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## Revised Proposed Regulation Agency Background Document

<b>Agency name</b>	Department (Board)
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	6 VAC35-71; 6VAC35-73 (new chapter)
<b>VAC Chapter title(s)</b>	Regulation Governing Juvenile Correctional Centers; Regulation Governing Juvenile Boot Camps
<b>Action title</b>	Comprehensive review of regulatory provisions governing juvenile correctional centers that are currently contained in 6VAC35-71 and establishment of new chapter to contain current boot camp provisions
<b>Date this document prepared</b>	INSERT DATE

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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.*

The Regulation Governing Juvenile Correctional Centers establishes the minimum standards to which staff in juvenile correctional centers (JCCs) must comply. The existing regulation addresses program operations, health care, personnel and staffing requirements, facility safety, residents' rights, and the facility's physical environment. It contains additional provisions for boot camps and privately operated JCCs. The regulation seeks to promote the safety and security of residents, staff, volunteers, interns, and contractors, while protecting the rights of youth committed to the Department of Juvenile Justice (department) and preparing them for successful re-entry into the community following their commitment.

This regulatory action involves a comprehensive overhaul of the Regulation Governing Juvenile Correctional Centers to reflect the department's continued efforts to transform its approach to juvenile

justice, including implementing the community treatment model (CTM) in its housing units, abolishing the use of segregation as a disciplinary measure in any existing and future JCCs, requiring additional monitoring of confined residents, enhancing training for department personnel and staff, placing restrictions on the use of mechanical restraints and protective devices, increasing required staff-to-resident ratios in order to comply with federal law, and moving provisions applicable to juvenile boot camps into their own separate chapter. Additionally, the action will remove provisions that incorporate DJJ's written procedures into this chapter.

## 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.*

CPP means a community placement program.

CPS means Child Protective Services.

CSU means court service unit.

DJJ means the Department of Juvenile Justice.

DSS means the Department of Social Services.

JCC means juvenile correctional center.

QMHP means qualified mental health professional.

SGA means Student Government Association.

## Mandate and Impetus

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.*

The Agency Background Document for the Proposed Stage of the regulatory process did not include a statement regarding the mandate and impetus for this regulatory provision.

## 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.*

Section 66-13 of the *Code of Virginia* gives the department the authority to "receive juveniles committed to it by the courts of the Commonwealth" and to "establish, staff, and maintain facilities for the rehabilitation, training, and confinement of such juveniles."

The board is entrusted with general, discretionary authority to promulgate regulations by § 66-10 of the *Code of Virginia*, 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."

Also contained in this regulation are the provisions governing privately operated JCCs and boot camps. These are mandated by Chapter 2.1 of Title 66 (Juvenile Corrections Private Management Act) and § 66-13 of the *Code of Virginia* respectively.

## 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's intended to solve.*

In June 2016, the board authorized the submission of a Notice of Intended Regulatory Action (NOIRA) to initiate the regulatory process for a comprehensive review of this chapter. To complete the comprehensive review and revisions to this regulation, the department convened a committee consisting of representatives from various divisions of the department. The committee recommended revisions to the regulation with the goal of streamlining the language, clarifying ambiguous provisions, and imposing new requirements that align with the changes that have occurred since the department's last review of the regulation. The board approved these proposed amendments in January 2018 for submission to the Virginia Regulatory Town Hall and advancement to the Proposed Stage of the regulatory process.

Since the board's 2018 review, the department has identified additional changes that should have been proposed at the previous stage and are needed to clarify requirements, properly differentiate between various programs available for youth committed to DJJ, minimize the incorporation of procedural requirements into the regulation, and increase compliance with regulatory and statutory mandates among regulants and departmental staff.

Having clear, concise regulations is essential to protecting the health, safety, and welfare of residents, staff, and visitors in JCCs and citizens in the community. Clearer expectations for the administrators running these facilities will promote efficiency and allow staff to utilize additional resources for supporting the needs of the residents, thus supporting the overall rehabilitation and community safety goals of DJJ.

## 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 the regulation, as summarized below:

- Section 15, (*recommended at Revised Proposed Stage*), narrowing the scope of this regulatory chapter to apply solely to state-operated JCCs and privately operated JCCs governed by the Juvenile Corrections Private Management Act, and excluding from this chapter juvenile boot camps and locally, regionally, or privately operated alternative direct care programs for juveniles;
- Section 215 (*recommended at Proposed Stage*), mandating that employees or contractors who threaten substantial harm to residents, others, or the public be removed immediately from duties involving the supervision of residents. No additional changes are being proposed to this new section at the Revised Proposed Stage;
- Section 545 (*recommended at Proposed Stage*) addressing the rules staff must follow if an emergency or other situation necessitates a facility or unit lockdown, including mandated periodic checks of locked down residents, required notification to or approval by the superintendent, and provision of daily opportunities to interact with the superintendent and for large muscle exercise;
- Section 735 (*recommended at Proposed Stage*) requiring JCC housing units to function as therapeutic communities with consistent staffing and resident placement, daily therapeutic

activities, and oversight by an interdisciplinary JCC team and directing DJJ to establish written procedures governing such communities;

- Section 765 (*recommended at Proposed Stage with additional changes at Revised Proposed Stage*) requiring JCCs, where practicable, to increase family and natural support engagement opportunities through visitation, contacts, and other opportunities;
- Section 1175, (*recommended at Revised Proposed Stage*) capturing the physical restraint requirements formerly imposed in Section 1130;
- Sections 1180 and 1190 (*existing*), 1195, 1203, 1204, 1205, 1206, 1207, and 1208 (*recommended at Revised Proposed Stage*) establishing new restrictions and controls on the use of mechanical restraints, protective devices including spit guards, and mechanical restraint chairs and directing DJJ to establish written procedures reflecting these provisions; and
- Section 1209 (*recommended at Revised Proposed Stage*), prohibiting the use of certain physical and mechanical restraints and protective devices on pregnant residents with certain exceptions.

The department is recommending a number of substantive revisions to existing language in this regulation, as summarized below:

- Section 60 (*recommended at Revised Proposed Stage*), narrowing the classes of incidents subject to incident reporting requirements to exclude incidents identified by written procedures, expanding the class of incidents to include mechanical restraint chair use, and directing the department to establish written procedures to address additional reportable incidents;
- Section 80 (*recommended at Revised Proposed Stage*), establishing a deadline for reviewing and resolving non-emergency grievances within 30 business days and clarifying what constitutes a resolution for these purposes;
- Section 110 (*recommended at Revised Proposed Stage*), changing the frequency of and staff required to make periodic visits to housing units, and allowing parameters to be determined through written procedures;
- Sections 150 (*recommended at Proposed Stage*), removing duplicative orientation requirements that are addressed as part of the required initial training and mandating that contractors be oriented rather than trained on expectations of working in a secure environment;
- Sections 160 and 170 (*recommended at Proposed Stage*), amending the initial and retraining requirements to: (1) specify the required training hours for medical staff; (2) allow medical staff and direct supervision employees to receive a portion of training prior to assuming their roles, with the remaining hours completed before the end of their first year's employment; and (3) expanding the staff who must receive initial and recurring training in implementing a suicide prevention program to include direct supervision and security employees and medical staff.
- Section 185, (*recommended at Proposed Stage*) requiring contractors who regularly serve residents to comply with the same tuberculosis mandates as other employees;
- Section 220 (*recommended at Proposed Stage*), removing any explicit or implicit provision authorizing volunteers and interns to be alone with residents and adding language explicitly prohibiting them from assuming direct care or direct supervision responsibilities;
- Section 260, (*recommended at Revised Proposed Stage*) removing the requirement that certain records be kept up to date and uniformly and directing the department to have written procedures in place for maintaining such records.
- Section 400, (*recommended at Revised Proposed Stage*), expanding the smoking prohibitions to include additional items and the category of individuals precluded from using such products on the JCC premises;
- Section 460, (*recommended at Revised Proposed Stage*), amending the emergency and evacuation provisions such that emergencies jeopardizing the health, safety, and welfare of residents shall be reported to various individuals within the same time frames as other serious incidents.
- Section 460 (*recommended at Proposed Stage*) expanding the required documentation for JCC monthly evacuation drills;
- Section 480, (*recommended at Proposed and Revised Proposed Stages*) mandating that manual or instrumental body cavity searches be conducted at a local medical facility except in exigent

circumstances creating a threat to the health of a resident, and directing that such searches occurring at the facility be conducted by a qualified medical professional;

- Section 510 (*recommended at Revised Proposed Stage*), modifying the permissible purposes for having weapons on the JCC premises or during JCC-related activities;
- Section 540 (*recommended at Proposed and Revised Proposed Stages*), requiring staff members responsible for transporting residents to maintain a valid driver's license and report changes in their license status; expanding the staff authorized to transport residents by vehicle; and directing staff to provide nonemployees who temporarily assume custody of a resident for transportation purposes with certain information and the resident's applicable medication.
- Section 610 (*recommended at Revised Proposed Stage*) removing the current exception permitting the board to excuse the department from providing residents with daily opportunities to shower, instead permitting an exception for documented emergencies.
- Section 630 (*recommended at Proposed Stage*), limiting the facility's authority to provide restricted diets or impose alternative dietary schedules for managing maladaptive behavior only to scenarios where the resident has used food or culinary equipment inappropriately and jeopardized JCC security; and reducing the maximum time permitted between the JCC's evening meal and the following morning's meal.
- Section 680 (*recommended at Proposed Stage*), amending the provision that requires staff to furnish residents with a copy of written information at orientation, including, for examples rules of the facility and disciplinary reports, so that staff have the discretion to show residents displaying maladaptive behavior this information instead of providing a copy;
- Section 690 (*recommended at Revised Proposed Stage*), eliminating certain requirements related to contraband discovered at admission.
- Section 710 (*recommended at Revised Proposed Stage*), requiring staff to document due process safeguards in writing and provide a copy of such safeguards to the resident, both during orientation and if the resident is reassigned or transferred;
- Section 720, (*recommended at Revised Proposed Stage*), requiring staff to retain certain information in a determinately committed resident's case record at discharge and removing the discharge plan from the list of documents that must be included in the record at discharge.
- Section 820 (*recommended at Proposed Stage*), permitting qualified direct supervision employees to be alone with residents without direct care employees conducting the required visual checks;
- Section 830 (*recommended at Proposed and Revised Proposed Stages*), adjusting the required staff-to-resident ratio from 1:10 to 1:8, authorizing security staff to transport residents for routine or emergency purposes, and authorizing either security employees or direct care employees to supervise residents in the infirmary or nurse's station.
- Section 1060 (*recommended at Revised Proposed Stage*), changing the requirements when residents require offsite medical treatment;
- Section 1110, (*recommended at Revised Proposed Stage*) extending the documentation retention period for records of disciplinary hearings from 6 months to three years.
- Section 1120 (*recommended at Revised Proposed Stage*), removing the qualifier that timeout is only available after application of less-restrictive alternatives and the provision prohibiting timeout to address chargeable offenses.
- Section 1140 (*recommended at Proposed Stage and Revised Proposed Stages*), narrowing the definition of room confinement for safety purposes; removing isolation as a permissible form of confinement; requiring confined residents to be monitored visually at least every 15 minutes, imposing a graduated review and approval process for confinement beyond 24, 48, and 72 hours; changing the opportunities available to residents during confinement to more closely align with existing regulatory provisions; setting out a case management review process for confinement exceeding five days and specifying a deadline for holding applicable meetings; requiring additional staff interaction with confined residents; and removing the delayed effective date for implementing these provisions.

In addition to these changes, the department proposes to add a new chapter (6VAC35-73) into which the existing boot camp provisions, currently contained in 6VAC35-71-1230 through 1270, will be moved. The new chapter includes 6VAC35-73-10 through 6VAC35-73-50.

## 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.*

### Primary Advantages

The proposed amendments mandating therapeutic communities and emphasizing family inclusion will ensure a greater focus on the rehabilitation of residents and help the Department in its efforts to reduce recidivism among youth formerly committed to DJJ. Additional controls placed on the use of mechanical restraints, protective devices, and the mechanical restraint chair will help to ensure that residents who are mechanically restrained due to behavior that threatens themselves or others or impedes critical facility operations will be restrained in a manner that ensures their safety.

The proposed amendments excluding certain important practices from the definition of “room confinement” will allow staff to confine residents temporarily during these activities in order to ensure facility security and protection of residents and staff. Safety will also be enhanced among JCC staff and residents due to expanded smoking prohibitions within the secure perimeter, more stringent monitoring of residents demonstrating self-injurious behaviors and more frequent room checks.

### Primary Disadvantages

The Department does not expect the proposed regulatory changes to result in any disadvantages to the public, DJJ, or the Commonwealth in general.

### Other Pertinent Issues

At its March 11, 2020 meeting, the Board agreed to overturn an earlier decision that would have prohibited JCC and JDC staff from using spit guards on residents for any period. The regulated community had advocated for the safe use of spit guards to control the transmission of communicable diseases and prevent other injuries to staff and residents. The March 11 board-approved amendments will allow staff to use such devices, but will restrict the types of spit guards permitted, the residents subject to such use, and the manner in which such guards may be applied.

## Requirements More Restrictive than Federal

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.*

Conditions of confinement in JCCs are subject to federal constitutional requirements as well as applicable federal law and regulations (e.g., the Americans with Disabilities Act of 1990, the Americans with

Disabilities Amendments Act of 2008, 42 USC § 12101. Amendments made at the Proposed and Revised Proposed Stages of the Regulation seek to reflect requirements in the Prison Rape Elimination Act of 2003 and recent changes to the Juvenile Justice Delinquency Prevention Act. The proposed regulation imposes requirements consistent with these federal provisions.

## Agencies, Localities, and Other Entities Particularly Affected

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.*

### Other State Agencies Particularly Affected

The bulk of the proposed regulatory amendments will impact the department and any JCCs it operates. While certain proposed changes may have some impact on state or local entities, DJJ expects these impacts to be minimal.

### Localities Particularly Affected

The proposed regulatory changes are not expected to have a particular impact on any localities. Although various secure detention facilities operated by local or regional governmental entities may have contractual arrangements with the department to house youth committed to DJJ, the proposed regulatory changes clarify that this chapter does not apply to such programs. The proposed amendments will help ensure that local law enforcement officers have additional information that may help to protect certain residents released temporarily into their custody for transportation.

### Other Entities Particularly Affected

The proposed amendments make a number of changes specific to contractors in the facility. Under the proposed regulations, certain contractors will be subject to enhanced health screening requirements and the same smoking prohibitions that apply to staff in the facility. Because DJJ contracts with a number of entities to provide services to committed youth, various other provisions may indirectly impact those entities; however, DJJ does not expect the proposed changes to have any additional direct impact on such entities.

## Economic Impact

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.*

### Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail;	The majority of proposed additional changes will have little to no administrative costs and any additional duties on staff can be absorbed by existing resources.
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<p>b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources</p>	<p>Amendments to and additions of the following provisions may result in additional administrative costs for juvenile correctional centers:</p> <p><u>§ 60 (incident reports)</u>: Adding mechanical restraint chair use to the list of incidents subject to the reporting requirements in this section may increase administrative costs for JCC staff. Use of force incidents are considered “non-critical” under DJJ’s current reporting structure and are subject to less stringent reporting requirements. The proposal will impose additional reporting requirements on staff that may impact operational resources.</p> <p><u>§§ 1203-1208 (mechanical restraints)</u>: The Department has not used the restraint chair on residents in the Bon Air JCC since 2015. If the Department resumes use of the restraint chair at Bon Air or permits its use in any future facilities, the Department may incur administrative costs in fulfilling the additional duties associated with the monitoring, notification, and reporting requirements mandated by this regulation. The Department cannot provide an estimate for these speculative costs at this time. The restraint chair video mandate also may generate additional administrative costs if the facility needs to update or expand its stock of cameras to comply with this requirement.</p> <p>The department believes that the costs associated with updating procedures and monitoring criteria to reflect all other proposed amendments can be absorbed internally through existing systems.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>The department does not expect the revised proposed amendments to impact other state agencies.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>These regulatory changes are designed to enhance the safety of residents and staff in JCCs, reduce injuries, ensure the involvement of families in the committed youth’s rehabilitation, and help DJJ better monitor the value and effectiveness of existing regulations, thereby promoting public safety. Having clear, concise, consistent, and current requirements across facilities also promotes the health, safety, and welfare of citizens by providing consistent services that will help reduce recidivism and increase successful outcomes for residents.</p>

**Impact on Localities**

Projected costs, savings, fees or revenues resulting from the regulatory change.	None. There are no changes to the information reported at the previous Proposed Stage.
Benefits the regulatory change is designed to produce.	Having clear, concise, consistent, and current requirements across facilities promotes the health, safety, and welfare of citizens by ensuring consistency in services throughout the Commonwealth with the goal of reducing recidivism among residents.

**Impact on Other Entities**

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.	There were no changes to the information reported at the previous Proposed Stage.
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: <ul style="list-style-type: none"> <li>a) is independently owned and operated and;</li> <li>b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</li> </ul>	There were no changes to the information reported at the previous Proposed Stage.
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: <ul style="list-style-type: none"> <li>a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;</li> <li>b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change;</li> <li>c) fees;</li> <li>d) purchases of equipment or services; and</li> <li>e) time required to comply with the requirements.</li> </ul>	Nominal. There were no changes to the information reported at the previous Proposed Stage.
Benefits the regulatory change is designed to produce.	There were no changes to the information reported at the previous Proposed Stage.

**Alternatives to Regulation**

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. If there are no changes to previously reported information, include a specific statement to that effect.*

The department conducted the same analysis as with previous stages to determine whether viable alternatives other than amending the regulation are available for implementation. Based on this analysis, the department believes that the originally and newly proposed amendments are the least burdensome

and most effective means of promoting and accomplishing the Department's mission to protect the public by helping court-involved youth become productive citizens. One alternative to revising the regulation is to leave the language as currently written and allow department procedures to govern the process. This approach is unfavorable because the department would continue to have regulations that do not provide sufficient protections for youth placed in mechanical restraints and guidance for staff applying these devices, do not align with the department's ongoing goals for transformation, and that contain vague, confusing provisions that tend to undermine these goals and reduce staff compliance. The department conducted a comprehensive review of the regulations and procedures and determined that amending the regulation is the least burdensome alternative.

### Regulatory Flexibility Analysis

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding 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. If there are no changes to previously reported information, include a specific statement to that effect.*

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The Department has no additional information to report since the Proposed stage regarding alternative regulatory methods.

### Public Comment

*Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Ensure to 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.*

Commenter	Comment	Agency response
Colleen Miller, <i>disability Law Center of Virginia</i>	The regulation gives youth a stronger voice regarding their care, provides opportunities to maintain and strengthen family relationships, and shows a commitment to a therapeutic environment for committed youth. dLCV supports DJJ's efforts to reduce the use of room confinement and increase the protections for confined youth, as reflected in various amendments.	The department agrees with this summary and appreciates the disAbility Law Center's support of its overall plan to reduce the use of room confinement and increase the protections for confined youth, as set out in the proposed regulatory provisions.
-	Due to the detrimental health effects of room confinement, dLCV recommends the effective date of the revised Section 1140 (room confinement) take effect as early as possible, rather than delaying implementation.	DJJ agrees and has removed the proposed delayed implementation previously proposed in subsection M of Section 1140. All provisions of the regulation will take effect simultaneously after the action completes the standard regulatory process.

-	Boot camps should have the same requirements to maintain a therapeutic community environment as JCCs.	Given the statutory directive that boot camps include military style drill, physical labor, and rigid discipline, the department believes the objectives of a boot camp do not lend themselves to a therapeutic community environment. DJJ declines to adopt this recommendation, but believes that extracting the boot camp provisions from Chapter 71 and creating a new chapter (Chapter 73) to capture these requirements will convey the distinct nature of these programs.
-	The proposed regulation allows lockdowns to “relieve temporary tensions in the facility,” a vague purpose open to interpretation. Lockdowns should be used only when necessary for safety and security, and this vague language should be removed, narrowed or permit lockdowns only when necessary for safety and security.	DJJ agrees and has narrowed the definition of lockdown to apply only for purposes of relieving severe tensions within the facility that may threaten or critically affect staff or residents or threaten public safety (see Section 10).
-	While dLCV advocates for the complete ban of the mobile restraint chair as it is unnecessary (evidenced by the fact that several JDCs do not use it), and dangerous, the additional restrictions are an improvement from the current regulations.	DJJ has not used the restraint chair in its JCC since 2015 for any purpose and hopes to continue employing alternative methods. DJJ understands, however, that extenuating circumstances may necessitate future use of the chair in JCCs and believes that the proposed parameters on restraint chair use will ensure the safety of all affected residents.
-	The provisions prohibiting the use of spit guards and similar devices and establishing additional protections for youth placed in the mechanical restraint chair that was approved for incorporation into the proposed JDC regulations at the <a href="#">May 19, 2019 Board of Juvenile Justice meeting</a> also should be included in these regulations. The JCC regulations should not expand the scope of use for the mechanical restraint chair beyond the current draft language due to the dangers in using this device. Staff should be limited to using this device in very specific circumstances for controlled movement of a resident.	<b>Spit guards:</b> While the board initially agreed to prohibit the use of spit guards in JDCs in May 2019, at a <a href="#">subsequent board meeting</a> , the board reversed this determination and agreed to permit spit guards in JDCs and JCCs, provided the device and the application are compliant with the requirements enumerated in revised proposed subsections (D) and (E) of 6VAC35-71-1180. <b>Restraint chair:</b> The board agreed to adopt the same restrictions on the use of the restraint chair as permitted in the proposed JDC regulations. Staff may use a restraint chair for controlled movement and for other purposes if they observe the requirements set out in revised proposed 6VAC35-71-1203-1208.
-	When residents are confined to a room for more than five days, the applicable review committees should complete case management reviews within two business days due to the detrimental effects of room confinement. The existing	DJJ believes it would be logistically impossible to conduct both reviews within two business days given the parties required to attend, scheduling, and other issues. The proposal requires the division-level review to occur no later than seven business days after the referral. DJJ believes many of the original proposed provisions already provided

	language does not establish a deadline for these reviews.	safeguards intended to minimize the detrimental effects of room confinement.
-	The reports made to an administrator before extending confinement beyond 72 hours under subsection K of Section 1140 should contain a summary of the facts leading to the room confinement in addition to the requirement that the report outline the "steps to resolve the situation."	DJJ believes this proposed amendment is unnecessary. The department's current procedures and protocols require the report to include this information, and the corresponding form contains a field to capture this material.
-	The regulation should identify a response time for non-emergency grievances to ensure that violations of resident's rights are resolved timely.	DJJ agrees with this recommendation. The revised proposal amends § 80(A)(7) to require DJJ's procedures to call for review and resolution of all non-emergency grievances no later than 30 business days after receipt, with resolution deemed to have occurred once the issue has been addressed or corrected by facility staff or referred to an external organizational unit.
-	The regulations should mandate that the due process safeguards afforded to residents when transferred to more restrictive settings (6VAC35-71-710(B)) be documented in writing and given to the resident at orientation and upon a resident's transfer.	DJJ agrees with this recommendation and has amended Section 710 to reflect this suggestion, along with adding language clarifying that the due process safeguards apply to resident reassessments, and not temporary transfers, within the JCC.
-	Section 110 of the regulations should mandate that written procedures that address housing unit visits required of assistant superintendents and community managers specify the required frequency of such visits.	The department disagrees with this recommendation. DJJ believes prescribing the frequency, duration, documentation methods, and activities of these visits is far too prescriptive, even if the mandate directs such information to be included in the written procedures. Such a requirement may reduce staff flexibility and negate the intended purpose of these meetings. The emphasis should be on the quality of these visits rather than the frequency. The revised proposal amends Section 110 by mandating that DJJ's written procedures establish rules regarding these visits without prescribing what those specific rules must entail.

## 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 email to Kristen Peterson@dj.j.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 Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations. 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. \*Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
10	N/A	<b>Definitions:</b> At the proposed stage, various terms were defined in Section 10 including: <b>behavior management</b> ( <i>principles to help residents achieve positive behavior and to address a resident's inappropriate behavior that accord with procedures governing program expectations, treatment goals, safety and security, and the resident's individual service plan</i> ), <b>case record</b> ( <i>written information regarding a resident and family maintained in accordance with procedures</i> ); <b>legal mail</b> ( <i>written communication from designees identified in procedures</i> ); <b>direct care employee</b> ( <i>employee whose primary responsibilities include maintaining the safety and care of</i>	<p>*The revised proposal amends the definitions for <b>behavior management, case record, and legal mail</b> to remove the requirement that the staff comply with written procedures with respect to each such topic.</p> <p>*The proposal amends the definition of <b>direct care employee</b> to also include security employees assigned either primarily or as needed to perform the duties ordinarily assigned to direct care employees, who must receive training in these areas.</p> <p>*The revised proposal narrows the <b>lockdown</b> definition to include lockdowns that relieve temporary tensions in the facility only if such lockdowns threaten or critically affect staff or residents or present a</p>	<p>Removing the reference to written procedures in the definitions for behavior management, case record, and legal mail is intended to eliminate provisions that potentially violate the incorporation by reference rule in <a href="#">1VAC7-10-140</a>. This provision, prohibits agencies from incorporating their own documents by reference unless they establish that the documents or circumstances are unique and highly unusual. Despite striking these provisions incorporating written procedures, staff will remain subject to DJJ's applicable behavior management program, case record, and legal mail procedures consistent with current practices.</p> <p>Expanding the definition of direct care employee to include certain security employees assigned on direct care posts as</p>

	<p><i>residents, implementing the behavior management program, and maintaining security; <b>lockdown</b> (restricting residents to various areas to relieve temporary facility tensions, conduct facility searches for missing tools or other security contraband, or respond to imminent security or safety threats or other unexpected issues that threaten safety); <b>rest day</b> (a minimum 24-hour period when direct care staff have no duties related to JCC operation); <b>timeout</b> (systematic behavior management technique program component designed to reduce or eliminate inappropriate behavior by moving a resident to a location for up to 60 minutes), and <b>vulnerable population</b> (resident assessed reasonably likely to be exposed to attack due to list of exemplary factors (e.g., age, height, and size)).</i></p> <p>At the proposed stage, the existing definition for <b>health care record</b> was stricken in its entirety and replaced with the term <b>medical record</b>.</p> <p>Additional terms defined at the proposed stage included the following: <b>natural support</b> (<i>extended family member, mentor,</i></p>	<p>risk to public safety. Additionally, the revised definition clarifies that lockdowns include those ordered to search for contraband in general, and removes the reference to more specific types of contraband searches (e.g., missing tools, security contraband).</p> <p>The revised proposal amends the definition of rest-day to replace the reference to "direct care staff" therein with "direct care employee."</p> <p>*The proposal amends the <b>timeout</b> definition by striking the language that refers to a timeout period as a program component and by clarifying its goal of eliminating <i>minor</i> inappropriate or problematic behavior. The proposal makes additional technical changes to the definition.</p> <p>The proposal amends the <b>vulnerable population</b> definition to move the list of factors that could be indicative of a resident's vulnerable status to Section 555 (vulnerable population).</p> <p>The revised proposal revives the term "health care record currently defined in Section 10. The proposal amends the definition so that the term encompasses the gamut of documentation of health care-related services provided to a resident (e.g., medical, dental, orthodontic, and mental health).</p>	<p>needed reflects DJJ's recent retitling of its former security staff positions and will enable DJJ to fill direct care posts, as needed.</p> <p>Restricting lockdowns intended to relieve facility tensions only to situations in which the facility safety and security is threatened will ensure that JCCs use this option sparingly. This is consistent with DJJ's current practices and will have no additional impact. Amending the language for lockdowns regarding contraband searches is intended as a clarification and will have no additional operational impact.</p> <p>The change to the definition of <b>rest day</b> is intended to promote clarity, is technical in nature, and will have no additional impact.</p> <p>Striking the language referring to "timeouts" as program components corrects an error, as timeouts are not components of DJJ's current behavior management program. This and additional technical changes are intended for clarity and will have no additional impact.</p> <p>Moving the list of factors potentially indicative of a vulnerable status from the <b>vulnerable population</b> definition demonstrates that such factors are not, in and of themselves, indicative of a vulnerable status, but</p>
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		<p><i>community organization representative, or other person in the community with a relationship with the resident expected to provide postrelease support).</i></p>	<p>*The revised proposal amends the natural support definition to clarify that DJJ must approve this relationship.</p> <p>*The revised proposal replaces references to “QMHP,” (a term that is not defined by regulation) with “<b>mental health clinician</b>” throughout this chapter and adds a definition for this new term (<i>clinician licensed to provide assessment, diagnosis, treatment planning and implementation, and similar counseling services or a license-eligible clinician under supervision of a licensed mental health clinician</i>)</p> <p>The revised proposal makes minor changes of a technical nature to the following terms: active supervision, contraband, direct care, director, direct supervision, direct supervision employee, grievance, health care services, health-trained personnel, immediate family member, individual service plan, on duty, resident, security employee, superintendent, and volunteer or intern.</p>	<p>are merely factors that could suggest vulnerability. This change will have no additional operational impact.</p> <p>Reviving and amending the definition of <b>health care record</b> is intended to clarify which records constitute health care records, and will have no additional impact on staff or facility operations.</p> <p>Changes to the natural support definition are intended to provide clarity and will have no additional operational impact.</p> <p>The Virginia legislature recently amended the statutory definition for “QMHP” so that the term captures a broader category of mental health professionals. The most recent statutory definition encompasses individuals who are not clinicians, prompting DJJ to develop a new term for clinicians employed in the mental health field in JCCs who are responsible for conducting assessments and making other determinations related to a resident’s mental health needs. Because DJJ currently requires mental health professionals serving its JCCs to meet this more rigorous definition, this change will have no additional impact.</p> <p>Minor technical amendments made to definitions will have no impact on facility staff or operations.</p>
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10	6VAC35-73-10	<b>Definition of boot camp:</b> At the proposed stage, the definition of boot camp ( <i>short-term juvenile residential program incorporating military training and discipline, including sanctions for institutional offenses involving physical activity</i> ) was moved from Section 1230 to Section 10.	The revised proposal moves all of the boot camp provisions, including the applicable boot camp definition, into a new regulatory chapter. The substantive definition of boot camp adopted at the proposed stage is retained in 6VAC35-73-10 with several minor technical changes.	Moving the boot camp definition into this new regulatory chapter is intended to clarify the distinction between boot camp programs and programs operated in juvenile correctional centers. Because no boot camps currently operate in the Commonwealth of Virginia, these changes will have no additional impact.
N/A	71-10 ( <i>definition of juvenile correctional center</i> ) 71-15	<b>Definition of juvenile correctional center -</b> At the proposed stage, “juvenile correctional center,” “JCC” or “facility” was defined as a public or private facility operated by or under contract with DJJ where care is provided to residents under the direct care of DJJ 24 hours a day, seven days a week. The term did not include facilities operating direct care alternative placement programs.	*The revised proposal removes the provision excluding facilities at which alternative direct care programs are operated from the definition of JCC, but clarifies in a new Section 15 (below) that the Regulations Governing Juvenile Correctional Centers in Chapter 71 applies exclusively to state-operated JCCs and privately operated JCCs governed by the Juvenile Corrections Private Management Act, and not to juvenile boot camps or locally, regionally, or privately operated alternative direct care programs.	This change seeks to preserve the definition of JCC currently in place while narrowing the scope of the chapter so that facilities operating alternative direct care programs and certain other facilities are not subject to these regulatory provisions. DJJ frequently contracts with JDCs and residential treatment centers that agree to house DJJ-committed youth. These alternative facilities have different staff, physical plant, and other resource needs that may make it difficult to comply with this chapter. Alternative programs are subject to other regulatory chapters. Changing the JCC definition to exclude such programs could unintentionally invalidate DJJ's authority to use these facilities as alternatives to JCCs.
10		<b>Definitions of mechanical restraint; mechanical restraint chair, protective devices, and spit guards:</b> At the proposed stage, the mechanical restraint definition set out an all-inclusive list of mechanical restraint	*The revised proposal amends the definition of <b>mechanical restraint</b> to remove anti-mutilation gloves, helmets, spit guards, and restraint chairs from the all-inclusive list and sets out separate definitions for these terms. The revised proposal also strikes the	Changing the all-inclusive nature of the list of mechanical restraints allows for additional eligible items to be included as they are adopted or utilized in the facility. Removing mechanical restraint chairs and spit guards from the definition of

		<p>devices, which included handcuffs and covers, leather restraints, waist chains, leg irons, restraining belts and straps, helmets, spit guards, anti-mutilation gloves, and restraint chairs.</p>	<p>language indicating that this list is all-inclusive. “Mechanical restraint chair” is defined as an approved chair restricting movement or voluntary functioning of a portion of a person’s body to control his activities while seated. “Protective device” means an approved device placed on a resident’s body as protection from injury. Spit guard means a protective device designed to prevent the spread of communicable diseases resulting from spitting or biting.</p>	<p>mechanical restraints allows DJJ to classify these items separately from mechanical restraints, thereby affording them different treatment. Impacts of these changes are discussed in greater detail as part of the summaries to Sections 1180 through 1208.</p>
10	N/A	<p><b>Definition of room confinement:</b> At the proposed stage, the regulation defined room confinement as the involuntary placement of a resident in a room except during normal sleeping hours and the imposition of additional restrictions to ensure resident, staff, and other’s safety, ensure the facility’s security, or protect facility property. Timeouts and confinement resulting from lockdowns both were excluded from this definition.</p>	<p>*The revised proposal expands the exclusions from the room confinement definition to add confinement for the purposes of: (i) allowing residents to shower safely; (ii) conducting facility counts; (iii) and shift changes. The revised proposal also moves the three permissible purposes of room confinement from this definition to the section addressing room confinement (§ 1140).</p>	<p>Since the proposed stage, DJJ has identified several additional scenarios necessitating temporary confinement in order to enable the safe and seamless execution of staff duties within housing units. Without expanding the definition to exclude these types of confinement, staff would be precluded from confining residents for these purposes. This change is consistent with current practices.</p>
N/A	71-15	<p><b>Applicability:</b> At the proposed stage, Section 10 defined the term “JCC” to exclude facilities where direct care alternative placement programs were operated.</p>	<p>*The revised proposal modifies the definition of JCC so as not to expressly exclude alternative direct care programs. Rather, the revised proposal adds a new Section 15 that narrows the scope of this regulatory chapter to state-operated JCCs and privately operated JCCs governed by the Juvenile Corrections Private Management Act. The</p>	<p>Changes made at the revised proposed stage are intended to convey the fact that alternative direct care programs operated by entities outside DJJ (e.g., CPPs, detention reentry programs, etc) and juvenile boot camps are not subject to the requirements of this chapter. Alternative direct care programs are established by contract</p>

			revised proposal expressly excludes juvenile boot camps and locally, regionally, or privately operated alternative direct care programs from the reach of this chapter.	and governed by contractual provisions and other regulatory chapters. This change seeks to clarify DJJ's current practices and will have no additional impact. Juvenile boot camp provisions previously contained in this chapter (§§ 1230 through 1270) are being shifted to a new chapter.
71-30	N/A	<b>Certification:</b> At the proposed stage, subsection A required the JCC to maintain a current certification showing compliance with the certification regulations (6VAC35-20). Subsection B required the JCC to demonstrate compliance with this chapter, other applicable board regulations, and applicable statutes and regulations, as interpreted by the compliance measures approved according to board regulations or DJJ procedures.	The revised proposal amends subsections A and B to clarify that the duties of maintaining certification and showing compliance rest with the JCC administration, rather than with the JCC. *The proposal removes the directive that JCCs must comply with the assessment and compliance measures approved in accordance with board regulations or DJJ procedures.	Replacing "JCC" with "JCC" administration reflects the idea that JCCs are entities and not persons with the ability to act. This non-substantive change provides clarity and will have no operational impact. The mandate to comply with assessment and compliance measures in DJJ procedures violates the incorporation by reference rule in 1VAC7-10-140. Removing this mandate is not expected to impact facility staff or operations. The agency's authority to provide interpretative guidance will remain intact, but such authority will not be mandated by regulation.
71-50	N/A	<b>Variances:</b> At the proposed stage, subsection A gave the DJJ Director or his designee the authority to request a variance, limited eligibility for variances to noncritical regulatory provisions, and allowed for the approval of variances on a permanent or temporary basis as provided in the certification regulations and in accordance with procedures.	*The revised proposal removes the language in subsection A requiring compliance with procedures	The provision directing the request to be granted only in accordance with procedures violates the incorporation by reference rule in 1VAC7-10-140. Removing this provision is not expected to impact the facility's operations. DJJ's procedures on variances are administrative in nature and have no bearing on the actual process for obtaining a variance.

71-60	N/A	<p><b>Serious incident reports:</b> At the proposed stage, the proposal modified the catchline to “Incident reports” to provide a more generalized heading. The proposal removed the requirement in subdivision D(6) that the incident report identify the name or identifying information of the person to whom the report was made, instead allowing staff to identify the law enforcement agency or local department of social services to which the report was made. The proposal eliminated the unnecessary requirement of obtaining the name of the individual to whom the report was made, particularly in instances in which the calls would be routed to a local social service division.</p>	<p>*At the revised proposed stage, the proposal removes the requirement in subsection A that incidents be reported “in accordance with procedures,” and replaces it with new language in a new subsection E directing DJJ to establish written procedures to address reportable serious incidents, the process for notifying the applicable parties, and the steps for completing and submitting the mandatory written report. The revised proposal also directs facility administration to ensure these procedures are accessible to staff.</p> <p>*In addition, the revised proposal removes the requirement that “all other situations required by procedures be subject to the incident reporting requirements in subsection A. *Finally, the revised proposal adds to the list of incidents subject to the reporting requirements in subsection A, all mechanical restraint chair use, regardless of its duration or purpose. The proposal makes additional, nonsubstantive changes.</p>	<p>The language requiring compliance with procedures for incident reporting and to determine which incidents should be reported violates 1VAC7-10-140. Removing this directive eliminates the concern. The added subsection E directing DJJ to establish procedures notifies regulators that DJJ has procedures in place regarding serious incidents, but does not make compliance with those procedures a regulatory requirement.</p> <p>Adding mechanical restraint chair use to the list of incidents subject to the reporting requirements in this section will ensure that all such incidents are documented sufficiently and can be monitored by DJJ and the board. Use of force incidents are considered “non-critical” under DJJ’s current reporting structure and are subject to less stringent reporting requirements. Therefore, the proposal will impose additional reporting requirements on staff and may impact operational resources. Additional nonsubstantive changes will have no impact on facility operations.</p>
71-70	N/A	<p><b>Suspected child abuse or neglect:</b> At the proposed stage, the proposal expanded the entities to which suspected child abuse or neglect cases may be reported to include the DSS’s toll-free child abuse and</p>	<p>*The revised proposal removes the two provisions directing that the reports made to DSS, the director or the director’s designee, the CSU, and the parent or legal guardian be made <b>in accordance with written procedures.</b></p>	<p>These changes are intended to address the improper incorporation by reference issue. Removing these references will relieve JCC certification staff from having to verify compliance with each of the applicable</p>

		<p>neglect hotline. The proposal also clarified that the report must be made to the supervising CSU. Additionally, the proposal replaced the reference to the CPS unit with DSS.</p>	<p>The revised proposal makes additional nonsubstantive changes.</p>	<p>requirements in the procedures. Staff will remain subject to the procedural requirements consistent with DJJ's current practices.</p>
71-75	N/A	<p><b>Reporting criminal activity:</b> At the proposed stage, subsection B required the superintendent to notify the appropriate persons or agencies, including law enforcement and the local department of social services' CPS division, if applicable and appropriate, of suspected criminal violations by residents or staff. The notification had to accord with procedures.</p>	<p>The revised proposal clarifies that the notification obligation may fall on the superintendent's designee or the superintendent. *The proposal also removes the requirement that the notification accord with procedures. The revised proposal makes additional technical changes.</p>	<p>Allowing the superintendent's designee to provide the notification will give the agency additional flexibility when making these reports. Removing the reference to procedures will resolve the incorporation by reference issue. JCC certification staff will not need to verify compliance with the applicable procedure, but staff will remain subject to the procedural requirements consistent with DJJ's current practices.</p>
71-80	N/A	<p><b>Grievance procedure:</b> At the proposed stage, the regulation required the superintendent or the superintendent's designee to ensure the JCC complies with DJJ's grievance procedure. The proposal required these procedures to provide for, among other requirements, (2) investigation of the grievance by an impartial employee who is not the subject of the grievance and (3) documented, timely responses to all grievances with the rationale supporting the decision. Although not a new requirement, subdivision A(7) mandated that the procedure provide for immediate review of</p>	<p>*The revised proposal eliminates the provision directing the superintendent/designee to ensure the JCC's compliance with DJJ's procedure, instead requiring DJJ to have a grievance procedure in place that includes certain specified information. The procedure shall provide for immediate review of grievances that pose an immediate risk of harm to a resident (formerly referenced as emergency grievances). *The revised proposal also requires all other grievances be reviewed and resolved as soon as practicable but no later than 30 business days after receipt of the grievance. *The proposal provides that a grievance</p>	<p>By eliminating the superintendent's obligation to ensure the JCC's compliance with DJJ's grievance procedure, the proposal resolves the incorporation by reference issue and relieves DJJ's certification unit from having to assess compliance with the grievance procedure.</p> <p>The new 30-day cap on non-emergency grievances is intended to address a deficiency in this section identified by the disAbility Law Center of Virginia. Staff have no regulatory deadline for resolving non-emergency grievances, which may result in unnecessary delays in conducting such reviews. The</p>

		<p>emergency grievances with resolution as soon as practicable, but no later than 8 hours after initial review. At the existing and proposed stage, the regulation did not address the deadline for resolving other grievances. Subsection C also required the grievance procedures to be (iii) available, rather than posted, in an area easily accessible to parents and legal guardians.</p>	<p>may be deemed resolved once facility staff has corrected or addressed the issue or referred it to an external organizational unit.</p>	<p>proposal requires such grievances be resolved within 30 business days and treats such grievances as resolved once the issue has been addressed or corrected by facility staff or referred to an external organizational unit. DJJ expects this change to result in a minimal decrease in the number of days taken to resolve non-emergency grievances.</p>
71-90	N/A	<p><b>Student Government Association:</b> At the proposed stage, the action modified the catchline to replace the Resident Advisory Committee with the newly established SGA and replaced provisions previously applicable to the Resident Advisory Committee with new requirements for the SGA. Subsection A directed the JCC to maintain an SGA to provide leadership and civic engagement opportunities for residents and to allow them to communicate with leadership. Subsection D required the JCC to provide the SGA with additional opportunities to meet with their constituents. Subsection E required the facility to maintain and post the current constitution and bylaws in each housing unit and to give residents an overview of SGA and these documents.</p>	<p>The revised proposal replaces certain JCC/facility references with "JCC administration" in subsections A, D, and E, thereby imposing the requirements to maintain the SGA, provide opportunities for SGA meetings, and maintain copies of the materials on facility administration, rather than the JCC.</p>	<p>These amendments are intended to reflect the fact that a JCC is an entity and not a person capable of acting. The duty to act is now imposed on one or several individuals rather than on the entity. This non-substantive change is intended to clarify and simplify the regulation and will have no additional impact.</p>

71-110	N/A	<b>Organizational communications:</b> At the proposed stage, subsection B required the JCC to ensure that the assistant superintendent and the community manager assigned to each housing unit make regular, consistent, and frequent visits to each unit under their supervision, in accordance with procedures and to meet certain stated objectives. Subsection D directed the JCC to establish procedures governing these required visits and specifying the required duration, information and activities to be observed, and means of documenting such visits.	The revised proposal amends subsection B to require the JCC administration (rather than the JCC) to establish procedures requiring the assistant superintendent and community manager assigned to each housing unit to make regular, consistent, and frequent visits to each housing unit under their jurisdiction without specifying the required duration, activities observed, and documentation for these visits. *Instead, the revised proposal imposes a general requirement that such procedures establish rules regarding these visits. *The revised proposal strikes the entirety of subsection D.	Because a JCC is an entity and not a person, the proposal replaces the personifying reference to JCCs in subsection B with the "JCC administration." This nonsubstantive change will have no additional impact. By directing the JCC administration to establish procedures that address the rules regarding these visits, the facility administration will have the discretion to establish appropriate parameters for these visits. These changes are intended to grant JCC administration greater flexibility and limit the burden on assistant superintendents and community managers.
71-120	N/A	<b>Community relationships:</b> At the proposed stage, the action directed the JCC to designate a community liaison and, if appropriate, a community advisory committee to connect the facility and the community.	The revised proposal imposes this requirement on the JCC administration, rather than the JCC. The revised proposal makes other nonsubstantive amendments.	Changing the reference from the JCC to the JCC administration acknowledges that JCCs are entities incapable of fulfilling these requirements. This and additional nonsubstantive changes will have no operational impact.
71-140	N/A	<b>Background checks:</b> At the proposed stage, subsection A required all persons who (i) accept a position of employment or (ii) provide contractual services directly and regularly to a resident and who will be alone with a resident to undergo certain background checks in accordance with § 63.2-1726 of the Code. Subsection B allowed for the hiring	The revised proposal removes the reference to § 63.2-1726 in subsection A. *The revised proposal allows JCC employees to be hired pending the results of the fingerprint checks provided all other applicable components of subsection A have been completed. Subsection A requires completion of a reference check, criminal history record check, fingerprint checks with	Section 63.2-1726 does not impose background check requirements on juvenile correctional facilities. Language requiring such checks to accord with that statutory provision is confusing. The proposal removes this language. Because these background checks will continue to be required, however, this change is not expected to impact facility operations or staff.

		<p>of employees pending the fingerprint check results provided (1) all other applicable components of this section are complete. Subsection C required staff to retain documentation of this section.</p>	<p>the State Police and FBI, central registry check with CPS, and a driving record check, if applicable to the individual's job duties. Finally, the revised proposed subsection C directs the JCC administration to retain documentation of compliance with this section. The proposal makes other, minor nonsubstantive changes.</p>	<p>The proposal modifies the requirements for employees to be hired pending the results of the fingerprint checks. This change is intended to correct an error identified at the proposed stage. The existing provision requires all applicable components of "this subsection" (subsection B) to be completed. This language is erroneous and redundant because the introductory clause requires the components of subsection B be satisfied before staff may take advantage of the fingerprint exception. Instead, the proposal seeks to ensure that employees hired under the fingerprint exception have undergone all other required background checks. Although neither the existing language nor the draft language at the proposed stage reflect the intent of this regulatory provision, historically, DJJ has interpreted this provision to require all other background checks be completed before the fingerprint exception in subsection B may be used. The revised proposed amendment will have no additional impact on facility operations. Replacing the JCC reference in subsection C with "JCC administration" and other nonsubstantive changes to this section also will have no impact.</p>
71-160	N/A	<p><b>Required initial training:</b> At the proposed stage, subsection B required direct care and security employees to</p>	<p>*The revised proposal adds as a component of the training on the residents' rule of conduct in subdivision B(4), training on the</p>	<p>The amendment which adds training on the disciplinary process to subdivision B(5) is intended to reflect an identical requirement</p>

		<p>complete at least 120 hours of training in a specified list of topics including, under subdivision B(4) the residents' rules of conduct and rationale for the rules, and under subdivision B(5) DJJ's behavior interventions including, if applicable to staff's duties, training in physical and mechanical restraints. Subsection E required employees who administer medication to pass a medication management training program approved by the Board of Nursing or be certified by the Commonwealth to administer medication.</p>	<p>disciplinary process per § 1110. *The proposal also adds, as a required training topic regarding DJJ's behavior interventions under subdivision B(5), training on using protective devices and mechanical restraint chairs. The proposal amends subsection E to require medication administrators who pass a medication management training program or are <b>licensed</b>, rather than certified, to administer the medication. The revised proposal makes additional technical changes.</p>	<p>regarding training set out in § 1110. Because the regulation already requires this training, the proposed change will have no additional impact. Expanding training on DJJ's behavior interventions to include training on the use of the mechanical restraint chair and protective devices may necessitate additional training for certain designated staff, but will ensure that such staff have the knowledge needed to safely apply these measures. The amendment to subsection E is intended to correct an error made at the proposed stage, as the Commonwealth is the licensing authority for staff administering medication. These and other technical changes will have no impact.</p>
71-170	N/A	<p><b>Retraining:</b> At the proposed stage, subsection C required direct care employees, security employees, and direct supervision employees to complete annual retraining in nine enumerated topics. Subsection I required all staff authorized to use mechanical restraints to receive training needed to maintain current certification.</p>	<p>The revised proposal amends subsection C to require such staff to complete annual <b>refresher</b> training in the nine enumerated topics. The proposal amends proposed subsection I to require retraining for staff approved to apply protective devices or the mechanical restraint chair, as well as restraints. The proposal makes additional technical changes.</p>	<p>The amendment requiring refresher training in subsection C is intended to clarify that the annual topics need not be as extensive as initial training. Expanding training to address restraint chairs and protective devices may necessitate additional training for certain designated staff, but will ensure that such staff have the knowledge needed to safely apply these measures. Other technical amendments will have no impact.</p>
71-180	N/A	<p><b>Code of ethics:</b> At the proposed stage, the action requires the facility to make a written set of rules available to all employees that</p>	<p>The revised proposal changes the obligation to make this information available so that it rests with the facility administration, rather than the facility.</p>	<p>Replacing the "JCC" reference with "JCC administration" acknowledges that the duties imposed by this section fall on JCC administration. This</p>

		describes acceptable standards of conduct for all employees.		nonsubstantive change will have no impact on facility operations.
71-185	N/A	<b>Employee tuberculosis screening and follow-up:</b> At the proposed stage, subsection D prohibited employees and certain contractors suspected of having communicable tuberculosis from returning to work or having contact with staff or residents before receiving a determination from a physician or health-trained personnel that the individual does not have such TB.	The revised proposal clarifies that only a licensed physician or licensed medical provider is authorized to make such determination.	This change is consistent with current DJJ practices, as well as accepted medical practices and is intended to provide clarification. The change is not expected to impact staff or facility operations.
71-220	N/A	<b>Selection and duties of volunteers and interns:</b> At the proposed stage, subsection A required a JCC that uses volunteers or interns to implement written procedures governing their selection and use. Subsection D prohibited volunteers and interns from being responsible for the duties of direct care or direct supervision staff and from being alone with residents.	*The revised proposal amends subsection A to require JCCs using volunteers or interns to have procedures <b>in place</b> , rather than requiring the facility to implement such procedures. The proposal makes other nonsubstantive changes.	Directing the facility to implement procedures is akin to requiring the facility to comply with such procedures, which runs afoul of the incorporation by reference rule. This change will prevent Certification staff from having to assess compliance with related procedures. Other nonsubstantive changes will have no additional impact.
71-260	N/A	<b>Maintenance of records:</b> At the proposed stage, subsection B required JCC staff to retain separate medical records, including behavioral health records and to maintain such records in accordance with § 1020 and applicable statutes and regulations. The provision allowed behavioral medical	*The revised proposal removes the requirement in subsection C that such records be kept current and uniformly in accordance with procedures. The proposal adds language in subsection D requiring DJJ to have procedures in place for maintaining and managing case records in JCCs. The proposal replaces references to medical records with health care	The amendments to subsections C and D avoid violating the incorporation by reference rule and give DJJ the authority to determine how case records should be maintained in its procedures. Staff will continue to be subject to such procedures but will not be under a regulatory mandate. Further, the change will relieve DJJ certification staff from

		<p>records to be kept separately from other medical records.</p> <p>Subsection C required case records and medical records be kept current and uniformly in accordance with procedures.</p> <p>Subsection D required procedures for managing resident written records to address confidentiality, accessibility, security and retention of records pertaining to residents and certain specific subcategories of such information.</p>	<p>records throughout this section in order to correct erroneous amendments made at the proposed stage. The proposal makes additional technical changes.</p>	<p>auditing to procedures regarding case record maintenance and management. Replacing references to medical records with health care records is intended to capture the entire compilation of health-related records, including medical, dental, and behavioral health records. In so doing, the revised proposal retains the regulatory provisions as they currently exist and will have no impact. DJJ does not expect the additional technical changes made here to impact facility operations.</p>
71-270	N/A	<p><b>Face sheet:</b></p> <p>Subsection B of the current regulation requires the face sheet be updated when changes occur and maintained in accordance with procedures. No changes were made to this subsection at the proposed stage.</p>	<p>The revised proposal requires the face sheet to be updated when changes occur and maintained in the resident's record. *The face sheet no longer needs to be maintained in accordance with procedures.</p>	<p>Removing the reference to procedures resolves the incorporation by reference issue and will relieve certification staff from assessing compliance with procedural requirements. DJJ staff will remain subject to any procedural requirements consistent with agency practices. Thus, this change will have no other impact.</p>
71-280	N/A	<p><b>Buildings and inspections:</b> At the proposed stage, subsection B required JCCs to maintain a current copy of their annual fire prevention inspections indicating that the buildings and equipment accord with the Statewide Fire Prevention Code. If the proper authorities do not perform the inspection, the facility shall maintain documentation of its request to schedule the inspection and any necessary follow up.</p>	<p>The revised proposal imposes the requirements in subsections B and C on the facility administration, rather than the facility. The revised proposal makes additional, minor nonsubstantive changes.</p>	<p>Replacing "facility" with "facility administration" acknowledges that facilities are not persons, and the duties imposed by this section must be carried out by JCC administration. These and other nonsubstantive changes will have no additional impact.</p>

		Subsection C required the facility to maintain a copy showing compliance with the annual inspection.		
71-290 –	N/A	<b>Equipment and systems inspections and maintenance:</b> At the proposed stage, various requirements were imposed on the facility, including, in subdivision (A)(1), a duty to maintain a list of all safety, emergency, and communications equipment and the schedule for inspection and testing.	The revised proposal clarifies that the responsibility for maintaining the list required in subdivision (A)(1) rests with the facility administration rather than the facility. The proposal makes several additional technical changes.	Replacing “facility” with “facility administration” acknowledges that JCCs are not persons, and the duties imposed by this section are imposed on administration in the facility, rather than the facility itself. This nonsubstantive change will have no impact on facility operations. Neither will the technical changes made here.
71-320	N/A	<b>Lighting:</b> At the proposed stage, subsection D mandated that operable flashlights or battery-powered lanterns be accessible to security staff and direct care staff on duty.	The revised proposal clarifies that the items shall be accessible to each security and direct care <b>employee</b> on duty, rather than referencing security and direct care staff.	The revised proposal is a nonsubstantive change to replace references to security and direct care staff with security and direct care employees. This change reflects the terminology defined in Section 10, and is not expected to have any additional impact.
71-360	N/A	<b>Sleeping areas:</b> At the proposed stage, subsection B required double decker beds in JCCs established, constructed, or structurally modified after 7/1/81 to be at least five feet apart at the head, foot, and sides.	The revised proposal replaces the reference to “double decker” beds with “bunk beds,” and makes additional technical changes.	The proposed changes are intended to provide clarity and will have no additional impact.
71-400	N/A	<b>Smoking prohibition:</b> At the proposed stage, the proposal prohibited residents from using, possessing, purchasing, or distributing tobacco or nicotine vapor products. Staff, contractors, interns, and visitors were prohibited from using tobacco products, including cigarettes,	*The revised proposal adds alternative nicotine products as defined in § 18.2-371.2 of the Code, CBD oil or THC-A as defined by § 54.1-3408.3 of the Code, and other substances prohibited by state or federal law to the list of substances prohibited for use, possession, purchase, or distribution by residents and from	By expanding the prohibition to include alternative nicotine products, CBD oil, and other state or federally prohibited substances, and extending these expanded prohibitions to visitors, contractors, and interns alike, the revised proposal will reduce the likelihood of these prohibited substances falling into the hands of

		cigars, pipes and bidis, smokeless tobacco, such as chewing tobacco or snuff, and vapor products, such as electronic cigarettes, electronic cigars, electronic cigarillo, electronic pipes, or similar products or devices on the premises.	use by staff, contractors, interns, or visitors in any area on the premises. The various examples of prohibited products that were listed at the proposed stage are stricken. The revised proposal also changes the catchline.	residents. The revised language more closely tracks the language in state statute, is clearer, and may result in enhanced compliance.
71-410	N/A	<b>Space utilization:</b> At the proposed stage, subsection A directed the facility to provide various spaces, including, for example, indoor and outdoor recreation areas with appropriate recreation materials, as well as a designated visiting area allowing informal communication and opportunities for physical contact between residents and visitors in accordance with procedures. Subsection C allowed spaces or areas to be used interchangeably, but required such spaces to be in functional condition for the intended purpose.	Subsection A of the revised proposal places the obligation to provide these spaces on the JCC administration, rather than the facility itself. *The revised proposal clarifies in subdivision (A)(7) that the designated visiting area need allow only for opportunities for limited, monitored physical contact and removes the mandate that the area accord with procedures. The revised proposal amends the language in subsection (C) to allow spaces to be used for multiple purposes, rather than interchangeably.	Replacing references to “the facility” with “the facility administration” or “JCC administration” is a nonsubstantive change intended to convey the fact that a “facility,” is an entity incapable of performing actions. This non-substantive change will have no additional impact. Removing the reference to procedures in subdivision (A)(7) will resolve a potential incorporation by reference issue. DJJ’s existing procedures require staff to provide opportunities for limited, monitored physical contact; conforming the regulation to this change, therefore, will have no additional impact. The amendment to subsection C is a nonsubstantive change intended to simplify the provision and will have no additional impact.
71-420	N/A	<b>Kitchen operation and safety:</b> At the proposed stage, subsection A required the facility to have a food service operation maintenance plan addressing certain topics. Subsection B required the facility to follow procedures governing access to areas where food or	The revised proposal replaces all references to the “facility” throughout this section with “facility administration.” *The revised proposal also amends subsection B to require the facility to have procedures in place, rather than following such procedures.	The revised proposal’s use of the term “facility administration” is a nonsubstantive technical change intended for clarification and will have no impact on facility operations or staff. The language directing the facility to have, rather than follow, procedures will prevent these applicable procedures

		utensils are stored and the inventory and control of culinary equipment that residents may access.		from being treated as an enforceable part of the regulation.
71-430	N/A	<b>Maintenance of the buildings and grounds:</b> Subsection C currently requires each JCC to have a written plan to control pests and vermin, provides that any conditions conducive to harboring pests and vermin be eliminated immediately, and directs the facility to document such efforts.	The revised proposal transfers the documentation obligation from the facility to the facility administration.	Use of the term "facility administration" is a nonsubstantive technical change intended to clarify the provision. This and other minor technical changes will have no impact on facility operations or staff.
71-440	N/A	<b>Animals on the premises:</b> At the proposed stage, subsection A required animals maintained on the premises be housed a reasonable distance from food preparation areas and a safe distance from water supplies, among other requirements.	*The revised proposal requires animals maintained on the premises be <b>kept</b> a reasonable distance from <b>eating</b> and food preparation areas.	At the proposed stage, the drafters inadvertently removed eating areas from the list of areas from which such animals must maintain a reasonable distance. The revised proposal corrects this unintentional omission and clarifies that any animal the facility maintains may not be kept in areas where residents eat or areas where resident meals are prepared. This change is intended as clarification and will have no additional impact on facility operations or staff.
71-450	N/A	<b>Fire prevention plan:</b> The existing regulation requires each JCC to develop and implement a fire prevention plan providing an adequate fire protection service. No amendments were made at the proposed stage.	The revised proposal places the obligation to develop and implement the fire prevention plan on the JCC administration, rather than the JCC.	Replacing the reference to "JCC" with "JCC administration" constitutes a nonsubstantive technical change intended to clarify the provision. This amendment is not expected to impact facility operations or staff.
71-460	N/A	<b>Emergency and evacuation procedures:</b> At the proposed stage, Subsection F directed the facility, when	*The revised proposal directs the information required in subsection F be reported to the parents or legal guardians <b>of all</b>	Requiring certain emergencies be reported to parents or legal guardians of every resident ensures that when facility staff

		<p>encountering an emergency or other condition that may jeopardize the health, safety, and welfare of the resident, first to respond and stabilize the emergency, and once stabilized, to report the emergency to the parent or legal guardian, the director or the director's designee, and the Board as soon as possible, but no later than 72 hours after stabilizing the incident. Subsection H required staff to communicate the resident's duties regarding these to all residents within seven days after admission or after a substantive change in the procedures. Subsections D, E,F,I, and K imposed certain requirements on the "facility" or the "JCC" related to documentation, acting, reporting, conducting and designating.</p>	<p><b>residents</b>, and not just those involved in or directly impacted by the emergency. *The revised proposal requires this information be reported to the parent or legal guardian, director (or the director's designee), the applicable CSU, and the board, all in accordance with the serious incident reporting requirements imposed in Section 60 of the regulation (i.e., within 24 hours of the incident's occurrence), rather than within 72 hours of stabilizing the incident. The revised proposal also amends subsection H to clarify that the residents' duties in implementing the emergency and evacuation procedures shall be communicated to all residents within seven days of a substantive change in the procedures, and within seven days of their admission. The revised proposal amends subsections D, E, F, I, and K to impose the specified requirements on the facility administration, or JCC administration, rather than on the JCC. The revised proposal makes additional technical changes.</p>	<p>encounter such emergencies, all parents or legal guardians are notified. This is consistent with DJJ's current practices and therefore, will impose no additional duties on DJJ or JCC staff. The amendment directing such information to be conveyed within 24, rather than 72 hours, may impose additional burdens on staff but will ensure that the necessary parties are made aware of these emergencies in a timely manner. The proposal requiring changes to the residents' emergency and evacuation duties be communicated to the resident within seven days clarifies current facility practices and will have no additional impact. Replacing references to "the JCC" with "JCC administration," like the other technical changes made to this section, will have no impact on facility operations or staff.</p>
71-470	N/A	<p><b>Security procedures:</b> The regulation currently requires each JCC to follow security procedures related to certain security issues. No changes were made to this section at the proposed stage.</p>	<p>*The revised proposal requires the JCC to have security procedures in place related to certain security issues, rather than requiring the facility to follow such procedures. In so doing, the amendment resolves the improper incorporation by reference issue.</p>	<p>This change will relieve DJJ's Certification staff from having to audit to the applicable security procedures. While these procedural requirements will no longer have the enforceability of the regulation, facility staff will continue to be subject to the procedural requirements until the</p>

				procedure is amended. The change will have no additional impact.
71-480	N/A	<p><b>Searches of residents:</b> At the proposed stage, subsection A allowed JCCs to conduct searches of residents only to maintain facility security and control contraband and only in a manner that, to the greatest extent possible, protects the dignity of the resident. Subsection B required procedures to govern searches of residents, including patdowns and frisks, strip searches, and body cavity searches, and required such procedures to: 1) restrict the authority to conduct searches to authorized personnel who have received the required training; 2) prohibit staff from touching residents more than needed for the search; and prohibit staff from searching or physically examining transgender or intersex residents solely to determine their genital statuses. -Subsection C required patdown and frisks to accord with procedures. -Subsection D required that strip searches and visual vaginal and anal cavity inspections be conducted with a staff witness in an area ensuring privacy in accordance with procedures. -Subsection E required residents to be transported to a</p>	<p>The revised proposal amends subsection A to allow such searches only for the purposes of maintaining facility security and controlling contraband while, to the greatest extent possible, protecting the resident's dignity.</p> <p>*The revised proposal removes the language in subsection B that requires procedures to proscribe the requirements for searches, instead of imposing those same requirements outright. The proposal also replaces references to the facility with "facility staff." *The revised proposal amends subsection D (<i>former subsection E</i>) to establish rules when exigent circumstances creating a potential threat to the health of a resident necessitate manual or instrumental anal or vaginal cavity searches. In these circumstances, the searches shall be conducted by a qualified medical professional.</p>	<p>The amendment to subsection A brings the language back to its original form and therefore, will have no impact on facility operations or staff. Removing the mandates in subsections B and C (<i>former subsection D</i>) that the facility comply with procedures is intended to avoid violating the incorporation by reference rule. Staff will continue to be subject to such procedures, but compliance will not be enforceable by regulation.</p> <p>Amending subsection D to establish requirements for exigent circumstances necessitating anal or vaginal cavity searches fills a gap in the regulatory language that otherwise inadvertently may have given JCC facility staff the authority to conduct these types of searches. This is consistent with DJJ's current practices, and will have no additional impact on facility operations, staff, or residents.</p>

		medical facility when anal or vaginal cavity searches are deemed necessary, except in exigent circumstances potentially threatening the resident's health.		
490	N/A	<b>Communication systems:</b> At the proposed stage, subsection A required at least one operable non pay telephone accessible to staff in buildings where residents sleep or take part in programs.	The revised proposal makes a minor technical change to subsection A.	Because the revised proposal makes a technical amendment, the change will have no impact on facility operations or staff.
500	N/A	<b>Emergency telephone numbers:</b> At the proposed stage, subsection B required an emergency telephone number be provided to residents and the adults responsible for their care if residents are offsite and not supervised by direct or security staff or law enforcement.	The revised proposal amends subsection B by replacing references to direct care "staff" and security "staff" with direct care "employees" and security "employees."	The changes in terminology made at the revised proposed stage are technical in nature and intended to reflect similar changes made to the definitions section and throughout this chapter. These amendments are not expected to impact facility operations or staff.
510	N/A	<b>Weapons:</b> At the proposed stage, the regulation prohibited firearms or other weapons on the JCC's premises <b>or</b> during JCC-related activities, unless authorized in written procedures or by the director or the director's designee.	*The revised proposal replaces the exceptions to the rule prohibiting firearms on JCC premises or during JCC-related activities to allow an exception only when: 1) the weapon belongs to a law-enforcement officer and is either (i) secured in a locked cabinet; (ii) secured in the officer's vehicle trunk; or (iii) on the premises in response to a request for law-enforcement intervention in an emergency; or 2) if the director or director's designee authorizes it on the premises.	The revised proposal removes the reference to procedures that violates the incorporation by reference rule and adds language clarifying exceptions to the weapons prohibition. The proposal gives the DJJ director greater discretion in permitting weapons on campus than currently authorized in DJJ's procedures. DJJ's discretion to impose additional restrictions on weapons on the JCC premises by procedure will remain intact.
520	N/A	<b>Equipment inventory:</b> Currently, the facility shall follow written procedures governing the inventory and	*The revised proposal replaces language mandating compliance with procedures regarding these topics	The change regarding procedures will resolve the incorporation by reference issue and relieve DJJ's certification

		control of security, maintenance, recreational, and medical equipment to which residents may have access. No changes were recommended for this section at the proposed stage.	with language requiring JCCs to have procedures in place on these topics. The proposal also clarifies that the provision applies to facility staff, rather than the facility.	staff from auditing to the applicable procedures. Replacing "facility" with "facility staff" conveys the idea that the staff, is the entity capable of acting. These amendments will have no additional impact.
530	N/A	<b>Power equipment:</b> Currently, the facility shall implement safety rules for using and maintaining power equipment. No changes were recommended for this section at the proposed stage.	The revised proposal clarifies that the directive falls on JCC administration, rather than the facility. *Additionally, the proposal requires the administration to have safety rules in place pertaining to power equipment, rather than implementing such safety rules.	The clarification is intended to convey that the facility staff, rather than the facility, is the entity capable of acting. Removing the requirement to implement safety rules will relieve DJJ certification staff from having to audit to the applicable rules. Facility staff will continue to be subject to the procedural requirements until the procedure is amended. These changes will have no additional impact on facility staff or operations.
540	N/A	<b>Transportation:</b> At the proposed stage, subsection A required the JCC to make transportation available or make arrangements for routine and emergency resident transportation. Subsection B required JCC compliance with safety and security procedures governing resident transportation and the use and maintenance of vehicles. Subsection C provided that written procedures shall require the verification of licensure for staff responsible for transporting residents, including procedures directing staff to (i) maintain a valid driver's license and (ii)	The revised proposal amends subsection A to impose these duties on JCC administration, rather than the JCC itself. The proposal removes subsection B in its entirety, amends the structure of former subsection C (now subsection B), and requires staff responsible for transporting residents offsite to complete all related training, in addition to maintaining valid driver's licenses and reporting changes to the superintendent or designee.  The proposal adds a new subsection C that incorporates the provisions contained in former subsection D, requiring residents to be	The amendments to subsection A are intended to clarify the facility staff's (rather than the facility's) duty to comply with the transportation requirements. Repealing former subsection B resolves the incorporation by reference issue. The addition of new subsection B is intended as a clarification to ensure that, in addition to maintaining valid licensure and reporting changes, that staff transporting residents will complete all related training. This is consistent with DJJ's current practices and will have no other impact. The changes to subsection C made at the

		<p>report license changes to the superintendent or designee.</p> <p>Subsection D required residents to be supervised by security staff or direct care staff during routine and emergency vehicle transportation.</p>	<p>supervised by security staff or direct care staff during routine and emergency vehicle transportation. *The new subsection C provides for an exception when residents are transferred by non-JCC personnel and replaces references to security staff or direct care staff with security employees and direct care employees.</p> <p>*The revised proposal adds a new subsection D to address someone other than JCC personnel transporting the resident offsite. *In such cases, JCC staff shall provide the person with a written document identifying certain pertinent information regarding the resident's medical needs and mental health condition that may be deemed necessary for safe transportation and supervision, as well as any medication required during transport.</p>	<p>proposed stage were intended to incorporate an active variance issued by the board in 2016. Additional amendments to this subsection remove any suggestion that non-DJJ personnel, including, for example, law-enforcement officers, are prohibited from supervising residents during routine and emergency vehicular transportation if a security or direct care employee is not present. Finally, the new subsection D is intended to ensure that outside parties responsible for transporting residents offsite are aware of any medical or mental health issues that might jeopardize the resident's safety during transport and have access to any necessary medication. As most of this information is provided pursuant to DJJ's current practices, this change will have no additional impact.</p>
	545	<p><b>Lockdown:</b> This is a new provision added during the proposed stage, which sought to allow JCCs to impose lockdowns according to procedures.</p> <p>Subdivision (A)(3) directed such procedures to require the superintendent's supervisor and the administrators on DJJ's reporting hierarchy be notified of lockdowns except those for routine facility searches. Subdivision (5)(e) provided that when residents are confined during</p>	<p>*The revised proposal eliminates subsection A's directive that such lockdowns accord with procedures. *The proposal amends subdivision (A)(3) by directing JCCs to have procedures in place to notify administrators above the superintendent level of lockdowns for routine contraband searches, rather than requiring facilities to comply with procedures to that effect.</p> <p>*Finally, the proposal requires staff to respond to a self-injurious resident by consulting</p>	<p>Striking the mandate that lockdowns accord with procedures avoids violating the incorporation by reference rule. DJJ will need to have procedures specifically addressing the notification process for lockdowns, the procedures will not be an enforceable part of the regulation and will not be subject to DJJ's audit process. Replacing "QMHP" with "mental health clinician in subdivision 5(e)" recognizes the new terminology established in Section 10 to preserve</p>

		<p>lockdown, staff shall respond to self-injuring residents by (i) taking appropriate action, consulting with a QMHP immediately thereafter and documenting the consultation, and monitoring the resident in accordance with established protocols, which may include constant supervision.</p>	<p>with a mental health clinician, rather than a QMHP. The proposal makes several technical changes.</p>	<p>the more rigorous criteria for staff in JCCs who assess, diagnose, treat, and provide similar clinical counseling services. This change is consistent with DJJ current practices and will have no additional impact. Technical changes made to this section also will have no impact.</p>
550	N/A	<p><b>Prohibited actions:</b> At the proposed stage, staff were prohibited from several actions, including, for example: in subdivision (A)(1) discrimination in violation of the federal and state constitutions, executive orders (<i>added at the proposed stage</i>), and state and federal statutes, and regulations; in subdivision (A)(2) depriving residents of drinking water or food needed to meet their daily nutritional needs, unless ordered by a licensed physician or health-trained personnel for a legitimate medical or dental purpose; and in subdivision (A)(11) administration of laxatives, enemas, or emetics, except on a licensed health care professional's or poison control center's orders for a legitimate medical purpose.</p>	<p>*The revised proposal amends subdivision (A)(1) by removing executive orders from the list of source documents. *The proposal amends subdivision (A)(2) by replacing health-trained personnel with licensed medical providers as the individuals authorized to permit residents to be deprived of drinking water or food in certain limited circumstances. *The proposal amends subdivision (A)(11) by replacing licensed health care professionals with licensed medical providers as the individuals authorized to administer laxatives, enemas, or emetics in certain limited situations. The revised proposal makes several technical changes.</p>	<p>Removing executive orders from the list of source documents will return subdivision (A)(1) to its current state and will have no additional impact, as staff must comply with executive orders even in the absence of a regulatory mandate. Replacing health-trained personnel and health care professionals with licensed medical providers in subdivision (A)(2) and (A)(11) is intended to reflect the current accepted medical practices that allow physician assistants and nurse practitioners to make these decisions and prescribe these medications. The change will have no additional impact. Additional technical changes also will have no impact.</p>
555	N/A	<p><b>Vulnerable population:</b> At the proposed stage, subsection A required the facility to implement a procedure to determine whether</p>	<p>The revised proposal adds language to subsection A allowing staff to consider those factors identified in the definition for vulnerable population in assessing</p>	<p>These changes are intended to clarify the existing provisions and are not expected to have an additional impact on facility operations and staff.</p>

		<p>residents are members of a vulnerable population, considering their own views regarding their safety. The initial proposal moved the definition of vulnerable population and the factors that may indicate a resident's vulnerable status, all currently in subsection C, to the Section 10 definitions.</p>	<p>vulnerability (resident's height and size, English proficiency, sexual orientation, etc). The proposal also adds language in subsections A and B to clarify that the duty to implement the assessment and additional precautions and make the required considerations falls on facility administration, rather than the facility.</p>	
560	N/A	<p><b>Residents' mail:</b> At the proposed stage, subsection B allowed staff to open and inspect residents' nonlegal mail for contraband and permit the reading, censoring, or rejection of such mail accordance with procedures if based on legitimate facility interests of order and security and subject to the additional restrictions in subsection D. Subsection C allows staff, in accordance with procedures, to open incoming legal mail in the presence of the resident recipient in order to inspect such mail for contraband, but prohibits staff from reading such mail. Subsection D prohibited staff from reading outgoing mail unless they obtained permission from a court or the director or the director's designee determines there is a reasonable belief that the security of a facility is threatened. Assuming this authority is present, staff may read such</p>	<p>*The revised proposal removes the language directing staff to comply with procedures in subsections B, C, and D. The proposal adds language in subsection C allowing staff to read incoming legal mail if authorized in subsection D. *The proposal changes the individual authorized to determine that the security of the facility is threatened from the director or designee to the superintendent or designee.</p>	<p>Striking the references to procedures in subsections B, C, and D will prevent DJJ from violating the incorporation by reference rule and relieve certification staff from having to audit to these procedures. Staff will continue to observe facility procedures, but the procedures will not be enforced by regulation. Changing the individual authorized to determine whether there is a sufficient threat to the facility's security that warrants reading a resident's mail ensures that the proper individual, who is present and observes the day-to-day activities in the facility is the one responsible for making this assessment. The remainder of the changes are clarifying or technical in nature and will have no additional impact on facility operations.</p>

		mail in accordance with written procedures.		
570	N/A	<b>Telephone calls:</b> At the proposed stage, the regulation required that residents be permitted telephone calls in accordance with procedures that consider the need for facility security and order, the resident's behavior, and program objectives.	*The revised proposal removes the reference to procedures and establishes a new subsection A which requires that residents be permitted to call family members or natural supports and that staff have flexibility in scheduling these calls based on facility security needs and scheduled activities. The revised proposal also adds a new subsection B that requires resident telephone calls with legal representatives to comply with Section 590.	Removing the reference to procedures will prevent DJJ from violating the incorporation by reference rule and relieve certification staff from having to audit to these procedures. The additional changes reflect current practices and current regulatory provisions, and are not expected to have additional impact.
580	N/A	<b>Visitation:</b> At the proposed stage, subsection A prohibited the JCC from restricting for punitive purposes or unreasonably limiting a resident's contacts and visits with immediate family members and natural supports. Restrictions were implemented only as permitted by applicable regulations, court order, or visitation procedures that balanced facility security and order, the behavior of individual residents and visitors, and the importance of residents' maintaining strong family and community relationships. Subsection B required JCCs to provide allow visitors occasional opportunities to view a resident's housing unit or room and interact with staff members	To clarify the scope of the provision, the revised proposal amends the catchline to 'Resident Contacts and Visitation.' *The revised proposal removes the prohibition against unreasonable limitations on contacts and visits with immediate family members and natural supports in subsection A. *Rather, limitations are permitted if documented and based on facility security needs and the residents' behavior (which, arguably, provide a rational explanation for restrictions). *Restrictions are no longer limited to those permitted by procedures, applicable regulations, or order of a court. The proposal also amends subsection A by declaring its purpose - to ensure residents maintain strong family and community relationships. *The	The amendments to subsection A are intended to give JCC staff more flexibility in scheduling visits and contacts with family and natural supports. Striking the language requiring compliance with regulations, procedures, and court orders gives staff more flexibility to ensure facility safety and security, resolves any incorporation by reference issue, and relieves the certification staff from auditing to applicable procedures. Although the express prohibition against unreasonable limitations on family and support contacts has been removed, staff may restrict these visits only if facility security needs or resident behavior dictates. Finally, the proposal to repeal the entirety of subsection B stems from the concern that details of this nature

		unless impractical or threatening to safety and security. Subsection B mandated that procedures outline the parameters for visits and account for special circumstances.	proposal also removes subsection B and makes several technical changes.	are not appropriate for a regulation. Because subsection B would have been a new provision, its repeal is not expected to impact facility operations or staff. Additional technical changes also will have no impact.
610	N/A	<b>Showers:</b> Currently, residents must receive opportunities to shower daily. Exceptions apply if set out in written procedures to maintain facility security or to manage maladaptive behavior when approved by the superintendent, designee, or mental health professional or when approved by the regulatory authority. No changes were recommended for this section at the proposed stage.	The revised proposal allows exceptions to the daily shower rule only to: (i) maintain security or manage maladaptive behavior if approved by the superintendent, designee, or a mental health clinician or *(ii) address documented emergencies. *The proposal removes the provision requiring the security and management exceptions be established in written procedures. *The proposal also removes the authority for board-approved exceptions as unnecessary and impractical.	Remove the reference to procedures will resolve the incorporation by reference issue. Replacing the term "mental health professional" with "mental health clinician" is consistent with the new terminology established in Section 10. Removing the board's express authority to provide an exception to this regulatory requirement is recommended because the board already has this authority pursuant to its variance power and due to the difficulty of carrying out this exception. The Board has not exercised this authority, thus, this change is not expected to have a significant impact. The added exception for emergencies will help ensure that when staff encounter fires, natural disasters, etc., they have the flexibility to respond as needed.
630	N/A	<b>Nutrition:</b> At the proposed stage, subsection B required special diets or alternative dietary schedules in certain specified situations including for example, when food or culinary equipment was used inappropriately, threatening facility security, and provided the superintendent,	*The revised proposal replaces the mental health professional with a mental health clinician in subsection B as one of the individuals who may approve special diets or alternative dietary schedules. The proposal also replaces the JCC with the JCC administration in subsections E and F as the entity subject to the	Substituting the mental health professional with the mental health clinician in subsection B recognizes the new terminology established in Section 10 and preserves the rigorous criteria for staff in DJJ's JCCs who assess, diagnose, treat, and provide other related mental health services. The change is consistent

		designee, or a mental health professional approved. Subsection E prohibited the JCC from allowing more than 14 hours to pass between the evening meal and breakfast the following day. Subsection F required the JCC to ensure that food is available to residents who need to eat breakfast before the 14 hours have expired for documented medical or religious reasons.	14-hour restrictions and required to ensure that food is available before the deadline for residents with documented medical or religious concerns. The revised proposal makes additional technical changes.	with current DJJ practices and will have no additional impact. Replacing the reference to "JCC" with "JCC administration" in subsections E and F is a nonsubstantive technical change intended to clarify the provision. This and other technical changes will have no additional impact.
650	N/A	<b>Religion:</b> Currently, subsection B of the regulation requires that residents be informed of their rights regarding religious participation during orientation. No changes were made at the proposed stage.	The revised proposal makes a nonsubstantive technical change.	The nonsubstantive technical change will have no additional impact.
660	N/A	<b>Recreation:</b> At the proposed stage, subsection A directed JCCs to implement a recreation plan developed and run by someone trained in recreation or a related field.	The revised proposal clarifies that this responsibility rests with the JCC administration, rather than each JCC.	Replacing the reference to "JCC" with "JCC administration" is a nonsubstantive technical change intended for clarification and is not expected to impact facility operations or staff.
670	N/A	<b>Residents' funds:</b> At the proposed stage, resident personal funds could be used only for residents' activities, services or goods for their benefit; to pay court-ordered fines, restitution, costs or support; or to pay restitution for damaged property or personal injury as determined by disciplinary procedures.	The revised proposal strikes the specific reference to residents' activities, services, or goods in favor of language requiring the funds be used for the resident's benefit, without specifying the permissible funded activities. *The proposal limits restitution for property damage or injury only to such damage or injury stemming from an incident occurring at the JCC. *The revised proposal also removes the reference to	Basing the restitution payment determination on the process established by regulations rather than that set out in procedures removes the potential issue regarding invalid incorporation by reference. JCC staff will continue to be subject to procedural requirements but the procedures will not be enforceable by regulations. This and all other changes to this section are intended to clarify existing requirements and are not expected to have an

			procedures and directs these decisions to be made in accordance with the Section 1110 disciplinary process. The proposal makes technical changes.	impact on facility operations or on staff.
680	N/A	<b>Admission and orientation:</b> At the proposed stage, subsection C requires the facility to ensure that all information that must be provided to the resident at admission and during orientation is explained in an age or developmentally appropriate manner and is accessible to all residents. Subsection D required the facility to maintain documentation of its compliance.	The revised proposal replaces "JCC" in subsections C and D with "JCC" administration, as the entity responsible for ensuring the required information is provided and compliance documentation is maintained. The proposal makes additional technical changes.	Replacing the reference to "JCC" with "JCC administration" constitutes a nonsubstantive technical change intended to clarify the provision. This amendment is not expected to impact facility operations or staff. Similarly, additional technical changes will have no impact.
690	N/A	<b>Residents' personal possessions:</b> At the proposed stage, subsection A required JCCs to inventory residents' personal possessions at admission and to document the information in the resident's case records. Subsection A also required staff, when residents arrive at a JCC with unauthorized items, to: 1) dispose of contraband in accordance with procedures and 2) securely store legal, non-perishable property and return to the resident upon release or reasonably attempt to return the property to the parent or legal guardian. Subsection B permitted staff to	The revised proposal replaces the reference to the JCC in subsection A with the "JCC administration" as the entity responsible for inventorying the residents' possessions. The proposal adds a new subsection B that incorporates some of the language originally contained in subsection A, *but narrows the provision so that it no longer addresses contraband items. *The proposal amends the existing subsection B to clarify that property must remain unclaimed for six months following the resident's discharge from DJJ before it may be discarded. *Finally, the proposal removes the reference to procedures in subsection B.	Replacing "JCC" with "JCC administration" is a technical clarification that will have no additional impact. The committee believes the scope of the directive regarding contraband is narrow and intended to apply solely to illegal contraband items and that such illegal items should not be addressed in a section applicable to residents' personal possessions. Striking this reference will have no impact on DJJ operations, as the department's procedures also direct staff to dispose of contraband. Removing the reference to procedures in subsection B eliminates the potential issue regarding invalid incorporation by reference. JCC staff will continue to be subject to procedural requirements

		dispose of personal property unclaimed six months after a documented attempt to return the property in accordance with § 66-17.		consistent with agency practice, but those procedures will not be enforceable through regulations. Other technical amendments will have no impact.
700	N/A	<b>Classification plan:</b> At the proposed stage, the regulation required JCCs to utilize an objective classification system to determine resident risk levels, needs, and services and to assign the resident to a housing unit based on needs and existing resources.	The revised proposal clarifies that this duty falls on the JCC administration, rather than the JCC itself.	Replacing the reference to "JCC" with "JCC administration" is a nonsubstantive technical change intended to clarify the provision. This amendment is not expected to impact facility operations or staff.
710	N/A	<b>Resident transfer between and within JCCs:</b> At the proposed stage, subdivision (A)(1) required the resident's case records, including medical and behavioral health records, to be transferred to the receiving facility whenever a resident is transferred between JCCs. Subsection B directed the JCC to provide due process safeguards for residents transferred to a more restrictive unit, program, or facility within a JCC or between JCCs prior to the transfer.	The revised proposal replaces the reference to medical and behavioral health records in subdivision (A)(1) with the more general "health care records" a term inclusive of the complete record of all health care services including mental health services. *The revised proposal expands subsection B to require any such due process safeguards be documented in writing and provided to the resident during orientation and if facility staff determine reassignment or transfer is necessary. *The revised proposal also distinguishes between resident reassessments (to more restrictive or different units in a JCC) and "transfers" (between JCCs) and amends the catchline to reflect this distinction. Finally, the revised proposal clarifies that the duties in this section fall on the JCC administration, rather than the JCC itself.	The amendments regarding health care records and distinctions between resident reassessments and transfers are intended to provide clarity and will have no additional impact on staff or facility operations. Expanding subsection B to require that staff document and provide applicable residents with due process safeguards will have no additional impact on facility staff or operations, as JCC staff already disseminate this information to residents.

720	N/A	<b>Release:</b> At the proposed stage, subsection A mandated that residents be discharged from a JCC in accordance with procedures. Subsection B required case records for indeterminately committed residents not discharged by court order to contain several specific items including: a discharge plan developed in accordance with procedures; documentation that the discharge was discussed with the parent or legal guardian, the CSU, and the resident; and a comprehensive discharge summary, completed no later than 30 days after discharge. Subsection C provided that the case record for determinately committed residents or residents discharged pursuant to a court order shall include a copy of the court order.	*The revised proposal repeals subsection A in its entirety, eliminating the requirement that residents be discharged in accordance with procedures. *The proposal makes the list of remaining items that needed to be retained in an indeterminately committed resident's case record (i.e., documentation of discussion with parent/guardian and comprehensive discharge summary) extend to the case record for both determinate and indeterminate commitments. *The proposal removes the mandate to include a discharge plan in the case record. Finally the proposal makes conforming changes to new subsection B (former subsection C) clarifying that the case record for determinate commitments discharged pursuant to a court order must also contain a copy of the court order.	Removing the entirety of subsection A resolves the incorporation by reference issue and relieves certification staff from having to audit to any applicable procedures. JCC staff will remain subject to the procedural requirements even in the absence of a corresponding regulatory requirement. Extending the requirement to include documentation of the discussion with the parent/guardian and a comprehensive discharge summary to determinate commitments will ensure that the same information is captured and retained whenever residents are discharged from direct care, regardless of whether they were indeterminate or determinate commitments.
	735	<b>Therapeutic communities in housing units:</b> At the proposed stage, subsection A required JCCs to ensure that every housing unit functioned as a therapeutic community with certain required components.	The revised proposal imposes this requirement on the JCC administration, rather than the JCC itself.	Replacing the reference to "JCC" with "JCC administration" is a nonsubstantive technical change intended to clarify the provision. This amendment is not expected to impact facility operations or staff.
740	N/A	<b>Structured programming:</b> At the proposed stage, each facility had to implement a comprehensive, planned, and	The revised proposal places the duty to implement this routine on the facility administration, rather than the facility itself.	Replacing the reference to "facility" with "facility administration" is a nonsubstantive technical change intended to clarify the provision. This amendment is not

		structured daily routine that fulfilled certain requirements.		expected to impact facility operations or staff.
745	N/A	<b>Behavior management:</b> At the proposed stage, subsection A required each JCC to implement a behavior management program and to follow procedures governing the program.	The revised proposal amends the catchline to clarify that this section addresses behavior management programs. The proposal also clarifies that the duties outlined in this section fall on the JCC administration, rather than the JCC. *Finally, it removes the provision mandating compliance with procedures and makes several technical changes.	Striking the reference to procedures resolves the incorporation by reference issue and will relieve the certification unit from having to audit to these procedures. Staff remain subject to DJJ procedures pursuant to agency practices; therefore, this change will have no practical effect on facility staff or facility operations.
747	N/A	<b>Behavior support contract:</b> At the proposed stage, subsection A required staff to develop a written behavior support contract for residents who need behavior support beyond that provided by DJJ's behavior management program to better manage these behaviors. The support contract's development had to comply with procedures and to address the circumstances requiring use and the means of documenting and monitoring implementation.	*The revised proposal strikes the provision mandating compliance with procedures, replacing it with a directive that the facility have procedures in place addressing the circumstances for using such contracts and the means of documenting and monitoring contract implementation.	The revised proposal is intended to resolve the incorporation by reference issue and relieve the certification unit from the regulatory burden of auditing to these procedures. Staff remain subject to DJJ procedures pursuant to agency practices; therefore this change will have no practical effect on facility operations.
760	N/A	<b>Communication with parents:</b> At the proposed stage in subsection B, the regulation required that the resident's parent or legal guardian, as appropriate and applicable, be given written notice of and the opportunity to participate in any scheduled classification and	The revised proposal makes a minor additional technical change.	The proposed technical revision will have no impact on facility operations.

		staffing team and treatment team meetings.		
765		<p><b>Family engagement:</b> At the proposed stage, the regulation required JCCs to adhere, as practicable and in accordance with procedures, to certain rules to ensure immediate family members and natural supports are involved during a resident's commitment, including: 1) allowing the resident a set number of weekly calls to such family members or supports 2) ensuring periodic events and activities where such family and supports are invited to attend; and 4) maximizing immediate family member and natural support involvement in resident treatment, all as set out in procedures.</p>	<p>*The revised proposal amends subdivision 1 and 2 by removing the requirement that the number of weekly calls be specified in procedures and that certain events and activities be arranged periodically, as specified in procedures. *The revised proposal also removes the provision directing the facility to comply with written procedures to maximize family and natural support involvement in the resident's treatment. The proposal also clarifies that the responsibilities established in this section fall on the JCC administration rather than the JCC.</p>	The proposed revisions are intended to relax the initially proposed standards for JCCs and to reduce the reliance on procedures. In removing the requirement to provide a specified number of telephone calls and periodic arrangement of events involving family members, JCC administration and staff will have additional flexibility in planning such events and allowing for and scheduling telephone calls. These changes are not expected to impact facility operations, as they are not required by existing regulations
770	N/A	<p><b>Case management services:</b> At the proposed stage, subsection A required the facility to implement written procedures governing case management services and addressing certain specified topics.</p>	<p>The revised proposal clarifies that this duty falls on the facility administration, rather than the facility. *Under the revised proposal, the facility administration must have procedures in place governing these case management services, rather than implementing such procedures.</p>	Replacing the "facility" with "facility administration" constitutes a nonsubstantive technical change intended to clarify the provision and is not expected to impact operations. Requiring the facility administration to have procedures in place resolves any incorporation by reference issue and will relieve certification staff from having to audit to these procedural requirements. Staff will remain subject to these procedures consistent with DJJ's practices.
805	N/A	<p><b>Suicide prevention:</b> At the proposed stage, the procedure needed to require (i) a suicide</p>	<p>*The revised proposal clarifies that the required consultation is with a qualified medical</p>	The changes to this section are intended to clarify that staff may consult mental health

		prevention and intervention program developed in consultation with a qualified medical or mental health professional and (ii) all direct care, direct supervision, and security employees and medical providers be trained and retrained in the program.	professional or mental health clinician. The proposal also clarifies that the training and retraining mandated in this section is only required if applicable.	clinicians, as defined in § 10, as well as qualified medical professionals, in developing the suicide prevention program. Initial training and retraining is needed only as applicable, depending on the duration of employment. These clarifying changes will have no additional impact.
815	N/A	<b>Daily log:</b> At the proposed stage, subsection A requires facilities to maintain a log in each housing unit in accordance with procedures, to inform staff of resident incidents.	*The revised proposal removes the reference to procedures.	The reference to procedures violates the incorporation by reference rule. Removing this requirement will not impact operations, as staff will remain subject to facility procedures.
820	N/A	<b>Staff supervision of residents:</b> At the proposed stage, subsections A through F imposed certain requirements and restrictions on "direct care staff" or staff. Subsection F allowed staff meeting the "direct supervision" definition to be alone with a resident who is not actively supervised by a direct care staff, provided the direct supervision staff met certain additional conditions, including completing DJJ-approved training on safety and security, passing assessments showing their ability to perform mandated physical requirements, and being able to communicate immediately with a direct care employee by two-way radio or other means identified in procedures.	The revised proposal amends subsections A through F to replace references to staff or direct care staff with direct care employee, as defined in Section 10. *The revised proposal amends subdivision F(2) to clarify that a direct care employee may be alone with a resident without being actively supervised by a <b>direct care employee</b> , rather than a security series employee, if they complete the authorized agency-approved training. The revised proposal also replaces references to direct supervision staff with direct supervision employee. *Additionally, it amends subdivision F(4) by removing the directive that procedures establish the means of communicating with direct care employees. *The revised proposal makes a similar	Substituting "direct care staff" with "direct care employee" and "direct supervision staff" with "direct supervision employee" are nonsubstantive changes intended to reflect the terminology defined in § 10, and will have no additional impact. Similarly, replacing the reference to "security series" staff with "direct care employee" corrects an error in drafting, reflects the terminology used in this regulation, and will have no additional impact. Striking the reference to procedures in subdivision (F)(4) resolves the incorporation by reference issue. DJJ will continue to look to procedures to determine what additional means of communication between the direct care and direct supervision employee are permissible, but will not be bound by regulation to

		<p>Subsection F required the JCC to implement procedures addressing staff supervision, including contingency plans for resident illnesses, emergencies, and off-campus activities.</p> <p>Subsection G required staff to regulate resident movement in the JCC in accordance with procedures.</p> <p>Subsection H prohibited JCCs from allowing residents to have authority over other residents except to obtain leadership skills as part of an approved, supervised program.</p> <p>Subsection G directed the facility to implement procedures to address staff supervising residents, and subsection H directed staff to regulate resident movement in the facility in accordance with procedures.</p>	<p>amendment to subsection G directing the facility to have procedures in place, rather than implementing or abiding by such procedures.</p>	<p>comply with such procedures.</p>
830	N/A	<p><b>Staffing pattern:</b> At the proposed stage, subsections A through C placed a number of requirements on "direct care staff," "direct care staff members" or "security staff."</p>	<p>The revised proposal replaces references in subsections A through C to "direct care staff," "direct care staff member," and "security staff with "direct care employees" and "security employees" respectively.</p> <p>*The revised proposal also adds a new subsection D which provides that residents may be supervised by security employees or direct care employees while assigned to or receiving health care services in the infirmary or nurse's station. The revised proposal makes several additional technical changes.</p>	<p>Replacing the references to "direct care staff/staff members" and "security staff" with "direct care employees" and "security employees" is intended to provide clarity and to reflect the changes to terminology established in Section 10. These changes will have no impact on facility operations. The new language in subsection D is intended to reflect an existing variance granted by the board in <u>April 2018</u>, which authorizes security employees to supervise residents outside the presence of direct care staff in the infirmary or nurse's</p>

				station without conflicting with this section's ratio requirements. Because the variance is in place, this change will have no additional impact. Technical changes also will have no impact.
880	N/A	<b>Local health authority:</b> At the proposed stage, the regulation required JCCs to ensure the designation of a health-related entity as the authority responsible for organizing, planning, and monitoring health care in the JCC.	The proposal clarifies that the JCC administration, rather than the JCC, is responsible for ensuring that one of the named entities is designated the health authority.	Replacing the reference to "JCC" with "JCC administration" is a nonsubstantive technical change intended to clarify the provision. This amendment is not expected to impact operations.
890	N/A	<b>Provision of health care services:</b> At the proposed stage, subsection C required the facility to keep training documentation that the health-trained personnel receives to perform designated health care services.	The revised proposal clarifies that the facility administration is responsible for the retention of this documentation, rather than the facility. The proposal makes an additional technical change.	Replacing the reference to "facility" with "facility administration" is a nonsubstantive technical change intended to clarify the provision. This amendment is not expected to impact operations or staff.
900	N/A	<b>Health care procedures:</b> At the proposed stage, subsection A required DJJ to have and implement procedures regarding, in part, providing or arranging for medical, dental, and emergency services. At the proposed stage, subsection B required certain information about each resident to be readily accessible to designated staff who may need to respond to a medical or dental emergency, including the contact information of the applicable physician or dentist.	*The revised proposal removes the provision in subsection A directing DJJ to implement the applicable procedures. The proposal amends subsection B by clarifying that the name, address, and telephone number that must be accessible to the designated staff pertains to the <b>licensed</b> physician or dentist to be contacted.	Removing the requirement to <b>implement</b> procedures resolves any concern regarding incorporation by reference and eliminates the need for DJJ's certification unit to audit to the applicable procedures. Because the agency's practices mandate compliance with procedures, staff will remain subject to any health care procedures; therefore, this change is not expected to impact facility operations or staff. Similarly, other technical changes made to this section will have no additional impact.
930	N/A	<b>Consent to and refusal of health care services:</b> At the	The revised proposal clarifies that residents have the right to refuse	The amendment to subsection C clarifies DJJ's current practices

		proposed stage, subsection C gave residents the discretion to refuse, in writing, medical treatment and care.	“health care,” a term which encompasses a broader category of services than “medical care.” As set out in revised § 10, “health care services” captures medical, dental, and other ancillary services. The proposal makes other technical changes.	and will have no impact on operations. Additional technical amendments also provide clarity, and are not expected to have additional impact.
960	N/A	<b>Medical examinations:</b> At the proposed stage, subsection A required all residents to be medically examined by a physician or a qualified health care practitioner who is supervised by a physician within five days of the resident's initial JCC intake.	The revised proposal clarifies that the parties conducting the medical examinations must be licensed in the noted fields.	These changes are consistent with accepted medical practices and reflect DJJ's current process. As such, the changes will have no additional impact.
990	N/A	<b>Health screening for intrasystem transfers:</b> Subsection A of the current regulation requires all residents transferred between JCCs to receive a medical, dental, and mental health screening upon arrival, which shall include, among other services, a review of the resident's health care record. At the proposed stage, the drafter erroneously amended this provision to require a review of the resident's medical record, which would have entailed a narrower review than the existing regulation.	The revised proposal removes the suggested “medical record” substitution, returning the provision to its current form. The revised proposal also makes a minor technical change.	As the revised proposal is substantively identical to the existing regulatory requirement, the proposal is not expected to have an additional impact.
1000	N/A	<b>Infectious or communicable diseases:</b> At the proposed stage, subsection B required the facility to implement procedures, approved by a medical	The revised proposal replaces the reference to facility in subsection B with the facility administration as the entity responsible for implementing such procedures. *The revised	Replacing the reference to “JCC” with “JCC administration” constitutes a nonsubstantive technical change intended to clarify the provision and will have no additional

		professional that: 1) address (i) staff interactions with certain residents with medical conditions and ii) standard precaution use; 2) require periodic staff training in standard precautions, and 3) require staff to follow procedures to address residents with infectious or communicable diseases.	proposal amends subsection B by requiring that procedures be "in place" rather than "implemented" and clarifies that the health authority is responsible for approving such procedures, rather than a medical professional.	impact. Removing the requirement in subsection B to <b>implement</b> written procedures eliminates the incorporation by reference concern and the need for DJJ's certification unit to audit to the applicable procedures. Because the agency's practices mandate compliance with facility procedures, staff will remain subject to any applicable procedures.
1020	N/A	<b>Resident health records:</b> At the proposed stage, subsection B required each initial physical exam report to include hearing and vision exams conducted at a minimum on students in grades three, seven, eight, and 10 pursuant to 8VAC20-250-10.	*The revised proposal amends subsection B by removing the requirement to conduct a hearing and vision exam on eighth graders. This provision was added in error and is not consistent with 8VAC20-250-10. *The proposal also adds an exception to the requirement to conduct such exams for third, seventh, and 10 <sup>th</sup> graders if any of the exceptions listed in § 22.1-273 of the <i>Code</i> apply. The proposal also replaces references to medical records with "health care records" in subsection A, C, D, E, and F to correct errors made at the revised proposed stage.	Removing the provision requiring eighth grade hearing and vision tests will have no additional impact on JCC staff, facility operations, or residents, as the proposed addition of the administration of such tests for eighth grade students never took effect in the JCC. Furthermore, allowing the exception from this testing rule as set out in § 22.1-273 is consistent with current state law and will have no additional impact. Similarly, replacing all references to medical records in this section with health care records is consistent with the current regulatory requirements and therefore will have no additional impact.
1030	N/A	<b>First aid kits:</b> At the proposed stage, subsection A required JCCs to maintain first aid kits in the facility and in facility vehicles used to transport residents in accordance with procedures that address the contents, location, and method of restocking such kits.	The revised proposal clarifies that the duty to maintain first aid kits falls on the JCC administration, rather than the JCC itself. *The proposal also abolishes the requirement that the facility maintain these kits in accordance with procedures, instead, instructing the facility to have procedures in place	Replacing the reference to "JCC" with "JCC administration" is a nonsubstantive technical change intended for clarification. Removing the requirement to comply with procedures in maintaining these kits will relieve DJJ's certification unit of the duty to audit to these procedures. Staff will

			to address the contents, location, and method for restocking such kits.	remain subject to the procedures as part of DJJ's current practices. Neither change will have additional impact.
1040	N/A	<b>Sick call:</b> At the proposed stage, subsection B provided that when residents request health care services, such residents shall be referred to a physician consistent with established protocols and orders of legally authorized personnel.	The revised proposal clarifies that the referrals should be made to <b>licensed</b> physicians.	The revised proposal is intended to clarify the existing regulatory provision and will have no additional impact.
1050	N/A	<b>Emergency medical services:</b> At the proposed stage, subsection A required JCCs to ensure that residents have access to 24-hour emergency medical, mental health, and dental services for unexpected medical needs that cannot wait until the next sick call. Subsection C required applicable staff to comply with procedures in addressing such emergencies.	The revised proposal clarifies that the duty to ensure residents' 24-hour access to emergency health care services falls on the JCC administration, rather than the JCC itself. The revised proposal also amends subsection C to remove the reference to procedures in favor of a requirement that staff responding to such emergencies remain within the scope of their training and certification.	Replacing the reference to "JCC" with "JCC administration" is a nonsubstantive technical change intended for clarification. The amendment to subsection C seeks to resolve the incorporation by reference issue. The amended provision requiring certain staff to act within their training and certification conforms to current facility practices and will have no additional impact.
1060	N/A	<b>Hospitalization and other outside medical treatment of residents:</b> At the proposed stage, subdivision (A)(1) mandated that residents who need medical treatment outside the facility be transported safely and in accordance with applicable safety and security procedures applied consistent with the severity of the medical condition. Subdivision (A)(1) also required staff in such situations to escort and supervise residents	*The revised proposal amends subdivision (A)(1) to remove the mandate that the transportation occur safely and in accordance with applicable safety and security procedures. Instead, the proposal requires the resident be transported in accordance with § 540, which sets out specific rules regarding residents transported offsite by non-DJJ staff and establishes licensure and training conditions for staff responsible for conducting the transport of all residents. The	Removing the reference to applicable safety and security procedures eliminates the potential incorporation by reference issue. Staff will remain subject to procedural requirements consistent with agency practices, but these requirements will not be deemed a part of the regulation and will not be subject to audit. Because staff already are subject to the transportation requirements in § 540, the cross reference to Section 540 will have no additional impact. Correcting the erroneous

		<p>when away from the facility for medical treatment until appropriate security arrangements are made, but permitted an exception for residents transferred under the Psychiatric Inpatient Treatment of Minors Act, cited as beginning at § 16.1-335 of the Code. Subsection B mandated that where appropriate and applicable and in accordance with applicable laws and regulations, the parent or legal guardian be informed that the resident was taken offsite for medical attention as soon as practicable.</p>	<p>revised proposal also corrects the erroneous citation to Section 16.1-355, since the Psychiatric Inpatient Treatment of Minors Act begins at § 16.1-335 of the Code. *The revised proposal also adds a new subdivision indicating that any exceptions to these requirements shall accord with the resident's medical condition. *The revised proposal amends subsection B to require staff to inform the parent or legal guardian, as appropriate and applicable, when residents are taken offsite for health care and to comply with the serious incident provisions in § 60.</p>	<p>citation amounts to a technical clarification and will have no additional impact. Requiring the parent or guardian to be notified in accordance with the serious incident reporting requirements in Section 60 ensures that, at a minimum, parents will be notified according to the same requirements as for all other serious incidents.</p>
1070	N/A	<p><b>Medication:</b> At the proposed stage, subsection B required all medication to be locked securely, except when ordered by a physician for individuals to keep on their person or for equivalent use. Subsection J directed the facility to document medication refusals and actions taken by staff and to follow procedures for managing these refusals. Subsection K provided that disposal and storage of unused, expired, and discontinued medications accord with applicable laws and regulations. Subsection M required that syringes and other medical implements used for injecting or</p>	<p>*The revised proposal clarifies that the order permitting an exception in subsection B must originate from a <b>licensed physician or licensed health care provider</b>. The proposal replaces references to "the facility" in subsection J with "the facility administration," and *amends subsection J to require the administration to have procedures in place for managing these refusals, rather than having to follow such procedures. *The proposal also expands subsection K to apply to the disposal and storage of medical implements, in addition to unused, expired, and discontinued medication. *Finally, the proposal amends subsection M by eliminating the requirement that staff</p>	<p>The clarification in subsection B is consistent with accepted medical practices and with DJJ's current practices, and therefore, will have no additional impact. Replacing references to "the facility" with "the facility administration" in subsection J is a nonsubstantive technical change intended to clarify the provision and also will have no additional impact. Expanding subsection K to require that disposal and storage of unused, expired and discontinued medical implements accord with applicable laws and regulations also is consistent with current agency practices and will have no additional impact. Finally, abolishing the</p>

		cutting skin be locked and inventoried in accordance with facility procedures.	must comply with procedures when locking syringes and certain other medical implements.	requirement to lock syringes and certain medical implements in accordance with facility procedures eliminates the incorporation by reference issue. Staff will remain subject to applicable procedures consistent with current DJJ practices, but such procedures will not amount to a regulatory requirement and will not be subject to audit.
1080	N/A	<b>Release physical:</b> At the proposed stage, the regulation required that each resident be medically examined by a physician or qualified healthcare practitioner supervised by a physician within 30 days before release, unless exempted by such physician based on a full medical exam conducted within 90 days before release.	The revised proposal removes the requirement that the qualified health care practitioner operate under the supervision of a physician before conducting the resident's release physical.	Regulations promulgated by the Board of Health Professions make some practitioners eligible for independent practice. Striking this requirement leaves the issue properly in the hands of the Board of Health Professions.
1110	N/A	<b>Disciplinary process:</b> At the proposed stage, subsection A required JCCs to ensure that, to the extent practicable, resident' behavioral issues be addressed: (i) through therapeutic communities, (ii) consistent with DJJ's behavior management program, (iii) with consideration of the safety and security of all in the facility and (iv) with the goal of rehabilitating residents. Subsection B required JCCs to follow procedures for handling minor misbehavior informally and handling facility rule violations formally. The procedures had to provide for (i)	The revised proposal replaces the reference to the JCC in subsections A and B with the JCC administration, as the entity responsible for fulfilling these requirements. *The proposal amends subsection B by removing the requirement that the JCC follow procedures for handling resident misconduct and eliminating the corresponding directives regarding those procedures. *The proposal amends subdivisions (E)(3)(e) by extending the retention period for records of disciplinary hearings from 6 months to three years.	Replacing references to "the JCC" with "the JCC administration" in subsections A and B constitute nonsubstantive technical changes intended for clarification and will have no additional impact. Removing staff's duty in subsection B to comply with procedures to address resident misconduct resolves the incorporation by reference issue. Staff will remain subject to the procedural requirements, but the procedures will not be enforceable regulatory provisions subject to audit. Extending the period for retaining documentation of disciplinary hearings will ensure alignment with

		graduated sanctions and (ii) staff and resident orientation and training on such procedures. Subdivision (E)(3)(e) addressed formal resolutions to rule violations and required that a record of the disciplinary hearing on such rule violation be retained for 6 months.		the retention period for certification purposes as set out in 6VAC35-71-30.
1120	N/A	<b>Timeout:</b> At the proposed stage, subsection A required facilities that use timeout to implement procedures that: 1) allowed for resident placement in timeout only after applying less restrictive alternatives; 2) permitted timeout only to address minor behavior infractions; and 3) prohibited timeout to address chargeable offenses designated in procedures or to address aggressive behaviors.	*The revised proposal amends subsection A by requiring facilities using timeout to have written procedures in place that satisfy these conditions, rather than having to implement such procedures. *The proposal removes the provision requiring the procedures to mandate that the resident be placed in timeout only after less restrictive alternatives have been applied.	Directing the facility to have procedures in place rather than implementing such procedures avoids any incorporation by reference issues and will prevent the certification staff from having to audit to these procedures. The committee believes that timeout is one of the least restrictive alternatives, making the requirement to first employ lesser alternatives unnecessary and burdensome. This change will give staff greater discretion to use timeouts for minor infractions.
1130	1175	<b>Physical restraint:</b> At the proposed stage, Section 1130 governed physical restraints and imposed certain specified restrictions on such restraint. Subsection A allowed physical restraint as a last resort. Subdivision A(1) directed staff, in applying physical restraints, to use the least force necessary to eliminate the risk or maintain security and order, and prohibited staff from using such restraint to punish or injure. Subsection B required the JCC to implement procedures governing physical	The revised proposal clarifies in subdivision (A)(1) that in applying physical restraints, staff shall use the least force <b>deemed reasonably necessary</b> to eliminate the risk or to maintain security and order. Staff continue to be prohibited from using restraints to punish or inflict injury. The proposal amends subsection B by requiring the JCC administration, rather than the JCC itself, to have procedures in place governing physical restraints. *The proposal removes subdivision (B)(5), which required the procedures to identify control	Clarifying the standard for use of physical restraints in subdivision (A)(1) will provide additional guidance for staff authorized to use such restraints, but is consistent with DJJ's current practices and will have no additional impact. In subsection B, requiring the JCC administration, rather than the JCC, to have procedures constitutes a nonsubstantive technical change intended for clarification and removing the requirement to implement such procedures eliminates any potential incorporation by

		restraints and addressing certain additional topics, including, under subdivision B(5), control techniques appropriate for identified levels of risk.	techniques appropriate for identified risk levels.	reference issues. Finally, the committee believes that establishing control techniques appropriate for identified levels of risk should be a component of training, rather than a procedural provision.
1140	N/A	<b>Room confinement:</b> At the proposed stage, subdivision (A)(3) required DJJ to have procedures governing room confinement that addressed, among other issues, the process for deciding whether a resident's behavior threatens safety and security, the protocol for determining whether the threat necessitating room confinement has abated, and the necessary steps for releasing the resident to a less restrictive setting after abating the threat. Subsection B set out the various measures staff must take when confining residents. Subdivisions B(1), B(2), and B(5) required QMHPs to make certain assessments and determinations. Subdivision B(4) required residents be afforded a daily opportunity for at least one hour of large muscle activity outside of their locked rooms, except for residents who displayed certain behavior. The reasons for the exception had to be approved and documented in accordance with procedures. Subdivision (B)(5)	*The proposal amends subdivision (A)(3) by requiring these written procedures to address the necessary steps to release residents from room confinement post-threat, rather than the steps for releasing the resident to a less restrictive setting. *The proposal amends subdivision (B)(1), (B)(2), and B(5) by replacing the QMHP with the mental health clinician as the individual required to conduct such assessments and make the required determinations. *The proposal amends subdivision B(4) by requiring the superintendent or designee to approve and document the reasons for exceptions to the large muscle exercise rule, and removing the requirement that such documentation accord with procedure. *The revised proposal amends subdivision (B)(5)(iii) by striking the provision directing staff to monitor the resident in accordance with established protocols, and instead directing staff to adjust the frequency of face-to-face checks as needed, while ensuring that such checks occur at least once every 15 minutes. *The revised proposal	The change to subdivision (A)(3) is intended to correct an error. Residents who are released from room confinement will be released back to general population, and not to a lesser restrictive setting, as contemplated during the proposed stage. Currently, DJJ does not use an incremental approach to release residents from room confinement. Thus, the proposed change will have no additional impact. Replacing "QMHP" with "mental health clinician" in the various provisions under subsection B recognizes the new terminology established in Section 10 to preserve the more rigorous criteria for staff in DJJ who provide mental health services. This change reflects current practice and will have no additional impact. Removing the mandate that exceptions to the large muscle activity rule be documented in accordance with procedures eliminates resolves any incorporation by reference issue. Staff will continue to comply with procedures regarding documentation for such exceptions; therefore, the change will have no additional impact.

		<p>required staff to do the following when confined residents exhibit self-injurious behavior: (i) respond appropriately; (ii) consult with the individuals listed above; and (iii) monitor the resident in accordance with established protocols, including constant supervision, if appropriate.</p> <p>Subsection D required staff, once the threat necessitating confinement is abated, to begin returning the confined resident to a less restrictive setting. Subdivision E required staff to afford such residents the same opportunities as others in the unit, including treatment, education, and as much time out of their rooms as security considerations allow. Subsection L subjected residents confined over 5 days to a case management review process in accordance with procedures. Under the proposal, a facility-level review committee must conduct a review at its next scheduled meeting immediately after the five-day period expires, and a division-level committee must conduct a subsequent review at their next scheduled meeting immediately following the facility-level review meeting, followed by recurring reviews by each review committee, as</p>	<p>removes the requirement in subsection D that residents be returned to a less restrictive setting after release from room confinement. *The revised proposal amends subsection E by requiring that the resident be provided medical and mental health treatment, as applicable, education, daily opportunities for bathing, and daily nutrition, rather than being afforded the same opportunities as other residents in the unit.</p> <p>*The proposal amends subsection L by removing the requirement that room confinement periods in excess of five days accord with procedures.</p> <p>*The proposal also amends subdivision (L)(2) by requiring the division-level case management review meeting to occur no later than seven business days following the referral. *The revised proposal strikes language directing the designated administrator to comply with procedures in reducing the frequency of or waiving the division-level reviews and instead provides that the rationale for such waiver be documented and placed in the resident's record.</p> <p>*The proposal removes subsection M in its entirety. The proposal makes additional technical and style changes.</p>	<p>Requiring staff to obtain approval from the superintendent or his designee prior to exercising this exception will ensure that the exception is available only in very rare circumstances. Modifying subdivision (B)(5)(iii) by removing the reference to established protocols resolves a potential incorporation by reference issue and clarifies that additional face-to-face checks may be required. The change to subsection D removing the requirement that the resident released from confinement be returned to a less restrictive setting is consistent with changes made to other parts of this section and with DJJ's current practices, and will have no additional impact.</p> <p>Amending subsection E to outline the resident's current rights while confined is consistent with other regulatory sections. The very nature of confinement makes it impossible to afford residents so placed with the same opportunities as residents in general population. The amendment to subsection L removes a potential incorporation by reference issue and sets a deadline for conducting the subsequent division-level committee meeting to ensure the resident's case is reviewed within a reasonable period of time. The proposed deadline is consistent with DJJ's current case-management review process and will have no</p>
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		<p>applicable, until the resident is recommended for release from room confinement. Subdivision (L) also allowed the administrator two levels above the superintendent to reduce the frequency of or waive the division-level reviews in accordance with procedures. Finally, subsection M indicated a delayed effective date for the confinement provisions.</p>		<p>additional impact on facility operations or staff. Removing the reference to procedures in subdivision (L)(3) and directing that the rationale for the waiver be documented and placed in the resident's record resolves the potential incorporation by reference issue and places a check on the administrator's authority to exercise this discretion. Removing the delayed implementation date in subsection M will ensure that all provisions of this chapter take effect at the same time, which will reduce confusion and increase compliance. Additional technical and style changes will have no additional impact.</p>
1180	N/A	<p><b>Mechanical restraints:</b> At the proposed stage, subsections (A) and subdivision (A)(1) required JCCs to have DJJ-approved procedures governing mechanical restraints. The procedures had to specify the conditions for mechanical restraint use. Subdivisions (A)(1) – (A)(6), and subsection (B) required JCC procedures to set parameters on mechanical restraint use, including provisions: in (A)(2) for prohibiting restraints for punishment; in (A)(3) permitting mechanical restraint use for routine on-campus transportation only when (i) a heightened need exists for more security or (ii)</p>	<p>*(A) – (A)(1) -The revised proposal strikes the general provision that authorizes JCCs, through procedures, to decide the purposes for and conditions under which mechanical restraints may be used, in favor of language limiting permissible purposes of mechanical restraints to the following: (i) to control residents whose behavior imminently risks their own safety or that of staff or others; (ii) for controlled movement, or (iii) in emergencies. The proposal also amends the Section 10 mechanical restraint definition by expressly excluding restraint chairs to allow for their distinct treatment.</p> <p>Subdivisions (A) (2) – (A)(6), (B) – *Rather than directing JCCs to include</p>	<p>These new provisions in subsections A through C will help to limit the duration of mechanical restraint and protective device use and ensure properly trained and knowledgeable medical or mental health professionals can assess any threats to the resident's physical or mental health brought on by use of such devices. The additional new provisions also will help control the duration of such use, and ensure that such devices are used in the safest manner.</p>

		<p>the resident's noncompliance necessitates movement for the resident's safety or security; in (A)(4) prohibiting restraint to fixed objects or in unnatural positions; in (A)(5) for recording each restraint, except restraints during off-campus transportation, in the case record and central log book; and in (A)(6) for maintaining a written record documenting distribution of routine and emergency restraint equipment. Additionally, under subsection B, the procedures had to require training for staff authorized to use mechanical restraints and preclude untrained staff from using such restraints, and the training had to address checking for signs of circulation and for injuries. Subsection C authorized JCCs to use restraint chairs solely for controlled movement of a resident to other areas in the facility, provided: 1) less restrictive interventions were unsuccessful in moving the resident or the restraint chair is the least restrictive intervention available and 2) staff removes the resident from the chair immediately upon reaching the intended destination and never confines a resident who is not being moved to another area of the facility.</p>	<p>these provisions in their procedures, the proposal strikes (A)(2)-(A)(6) and adds a new subsection (B) that imposes most of these requirements outright. *Subsection B differs in that it strikes the restrictions on mechanical restraint use for on-campus transportation originally contained in (A)(3). *It also adds new provisions that allow mechanical restraint use only for as long as needed to address the intended purpose in subsection (A); permit a mental health clinician, or other qualifying licensed medical professional to terminate mechanical restraint use upon deciding that the restraint poses a health risk ((B)(5)) require JCCs to have accountability systems, rather than a written record, regarding routine and emergency mechanical restraint distribution ((B)(7)); and in (B)(8), remove the requirement that staff authorized to use mechanical restraints be trained specifically on how to check for signs of circulation or injuries. *Additionally, the proposal expands these restrictions and mandates to apply to protective devices, (as defined in Section 10), in addition to mechanical restraints. The revised proposal also removes the old subsection C related to the use of the mobile restraint chair, and establishes several new sections (1203-</p>	
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		<p>1208) devoted solely to restraint chair use.</p> <p>*The proposal adds a new subsection (C) applicable when JCCs wish to continue using a mechanical restraint to control a resident after the initial threat necessitating the restraint has abated. In these cases, if the JCC deems continued restraint necessary because the resident is threatening self-injury or injury of others, the JCC must notify a qualified health care professional and a mental health clinician before continuing the restraint.</p> <p>*The revised proposal also adds a new subsection D prohibiting JCCs from using protective devices except in connection with a restraint and requires staff to remove the device upon releasing the resident from the restraint. *Finally, the proposal adds a new subsection (E) expressly allowing JCC staff to use spit guards on residents provided the guard's design does not inhibit the resident's ability to breathe and allows for visibility and the device is sold specifically to prevent biting or spitting.</p> <p>*The proposal permits such use only on residents who previously bit or spat on someone at the current facility or threaten, attempt to, or actually spit on a resident or staff in the course of a current restraint. *The spit guard must be applied so as not to inhibit the</p>	
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			resident's breathing, and staff must ensure the resident is reasonably comfortable and has access to water and meals while the guard is in place. *Staff also must supervise the resident constantly while the guard is in place and if they witness signs of respiratory distress, take immediate action to prevent injury and to notify a supervisor. *Staff may not use a guard on an unconscious or vomiting resident or one in obvious need of medical attention.	
1190	N/A	<b>Monitoring residents placed in mechanical restraints:</b> At the proposed stage, subsection A required procedures directing staff, when residents are mechanically restrained, to: (A)(1) provide for their reasonable comfort and ensure they have access to water, meals and toilet; and (A)(2) visually check them in 15 minute increments or more often if their behavior warrants. Subsection B required that when residents are restrained mechanically for more than one consecutive hour in a 24-hour period, except during routine off-campus transportation, staff had to consult with a QMHP. Subsection C provided that where mechanically restrained residents exhibit self-injurious behavior, staff shall: (i) take appropriate action in response, (ii) consult	*The revised proposal amends subdivision (A)(2) by replacing the reference to a visual check" with a "face-to-face" check, which involves the employee and resident being in close proximity and staff being able to look directly at the resident's face to satisfy this requirement. *Under the proposal, a staff member must look for signs of circulation and injuries during each such check. *The proposal adds a new subdivision (A)(3) directing staff to try engaging verbally with the resident during these checks and offering examples of approaches for engagement. *The proposal also amends subsection A by providing an exception to these mandates in subdivisions (A)(1) through (A)(3) for mechanically restrained residents transported offsite. *The proposal adds a new subsection (B) that requires JCCs to	Amending subsection A to require face-to-face checks and attempts at verbal engagement with the resident will help to ensure the de-escalation of residents, reduce the restraint period, and ensure that residents restrained for an extended period are properly monitored. The new exception in subsection (A) for residents being transported offsite acknowledges the logistical complications that hinder compliance with these requirements during vehicular transportation. The provision in new subsection B requiring opportunities for mechanically restrained residents to exercise their limbs is consistent with the National Commission on Correctional Health Care's Standards for Health Services in Juvenile Detention and Confinement Facilities. The changes in new subsection D are

		<p>with a QMHP immediately and document the consultation, and (iii) monitor the resident according to established protocols that comply with procedures.</p>	<p>allow residents restrained for two hours or more to exercise their limbs for at least 10 minutes every two hours to prevent blood clots. *The proposal also requires medical staff to check on the resident at least once every two hours. *The proposal amends old subsection C (now D) to provide that the staff who responds to a self-injurious restrained resident must attempt to prevent further injury and notify a supervisor. *Additionally, rather than requiring staff to monitor self-injurious residents in accordance with procedures, the proposal directs staff to adjust the frequency of the face-to-face checks as may be necessary. *Finally, the proposal replaces references to QMHP in this section with a mental health clinician.</p>	<p>intended to clarify what responses are appropriate for staff responding to self-injurious, mechanically restrained residents to ensure that such responses maximize safety and reduce injury to residents and staff. These changes also eliminate any potential violations of the incorporation by reference rule. Finally, replacing the QMHP references ensures that only licensed mental health professionals deemed qualified by DJJ will be consulted concerning mechanically restrained residents.</p>
N/A	1195	<p><b>Written procedures regarding mechanical restraints and protective devices:</b> At the proposed stage, Section 1180 provided that written procedure shall govern the use of mechanical restraints. Subsection B required written procedure directing all staff authorized to use mechanical restraints to receive DJJ-approved training.</p>	<p>*The revised proposal strikes the provisions in Section 1180 pertaining to written procedures and replaces them with a new Section 1195 that directs DJJ to develop and the director to approve written procedures reflecting the requirements in this article governing mechanical restraints and protective devices.</p>	<p>The proposed change eliminates the need for separate references to procedures on specified mechanical restraints topics, instead directing DJJ to establish procedures reflecting each new requirement on mechanical restraints and protective devices. These changes will clarify DJJ's role regarding these procedures and provide clear guidance to staff on using such restraints and devices.</p>
1200	N/A	<p><b>Restraints for medical and mental health purposes:</b> The current regulation requires procedures that address medical and mental health restraints and directs</p>	<p>The revised proposal repeals this provision in its entirety.</p>	<p>The new mechanical restraints provisions in sections 1180-1195 render this separate section unnecessary.</p>

		such procedures to identify the authority needed; when, where, how, and for how long restraints may be used; and the types of permitted restraints.		
N/A	1203	<p><b>Mechanical restraint chair; general provisions:</b> At the proposed stage, Section 1180(C) authorized the mobile restraint chair solely for controlled movement of a resident from various points in the facility, but only after less restrictive interventions were unsuccessful in moving the resident or if using the chair is the least restrictive intervention available. Section 1180 directed staff to remove the resident from the restraint chair immediately upon reaching the intended destination.</p>	<p>The revised proposal strikes these provisions from Section 1180 and establishes a new Section 1203, which addresses general requirements regarding mechanical restraint chair use for controlled movement or other purposes. *Among these: (1) restraint chairs may not be used as punishment; (2) staff authorized to use the chair must receive initial and annual training; (3) before placing a resident in the chair, the health administrator or designee shall ensure the resident's medical and mental health condition are assessed to determine if the restraint is not advisable and whether other accommodations are necessary; (4) the superintendent or designee must approve before a resident may be placed in the chair; (5) except where placement in the chair is based on the resident's request consistent with a mental health clinician's approved plan of care, staff must notify the health authority or designee immediately upon placing the resident in the chair, who must ensure that a mental health clinician assesses the resident to determine whether placement in a medical or mental health</p>	<p>Although the Department has not used the restraint chair at the Bon Air JCC since 2015, if situations arise in the future that necessitate resuming this practice, this new section will help ensure that staff are using the chair sparingly, that the appropriate staff are notified of and sign off on initial or continued use of the chair, that the chair will not be used if such use presents a health risk, and that the JCC maintains sufficient documentation to assess and evaluate each use of the restraint chair. If Bon Air is compelled to resume using the restraint chair, these changes will impose more duties on staff that may necessitate additional resources in the JCC to carry out these requirements.</p>

			unit for emergency involuntary treatment is necessary; (6) for residents who self-injure while in the chair, staff must appropriately respond to the behavior to prevent further injury and to notify supervisory staff, and consult a mental health clinician immediately and obtain approval for continued use; (7) the health authority or designee, mental health clinician, or other qualifying medical professional may terminate the chair's use upon determining it poses a health risk; (8) each use of the chair triggers a requirement to complete a serious incident report and comply with all other Section 60 mandates, (9) each use must be documented in the resident's case file and daily housing unit log and must include specific information, and (10) after each use of the chair, staff involved in the chair's use and supervisory staff must conduct a debriefing.	
N/A	1204	<b>Mechanical restraint chair use for controlled movement; conditions:</b> At the proposed stage, Section 1180 authorized use of the restraint chair solely for controlled movement of a resident from various points in the facility, but only after less restrictive interventions proved unsuccessful or when the chair was the least restrictive	The revised proposal strikes the restraint chair provisions in Section 1180, replacing them with a new section (1204) that addresses mechanical restraint chair use for controlled movement. *The revised proposal allows restraint chair use for controlled movement from various areas of the facility if the resident's refusal to move poses a direct and immediate threat to the resident or others or interferes with required	Although the Bon Air JCC has not used the restraint chair since 2015, if situations arise in the future that necessitate resuming this practice, this new section will help ensure that JCCs use the restraint chair to manage movement of residents as a last resort and only for as long as necessary to transport the resident.

		<p>intervention available. Section 1180 directed staff to remove the resident from the restraint chair immediately upon reaching the intended destination.</p>	<p>facility operations and the chair is the least restrictive intervention that will ensure the resident's safe movement. *The proposal provides that in these cases, staff must: (i) release the resident from the chair immediately upon reaching the intended destination, and if continued restraint is deemed necessary at the appointed destination, (ii) consult with a mental health clinician to approve continued use.</p>	
N/A	1205	<p><b>Mechanical restraint chair use for purposes other than controlled movement;</b></p> <p><b>conditions for use:</b> At the proposed stage, Section 1180 authorized the mobile restraint chair solely for controlled movement of a resident from various points in the facility, but only after less restrictive interventions were unsuccessful in moving the resident or when the chair constituted the least restrictive intervention. Section 1180 directed staff to release the resident from the chair immediately upon reaching the intended destination.</p>	<p>The revised proposal replaces the provisions in Section 1180 with a new section (1205) which addresses using the chair for purposes besides controlled movement. *JCC staff may use the chair for such purposes if: (i) the resident's behavior presents a direct, immediate threat to himself or others; (ii) less restrictive alternatives were attempted unsuccessfully, and (iii) the resident remains in the chair only until the threat has abated or the resident gains self-control. *The proposal allows for continued restraint after the direct threat is abated if staff determines continued restraint is needed to maintain security where the resident credibly threatens to injure himself or others; however, in these cases, staff must consult with and obtain approval from a mental health clinician before continuing the restraint. *When</p>	<p>Although the Bon Air JCC has not used the restraint chair since 2015, this new section is intended to ensure that when staff use the restraint chair for purposes outside of controlled movement, that such use is a last resort, will last only as long as necessary to address the threat and redirect the resident, will be continued after the threat is abated only after obtaining approval from the required mental health professional, and that adequate monitoring protocols are in place to ensure the resident's safety and comfort while restrained.</p>

			<p>residents voluntarily use the chair in accordance with a mental health clinician's approved plan of care, these restrictions do not apply. The proposal also imposes monitoring requirements when JCCs use the chair for purposes beyond controlled movement.</p> <p>*Staff must employ constant one-on-one supervision and attempt to engage verbally with the resident while restrained, ensure that a licensed medical provider monitors the resident for signs of circulation or injury in 15 minute increments, and ensure the resident's reasonable comfortable and access to water, meals, and toilet.</p>	
N/A	1206	<p><b>Monitoring residents placed in a mechanical restraint chair:</b> At the proposed stage, the regulation did not reference requirements for monitoring residents in mechanical restraint chairs. Because restraint chairs fell under the restraint "umbrella", they were subject to the same provisions regarding monitoring as other mechanical restraints.</p>	<p>The revised proposal adds a new section 1206 that establishes rules for monitoring residents while in the chair.</p> <p>*Subsection A provides that residents remaining in the restraint chair for two hours or more must be allowed to exercise their limbs at least 10 minutes every two hours to prevent blood clots.</p> <p>*Subsection B requires the JCC administration to ensure that a video is captured and retained of staff placing the resident in the chair when restrained for controlled movement, and the entire restraint, from placement to release, when restrained for other purposes.</p>	<p>Subsection A is consistent with the National Commission on Correctional Health Care's Standards for Health Services in Juvenile Detention and Confinement Facilities. Subsection B's directive for video documentation of placement or duration in the chair will enable DJJ to assess whether the JCC has complied with each of the regulatory requirements related to proper placement in the restraint chair. The proposal mandating video footage and retention may require additional staff and resources.</p>
N/A	1207	N/A	<p><b>Department monitoring visits; annual reporting; board review:</b> *The revised proposal subjects JCC</p>	<p>These amendments will allow DJJ's Certification Unit and the board to monitor JCC compliance with the restraint chair</p>

			<p>staff to a monitoring visit by DJJ staff for each use of the chair, regardless of the purpose or duration of the restraint.</p> <p>*The proposal also requires DJJ to annually submit for the board's review and consideration a report outlining the results of each such monitoring visit.</p>	<p>provisions and to determine whether, the reconsideration of this authorization is warranted. If the JCC resumes use of the chair, this change will increase monitoring visits to the JCC and may increase the workload of the Certification Unit.</p>
N/A	1208	N/A	<p><b>Written procedures regarding mechanical restraint chairs:</b> *The revised proposal adds this new section directing DJJ staff to develop and the director to approve written procedures that reflect the requirements established in Article 4 (pertaining to the restraint chair).</p>	<p>This amendment eliminates the need to require procedures related to specific requirements in Article 4 (pertaining to restraint chairs). Although the proposal places new duties on DJJ staff, it will ensure that JCC staff have written procedures in place for carrying out these mandates.</p>
N/A	1209	N/A	<p><b>Pregnant residents; limitations on use of physical restraints, mechanical restraints, and the mechanical restraint chair:</b> The revised proposal adds a new section to incorporate the requirements of the federal Juvenile Justice Reform Act of 2018.</p> <p>*Subsection A prohibits JCC staff from using physical or mechanical restraints, protective devices, or the restraint chair on a known pregnant resident during labor, delivery, or post-partum recovery unless based on a reasonable belief that the resident presents an immediate, serious threat of hurting herself or others.</p> <p>*Subsection B prohibits the use of abdominal restraints, leg and ankle restraints, behind-the-back wrist restraints, and</p>	<p>These new provisions are intended to incorporate federal provisions that were included in the federal Juvenile Justice Reform Act of 2018. As these provisions reflect federal law, the JCCs must comply even in the absence of this regulatory provision. As such, the revised proposal will have no additional impact on JCC staff or facility operations.</p>

			four-point restraints on a known pregnant resident absent a reasonable belief that the resident presents an immediate, serious threat of hurting herself or others or absent a reasonable belief that the resident presents an immediate and credible risk of escape that can't be minimized through other methods. Subsection C exempts from these requirements orthopedic devices, surgical dressings or bandages, protective helmets, or other devices used to hold a resident while conducting routine physical exams, protect the resident from falling out of bed, or permit the resident to participate in activities without the risk of physical harm.	
1210	N/A	<b>Private contracts for JCCs:</b> At the proposed stage, pursuant to subsection A, privately operated JCCs were required to abide by the Juvenile Corrections Private Management Act, their governing contracts, the Regulations Governing JCCS (6VAC35-71); and applicable DJJ procedures, including procedures on a number of specified topics. Subsection B required privately operated JCCs to develop procedures approved by the director or designee to transfer facility operations to DJJ upon contract termination.	The revised proposal clarifies that the private JCC's administration, and not the JCC itself, is responsible for abiding by the enumerated directives in subsection A and developing the applicable procedures in subsection B. *The proposal also removes the requirement to abide by applicable DJJ procedures.	Replacing the reference to "JCC" with "JCC administration" is a nonsubstantive technical change intended to clarify the provision. Striking the requirement to comply with applicable DJJ procedures is intended to resolve the incorporation by reference issue. Because no privately operated JCCs exist in the Commonwealth currently, these changes will have no impact.
1240	6VAC35-73-20	<b>Staff physical and psychological</b>	The revised proposal repeals Section 1240 in	Because this change simply restructures the

		<b>qualifications:</b> The current regulation contains a separate Part X addressing boot camps. Section 1240 directs the boot camp to include in its qualifications for staff positions the physical fitness requirements for each staff position and any psychological assessment or evaluation required prior to employment.	its entirety and moves the language into a new chapter intended solely to address boot camps (Chapter 73). The new 6VAC35-73-20 retains the language currently contained in this section.	regulation and no juvenile boot camps currently operate in the Commonwealth, this amendment will have no impact.
1250	6VAC35-73-30	<b>Resident physical qualifications:</b> At the proposed stage, the regulation required boot camps to have procedures governing: (1) admission, including a required written statement from (i) a physician that the resident meets the American Pediatric Society's guidelines to participate in contact sports; and (ii) from a licensed mental health professional that the resident is appropriate for a boot camp program; and 2) discharge for residents unable to keep up with the program's physical requirements.	The revised proposal repeals Section 1250 in its entirety and moves the language to Chapter 73. *The new provision eliminates the need to provide a statement of compliance with the American Pediatric Society's guidelines. *Instead, a licensed physician or licensed medical provider must submit a written statement clearing the resident for contact sports. *The statement verifying that the resident is appropriate for a boot camp program must originate from a mental health clinician rather than a QMHP.	Because no juvenile boot camps currently operate in the Commonwealth, these amendments will have no impact.
1260	6VAC35-73-40	<b>Resident nonparticipation:</b> At the proposed stage, the regulation required boot camps to have procedures approved by the DJJ director to address noncompliant residents.	The revised proposal repeals Section 1260 in its entirety and moves the provision to Chapter 73. The proposal retains the changes adopted at the proposed stage *except that it allows the director or designee to approve the procedures.	Because no juvenile boot camps currently operate in the Commonwealth, these amendments will have no impact.
1270	6VAC35-73-50	<b>Program description:</b> At the proposed stage, the regulation required boot camps to have program descriptions specifying: 1) how residents' physical	The revised proposal repeals this section in its entirety and moves it to a new section in Chapter 73. The proposal retains the changes adopted at the proposed stage,	Because no juvenile boot camps currently operate in the Commonwealth, these amendments will have no impact.

		<p>training, work, education, and career-readiness training, and program participation will relate; 2) the duration of the program and the kind and duration of treatment and supervision provided postrelease; 3) that boot camps resulting from a DJJ contract require at least 6 months intensive after care post release and the type of treatment and supervision provided upon release; 4) whether residents will complete the program individually or in platoons; and 5) the program's incentives and sanctions, including whether military or correctional discipline will be used, and permissible punishments.</p>	<p>*except that the written program description also shall require that the programming for such boot camp consider the therapeutic needs of each participant.</p>	
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