has developed an operations manual to provide additional guidance to state-operated court service units without cluttering the regulation with details that may change in response to technological developments, organizational structure, delinquency trends, and so on. Because the manual is not binding upon locally-operated court service units, the regulation is needed to establish minimum service levels on a statewide basis.

Family Impact Statement

Please provide a preliminary analysis of the potential 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.

Many juveniles who come into contact with the juvenile justice system lack strong, healthy family support systems. On the other hand, the parents of many other juveniles who come into contact with this system are deeply involved with their children. This regulation seeks to strike a balance, encouraging cooperation between probation officers and parents whenever practical, without constraining probation officer's authority when parental cooperation is absent. The regulation has specific requirements for including a juvenile's family in the preparation and review of supervision plans, and requires completion of a family involvement plan when a juvenile is committed. For example, 6 VAC 35-150-10 provides that "a single supervision plan may include, as appropriate, specific plans for supervision during probation and parole, and for treatment of a youth and services for the youth's family during commitment."