



## Proposed Regulation Agency Background Document

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| <b>Agency name</b>                                 | Department (Board) of Juvenile Justice   |
| <b>Virginia Administrative Code (VAC) citation</b> | 6 VAC 35-101   |
| <b>Regulation title</b>                            | REGULATION GOVERNING JUVENILE SECURE DETENTION CENTERS   |
| <b>Action title</b>                                | Comprehensive review of all regulatory provisions governing juvenile secure detention centers that are currently contained in 6VAC35-51 and 6VAC35-140; combines and streamlines the regulations into a single document. |
| <b>Date this document prepared</b>                 | September 17, 2009   |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.*

The Board of Juvenile Justice regulates all juvenile secure detention centers (detention centers) in the Commonwealth. Under the current regulatory scheme detention centers are governed by two separate regulations, both promulgated by the board. These are (1) the Standards for Juvenile Residential Facilities (6VAC35-140) and (2) the Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51). Both regulations address the requirements for the three distinct types of facilities regulated by the board (juvenile correctional centers, detention centers, and group homes/halfway houses).

The primary intent of this regulatory overhaul was to reduce confusion in applying the regulatory requirements in each type of facility. The comprehensive review examined each provision as to whether it was (1) appropriate for the type of facility; (2) clear in its intent and effect; and (3) necessary for the proper management of the facility. Amendments were made to accommodate the type of facility's specific needs and to enhance program and service requirements to best provide for the residents.

The proposed regulation has separate parts for: (1) general provisions; (2) administration and personnel; (3) physical environment; (4) safety and security; (5) residents' rights; (6) program operation; (7) work programs; (8) health care services; and (9) behavior management. Facility specific parts are included as needed (i.e.; postdispositional detention programs).

**Acronyms and Definitions**

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

Board means the Board of Juvenile Justice.  
 DJJ or Department means the Department of Juvenile Justice.

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Section 16.1-322.7 of the Code of Virginia requires the Board to "make, adopt and promulgate regulations" governing the operation of local or regional detention centers. This mandate requires the regulation of the minimum standards for the administration and operation of the facilities.

The Board of Juvenile Justice is entrusted with general authority to promulgate regulations by § 66-10 of the Code of Virginia, which states the board may "promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Director or the Department."

The promulgating entity is the Board of Juvenile Justice.

**Purpose**

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.*

The Board of Juvenile Justice regulates three distinct types of facilities: (1) juvenile correctional centers; (2) detention centers; and (3) group homes/halfway houses. At present, these facilities are regulated by the board and are governed by two separate regulations: (1) the Standards for Juvenile Residential Facilities (6VAC35-140) and (2) the Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51).

The department has had several iterations of regulations governing the residential facilities regulated by the board. Earlier, the department had five separate regulations governing secure detention homes, postdispositional confinement in secure detention, pre- and post-dispositional group homes, and juvenile correctional centers. These regulations applied to the facilities in conjunction with the Standards for the Interdepartmental Regulation of Children's Residential Facilities (the "CORE" regulation), which went into effect in 1981.

The Board of Juvenile Justice's Standards for Juvenile Residential Facilities (6VAC35-140) was promulgated by the board, was most recently reviewed and revised in May 2005, and consists of the board's regulations for all facilities it regulates. This regulation establishes the minimum standards for residential facilities in the Commonwealth's juvenile justice system and covers program operations, health care, personnel, facility safety, and physical environment. It contains additional provisions for secure custody facilities, boot camps, work camps, juvenile industries, and independent living programs.

The Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51) is a reenactment of the "CORE" regulation in its entirety as a board regulation. This regulation was adopted by the board in September 2008 in order to comply with the requirements of Chapter 873 of the 2008 Acts of the General Assembly, which mandated the repeal of the CORE regulation and action to be taken by the affected boards by October 31, 2009. This regulation has more expansive provisions than 6VAC35-140 and also contains minimum requirements for the different facilities regulated by the board.

Throughout the years, problems have been identified in implementing the requirements contained in these two separate regulations, given the distinct nature of the three types of facilities regulated by the board. Accordingly, the board has approved consolidating the current regulatory requirements for residential programs and separating them into separate regulations governing (1) juvenile correctional centers; (2) detention centers; and (3) group homes/halfway houses.

This revamping of the regulatory scheme was done in conjunction with a comprehensive review of the current provisions. This review was done with the goals of enhancing the clarity of the regulatory requirements and achieving improvements that will be reasonable, prudent, and will not impose an unnecessary burden on its regulants or the public.

Having clear, concise regulations is essential to protecting the health, safety, and welfare of residents in juvenile secure detention centers and citizens in the community. With clear expectations for the administrators running these facilities, the facilities will be able to be run more smoothly, which will become extremely important in this current climate of limited financial resources, and will continue to allow for supporting the needs of the residents, thus supporting the overall rehabilitation and community safety goals of the department.

**Substance**

*Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)*

The primary intent of this regulatory overhaul is to reduce confusion in applying the regulatory requirements in each type of facility regulated by the board (juvenile correctional centers, detention centers, and group homes/halfway houses). Each provision was reviewed as to whether it was (1) appropriate for the type of facility; (2) clear in its intent and effect; and (3) necessary for the proper management of the facility. Amendments were made to accommodate the detention centers' specific needs and to enhance program and service requirements to best provide for the residents.

The following changes were made to the proposed regulation:

- Contains only those provisions relating to that type of facility's operation and management.

- Removes any responsibilities of the department, regulatory authority, or the board currently included in the regulations (i.e.; issuance of license/certificate and sanctions).
- Reorganizes the order of the regulatory provisions and groups the provisions with similar provisions. The proposed regulation has sections for: (1) general provisions; (2) administration and personnel; (3) physical environment; (4) safety and security; (5) residents' rights; (6) program operation; (7) work programs; (8) health care services; and (9) behavior management. Facility specific parts are included as needed (i.e.; postdispositional detention programs).
- The following changes are proposed to the General Provisions:
  - Deletes many definitions (such as the definition of "day" and "therapy"); changes definitions to correspond with those used in other regulations; and, where appropriate, incorporates definitions into the substantive provisions of the regulation. Adds definitions for "direct care staff," "direct supervision," "regulatory authority," and "written."
  - Cross-references the board's certification regulation (6VAC35-20) for consistency in application of variances.
  - Allows serious incident and child protective services reports to be noted in the resident's case record and documented elsewhere. Mirrors recent changes adopted by the Department of Social Services in its residential regulation.
- The following changes are proposed in Administration and Personnel:
  - Amends the provisions relating to community relationships and adopts different provisions specific to the type of setting and locations.
  - Amends the background checks section to conform with the board variance issued November 2008.
  - Reworks the training sections. Separates out (1) orientation; (2) required initial training; and (3) retraining.
  - Adds a requirement for staff who transport residents to report any changes in their license status.
  - Clusters all provisions relating to volunteers together.
  - Reworks the staff and resident tuberculosis screening requirements to conform with the language of the Division of Tuberculosis Control in the Department of Health.
  - Removes the requirement to retain face sheets permanently.
  - Amends the qualifications section to require the facility to follow the procedures of the governing authority or locality and ensure employees meet applicable job qualifications.
- The following changes are proposed to the Physical Environment:
  - Amends requirements relating to fire inspections.
  - Groups all space utilization requirements into one section and removes the current regulatory requirements to accommodate study space and all requirements relating to live-in staff.
  - Cross-references the board's reimbursement regulations (6VAC35-30) for new construction.
  - Requires same-sex sleeping rooms (not sleeping areas) and deletes the prohibition of having more than four residents in a sleeping area.

- Adopts board policy language regarding the facility's smoking prohibitions.
- Deletes the space requirements for a dining area.
- The following changes are proposed to Safety and Security:
  - Clarifies the requirements for residents and contract workers in implementing and training on the emergency/evacuation plan.
  - Reworks the searches of residents section to address facility-specific issues.
  - Prohibits weapons on the premises except by law enforcement.
- The following changes are proposed to Residents' Rights:
  - Changes requirement to mail visitation procedure from within 24 hours to by "the end of the next business day."
  - Adds a section titled "Contact with attorneys, courts, and law enforcement."
  - Removes the provisions regarding incontinent residents.
  - Removes the requirements for the facility to have a witness present when mail is examined by staff, to hold cash and stamps for the residents, and for the residents to be able to send correspondence at their own expense. Retains the requirement for the facility to provide two stamps per week and to allow correspondence with attorney/courts.
  - Allows an exception to the privacy provision when mental health issues require constant supervision.
- The following changes are proposed to Program Operation:
  - Separates and reworks the sections regarding individual service plans and quarterly reports.
  - Requires one staff member certified in first-aid and CPR for every 16 residents present. Current regulation requires one staff member certified in first-aid/CPR to be present whenever residents are being supervised.
- The health care sections are reworked and updated.
- The following changes are proposed to Behavior Management:
  - Changes the requirement for all residents to have a behavior support plan to a requirement for a plan to be developed when there is a need for supports in addition to those provided for in the behavior management program.
  - Reworks the disciplinary process for an expedited process in detention centers.
  - Reworks all provisions relating to room confinement, isolation, and administrative segregation.
  - Prohibits the use of chemical agents.
- Redrafts confusing language and deletes unnecessary verbiage.
- Makes other technical and stylistic changes, such as deleting provisions that are duplicative of other regulatory or statutory requirements (e.g.; the restatement that the facility must comply with laws or procedures).
- Deleted sections are listed at the end of this document.

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

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The Board of Juvenile Justice serves as the regulatory authority for secure residential facilities, both juvenile correctional centers and detention centers, and the group homes/halfway houses operated by or funded through the department. Currently, these facilities are governed by two separate regulations: (1) the Standards for Juvenile Residential Facilities (6VAC35-140) and (2) the Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51), unless specifically exempted.

The current regulatory scheme has several difficulties in application. Each regulation has the full force and effect of law. Unfortunately, some of the provisions are contradictory or conflict. Additionally, there are numerous exclusions for the different types of facilities from a variety of regulatory provisions. Sometimes it is unclear exactly which facilities are exempted and to which section or subsection such exceptions are applicable.

To address these issues the department considered two courses of action: (1) consolidate the two existing regulations into one or (2) separate the two regulations into three regulations, one for each different "type" of facility regulated by the board.

Due to the distinct characteristics of the types of facilities regulated by the Board of Juvenile Justice and the complexity of applying a single regulation to the appropriate facility, it was concluded that it would be difficult to regulate all such facilities in one single regulation. The board approved pursuing the second course of action. Thus, the department is proposing separate regulations for the three distinct types of facilities it regulates: (1) juvenile correctional centers; (2) detention centers; and (3) group homes/halfway houses.

Having clear, concise regulations is essential to protecting the health, safety, and welfare of residents in secure detention centers and citizens in the community. With clear expectations for the administrators running these facilities, the facilities will be able to be run more smoothly, which will become extremely important in this current climate of limited financial resources, and will continue to allow for supporting the needs of the residents, thus supporting the overall rehabilitation and community safety goals of the department.

This regulation poses no known disadvantages to the public or the Commonwealth.

## Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

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Conditions of confinement in detention centers are subject to federal constitutional requirements as well as applicable federal law and regulations (i.e.; the Americans with Disabilities Act of 1990 and the Americans with Disabilities Amendments Act of 2008, 42 USC § 12101). The proposed regulation imposes requirements consistent with the applicable provisions and governing case law (i.e.; investigative finding letters, settlements, and court decisions of the United States Department of Justice, Civil Rights Division under the Civil Rights for Institutionalized Persons Act [42 USC § 1997 et seq.] and other statutes and regulations).

### Localities particularly affected

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

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All juvenile and domestic relations district courts throughout the Commonwealth have the ability to place juveniles in detention centers. The proposed regulation will govern 24 detention centers, each of which is operated and governed by a locality or a commission, consisting of several localities. Each locality or commission will be equally affected by any changes from the current regulatory scheme.

### Public participation

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.*

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In addition to any other comments, the board/department is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the department/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: (1) projected reporting, recordkeeping, and other administrative costs; (2) probable effect of the regulation on affected small businesses; and (3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email, or fax to **Patricia Rollston, Legislative Analyst at Virginia Department of Juvenile Justice, P.O. Box 1110, Richmond, Virginia 23218-1110; by electronic mail at [patricia.rollston@djj.virginia.gov](mailto:patricia.rollston@djj.virginia.gov); via telephone at (804) 786-4194; or via facsimile at (804) 371-0773.** Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

A public hearing will be held and notice of the hearing may be found on the Virginia Regulatory Town Hall website ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

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| <p><b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.</b></p>   | <p>None. The regulation affects 24 locally or commission-operated detention centers.</p>  |
| <p><b>Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.</b></p>   | <p>Nominal. The de minimus cost of updating procedures and program monitoring criteria will be absorbed internally through existing systems.</p>  |
| <p><b>Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.</b></p>   | <p>The regulation affects the 24 locally or commission-operated juvenile secure detention centers. Thus, it will affect the facilities' administrations, staff, and any contract service providers, in addition to the residents in each facility.</p>  |
| <p><b>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>   | <p>There are 24 locally or commission-operated detention centers. Each facility contracts with different groups for services, which may fall under the definition of a small business. These service and program providers may be publicly or privately operated, and it is unknown how many meet the criteria for small businesses.</p>  |
| <p><b>All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and do include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</b></p> | <p>Nominal. The substantive changes to the regulation, while requiring the implementation of some additional procedures, will require minimal, if any, costs for the affected individuals, businesses, or other entities. The overall purpose of this revision was to streamline the regulation. It is projected that there will be an overall positive impact of the proposed changes. There are no specific costs relating to the development of real estate.</p> |
| <p><b>Beneficial impact the regulation is designed to produce.</b></p>   | <p>Having clear, concise, and consistent requirements across facilities promotes the health, safety, and welfare of citizens by ensuring consistency in services throughout the Commonwealth. The proposed amendments would streamline the reporting and compliance requirements while not affecting the quality of services provided by the facilities and the administrators or the ability of the department and the board to oversee such functioning.</p>      |



## Alternatives

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

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Initially, retaining the current regulatory scheme was considered. However, given the difficulty in application with (1) conflicting provisions and (2) confusion regarding exemptions and exceptions, this option was rejected.

It was then reviewed whether the necessary revisions could be accomplished through department procedures, guidance documents, or training, rather than revising the regulatory provisions. However, since the proposed regulation applies to 24 independent facilities, who are not subject to department procedures, this option was eliminated. Thus, the basic and minimum requirements will be reviewed for necessity and retained as necessary in the regulation.

Two alternative regulatory courses of action were then considered: (1) consolidate the two existing regulations into one or (2) separate the two regulations into three regulations, each consolidating the provisions for the three different "types" of facility regulated by the board. The latter of these courses of actions was adopted by the board. Representatives of each of the "types" of facilities were consulted, and all were in support of this proposal.

Furthermore, given statutory and regulatory changes since 2005, the Department determined that a comprehensive review and updating of the regulation is essential for ensuring consistency and avoiding ambiguity in interpretation by facilities across the Commonwealth. Thus, in addition to consolidating and separating the current regulations, the department and board anticipated conducting (1) a review of the applicability and necessity of each provision; (2) a review as applicable to detention centers; and (3) whether there is an alternative appropriate vehicle for communicating expectations, outlining best practices, and providing procedural guidance when the added authority of a regulation is not required.

## Regulatory flexibility analysis

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

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The proposed regulation may affect small business in as much as a small business provides a program or service subject to this regulation. Having clear, concise, and consistent requirements across facilities (i) provides such entities with clear requirements and (ii) ensures consistency in such requirements throughout the Commonwealth. The proposed amendments would streamline the compliance and

reporting requirements while not affecting the quality of services provided in facilities and to administrators subject to the regulation or the ability of the board or department to oversee such functioning and thus would benefit any affected small business.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

No public comments were received during the public comment period following the publication of the NOIRA.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

This regulatory action should have a positive impact on families when residents receive services through a facility program or staff member. To the extent the regulation improves those services or promotes health and safety in those services, they should have a positive impact on families. The regulation will serve to bolster family relationships and communities given the focus to prevent delinquency and promote youth development. The regulation is not expected to have any impact on disposable family income.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please detail the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

| <b>Section number</b> | <b>Proposed requirements</b>   | <b>Other regulations and law that apply</b>   | <b>Intent and likely impact of proposed requirements</b>  |
|-----------------------|--|---|---|
| 10                    | Definitions. This section defines the following terms:<br>-Annual (uses 13 month definition as previously adopted in the | The current definitions governing detention centers are provided in 6VAC35-51-10 and 6VAC35-140-10. | The proposed section defines the terms used in the regulation, which are distinct to detention centers or assume a specific meaning when applied in the |

| Section number | Proposed requirements   | Other regulations and law that apply | Intent and likely impact of proposed requirements   |
|----------------|---|--------------------------------------|---|
|                | <p>Interdepartmental regulations)</p> <ul style="list-style-type: none"> <li>-Behavior management (positive reinforcements and constructive addressing of inappropriate behaviors)</li> <li>-Board (of Juvenile Justice)</li> <li>-Case record/record (resident’s information)</li> <li>-Contraband (unauthorized items)</li> <li>-Department (of Juvenile Justice)</li> <li>-Detention center (juvenile secure custody facility that is not a juvenile correctional center)</li> <li>-Direct care staff (individuals responsible for the care of residents and security of the facility)</li> <li>-Direct supervision (working with residents while not in the presence of direct care staff)</li> <li>-Director (of the Department)</li> <li>-Emergency (unexpected events; examples provided)</li> <li>-Facility administrator (responsible for daily, on-site operation of facility)</li> <li>-Health care record (medical record)</li> <li>-Health care services (medical, dental, and mental health services)</li> <li>-Health trained personnel (trained by licensed health care provider to perform certain services)</li> <li>-Individual service plan/ service plan (goals and objectives for residents during commitment)</li> <li>-Living unit (where residents sleep and reside)</li> <li>-On duty (time when staff are not responsible for the</li> </ul> |                                      | <p>current context. From the existing regulations the following changes were made: (1) Definitions were deleted because the terms are not unique (such as the definition of "day" or "therapy") or because the terms are not or are no longer used in the proposed regulation (such as the definition of "good character and reputation"). (2) Definitions used only once in the proposed regulation were moved to the applicable section, and definitions specific to volunteers and health care services were moved to the corresponding parts. (3) Definitions were modified to conform to changes in laws and other applicable regulations and to more appropriately reflect applicability in detention centers. (4) Definitions were added for terms used in the proposed regulation (such as "direct care staff," "direct supervision," and "written").</p> |

| Section number | Proposed requirements  | Other regulations and law that apply  | Intent and likely impact of proposed requirements  |
|----------------|--|---|--|
|                | <p>direct supervision of residents)</p> <ul style="list-style-type: none"> <li>-Parent/legal guardian (includes biological, adoptive, court appointed, and delegated)</li> <li>-Postdispositional detention program (residents in program of detention center with disposition of greater than 30 days confinement)</li> <li>-Premises (tract of land and structure of detention center)</li> <li>-Regulatory authority (the board or the department)</li> <li>-Resident (individual committed and residing in a facility)</li> <li>-Rules of conduct (behavioral expectations and available sanctions)</li> <li>-Written (electronic or hard copy)</li> </ul> |   |  |
| 20             | <p>Applicability: This section indicates which sections apply to detention generally or postdispositional detention programs specifically.</p>   | <p>6VAC35-130-30 states the provisions of the regulation apply to the type of juvenile residential facility indicated.</p>  | <p>The proposed section clarifies which parts apply to detention generally or postdispositional detention programs specifically.</p>   |
| 30             | <p>Previous regulations terminated: Enactment of this Chapter will replace the current regulations governing detention centers (6VAC35-51 and 6VAC35-140).</p>   | <p>None.</p>  | <p>The proposed section indicates the effect of enacting this Chapter on the current regulatory scheme. This Chapter will replace 6VAC35-51 and 6VAC35-140 relating to the certification of detention centers.</p>   |
| 40             | <p>Certification: Requires all detention centers to (i) demonstrate compliance with the board's Certification Regulation (6VAC35-20); (ii) maintain current certification demonstrating such compliance; (iii) retain documentation of such compliance for a minimum</p>   | <p>6VAC35-20 governs the Board of Juvenile Justice's facilities' certification process. 6VAC35-70 provides the general requirements for certification. It requires facilities to be in substantial compliance with the regulation and to comply with terms of</p> | <p>The proposed section states that detention centers are also subject to the board's Certification Regulation (6VAC35-20) and must comply with this Chapter and the Certification Regulation, maintain documentation of compliance, and keep a current certificate of compliance. The proposed regulation focuses solely on the responsibilities of</p> |

| Section number | Proposed requirements  | Other regulations and law that apply   | Intent and likely impact of proposed requirements   |
|----------------|--|--|---|
|                | <p>of three years; and (iv) post the record of certification. The section also has some language specific to the certification process.</p>  | <p>licensure, the regulation, other applicable laws and regulation, and its procedures. It also requires some reporting to the regulatory authority and a procedure manual to be accessible to staff and details some responsibilities of the regulatory authority. 6VAC35-51-240 states that facilities with adult residents must comply with the standards and provide separate accommodations as required by the regulatory authority.</p>  | <p>the detention center and does not address the responsibilities of the regulatory authority. By including a cross-reference to the Certification Regulation, this section clearly states the applicability and importance of complying with both this Chapter and the Certification Regulation.</p> |
| 50             | <p>Relationship to the regulatory authority: This section requires detention centers to provide the regulatory authority with any reports or records necessary to establish compliance with this Chapter and inform it of any change in operation that would affect certification.</p> | <p>6VAC35-20 governs the Board of Juvenile Justice's facilities' certification process. 6VAC35-70 provides the general requirements for certification. It requires facilities to be in substantial compliance with the regulation and to comply with terms of licensure, the regulation, other applicable laws and regulation, and its procedures. It also requires some reporting to the regulatory authority and a procedure manual to be accessible to staff and details some responsibilities of the regulatory authority. 6VAC35-51-230 requires facilities provide appropriate documentation to the regulatory authority and for any change in administration to be reported within five working days.</p> | <p>The proposed section clarifies the necessity of facilities to work with the regulatory authority in the certification process.</p>   |

| Section number | Proposed requirements  | Other regulations and law that apply  | Intent and likely impact of proposed requirements  |
|----------------|--|---|--|
|                |  | 6VAC35-51-110 requires facilities to follow the terms of the certification, to request changes in operation in advance, and to not implement any change without prior approval.   |  |
| 60             | Relationship with the department: This section requires detention centers to notify the director of any significant change in administrative structure and report any lawsuits or settlements that may be related to the health and safety of residents.                                 | See the description of 6VAC35-51-70 above.  | The proposed section clarifies what information must be reported to the department.  |
| 70             | Variances: This section authorizes a facility administrator to seek a variance in accordance with the board's Certification Regulation (6VAC35-20) and prohibits implementation of a variance prior to obtaining the approval of the board.  | 6VAC35-51-150 sets three criteria for the issuance of the variance. It also states that the variance must be approved prior to implementation.  | The proposed section allows facilities to seek a variance to a regulatory requirement (under the conditions and provisions of the board's Certification Regulation). This section recognizes that special circumstances may warrant variances from certain provisions for specific facilities.   |
| 80             | Serious incident reports: This section requires certain serious incidents, accidents, and illnesses to be reported to the director, a resident's parent/legal guardian, and supervising agency within 24 hours. It also requires documentation of such incidents and required reporting. | 6VAC35-51-1030 requires serious incidents to be reported to the placing agency and the parent/guardian within 24 hours and serious illness or injuries to be reported to the regulatory authority within 24 hours. It lists components of the required documentation. | The proposed section requires the facilities to report certain serious incidents to the director, parents, and supervising CSU. It also contains documentation requirements, including noting in the resident's record, but allows flexibility as to how the documentation is retained. It also cross-references reporting child abuse or neglect (section 90) so that all reports are done appropriately. |
| 90             | Suspected child abuse or neglect: This section requires procedures for handling, reporting, and cooperating with investigations of suspected child abuse or neglect. It  | Section 63.2-1509 of the Code of Virginia mandates the reporting of any suspected child abuse or neglect by staff in children's residential facilities.   | The proposed section requires reporting of suspected child abuse or neglect in accordance with the governing statute. It also requires facilities to follow procedures for reporting, handling, and documenting such   |

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|                | also requires reporting and documentation of such cases to be done in accordance with the requirements for serious incidents in section 80.   | 6VAC35-51-1040 requires procedures for handling, reporting, and documenting CPS allegations.  | cases. It does allow flexibility as to how the documentation is retained (under the notification and documentation requirements for serious incident reports in section 80 and defers to procedures as long as it is noted in the resident's record).   |
| 100            | Grievance procedure: This section requires the facility administrator to ensure compliance with the department's grievance procedure. It also specifies certain requirements of the procedure, orientation of the residents to the procedure, and cooperation in handling any complaints.   | 6VAC35-51-1050 requires procedures governing grievances and lists required components. 6VAC35-140-70 requires residents to be oriented to and have continuing access to a grievance procedure. It requires the procedure to provide for resident participation, documentations, timely responses, one level of appeal, administrative review, protection from reprisal, emergency hearings, and document retention. | The proposed section, consistent with current regulatory requirements, requires facilities to follow certain specific procedures relating to the ability of residents to file grievances while at a facility. It includes the existing requirement that such procedures shall be posted in an area accessible to the parents and the requirement for residents to be orientated to the procedures and for the procedures to be posted in an area accessible to residents. |
| 110            | Responsibilities of the governing authority: This section requires the governing body or authority of the detention center to be identified and for the governing authority to appoint a facility administrator. It also requires the facility to have a "decision-making" plan, which includes an organizational chart and has the requirement that a staff person with the appropriate qualifications for facility administrator be identified to assume such duties when needed. It also requires a program/service effectiveness/improvement program. | 6VAC35-51-170 requires the identification of the entity responsible for establishing compliance and any person or entity to whom legal duties are delegated. 6VAC35-51-180 requires the appointment of a facility administrator, a written decision-making plan, a statement of the facility's objectives and target population, and quality control procedures.  | The proposed section, consistent with the current regulatory scheme, details certain requirements of the governing authority and the facility administrator dealing with the overall functioning of the facility.   |

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| 120            | Insurance: This section requires documentation of appropriate liability and vehicle insurance. It also requires staff who use personal vehicles for official business to be informed of the applicable insurance requirements and provide documentation of such.   | 6VAC35-51-200 requires facilities to have liability insurance and provide documentation of vehicle insurance (if used to transport residents). Also requires staff handling funds to be bonded/indemnified. 6VAC35-140-160 requires liability insurance for employees, volunteers, and the premises. It also requires vehicle insurance for facility vehicles and staff to be given notice of the need to insure a personal vehicle used for work. | The proposed section streamlines the provisions relating to insurance and retains the major substantive components.  |
| 130            | Participation of residents in human research: This section requires the facility's governing authority to approve procedures regarding the use of residents as subjects of human research. It contains a provision regarding the confidentiality of resident information and records and allows the facility to require progress reports and a final report of the research. | 6VAC35-51-660 requires procedures for resident participation in human research.  | The proposed section clarifies the responsibilities of the facility should it chose to have residents as subjects of human research.                       |
| 140            | Job descriptions: This section requires a written job description for each position in the facility with four required elements. It also requires that the job description be provided to the employee prior to assuming the position duties.  | 6VAC35-51-280 requires job descriptions for each position.   | The proposed section is consistent with the current regulatory requirements.   |
| 150            | Qualifications: This section requires facilities to follow the qualification requirements of the locality, the governing authority, or   | 6VAC35-51-270 requires position qualifications to be established and DHRM to serve as the default for qualifications   | The proposed section removes provisions from the current regulatory scheme that are not applicable to facilities regulated by the board and clarifies that |



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|                | DHRM.   | absent one set by the provider. It also requires qualified and procedurally aware employees and contractors to maintain sufficient qualifications for the services provided. 6VAC35-51-630 requires facilities with contractors who provide educational, counseling, psychological, medical, or other services to show proof of contractual agreements or staff expertise. | applicants must be subject to predetermined qualification requirements.  |
| 160            | Physical examination: This section requires staff to have a pre-employment physical if the position requires a particular set of physical abilities. It also allows for annual re-examinations.   | 6VAC35-140-270 requires pre-employment physicals when a position requires a particular set of physical abilities. It also allows for annual re-examinations.   | The proposed section is consistent with the current regulatory requirements.   |
| 170            | Employee and volunteer background checks: This section requires background checks to be performed, in accordance with § 63.2-1726 of the Code of Virginia for staff prior to working alone with residents. It also requires procedures for the supervision of non-employee persons who have contact with residents. | Sections 66-24 and 63.2-1726 of the Code of Virginia require background checks on all staff in children's residential facilities prior to such staff working alone with residents. 6VAC35-140-260 requires background checks to be completed on all staff who work alone with residents.   | The proposed section is changed in accordance with recent statutory changes (Chapter 873 of the 2008 Acts of the General Assembly) and a 2008 variance to the applicable regulation. This section allows the conditional hire of employees pending fingerprint results if the individual is informed such employment is contingent upon the successful completion of the background check and if that individual is not allowed to be alone with residents and is supervised by staff whose background checks are completed when working with residents pending return of the fingerprint results. |
| 180            | Required initial orientation: This section requires all employees to be oriented on 17 components specific to   | 6VAC35-140-280 requires initial orientation in accordance with the job description and an  | The proposed section creates a separate orientation section with specific requirements for all employees. Facility staff   |

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|                | <p>the facility before their eighth work day at the facility. It cross-references the volunteer orientation section.</p>  | <p>annual training plan. It requires orientation, prior to assuming job duties, in the program, rules, residents' rights, disciplinary procedures, emergency procedures, and documentation requirements.</p>   | <p>currently receive an extensive orientation during their first week of work. This section merely clarifies the requirements on which staff are currently being oriented.</p>   |
| <p>190</p>     | <p>Required initial training: This section requires (1) all employees to have training necessary to be competent in their positions; (2) contractors to be trained to perform their positions in a correctional environment; (3) direct care staff to have 40 hours of initial training including training in 11 specific areas; (4) staff who administer medications to complete required trainings prior to administering medication; and (5) staff authorized to restrain residents to be trained within 90 days of hire and before applying any restraint techniques. It allows contract providers to have credentials to satisfy the training requirement (although they must be oriented per the previous section and cross-references the volunteer training section).</p> | <p>6VAC35-51-310(A) requires initial training (1) in seven days for behavior management procedures; (2) within 14 days before being alone supervising residents for emergency planning issues; and (3) within 30 days in CPS, reporting, maintaining relationships, suicide prevention, standard precautions, good neighbor, and siting. It addresses the medication training program and the quality improvement plan. It also requires enrollment in CPR/first-aid classes within 30 days. 6VAC35-140-280 requires direct care staff to be trained in the rules of conduct for residents, rationale for the rules, and applicable sanctions.</p> | <p>The proposed section pulls together many current regulatory provisions. In the current scheme, there are many different deadlines for completing training (seven, 14, and 30 days, and before working with children). The timing for training requirements is streamlined to require all trainings to be completed for direct care staff prior to being responsible for the supervision of residents. Direct care staff currently undergo extensive initial training, which already incorporates the required components of this section.</p> |
| <p>200</p>     | <p>Retraining: This section requires all staff to receive retraining sufficient to meet any professional development needs, with direct care staff to have 40 hours annually. All staff are required to be retrained in emergency procedures. Direct care staff must have retraining in seven specific</p>  | <p>6VAC35-51-310(B) requires staff, volunteers, and contractors to be retrained annually in emergency procedures; medication administrators to undergo medication administration retraining; direct care staff to undergo retraining in behavior management</p>  | <p>The proposed section clearly details the retraining requirements. It retains the required hours of annual training from the current regulations.</p>  |

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|                | <p>areas. Staff who administer medications must receive annual refresher training on the administration of medication. Staff who apply physical or mechanical restraints must receive annual retraining on such use. This section allows contract providers to have credentials to satisfy the training requirement and specifies that failure to be properly retrained prohibits staff from working directly with residents.</p> | <p>techniques; and all staff to be retrained in CPS reporting, maintaining relationships, and suicide prevention. Subsection(C) requires all full-time staff to undergo 15 additional hours of training. Subsection (D) requires procedures for other staff training, and (E) requires retraining based on needs and competencies. 6VAC35-140-280 requires 40 hours of training annually and retraining in the regulation, suicide prevention, special residents' medical needs, health screenings, and mechanical restraints.</p> |   |
| 210            | <p>Written personnel procedures: This section requires written personnel procedures to be accessible to staff.</p>  | <p>6VAC35-51-290 requires each facility to have provider-approved personnel policies accessible to staff. It further requires the facilities to implement procedures to ensure employees are qualified for the positions.</p>  | <p>The proposed section is consistent with the current regulatory requirements.</p>   |
| 220            | <p>Code of ethics: This section requires facilities to have standards of conduct available to all employees.</p>  | <p>6VAC35-140-275 requires all facilities to have a code of ethics which requires a provision prohibiting employees from using their official position to secure privileges or engaging in activities that constitute conflicts of interest.</p>   | <p>Current regulations and procedures require a code of ethics. The proposed section deletes the specific requirement that the standards of conduct include a prohibition of using one's position for personal gain. This requirement is procedural and currently contained in the department's code of ethics.</p> |
| 230            | <p>Reporting criminal activity: This section requires staff to report any criminal activity by staff or residents and the</p>   | <p>6VAC35-140-130 requires facilities to mandate staff report all known criminal activities</p>  | <p>The proposed section clarifies the responsibilities of the staff and facility administrator regarding reporting criminal</p>   |

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|                | facility administrator to report such activity as required by procedures. It further requires staff to cooperate in any investigations.   | by staff and residents.   | activity.  |
| 240            | Notification of change in driver's license status: This section requires staff who may transport residents to maintain a valid driver's license and report any change in license status to the facility administrator or designee.  | 6VAC35-51-1010, in part, requires any staff involved in the transportation of residents to comply with laws relating to the licensure of driving.   | The proposed section reiterates the requirement for staff who transport residents to be appropriately licensed. It adds an affirmative obligation for staff members to report any applicable change in licensure status. |
| 250            | Political activity: This section requires procedures regarding political activities at the detention center.  | 6VAC35-140-295 requires facilities to have procedures governing political activity (campaigning, lobbying, etc.) at the facility.   | The proposed section is consistent with the existing regulations.  |
| 260            | Physical or mental health of personnel: This section requires staff who are a risk to residents or others to be removed from the direct care or supervision of residents. It allows the facility to require an evaluation prior to that individual returning to direct care or supervision duties. It also requires records to be confidentially and separately maintained. | 6VAC35-51-260 allows a facility to require an employee to undergo an examination if residents' safety is at risk and, if a condition is indicated, to remove the employee from contact with residents.<br>6VAC35-140-706 allows the facility administrator of a postdispositional program to remove staff from work duties when that staff has a condition that may jeopardize the safety of residents. | The proposed section is modified for consistency with ADAA.  |
| 270            | Definition of volunteers or interns: This section defines volunteers and interns.   | 6VAC35-51-10 and 6VAC35-140-10 define volunteers.   | The proposed section modifies the definition to include interns, as applicable provisions apply equally to volunteers and interns.   |
| 280            | Selection and duties of volunteers and interns: This section requires facilities to follow procedures regarding the selection and use of volunteers. The procedures   | 6VAC35-51-400 requires procedures for the selection and use of volunteers; prohibits volunteers from providing basic services;  | The proposed section consolidates the responsibilities regarding the selection and use of volunteers. It is consistent with current regulatory requirements and with   |

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|                | <p>must contain a provision for evaluating persons wishing to associate with residents. It also requires volunteers to have the appropriate qualifications for any services provided; requires any volunteer responsibilities to be clearly defined in writing; and prohibits volunteers for being responsible for the duties of direct care staff.</p>   | <p>requires the responsibilities to be clearly defined in writing; and requires all volunteers/interns to be qualified for any services rendered.<br/>6VAC35-51-950(B) requires facilities to implement procedures for evaluating groups/individuals to associate with residents and whether such association is in the residents' best interests.</p> | <p>department procedures.</p>  |
| 290            | <p>Background checks for volunteers and interns: This section requires individuals who volunteer on a regular basis or intern in the facility or individuals designated as leaders of volunteer groups to undergo applicable background checks and such checks to be documented. It also requires facilities to implement procedures for supervising volunteers who have not had background checks who have contact with residents.</p> | <p>Sections 66-24 and 63.2-1726 of the Code of Virginia require background checks on all individuals who volunteer on a regular basis and will be alone with residents.<br/>6VAC35-140-260 requires background checks on personnel.<br/>6VAC35-51-300 requires personnel records to retain proof of the completed background checks.</p>               | <p>The proposed section requires background checks on volunteers and interns consistent with the requirements of the Code of Virginia, board regulations, and department procedures.</p> |
| 300            | <p>Volunteer and intern orientation and training: This section requires certain volunteers and interns to be oriented on eight items and trained, within 30 days of their start date, on procedures applicable to their duties and responsibilities in the event of a facility evacuation.</p>  | <p>6VAC35-51-310 and 6VAC35-140-280 require certain trainings/orientation for volunteers.<br/>6VAC35-51-1060 requires volunteers to be trained in emergency procedures.</p>  | <p>The proposed section extracts the orientation and training requirements for volunteers from the existing regulatory structure and consolidates them in one section.</p>               |
| 310            | <p>Personnel records: This section requires personnel records for each employee or volunteer/intern on whom background checks are</p>   | <p>6VAC35-51-300 requires updated personnel records (including separate health records). It lists the specific</p>   | <p>This section is consistent with the current regulatory scheme.</p>  |

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|                | <p>required. It lists nine necessary parts of the record and requires health records to be maintained separately. It also specifies that volunteer and contract service providers' records may contain only the record of compliance with any required background checks.</p>   | <p>components.</p>   |  |
| <p>320</p>     | <p>Employee tuberculosis screening and follow-up: This section requires staff to have an up-to-date TB screening before starting work at facilities. It also requires subsequent screenings under certain circumstances and requires all screenings, prevention, and treatment to be conducted in accordance with the requirements of the Division of TB Control at VDH.</p>          | <p>6VAC35-51-250 requires health information to be maintained on employees and residents in all facilities. It also requires TB testing and subsequent TB evaluations.</p>   | <p>The proposed section allows flexibility in practice in order to conform with the recommendations and requirements of the Division of TB Control at the Virginia Department of Health (VDH).</p>   |
| <p>330</p>     | <p>Maintenance of residents' records: This section requires a case record and a separate health care record to be maintained for each resident. The records are to be kept confidential and released only in accordance with applicable Code sections. A procedure shall govern the maintenance of the records and shall address specific requirements regarding confidentiality.</p> | <p>6VAC35-51-640 requires a case record and a separate health record for each resident to be maintained uniformly and confidentially with governing procedures (components listed). The face sheet must be retained permanently.</p> | <p>The proposed section is consistent with current regulatory requirements. It also no longer requires records to be maintained in metal containers (as a cabinet or container that protects against fire and flood may now be of a substance other than metal). It also cross-references the statute governing confidentiality of residents' records in order to provide a reminder to facilities that any distribution of the records must be in accordance with these statutes.</p> |
| <p>340</p>     | <p>Face sheet: This section requires a face sheet to be maintained on each resident. It lists specific components on the document and requires it to be maintained</p>  | <p>6VAC35-51-700 requires a face sheet and details specific components.</p>  | <p>The proposed section removes some of the procedural language and requirements to maintain information on the face sheet that is already, and more appropriately, maintained</p>   |

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|                | as changes occur.  |  | elsewhere (thus reducing duplicity in practice). The face sheets are no longer required to be maintained permanently.   |
| 350            | Buildings and inspections: This section requires new construction, major renovations, and temporary structures to be inspected and approved by appropriate building officials (as documented by a current certificate of occupancy). It requires facilities to maintain documentation of annual fire inspections (as required by the building code). It also requires annual inspections of sanitation, sewage, water, and food systems. | 6VAC35-51-420 requires a certificate of occupancy for all buildings; annual fire inspections; annual inspections of sanitation, sewer, water, food service operations, and swimming pools; the buildings to be suitable to the designated purposes; and any building plans to be approved by the regulatory authority. | The proposed section clarifies what the facilities' responsibilities are regarding annual inspections. The current regulatory scheme requires fire inspections to be conducted annually (defined as once every 13 months). However, facilities do not conduct the fire inspections. For detention centers, these inspections are conducted by the local fire inspectors who operate within their own timeframes and procedures for inspecting residential facilities. As such inspections may exceed the 13-month maximum contained in the current regulation, the proposed regulation adds some flexibility for the facilities by requiring them to attempt to schedule an "annual" inspection and to (1) maintain documentation of the current certification and (2) document attempts to schedule inspections (and any necessary follow-up seeking inspections) should such inspections not be completed within the 13-month period. |
| 360            | Equipment and systems inspections and maintenance: This section requires safety, emergency, and communications equipment and systems to be tested and maintained according to the manufacturer's requirements or procedure (but must be done at least quarterly). If such a system is defective, facilities must immediately repair, remove, or replace  | 6VAC35-140-310 requires the inspection of safety, emergency, and communications systems at least quarterly and more frequently if required by the manufacturer's instructions. 6VAC35-140-320 requires facilities to take immediate steps to repair or replace defective equipment.                                    | The proposed section is consistent with the current regulatory scheme. It provides additional guidance by having the facility administrator maintain a listing of all safety, emergency, and communications equipment and systems subject to the requirements of this section.  |

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|                | the defective equipment.   |  |   |
| 370            | Alternate power source: This section requires facilities to have access to an alternative power source for use in an emergency.  | 6VAC35-140-615 requires secure facilities to have access to an alternative power source to maintain essential services in an emergency.  | The proposed section is consistent with the current regulatory provision. |
| 380            | Heating and cooling systems and ventilation: This section requires heat to be distributed to all rooms so that the temperature is not below 68°F. It also requires rooms to be ventilated when temperatures exceed 80°F.   | 6VAC35-51-430 requires heat to be evenly distributed to be no lower than 68°F, natural or mechanical ventilation to the outside in all rooms, and air-conditioning/fans in all rooms where temperatures exceed 80°F.   | The proposed section is consistent with the current regulatory provision. |
| 390            | Lighting: This section requires sleeping and activity areas to have natural lighting; lighting to be sufficient for the activities being performed; and night lighting to be sufficient to observe residents. It also requires flashlights to be available for each direct care staff and outside entrances and parking areas to be lighted. | 6VAC35-51-440 requires electric lighting to be sufficient for activities being performed, continuous at night, and in outside entrances and parking areas. It also requires flashlights to be available for each staff at night.<br>6VAC35-140-330 requires natural lighting in sleeping/activity areas and lighting at night to be sufficient to observe the residents. | The proposed section is consistent with the current regulatory provision. |
| 400            | Plumbing and water supply; temperature: This section requires plumbing to be operational, an adequate supply of hot and cold running water, and precautions to be taken to avoid scalding by hot water.  | 6VAC35-51-450 requires plumbing to be maintained in good operating condition, an adequate supply of running water, and precautions to be taken to prevent scalding (water temperature between 100-120°F).  | The proposed section is consistent with the current regulatory provision. |
| 410            | Drinking water: This section requires all sleeping areas (in facilities constructed after 1/1/1998) and all activity areas to have fresh   | 6VAC35-140-520 requires fresh drinking water and toilet facilities in all sleeping and activities areas (applies   | The proposed section is consistent with the current regulatory provision. |



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|                | drinking water for residents' use.  | only to secure facilities).  |  |
| 420            | Toilet facilities: This section requires one toilet, sink, and shower in each living unit and for a specific number of residents and staff; toilet facilities available in all sleeping areas (if constructed after 1/1/1998); and one bathtub in the facility.                                       | 6VAC35-51-460 sets the requirements for the number of toilets, sinks, showers, and tubs in a facility.   | The proposed section is consistent with the current regulatory provision.  |
| 430            | Sleeping areas: This section requires separate sleeping rooms for males and females; beds to be a certain distance apart; mattresses to be fire retardant; and sleeping areas to comply with square footage requirements. It also requires the environment of sleeping areas to be conducive to rest. | 6VAC35-51-480 requires, in part, separate same-sex sleeping areas; no more than four residents to a room (except if allowed by the board in JCCs); three feet between beds; specific square footage requirements for bedrooms; and sleeping areas that are conducive to sleep and rest. 6VAC35-51-500 requires provisions for privacy from routine sight supervision, video, and audio monitoring by permission of regulatory authority. | The proposed section addresses issues specific to resident sleeping areas. It removes the provision regarding no more than four residents to a room. |
| 440            | Furnishings: This section requires furnishings to be safe, clean, and suitable for use.   | 6VAC35-51-590(A) requires all furnishings and equipment to be safe, clean, and suitable.   | The proposed section is consistent with the current regulatory provision.  |
| 450            | Disposal of garbage and management of hazardous materials: This section requires the facility to provide for the collection and legal disposal of all garbage and waste materials.  | 6VAC35-51-600(B) requires facilities to provide for the legal disposal of waste.   | The proposed section is consistent with the current regulatory provision.  |
| 460            | Smoking prohibition: This section prohibits residents from using tobacco products and staff from using tobacco  | 6VAC35-51-490 prohibits smoking in living areas and areas where residents  | The proposed section adopts the language from the board policy.  |

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|                | products in any area where residents can see or smell the product.  | participate in programs. Board policy 20-107 prohibits use of tobacco products in locations where residents may see or smell such use.   |  |
| 470            | Space utilization: This section requires each facility to have space, which may be used interchangeably, for specific activities, including indoor and outside recreation, school classrooms, kitchen and dining, laundry, storage, visiting, administrative activities, educational programming, and medical practice. | 6VAC35-51-510 requires group homes to have a living room with a "home-like" environment and all facilities to have indoor recreation space with appropriate materials and, if more than 13 residents, that space must be separate from the living room. 6VAC35-51-530(B) requires adequate kitchen facilities. 6VAC35-51-540 requires laundry areas, if done at the facility. 6VAC35-51-550 requires storage space. 6VAC35-51-570 requires office space for administrative activities. 6VAC35-51-580(C) requires outdoor recreation space. 6VAC35-140-100 requires facilities that operate school programs to provide school classrooms. 6VAC35-140-90 requires residential facilities to have a designated visiting area. 6VAC35-140-470 requires secure facilities to have a central medical room with examination facilities. 6VAC35-51-580, in part, requires all facilities to have an outdoor recreation area. | The proposed section consolidates numerous existing regulations. |

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| 480            | Kitchen operation and safety: This section requires inventory and control of culinary equipment that is located in areas where residents are reasonably expected to have access; walk-in refrigerators to have emergency exits; and kitchen and dining linens to be cleaned in bleach. It also prohibits residents from working in food service.        | 6VAC35-51-530 requires meals to be served on tables and chairs, adequate kitchen facilities, and walk-in refrigerators to be equipped with emergency exits.<br>6VAC35-51-600(D) requires bleach to be used to launder bed, bath, table, and kitchen linens.<br>6VAC35-140-490, in part, requires all secure facilities to (i) have procedures governing access to food and utensils and (ii) the inventory and control of certain equipment. | The proposed section is consistent with current regulations.   |
| 490            | Maintenance of the buildings and grounds: This section requires all buildings and grounds to be safe, maintained, and reasonably free of clutter, rubbish, foul odors, pests, and vermin.   | 6VAC35-51-580, in part, requires the buildings and grounds to be maintained.<br>6VAC35-51-600(A) and (C) require all buildings to be well-ventilated and free of odors and flies and vermin.   | The proposed section is consistent with the current regulatory sections.   |
| 500            | Animals on the premises: This section requires any animals housed at the facility to have clean sleeping areas and adequate food and water and to be housed separate from sleeping and activity areas and the water supply. Any animals must be up to date on any required testing and inoculations. The premises should be kept free of stray animals. | 6VAC35-51-610 requires animals maintained on the premises to be housed away from certain areas, provided clean quarters and adequate food/water, and tested/licensed. It also requires the premises to be free of stray animals.   | The proposed section is consistent with the current regulatory provisions.   |
| 510            | Emergency and evacuation procedures: This section requires a fire prevention plan and an emergency preparedness and response plan, which is reviewed  | 6VAC35-51-1060 lists required components of each facility's emergency preparedness and response plan and mandates training,  | All facilities currently have comprehensive emergency and evacuation plans. The proposed section is consistent with such plans, removes some procedural language, and adapts the |

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|                | <p>annually, with six different components, including required procedures. It requires all employees to be trained and prepared to implement the plan; volunteers and contractors to be trained in their responsibilities in implementing the evacuation plan; and residents to be informed of their responsibilities in implementing emergency and evacuation procedures. It also requires notification to parents, the director, and the regulatory authority within 72 hours after the incident is stabilized; evacuation routes to be posted; evacuation drills to be conducted and documented; and a designated employee to ensure the plan and drill requirements are met.</p> | <p>orientation, notice, drills, and review/monitoring. 6VAC35-51-480 requires, in part, special egress for physically handicapped residents. 6VAC35-140-340(A) requires each facility to have a fire prevention plan that provides for adequate fire protection service.</p> | <p>responsibilities of residents, volunteers, and contractors to apply in the correctional environment.</p> |
| 520            | <p>Control center: This section requires a control center, which is to be staffed 24 hours a day.</p>  | <p>6VAC35-140-600 requires a control center, staffed 24 hours a day, in each secure facility.</p>  | <p>The proposed section is consistent with the current regulatory provisions.</p>                           |
| 530            | <p>Control of perimeter: This section requires a written plan for controlling residents' and public access to the perimeter.</p>   | <p>6VAC35-140-630 requires secure facilities to have a written plan for the control of the perimeter and for pedestrians/vehicles to enter/exit at designated points.</p>  | <p>The proposed section is consistent with the current regulatory provisions.</p>                           |
| 540            | <p>Escapes: This section requires a written procedure for handling any escapes or unauthorized absences from facilities.</p>   | <p>6VAC35-140-640 requires secure facilities to have procedures to govern actions taken after escapes/AWOLs.</p>   | <p>The proposed section is consistent with the current regulatory provisions.</p>                           |
| 550            | <p>Contraband: This section requires procedures for dealing with contraband and searching the premises.</p>  | <p>6VAC35-140-580 requires procedures for regular searches of the secure facilities, which</p>   | <p>The proposed section is consistent with the current regulatory provisions.</p>                           |

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|                |  | <p>provide for respecting residents' rights to their own property<br/>                     6VAC35-140-120 requires facilities to have procedures for the control, detection, and disposition of contraband.</p>  |   |
| 560            | <p>Searches of residents: This section requires procedures to govern all searches in detention centers. It details specific required components of general procedures and specific procedures for strip and body cavity searches.</p>  | <p>6VAC35-51-850 prohibits strip searches unless allowed by other regulations or by court order; requires procedures if pat down searches are conducted; and lists required components of pat down procedures.<br/>                     6VAC35-140-590 requires procedures limiting searches to the minimum amount of touching necessary and restricting who may perform body cavity and strip searches.</p> | <p>The proposed section clarifies the parameters and requirements for the searches of residents in a correctional setting.</p>  |
| 570            | <p>Communications systems: This section requires a means of communicating between the living units and the control center and the ability for the facility to communicate in emergencies.</p>  | <p>6VAC35-140-610 requires secure facilities to have a means for communication (i) between the living areas and the control center; (ii) in emergency situations; and (iii) between the facility and the community.</p>  | <p>The proposed section is consistent with the current regulatory provisions.</p>   |
| 580            | <p>Telephone access and emergency numbers: This section requires there to be one nonpay telephone in all areas where residents sleep or participate in activities. It requires an emergency contact number for staff. It also requires an emergency telephone number to be provided to the resident and the person responsible for</p> | <p>6VAC35-51-840 requires an emergency telephone number where staff may be reached at all times and for residents away from the facility to be provided with an emergency phone number.<br/>                     6VAC35-51-590(B) requires a telephone accessible to staff.</p>  | <p>The proposed section clarifies when an emergency number must be provided to the resident and responsible adults. It now requires a number to be provided to residents and the responsible party when a resident leaves the facility in the absence of staff or police and removes the existing requirement to maintain an emergency number to contact staff.</p> |

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|                | the care of the resident when the resident is away from the facility and not under the supervision of direct care staff or law enforcement.   |  |  |
| 590            | Keys: This section requires detention centers to have written key control plans; fire and emergency keys to be instantly identifiable to the touch; and different master keys for interior and exterior secure areas.                             | 6VAC35-140-620 requires secure facilities to (i) have a key control plan, (ii) to have fire/emergency keys instantly identifiable to the touch, and (iii) different master keys for internal and external doors. | The proposed section is consistent with existing regulations.  |
| 600            | Weapons: This section prohibits weapons on the premises except in the possession of law enforcement responding to emergencies or if law enforcement come to facilities on official business and firearms are locked outside the secure perimeter. | 6VAC35-51-220 requires procedures for the possession of firearms that must restrict use except if in possession of security/law enforcement, locked, or used by a resident with permission.                      | The proposed section clarifies when and how weapons may be on the premises by prohibiting them, generally with two exceptions for law enforcement. |
| 610            | Area and equipment restrictions: This section requires procedures to govern the inventory and control of all security, maintenance, recreational, and medical equipment located in the facilities where residents may be present.                 | 6VAC35-140-490 requires all secure facilities to (i) have procedures governing access to food and utensils and (ii) the inventory and control of certain equipment.  | The proposed section is consistent with the current regulatory provisions.   |
| 620            | Power equipment: This section requires safety rules for the use and maintenance of power tools.   | 6VAC35-51-1010 requires safety rules for the maintenance of power equipment.   | The proposed section is consistent with the current regulatory provisions.   |
| 630            | Transportation: This section requires each facility to have transportation available for routine and emergency transportation; written safety rules for the transportation of residents and the use of vehicles; and                              | 6VAC35-51-1010(A) and (B) require transportation of residents to be done in accordance with applicable laws and for each facility to have safety rules for transportation and, in                                | The proposed section is consistent with the current regulatory provisions.   |

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|                | a procedure for the verification of appropriate licensure status for staff who transport residents.   | subsection (C), for the maintenance of vehicles. 6VAC35-140-140 requires the facility to have transportation available for routine and emergency transportation. 6VAC35-140-540(E) requires secure facilities to follow procedures for the transportation of residents outside the facility.   |  |
| 640            | Transportation of residents; transfer to department: This section requires each facility to have transportation available for routine and emergency transportation; written safety rules for the transportation of residents and the use and maintenance of vehicles; and a procedure for the verification of appropriate licensure status for staff who transport residents. It also requires certain information to accompany residents or be sent to the facility within 24 hours of transfer. | 6VAC35-51-1010(A) and (B) require transportation of residents to be done in accordance with applicable laws and for each facility to have safety rules for transportation and, in subsection (C), for the maintenance of vehicles. 6VAC35-140-140 requires the facility to have transportation available for routine and emergency transportation. 6VAC35-140-540(E) requires secure facilities to follow procedures for the transportation of residents outside the facility. | The proposed section is consistent with the current regulatory provisions.   |
| 650            | Prohibited actions: This section lists 14 specific actions prohibited in the facilities with a broad statement that the Constitution must be followed.  | 6VAC35-51-880 lists 13 acts that are prohibited in all facilities. 6VAC35-140-50 requires procedures mandating nondiscrimination, equal programming, reasonable accommodation for residents with disabilities, and prohibiting cruel and unusual punishment.   | The proposed section clarifies the actions prohibited in detention centers; added nondiscrimination and use of pharmacological restraints to this section. It contains a broad statement reminder that the list is not exhaustive and any constitutionally prohibited actions are also prohibited. |
| 660            | Residents' mail: This section details the specific circumstances and manner   | 6VAC35-140-75 details circumstances when mail may be read, censored, or  | The proposed section contains some clarifying changes and is consistent with the current   |

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|                | <p>in which residents' mail may be delayed, reviewed, or withheld. It differentiates between legal and nonlegal mainly in its requirements. It also contains requirements regarding outgoing mail, access to postage, and mail received after a resident has left the facility.</p>   | <p>rejected.</p>   | <p>regulatory provisions.</p>   |
| 670            | <p>Telephone calls: This section requires telephone calls to be permitted in accordance with procedures that account for facilities' needs and resident behavior.</p>   | <p>6VAC35-140-80 requires facilities to allow residents to have reasonable access to a telephone.</p>  | <p>The proposed section is modified to account for the unique setting in a secure facility. The reasonable access language is changed to a requirement to be permitted use in accordance with procedures.</p>   |
| 680            | <p>Visitation: This section requires residents to have reasonable access to visitation with immediate family members and legal guardians. It requires visitation procedures that account for facility needs, resident and visitor behaviors, and a focus on strong family and community relationships. It also requires the procedure to be sent to the parent by the end of the next business day after admission.</p> | <p>6VAC35-51-990 requires procedures for flexible visitation unless governed by other regulations. It also sets timeframes in which copies of the visitation procedure should be provided to the parents/guardians. 6VAC35-140-90 requires visitation consistent with procedures in a designated visiting area with the ability for residents and visitors to have physical contact. 6VAC35-51-1000 requires written permission of the resident's family prior to any visit at the homes of staff.</p> | <p>The proposed section clarifies the facilities' responsibilities relating to visitation. It contains language that residents have a general right to visitation subject to reasonable limitations. From the current regulatory scheme, it changes the requirement to mail copies of the visitation procedure from 24 hours after admission to the end of the next business day after admission.</p> |
| 690            | <p>Contact with attorneys, courts, and law enforcement: This section requires facilities to allow residents to have uncensored, confidential communications with their attorneys, subject to</p>  | <p>6VAC35-140-570 requires secure facilities to follow procedures for obtaining and documenting a resident's consent prior to questioning by the police. It also prohibits staff</p>   | <p>The proposed section adopts the major substantive components of the current regulation. It also adds parts relating to contact with attorneys and courts (both of which are constitutionally protected).</p>   |



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|                | reasonable restrictions; prohibits denial of access to the courts; and requires procedures for when a resident consents to questioning by law enforcement that prohibits staff from coercing a resident's decision.  | from playing "any role" in allowing contacts with police.  |   |
| 700            | Personal necessities: This section requires the facility to provide the resident with four items of personal necessity at intake. The items must be clean and in good repair upon issuance and must be replenished as needed. It also requires linens to be changed or cleaned with bleach every seven days and blankets to be cleaned or changed as needed. | 6VAC35-51-470 requires an adequate supply of personal necessities to be available to residents; washcloths and towels to be cleaned weekly; and incontinent residents to have special provisions. 6VAC35-51-480 requires, in part, clean mattresses, pillows, blankets, and linens; linens to be cleaned weekly. | The proposed section clarifies the cleaning and replacement provisions and incorporates several related parts of the current regulations into one section.  |
| 710            | Showers: This section requires residents to have the opportunity to shower daily.  | 6VAC35-140-300 requires facilities to give residents the opportunity to shower daily.  | The proposed section is consistent with current regulations.  |
| 720            | Clothing: This section requires residents to be provided with an adequate supply of clean, size-appropriate clothing and shoes for indoor and outdoor wear.  | 6VAC35-51-960 requires provisions to be made for resident clothing; requires residents of group homes to have age- and community-appropriate clothing; allows residents to participate in the selection of the clothes; and requires residents to be allowed to take personal clothing upon release/discharge.   | The proposed section alters the clothing section that residents must wear uniforms.   |
| 730            | Residents' privacy: This section requires residents to have privacy from routine sight supervision by staff of the opposite sex when the resident is bathing, dressing, or conducting toilet   | 6VAC35-51-500 requires provisions for privacy from routine sight supervision, video, and audio monitoring by permission of regulatory authority.   | The proposed section adds an allowance for constant supervision if needed due to the resident's mental status. This provision is intended to address a quandary into which staff are currently placed regarding the |

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|                | activities. It allows an exception when constant supervision is needed due to a mental health condition.   |  | necessary supervision of suicidal youth.   |
| 740            | Nutrition: This section requires facilities to provide residents with three nutritionally balanced meals daily. It allows special diets or alternative dietary schedules when ordered by a doctor or when necessary due to the residents' religious practices. | 6VAC35-51-820 requires each facility to provide a nutritious daily diet, keep menus, provide special diets if ordered or religiously mandated, prohibit staff from eating other food in front of residents, limit the time between meals, provide earlier meals if necessary, and obtain approval to extend time between meals on evenings and weekends. | The proposed section is generally consistent with the current regulatory provisions. It amends the provision regarding the maximum duration between meals on weekends and holidays and allows an extension of time between the evening and morning meal if authorized by the facility administrator. (Under the current scheme, this extension could be authorized by the department, which has never denied a request.) |
| 750            | Reading materials: This section requires reading materials to be available to all residents.   | 6VAC35-140-500 requires reading materials to be available to all residents and for secure facilities to follow procedures governing youth access.  | The proposed section is consistent with the current regulatory provisions.   |
| 760            | Religion: This section prohibits residents from being required or coerced to participate in or be unreasonably denied participation in religious activities and for the procedure to be accessible to residents.   | 6VAC35-51-930 requires procedures for resident participation in religious activities to be available to residents and for no resident to be coerced to participate in religious activities.  | The proposed section is consistent with the current regulatory provisions.   |
| 770            | Recreation: This section requires each facility to have a recreational program plan with five required components. It also requires the plan to address how residents will be screened for participation and supervised while participating.                   | 6VAC35-51-940 requires a written description of the facility's recreation program and lists five required components. It also requires safety and specific overnight recreational and out-of-state trip procedures. 6VAC35-140-530 requires secure facilities to (i) have indoor and outdoor recreation areas;   | The proposed section is consistent with the current regulatory provisions.   |

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|                |   | (ii) provide an opportunity for large muscle exercise daily;<br>(iii) document circumstances prohibiting outdoor recreation; and<br>(iv) provide a variety of fixed and movable equipment for indoor and outdoor recreation periods.   |  |
| 780            | Residents' funds: This section requires residents' funds to be used only for three specific purposes.   | 6VAC35-51-970 requires JCCs and group homes to provide opportunities for residents to learn the value of money and to have procedures regarding allowances. It requires all facilities to have procedures for the management of residents' funds and for such funds to be used for the residents' benefit.<br>6VAC35-140-110 requires residents' funds to be used for their benefit, to pay court ordered fines/fees, or to pay restitution. | The proposed section streamlines the current regulatory provisions.        |
| 790            | Fundraising: This section requires permission from the resident's parents and the resident's consent prior to participating in fundraising activities.                                      | 6VAC35-51-210 requires written permission from the parent/legal guardian and permission from the resident (if 14 or older) prior to participation in fundraising activities.   | The proposed section is consistent with current regulations.               |
| 800            | Admission and orientation: This section lists what facilities must do upon admission of a resident. It has procedural requirements and lists the items on which residents must be oriented. | 6VAC35-140-60 requires procedures governing admission and orientation to include verification of authority of placement, search of the resident, health screening, notice of admission, interview of the resident, explanation of the program, and assignment  | The proposed section is consistent with the current regulatory provisions. |

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|                |  | to a room.<br>6VAC35-140-65 requires an orientation to the facility covering the rules and sanctions and requiring assistance to any resident with literacy difficulties.  |   |
| 810            | Residents' personal possessions: This section requires residents' property to be inventoried upon intake, contraband to be disposed of, and other items to be returned to the resident at discharge. Unclaimed property shall be disposed of in accordance with written procedures.          | 6VAC35-140-480 requires secure facilities to inventory personal possessions upon admission and dispose of unclaimed property 90 days after a documented attempt to return the property.  | The proposed section is consistent with the current regulatory provisions but removes some procedural language.   |
| 820            | Mental health screening: This section requires each resident to undergo the statutorily required mental health screening at intake with an assessment within 24 hours, if indicated. It details the required components of the screening (interview, observation, and objective instrument). | 6VAC35-140-430 requires mental health screening and assessment, if indicated, in detention centers. Section 16.1-248.2 of the Code of Virginia requires a mental health screening of residents as part of the intake process with an assessment to be completed within 24 hours by the CSB, if indicated as needed in the screening. | The proposed section is consistent with the governing statute and current regulatory provisions. It adds language requiring specific components of the process. |
| 830            | Classification plan: This section requires residents to be assigned to sleeping rooms and living units in accordance with each facility's classification plan, which accounts for facility design, staffing, residents' behavior, and characteristics of each resident.                      | 6VAC35-140-440 requires use of a classification plan for the assignment of sleeping rooms and living units in secure facilities. It also requires placements by the department to provide for a systematic decrease in supervision and increase in resident responsibility.  | The proposed section is consistent with the current regulatory provisions.  |
| 840            | Discharge: This section  | 6VAC35-51-730 requires   | The proposed section contains   |

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|                | requires residents to be released in accordance with procedures. It requires discharge only to the legal guardian or legally authorized resident and that a copy of the court order authorizing release to be in the case record. It also requires current medication information to be provided to the appropriate person at that time. | facilities to have criteria for discharge; retain discharge summary or court order and documentation of discharge/court order; release only to authorized person; and information for continuing care to be provided to the authorized person.<br>6VAC35-140-180 requires releases to be in accordance with procedures.   | clarifying amendments due to the distinct nature of detention centers. It also removes procedural language and provisions that are not appropriate in secure facilities.   |
| 850            | Operational procedures:<br>This section requires operational procedures to be accessible to all staff.   | 6VAC35-140-760 requires JCCs to maintain institutional operating procedures that are consistent with standard operating procedures.   | The proposed section is consistent with the current regulatory provisions.   |
| 860            | Structured programming:<br>This section requires each facility to have structured daily routines that are available to residents upon admission and appropriate to the residents' needs, and provide appropriate supervision and services. Deviations from the routine must be documented.   | 6VAC35-51-710 requires an initial plan to be developed for all residents within three days of admission. 6VAC35-51-780(A) and (B) require a structured program of care and a daily routine. Subsection (F) requires the routine to account for appropriate sleep and rest; (G) requires the promotion of good hygiene; and (H) requires compliance with facility/local curfews. | The proposed section no longer requires a plan to be drafted within three days of admission. This requirement is replaced by the provision requiring residents to be able to participate in programming upon admission. Given the structured environment in detention centers, the requirement to develop a plan (which usually involves participating in the behavior management and educational programs) was evaluated as duplicative responsibilities for staff. Procedural language was also removed. |
| 870            | Written communication between staff; daily log:<br>This section requires a daily log to be maintained to inform staff of issues experienced by the residents. It requires the log entries to have the date, time, and the name of the person writing the entry. It   | 6VAC35-51-780(C), (D), and (E) require a daily communication log documenting significant happenings (including health complaints) and the identification of the author and time.<br>6VAC35-140-170 requires electronic log  | The proposed section is consistent with current regulations.   |

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|                | also requires electronic logs to prevent the overwriting of entries.   | books to have protections to prevent entries from being overwritten.   |  |
| 880            | Additional assignments of direct care staff: This section requires direct care staff to assume non-direct care responsibilities when they do not interfere with direct care duties. It also prohibits residents from being solely responsible for support functions.   | 6VAC35-51-410 states direct care staff may perform other duties only if they do not interfere with supervisory responsibilities. It also prohibits residents from being solely responsible for support functions.  | The proposed section is consistent with current regulations.               |
| 890            | Staff supervision of residents: This section requires staff supervision to be 24/7; staff not to work more than six consecutive days or 16 consecutive hours; and staff to have an average of two rest days per week. It requires one trained direct care staff actively supervising residents; requires procedures for contingency staffing planning and to govern the movement of residents; and prohibits residents from controlling other residents. | 6VAC35-51-830 prohibits direct care staff from working more than six consecutive days or more than 16 hours in a row and requires an average of two rest days per week every four weeks. Subsection (D) requires one trained direct care staff and a staff certified in CPR/first-aid to be present when residents are present. Subsection (F) does not apply. 6VAC35-140-540(A) requires 24-hour, awake supervision. Subsection (B) sets requirements for supervision by a staff of opposite sex from the resident. Subsection (G) prohibits residents from controlling other residents unless part of an approved program. | The proposed section is consistent with current regulations.               |
| 900            | Staffing pattern: This section requires a 1:10 staff-to-resident ratio during the day and a 1:16 ratio during hours residents are scheduled to sleep. It also requires one staff to be on duty in every building or  | 6VAC35-140-545 requires a 1:10 awake and 1:16 asleep staff-to-resident ratio. It requires one staff per floor and in each building.  | The proposed section is consistent with the current regulatory provisions. |

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|                | living unit where residents are sleeping.  |   |  |
| 910            | Outside personnel working in the detention center: This section requires staff to monitor any situation where outside personnel work in the presence of residents and prohibits adult inmates from having direct contact or interactions with residents.   | 6VAC35-140-540(F) prohibits service personnel from working in secure facilities where they may have contact with residents (unless supervised). This provision was retained. 6VAC35-140-290 requires facilities to monitor outside personnel performing work in the presence of residents and the separation of adult inmates from residents. | The proposed section is consistent with the current regulatory provisions. |
| 920            | Work and employment: This section requires work assignments to be appropriate to the age, health, ability, and service plan of residents and prohibits work assignments from interfering with school, meals, or sleep. It also requires the facility administrator to evaluate the fairness of pay for the work performed. | 6VAC35-51-980 sets requirements for the assignment of chores and for work assignments outside the facility, including evaluating the fairness of pay.   | The proposed section is consistent with the current regulatory provisions. |
| 930            | Health authority: This section requires the facilities to designate a health authority who organizes, plans, and monitors health care services.  | 6VAC35-140-460 requires secure facilities to designate a health authority.  | The proposed section is consistent with the current regulatory provisions. |
| 940            | Provision of health care services: This section requires nursing staff to follow applicable laws and other health trained staff to provide care within their training and certification.   | 6VAC35-140-192 requires nurses to perform treatment pursuant to verbal or written orders.   | The proposed section is consistent with the current regulatory provisions. |
| 950            | Health care procedures: This section requires procedures in five areas relating to the provision of routine and emergency  | 6VAC35-51-790 requires certain health care procedures for routine and emergency services.   | The proposed section is consistent with the current regulatory provisions. |

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|                | services. It also requires certain information on each resident to be readily available in case of an emergency.  |  |  |
| 960            | Health trained personnel: This section requires health trained personnel to provide care appropriate to their level of training and for the facility to maintain documentation of such trainings or certifications.   | This requirement was previously included in the definition of "health trained staff person."   | The proposed section is consistent with the current regulatory provisions.   |
| 970            | Consent to and refusal of health care services: This section requires, if applicable, for parents to be advised of the material facts relating to any proposed health care procedures and for all procedures to be provided in accordance with § 54.1-2969 of the Code of Virginia. It also includes a provision that the resident may refuse care and care may be rendered against a resident's will in accordance with applicable laws. | 6VAC35-140-210 requires facilities to have procedures to (i) obtain consent as required by law; (ii) allow resident to refuse treatment; and (iii) to provide care against a resident's will consistent with applicable laws. Board policy 12-005 states a resident may refuse health care in accordance with applicable laws. | The proposed section cross-references the applicable statute and is consistent with the current regulatory provisions.   |
| 980            | Health screening at admission: This section requires residents to be screened at admission and kept separate from the general population if the screening reveals residents pose a health risk to themselves or others. If a resident is a risk, the section requires immediate health care services to be provided.  | 6VAC35-140-190 requires facilities to perform a preliminary health screening on residents before being admitted to the general population; to separate residents who pose a risk; and to provide necessary health care immediately.  | The proposed section clarifies that residents deemed to be presenting a risk are kept separate from the general population only until such time as they are no longer considered a risk.                                 |
| 990            | Tuberculosis screening: This section requires TB screening within seven days of placement and the screening to be in accordance with the recommendations of the   | 6VAC35-51-800(B) and (C) require TB screening at admission and annually.   | The proposed section is modified in order (1) allow the admission of residents with TB (since court ordered) but to keep such residents separate from the general population and (2) to allow flexibility in practice in |



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|                | Division of TB Control at VDH.   |  | order to be in conformity with the recommendations and requirements of the Division of TB Control at VDH.  |
| 1000           | Residents' medical examination; responsibility for preexisting conditions: This section requires an intake physical examination within five days of admission. It also states that the detention home is not responsible for paying medical expenses for treatment of preexisting conditions.    | 6VAC35-51-800(A) requires an entrance physical examination. The proposed regulation retains this requirement. Subsection (G) requires documentation on annual dental exams (except for respite, shelter care, and detention centers). 6VAC35-140-450 requires a physical examination within five days of admission and states the detention centers are not financially responsible for the treatment of preexisting conditions. | The proposed section is consistent with the current regulatory provisions.   |
| 1010           | Infectious or communicable diseases: This section requires residents with known communicable diseases to be housed separate from the general population unless a physician certifies otherwise. This section requires procedures for staff actions and training regarding communicable diseases. | 6VAC35-51-800(F) prohibits admission of a resident with a communicable disease. 6VAC35-140-200 requires staff to be trained in universal precautions and on how to manage residents with communicable diseases.  | The proposed section modifies the existing regulatory requirements to allow admission (since such admission is court ordered) but to keep such residents separate from the general population. |
| 1020           | Suicide prevention: This section requires a suicide intervention plan and staff to be trained in the suicide prevention program.   | 6VAC35-140-250 requires all facilities to implement a suicide prevention and intervention program.   | The proposed section is consistent with the current regulatory provisions.   |
| 1030           | Residents' health care records: This section requires residents' health records to be maintained and lists certain required contents. It also requires the health records to be kept   | 6VAC35-51-800(D) and (E) list contents of the health records. Subsection (H) requires notation of medical complaints and a summary of symptoms   | The proposed section is consistent with the current regulatory provisions.   |

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|                | confidential, accessible in case of emergencies, and available to authorized staff as allowed by law.  | and treatment.<br>6VAC35-140-220 requires health records to be kept confidentially, accessible in case of emergency, and available to authorized staff.  |  |
| 1040           | First-aid kits: This section requires each facility to have first-aid kits maintained in accordance with written procedures governing maintenance, stocking, and readiness for use. It also requires the first-aid kits be accessible for use in emergencies.  | 6VAC35-51-800(K) requires a well-stocked first-aid kit.  | The proposed section adds a requirement for procedures to address maintenance and restocking.  |
| 1050           | Hospitalization and other outside medical treatment of residents: This section requires residents who receive out-of-facility treatment to be transported safely, accompanied by staff (unless being transported for involuntary inpatient psychiatric treatment). It also requires the parents or legal guardians to be notified of the treatment as soon as practicable.   | 6VAC35-140-230 requires residents needing health care services outside the facility to be transported safely and to be accompanied by appropriate persons. It also requires the parents/guardians to be notified of treatment outside the facility as soon as practicable. | The proposed section clarifies who may accompany residents for medical treatment outside the facility and when notification must occur.  |
| 1060           | Medication: This section contains complex procedures regarding the maintenance of and administration of medication and protocol when medication is refused. It requires proper labeling and storage; staff who administer medication to be trained and annually retrained and informed of any known side effects of the medication; procedures for over-the-counter medication; all medication to be administered in | 6VAC35-51-810 details extensive procedures regarding medications.  | The proposed section adds an allowance for medication to be on the person of the resident if ordered by the physician (i.e.; inhalers) and requires the notation of administration and refusals. The provisions are consistent with the current regulatory provisions. |

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|                | <p>accordance with physicians' orders; medication administration records, with specific required components, to be maintained; medication incidents (formerly referred to as medication errors) to be addressed, treated, and documented; medication refusals to be documented; unused medications to be legally disposed; the telephone numbers for poison control to be near each nonpay telephone; and syringes and other medical implements to be locked and inventoried.</p> |  |  |
| 1070           | <p>Behavior management: This section requires each facility to implement a behavior management program and lists seven required components of the program's governing procedures. It also requires any substantive revisions to the program to be provided to the residents and staff prior to implementation.</p>  | <p>6VAC35-51-900(A), (B), and (C) require procedures on (i) the rules of conduct, (ii) the behavior management techniques, and (iii) training, orientation, and dissemination of information on the behavior management program. Subsections (K) and (L) require the procedures to be reviewed annually and for staff trained in the behavior management program to be present any time residents are present.</p> | <p>The proposed section is consistent with the current regulatory provisions.</p>  |
| 1080           | <p>Disciplinary process: This section requires procedures governing the disciplinary process to provide for graduated sanctions in, training on, and documentation of the process. It also requires, when a resident is alleged to have violated a rule of conduct for a disciplinary report to be completed and</p>  | <p>6VAC35-140-550 requires detention centers to have guidelines for resolving minor behavior issues and all secure facilities to follow procedures for rule violations. This section requires specific due process protections and protocols for handling rule violations.</p>   | <p>The proposed draft reworks the entire disciplinary process to expedite review as appropriate in a detention center environment (shorter lengths of stay; fluctuating population).</p> |

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|                | <p>the charge to be explained to the resident; the resident to be given a chance to admit or deny, and, if denied, to have a hearing with a neutral person. It requires the neutral review to be completed within 12 hours and the resident to be informed of the outcome and the right to appeal. It further requires the appeal to be completed within 24 hours of the alleged rule violation. This section contains specific procedural language and specifies what documentation should be maintained and retained.</p> |  |   |
| 1090           | <p>Physical restraint: This section details when and how physical restraint may be used (as a last resort, when other interventions have failed, and necessary to control a risk to the safety of the resident, others, or the public). It requires specific procedures governing restraint to include training, documentation, review, and a focus on de-escalation.</p>   | <p>6VAC35-51-900(D) through (J) require procedures governing the use of physical restraint, place restrictions on when and who may use restraints, and require documentation each time a resident is restrained.</p>   | <p>The proposed section contains the major substantive components from the existing regulation and adds a requirement for training in crisis prevention and intervention techniques, the specific purpose for the review of the report, and a requirement to identify the control techniques that are appropriate to identified levels of risk.</p> |
| 1100           | <p>Room confinement and isolation: This section requires facilities to follow procedures on when and how residents may be confined to a locked room. It requires any such resident (i) to be visually observed every 30 minutes (or more frequently if needed); (ii) to have the opportunity for one hour of out-of-room exercise (unless circumstances justify otherwise); and (iii) have a means to communicate with staff. It also requires the</p>  | <p>6VAC35-51-910 prohibits seclusion unless allowed by other regulations. 6VAC35-140-560 requires secure facilities to have procedures regarding when a resident may be confined to a room. It requires (i) 30-minute checks in all circumstances and 15-minute checks when residents are on suicide watch; (ii) confined residents to have the opportunity for one hour</p> | <p>The proposed section is modified from the current regulatory scheme to account for the population in detention centers. It includes language regarding staff actions when confined residents exhibit self-injurious behaviors.</p>   |

| Section number | Proposed requirements  | Other regulations and law that apply  | Intent and likely impact of proposed requirements                                 |
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|                | <p>facility administrator to be notified if the resident is in the room for longer than 24 hours and someone in a position higher than the facility administrator to be notified if it extends past 72 hours. The facility administrator must make personal contact with confined residents daily; and, if residents exhibit self-injurious behaviors, the staff shall consult a mental health professional and monitor according to procedures.</p> | <p>of exercise every 24 hours; (iii) the superintendent to be notified when residents are confined more than 24 hours and the regulatory authority when it exceeds 72 hours; and (iv) the director or designee to make personal contact with residents each day of confinement.</p>   |   |
| 1110           | <p>Administrative confinement: This section requires residents in administrative segregation (i) to be housed in single or double rooms, with single rooms reserved for special needs groups as necessary; and (ii) to be afforded the same basic living conditions as the general population.</p>   | <p>6VAC35-140-730(B) requires JCCs' residents in segregation to be no more than two to a room. 6VAC35-140-730(C) requires JCCs' residents with severe medical difficulties or SMI, who are sexual predators, or who are likely to be exploited to be in single rooms when indicated. 6VAC35-140-560(G) requires the same basic living conditions and programming to be available to residents in administrative confinement as in the general population.</p> | <p>The proposed section is consistent with the current regulatory provisions.</p> |
| 1120           | <p>Chemical agents: This section prohibits the use of chemical agents by staff in facilities.</p>  | <p>6VAC35-140-660 allows use of pepper spray with board approval in certain circumstances. Board policy 18-005 (effective 11/12/008) prohibits staff from using chemical agents in facilities regulated by the board.</p>   | <p>The proposed section adopts the board policy language.</p>                     |
| 1130           | <p>Mechanical restraints: This section requires procedures</p>   | <p>6VAC35-51-890 prohibits use of</p>   | <p>The proposed section is consistent with the current</p>                        |

| Section number | Proposed requirements   | Other regulations and law that apply  | Intent and likely impact of proposed requirements   |
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|                | governing the use of mechanical restraints to have six required components, including when, why, and how restraints shall be used. It also requires documentation of any use.   | mechanical restraints unless allowed by other regulation and of any use of pharmacological restraints.<br>6VAC35-140-670 allows the use of mechanical restraints in secure facilities. It requires a procedure, notification, and documentation. It also prohibits such use for punishment or for residents to be attached to fixed objects with mechanical restraints.<br>6VAC35-140-680 requires staff to be trained in the use of mechanical restraints prior to applying them and specifies some training requirements. | regulatory provisions.  |
| 1140           | Monitoring residents placed in mechanical restraints:<br>This section requires residents placed in restraints to be visually checked every 15 minutes (and more often if warranted) and for staff to provide basic comforts to such residents. It also requires a mental health consultation for residents in restraints for more than two hours in a 24-hour period and if residents exhibit self-injurious behaviors. | 6VAC35-140-690 requires secure facilities to follow procedures for ensuring residents' comfort, making personal checks every 15 minutes, and constantly supervising SIB cases when residents are in restraints.<br>6VAC35-140-700 requires secure facilities to consult with a mental health professional when residents have been restrained for more than two hours cumulative in a 24-hour period and if mental health problems are indicated.   | The proposed section is consistent with the current regulatory provisions and provides clarifying language for when residents in restraints exhibit self-injurious behaviors. |
| 1150           | Restraints for medical and mental health purposes:<br>This section requires a procedure to govern the use of restraints for medical and mental health purposes.   | 6VAC35-140-685 requires secure facilities to follow certain required procedures for the restraint of residents for medical and mental   | The proposed section is consistent with the current regulatory provisions.  |

| Section number | Proposed requirements  | Other regulations and law that apply  | Intent and likely impact of proposed requirements   |
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|                |  | health purposes.  |   |
| 1160           | Approval of postdispositional detention programs: this section requires post-dispositional detention programs to be approved by the board.   | 6VAC35-140-701 requires postdispositional programs to be approved by the board.   | The proposed section is consistent with current regulatory provisions.  |
| 1170           | Agreement with court service unit: This section requires postdispositional detention programs to have an agreement with the CSU defining the relationships and responsibilities of each.   | 6VAC35-140-702 requires postdispositional programs to have an agreement with the CSU defining relationships and responsibilities of each.   | The proposed section is consistent with current regulatory provisions.  |
| 1180           | Placements in postdispositional detention programs: This section requires a facility that has a postdispositional program to have procedures for facility utilization; certain documentation; assessments; and evaluation of residents going outside the secure perimeter for services. It also lists some required components of the program and cites when an assessment for appropriateness must be done. | 6VAC35-140-707 requires written procedures for facility utilization; certain documentation requirements and services; the assessments to be conducted upon request; and consideration of certain factors prior to a resident leaving the detention center for programs or services. | The proposed section is consistent with current regulatory provisions. The circumstances under which the assessments for appropriateness of placement has been clarified.   |
| 1190           | Program description: This section requires a written statement of eight elements of the postdispositional programs.  | 6VAC35-140-703 requires a written description of the postdispositional program, services, and criteria for participation and completion.  | The proposed section is consistent with current regulatory provisions.  |
| 1200           | Individual service plans in postdispositional detention programs: This section requires service plans to be developed within 30 days of admission. It lists required components of the service plan, who must participate in the development, and who must be invited to   | 6VAC35-51-720(A), (B), and (C) require an ISP to be developed within 30 days of admission and list required components. It also requires progress to be documented and the plan to be reviewed every 90 days. Subsection (F) requires the ISP to be                                 | The proposed section separates the requirements of service plans from progress reports and modifies the required participants to require invitations, as the facility does not have control over whether outside individuals choose to participate. |

| Section number | Proposed requirements  | Other regulations and law that apply  | Intent and likely impact of proposed requirements  |
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|                | participate in its development.  | signed and dated; (G) requires staff to be able to describe the ISP; (H) details who should be involved in the ISP development and updating; and (I) addresses who receives a copy.   |  |
| 1210           | Progress reports in postdispositional detention programs: This section requires documented reviews of residents' progress, in accordance with § 16.1-284.1 of the Code of Virginia, that shall report on three components and shall include the date of development and signature of developer.  | 6VAC35-51-720(D) requires residents' progress to be reviewed every 90 days. Subsections (D) and (E) deal with components of the review; (F) requires it to be signed and dated; (H) details who should be involved; and (I) lists to whom copies should be provided. Section 16.1-284.1 of the Code of Virginia requires the court to review the case monthly to determine whether "the purpose of the order of confinement has been achieved." | This section removes the requirement in the current regulatory scheme for quarterly reports and requires residents' progress to be reviewed in accordance with § 16.1-284.1 of the Code of Virginia (thus, monthly given the mandated court reviews). Since the statutory review was more frequent than the regulatory provision, the statutory requirement was adopted. |
| 1220           | Case management services in postdispositional detention programs: This section requires the facility to provide and document the provision of case management services that address the residents' adjustment, supportive counseling, transitional issues, and communications with staff, parents/legal guardians, the CSU, and community resources, as appropriate. | 6VAC35-51-760 requires each postdispositional program to provide case management services. It enumerates issues to be addressed and requires documentation.   | The proposed section streamlines the language detailing the required case management services.   |
| 1230           | Residents' health care records in postdispositional detention programs: This section requires health   | 6VAC35-51-800 requires maintenance of health care records on residents in postdispositional   | The proposed section is consistent with current regulatory provisions.   |



| Section number | Proposed requirements   | Other regulations and law that apply   | Intent and likely impact of proposed requirements                      |
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|                | records for residents to be maintained and to include insurance information and written consent for emergency treatment.  | programs. 6VAC35-51-790(B)(3) and (5) relate to required information to be in the record.  |  |
| 1240           | Services by licensed professionals in postdispositional detention programs: This section requires appropriate licensing for any licensed practitioners to whom residents are referred for services.             | 6VAC35-140-705 requires appropriate licensing for any licensed professionals in private practice to whom residents are referred for services | The proposed section is consistent with current regulatory provisions. |
| 1250           | Delivery of medication in postdispositional detention programs: This section requires a procedure for administration of medication (which must detail whether self-medication is authorized).                   | 6VAC35-140-708 requires postdispositional programs to follow procedures for self-administration of medication.                               | The proposed section is consistent with current regulatory provisions. |
| 1260           | Residents' paid employment in postdispositional detention programs: This section allows residents to be paid for employment while at the facility, subject to the facility administrator's review and approval. | 6VAC35-140-704 allows paid employment of postdispositional residents in accordance with applicable regulations.                              | The proposed section is consistent with current regulatory provisions. |
| 1270           | Release from a postdispositional detention program: This section requires certain information to accompany the resident upon release.   | 6VAC35-51-740 requires certain information to accompany the resident upon release.   | The proposed section is consistent with current regulatory provisions. |

**Completely deleted sections of existing regulations:**

- 6VAC35-51-20. Interdepartmental cooperation.
- 6VAC35-51-30. Applications. (Addresses applications to become a children's residential facility.)
- 6VAC35-51-40. Investigation. (Mandates DJJ to inspect and investigate children's residential facilities.)
- 6VAC35-51-50. Review of facilities. (Requires DJJ to review facilities during the period of certification to monitor compliance with the regulation and to notify localities of any health/safety violations.)
- 6VAC35-51-60. Posting of information. (Requires DJJ to post information on its website.)
- 6VAC35-51-80. Written corrective action plans. (Requires plans to be submitted for each provision on which a facility is found non-complaint.)
- 6VAC35-51-90. Licenses/certificates. (Details terms of certification that may be issued by the board.)

6VAC35-51-100. Application fees. (Lists fees for initial application and renewal.)

6VAC35-51-110. Modification. (Addresses when and how certification may be modified; also states that a facility may not implement any contemplated change prior to approval of the regulatory authority.)

6VAC35-51-120. Denial. (Lists circumstances when an application for licensure may be denied.)

6VAC35-51-130. Revocation. (Lists when a certificate may be revoked.)

6VAC35-51-140. Summary suspension. (Details the procedure for the summary suspension of a facility's licensure.)

6VAC35-51-160. Investigation of complaints and allegations. (Requires DJJ to investigate complaints against a facility it regulates.)

6VAC35-51-190. Fiscal accountability. (Requires certain facilities to prepare end of the year financial documents, to have a bookkeeping system, and to have procedures for the handling of facility funds.)

6VAC35-51-320. Staff supervision. (Requires procedures regarding the supervision of staff; including type, frequency, and documentation.)

6VAC35-51-330. Applicant. (Lists requirements applicant must meet prior to consideration for initial licensure.)

6VAC35-51-340. Chief administrative officer. (Lists the responsibilities and qualifications of a CAO.)

6VAC35-51-350. Program director. (Lists the responsibilities and qualifications of a program director.)

6VAC35-51-360. Case manager. (Lists the responsibilities and qualifications of a case manager.)

6VAC35-51-370. Child care supervisor. (Lists the responsibilities and qualifications of a child care supervisor.)

6VAC35-51-380. Child care staff. (Lists the responsibilities and qualifications of a child care staff.)

6VAC35-51-390. Relief staff. (Allows qualified relief staff to be used as needed to meet programming needs.)

6VAC35-51-650. Interstate Compact on the Placement of Children. (Details requirements when discharging a resident to a residence in another state.)

6VAC35-51-730. Resident transfer between facilities operated by the same sponsor. (Requires documentation for intra-system transfers, unless by court order.)

6VAC35-51-770. Therapy. (Requires therapy to be provided by a licensed professional or someone supervised by a licensed professional, unless exempted.)

6VAC35-51-920. Education. (Requires residents to be enrolled in school within five days of admission and for providers to provide certain services related thereto; it also requires study time.)

6VAC35-51-1000. Resident visitation at the homes of staff. (Allows visitation at the homes of staff with permission from the legal guardian and placing agency.)

6VAC35-51 FORMS

6VAC35-140-20. Other applicable standards. (Indicates these regulations coexist with the Interdepartmental regulation.)

6VAC35-140-22. National accreditation is deemed compliance with these standards. (Allows accreditation by ACA to show compliance with this chapter.)

6VAC35-140-23. Outcome-based and performance-based standards authorized. (Allows an exemption from a regulatory provision for the implementation of a performance-based alternative standard.)

6VAC35-140-24. Regulation establishes policy. (States the authority of the board to promulgate regulations.)

6VAC35-140-30. Applicability. (States applicability of the regulatory provisions.)

6VAC35-140-40. Previous regulations terminated. (States impact of regulation on other provisions.)

6VAC35-140-45. General requirement. (Requires facilities to comply with applicable laws and regulations.)

6VAC35-140-150. Nonresidential programs and services. (Requires nonresidential services offered by juvenile facilities to comply with applicable laws and regulations.)

6VAC35-140-790. Junior ROTC program. (Requires JROTC to have a description of criteria for entrance, retention, termination, and how discipline and sanctions will be applied.)