Robert Vilchez, Chair
Scott Kizner, Vice Chair
Synethia White, Secretary
Lisa Cason
Eric English
Tyren Frazier
William Johnson
David Mick
Laura O'Quinn

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COMMONWEALTH *of* VIRGINIA
Board of Juvenile Justice

Meeting Minutes

December 6, 2024
All-Virtual Public Meeting

Board Members Present: Lisa Cason, Tyren Frazier, William (Will) Johnson, Scott Kizner, Robert (Tito) Vilchez, Laura O'Quinn, David Mick, and Synethia White

Board Member Absent: Eric English

Department of Juvenile Justice (Department) Staff: Ken Davis, Mike Favale, Wendy Hoffman, Nikia Jones, Melodie Martin, Andrea McMahon, Ashaki McNeil, Linda McWilliams, Margaret O'Shea (Office of the Attorney General), Kristen Peterson, Cassandra Sheehan (Office of the Attorney General), Lara Todd, and James Towey

CALL TO ORDER AND INTRODUCTIONS

Chairperson Vilchez called the meeting to order at 9:32 a.m. and asked for introductions.

The Department's Deputy Director of Policy Mike Favale announced that Director Floriano would monitor the meeting; however, she was not able to participate. Deputy Director Favale was her representative at the meeting.

Lara Todd was announced as the newest member of the Department's executive team as the Deputy Director of Education and Rehabilitative Care.

ALL-VIRTUAL PUBLIC MEETING ANNOUNCEMENT

Chairperson Vilchez announced the day's meeting would be an all-virtual public meeting and was authorized pursuant to Va. Code § 2.2-3708 and Board Policy Governing All-Virtual Public Meetings. Specifically, circumstances warranted that the meeting be all-virtual based on convenience, the fact that the Board has not had more than two all-virtual public meetings during the calendar year, and that the Board's last meeting was not all-virtual.

Public access was provided by electronic communication which allowed the public to hear all participating members of the Board.

Audio-visual technology was used to allow the public to see the members of the Board.

A telephone number was provided to the public to alert the Board if electronic transmission of the meeting failed for the public.

The public was afforded the opportunity to comment through electronic means.

No more than two members of the Board were together in one physical location.

PUBLIC COMMENT

There was no public comment.

NEW BUSINESS

Consideration of Request to Initiate the Notice of Intended Regulatory Action (NOIRA) to amend the Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities (6VAC35-20)

Ken Davis, Regulatory Coordinator, Department of Juvenile Justice

Mr. Davis requested the Board approve the Notice of Intended Regulatory Action (NOIRA) for the certification regulation. The regulation establishes the Department's responsibility to monitor and audit juvenile residential facilities and programs, Virginia Juvenile Community Crime Control Act (VJCCCA) programs, and offices on youth, and to certify residential facilities and state operated and local court service units that are a part of the juvenile justice system in Virginia. It also describes the various methods by which the Department measures and enforces compliance with the appropriate regulations for those entities.

Mr. Davis reminded the Board that the Department must do a periodic review every four years on all its regulations and has fallen behind on some reviews, such as the certification regulation. The most recent periodic review of this regulation was done in 2019, which exceeds the four-year deadline. Importantly, though, the 2019 periodic review report indicated that the regulation should be amended. Among the problems were some vague areas of the regulation that are difficult to understand. Also, there are some areas that need to be updated to come into compliance with the Virginia Code Commission's recommendations about not incorporating documents, and to conform the language to the Registrar of Regulations's style guide.

A workgroup was convened that included Ken Bailey, the VJCCCA manager, a detention specialist representative, a representative from Compliance and Legal Support, the Legislative and Regulatory Affairs Manager, as well as Mr. Davis, and work is underway on the regulation.

The workgroup's recommendations were listed on page four of the Board's packet and Mr. Davis reviewed them as follows:

- Several of the definitions need to be rewritten for clarity, while others do not accurately describe terms as they are commonly understood by the Certification team. Some entries may have to be replaced with new terminology to align with department practice.

- Repeal Section 30. Section 30 is a purpose statement and should be removed from the regulation pursuant to 1VAC7-10-40, which is part of the Virginia Code Commission's Regulations for Filing and Publishing Agency Regulations.
- Add a new section pertaining to department responsibility. The workgroup recommended adding a new section to capture a portion of the language in the repealed Section 30 regarding the department's responsibility in auditing and certifying programs and facilities.
- Numerous sections of the regulation are vaguely or unclearly written, have provisions that are more appropriate to department procedures, or contain improper incorporations by reference. In addition, some sections contain unnecessary provisions (e.g. provisions already set out in the Code of Virginia). Finally, many sections require changes in grammar and style to bring them into compliance with the Registrar's style requirements. The workgroup recommended revising all of these sections accordingly, including rewriting entire provisions when necessary.
- The workgroup recommended repealing one or more sections which are procedural in nature and do not belong in the regulation.
- Eliminate document incorporated by reference (DIBR). This chapter currently incorporates a document entitled *Guidance Document: Self Audits/Evaluations, September 2013, Department of Juvenile Justice*. Because this is document was created by the department, its incorporation is prohibited by the Virginia Code Commission's regulation 1VAC70-10-140.

Mr. Davis completed his presentation and asked for questions.

Board Member Johnson asked when the Board should anticipate reviewing the regulation. Mr. Davis responded that the NOIRA must go through Executive Branch Review, followed by publication in the Virginia Register of Regulations and a 30-day public comment period. The process is typically quick and hopefully will come back to the Board at the next meeting.

On motion duly made by David Mick and seconded by Laura O'Quinn, the Board of Juvenile Justice authorized the Department of Juvenile Justice to proceed with the filing of a Notice of Intended Regulatory Action, pursuant to §2.2-4007.01 of the Code of Virginia, to initiate the process for amending 6VAC35-20, Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities. All Board members present declared "aye," and the motion carried.

Consideration of Request for Action on Board Policies

Ken Davis, Regulatory Coordinator, Department of Juvenile Justice

Mr. Davis began with 20-002 currently called Alternatives to Incarceration. The Department recommended amending this policy with the following.

- Amend the title to Alternatives to Detention because the policy is focused on detention, predispositional, and post dispositional, as well as community supervision.
- Amend the first sentence in the policy to say that the Board of Juvenile Justice actively encourages alternatives to detention or residential placement consistent with the welfare of the juvenile and the assurance of public safety. (Reference page seven of the Board packet)
- There were a couple of words the Department felt were unnecessary and cluttered the language. The two words removed were 'maintaining' noted in the first sentence and 'methodologies' in the second sentence. (Reference page seven of the Board packet)

Mr. Davis asked for questions. Board Member White wanted confirmation that the changes were around language and nothing to do with operations. Mr. Davis responded that was correct; this was simply to refine the language and make it more accurate to the policy.

On motion duly made by Scott Kizner and seconded by Lisa Cason, the Board of Juvenile Justice approved the amendment of Board Policy 20-002 as proposed at the December 6, 2024, meeting, to take effect immediately. All Board members present declared "aye," and the motion carried.

Mr. Davis presented on 20-504 Termination of Probation. This policy says each individual court service unit should develop a process for early termination of probation supervision when supervision is no longer warranted by the circumstances of the case to protect the community and to meet the juvenile's need. The Department has been working to centralize procedures and policies for the court service units rather than have disparate policies and procedures across each individual court service unit. The Department's recommendation is to update the policy to read that the Department shall develop procedures for early termination of probation supervision when supervision is no longer warranted by the circumstances of the case to protect the community and to meet the juvenile's needs.

Mr. Davis asked for questions. Board Member Johnson said the existing policy is clear: the courts have a say in the determination of the termination of probation supervision. Would the courts still be involved even though the proposal is to centralize this procedure. Mr. Davis replied that that was correct. Mr. Davis offered to tweak the language to make it clearer. Board Member Johnson said he would like it made clear that the courts are still involved in making these decisions.

The other Board members agreed with the change, and Mr. Davis will bring the amended policy recommendation back to the Board at their next meeting.

Board Member White asked if the Department and the court service units will utilize case studies, experiences, or community needs when updating the procedures. Court service units represent different communities with different needs. For example, the Board had heard about a small detention facility in the southwest of Virginia that could not update their security system due to funding.

Deputy Director of Policy Michael Favale responded that the Court Service Unit Procedures Committee consists of members of the court service units, and the court service units are part of the Department. In developing procedures for the court service units, the court service units are the subject matter experts. Members from across the Commonwealth provide input. Board Member White said she was familiar with the structure and thanked Mr. Favale. Board Member White wanted to make sure that the Department would be considerate of the individual circumstances of the communities in the court service units that are impacted.

The Department's Legislative and Regulatory Affairs Manager James Towey indicated that the policy will be amended based on discussions and the motion will be held over until next meeting.

Mr. Davis presented information on 17-003 Due Process in Transfer to More Restrictive Program or Facility. This policy says that due process safeguards shall be provided for residents prior to their transfer to a more restrictive unit or program or facility, and in the case of emergency transfers, those safeguards

will be initiated immediately after transfer. The policy also says that resident treatment needs shall be considered in the decision to transfer the resident. The Department has language in some procedures and in the Regulation Governing Juvenile Correctional Centers that covers a portion of this policy; however, the portion about the resident's treatment needs being considered in the decision is not included in that regulatory language or procedural language. The Department recommended that the Board retain the policy in its current form.

On motion duly made by Tyren Frazier and seconded by Tito Vilchez, the Board of Juvenile Justice approved retaining Board Policy 17-003 as proposed at the December 6, 2024, meeting, to take effect immediately. All Board members present declared "aye," and the motion carried.

DIRECTOR'S COMMENTS

Director Floriano attended the meeting but was not able to give her comments. Deputy Director Favale delivered the Director's gratitude for agency employees' unwavering dedication and audacity in supporting the young people who are under this Department's care. Theirs is not an easy job, but their commitment to making a positive impact is truly inspiring. We leave a lasting and meaningful impression. Deputy Director Favale extended heartfelt thanks for their hard work and compassion and wished everyone a joyous holiday season and a new year filled with continued success and fulfillment.

BOARDS COMMENTS

Chairperson Vilchez announced it was Board Member Frazier's last day as a Board member. Mr. Frazier served in the middle of one term and then served two consecutive terms with three different directors. As a board member and supporter of the Department of Juvenile Justice, Mr. Frazier has generously given his time to make tough decisions and act in the best interests of the Board. The Board would not have been able to accomplish so much without his wise counsel and patient advice. Chairperson Vilchez thanked Mr. Frazier, for making our mission possible and spending ten years with us.

Board Member Frazier said it was one of the toughest, but most rewarding position he has been a part of, and thanked the members and Department staff, and wished them well.

Chairperson Vilchez thanked Director Floriano and the Department for the tremendous effort they put in every day to make sure staff and youth are taken care of, not just in the court service units but also Bon Air. He said, "Many of us do not see all the demands placed on Department staff, but their work is greatly appreciated." Chairperson Vilchez wished the Board members and Department administration happy holidays.

Board Member Kizner wanted to thank the Department for the tour of Bon Air Juvenile Correctional Center at the last meeting. He said it was exceptional. Board Member Kizner was impressed with the classes on electricity and plumbing and hopes to see one of those young people at his house if anything needs fixing. Board Member Kizner saw some positive things and wanted to thank the staff. Office of the Attorney General representative Cassandra Sheehan also thought the tour went well and was a great experience. They were able to see youth learning about forklifts, plumbing, electricity, and were able to engage with the young people.

Other Board members thanked staffed and wished everyone a happy holiday.

NEXT MEETING

January 7 and May 14 (have since been rescheduled)

ADJOURNMENT

Chairperson Vilchez adjourned the meeting at 10:09 a.m.