

Unified Regulatory Plan of the Department/Board of Juvenile Justice for State Fiscal Year 2023

Prepared on September 30, 2022

Description of Agency or Boards

The Department of Juvenile Justice (the department) provides services to juveniles and families by operating 30 court service units (CSUs) and one juvenile correctional center (JCC). The department also oversees locally operated CSUs, juvenile detention centers, community placement programs, group homes, shelter care facilities, and independent living programs. The Board of Juvenile Justice (board) is the policy-making body responsible for promulgating the regulations necessary for the department to carry out the provisions of Title 66 and other laws of the Commonwealth and to achieve its mission to protect the public by preparing court-involved youth to be successful citizens. The department operates under the supervision of the Secretary of Public Safety and Homeland Security.

Title of Proposed Regulatory Action or Guidance Document Amend Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs (6VAC35-30)	
Brief Overview This regulatory action seeks to amend the Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs set forth in 6VAC35-30 and promulgated by the board. The current regulations establish a process for localities seeking to obtain state reimbursement funding for qualifying construction projects involving juvenile detention centers and juvenile group home facilities in accordance with § 16.1-309.5 of the <i>Code of Virginia</i> . Although a moratorium on state reimbursement for such projects has been in place for several years, localities remain subject to the reimbursement process outlined in this regulation. The department initiated this action to reduce the regulatory burden on localities engaged in qualifying projects.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input checked="" type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	The proposal seeks to remove the requirement to apply a complicated formula for determining reimbursement amounts and to make additional changes to simplify the process for localities that wish to preserve their right to seek reimbursement should the General Assembly ever reinstate funding. In addition to these changes, the proposal seeks to remove a number of provisions that improperly incorporate departmental procedures into the regulation. The department anticipates a reduction of approximately 664 requirements resulting from these changes.
Expected Date	November 2022

Title of Proposed Regulatory Action or Guidance Document Adopt New Regulation Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities (6VAC35-35)
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Brief Overview	
This regulatory action seeks to create a new regulation chapter promulgated by the board, the Regulation Governing the Process for Planning, Designing, and Constructing Locally Funded Juvenile Residential Facilities (6VAC35-35). The action is related to a separate action to amend the Regulations Governing State Reimbursement of Local Juvenile Residential Facility Costs. The department initiated this regulatory action to reduce the regulatory burden on localities constructing local juvenile detention centers and juvenile group homes by allowing for an expedited departmental review process for those localities engaged in qualifying construction projects that have no intention of seeking state reimbursement in the future should funding ever become available.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input checked="" type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	While this proposal adds a new regulatory chapter and imposes new requirements, the purpose of the action is to lessen the burden on those localities that have no intention of seeking reimbursement by allowing for an expedited departmental review. Localities subject to this chapter will need to fulfill fewer regulatory requirements than under the amended reimbursement regulation chapter.
Expected Date	November 2022

Title of Proposed Regulatory Action or Guidance Document	
Periodic Review of Regulation Governing Juvenile Group Homes and Halfway Houses (6VAC35-41)	
Brief Overview	
This regulatory action seeks to amend the Regulation Governing Juvenile Group Homes and Halfway Houses set forth in 6VAC35-41 and promulgated by the board. The current regulations address topics applicable to group homes, including personnel requirements, physical plant, facility safety and security, and residents' rights. The department initiated this regulatory action to make comprehensive amendments to the chapter in order to continue enhancing programming and to ensure the safety and rehabilitation of residents within group home facilities. Among the changes, the amendments require staff to conduct periodic room checks, decrease the hours of required annual training necessary for direct care and direct supervision staff, and impose information-sharing requirements when individuals who do not work in the facility transport residents offsite. The department expects to present this action to the board for advancement to the final stage of the regulatory process in December 2022.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input checked="" type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document

	anticipates the reduction of approximately 738 requirements resulting from these changes.
Expected Date	November 2022

Title of Proposed Regulatory Action or Guidance Document	
Periodic Review of Regulation Governing Juvenile Secure Detention Centers (6VAC35-101)	
Brief Overview	
<p>The Regulation Governing Juvenile Secure Detention Centers promulgated by the board establishes the minimum standards with which staff in secure juvenile detention centers must comply. The existing regulation addresses personnel and staffing requirements, physical environment, facility safety and security, residents' rights, program operations, health care, and behavior management for juvenile detention centers operating predispositional programs solely or both predispositional and postdispositional programs.</p> <p>This regulatory action includes comprehensive amendments to the regulation. The purpose of the action is to continue to enhance programming and ensure safety and security within these facilities. Among the most noteworthy changes, the regulation imposes numerous restrictions on juvenile detention center staff use of mechanical restraints, the mechanical restraint chair, and spit guards, as well as room restriction and disciplinary room restriction.</p>	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Discretionary action <input checked="" type="checkbox"/> Action required by state statute
Deregulatory Component	Several provisions will be streamlined, and guidance documents improperly incorporated by reference have been removed, resulting in a net reduction of approximately 563 discretionary requirements.
Expected Date	This stage was submitted to the OAG on 6/16/2022 and certified on 9/21/2022. The department must complete the expanded economic impact analysis prior to submission to the Secretary of Public Safety and Homeland Security.

Title of Proposed Regulatory Action or Guidance Document	
Periodic Review of Regulation for Nonresidential Services (6VAC35-150)	
Brief Overview	
<p>This regulatory action is intended to initiate a comprehensive overhaul of the Regulation for Nonresidential Services set forth in 6VAC35-150 and promulgated by the board. The current regulation establishes minimum standards for the operation of state-operated and locally operated court service units and for nonresidential programs available to the juvenile and domestic relations district court.</p>	

Regulatory Stage (check one box)	<input checked="" type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule	<input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	The department has yet to complete its comprehensive review of the regulation and has not yet developed a plan for reducing the regulatory requirements contained in this chapter.	
Expected Date	June 2023	

Title of Proposed Regulatory Action or Guidance Document Amend Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles (6VAC35-180))		
Brief Overview The Regulation Governing Mental Health Service Transition Plans for Incarcerated Juveniles promulgated by the board establishes a process for ensuring the provision of post-release services for juveniles committed to the department or detained in a postdispositional program who have been identified as having a recognized mental health, substance abuse, or other therapeutic treatment need. The department has not amended this regulation since it took effect in 2008. This action seeks to conduct a comprehensive review and amendment of the existing chapter to ensure that the regulation: (i) establishes requirements that are feasible for staff in juvenile correctional centers, court service units, and post-D programs operated by juvenile detention centers; (ii) is not broader in scope than intended by the governing statute, and (iii) includes provisions aimed at successfully transitioning youth with recognized mental health, substance abuse, or other treatment needs from these facilities back to the community.		
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input checked="" type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule	<input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	Documents currently incorporated in the regulation will exist as standalone documents, resulting in a net reduction of approximately 90 discretionary requirements.	
Expected Date	February 2023	

Title of Proposed Regulatory Action or Guidance Document Establish New Regulations Applicable to Programs Detaining Youth Pursuant to Federal Contracts (6VAC35-200)		
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Brief Overview		
This action seeks to establish a new set of regulatory provisions promulgated by the board that will apply to programs for youth detained in juvenile correctional facilities pursuant to contracts with federal governmental entities. The action is the product of a legislative mandate enacted during the 2020 Virginia General Assembly Session (Chapter 599 of the 2020 Acts of Assembly, codified as Code of Virginia § 66-10.2) that directs the board, in collaboration with DBHDS, to promulgate regulations governing the housing of youth who are detained in a juvenile correctional facility pursuant to a contract with the federal government and not committed to such juvenile correctional facility by a court of the Commonwealth.		
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input checked="" type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule	<input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	While this action will result in a net increase in regulatory requirements, the department is making every effort to ensure this chapter is aligned with the existing chapters concerning juvenile detention centers (JDCs) and juvenile correctional centers (JCCs) in order to minimize the impact. Also worth noting, this chapter only applies to those facilities choosing to enter into a contract with the federal government. As of the submission date of this report, this includes only two of the state's 24 JDCs; the state's single JCC currently does not participate in any of the federal arrangements covered by this Code section.	
Expected Date	November 2022	

Title of Proposed Regulatory Action or Guidance Document		
Establish New Regulation Governing Community Placement Programs for Committed Youth		
Brief Overview		
This action will fill a gap in the department's regulatory structure by creating rules pertaining to committed (direct care) youth who are placed in Community Placement Programs (CPPs). CPPs are highly structured residential programs operated for direct care youth in juvenile detention centers (JDCs). CPPs seek to place youth in smaller settings closer to their home communities to increase family engagement and facilitate a smoother transition after release. These programs currently are governed by agreements between the department and participating JDCs. Creating a regulatory structure around these programs will help ensure these youth receive treatment and rehabilitation services that are consistent among JDCs and are comparable to the services they would receive at the state's centrally located juvenile correctional center at Bon Air. These regulations will be promulgated by the board.		
Regulatory Stage (check one box)	<input checked="" type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule	<input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule	<input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute	<input checked="" type="checkbox"/> Discretionary action

Deregulatory Component	The department expects this action to result in a net increase in regulatory requirements for the JDCs that choose to participate in CPPs. The department will seek to minimize the impact as much as possible by making the new rules consistent with current practice while prioritizing the best interests of the youth placed in these programs.
Expected Date	May 2023

Title of Proposed Regulatory Action or Guidance Document Amend Guidelines for Determining the Length of Stay for Indeterminately Committed Youth (<i>Guidance Document</i>)	
Brief Overview The Guidelines for Determining the Length of Stay for Indeterminately Committed Youth is a guidance document that was last updated in 2015 and sets out the process the department uses to project the length of time a youth indeterminately committed to the department will remain under department care and commitment. Section 66-10(7) of the <i>Code of Virginia</i> directs the board to establish such guidelines and to make them available for public comment. Under the current guidelines, the length of stay is determined based upon the resident's most serious committing offense and the resident's risk level. The department is proposing to update these guidelines so that the resident's length of stay is based partly on these factors, along with the resident's progress in treatment, behavior at the facility, and other components, all of which are considered by a review committee that makes the final determination as to the resident's length of stay.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule <input checked="" type="checkbox"/> N/A
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input checked="" type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Discretionary action <input checked="" type="checkbox"/> Action required by state statute
Deregulatory Component	The guidance document seeks to impose additional requirements with the intention of ensuring that indeterminately committed residents are equipped with the necessary treatment, educational opportunities, and skill building needed to prepare them for release into the community.
Expected Date	May 2023