

**REGULATIONS GOVERNING JUVENILE DETENTION CENTERS (6VAC35-101)
PROPOSED AMENDMENTS - MECHANICAL RESTRAINTS**

OPTION 1 – AMENDMENTS APPROVED BY BOARD JUNE 2018

6VAC35-101-10. Definitions

“Mechanical restraint” means the use of an approved mechanical device that involuntarily restricts the freedom of movement or voluntary functioning of a limb or portion of an individual’s body as a means of controlling his physical activities when the individual being restricted does not have the ability to remove the device. For purposes of this definition, mechanical restraints shall be limited to disposable plastic cuffs, handcuffs, leather restraints, leg irons, mobile restraint chairs, and waist chains.

6VAC35-101-190. Required initial training for employees.

A. ~~Each~~ Full-time and part-time employees and relief staff shall complete initial, comprehensive training that is specific to the individual's occupational class, is based on the needs of the population served, and ensures that the individual has the competencies to perform the position's duties. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.

- ~~1. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.~~
- ~~2. Contractors shall receive training required to perform their position responsibilities in a detention center.~~

B. Within 30 days following the employee's start date at the facility or before the employee is responsible for the direct care or direct supervision of a resident, all direct care staff and staff who provide direct supervision of the residents shall complete training in the following areas:

1. Emergency preparedness and response as provided for in 6VAC35-101-510 (emergency and evacuation procedures);
2. The facility's behavior management program as provided for in 6VAC35-101-1070 (behavior management);
3. The residents' rules of conduct and the rationale for the rules;
4. The facility's behavior intervention procedures, ~~with~~ including physical and mechanical restraint training required as applicable to their duties and as required by subsection ~~D-C~~ of this section, and room restriction and disciplinary room restriction as provided for in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction);

Regulation Governing Juvenile Secure Detention Centers
Option 1 – Amendments Approved by Board

5. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect);
6. Maintaining appropriate professional boundaries and relationships;
7. ~~Appropriate interaction~~Interaction among staff and residents;
8. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);
9. Residents' rights, including ~~but not limited to~~prohibited actions provided for in 6VAC35-101-650 (prohibited actions);
10. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases); and
11. Procedures applicable to the employees' position and consistent with their work profiles.

C. Employees who are authorized by the facility administrator to restrain a resident, as provided for in 6VAC35-101-1090 (physical restraint) and 6VAC35-101-1130 (mechanical restraints), shall be trained in the facility's approved restraint techniques within 90 days of such authorization and ~~prior to~~before applying any restraint techniques.

D. Employees who administer medication shall, prior to such administration, as provided for in 6VAC35-101-1060 (medication), and in accordance with the provisions of § 54.1-3408 of the Code of Virginia, either (i) have successfully completed a medication management training program approved by the Board of Nursing or (ii) be ~~licensed~~certified by the Commonwealth of Virginia to administer medication.

~~E. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

~~F. Volunteers and interns shall be trained in accordance with 6VAC35-101-300 (volunteer and intern orientation and training).~~

G. Employees who perform the duties required in 6VAC35-101-800 (admission and orientation) shall be trained in the requirements contained therein.

6VAC35-101-200. Retraining requirements for employees.

A. Each full-time and part-time employee and relief staff shall complete retraining that is specific to the individual's occupational class, the position's job description, and addresses any professional development needs.

Regulation Governing Juvenile Secure Detention Centers
Option 1 – Amendments Approved by Board

B. All full-time and part-time employees and relief staff shall complete an annual training refresher on the facility's emergency preparedness and response plan and procedures as provided for in 6VAC35-101-~~480~~520 (emergency and evacuation procedures).

C. All direct care staff shall receive at least 40 hours of training annually that shall include training on the following:

1. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);
2. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases);
3. Maintaining appropriate professional relationships;
4. Appropriate interaction~~Interaction~~ among staff and residents;
5. Residents' rights, including ~~but not limited to~~ the prohibited actions provided for in 6VAC35-101-650 (prohibited actions);
6. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect); and
7. Behavior intervention procedures, including room restriction and disciplinary room restriction, as provided in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction).

D. All staff approved to apply physical restraints, as provided for in 6VAC35-101-1090 (physical restraint) shall be trained as needed to maintain the applicable current certification.

E. All staff approved to apply mechanical restraints shall be retrained annually as required by 6VAC35-101-1130 (mechanical restraints).

F. Employees who administer medication, as provided for in 6VAC35-101-1060 (medication), shall complete an annual refresher training, which shall, at a minimum, include a review of the components required in 6VAC35-101-1060 (medication).

~~G. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

H. Staff who have not timely completed required retraining shall not be allowed to have direct care responsibilities pending completion of the retraining requirements.

6VAC35-101-1130. Mechanical restraints.

A. Written procedure shall govern the use of mechanical restraints. ~~Such~~The procedures shall be approved by the ~~department~~facility administrator and shall specify:

Regulation Governing Juvenile Secure Detention Centers
Option 1 – Amendments Approved by Board

1. The conditions under which ~~handcuffs, waist chains, leg irons, disposable plastic cuffs, leather restraints, and a mobile restraint chair~~ mechanical restraints may be used;
2. That the facility administrator or his designee shall be notified immediately upon using restraints in an emergency situation;
3. That restraints shall never be applied as punishment or a sanction;
4. That residents shall not be restrained to a fixed object or restrained in an unnatural position. For purposes of this section, securing a resident to a hospital bed or wheelchair may be permitted in an outside medical setting upon written approval by the facility administrator and in accordance with written procedures, as specified in 6VAC35-101-1150 (restraints for medical and mental health purposes);
5. That each use of mechanical restraints, except when used to transport a resident or during video court hearing proceedings, shall be recorded in the resident's case file or in a central log book; and
6. That a ~~written system of accountability is in place to ensure record of~~ routine and emergency distribution of restraint equipment ~~be maintained.~~

B. Written procedure shall provide that (i) all staff who are authorized to use restraints shall receive training in such use in accordance with 6VAC35-101-190 (required initial training for employees) and 6VAC35-101-200 (retraining requirements for employees), including how to check the resident's circulation and how to check for injuries and (ii) only trained staff shall use restraints.

6VAC35-101-1140. Monitoring restrained residents.

A. Written procedure shall provide that when a resident is placed in restraints, staff shall

1. Provide for the resident's reasonable comfort and ensure the resident's access to water, meals, and toilet; and
2. Make a ~~direct personal~~ face-to-face check on the resident at least every 15 minutes and more often if the resident's behavior warrants. ~~Such~~ The checks shall include monitoring the resident's circulation in accordance with the procedure provided for in 6VAC35-101-1130 B.

B. When a resident is placed in mechanical restraints for more than two hours cumulatively in a 24-hour period, with the exception of use in routine transportation of residents, staff shall immediately consult with a health care provider and a mental health professional. This consultation shall be documented.

C. If the resident, after being placed in mechanical restraints, exhibits self-injurious behavior, staff shall: (i) ~~staff shall~~ take appropriate action to ensure the threat or harm is stabilized; (ii) ~~immediately consult with and document that they have consulted with a~~ qualified mental health

Regulation Governing Juvenile Secure Detention Centers
Option 1 – Amendments Approved by Board

professional immediately thereafter and document the consultation; and (iii) monitor the resident ~~shall be monitored~~ in accordance with established protocols, including constant supervision, if appropriate. ~~Any such~~ The protocols shall be in compliance comply with the procedures required by 6VAC35-101-1150 (restraints for medical and mental health purposes).

6VAC35-101-1150. Restraints for medical and mental health purposes.

Written procedure shall govern the use of restraints for medical and mental health purposes.

Written procedure shall identify the authorization needed; the circumstances, location, and manner in which restraints ~~when, where, and how restraints may be used~~ applied; ~~for how long~~ the permitted duration of use; and ~~what~~ the type of restraint that may be used.

**OPTION 2 – NEW PARAMETERS ON MECHANICAL RESTRAINTS AND THE
MECHANICAL RESTRAINT CHAIR**

6VAC35-101-10. Definitions.

“Mechanical restraint” means an approved mechanical device that involuntarily restricts the freedom of movement or voluntary functioning of a limb or portion of an individual’s body as a means of controlling his physical activities when the individual being restricted does not have the ability to remove the device. For purposes of this chapter, mechanical restraints shall include flex cuffs, handcuffs, leather restraints, leg irons, restraining belts and straps, waist chains, and anti-mutilation gloves. For purposes of this chapter, mechanical restraints shall not include mechanical restraint chairs.

“Mechanical restraint chair” means an approved chair used to restrict the freedom of movement or voluntary functioning of a portion of an individual’s body as a means of controlling his physical activities while the individual is seated and either stationary or being transported.

“Mental health clinician” means a person with a master’s degree or higher in psychology, counseling, or social work with an emphasis on mental health treatment who is employed in the practice of treating mental disorders.

“Protective device” means an approved device placed on a portion of a resident’s body to protect the resident or staff from injury. For purposes of this chapter, protective device shall include spit guards or similar devices and protective helmets.

“Qualified mental health professional” means a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative mental health services for adults or children.

“Spit guard or similar device” means a protective device placed over a resident’s mouth for purposes of safety in order to prevent the resident from spitting on or biting staff or others.

Regulation Governing Juvenile Secure Detention Centers
Option 2 –New Parameters on Mechanical Restraints

6VAC35-101-80. Serious incident reports.

A. The following events shall be reported, ~~in accordance with department procedures,~~ within 24 hours to (i) the applicable court service unit; (ii) either the parent or legal guardian, as appropriate and applicable; and (iii) the director or his designee:

1. ~~Any~~ A serious incident, accident, illness, or injury to the resident;
2. The death of a resident;
3. ~~Any~~ A suspected case of child abuse or neglect at the detention center, on a detention center-sponsored event or excursion, or involving detention center staff as provided in 6VAC35-101-90 (suspected child abuse and neglect);
4. ~~Any~~ A disaster, fire, emergency, or other condition that may jeopardize the health, safety, and welfare of residents; ~~and~~
5. ~~Any~~ A resident's absence from the detention center without permission; ~~and~~
6. Placement of a resident in a mechanical restraint chair, regardless of the duration or purpose of the restraint.

B. The detention center shall notify the director or his designee within 24 hours of ~~any events detailed in subsection A of this section and all any other situations event~~ required by the regulatory authority of which the facility has been notified.

C. If an incident involving the death of a resident occurs at the facility, the facility shall notify the parents or legal guardians, as appropriate and applicable, of all residents in the facility provided such notice does not violate any confidentiality requirements or jeopardize any law-enforcement or child protective services investigation or the prosecution of any criminal cases related to the incident.

D. The facility shall (i) prepare and maintain a written report of the events listed in subsections A and B of this section and (ii) submit a copy of the written report to the director or his designee.

The report shall contain the following information:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name or identifying information of the person who made the report to the applicable court service unit, the director, and ~~to~~ either the parent or legal guardian, as appropriate and applicable and the date and time on which the report was made; and
6. The name or identifying information of the person to whom the report was made, including any law-enforcement or child protective service personnel.

Regulation Governing Juvenile Secure Detention Centers
Option 2 –New Parameters on Mechanical Restraints

~~E. The resident's record shall contain a written reference (i) that an incident occurred and (ii) of all applicable reporting.~~

F. In addition to the requirements of this section, ~~any serious incident~~ incidents involving an allegation of child abuse or neglect at the detention center, at a detention-center sponsored event, or involving detention center staff shall be governed by 6VAC35-101-90 (suspected child abuse or neglect).

6VAC35-101-190. Required initial training for employees.

A. ~~Each~~ Full-time and part-time employees and relief staff shall complete initial, comprehensive training that is specific to the individual's occupational class, is based on the needs of the population served, and ensures that the individual has the competencies to perform the position's duties. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.

~~1. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.~~

~~2. Contractors shall receive training required to perform their position responsibilities in a detention center.~~

B. Within 30 days following the employee's start date at the facility or before the employee is responsible for the direct care or direct supervision of a resident, all direct care staff and staff who provide direct supervision ~~of the residents~~ shall complete training in the following areas:

1. Emergency preparedness and response as provided for in 6VAC35-101-510 (emergency and evacuation procedures);

2. The facility's behavior management program as provided for in 6VAC35-101-1070 (behavior management);

3. The residents' rules of conduct and the rationale for the rules;

4. The facility's behavior intervention procedures, ~~with~~ including physical and mechanical restraint training, protective device training, and mechanical restraint chair training required as applicable to their duties and as required by subsection ~~D-C~~ of this section, and room restriction and disciplinary room restriction as provided for in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction);

5. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect);

6. Maintaining appropriate professional boundaries and relationships;

7. Appropriate interaction ~~Interaction~~ among staff and residents;

8. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);

Regulation Governing Juvenile Secure Detention Centers
Option 2 –New Parameters on Mechanical Restraints

9. Residents' rights, including ~~but not limited to~~ prohibited actions provided for in 6VAC35-101-650 (prohibited actions);
10. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases); and
11. Procedures applicable to the employees' position and consistent with their work profiles.

C. Employees who are authorized by the facility administrator to restrain a resident, as provided for in 6VAC35-101-1090 (physical restraint), ~~and~~ 6VAC35-101-1130 (mechanical restraints and protective devices), and 6VAC35-101-1153 (mechanical restraint chair; general provisions) shall be trained in the facility's approved restraint techniques within 90 days of such authorization and ~~prior to~~before applying any restraint techniques.

D. Employees who administer medication shall, prior to such administration, as provided for in 6VAC35-101-1060 (medication), and in accordance with the provisions of § 54.1-3408 of the Code of Virginia, either (i) have successfully completed a medication management training program approved by the Board of Nursing or (ii) be ~~licensed~~certified by the Commonwealth of Virginia to administer medication.

~~E. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

~~F. Volunteers and interns shall be trained in accordance with 6VAC35-101-300 (volunteer and intern orientation and training).~~

G. Employees who perform the duties required in 6VAC35-101-800 (admission and orientation) shall be trained in the requirements contained therein.

6VAC35-101-200. Retraining requirements for employees.

A. Each full-time and part-time employee and relief staff shall complete retraining that is specific to the individual's occupational class, the position's job description, and addresses any professional development needs.

B. All full-time and part-time employees and relief staff shall complete an annual training refresher on the facility's emergency preparedness and response plan and procedures as provided for in 6VAC35-101-~~480~~520 (emergency and evacuation procedures).

Regulation Governing Juvenile Secure Detention Centers
Option 2 –New Parameters on Mechanical Restraints

C. All direct care staff shall receive at least 40 hours of training annually that shall include training on the following:

1. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);
2. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases);
3. Maintaining appropriate professional relationships;
4. Appropriate interaction~~Interaction~~ among staff and residents;
5. Residents' rights, including ~~but not limited to~~ the prohibited actions provided for in 6VAC35-101-650 (prohibited actions);
6. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect); and
7. Behavior intervention procedures, including room restriction and disciplinary room restriction, as provided in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction).

D. All staff approved to apply physical restraints, as provided for in 6VAC35-101-1090 (physical restraint) shall be trained as needed to maintain the applicable current certification.

E. All staff approved to apply mechanical restraints or protective devices or to utilize the mechanical restraint chair shall be retrained annually as required by 6VAC35-101-1130 (mechanical restraints and protective devices) and 6VAC35-101-1153 (mechanical restraint chair; general provisions).

F. Employees who administer medication, as provided for in 6VAC35-101-1060 (medication), shall complete an annual refresher training, which shall, at a minimum, include a review of the components required in 6VAC35-101-1060 (medication).

~~G. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

H. Staff who have not timely completed required retraining shall not be allowed to have direct care responsibilities pending completion of the retraining requirements.

Article III – Mechanical Restraints and Protective Devices

6VAC35-101-1130. Mechanical restraints and protective devices.

A. Mechanical restraints and protective devices may be used for the following purposes, subject to the restrictions enumerated in this section: (i) to control residents whose behavior poses an imminent risk to the safety of the resident, staff, or others; (ii) for purposes of controlled movement, either from one area of the facility to another or to a destination outside the facility; or (iii) to address emergency situations.

B. A detention center that uses mechanical restraints or protective devices shall observe the following general requirements:

1. Mechanical restraints and protective devices shall be used only for as long as necessary to address the purposes established in subsection A. Once the imminent risk to safety has been abated, the resident has reached his intended destination within the facility or has returned to the facility from a destination offsite, or the emergency situation has been resolved, the mechanical restraint or protective device must be removed.

A. Written procedure shall govern the use of mechanical restraints. Such procedures shall be approved by the department and shall specify:

1. The conditions under which handcuffs, waist chains, leg irons, disposable plastic cuffs, leather restraints, and a mobile restraint chair may be used;

2. That ~~the~~ The facility administrator or his designee shall be notified immediately upon using mechanical restraints or protective devices in an emergency situation;

3. That ~~The facility shall not use mechanical restraints or protective devices shall never be applied as a~~ punishment or a sanction;

4. That ~~residents~~ Residents shall not be restrained to a fixed object or restrained in an unnatural position. For purposes of this section, securing a resident to a hospital bed or wheelchair may be permitted in an outside medical setting upon written approval by the facility administrator and in accordance with written procedures;

5. A mental health clinician, qualified mental health professional, or other qualifying licensed medical professional may order termination of a mechanical restraint or protective device at any time upon determining that use of the item poses a health risk.

Regulation Governing Juvenile Secure Detention Centers
Option 2 –New Parameters on Mechanical Restraints

~~56. That each~~Each use of a mechanical restraints~~restraint~~ or protective device, except when used to transport a resident or during video court hearing proceedings, shall be recorded in the resident's case file or in a central log book; ~~and~~

~~67. That a~~A written system of accountability ~~is~~shall be in place to ensure~~record~~ of routine and emergency distribution of mechanical restraints and equipment~~protective devices~~; ~~and be maintained.~~

~~B8. Written procedure shall provide that (i) all~~All staff who are authorized to use restraints~~mechanical restraints or protective devices~~ shall receive training in such use in accordance with 6VAC35-101-190 (required initial training for employees) and 6VAC35-101-200 (retraining requirements for employees), ~~including how to check the resident's circulation and how to check for injuries;~~ ~~and (ii) only trained staff shall use~~ mechanical restraints or protective devices.

B. A detention center that uses a mechanical restraint to control a resident whose behavior poses a safety risk in accordance with subdivision (A)(i) of this section shall notify a health care provider and a mental health clinician or qualified mental health professional before continuing to use the restraint, and, if applicable, the accompanying protective device, if the imminent risk has been abated, but the facility determines that continued use of the mechanical restraint is necessary to maintain security due to the resident's ongoing credible threat to injure himself or others. This may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint.

C. A detention center may not use a protective device unless such use is in connection with a restraint and shall remove the device when the resident is released from the restraint.

D. In addition to the requirements enumerated in subsections A through C of this section, a detention center that uses a spit guard or similar device to control resident behavior shall observe the following requirements:

1. The spit guard or similar device may be used only on a resident who previously has bitten or spit on a staff member during the course of a restraint or who, in the course of a current restraint, threatens to spit on or bite or actually spits on or bites a staff member;
2. The spit guard or similar device must be designed and applied in a manner that will not inhibit the resident's ability to see or to breathe;
3. While the spit guard or similar device remains in place, staff shall provide for the resident's reasonable comfort and ensure the resident's access to water and meals, as applicable;
4. Staff must employ constant supervision of the resident while the spit guard or similar device remains in place to observe whether the resident exhibits signs of respiratory distress. If any sign

Regulation Governing Juvenile Secure Detention Centers
Option 2 –New Parameters on Mechanical Restraints

of respiratory distress is observed, staff shall remove the spit guard or similar device immediately; and

5. Staff may not use a spit guard or similar device on a resident who is unconscious, vomiting, or in obvious need of medical attention.

6VAC35-101-1140. Monitoring ~~restrained-residents~~ placed in mechanical restraints .

A. Written procedure shall provide that ~~when-if~~ a resident is placed in a mechanical restraints~~restraint~~, staff shall:

1. Provide for the resident's reasonable comfort and ensure the resident's access to water, meals, and toilet; and

2. Make a ~~direct personal~~face-to-face check on the resident at least every 15 minutes and more often if the resident's behavior warrants. Staff shall attempt to engage verbally with the resident during each periodic check. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary to be released from the restraint; or otherwise attempting to deescalate the resident. ~~Such~~ During each check, a health-trained staff shall ~~include monitoring~~monitor the resident's ~~resident~~ for signs of circulation and for injuries in accordance with the procedure provided for in 6VAC35-101-1130 B.

B. If a resident remains in a mechanical restraint for a period that exceeds one hour, the resident shall be permitted to exercise each of his limbs for a minimum of 10 minutes every two hours to prevent blood clots.

~~B~~C. When a resident is placed in mechanical restraints for more than two hours cumulatively in a 24-hour period, with the exception of use in routine transportation of residents, staff shall immediately consult with a health care provider and a qualified mental health professional or mental health clinician. This consultation shall be documented.

~~C~~D. If the resident, after being placed in mechanical restraints, exhibits self-injurious behavior, staff shall: (i) ~~staff shall~~take appropriate action to ensure the threat or harm is stabilized; (ii) immediately consult with and document that they have consulted with a qualified mental health professional or mental health clinician immediately thereafter and document the consultation; and (iii) monitor the resident ~~shall be monitored in~~ accordance with established protocols, including constant supervision, if appropriate. ~~Any such protocols shall be in compliance with the procedures required by 6VAC35-101-1150 (restraints for medical and mental health purposes).~~

6VAC35-101-1145. Written procedures regarding mechanical restraints and protective devices

A detention center that uses mechanical restraints or protective devices shall develop and implement written procedures approved by the facility administrator that reflect the requirements established in this article.

6VAC35-101-1150. Restraints for medical and mental health purposes. (Repealed.)

~~Written procedure shall govern the use of restraints for medical and mental health purposes. Written procedure shall identify the authorization needed; when, where, and how restraints may be used; for how long; and what type of restraint may be used.~~

Article IV – Mechanical Restraint Chairs

6VAC35-101-1153. Mechanical restraint chair; general provisions.

A detention center that utilizes a mechanical restraint chair shall observe the following requirements, regardless of whether the chair is used for purposes of controlled movement in accordance with 6VAC35-101-1155 (mechanical restraint chair use for controlled movement; conditions) or for other purposes in accordance with 6VAC35-101-1156 (mechanical restraint chair used for purposes other than controlled movement; conditions for use):

1. The restraint chair shall never be applied as punishment or as a sanction;
2. All staff authorized to use the restraint chair shall receive training in such use in accordance with 6VAC35-101-190 (required initial training for employees) and 6VAC35-101-200 (retraining requirements for employees);
3. The facility administrator or his designee shall provide approval before a resident may be placed in the restraint chair;
4. Staff shall notify the health authority, designated in accordance with 6VAC35-101-930, immediately upon placing the resident in the restraint chair to assess the resident's medical and mental health condition, to ascertain whether the restraint is contraindicated based on the resident's physical condition or behavior or whether other accommodations are necessary, and to advise whether, on the basis of serious danger to self or others, the resident should be in a medical or mental health unit for emergency involuntary treatment. The requirements of this subdivision shall not apply when the restraint chair is requested by a resident for whom such voluntary use is part of an approved plan of care by a mental health clinician or qualified mental health professional in accordance with subsection C of 6VAC35-101-1156 (mechanical restraint chair use for purposes other than controlled movement; conditions for use).

Regulation Governing Juvenile Secure Detention Centers
Option 2 –New Parameters on Mechanical Restraints

5. If the resident, after being placed in the mechanical restraint chair, exhibits self-injurious behavior, staff shall (i) take appropriate action to ensure the threat or harm is stabilized; (ii) consult a mental health clinician or qualified mental health professional immediately thereafter and obtain approval for continued use of the restraint chair.

6. The health authority, a mental health clinician, a qualified mental health professional, or other qualifying licensed medical professional may order termination of restraint chair use at any time upon determining that use of the chair poses a health risk.

7. Each use of the restraint chair shall constitute a serious incident, to which the provisions of 6VAC35-101-80 (serious incident reports) shall apply;

8. Each use of the restraint chair shall be documented in the resident’s case file or in a central logbook. The documentation shall include:

- a. Date and time of the incident;
- b. Staff involved in the incident;
- c. Justification for the restraint;
- d. Less restrictive interventions that were attempted or an explanation of why the restraint chair is the least restrictive intervention available to ensure the resident’s safe movement;
- e. Duration of the restraint;
- f. Signature of the person documenting the incident and date;
- g. Indication that all applicable approvals required in this article have been obtained; and
- h. Reviewer’s signature and date.

9. Detention center staff shall conduct a debriefing of the restraint after releasing the resident from the chair.

6VAC35-101-1155. Mechanical restraint chair use for controlled movement; conditions.

A. A detention center shall be authorized to use a mechanical restraint chair for purposes of controlled movement of a resident from one area of the facility to another, provided the following conditions, in addition to the requirements enumerated in 6VAC35-101-1155 (mechanical restraint chair; general provisions) are satisfied:

1. The resident’s refusal to move from one area of the facility to another poses a direct and immediate threat to the resident or others or interferes with required facility operations; and

2. Use of the restraint chair is the least restrictive intervention available to ensure the resident’s safe movement.

B. When the facility utilizes the restraint chair in accordance with this section, staff shall remove the resident from the chair immediately upon reaching the intended destination. If staff, upon reaching the intended destination, determine that continued restraint is necessary due to the resident’s ongoing credible threat to injure himself or others, staff shall consult with a mental

Regulation Governing Juvenile Secure Detention Centers
Option 2 –New Parameters on Mechanical Restraints

health clinician or qualified mental health professional for approval of the continued restraint. The ongoing threat may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint.

6VA35-101-1156. Mechanical restraint chair use for purposes other than controlled movement; conditions for use.

A. A detention center shall be authorized to use a mechanical restraint chair for purposes other than controlled movement provided the following conditions are satisfied:

1. The resident’s behavior or actions present a direct and immediate threat to the resident or others;
2. Less restrictive alternatives were attempted but were unsuccessful in bringing the resident under control or abating the threat;
3. The resident remains in the restraint chair only for as long as necessary to abate the threat or help the resident gain self-control.

B. Once the direct threat is abated, if staff determines that continued restraint is necessary to maintain security due to the resident’s ongoing credible threat to injure himself or others, staff shall consult a mental health clinician or qualified mental health professional for approval of the continued restraint. The ongoing threat may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint

C. The detention center shall be excused from the requirements in subsections A and B of this section when the restraint chair is requested by a resident for whom such voluntary use is part of an approved plan of care by a qualified mental health professional or mental health clinician.

D. Whenever a resident is placed in a restraint chair for purposes other than controlled movement, staff shall observe the following monitoring requirements:

1. Employ constant, one-on-one supervision until the resident is released from the chair. Staff shall attempt to engage verbally with the resident during the one-on-one supervision. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary to be released from the restraint; or otherwise attempting to deescalate the resident.
2. Ensure that a health-trained staff monitors the resident for signs of circulation and for injuries at least once every 15 minutes in accordance with written procedures; and
3. Ensure that the resident is reasonably comfortable and has access to water, meals, and toilet.

6VAC35-101-1157. Monitoring residents placed in a mechanical restraint chair.

A. If a resident remains in the restraint chair for a period that exceeds one hour, the resident shall be permitted to exercise each of his limbs for a minimum of 10 minutes every two hours to prevent blood clots.

B. A detention center shall ensure that a video record of the following is captured and retained for a minimum of three years in accordance with 6VAC35-101-40 (certification):

1. The placement of a resident in a restraint chair when a resident is restrained for purposes of controlled movement; and

2. The entire restraint, from the time the resident is placed in the restraint chair until his release, when a resident is restrained in the chair for purposes other than controlled movement. The detention center may satisfy this requirement by positioning the restraint chair within direct view of an existing security camera.

6VAC35-101-1158. Department monitoring visits.

If a detention center uses a mechanical restraint chair to restrain a resident, regardless of the duration or purpose of the use, the detention center shall be subject to a monitoring visit conducted by the department pursuant to the authority provided in 6VAC35-20-60 (monitoring of programs and facilities). The purpose of the monitoring visit shall be to assess the detention center's compliance with the provisions of this article.

6VAC35-101-1159. Written procedures regarding mechanical restraint chairs.

A detention center that uses a mechanical restraint chair to restrain a resident shall develop and implement written procedures approved by the facility administrator that reflect the requirements established in this article.

OPTION 3 – PROHIBITION ON RESTRAINT CHAIRS

6VAC35-101-10. Definitions.

“Mechanical restraint” means an approved mechanical device that involuntarily restricts the freedom of movement or voluntary functioning of a limb or portion of an individual’s body as a means of controlling his physical activities when the individual being restricted does not have the ability to remove the device. For purposes of this chapter, mechanical restraints shall -include flex cuffs, handcuffs, leather restraints, leg irons, restraining belts and straps, waist chains, and anti-mutilation gloves. For purposes of this chapter, mechanical restraints shall not include mechanical restraint chairs.

“Mechanical restraint chair” means a chair used to restrict the freedom of movement or voluntary functioning of a portion of an individual’s body as a means of controlling his physical activities while the individual is seated and either stationary or being transported.

“Mental health clinician” means a person with a master’s degree or higher in psychology, counseling, or social work with an emphasis on mental health treatment who is employed in the practice of treating mental disorders.

“Protective device” means an approved device placed on a portion of a resident’s body to protect the resident or staff from injury. For purposes of this chapter, protective device shall include spit guards or similar devices and protective helmets.

“Qualified mental health professional” means a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative mental health services for adults or children.

“Spit guard or similar device” means a protective device placed over a resident’s mouth for purposes of safety and security in order to prevent the resident from spitting on or biting staff or others.

6VAC35-101-190. Required initial training for employees.

A. ~~Each~~ Full-time and part-time employees and relief staff shall complete initial, comprehensive training that is specific to the individual's occupational class, is based on the needs of the population served, and ensures that the individual has the competencies to perform the position's duties. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.

Regulation Governing Juvenile Secure Detention Centers
Option 3– Prohibition on Restraint Chairs

~~1. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.~~

~~2. Contractors shall receive training required to perform their position responsibilities in a detention center.~~

B. Within 30 days following the employee's start date at the facility or before the employee is responsible for the direct care or direct supervision of a resident, all direct care staff and staff who provide direct supervision of the residents shall complete training in the following areas:

1. Emergency preparedness and response as provided for in 6VAC35-101-510 (emergency and evacuation procedures);

2. The facility's behavior management program as provided for in 6VAC35-101-1070 (behavior management);

3. The residents' rules of conduct and the rationale for the rules;

4. The facility's behavior intervention procedures, ~~with~~ including physical and mechanical restraint and protective devices training required as applicable to their duties and as required by subsection D-C of this section, and room restriction and disciplinary room restriction as provided for in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction);

5. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect);

6. Maintaining appropriate professional boundaries and relationships;

7. Appropriate interaction~~Interaction~~ among staff and residents;

8. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);

9. Residents' rights, including ~~but not limited to~~ prohibited actions provided for in 6VAC35-101-650 (prohibited actions);

10. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases); and

11. Procedures applicable to the employees' position and consistent with their work profiles.

C. Employees who are authorized by the facility administrator to restrain a resident, as provided for in 6VAC35-101-1090 (physical restraint) and 6VAC35-101-1130 (mechanical restraints), shall be trained in the facility's approved restraint techniques within 90 days of such authorization and ~~prior to~~ before applying any restraint techniques.

D. Employees who administer medication shall, prior to such administration, as provided for in 6VAC35-101-1060 (medication), and in accordance with the provisions of § 54.1-3408 of the Code of Virginia, either (i) have successfully completed a medication management training program approved by the Board of Nursing or (ii) be ~~licensed~~ certified by the Commonwealth of Virginia to administer medication.

Regulation Governing Juvenile Secure Detention Centers
Option 3– Prohibition on Restraint Chairs

~~E. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

~~F. Volunteers and interns shall be trained in accordance with 6VAC35-101-300 (volunteer and intern orientation and training).~~

G. Employees who perform the duties required in 6VAC35-101-800 (admission and orientation) shall be trained in the requirements contained therein.

6VAC35-101-200. Retraining requirements for employees.

A. Each full-time and part-time employee and relief staff shall complete retraining that is specific to the individual's occupational class, the position's job description, and addresses any professional development needs.

B. All full-time and part-time employees and relief staff shall complete an annual training refresher on the facility's emergency preparedness and response plan and procedures as provided for in 6VAC35-101-~~480~~ 520 (emergency and evacuation procedures).

C. All direct care staff shall receive at least 40 hours of training annually that shall include training on the following:

1. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);
2. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases);
3. Maintaining appropriate professional relationships;
4. Appropriate interaction~~Interaction~~ among staff and residents;
5. Residents' rights, including ~~but not limited to~~ the prohibited actions provided for in 6VAC35-101-650 (prohibited actions);
6. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect); and
7. Behavior intervention procedures, including room restriction and disciplinary room restriction, as provided in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction).

D. All staff approved to apply physical restraints, as provided for in 6VAC35-101-1090 (physical restraint) shall be trained as needed to maintain the applicable current certification.

Regulation Governing Juvenile Secure Detention Centers
Option 3– Prohibition on Restraint Chairs

E. All staff approved to apply mechanical restraints or protective devices shall be retrained annually as required by 6VAC35-101-1130 (mechanical restraints).

F. Employees who administer medication, as provided for in 6VAC35-101-1060 (medication), shall complete an annual refresher training, which shall, at a minimum, include a review of the components required in 6VAC35-101-1060 (medication).

~~G. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

H. Staff who have not timely completed required retraining shall not be allowed to have direct care responsibilities pending completion of the retraining requirements.

6VAC35-101-1130. Mechanical restraints and protective devices.

A. Mechanical restraints and protective devices may be used for the following purposes, subject to the restrictions enumerated in this section: (i) to control residents whose behavior poses an imminent risk to the safety of the resident, staff, or others; (ii) for purposes of controlled movement, either from one area of the facility to another or to a destination outside the facility; or (iii) to address emergency situations.

~~A. Written procedure shall govern the use of mechanical restraints. Such procedures shall be approved by the department and shall specify:~~

~~1. The conditions under which handcuffs, waist chains, leg irons, disposable plastic cuffs, leather restraints, and a mobile restraint chair may be used;~~

B. A detention center that uses mechanical restraints or protective devices shall observe the following general requirements:

1. Mechanical restraints and protective devices shall be used only for as long as necessary to address the purposes established in subsection A. Once the imminent risk to safety has been abated, the resident has reached his intended destination within the facility or has returned to the facility from a destination offsite, or the emergency situation has been resolved, the mechanical restraint or protective device must be removed.

2. The facility administrator or his designee shall be notified immediately upon using mechanical restraints or protective devices in an emergency situation;

Regulation Governing Juvenile Secure Detention Centers
Option 3– Prohibition on Restraint Chairs

~~3. That~~The facility shall not use mechanical restraints shall never be applied as or protective devices as a punishment or a sanction;

~~4. That r~~Residents shall not be restrained to a fixed object or restrained in an unnatural position. For purposes of this section, securing a resident to a hospital bed or wheelchair may be permitted in an outside medical setting upon written approval by the facility administrator and in accordance with written procedures;

5. A mental health clinician, qualified mental health professional, or other qualifying licensed medical professional may order termination of a mechanical restraint or protective device at any time upon determining that the item poses a health risk.

~~56. That each~~Each use of a mechanical restraintsrestraint or protective device, except when used to transport a resident or during video court hearing proceedings, shall be recorded in the resident's case file or in a central log book; and

~~67. That a~~A written system of accountability isshall be in place to ensure record of routine and emergency distribution of mechanical restraint equipmentrestraints and protective devices be maintained.; and

~~8. Written procedure shall provide that (i) all~~All staff who are authorized to use restraints mechanical restraints or protective devices shall receive training in such use in accordance with 6VAC35-101-190 (required initial training for employees) and 6VAC35-101-200 (retraining requirements for employees); including how to check the resident's circulation and how to check for injuries; and (ii) only trained staff shall use mechanical restraints or protective devices.

B. A detention center that uses a mechanical restraint to control a resident whose behavior poses a safety risk in accordance with subdivision (A)(i) of this section shall notify a health care provider and a mental health clinician or qualified mental health professional before continuing to use the restraint and, if applicable, the accompanying protective device, if the imminent risk has been abated, but the facility determines that continued use of the mechanical restraint is necessary to maintain security due to the resident's ongoing credible threat to injure himself or others. This may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint

C. A detention center may not use a protective device unless such use is in connection with a restraint and shall remove the device when the resident is released from the restraint.

Regulation Governing Juvenile Secure Detention Centers
Option 3– Prohibition on Restraint Chairs

D. In addition to the requirements enumerated in subsections A through C of this section, a detention center that uses a spit guard or similar device to control resident behavior shall observe the following requirements:

1. The spit guard or similar device may be used only on a resident who previously has bitten or spit on a staff member in the course of a restraint or who, in the course of a current restraint, threatens to spit on or bite or actually spits on or bites a staff member;
2. The spit guard or similar device must be designed and applied in a manner that will not inhibit the resident’s ability to see or to breathe;
3. While the spit guard or similar device remains in place, staff shall provide for the resident’s reasonable comfort and ensure the resident’s access to water and meals, as applicable;
4. Staff must employ constant supervision of the resident while the spit guard or similar device remains in place to observe whether the resident exhibits signs of respiratory distress. If any sign of respiratory distress is observed, staff shall remove the spit guard or similar device immediately; and
5. Staff may not use a spit guard or similar device on a resident who is unconscious, vomiting, or in obvious need of medical attention.

6VAC35-101-1140. Monitoring ~~restrained-residents~~ placed in mechanical restraints.

A. Written procedure shall provide that ~~when-if~~ a resident is placed in a mechanical restraints~~restraint~~, staff shall:

1. Provide for the resident's reasonable comfort and ensure the resident's access to water, meals, and toilet; and
2. Make a ~~direct personal~~face-to-face check on the resident at least every 15 minutes and more often if the resident's behavior warrants. ~~Such~~Staff shall attempt to engage verbally with the resident during each periodic check. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary to be released from the restraint; or otherwise attempting to deescalate the resident. During each check~~checks shall include monitoring,~~ a health-trained staff member shall monitor the resident's~~resident~~ for signs of circulation and for injuries.~~in accordance with the procedure provided for in 6VAC35-101-1130~~

B. If a resident remains in the mechanical chair for a period that exceeds one hour, the resident shall be permitted to exercise each of his limbs for a minimum of 10 minutes every two hours to prevent blood clots.

Regulation Governing Juvenile Secure Detention Centers
Option 3– Prohibition on Restraint Chairs

~~BC.~~ When a resident is placed in mechanical restraints for more than two hours cumulatively in a 24-hour period, with the exception of use in routine transportation of residents, staff shall immediately consult with a health care provider and a qualified mental health professional or mental health clinician. This consultation shall be documented.

~~CD.~~ If the resident, after being placed in mechanical restraints, exhibits self-injurious behavior, staff shall: (i) staff shall take appropriate action to ensure the threat or harm is stabilized; (ii) ~~immediately consult with and document that they have consulted with a~~ mental health clinician or qualified mental health professional immediately thereafter and document the consultation; and (iii) monitor the resident ~~shall be monitored in accordance with established protocols, including constant supervision, if appropriate. Any such protocols shall be in compliance with the procedures required by 6VAC35-101-1150 (restraints for medical and mental health purposes).~~

6VAC35-101-1145. Written procedures regarding mechanical restraints and protective devices

A detention center that uses mechanical restraints or protective devices shall develop and implement written procedures approved by the facility administrator that reflect the requirements established in this article.

6VAC35-101-1150. Restraints for medical and mental health purposes. (Repealed.)

~~Written procedure shall govern the use of restraints for medical and mental health purposes. Written procedure shall identify the authorization needed; when, where, and how restraints may be used; for how long; and what type of restraint may be used.~~

6VAC35-101-1155. Use of mechanical restraint chairs prohibited.

Staff shall be prohibited from placing a resident in a mechanical restraint chair for any purpose.

OPTION 4 – PROHIBITION ON SPIT GUARDS AND SIMILAR DEVICES

6VAC35-101-10. Definitions.

“Mechanical restraint” means an approved mechanical device that involuntarily restricts the freedom of movement or voluntary functioning of a limb or portion of an individual’s body as a means of controlling his physical activities when the individual being restricted does not have the ability to remove the device. For purposes of this chapter, mechanical restraints shall include flex cuffs, handcuffs, leather restraints, leg irons, restraining belts and straps, waist chains, and anti-mutilation gloves. For purposes of this chapter, mechanical restraints shall not include mechanical restraint chairs.

“Mechanical restraint chair” means an approved chair used to restrict the freedom of movement or voluntary functioning of a portion of an individual’s body as a means of controlling his physical activities while the individual is seated and either stationary or being transported.

“Mental health clinician” means a person with a master’s degree or higher in psychology, counseling, or social work with an emphasis on mental health treatment who is employed in the practice of treating mental disorders.

“Protective device” means an approved device placed on a portion of a resident’s body to protect the resident or staff from injury. For purposes of this chapter, protective device shall not include spit guards or similar devices.

“Qualified mental health professional” means a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative mental health services for adults or children.

“Spit guard or similar device” means a device placed over a resident’s mouth for purposes of safety in order to prevent the resident from spitting on or biting staff or others.

6VAC35-101-190. Required initial training for employees.

A. ~~Each~~ Full-time and part-time employees and relief staff shall complete initial, comprehensive training that is specific to the individual's occupational class, is based on the needs of the population served, and ensures that the individual has the competencies to perform the position's duties. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.

~~1. Direct care staff shall receive at least 40 hours of training, inclusive of all training required by this section, in their first year of employment.~~

Regulation Governing Juvenile Secure Detention Centers
Option 4– Prohibition on Spit Guards and Similar Devices

~~2. Contractors shall receive training required to perform their position responsibilities in a detention center.~~

B. Within 30 days following the employee's start date at the facility or before the employee is responsible for the direct care or direct supervision of a resident, all direct care staff and staff who provide direct supervision of the residents shall complete training in the following areas:

1. Emergency preparedness and response as provided for in 6VAC35-101-510 (emergency and evacuation procedures);
2. The facility's behavior management program as provided for in 6VAC35-101-1070 (behavior management);
3. The residents' rules of conduct and the rationale for the rules;
4. The facility's behavior intervention procedures, ~~with~~ including physical and mechanical restraint training and protective device training required as applicable to their duties and as required by subsection ~~D-C~~ of this section, and room restriction and disciplinary room restriction as provided for in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction);
5. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect);
6. Maintaining appropriate professional boundaries and relationships;
7. Appropriate interaction ~~Interaction~~ among staff and residents;
8. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);
9. Residents' rights, including ~~but not limited to~~ prohibited actions provided for in 6VAC35-101-650 (prohibited actions);
10. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases); and
11. Procedures applicable to the employees' position and consistent with their work profiles.

C. Employees who are authorized by the facility administrator to restrain a resident, as provided for in 6VAC35-101-1090 (physical restraint) and 6VAC35-101-1130 (mechanical restraints), shall be trained in the facility's approved restraint techniques within 90 days of such authorization and ~~prior to~~ before applying any restraint techniques.

D. Employees who administer medication shall, prior to such administration, as provided for in 6VAC35-101-1060 (medication), and in accordance with the provisions of § 54.1-3408 of the Code of Virginia, either (i) have successfully completed a medication management training program approved by the Board of Nursing or (ii) be ~~licensed~~ certified by the Commonwealth of Virginia to administer medication.

Regulation Governing Juvenile Secure Detention Centers
Option 4– Prohibition on Spit Guards and Similar Devices

~~E. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

~~F. Volunteers and interns shall be trained in accordance with 6VAC35-101-300 (volunteer and intern orientation and training).~~

G. Employees who perform the duties required in 6VAC35-101-800 (admission and orientation) shall be trained in the requirements contained therein.

6VAC35-101-200. Retraining requirements for employees.

A. Each full-time and part-time employee and relief staff shall complete retraining that is specific to the individual's occupational class, the position's job description, and addresses any professional development needs.

B. All full-time and part-time employees and relief staff shall complete an annual training refresher on the facility's emergency preparedness and response plan and procedures as provided for in 6VAC35-101-480-~~520~~ (emergency and evacuation procedures).

C. All direct care staff shall receive at least 40 hours of training annually that shall include training on the following:

1. Suicide prevention as provided for in 6VAC35-101-1020 (suicide prevention);
2. Standard precautions as provided for in 6VAC35-101-1010 (infectious or communicable diseases);
3. Maintaining appropriate professional relationships;
4. Appropriate interaction~~Interaction~~ among staff and residents;
5. Residents' rights, including ~~but not limited to~~ the prohibited actions provided for in 6VAC35-101-650 (prohibited actions);
6. Child abuse and neglect and mandatory reporting as provided for in 6VAC35-101-80 (serious incident reports) and 6VAC35-101-90 (suspected child abuse or neglect); and
7. Behavior intervention procedures, including room restriction and disciplinary room restriction, as provided in 6VAC35-101-1100 (room restriction) and 6VAC35-101-1105 (disciplinary room restriction).

D. All staff approved to apply physical restraints, as provided for in 6VAC35-101-1090 (physical restraint) shall be trained as needed to maintain the applicable current certification.

Regulation Governing Juvenile Secure Detention Centers
Option 4– Prohibition on Spit Guards and Similar Devices

E. All staff approved to apply mechanical restraints or protective devices shall be retrained annually as required by 6VAC35-101-1130 (mechanical restraints).

F. Employees who administer medication, as provided for in 6VAC35-101-1060 (medication), shall complete an annual refresher training, which shall, at a minimum, include a review of the components required in 6VAC35-101-1060 (medication).

~~G. When an individual is employed by contract to provide services for which licensure by a professional organization is required, documentation of current licensure shall constitute compliance with this section.~~

H. Staff who have not timely completed required retraining shall not be allowed to have direct care responsibilities pending completion of the retraining requirements.

6VAC35-101-1130. Mechanical restraints and protective devices.

A. Mechanical restraints and protective devices may be used for the following purposes subject to the restrictions enumerated in this section: (i) to control residents whose behavior poses an imminent risk to the safety of the resident, staff, or others; (ii) for purposes of controlled movement, either from one area of the facility to another or to a destination outside the facility; and (iii) to address emergency situations.

~~A. Written procedure shall govern the use of mechanical restraints. Such procedures shall be approved by the department and shall specify:~~

~~1. The conditions under which handcuffs, waist chains, leg irons, disposable plastic cuffs, leather restraints, and a mobile restraint chair may be used;~~

B. A detention center that uses mechanical restraints or protective device shall observe the following general requirements:

1. Mechanical restraints and protective devices shall be used only for as long as necessary to address the purposes established in subsection A. Once the imminent risk to safety has been abated, the resident has reached his intended destination within the facility or has returned to the facility from a destination offsite, or the emergency situation has been resolved, the mechanical restraint or protective device shall be removed.

2. ~~That the~~The facility administrator or his designee shall be notified immediately upon using mechanical restraints or protective devices in an emergency situation;

Regulation Governing Juvenile Secure Detention Centers
Option 4– Prohibition on Spit Guards and Similar Devices

~~3. That~~The facility shall not use mechanical restraints shall never be applied as or protective devices as a punishment or a sanction;

~~4. That residents~~Residents shall not be restrained to a fixed object or restrained in an unnatural position. For purposes of this section, securing a resident to a hospital bed or wheelchair may be permitted in an outside medical setting upon written approval by the facility administrator and in accordance with written procedures, as specified in Section 1150;

5. A mental health clinician, qualified mental health professional, or other qualifying licensed medical professional may order termination of a mechanical restraint or protective device at any time upon determining that the item poses a health risk.

~~56. That each~~Each use of a mechanical restraintsrestraint or protective device, except when used to transport a resident or during video court hearing proceedings, shall be recorded in the resident's case file or in a central log book; and

~~67. That a~~A written system of accountability isshall be in place to ensure record of routine and emergency distribution of mechanical restraint equipmentrestraints and protective devices be maintained.

~~8. Written procedure shall provide that (i) all~~All staff who are authorized to use mechanical restraints or protective devices shall receive training in such use in accordance with 6VAC35-101-190 (required initial training for employees) and 6VAC35-101-200 (retraining requirements for employees), including how to check the resident's circulation and how to check for injuries; and (ii) only trained staff shall use restraints or protective devices.

B. A detention center that uses a mechanical restraint to control a resident whose behavior poses a safety risk in accordance with subdivision (A)(i) of this section shall notify a health care provider and a mental health clinician or qualified mental health professional before continuing to use the restraint and, if applicable, the accompanying protective device, if the imminent risk has been abated, but the facility determines that continued use of the mechanical restraint is necessary to maintain security due to the resident's ongoing credible threat to injure himself or others. This may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint.

C. A detention center may not use a protective device unless such use is in connection with a restraint and shall remove the device when the resident is released from the restraint.

Regulation Governing Juvenile Secure Detention Centers
Option 4– Prohibition on Spit Guards and Similar Devices

6VAC35-101-1140. Monitoring ~~restrained residents~~ placed in mechanical restraints.

A. Written procedure shall provide that ~~when-if~~ a resident is placed in mechanical restraints, staff shall:

1. Provide for the resident's reasonable comfort and ensure the resident's access to water, meals, and toilet; and

2. Make a ~~direct personal~~ face-to-face check on the resident at least every 15 minutes and more often if the resident's behavior warrants. Staff shall attempt to engage verbally with the resident during each periodic check. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary to be released from the restraint; or otherwise attempting to deescalate the resident. ~~Such~~ During each check checks shall include monitoring, a health-trained staff member shall monitor the resident's resident for signs of circulation and for injuries. in accordance with the procedure provided for in 6VAC35-101-1130 B.

B. If a resident remains in a mechanical restraint for a period that exceeds one hour, the resident shall be permitted to exercise each of his limbs for a minimum of 10 minutes every two hours to prevent blood clots.

BC. When a resident is placed in mechanical restraints for more than two hours cumulatively in a 24-hour period, with the exception of use in routine transportation of residents, staff shall immediately consult with a health care provider and a qualified mental health professional or mental health clinician. This consultation shall be documented.

CD. If the resident, after being placed in mechanical restraints, exhibits self-injurious behavior, staff shall: (i) staff shall take appropriate action to ensure the threat or harm is stabilized; (ii) immediately consult with and document that they have consulted with a mental health clinician or qualified mental health professional immediately thereafter and document the consultation; and (iii) monitor the resident shall be monitored in accordance with established protocols, including constant supervision, if appropriate. Any such protocols shall be in compliance with the procedures required by 6VAC35-101-1150 (restraints for medical and mental health purposes).

6VAC35-101-1145. Written procedures regarding mechanical restraints and protective devices

A detention center that uses mechanical restraints or protective device shall develop and implement written procedures approved by the facility administrator that reflect the requirements established in this article.

6VAC35-101-1150. Restraints for medical and mental health purposes. (Repealed.)

~~Written procedure shall govern the use of restraints for medical and mental health purposes. Written procedure shall identify the authorization needed; when, where, and how restraints may be used; for how long; and what type of restraint may be used.~~

Article IV – Mechanical Restraint Chairs

6VAC35-101-1153. Mechanical restraint chair; general provisions.

A detention center that utilizes a mechanical restraint chair shall observe the following requirements, regardless of whether the chair is used for purposes of controlled movement in accordance with 6VAC35-101-1154 (mechanical restraint chair use for controlled movement; conditions) or for other purposes in accordance with 6VAC35-101-1155 (mechanical restraint chair used for purposes other than controlled movement; conditions for use):

1. The restraint chair shall never be applied as punishment or as a sanction;
2. All staff authorized to use the restraint chair shall receive training in such use in accordance with 6VAC35-101-190 (required initial training for employees) and 6VAC35-101-200 (retraining requirements for employees);
3. The facility administrator or his designee shall provide approval before a resident may be placed in the restraint chair;
4. Staff shall notify the health authority, designated in accordance with 6VAC35-101-930, immediately upon placing the resident in the restraint chair to assess the resident's medical and mental health condition, to ascertain whether the restraint is contraindicated based on the resident's physical condition or behavior or whether other accommodations are necessary, and to advise whether, on the basis of serious danger to self or others, the resident should be in a medical or mental health unit for emergency involuntary treatment. The requirements of this subdivision shall not apply when the restraint chair is requested by a resident for whom such voluntary use is part of an approved plan of care by a mental health clinician or qualified mental health professional in accordance with subsection C of 6VAC35-101-1155 (mechanical restraint chair use for purposes other than controlled movement; conditions for use).

Regulation Governing Juvenile Secure Detention Centers
Option 4– Prohibition on Spit Guards and Similar Devices

5. If the resident, after being placed in the mechanical restraint chair, exhibits self-injurious behavior, staff shall (i) take appropriate action to ensure the threat or harm is stabilized; (ii) consult a mental health clinician or qualified mental health professional immediately thereafter and obtain approval for continued use of the restraint chair.

6. The health authority, a mental health clinician, a qualified mental health professional, or other qualifying licensed medical professional may order termination of restraint chair use at any time upon determining that use of the chair poses a health risk.

7. Each use of the restraint chair shall constitute a serious incident, to which the provisions of 6VAC35-101-80 (serious incident reports) shall apply;

8. Each use of the restraint chair shall be documented in the resident’s case file or in a central logbook. The documentation shall include:

- a. Date and time of the incident;
- b. Staff involved in the incident;
- c. Justification for the restraint;
- d. Less restrictive interventions that were attempted or an explanation of why the restraint chair is the least restrictive intervention available to ensure the resident’s safe movement;
- e. Duration of the restraint;
- f. Signature of the person documenting the incident and date;
- g. Indication that all applicable approvals required in this article have been obtained; and
- h. Reviewer’s signature and date.

9. That detention center staff shall conduct a debriefing of the restraint after releasing the resident from the chair.

6VAC35-101-1154. Mechanical restraint chair use for controlled movement; conditions.

A. A detention center shall be authorized to use a mechanical restraint chair for purposes of controlled movement of a resident from one area of the facility to another, provided the following conditions are satisfied:

- 1. The resident’s refusal to move from one area of the facility to another poses a direct and immediate threat to the resident or others or interferes with required facility operations; and
- 2. Use of the restraint chair is the least restrictive intervention available to ensure the resident’s safe movement.

B. When the facility utilizes the restraint chair in accordance with this section, staff shall remove the resident from the chair immediately upon reaching the intended destination. If staff, upon reaching the intended destination, determine that continued restraint is necessary, staff shall consult with a mental health clinician for approval of the continued restraint.

6VA35-101-1155. Mechanical restraint chair use for purposes other than controlled movement; conditions for use.

A. A detention center shall be authorized to use a mechanical restraint chair for purposes other than controlled movement provided the following conditions are satisfied:

1. The resident’s behavior or actions present a direct and immediate threat to the resident or others;
2. Less restrictive alternatives were attempted but were unsuccessful in bringing the resident under control or abating the threat;
3. The resident remains in the restraint chair only for as long as necessary to abate the threat or help the resident gain self-control.

B. Once the direct threat is abated, if staff determines that continued restraint is necessary to maintain security due to the resident’s ongoing credible threat to injure himself or others, staff shall consult a mental health clinician or qualified mental health professional for approval of the continued restraint. The ongoing threat may include instances in which the resident verbally expresses the intent to continue the actions that required the restraint

C. The detention center shall be excused from the requirements in subsections A and B of this section when the restraint chair is requested by a resident for whom such voluntary use is part of an approved plan of care by a qualified mental health professional or mental health clinician.

D. Whenever a resident is placed in a restraint chair for purposes other than controlled movement, staff shall observe the following monitoring requirements:

1. Employ constant, one-on-one supervision until the resident is released from the chair. Staff shall attempt to engage verbally with the resident during the one-on-one supervision. These efforts may include explaining the reasons for which the resident is being restrained or the steps necessary to be released from the restraint; or otherwise attempting to deescalate the resident;
2. Ensure that a health-trained staff monitors the resident for signs of circulation and for injuries at least once every 15 minutes in accordance with written procedures; and
3. Ensure that the resident is reasonably comfortable and has access to water, meals, and toilet

6VAC35-101-1156. Monitoring residents placed in a mechanical restraint chair.

A. If a resident remains in the restraint chair for a period that exceeds one hour, the resident shall be permitted to exercise each of his limbs for a minimum of 10 minutes every two hours to prevent blood clots.

Regulation Governing Juvenile Secure Detention Centers
Option 4– Prohibition on Spit Guards and Similar Devices

B. A detention center shall ensure that a video record of the following is captured and retained for a minimum of three years in accordance with 6VAC35-101-40 (certification):

1. The placement of a resident in a restraint chair when a resident is restrained for purposes of controlled movement; and
2. The entire restraint, from the time the resident is placed in the restraint chair until his release, when a resident is restrained in the chair for purposes other than controlled movement. The detention center may satisfy this requirement by positioning the restraint chair within direct view of an existing security camera.

6VAC35-101-1157. Department monitoring visits.

If a detention center uses a mechanical restraint chair to restrain a resident, regardless of the duration or purpose of the use, the detention center shall be subject to a monitoring visit conducted by the department pursuant to the authority provided in 6VAC35-20-60 (monitoring of programs and facilities). The purpose of the monitoring visit shall be to assess the detention center's compliance with the provisions of this article.

6VAC35-101-1158. Written procedures regarding mechanical restraint chairs.

A detention center that uses a mechanical restraint chair to restrain a resident shall develop and implement written procedures approved by the facility administrator that reflect the requirements established in this article.

6VAC35-101-1159. Use of spit guards and similar devices prohibited.

Staff shall be prohibited from requiring a resident to wear a spit guard or similar device for any period of time.



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ANGELA C. VALENTINE
Chief Deputy Director

TO: State Board of Juvenile Justice

FROM: Virginia Department of Juvenile Justice

SUBJECT: Request Board Action on Four Alternatives for Amendments to the Regulation Governing Juvenile Secure Detention Centers (6VAC35-101) Regarding Mechanical Restraints and Restraint Chairs

DATE January 8, 2019

I. SUMMARY OF ACTION REQUESTED

The Department of Juvenile Justice (the department) respectfully requests the State Board of Juvenile Justice (board) to consider four separate options for proposed amendments to the Regulation Governing Juvenile Secure Detention Centers (6VAC35-101) to address the use of restraint chairs and other mechanical restraints in these facilities. The department presents the following four options for proposed amendments in accordance with the board's directive at the November 7, 2018, meeting:

- Option 1 - Retain the proposed amendments to the Regulation Governing Juvenile Secure Detention Centers (Chapter 101) as approved by the board at the June 13, 2018, meeting;
- Option 2 - Amend the above-named chapter to impose additional parameters on the use of restraint chairs, mechanical restraints, and "protective devices" in detention centers;
- Option 3 - Amend the above-named chapter to impose an absolute prohibition on the use of mechanical restraint chairs in juvenile secure detention centers; and
- Option 4 – Amend the above-named chapter to impose an absolute prohibition on the use of spit guards and similar devices on residents in juvenile secure detention centers.

The department convened a committee consisting of representatives from secure juvenile detention centers, juvenile correctional centers, and internal department staff primarily to develop provisions for Option 2. This memorandum provides a description and summary of each option.

II. OPTION 1 – AMENDMENTS APPROVED BY BOARD, JUNE 2018

Option 1 reflects the amendments approved by the board at the June 13, 2018, meeting. Under this option, mobile restraint chairs are included expressly in the definition of mechanical restraints and are subject to the provisions governing mechanical restraints in each of these chapters. Among the parameters, staff may not apply mechanical restraints as a punishment or sanction, use of mechanical restraints requires facility administrator notification, staff must be trained prior to applying mechanical restraints, and face-to-face checks must be conducted on mechanically-restrained residents every 15 minutes or more often if the situation warrants. Spit guards and helmets are not among the all-inclusive list of items covered under the mechanical restraint definition, and the regulation and proposed amendments are silent regarding any restrictions on their use.

The department has not made any substantive changes to this language since the board's approval on June 13.

II. OPTION 2 - NEW RESTRICTIONS ON MECHANICAL RESTRAINTS AND RESTRAINT CHAIRS

Definitions (Section 10): The proposal amends the board-approved definition of mechanical restraints and adds five new terms, as follows:

- *Mechanical restraints and restraint chairs* - Although the board-approved amendments provide a definition for mechanical restraints, the committee has identified several potential enhancements to this definition. First, the list of permissible mechanical restraints in the definition is all-inclusive. To the extent these items evolve in the near future or new items are developed that are safer or less restrictive, facilities will not be subject to the restrictions imposed on other restraints if they implement use of the new items in their facilities. Similarly, the all-inclusive list does not contain restraining belts and straps or anti-mutilation gloves, items that are not used in most juvenile detention centers currently but may be implemented in the future. Finally, although mechanical restraint chairs are included under the current definition, the committee recommends separating them so that a new section can be established that will impose greater restrictions on their use.
- *Mental health clinician and qualified mental health professional*: Qualified mental health professionals (QMHPs) are responsible for assessing a resident's mental health condition and determining whether the application of restraints on residents in secure facilities is appropriate. Under the *Code of Virginia*, §54.1-3500, a QMHP is professionally qualified and registered by the Board of Counseling to provide collaborative mental health services for adults or children. This definition is sufficient to encompass the community service board providers that are responsible for conducting mental health assessments for residents in secure juvenile detention centers. The definition does not cover every correctional center employee authorized to conduct these assessments. To address this issue, the committee recommends adding a definition for mental health clinicians that includes individuals with a master's degree or higher in psychology, counseling, or social work with an emphasis on mental health treatment. Where reference to mental health professionals is made under this option, the proposal includes mental health clinicians, as well as QMHPs.
- *Protective device*: The board-approved definition for mechanical restraints in the detention center regulation does not include spit guards or helmets, though detention centers currently use both items. The committee agreed that these items do not meet the definition of mechanical restraints because neither device restricts a resident's freedom of movement or voluntary bodily functioning. Rather, they

serve a protective function and prevent the resident's bodily movement from harming the resident or staff. The proposal adds a separate definition for protective devices, under which spit guards and protective helmets will be classified. Under the proposal, many of the restrictions imposed on mechanical restraints also apply to protective devices.

- *Spit guard or similar device*: The proposal adds a definition for spit guard to clarify that these devices are placed over a resident's mouth for safety purposes to prevent the resident from spitting on or biting staff or others.

Serious incident reports Sections 80, 1153(7): The existing regulation requires facilities to report specified incidents, such as resident deaths, accidents, or illnesses to the director or his designee, either the parent or legal guardian, and the applicable court service unit within 24 hours of the event. The committee recommends expanding the list of events subject to serious incident reporting to include any placement of a resident in a mechanical restraint chair, regardless of the purpose or duration of the use. This will ensure the department is aware of each application of the restraint chair and can monitor and advise facilities that are using the chair.

Training and retraining (Sections 190, 200, 1130): The committee recommends amending the training and retraining provisions to require staff authorized to apply the mechanical restraint chair to receive training specifically on restraint chairs. This is a conforming amendment as the current regulation requires training on mechanical restraints in general.

Additionally, Section 1130 requires staff authorized to use mechanical restraints to obtain training on such use, including how to check the resident's circulation and to check for injuries. The committee asserts that health-trained staff are best equipped to conduct these checks and proposes striking this subject as a required topic for training. Note the new language in Section 1140 requiring a health-trained staff to conduct these checks at 15-minute intervals during the restraint.

Mechanical restraints and protective equipment (Section 1130): Currently, facilities must follow approved written procedures regarding mechanical restraint use. The existing regulation sets out parameters for these written procedures but omits several important areas. First, the only express restriction regarding the purpose of mechanical restraint use is that facilities may not use these items as a punishment or sanction. Second, the current regulation does not require a mental health professional's involvement or intervention in the restraint process until after the resident has been restrained for two hours cumulatively or exhibits self-injurious behavior. This could be problematic, particularly if a resident is in a mental health crisis, and the symptoms are not manifested through self-injury. Third, the regulation does not address how or by whose authority mechanical restraints may be terminated.

In order to address the first concern, the proposal adds language (*subsection A*) that permits mechanical restraint use only: (i) to control residents whose behavior imminently threatens the safety of the resident or others; (ii) for controlled movement within or outside the facility; and (iii) to address emergencies. This gives secure juvenile facilities in Virginia clear guidance as to when it is appropriate to utilize mechanical restraints and prevents excessive or arbitrary use of these devices. Another new provision requires staff to release the resident from the restraint once the risk is abated, the resident reaches his destination onsite or returns from an offsite location, or the emergency is resolved.

With regard to the second concern, the proposal adds a provision (*subsection D*) requiring staff to notify a mental health clinician or QMHP whenever a mechanical restraint is used to control a resident whose behavior

threatens safety if staff believes continued use is necessary to maintain security after the risk is abated. Under the proposal, the continued restraint would be due to the resident's ongoing credible threat to injure himself or others after the initial risk is abated.

As to the third issue, the proposal adds new language authorizing a mental health clinician, QMHP, or qualifying licensed medical professional to order termination of the restraint if he determines it poses a health risk to the resident. This is consistent with current practices across facilities and ensures that provisions are in place to prevent the facility from continuing a restraint once the proper medical authorities determine it is unsafe.

Because the proposal excludes protective devices from the mechanical restraints definition, the committee proposes adding language making each provision in this section applicable to protective devices. In order to ensure that these devices are used sparingly, the committee also proposes new language authorizing the use of protective devices only in connection with the use of a restraint. Once staff releases the resident from the restraint, they must remove the protective device.

Finally, the use of spit guards or similar devices that prevent residents from biting or spitting have been a topic of discussion in juvenile justice. These items can be harmful to the resident if applied carelessly or if staff are not properly supervising residents wearing them. Facilities must balance these concerns against the duty to protect staff from communicable diseases or other injury resulting from being spit on or bitten. The committee recommends adding new provisions that deter excessive, negligent, or unsafe use of such devices. The proposal prohibits staff from using a spit guard on residents who have not previously or currently spit on or bitten a staff member. Additionally, facilities may not use spit guards that inhibit the resident's ability to see or breathe, nor may they apply spit guards in a manner that will prevent the resident from seeing or breathing. While the guard is in place, staff must provide for the resident's comfort and ensure access to water and meals. Staff must employ constant supervision to ensure residents are not exhibiting signs of respiratory distress, which would necessitate immediate removal of the guard. Finally, the proposal prohibits staff from using a spit guard on unconscious, vomiting, or other residents in need of medical attention.

Monitoring residents placed in mechanical restraints (Section 1140): The existing regulation requires staff to conduct periodic checks on mechanically-restrained residents at 15-minute intervals, but does not prescribe the level of staff and resident interaction during these checks. The proposal directs staff to attempt to engage verbally with the resident during these checks and provides examples of permissible approaches.

The department's health services unit recommends new language requiring health-trained personnel to check the residents for injuries and signs of circulation as part of the periodic checks. The board-approved regulation defines "health-trained personnel" as individuals trained by a licensed health care provider to administer health screenings, review screening forms for follow-up care, respond to medical concerns, help implement medical orders, and perform other duties. Health-trained personnel are best equipped to assess a resident's medical condition.

Additionally, this provision addresses residents who self-injure while mechanically restrained. Among other requirements, staff must monitor the resident according to established protocols that comply with the regulation addressing restraints for medical and mental health purposes (discussed below). Because the proposal recommends repealing that section, the reference to that section also must be stricken.

Restraints for medical and mental health purposes (Section 1150): This section requires facilities to follow written procedures that address the authorization, duration, and other restrictions on applying restraints for medical and mental health purposes. The changes proposed under this option render this section unnecessary. The proposal repeals this section.

Written procedures regarding mechanical restraints and protective devices (Section 1145): Several sections in this article require the facility to have written procedures specific to certain sections or requirements and not to others. In order to avoid confusion, the proposal removes all individual requirements for written procedures contained in this article and replaces these provisions with a new section that requires detention centers that use mechanical restraints to have written procedures that reflect the requirements of this article.

Mechanical restraint chair; general provisions (Section 1153): Apart from the restrictions on mechanical restraints in general, the current regulations do not restrict restraint chair use. The committee has proposed new provisions that seek to limit restraint chair use, ensure proper approvals are obtained prior to use, involve medical and mental health staff to assess whether the restraint chair is safe for the resident in question, and ensure that the department has the proper information to monitor these incidents. These provisions will apply regardless of the purpose or duration of the restraint chair use. To avoid repetition, this summary does not address the restraint chair provisions that mirror the mechanical restraint and protective device provisions.

The proposal requires approval from the facility administrator or his designee before staff may place a resident in the chair and directs staff, immediately upon such placement, to notify the facility's designated health authority, who will assess whether the resident's condition necessitates transfer to a medical or mental health unit for emergency treatment. If a resident volunteers to be placed in the chair as a means of self-regulation and such use is part of an approved plan of care by a QMHP or mental health clinician, the health authority notification requirement would not apply.

The proposal grants the same individuals authority to terminate the restraint due to a health risk to the resident as the provisions for other mechanical restraints, except that the health authority will also have termination authority.

The proposal requires the facility to document the restraint chair use in the resident's case file or a central logbook. The documentation must include most of the elements required to document physical restraints under Section 1190, except that staff must have documentation demonstrating that the applicable required approvals were obtained and must explain why, for controlled movement, the chair is the least restrictive intervention.

Finally, the proposal requires staff to conduct a debriefing after releasing the resident from the chair. This will ensure that all facilities that use the chair are assessing their practices to determine what areas require improvement.

Mechanical restraint chair use for controlled movement (Section 1155): In addition to the general provisions, the committee recommends new sections to address restraint chair use for controlled movement of residents from one area of the facility to another. Under the proposal, the chair may be used for controlled movement only if: 1) the resident's refusal to move to another area directly and immediately threatens the resident or others or interferes with required facility operations; and 2) use of the chair is the least restrictive intervention available to ensure the resident's safe movement. The proposal requires staff to remove the resident from the restraint chair immediately upon reaching the intended destination and requires consultation with a clinician or

QMHP if the facility believes continued restraint is necessary due to the resident's ongoing credible threat to injure himself or others.

Mechanical restraint chair use for purposes other than controlled movement (Section 1156): The committee also has proposed a new section to address use of the mechanical restraint chair for purposes other than controlled movement. In order to utilize the restraint chair for these purposes: 1) the resident's actions must directly threaten himself or others; 2) less restrictive alternatives must have been attempted but failed to abate the threat or control the resident; and 3) the resident is removed from the chair once the threat is abated or the resident gains self-control. If staff believes continued restraint is necessary after the threat is abated due to the resident's ongoing credible threat to injure himself or others, staff must consult a clinician or QMHP to approve the continued restraint. These provisions do not apply for residents who request placement in the chair in accordance with an approved plan by a QMHP or clinician. These parameters will help facilities reduce the use of the restraint chair and limit the time residents are restrained. Finally, this provision requires one-on-one constant supervision while residents are in the chair, and staff must ensure the resident is reasonably comfortable and can access water, meals, and toilet, as applicable. Constant supervision will guarantee that staff is aware of the resident's condition and whether it is safe to release the resident from the restraint.

Monitoring residents in the restraint chair (Section 1157): These amendments are applicable to all residents in restraint chairs, regardless of the purpose of the restraint. The proposal requires staff to allow residents restrained in the chair longer than one hour to exercise each limb for a minimum of ten minutes every two hours. This is consistent with the National Commission on Correctional Health Care's Standards for Health Services in Juvenile Detention and Confinement Facilities. Additionally, under the proposal, the facility must have a video record of staff placing the resident in the chair when such use is for controlled movement and for the entire restraint period when residents are placed in the chair for purposes other than controlled movement. This will enable the department to assess whether facilities are complying with each of the requirements of this chapter.

Department monitoring visits (Section 1158): The proposal requires every use of the mechanical restraint chair to be subject to a department monitoring visit to assess compliance with this chapter.

Written procedures regarding mechanical restraint chairs (Section 1159): Finally, the proposal requires all detention centers utilizing restraint chairs to develop and implement written procedures consistent with the requirements in Sections 1153 through 1159. This eliminates the need to have separate sections within this article that require written procedures and gives detention centers clear direction on the information that must be contained in their written procedures regarding restraint chairs.

The table below summarizes the major differences and similarities between the requirements applicable to mechanical restraints, the restraint chair, and protective devices under Option 2.

	Mechanical Restraint Requirement	Restraint Chair Requirement	Protective Device Requirement
<i>Necessary purpose for use</i>	(i) To control residents whose behavior poses imminent risk; (ii) Controlled movement; (iii) Emergency situations	<i>For controlled movement</i> – (i) Resident’s refusal to move to another area poses a direct and immediate threat to resident or others or interferes with facility operations; (ii) Use is least restrictive intervention available for safe movement. <i>For other purposes</i> – (i) Resident’s actions are direct threat to himself or others; (ii) Less restrictive alternatives were attempted but did not abate the threat; (iii) Resident remains in chair only as long as necessary to abate the threat or help him gain self-control.	i) To control residents whose behavior poses an imminent risk; (ii) Controlled movement; (iii) Emergency situations
<i>Permissible to use punitively</i>	No	No	No
<i>Facility administrator involvement</i>	Must be notified immediately upon using in emergencies	Must provide approval before resident placed in chair.	Must be notified immediately upon using in emergencies
<i>Authority to order termination</i>	Mental health clinician, QMHP, other qualifying licensed medical professional	Health authority, mental health clinician, QMHP, other qualifying licensed medical professional	Mental health clinician, QMHP, other qualifying licensed medical professional
<i>Training</i>	Staff authorized to use must receive initial and annual training.	Staff authorized to use must receive initial and annual training.	Staff authorized to use must receive initial and annual training.
<i>Mental health professional/medical health professional involvement</i>	Must notify QMHP or mental health clinician or medical professional before continuing use after initial threat abated.	Must notify health authority immediately upon placing resident in restraint chair to advise whether resident needs mental health or medical health unit.	May be used only in connection with other restraint. Requirements for applicable restraint must be observed.
<i>Level of supervision necessary while restraint employed</i>	Face-to-face checks at 15-minute intervals, including verbal engagement with resident and checks for signs of circulation and for injuries by health-trained staff.	<i>For controlled movement:</i> Unspecified. Staff conducts the transport of the resident, who must be removed from chair upon arrival at destination. <i>For other purposes:</i> Constant one-on-one supervision until release.	<i>Spit guard</i> – Constant one-on-one supervision until removed. <i>Protective helmet</i> – Unspecified. May use only in connection with other restraint. Requirement for applicable restraint must be observed.
<i>Response to SIB while restrained</i>	Stabilize threat, contact QMHP or mental health clinician, and monitor resident according to protocols.	Stabilize threat, consult with clinician or QMHP and obtain approval for continued use.	Unspecified. May use only in connection with other restraint. Requirement for applicable restraint must be observed.

<i>Documentation requirements for use</i>	Document in case file or in a central log book except when restraint used to transport a resident or during video court hearing proceedings.	Document in case file or central log book – date, time, staff involved, justification, less restrictive interventions attempted, duration, documenter’s signature, evidence of approvals.	Document in case file or in a central log book except when device used to transport a resident or during video court hearing proceedings.
<i>Debriefing required after</i>	No	Yes	No
<i>Video of restraint required</i>	No	Yes—only placement for controlled movement and entire restraint period for all other uses of chair.	No
<i>Restraint a serious incident?</i>	No	Yes	No
<i>Subsequent monitoring visit required</i>	No – DJJ has general authority upon request per certification regulations.	Yes—every chair use will trigger monitoring visit.	No—DJJ has general authority upon request per certification regulations.
<i>Rules for extended use</i>	-If restrained for more than one hour, must allow resident to exercise each limb for a minimum of 10 minutes every two hours. -If restrained for more than 2 hours cumulatively in 24-hour period (except routine transportation) must consult with health care provider and QMHP or mental health clinician.	-If restrained for more than one hour, must allow residents to exercise each limb for a minimum of 10 minutes every two hours. -If continued restraint necessary after threat abated or destination reached, staff must consult with mental health clinician or QMHP for approval of continued restraint.	Unspecified. May use only in connection with other restraint. Requirement for applicable restraint must be observed.

III. OPTION 3 – PROHIBITION ON RESTRAINT CHAIR USE

Option 3 adds a new section that expressly prohibits staff from using mechanical restraint chairs, thus eliminating the need for the five provisions addressing the mechanical restraint chair set out in Article IV under Option 2. All other amendments proposed in Option 2 are included under this option.

IV. OPTION 4 – PROHIBITION ON SPIT GUARDS OR SIMILAR DEVICES

Option 4 adds a new section that expressly prohibits staff from requiring residents to wear spit guards or similar devices intended to prevent the resident from spitting on or biting staff. Option 4 excludes spit guards from the definition of protective devices and removes all the provisions imposing restrictions on spit guards that were contained in Option 2. All other provisions regarding mechanical restraints and restraint chairs set out under Option 2 are incorporated into this option.

V. RECOMMENDATION AND REGULATORY PROCESS

The department has submitted these options pursuant to the board’s November 7 directive and is not recommending any one option at this time. The board may approve any of the proposed options or may elect to make additional amendments, including combining the provisions of one or several options. Regardless of

which approach the board takes, any changes will be incorporated into the comprehensive regulatory package already approved for advancement to the proposed stage of the regulatory process.