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Proposed Regulation Agency Background Document

Agency name	Department (Board) of Juvenile Justice
Virginia Administrative Code (VAC) Chapter citation(s)	6 VAC35-101
VAC Chapter title(s)	Regulation Governing Juvenile Secure Detention Centers
Action title	Comprehensive review of regulatory provisions governing juvenile secure detention centers currently contained in 6VAC35-101
Date this document prepared	August 30, 2019; <i>updated July 20, 2020</i>

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

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Regulation Governing Juvenile Secure Detention Centers establishes the minimum standards with which staff in secure juvenile detention centers must comply. The existing regulation addresses personnel and staffing requirements, physical environment, facility safety and security, residents' rights, program operations, health care, and behavior management for juvenile detention centers operating predispositional programs solely or both predispositional and postdispositional programs.

This regulatory action includes comprehensive amendments to the Regulation Governing Juvenile Secure Detention Centers. The purpose of the action is to continue to enhance programming and ensure safety and security within these facilities. Among the most noteworthy changes, the regulation imposes numerous restrictions on juvenile detention center staff use of

mechanical restraints, the mechanical restraint chair, and spit guards, as well as room restriction and disciplinary room restriction.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

CPS means Child Protective Services
CSB means Community Services Board
CSU means Court Service Unit
DHRM means the Virginia Department of Human Resource Management
DJJ means the Department of Juvenile Justice.
JDC means juvenile detention center.
Pre-D means predispositional
Post-D means postdispositional
PREA means the Prison Rape Elimination Act
QMHP means qualified mental health professional
SIR means serious incident report

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

In June 2016, the Board of Juvenile Justice authorized the submission of a Notice of Intended Regulatory Action (NOIRA) to initiate the regulatory process for a comprehensive review of the Regulation Governing Juvenile Secure Detention Centers.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

The promulgating entity is the Board of Juvenile Justice (the board). The board is entrusted with general, discretionary authority to promulgate regulations by § 66-10 of the Code of Virginia, which authorizes the board to “promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth.” Additionally, § 16.1-309.9 of the Code of Virginia requires the board to “approve minimum standards for the construction and equipment of detention homes or other facilities and for food, clothing, medical attention, and supervision of juveniles housed in these facilities and programs.” Finally, Code of Virginia §16.1-284.1 gives the juvenile and domestic relations court the authority to issue an order confining a

juvenile to a detention facility for a period not to exceed six months “in compliance with standards established by the State Board for such placements.” The board-established standards must include provisions requiring the facility to provide juveniles placed therein with separate services for their rehabilitation.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The proposed amendments are the result of a comprehensive review of this chapter conducted by department staff, representatives from the Virginia Juvenile Detention Association, various state agencies, and several juvenile justice advocates. The amendments are necessary to streamline the language and clarify ambiguous or confusing provisions. The amendments also impose new requirements that align with changes that have occurred since the department's last review of the regulation, as well as recommendations the department received, as explained below:

Prison Rape Elimination Act: In 2003, Congress enacted the PREA (Public Law No. 108-79) to “provide for the analysis of the incidence and effects of prison rape in federal, state, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.” The Act created a commission charged with developing standards for the elimination of prison rape. The final rule for these standards became effective in 2012; however, juvenile correctional facilities had until October 2017 to comply with the standards related to staffing requirements and staffing ratios. Although many detention centers have adopted written procedures or are employing practices that align with PREA's mandates, the department's existing regulatory provisions regarding staffing ratios directly conflict with the PREA standards for juvenile facilities. Maintaining the detention centers' existing staffing ratios could increase the likelihood of detention rape or assault incidents. Therefore, the department is proposing amendments to these provisions that align with the mandates in PREA.

Incorporation by Reference Prohibited: In 2016, the Virginia Code Commission promulgated regulations intended to provide state agencies with guidance on filing, submitting, and publishing agency regulatory actions. The regulations prohibit state agencies from incorporating documents of their own creation into the agency's regulations unless the agency establishes that the documents or circumstances are unique and unusual. Some of the provisions in the existing regulation require detention centers to adhere to department-developed procedures or guidelines in violation of the Code Commission's regulations. The department is proposing amendments to remove these invalid provisions.

Room Confinement: Legislation (Senate Bill 215) introduced during the 2016 Virginia General Assembly session by Senator Barbara Favola would have required the department to promulgate regulations that specified the parameters for imposing room confinement in JCCs and juvenile detention centers. Although the legislation ultimately failed, it prompted the department to make room confinement a focal point for examination during the comprehensive review of this chapter. As a result of this review, the committee determined that additional restrictions were needed to ensure adequate monitoring protocols are in place, restriction periods are approved through proper channels, and medical and mental health professionals

are assessing the impact on residents who are on room restriction for extended periods. These protocols will help to ensure the safety of residents who are confined to their rooms.

JDC Residents Under Custody of Separate Entities: At least one juvenile detention center currently contracts with the federal government to house residents under the federal government’s custody. This program operates separately from the facility’s pre-D and post-D programs. The department recently identified a gap in its certification authority that prevented the certification unit from inspecting and reviewing files of and interviewing residents under the federal government’s custody. This gap had prevented the department from verifying such facilities’ compliance with its regulations and from ensuring the safety of the program participants. The department has addressed this issue through a fast-track regulatory action requiring these contracts to include provisions that bind the program to the department’s certification regulations and that give the department access to residents within the program. This proposal includes additional amendments to the fast-track change clarifying that such contracts must be in writing and communicated to the department.

*Note that during the 2020 legislative session and after original publication of this form, the General Assembly enacted legislation (2020 Acts of Assembly, Chapter 599) directing the Board of Juvenile Justice, in collaboration with the Department of Behavioral Health and Developmental Services to establish regulations governing the housing of such youth who are detained in a juvenile correctional facility pursuant to contracts with the federal government. In order to carry out this directive, the department has convened a committee of representatives from juvenile detention centers, DJJ staff, the Office of Refugee Resettlement, and the Department of Behavioral Health and Developmental Services. The Department anticipates filing a separate regulatory action once this committee completes its work.

Mechanical Restraints: The use of mechanical restraints, and more specifically, the mechanical restraint chair in secure juvenile facilities has generated significant controversy in recent years. When the proper approvals, restrictions, and monitoring controls are not in place or when staff utilize these devices negligently, they can be dangerous to residents in secure facilities. Virginia’s current regulations impose very few restrictions on the use of mechanical restraints and the restraint chair. Furthermore, this chapter is completely silent with respect to rules governing the use of spit guards used to curtail spitting and biting, as well as other protective devices. These omissions could leave both staff and residents susceptible to injury and JDCs vulnerable to litigation.

Having each of these protections in place is essential to protect the health, safety, and welfare of residents, staff, and visitors in JDCs and individuals in the community. Having clear, concise regulations in place will help JDCs operate more safely and efficiently, thus meeting the overall rehabilitation and community safety goals of the department.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

- Sections 630 (existing) and 635, incorporating the provisions of Parts I and II of the existing, department-developed Guidelines for Transporting Juveniles in Detention, which establish rules related to vehicular transportation of detained juveniles,

transportation of violent and disruptive residents, and transportation of residents traveling outside the jurisdictional boundaries or to specified destinations.

- Section 1100 (existing), outlining new parameters for residents placed in room restriction, including residents restricted for safety and security or for violating a rule of the facility.
- Section 1105, outlining the protocol when JDCs place residents in “disciplinary room restriction” as a consequence for violating a facility rule and after the resident has been afforded the protections of the disciplinary process.
- Sections 1130 (existing), 1140 (existing), 1145, 1153, 1154, 1155, 1156, 1157, and 1158, establishing new restrictions on the use of mechanical restraints, protective devices (including spit guards), and mechanical restraint chairs.

The department recommends several substantive amendments to existing language in this regulation, as summarized below:

Part I – General Provisions

- Add language requiring JDCs that enter into agreements to detain residents under custody of a separate entity to document the agreement in writing, notify the department immediately of such agreement, and provide the department with a copy of the agreement.
- Remove the explicit provision mandating that facilities that fail to comply with a regulatory requirement must ensure this noncompliance will not pose a danger to residents.
- Remove the requirement that facility staff report serious incidents in accordance with department procedures.

Part II – Administrative Personnel

- Add provisions to reflect the statutory language that prohibits JDCs from hiring for employment or bringing on as volunteers or contractors certain individuals convicted of applicable barrier crimes.
- Remove the directive that every employee’s records contain annual performance evaluations.
- Strike the requirement that the resident’s face sheet include the address of the applicable CSU.

Part III – Physical Environment

- Allow facility administrators to identify in written procedures the critical safety, emergency, and communications equipment that must be inspected, tested, and maintained regularly.
- Modify the ratio of showers or bathtubs to residents for facilities constructed or structurally modified on or after December 28, 2007 from 1:4 to 1:5.
- Expand the types of tobacco prohibited and the category of individuals precluded from using tobacco products in areas of the JDC premises where residents may see or smell the product.
- Strike the mandate that animals maintained on the premises be housed a reasonable distance from sleeping and living areas.

Part IV – Safety and Security

- Amend the facility's emergency preparedness training requirements to cover the implementation of evacuation procedures that encompass all individuals with disabilities (e.g., visitors) who may be in the facility rather than focusing solely on residents with disabilities.
- Remove the facility administrator's broad authority to approve manual and instrumental anal or vaginal cavity searches and permit such searches only pursuant to court order, except in exigent circumstances in which the resident requires medical attention.
- Add language directing JDCs, when allowing third parties to assume temporary custody of residents for purposes of transportation, to provide these parties with written information known to the JDC concerning the immediate medical needs and mental health condition of the resident, including the resident's recent suicidal ideations or suicide attempts.

Part V – Residents' Rights

- Replace references to physician with "health care professional" throughout the regulation in order to allow other health officials (e.g., nurses) within the facility to make decisions concerning: i) deprivation of food or water for legitimate medical purposes; ii) administration of special diets or alternative dietary schedules; and iii) whether the facility is capable of caring for residents with confirmed communicable diseases.
- Direct the facility to consider the resident's own views regarding his safety in determining whether the resident is a member of a vulnerable population.
- Require that first class mail received for released or transferred residents be forwarded to the resident's last known address or forwarding address or returned to sender.
- Allow for an exception for certain specified purposes to the requirement that residents receive daily opportunities to shower provided required approvals are obtained and the exception is authorized in written procedures.
- Permit special diets, with required approvals, for residents who have used food or utensils to threaten facility security.

Part VI – Program Operation

- Require facilities to conduct a general assessment of the resident's physical condition during the admission process, and prohibit the facility from admitting certain impaired individuals, individuals in need of medical attention, or individuals who require immediate emergency medical treatment, until they have been medically cleared for admission. • Remove the requirement that a resident receive orientation before being assigned to a housing unit or sleeping room.
- Allow JDCs to supplement the mental health screening instrument used to conduct the statutorily mandated screenings with additional questions or observations.
- Allow the facility to establish the manner by which the identity of individuals making entries into the daily log will be recorded.
- Restrict residents' abilities to assist in support functions to those tasks that are part of the established, structured program.
- Modify the required staffing ratios from 1:10 to 1:8 during resident waking hours and direct JDCs to develop, implement, and document a staffing plan providing for adequate staffing and video monitoring, where applicable.
- Strike the requirement that a resident's paid or unpaid work assignments accord with his individual service plan.

Part VII – Health Care Services

- Mandate that first aid kits be maintained in facility vehicles used to transport residents.
- Expand the list of entities a staff member may contact to respond to a medication incident to include a hospital. Explicitly exclude from the definition of medication incident a JDC's failure to administer medication due to repeated unsuccessful attempts to obtain the medication.

Part VIII – Behavior Management

- Explicitly establish the parameters that must be addressed in written procedures regarding cooling-off periods related to communication, staff monitoring, and documentation.
- Require the facility administrator to collect information specifically on the use of room restriction and cooling-off periods and to review the information annually to inform the facility's practices.
- Remove the JDC's duty to document the rationale for failing to complete the disciplinary report within the required 12 hours, or the appeal within the required 24 hours, if the delay results from the resident's scheduled sleeping hours.
- Remove the facility's duty to notify the resident *in writing* of the results of a disciplinary appeal, instead allowing the resident and staff to certify in writing that the resident was informed of the appeal results.
- Strike the provision that makes the duty to place a disciplinary report in the resident's case record contingent upon a guilty outcome in a disciplinary proceeding.
- Expand the information that must be addressed in written procedures governing room restriction to include its consequences, factors to consider before "restricting" a resident, circumstances under which a resident should be debriefed, and the conditions that warrant consultation with a mental health professional and expanded monitoring for restricted residents exhibiting self-injurious behavior.
- Increase the frequency of required room checks during room restriction from 30-minute intervals to 15-minute intervals.
- Clarify that the type of daily exercise that JDCs must afford restricted residents is large muscle exercise, and allow for exceptions only if approved by the facility administrator or his designee.
- Require the facility administrator or his designee to provide written approval, including a rationale for why the continued room restriction is necessary, for any room restriction beyond 24 hours.
- Require a QMHP or qualified medical professional to conduct an assessment of a resident's mental health and medical status if the room restriction is anticipated to exceed 72 hours. The assessment must occur within the initial 72-hour room restriction period, and on a daily basis following the 72-hour period until the resident is released from restriction.
- Expand the individuals authorized to extend room restriction beyond five days to include QMHPs, in addition to medical providers.
- Direct the facility administrator, as part of his daily personal contact with each restricted resident, to assess and document whether "nondisciplinary-restricted" residents are prepared to return to general population and whether any "restricted resident" requires a mental health evaluation.
- Provide that residents placed in room restriction may not be housed more than one to a room.

- Prohibit JDCs from restricting legally required educational programming or special education services during disciplinary room restriction. Remove the facility administrator's absolute bar on restricting reading and writing, and mandate that he provide opportunities for these activities according to the restricted resident's safety and security needs.
- Impose a number of restrictions on the use of spit guards in juvenile detention centers. At original publication, this form reflected the board's May 6, 2019, decision to prohibit staff from using spit guards on residents for any period. The board reconsidered and overturned this decision on March 11, 2020, and amendments to the regulation will allow JDC staff to use spit guards on residents but limit the types of spit guards that may be used and the manner in which they may be applied.
- Impose additional restrictions on the purposes for which mechanical restraints and the mechanical restraint chair may be used.
- Impose other restrictions and controls on the use of mechanical restraints, protective devices, and restraint chairs, including, for example, limiting the duration of use, requiring certain medical staff to be notified at various stages of the process, imposing various additional documentation requirements, requiring staff to film use of the chair, requiring DJJ monitoring visits for each restraint chair use; and requiring annual reporting to and review by the board.
- Specify that JDC staff may secure residents to hospital beds or wheelchairs if in outside medical settings and with certain written approval.
- Allow JDCs to have a system of accountability in place, rather than a written record of routine and emergency restraint equipment distribution.
- Clarify that staff must first take appropriate action to stabilize the threat or harm when a mechanically restrained resident exhibits self-injurious behavior, before consulting with a mental health professional.

Part IX – Postdispositional Detention Programs

- Replace the “board” with the “director” as the entity authorized to certify JDC post-dispositional programs and remove the requirement that this approval be based on the facility's compliance with the post-D regulatory provisions.

Personnel Provisions for Volunteers, Interns, and Contractors: To make the regulation easier to navigate, the department is recommending rearranging a number of the personnel-related provisions addressing background checks, orientation, and training for employees and certain contractors and volunteers in JDCs. This necessitates the repeal of an entire article on volunteers and interns and the creation of several new provisions in another article to incorporate these repealed provisions. The new provisions are as follows:

- Section 152 (selection and duties of volunteers or interns); replaces Section 280.
- Section 175 (contractor background checks); replaces provisions in Section 170.
- Section 177 (volunteer and intern background checks); replaces provisions in Sections 170 and 290.
- Section 185 (required initial orientation for contractors); replaces provisions in Section 180.
- Section 187 (required initial orientation for volunteers and interns); replaces Section 300.
- Section 195 (required initial training for contractors); replaces provisions in Section 190.
- Section 197 (required initial training for volunteers and interns); replaces Section 300.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

Many of the amendments proposed in this regulatory action are expected to be advantageous to the public. As a result of the proposed additional monitoring and documentation requirements for residents placed in room restriction and on cooling-off periods, resident safety and facility security will be enhanced. JDCs will be equipped with additional information to determine the effectiveness and benefits of their behavior management programs and intervention techniques. Safety will be enhanced among JDC staff and residents due to modified staff to resident ratios, compliance with the PREA mandates, and expanded smoking prohibitions.

Similarly, additional controls placed on the use of mechanical restraints, protective devices, and the mechanical restraint chair will help to ensure that residents who are mechanically restrained due to behavior that threatens themselves or others or impedes critical facility operations will be restrained in a manner that ensures their safety.

The board’s initial decision to prohibit JDC staff from using spit guards on residents for any period generated concern and objections among the regulated community, whose staff use these devices to control the transmission of communicable diseases and prevent other injuries to staff and residents. Based on these concerns and at the request of the department and several VJDA representatives, the board overturned the spit guard prohibition at its March 11, 2020 meeting and approved amendments restricting the types of spit guards used, the residents subject to such use, and the manner in which such guards may be applied.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

Conditions of confinement in JDCs are subject to federal constitutional requirements as well as applicable federal law and regulations (e.g., the Americans with Disabilities Act of 1990, the Americans with Disabilities Amendments Act of 2008, 42 USC §12101, and the Prison Rape Elimination Act of 2003). The proposed regulation generally imposes requirements consistent with these provisions.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or

regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other state agency will be particularly affected by the regulatory change.

Localities Particularly Affected

Juvenile and domestic relations district courts judges throughout the Commonwealth are authorized to place juveniles in detention centers. The proposed regulation will govern the 24 secure juvenile detention centers in existence in the Commonwealth, each of which is operated and governed by a locality or a commission consisting of several localities. Generally, each locality or commission will be affected equally by the changes from the current regulatory scheme. The proposed amendments regarding mechanical restraint chairs and spit guards will impact only those detention centers that utilize these devices. The proposed provision governing contracts with separate entities will apply only to those detention centers that have or will have contracts with separate entities to house residents under the separate entity’s custody.

Other Entities Particularly Affected

No other entities will be particularly affected by the regulatory changes.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources</p>	<p>Nominal. The de minimis cost of program monitoring criteria and applicable forms will be absorbed internally through existing systems and staff resources.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>The proposed changes are not expected to impact any other state agencies.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>The proposed changes seek to ensure the protection of residents and staff in juvenile detention centers. These added protections are intended to help detention centers operate more effectively and efficiently, which, in turn, may reduce recidivism throughout the Commonwealth.</p>

Impact on Localities

<p>Projected costs, savings, fees or revenues resulting from the regulatory change.</p>	<p>Amendments to the following provisions are anticipated to result in additional administrative costs for local juvenile detention centers that will be borne by the locality or commissions responsible for their operation:</p> <ul style="list-style-type: none"> • <u>§ 1156</u> – The provision requiring staff to film either the resident’s placement in the restraint chair or the entire period of restraint is expected to impose additional administrative costs for those JDCs that opt to utilize the restraint chair and do not have the video equipment, sufficient staff, or adequate electronic or other storage space to accomplish this requirement. An estimate cannot be provided at this time, as it is not clear which facilities will continue utilizing the restraint chair and the extent to which additional equipment or staff will be necessary. • <u>§ 1100</u> - The increase in the frequency of room checks for “restricted” residents likely will necessitate at least one additional employee per shift or the equivalent in man hours. More staff or more man hours may be necessary to execute the additional checks, review the increased documentation for compliance, provide guidance and additional training to address staff errors, and ensure that other incidents and resident requests are still being addressed and resolved throughout the facility. • <u>§ 1100</u> – The enhanced mental and medical health assessment requirements for residents restricted in excess of 72 hours constitutes a local mandate for JDCs and CSBs that will create additional administrative costs for CSBs responsible for conducting mental health assessments and addressing residents’ mental health needs. Very few detention centers have mental
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	<p>health clinicians on their staff and must rely primarily on local CSBs to provide these services. To the extent such services are not subsidized by the Commonwealth, they must be funded by localities.</p> <ul style="list-style-type: none"> • <u>§1070</u> – The requirement to collect information regarding room restriction and cooling-off periods in JDCs will result in increased administrative costs for JDCs. Currently many JDCs do not have formal systems or mechanisms in place for gathering and analyzing this information. While this amendment is not expected to require more staff, additional hours will need to be devoted to developing a formalized system for collecting the information and implementing the data collection and analysis. • <u>§ 630</u> – The requirement to provide resident medical and mental health information to third parties transporting juveniles will impose additional documentation and recordkeeping responsibilities for staff in JDCs and may result in additional administrative costs. <p>Amendments to the following provisions are expected to result in minor administrative costs or duties, which are expected to be absorbed by existing resources:</p> <ul style="list-style-type: none"> • <u>§ 900</u> – The modified staffing ratios are not expected to create a significant additional administrative burden or impose additional administrative costs for the majority of JDCs. The proposed staffing ratios conform to the requirements set out in PREA. Under PREA, juvenile residential facilities were required to comply with the staffing ratios by October 1, 2017. JDCs must undergo a PREA audit to determine compliance with the provisions set out in the PREA standards for juvenile facilities in addition to the state certification audit that measures the JDCs’ compliance with the regulations set out in this chapter. To
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	<p>the extent a facility fails to meet these staffing requirements, it may be deemed noncompliant with the PREA and state certification regulations.</p> <ul style="list-style-type: none"> • <u>§ 1040</u> – JDCs may incur additional costs to ensure that first aid kits are maintained in all facility vehicles transporting residents. Most facilities have a fleet of vehicles for these purposes, and many already maintain first aid kits in their vehicles to comply with local ordinances. Furthermore, the regulation gives facilities the discretion to determine what items will be included in the first aid kit, which may mitigate costs. <p>Amendments to the following provisions are expected to result in a minimal decrease in costs or administrative obligations for affected JDCs.</p> <ul style="list-style-type: none"> • <u>§ 420</u> – The requirement for fewer showers or bathtubs in facilities constructed or structurally modified on or after December 28, 2007, will reduce construction costs for JDCs planning construction or renovations to resident bathrooms. Currently, two detention centers are in the planning phase for a new or renovated facility. • <u>§ 1060</u> – The change in the definition of medication incidents to exclude a JDC’s unsuccessful attempts to obtain medication will reduce some of the administrative burden associated with documentation of these specific incidents. <p>These regulatory changes also are likely to impact local law enforcement</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>These regulatory changes are designed to enhance the safety of residents and staff in juvenile detention centers, reduce injuries, and help the department and local detention center staff better monitor the value and effectiveness of existing policies and regulations, thereby promoting public safety. Having clear, concise, consistent, and current requirements across facilities promotes the health, safety, and welfare of citizens by ensuring consistency in services throughout the Commonwealth with the goal</p>

	of reducing recidivism among residents in department-regulated facilities
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Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	Many juvenile detention centers contract with different groups or businesses for services. Some of these businesses may meet the definition of a small business and may be publicly or privately operated.
Agency’s best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	The department does not have sufficient information to determine the number of businesses that contract with local detention centers, the number of such businesses that meet the definition of small businesses, or the extent to which such businesses will be impacted by the proposed amendments.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	The vast majority of changes to the regulation, while requiring the implementation of some additional procedures, will result in minimal, if any, costs for the affected individuals, businesses, or other entities. Because the regulation governs detention centers that are operated primarily by localities or regional commissions, any costs associated with the substantive changes will be borne primarily by such localities or commissions.
Benefits the regulatory change is designed to produce.	Having clear, concise, consistent, and current requirements across facilities promotes the health, safety, and welfare of citizens by ensuring consistency in services throughout the Commonwealth with the goal of reducing recidivism among residents in department regulated facilities. The proposed amendments are intended to promote uniformity, give staff more discretion in facility programming, enhance monitoring, and protect residents and staff from injury, which, in turn, improves public safety.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

A viable alternative to amending the regulation is to leave the regulation as currently written and allow each JDC's procedures to govern the process. This approach is unfavorable because the department would continue to have vague regulations which tend to reduce facility compliance. Additionally, the department would maintain regulatory provisions that conflict with PREA; contain outdated or invalid provisions; fail to provide sufficient regulation or parameters around important practices such as room confinement, resident searches, resident transportation, and the use of mechanical restraints and protective devices; and unnecessarily impede facility administrators' and staff's ability to implement effective programming and ensure safety and security within the facility. The department conducted a comprehensive review of the regulations and procedures and determined that amending the regulation is the least burdensome alternative.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

The proposed regulation may affect small business inasmuch as a small business provides a program or service subject to this regulation. The proposed amendments to the regulation will have the largest impact on detention facilities and localities, rather than the small businesses that service residents in these facilities. Alternative regulatory methods, such as establishing less stringent compliance or reporting requirements or consolidating such requirements was considered, and in some instances amendments were made to streamline these directives and remove a number of deadlines that were difficult to meet. Alternatives had to be balanced against the objective of ensuring that the quality of services provided in facilities subject to the regulation would not be threatened.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of

time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

This regulation establishes the minimum standards for juvenile secure detention centers and remains necessary to protect the public health, safety, and welfare and to comply with the Code of Virginia and Executive Order 14 (as amended July 16, 2018). Juvenile detention centers need uniform requirements to ensure the safety and wellness of residents and staff, to protect the security of the facility, and to ensure that, to the extent they are provided, programs and services are effective and productive. While many of the changes may indirectly impact small businesses, the impact is expected to be negligible.

The department received no public comments or complaints concerning the proposed revisions to the regulation during the NOIRA public comment period. The board has heard comments in opposition to use of restraint chairs in DJJ facilities, as well as recommendations to create a separate set of regulations applicable solely to immigrant youth residing in detention centers pursuant to federal contracts between such facilities and the federal government. Some of these comments were taken into account but ultimately rejected in the board’s proposed amendments. While the Board initially declined to adopt a separate set of regulations to address youth detained in juvenile detention centers pursuant to contracts with the federal government, legislation enacted during the 2020 legislative session makes these separate regulations mandatory. The department has convened a committee to carry out this directive.

While the regulation consists of over 130 sections addressing requirements related to personnel, the provision of medical services, behavior management, safety and security, and physical plant environment, the vast majority of provisions in this chapter are not complex. The regulation tracks state law and has been updated so as not to conflict with federal law. The department last conducted a comprehensive review and recommended changes to the regulation beginning in 2009, and the final revisions took effect in January 2014.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response
Kerry Chilton, disAbility Law Center of Virginia	The restraint chair should be prohibited at DJJ facilities, given its physical and psychological dangers and the fact that several detention centers currently do not use it. The dLCV has often seen instances of injury due to the device’s use or misuse. The chair places individuals in a vulnerable	While these concerns are valid and shared by many board members, the board is hesitant to remove a tool that is utilized in detention centers to restrain residents whose behavior threatens the safety of residents and staff without having a clear, workable alternative in place. Efforts to physically restrain residents can also result in severe injury to residents and staff. The additional

	position in which they cannot defend themselves.	reporting requirements to be imposed by the proposed regulations will allow the board to monitor facility use of the chair and determine whether these provisions should be revisited.
Amy Woolard, Legal Aid Justice Center	Elimination of the restraint chair in DJJ facilities is feasible and preferable, as its use is rare in Virginia. Even with strict oversight, procedures are not always followed, and the chair has often been used punitively rather than protectively. Eliminating the chair would signal DJJ's commitment to a trauma-informed practice that would focus on addressing the situations before use of the chair is necessary. If the department elects to continue utilizing the chair, there should be intensive reporting on its use, annual review of such use by the board; and continued discussions with advocates.	While these concerns are valid and shared by many board members, the board is hesitant to remove a tool that is utilized in detention centers to restrain residents whose behavior threatens the safety of residents and staff without having a clear, workable alternative in place. Efforts to physically restrain residents can also result in severe injury to residents and staff. The additional reporting requirements to be imposed by the proposed regulations will allow the board to monitor facility use of the chair and determine whether these provisions should be revisited.
Senator Adam Ebbin (Virginia State Senate, District 30); Lori Swain, constituent	The board should adopt a separate set of regulations specific to JDC programs housing immigrant youth, by contract, under the custody of the federal government. These regulations should require agreement between the JDC and the federal government to ensure departmental regulatory oversight; address the use of mechanical restraints, physical force, and spit guards; minimize the use of isolation; and impose additional requirements, including for example, hiring bilingual staff who will be assigned solely to these residents and providing such staff with specialized training.	As of the publication of the original Agency Background Document on August 30, 2019, the board had addressed some, but not all of Senator Ebbin's concerns with the proposed amendments to this chapter. The board declined to adopt Senator Ebbin's recommendations to establish a separate set of regulations that would apply to youth housed in correctional facilities pursuant to contracts with the federal government, but agreed to give additional consideration to these recommendations as the regulation continued moving through the process. Based on the board's decision not to adopt his recommendations, during the 2020 General Assembly session, Senator Ebbin introduced legislation to direct the board to establish separate regulations for youth housed in these federal programs. This time, the legislation passed, taking effect on July 1, 2020. The department has convened an interagency committee to carry out this directives.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The Department/Board of Juvenile Justice is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Kristen Peterson, Regulatory Coordinator at the Department of Juvenile Justice, PO Box 1110, Richmond, Virginia 23218-1110; (804) 588-3902 (phone), (804-371-6497 (fax) and Kristen.Peterson@djj.virginia.gov]. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of this stage of this regulatory action.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
10	N/A	Definitions: The current definitions governing JDCs are provided in Section 10 (definitions) and include the following terms: annual (<i>within 13 months of previous occurrence</i>), behavior management (<i>principles employed to help</i>	The Form, Style and Procedure Manual for Publication of Virginia Regulations directs state agencies to place all definitions at the beginning of the regulation as the first numbered section. The following terms defined in other sections of the regulation were moved to Section 10 and were revised slightly for style: aversive stimuli (650 - forces or

	<p><i>residents achieve positive behavior and to address a resident's inappropriate behavior);</i> board (of juvenile justice); case record (resident and resident's family information); contraband (items in a JDC that are prohibited, acquired through unapproved channels or in non-prescribed amounts or that may jeopardize facility safety and security); department (of juvenile justice); detention center/secure juvenile detention center (local, regional, or state publicly or privately operated secure custody facility, excluding JCCs, housing juveniles ordered detained); direct care staff (staff responsible for maintaining safety and wellbeing of residents and security of facility and implementing the behavior management program); direct supervision (working with residents without presence of direct care staff); director (of the department); emergency (unexpected occurrence demanding immediate action, excluding employee time off); facility administrator (individual responsible for JDC management and operation); health care record (record of medical screening, exam information, and medical service delivery); health care services (actions taken for the physical and mental well-being of resident); health-trained personnel (individual trained by a licensed health care provider to perform health care screenings, review screening forms, prepare residents for sick</p>	<p><i>substances applied to a resident that are harmful or noxious);</i> cooling-off period (1070 - maximum 60-minute period during which resident placed in room or area); human research (130 - systematic investigation utilizing human subjects), legal mail (660 - written communication from or to a designated class of individuals); legal representative (690 - court-appointed or retained attorney and his staff or an attorney visiting for consultation on resident's request); medication incident (1060 – error made in administering medication to a resident); physical restraint (1090 – behavior intervention techniques involving physical intervention that prevent an individual from moving); rest day (890 – a minimum 24-hour period when direct care staff has no duties related to JDC operation, including training); volunteer or intern (270 - individual or group who provides services voluntarily without competitive compensation); vulnerable population (655 - resident determined reasonably likely to be exposed to the possibility of attack).</p> <p>Substantive revisions were made to the following existing terms:</p> <ul style="list-style-type: none"> -Case record - removed general reference to “record” as that term could be used to refer to various other types of records addressed in this chapter; removed reference to “electronic,” which is contemplated in the definition of written. -Cooling-off period - clarified that (i) the period may be self-imposed or facility mandated, and (ii) the purpose is to calm the resident or deescalate a situation. -Health-trained personnel - removed the reference to “sick call”, as that term is not defined in the regulation. -Human research - revised to comply with the revisions to Chapter 170 that took effect in December 2016. -Individual service plan - removed the general reference to “service plans” as unnecessary and the duplicative required elements of an individual service plan, as this information is outlined in § 1200.
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		<p><i>call, and assist in implementing medical orders</i>); individual service plan (<i>written plan of action to meet the resident’s needs</i>), living unit (<i>JDC residential space containing sleeping areas, toilet facilities, and living rooms</i>); on duty (<i>period when employee is responsible for direct supervision of residents</i>); parent/legal guardian (<i>certain biological or adoptive parents, persons judicially appointed as legal guardians, or persons exercising rights and responsibilities of legal custody by delegation from biological or adoptive parent</i>); postdispositional detention program (<i>JDC program serving residents subject to sentence or dispositional order in a JDC for period exceeding 30 days</i>); premises (<i>tracts of land on which a JDC is located and the buildings on the land</i>); regulatory authority (<i>board or department if designated by the board</i>); resident (<i>individual confined in a JDC</i>); rules of conduct (<i>list of JDC’s rules or regulations</i>); written (<i>information is communicated in writing manually or electronically</i>).</p>	<p>-Legal representative - clarified that the term includes a visiting consulting attorney if requested by the parent of a minor resident.</p> <p>-Living unit - references to “sleeping areas” in this definition replaced with “sleeping rooms.”</p> <p>-Medication incident - modified to exclude a facility’s failure to administer medication due to repeated unsuccessful attempts to obtain the medication.</p> <p>-On duty - expanded to include any time in which an employee is responsible for the performance of his duties.</p> <p>-Premises - clarifies that the premises of a JDC include only the tracts of land within the secure perimeter, thereby excluding buildings on the JDC campus that may fall outside the secure perimeter.</p> <p>-Rest day - expanded to allow residents to perform duties other than those involving supervision on rest days (e.g., training).</p> <p>-Volunteer or intern - revised to clarify that volunteers or interns are under the direction and authority of the JDC.</p> <p>-Vulnerable population - revised to clarify that the JDC staff must determine whether a resident is “vulnerable,” and to remove the explicit examples of residents that may be considered “vulnerable.” Examples are now in Section 655.</p> <p>Non-substantive style changes were made to the following terms currently set out in the definitions section: behavior management, contraband, director, emergency, on duty, regulatory authority, rules of conduct, and written.</p> <p>Additionally, the following definitions for undefined terms used throughout the existing regulation or referenced in the proposed amendments were added: contractor (<i>individual in a contractual agreement with a JDC to directly and regularly serve residents</i>); disciplinary room restriction (<i>room restriction as a consequence for rule violation after application of the disciplinary process</i>); full search (<i>removal of clothing and</i></p>
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			<p><i>visual inspection of all body parts, including vaginal and anal cavity areas, to detect contraband or injuries);</i> mechanical restraint (<i>approved mechanical device that involuntary restricts the freedom of movement, including flex cuffs, handcuffs, leather restraints, leg irons, restraining belts and straps, waist chains, and anti-mutilation gloves, but excluding mechanical restraint chairs);</i> mechanical restraint chair (<i>approved chair that restricts freedom of movement or voluntary functioning of body parts);</i> mental health clinician (<i>person with at least a master's degree in psychology, counseling, or social work, with an emphasis on mental health treatment who is employed in treating mental disorders);</i> protective device (<i>approved device placed on part of a resident's body to protect him or staff from injury);</i> qualified mental health professional (<i>person educationally and professionally qualified and registered by the Board of Counseling to provide mental health services for adults or children);</i> room restriction (<i>resident is restricted involuntarily to sleeping room to ensure safety or security or hold resident accountable for a rule violation);</i> and spit guard (<i>protective device designed to prevent communicable disease spread resulting from spitting or biting).</i></p>
20	N/A	<p>Applicability: This section identifies the nine parts that make up this chapter. Part IX applies to JDCs operating postD programs for residents that meet certain requirements</p>	<p>The proposal strikes the redundant description of post-D programs, as this information is established in the post-D program definition. The change will have no additional impact.</p>
30	N/A	<p>Previous regulations terminated: This section outlines the regulatory chapters that were replaced when the department revised its JDC regulations in 2014.</p>	<p>Repealed. These chapters were part of a previous regulatory iteration, and reference to them is unnecessary. The proposal will have no additional impact.</p>
40	N/A	<p>Certification: (A) JDCs must comply with Chapter 20, which addresses certification of DJJ regulated programs/ facilities. (A)(3) JDCs must ensure that their regulatory noncompliance</p>	<p>(A) The proposal modifies the reference to certification regulations in Chapter 20 to mirror the title of the existing Certification Regulations and expressly requires JDCs to maintain a current certification demonstrating compliance with Chapter 20's requirements. (A)(3) This vague provision could be perceived</p>

		will not immediately or directly endanger residents.	as encouraging facility noncompliance with regulatory requirements. The proposal strikes this unnecessary provision. This change is not expected to significantly impact operations. JDCs are required to comply with applicable regulatory provisions unless a variance has been approved by the board. Ensuring that noncompliance with regulatory requirements does not immediately or directly endanger residents will not relieve JDCs of their regulatory obligation and will not prevent them from having to take corrective action if such noncompliance is discovered on audit or during a monitoring visit.
45	N/A	Contracts between juvenile detention centers and separate entities: This provision addresses JDCs that agree to house residents under custody of separate entities (e.g., federal government). For these arrangements, the agreement must require the JDC to be subject to the department’s certification regulations and must give the department the same access to the resident and his records and reports as all other juveniles detained in the JDC. This provision is a result of a fast-track regulatory action effective August 22, 2019 and will address a gap in the department’s certification authority that previously prevented it from interviewing and accessing records of residents detained in JDCs but under the custody of a separate entity.	The proposal adds new requirements directing that such agreements be in writing, that JDCs provide immediate notification to the department upon entering into such agreements, and that they provide a copy of the written agreement to the department. This provision will ensure that the department is aware of these arrangements immediately and is able to verify that the agreement contains the proper provisions. The proposal will enable the Certification Unit to monitor the program and assess compliance with the department’s regulations. Because this proposal addresses contractual arrangements, the proposal is not expected to have a significant impact on facility operations. Note: Due to legislation enacted during the 2020 General Assembly Session (2020 Acts of Assembly, Chapter 595), the board shall establish separate regulations for youth housed in these federal programs. To carry out this statutory mandate, the department has convened an interagency committee that will draft a separate set of regulatory provisions applicable specifically to youth in these programs. The department will file a separate regulatory action once the board has vetted the proposed plan.
50	N/A	Relationship to the regulatory authority: JDCs must provide the board with information necessary to establish compliance with this chapter	The proposal mandates submission of this information to the audit team leader rather than to the regulatory authority, consistent with the current mandate in Chapter 20. This amendment will have no additional impact.

60	N/A	Relationship with the department:	The proposal makes minor edits for style.
70	N/A	Variations: A JDC facility administrator may request a variance to relieve the JDC from meeting certain regulatory requirements. Chapter 20 indicates that variances are available only for noncritical regulatory requirements.	The proposal expands the scope of the provision so that it also addresses waivers and amends the catchline to reflect this change. The proposal clarifies that variances may be granted solely for noncritical regulatory requirements and provides the complete citation to Chapter 20. The proposal also adds a new subsection (C) that describes the director’s authority to issue waivers to noncritical regulatory requirements pending the board’s determination on a variance. These amendments are intended to closely mirror requirements in Chapter 20 and will have no additional impact.
80	N/A	Serious incident reports: (A) Within 24 hours after an incident occurs, the JDC must report serious incidents to the CSU, either the parent or legal guardian, and the director or his designee. The SIRs must accord with the department’s procedures. (B) JDCs must notify the director or his designee within 24 hours of any events detailed in subsection A, and any other events required by the regulatory authority, if the facility has been notified. (D) JDCs must prepare an SIR that includes the name or identifying information of the person who notified the applicable CSU and the parent or legal guardian. Currently, the report need not identify who notified the director. (E) JDCs must maintain a written reference in the resident’s record that an incident occurred, as well as all applicable reports regarding the incident.	(A) The proposal removes the mandate to report these events in accordance with the department’s procedures . This requirement is invalidated due to the 2016 Virginia Code Commission regulation (1VAC7-10-140) prohibiting agencies from incorporating their own documents into regulations by reference. JDCs must comply with the department’s guidelines as standalone documents. (B) The proposal removes the director notification requirement in subsection B, as this requirement is captured under subsection A. (D) The proposal adds language requiring the individual completing the SIR to include in the report the date and time on which the notifications were provided to the director, CSU, and parent or legal guardian. This change will assist the JDCs in demonstrating compliance with the requirements regarding serious incidents. The department has updated its database to comply with this provision. Thus, this change is not expected to have an additional impact. (E) The proposal eliminates the requirement that the resident’s record contain a written reference of this information. JDCs are expected to input this information into the department’s data system; therefore, it is not necessary to mandate by regulation that this information be included in the resident’s record. The proposal makes minor edits for style purposes. None of these changes are expected to have a

			significant impact on residents, staff, or facility operations.
90	N/A	Suspected child abuse or neglect: (A) When staff reasonably suspect a resident is being abused or neglected, the existing regulation requires that they report the matter immediately to the local DSS. (B) Cases of suspected child abuse or neglect must be reported and documented.	(A) The proposal expands the entities to which these cases may be reported to include the state DSS’s toll-free child abuse and neglect hotline. (B) The proposal clarifies that, for purposes of this regulatory requirement, the duty attaches when a resident is neglected or abused; thus, there is no affirmative duty on staff to report child abuse witnessed, for example, away from the JDC or committed on non-resident youth. The proposal also makes minor edits for style. These changes provide guidance to JDC staff to enhance compliance and are not expected to impact significantly residents, staff, or the facility.
95	N/A	Reporting criminal activity: (A) JDCs must have written procedures requiring staff to notify the administrator of all known resident or staff criminal activity. The provision enumerates several examples of applicable criminal offenses that must be reported to the facility administrator. (B) Upon receiving this information, the administrator must notify the proper persons or agencies, including applicable law enforcement or CPS agencies, and must cooperate with the investigation. The administrator must report offenses related to the health and safety or human rights of residents to the director or designee. (C) JDCs must assist with investigation of these complaints, as necessary.	(A) The proposal strikes the examples of offenses that must be reported to the facility administrator. The existing language requires all known criminal activity be reported, rendering the list of examples superfluous. The proposal also expands the duty to report to include known criminal activity suspected to have been committed by residents or staff. (B) The proposal removes the mandate that health, safety, and human rights violations be reported to the director or designee, as this information must be reported to DJJ under the current regulation. Upon receipt of this information, DJJ can determine whether offenses are sufficiently serious to warrant notice to the director. This proposal seeks to provide clarity and promote consistency with reporting requirements elsewhere in this chapter and, in turn, may increase compliance. The proposal is not expected to impact operations significantly. (C) The proposal limits the JDC’s duty to cooperate with investigation of these complaints based on any restrictions in federal or state law.
100	N/A	Grievance procedure:	The proposal makes minor edits for style and clarification.
110	N/A	Responsibilities of the governing authority: (A) JDCs must identify their governing authorities clearly. (C) JDCs must have written decision-making	(A) The proposal clarifies that the identification must be in writing . This is consistent with the department’s longstanding interpretation of this provision. (C) The proposal clarifies that this temporary responsibility attaches in

		plans that provide for a staff person to assume temporarily the responsibility of operating the JDC.	the absence of the facility administrator. These changes are intended to provide clarity and will have no additional impact
130	N/A	Participation of residents in human research: (A) JDCs must have written procedures approved by their local governing authorities governing the review, approval, and monitoring of human research (defined as an investigation involving as the subject, a resident, or his parents, guardians, or family members, that may expose the subject to physical or psychological injury and that departs from established and accepted therapeutic methods appropriate to meet the individual's needs. This provision does not reference the separate Human Research regulation, set out in Chapter 170 (Regulation Governing Minimum Standards for Juvenile Information Requests from and Research Involving Human Subjects within DJJ), nor the statute governing human research in Virginia. (C) As part of their written procedures, JDCs may require periodic progress reports of any research project and a formal final report of all completed research projects.	(A) The proposal allows JDCs to use residents as subjects of human research only in accordance with Chapter 170 of the Department's regulations and Chapter 5.1 (Human Research) of Title 32.1 of the Code of Virginia. The proposal amends the definition of "human research" to conform to the definition provided in Chapter 170 of the regulations, and moves the definition to Section 10 of this regulation. The proposal adds language explicitly prohibiting the testing of medicines or drugs for experimentation or research. (C) The proposal adds a general clause authorizing JDCs to implement written procedures governing human research in their facilities, provided the procedures are consistent with the Human Research regulations set out in Chapter 170 and the statutory provisions set out in Chapter 5.1 of the Code of Virginia. Furthermore, it strikes the provisions related to progress reports as that authority is covered in Chapter 170. These proposed changes will expressly subject DJJ-regulated facilities to the same regulatory requirements as JCCs when outside entities are seeking to utilize these residents as subjects of human research requests or data requests.
140	N/A	Job descriptions: (B) JDCs must provide a copy of the job description to each person prior to assuming their duties.	The proposal makes a nonsubstantive change that replaces the reference to "before" with "prior to." This reflects a recommendation in the Style Manual.
150	N/A	Qualifications: JDCs that are not subject to rules and regulations of their governing authorities or local government personnel offices must follow DHRM's minimum entry level qualifications	The proposal strikes this requirement, as DHRM no longer has policies establishing minimum entry level qualifications for employees. This change will have no additional impact.

280	152	Selection and duties of volunteers and interns:	The proposal reorganizes several provisions related to personnel matters by moving these sections elsewhere in the regulation in order to make the regulation easier to navigate. The provision addressing the selection of volunteers and interns, originally set out in Section 280 of this regulation has been repealed and moved to this section. The provisions addressing selection, orientation, training, and background checks for volunteers and interns will no longer be contained in a separate article, but will be addressed under the applicable article governing such matters for employees and contractors. The proposal makes additional minor edits for style, which will have no additional impact.
155	N/A	Employee tuberculosis screening and follow-up:	The proposal makes minor edits for style
170	N/A	Employee and volunteer background checks: This provision imposes background check requirements on individuals who: (i) accept employment at a JDC, (ii) volunteer regularly and will be alone with residents in a JDC, or (iii) provide contractual services directly and regularly to a resident and will be alone with the resident in a JDC. These individuals must undergo a host of background checks, including fingerprint checks with the state police and FBI, before assuming their JDC duties. (B) JDCs may hire employees pending the results of the fingerprint checks, but until all background checks are returned, the employee may not be alone with a resident and may work only with residents being directly supervised by staff who have completed required background checks.	The proposal removes the reference to volunteers and contractors, thus limiting the application of this provision to employees in JDCs. To promote clarity and enhance understanding, new sections are being added that will separately address background checks for contractors (§175), and volunteers and interns (§177). This section will now apply solely to employees at JDCs. This is a format change that will not impact residents, staff, or facility operations. (B) The proposal amends the existing restriction applicable to employees hired under the fingerprint exception by prohibiting them from working directly with residents until all required background checks are satisfied; however, because the position would have been vacant previously, this amendment is not expected to have a significant tangible impact on facility operations or resources. (E) Finally, the proposal explicitly prohibits JDCs from employing persons who have been convicted of certain barrier crimes listed in Code of Virginia § 19.2-392.02, subject to the exceptions in Code of Virginia § 63.2-1726. As this is a current statutory provision, this change will have no additional impact.
170	175	Contractor background checks: Section 170 currently requires individuals who provide contractual	The proposal moves the background check requirements for contractors, formerly set out in Section 170, into this new section. This change will not impact

		services directly to residents and will be alone with a resident to undergo a host of background checks.	residents, staff, or facility operations. The provision has been conformed to mirror the changes in Section 170 by explicitly prohibiting JDCs from bringing on contractors who have been convicted of the applicable barrier crimes. This is reflective of current law and will have no additional impact.
290	177	Background checks for volunteers and interns: Section 290 currently requires individuals who volunteer or intern regularly in a JDC and will be alone with a resident to undergo a host of background checks. Documentation of compliance with the background checks must be maintained for each intern and volunteer for whom a background check is required. JDCs that use volunteers or interns must have procedures for supervising persons who have contact with residents if background checks are not required or are not complete.	The proposal repeals Section 290 and moves these requirements into a new Section 177 as part of the reorganization of the provisions. This change will have no additional impact. The provision has been conformed to mirror the changes in Section 170 by explicitly prohibiting JDCs from taking on volunteers or interns who have been convicted of the applicable barrier crimes. This provision is reflective of current law and will have no additional impact.
180	N/A	Required initial orientation: This provision addresses the initial orientation requirements for full-time, part-time, and relief staff, as well as contractors, volunteers, and interns serving residents on a regular basis. (A) JDCs must provide initial orientation to such employees and contractors in accordance with the position's job descriptions. (C) Volunteers and interns must be oriented in accordance with Section 300 (volunteer and intern orientation and training).	As part of the effort to reorganize the personnel provisions and ensure that the requirements for each profession are enumerated clearly, this proposal removes the references to orientation requirements for contractors, volunteers, and interns set out in subsections (A) and (C) of this provision. The proposal creates new sections that address the orientation requirements for contractors (§ 185) and volunteers (§ 187). This is a format change that will not impact residents, staff, or operations.
N/A	185	Required initial orientation for contractors: Section 180 requires that JDCs provide initial orientation to all contractors who provide services to residents on a regular basis in accordance	As part of the reorganization of the personnel provisions, the proposal creates a new section 185 that addresses the orientation topics and requirements applicable solely to contractors. This new provision incorporates the orientation

		with the position's job description. Section 510 requires contractors to be oriented in their responsibilities in implementing the evacuation plan in emergencies.	requirements for contractors regarding their duties in implementing the evacuation plan currently set out in Section 510. It also replaces the existing mandate directing JDCs to orient contractors in accordance with their job descriptions with a requirement that they receive an initial orientation regarding the expectations of working within a secure environment. This change gives clear direction to JDCs and is consistent with a similar change made to the JCC regulations (Chapter 71), but it is not expected to have a significant impact on facility operations, staff, or residents.
300	187	Required initial orientation for volunteers and interns: (A) Volunteers and interns must receive basic orientation on: the facility; its population; its basic objectives; security, population control, emergency, emergency preparedness, and evacuation procedures; confidentiality; residents' rights; and the requirements for volunteers and interns to perform their duties.. (B) Volunteers and interns must receive training within 30 days from their start date on 1) procedures regarding their duties and 2) duties during a facility evacuation.	As part of the reorganization of the personnel provisions, the proposal creates a new section 187 that addresses the orientation topics and requirements applicable solely to volunteers and interns that are currently set out in Section 300, which is being repealed as part of the reorganization. (B) The proposal strikes subsection (B) in its entirety and moves those provisions in that section related to training requirements to a new section (§ 197) which addresses required initial training for volunteers and interns. These are formatting changes and will not impact residents, staff, or facility operations.
190	N/A	Required initial training: This provision addresses the initial training requirements for fulltime and part-time employees and relief staff, as well as contractors providing services that require professional licensure (e.g., contract nurses), and volunteers and interns. (B) No more than 30 days after the employee's start date at the facility or before the employee is responsible for the direct supervision of a resident, all direct care staff and staff who provide direct supervision of the residents must complete training in	As part of the effort to reorganize the personnel provisions, the proposal removes the references to volunteers and contractors in order to limit the application of this provision solely to employees in JDCs. New sections have been added to address initial training requirements for contractors (§ 195) and volunteers and interns (§ 197) separately. (B) The proposal clarifies that the training requirement imposed within 30 days following the employee's start date is applicable to direct care staff as well as staff responsible for the direct supervision of residents. This change is intended to provide clarification and is not expected to have any additional impact on residents, staff, or facility operations. (B)(4) The proposal provides that training on the

		<p>certain specified areas. (B)(4) Among the required topics on which employees must be trained are the facility's behavior intervention procedures, including physical and mechanical restraint training.</p>	<p>use of protective devices, the mechanical restraint chair, room restriction, and disciplinary room restriction must be covered during the behavior intervention procedures training, in addition to physical and mechanical restraint training. The proposal ensures that applicable staff will receive proper, sufficient training to supervise residents who are placed in a restraint chair, wearing protective devices, or placed on room restriction.</p>
190(A)(2)	195	<p>Required initial training for contractors: Section 190(A)(2) requires contractors to receive training to perform their position responsibilities in a JDC. Section 190(E) declares that for contractors providing services for which licensure by a professional organization (e.g., Board of Nursing) is required, documentation of current licensure constitutes compliance with the training requirements.</p>	<p>As part of the reorganization of the personnel provisions, the proposal creates a new section 195 to address training requirements applicable solely to contractors, as currently set out in section 190. These are format changes and will not impact residents, staff, or facility operations.</p>
300	197	<p>Required initial training for volunteers and interns: Volunteers and interns must be trained within 30 days from their start date at the facility on: 1) procedures applicable to their duties and responsibilities and 2) their duties in an evacuation.</p>	<p>As part of the reorganized personnel provisions, the proposal creates a new section 197 to address training requirements applicable solely to volunteers and interns. The provisions in § 300(B) related to volunteer and intern training have been incorporated in this section. These are format changes that will have no additional impact.</p>
200	N/A	<p>Retraining: This provision addresses annual or other retraining requirements for fulltime, part-time, and relief employees. Subsection (C) requires direct care staff to receive training on various topics, including behavior intervention procedures. Subsection (E) requires staff approved to apply mechanical restraints to be retrained annually, in accordance with similar requirements set out in the mechanical restraints provision (6VAC35-101-1130). Subsection (F)</p>	<p>(A) The proposal corrects an erroneous citation for the regulatory provisions governing emergency and evacuation procedures. (C) The proposal clarifies that the behavior intervention procedure training must include training on room restriction and disciplinary room restriction. (E) The proposal expands the training requirement to staff approved to apply protective devices or the mechanical restraint chair and directs such staff to receive training in accordance with the applicable restraint chair or protective device provisions. (F) The proposal adds language clarifying that the medication administration training must include, at a minimum, a review of the components required in §</p>

		directs employees responsible for medication administration to complete an annual refresher training, but does not identify topics for this training. Under subsection (G), when a contractor provides services necessitating professional licensure, documentation of current licensure is deemed compliance.	1060 related to medication (e.g., medication incidents, medication administration records, medication refusals, etc.). This guidance will ensure some uniformity in training among JDCs. (G) The proposal removes subsection (G) in its entirety, as the training requirements for professionally-licensed contractors are established in Section 195 and do not need to be reiterated here
210	N/A	Written personnel procedures: JDCs must have written personnel procedures approved by the governing authority or facility administrator, developed, implemented, and readily accessible to staff.	The proposal reorganizes the requirements related to personnel procedures to reflect more accurately the order for this process. The procedures are developed, approved by the governing authority or facility administrator, then implemented and made available to staff. This proposal is not expected to impact residents, staff, or operations as most JDCs are adhering to this schedule in developing and implementing their personnel procedures.
240	N/A	Notification of change in driver’s license status: Staff whose job responsibilities may involve transporting residents must report to the facility administrator or his designee changes in their driver’s license statuses, including but not limited to suspensions, restrictions, and revocations.	The proposal makes minor edits for style purposes. Notably, the proposal removes the “including, but not limited to” language in order to reflect 1VAC7-10-30 of the Virginia Code Commission’s regulations. Under that provision, the word “includes” means “includes, but not limited to.”
250	N/A	Political activity:	The proposal makes minor style edits.
260	N/A	Physical or mental health of personnel:	The proposal makes minor style edits.
270	10	Definition of volunteers or interns:	Repealed. Definition moved to § 10.
280	152	Selection and duties of volunteers and interns:	Repealed. Content moved to § 152.
290	177	Background checks for volunteers and interns:	Repealed. Content moved to § 177.
300	187 and 197	Volunteer and intern orientation and training:	Repealed. Content moved to § 187 (required initial orientation for volunteers and interns) and 197 (required initial training for volunteers and interns). Content reordered for style purposes.
310	N/A	Personnel records: (A) JDCs must maintain separate, current written or automated personnel	(A) The proposal removes the alternative to maintain automated personnel records, as the definition of written encompasses hard copies as

		records on every employee and volunteer or intern who requires a background check. (B) Employee personnel records must consist of several documents, including, for example, annual performance evaluations, documentation of required reference checks, and a current job description.	well as electronic information. (B) The proposal removes the directive that the employee personnel record consist of annual performance evaluations. This requirement is unnecessary from a regulatory perspective. This proposal will impact staff and operations minimally. Additionally, the proposal makes several minor edits for style purposes.
330	N/A	Maintenance of residents' records: (A) JDCs must maintain separate written or automated case records for each resident. The proposal addresses health records in subsections (B) and (C).	(A) The proposal removes the alternative to maintain automated case records, as the definition of written encompasses electronic records. (B) and (C) The proposal replaces the references to "health records" with the proper term that is listed and defined in § 10, "health care records." The proposal makes additional non-substantive edits, none of which will impact JDC operations.
340	N/A	Face sheet: JDCs must ensure that a completed face sheet, containing certain required information, be completed and placed in each resident's record at admission. The face sheet must include the names, addresses, and telephone numbers of the applicable CSU, emergency contacts, and parents or legal guardians.	The proposal removes the requirement to include the applicable CSU address on the face sheet. The CSU name will continue to be identified on the face sheet and will reference the applicable CSU district. Therefore, it is not necessary to include the address on the resident's face sheet. This proposal is expected to reduce, minimally, the recordkeeping requirements for JDC staff.
350	N/A	Buildings and inspections:	The proposal makes several style edits.
360	N/A	Equipment and systems inspections and maintenance: JDCs must inspect, test, and maintain all safety, emergency, and communications equipment and systems in accordance with the manufacturer's recommendations. The facility must conduct testing of this equipment and systems at least quarterly.	The proposal amends the process to require the facility administrator to identify in written procedures critical safety, emergency and communications equipment and systems that are subject to the requirements of this section. The proposal also requires the facility administrator to establish the testing intervals for this equipment and these systems in the written procedures. This proposal will give facility administrators the discretion to determine what equipment is critical for the safe operation of JDCs and to reduce the burden of quarterly testing equipment which is not deemed critical. The proposal makes several style edits.

370	N/A	Alternate power source: JDCs must have access to an alternate power source for use in an emergency.	The proposal makes a nonsubstantive change to provide that the power source must be available to <i>maintain essential services</i> in an emergency
380	N/A	Heating and cooling systems and ventilation: JDCs must ensure that a temperature no less than 68°F is maintained in all rooms occupied by residents unless otherwise mandated by state or federal authorities. They must provide air conditioning or mechanical ventilating systems in all rooms occupied by residents if the temperature in the room exceeds 80°F.	The proposal adds clarifying language mandating that the requirement to provide air conditioning applies unless otherwise mandated by state or federal authorities. This amendment is intended to ensure that the requirements set out in this section are consistent, and is not expected to have any additional impact on residents, staff, or operations.
400	N/A	Plumbing and water supply; temperature: JDCs must maintain water temperatures at 100°F to 120° F.	The proposal adds clarifying language that this provision applies to hot water temperatures. This proposal will not impact residents, staff, or operations
410	N/A	Drinking water: For JDCs constructed after January 1, 1998, all sleeping areas must have fresh drinking water.	The proposal makes a technical change to replace the reference to sleeping areas with sleeping rooms. This will provide clarification and reduce confusion, as these two terms are used interchangeably in the existing provision. The proposal will not impact residents, staff, or the facility
420	N/A	Toilet facilities: (A) JDCs constructed or modified on or after January 1, 1998, must have toilet facilities available in all sleeping rooms. (B) JDCs must have one toilet, one hand basin and one shower or tub for every eight residents if the JDC was constructed on or before December 27, 2007, and one toilet, one hand basin, and one shower or tub for every four residents for facilities constructed or modified on or after December 28, 2007.	(A) The proposal amends the language to require one toilet and one hand basin in all sleeping rooms in JDC buildings constructed or structurally modified on or after January 1, 1998. This proposal reflects current facility design and will not have an additional impact. (B) The proposal amends the ratio of showers or bathtubs to residents in facilities constructed on or after December 28, 2007, to require one shower or tub for every five, rather than four, residents. Because hand basins and toilets will be required in every sleeping room under the proposal, the provision strikes these items from the required ratios listed in §420(B). This proposal will give localities seeking to construct new JDCs or renovate existing facilities additional space for programming and may decrease construction or facility operational costs.
430	N/A	Sleeping areas: (C) Sleeping quarters	The proposal replaces the reference to “sleeping areas” in the catchline and

		established, constructed, or modified after July 1, 1981, must meet certain height and square footage requirements.	“sleeping quarters” in subsection (C), with “sleeping rooms.” These changes will promote consistency within the regulation and reduce confusion, as the terms, “sleeping areas” and “sleeping quarters” are used interchangeably to refer to sleeping rooms. The proposal also makes several minor edits for style purposes. The proposal is not expected to impact residents, staff, or facility operations
460	N/A	Smoking prohibition: JDC staff and visitors are prohibited from using tobacco products, including cigarettes, cigars, pipes and smokeless tobacco, such as chewing tobacco or snuff in areas of the facility or the premises where residents may see or smell the product.	The proposal expands the prohibition to include contractors, volunteers, and interns, and extends the list of prohibited items to include additional tobacco products and nicotine vapor products, as defined in Code of Virginia § 18.2-371.2, such as electronic cigarettes, electronic cigars, electronic cigarillo, electronic pipes, or similar items. The proposal also explicitly prohibits residents from using, possessing, purchasing, or distributing tobacco or nicotine vapor products. This proposal will help to ensure that residents do not gain access to these products.
470	N/A	Space utilization: JDCs must be equipped with a central medical room with medical examination facilities developed and equipped in consultation with the health authority	The proposal makes minor technical edits to reduce confusion and promote clarity. The proposal replaces medical examination <i>facilities</i> with medical exam rooms or spaces , so as to discourage the interpretation that JDCs are required to have separate buildings to carry out their medical examination functions. The proposal will not have an impact.
480	N/A	Kitchen operation and safety:	The proposal makes minor style edits.
490	N/A	Maintenance of the buildings and grounds:	The proposal makes minor style edits.
500	N/A	Animals on the premises: JDCs that maintain animals on the premises must ensure that they are housed a reasonable distance from sleeping, living, eating, and food preparation areas, and a safe distance from water supplies. JDCs must provide pets with clean sleeping areas and adequate food/water.	In order to give facility administrators the discretion to allow for animal training or animal therapy services within the facility, the proposal removes the mandate that animals maintained on the premises be housed a reasonable distance from sleeping and living areas. The existing restrictions would hinder a JDC’s ability to implement these programs.
510	N/A	Emergency and evacuation procedures: JDCs must develop emergency preparedness	The proposal expands this provision to require the facility to plan for (and train staff on) the evacuation of any individual who might be in the facility at the time

		and response plans, which must address the provision of a planned, personalized means to evacuate residents who use wheelchairs or other mechanical devices to provide assistance with walking. All staff must receive training regarding these evacuation procedures.	and who has a disability of any sort (rather than limiting the plan to nonambulatory residents). This proposal will ensure that facilities have plans in place and that staff are trained adequately to address emergency situations that may call for the evacuation of disabled residents, visitors, volunteers, or others who happen to be in the facility during an emergency. The amendment may require some additional planning on the part of JDC staff but is not expected to impact staff or operations significantly. The proposal makes several additional amendments for style.
520	N/A	Control center: Each JDC must have a control center secured from residents' access and staffed 24 hours a day.	The proposal clarifies that the control center must be staffed seven days a week as well as 24 hours/day.
530	N/A	Control of perimeter:	The proposal makes a minor style edit
540	N/A	Escapes:	The proposal makes several style edits.
550	N/A	Contraband:	The proposal makes several style edits
560	N/A	Searches of residents: (A) – (C) JDCs must have written procedures that govern resident searches, including strip searches and body cavity searches. The existing regulation does not define “strip searches” for these purposes. Strip searches and visual cavity inspections must be conducted and, if witnessed, witnessed: (i) by staff/witnesses of the same sex as the resident being searched, and (ii) in an area that guarantees privacy. (D) Manual and instrumental cavity searches are permissible only if authorized in writing by the facility administrator or by court order.	(A)-(C) The proposal replaces all references to “strip searches” in this section with “full search” in order to reflect the nomenclature that has been adopted in many JDCs in Virginia. A definition for full search has been added to Section 10 that incorporates the commonly understood concepts of strip searches and that includes visual inspections of vaginal and anal cavities. (D) At the request of the JDCs, the proposal restricts a facility administrator’s authority to approve manual and instrumental anal and vaginal cavity searches by permitting such searches only by court order or upon occurrence of an exigent circumstance requiring medical attention. This change will relieve the facility administrator of his broad discretion to order such searches, and allow the facility administrator to permit such searches only in response to a court order or in a medical emergency.
570	N/A	Communications systems: JDCs must have a means for communicating between the control center and living areas .	The proposal replaces the reference in this section to “living areas” with “living units” to reflect the terminology used throughout the regulation and defined in § 10. This change is intended to provide clarification and reduce confusion, and will not impact facility operations.

580	N/A	Telephone access and emergency numbers: JDCs must have an emergency telephone number where staff may be contacted 24 hours/day.	The proposal makes a minor technical edit to clarify that the staff person must be accessible through the emergency telephone number seven days a week and 24 hours a day.
600	N/A	Weapons:	The proposal makes minor style edits.
610	N/A	Area and equipment restrictions: JDCs must have written procedures governing the inventory and control of security, maintenance, recreational, and medical equipment.	The proposal removes recreational equipment from this list, based on the contention that it is unnecessary to have a regulation addressing the inventory of recreational equipment. This proposal will reduce the burden on JDC staff to maintain such inventories.
620	N/A	Power equipment:	The proposal makes minor style edits.
630	N/A	Transportation: JDCs must: (A) have transportation available or make the arrangements for routine and emergency transportation; (B) have written safety rules for resident transportation and vehicle use; and (C) have written procedures that provide for the verification of appropriate licensure for staff with duties involving resident transportation.	<p>(A) The proposal replaces the reference in subsection (A) related to “routine transportation” with “facility-approved transportation.” This minor change is intended to provide additional guidance and will not impact staff responsibilities or facility operation. The proposal retains all of the remaining existing provisions in Section 630.</p> <p>The proposal adds specific language lifted from Part I of the Guidelines for Transporting Juveniles in Detention, which were issued by the Board in 2004 to establish administrative and safety guidelines local JDC staff must follow when transporting or allowing others to transport residents outside the JDC. Specifically, the proposal adds the following requirements:</p> <ul style="list-style-type: none"> • JDCs are responsible for transporting their detained residents to local medical and dental appointments and local psychological and psychiatric evaluations but are not required to transport them to appointments outside Virginia’s geographical boundaries or more than 25 miles, one way, from the facility. <ul style="list-style-type: none"> ○ If the JDC transports the resident to a local dental or medical appointment, the staff is not obligated to pay costs associated with the appointment, unless provided for by agreement.

			<ul style="list-style-type: none"> ○ The JDC may require notice of the date and time of the local appointment at least 72 hours in advance. • JDCs may assign internal staff or contract with an agency to transport detained juveniles. • If the resident requires a meal during transport, the JDCs must provide a bagged lunch, if feasible. • JDCs must send with the transporting staff any medication the juvenile will require while in transit. • Juveniles may not be transported with an adult(s) suspected of or charged with a criminal act. • If an emergency renders the transporting vehicle inoperable, the individual conducting the transport must notify his agency immediately and contact local law enforcement for assistance, if necessary. • If the resident absconds during transport, the JDC staff conducting the transport must report this immediately. • When JDC medical staff conclude in writing that a resident’s medical condition can be treated without him attending a routine or previously scheduled appointment, the JDC is only required to transport the resident if ordered by a court. • A juvenile who was confined in a JDC immediately before a court hearing must be returned to the JDC until DJJ completes the commitment packet and arranges transportation and may not be transported to a JCC’s intake unit directly from court. <p>As these requirements are part of existing Guidelines that, until 2016, were incorporated by reference into the regulation and have been in place for JDCs since 2004, these provisions will</p>
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			<p>have no additional impact on residents, staff, or facility operations.</p> <p>In addition to including the Guideline provisions, the proposal adds language in response to legislation introduced during the 2018 Virginia General Assembly Session that would have required the board to promulgate regulations addressing transportation of residents from department-regulated facilities and requiring such regulations to address a suicide watch instrument during resident transportation. The language requires JDCs, when allowing a third party to assume temporary custody of the resident for purposes of transportation, to provide the transporting party with a written document identifying pertinent information known to the JDC regarding the resident's immediate medical needs or mental health condition that reasonably could be considered necessary for his safe transportation and supervision. Specifically, the information should include any of the resident's recent suicidal ideations or attempts. Such information must remain confidential in accordance with state law and regulations. This new requirement is intended to ensure that pertinent medical information is relayed to those parties responsible for transporting juveniles. The change may result in additional recordkeeping or documentation burdens for JDC staff but will create additional safeguards while residents are being transported.</p> <p>Finally, the proposal adds a provision requiring the rules related to staff and resident ratios, searches, mechanical restraints, and communications during transit to accord with the existing regulatory provisions in this chapter.</p>
N/A	635	N/A	<p>Transportation of violent, disruptive, or youth traveling to specified destinations. The proposal adds this new section containing provisions lifted from Part II of the Guidelines for Transporting Juveniles in Detention (See discussion of Section 630). Part II of the Guidelines addresses the transportation of violent and disruptive JDC residents and residents traveling to</p>

			<p>certain other destinations. The following provisions are added:</p> <ul style="list-style-type: none"> • Only JDC staff or law enforcement, excluding the State Police, may transport violent and disruptive juveniles. • The CSU responsible for supervising the resident or agency or parent seeking placement is responsible for transporting a resident to a residential placement pursuant to §16.1-294 of the Code. • The chief judge of the juvenile court must designate an appropriate agency to transport detained nonviolent and non-disruptive juveniles traveling: (i) across jurisdictional boundaries or more than 25 miles from the JDC, one way, with some exceptions; ii) to other states; iii) to other secure JDCs or jails, with some exceptions; iv) to a law enforcement agency for interrogation; v) to funerals, death bed visits and other extreme circumstances; v) to other places determined by the court; and vii) to other specified places. • Transportation of post-D juveniles must be designated by individual court order, by standing order, or by court approval of the plan for treating the post-D resident. • When a court commits a juvenile to a mental hospital or training center for observation, the committing court shall designate the appropriate law enforcement agency, other than State Police, to transport the juvenile <p>As these requirements are part of existing Guidelines that, until 2016, were incorporated by reference into the regulation (see Section 640 discussion) and have been in place for JDCs since 2004, these provisions will have no additional impact on residents, staff, or facility operations</p>
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640	N/A	<p>Transportation of residents; transfers to department: This section currently addresses the transportation of residents outside the JDC and resident transfers from a JDC to DJJ. This concept is reflected in the catchline.</p> <p>(A) JDCs must transport residents in accordance with the Guidelines for Transporting Juveniles in Detention, which were issued by the board pursuant to Code of Virginia § 16.1-254.</p> <p>(B) If a resident is transported from a JDC to the department, the JDC must send all information pertaining to the resident's medical, educational, behavioral, and family circumstances during the resident's stay in detention.</p>	<p>Detention center transfers to department. (A) The proposal strikes the requirement that residents be transported in accordance with these guidelines, as this constitutes an impermissible incorporation of the department's guidelines by reference in violation of 1VAC7-10- 140(D). The provisions of the department's guidelines have been included explicitly in Section 630 under this proposal (See Section 630 discussion).</p> <p>(B) Subsection (B) is intended to address instances in which a resident is transferred to a JCC (by virtue of commitment to DJJ), rather than transported. As such, the proposal replaces the reference to transported in § 640(B) to transferred. This change is intended to provide clarification and will not impact residents, staff, or facilities. This change, along with the eradication of § 640(A), necessitates modifying the catchline to remove reference to transportation, since transportation is addressed fully in § 630. The section catchline has been changed to "Detention center transfers to department."</p>
650	N/A	<p>Prohibited actions: Currently, JDC staff may not subject residents to certain conditions and are prohibited from engaging in certain behaviors with respect to residents. For example, staff may not deprive residents of drinking water or food necessary to meet their daily nutritional needs, opportunities to bathe, access to toilet facilities, or opportunities for sleep or rest. Similarly, staff may not administer laxatives, enemas, or emetics. The regulation permits exceptions for each of these prohibitions when ordered by a licensed physician for a legitimate medical purpose. (A)(3) – JDC staff may not deny residents contacts and visits with their attorneys, probation officers, the</p>	<p>The proposal changes the individual authorized to order an exception to these otherwise prohibited behaviors from a licensed physician to a licensed health care professional. The objective is to give nurses working in JDCs similar authority to order these exceptions.</p> <p>(A)(3) – The proposal strikes the reference to probation officers in this provision, as they are captured under the existing reference to "a supervising agency representative." This change is not expected to impact residents, staff, or operations. (B) The proposal amends this section to require that volunteers and interns be given a basic orientation on prohibited actions, rather than full training. This change corrects an inconsistency with the requirement in the existing § 300 that directs volunteers and interns to receive orientation regarding the prohibited actions. The proposal updates the cross references to reflect the new catchlines, replaces general references to the resident's record, with the resident's "health care record," and makes other minor style</p>

		regulatory authority, a supervising agency representative, or representatives of other agencies or groups required by applicable statutes. (B) Employees, volunteers, and interns must be trained on these prohibited actions.	edits. These changes will not impact residents, staff, or facility operations.
655	N/A	Vulnerable population: (A) JDCs must implement procedures for assessing whether residents are “vulnerable,” and therefore need heightened supervision, additional safety precautions, or separation from other residents. Vulnerable population is defined in subsection (C) as a resident or group of residents determined reasonably likely to be exposed to attack or harm. The definition lists various examples that may indicate that a resident is “vulnerable” for these purposes (e.g., very young, limited English proficiency, LGBTQ, etc.).	The proposal strikes the definition for vulnerable population contained in § 655(C) and moves it to § 10 pursuant to the Style Manual. The definition no longer lists the examples of factors that may indicate that a resident is “vulnerable” for these purposes. Rather, the proposal adds language in § 655(A) expressly indicating that these examples are factors that may be considered in determining whether a resident is vulnerable. The proposal also adds language indicating that a resident’s own views with respect to his safety must be considered. This is consistent with the PREA mandate (§ 115.342) regarding transgender and intersex residents. These changes are not expected to impact significantly residents, staff, or facility operations.
660	N/A	Residents’ mail: (B) When based on legitimate interests of facility order and security, JDC staff may read, censor, or reject nonlegal mail in accordance with written procedures. The resident shall be notified when incoming or outgoing letters are withheld in part or in full. (F) If the resident requests, postage and writing materials must be provided for outgoing legal correspondence and at least two other letters per week. (G) First-class letters and packages received for residents who have been transferred or released must be forwarded. (H) Written procedures governing resident correspondence must be reviewed annually and updated as needed.	(B) The proposal replaces the general mandate that residents be notified when such mail is withheld in part or in full with a requirement that they be notified when such letters are withheld or redacted as appropriate . The amendment is intended to acknowledge those instances in which notifying the resident that the letters have been withheld or otherwise suppressed would serve to threaten facility safety or security or compromise an investigation. (F) The proposal clarifies that postage and writing materials must be provided, at the resident’s request, for unlimited outgoing legal mail. (G) The proposal clarifies that these letters and packages must be forwarded to the resident’s last known address or forwarding address or returned to the sender. This proposal provides JDCs with additional guidance on how to dispose of this mail and will impact only staff and discharged residents. The proposal also makes additional minor edits for style. (H) The

			proposal strikes as unnecessary the requirement to review this information annually and to update it as needed. There is no similar regulatory requirement for procedures addressing other topics. This change will free up staff to address other issues within the JDC.
670	N/A	Telephone calls:	The proposal makes minor style edits.
680	N/A	Visitation:	The proposal makes minor style edits.
690	N/A	Contact with attorneys, courts, and law enforcement: This section grants residents the right to have uncensored, confidential contact with their legal representative in writing, by mail, or by phone. Subsection A defines legal representative as a court appointed or retained attorney or a paralegal, investigator, or other representative from that attorney’s office or an attorney visiting for a consultation, on a resident’s request.	The proposal moves the definition of legal representative to § 10 to comply with the Style Manual. The proposal also expands the definition of legal representative now contained in § 10 to include an attorney visiting for the purpose of a consultation if requested by the resident’s parent if the resident is a minor . The proposal makes a number of additional edits for style. This proposal has the potential to increase the number of individuals deemed legal representatives.
700	N/A	Personal necessities: (D) JDCs must clean or change resident’s washcloths, towels, and bed linens at least once every seven days or more often if necessary. Staff must use bleach or another sanitizing agent approved by the EPA to destroy bacteria in laundering such linens and table linens .	The proposal strikes the reference to table linens in subsection (D) as unrelated to this section. Table linens are addressed in § 480 (kitchen operation and safety) and have no relevance to this section. This change will not impact residents, staff, or operations.
710	N/A	Showers: Residents must be given the opportunity to shower daily. This provision does not allow for any exceptions.	The proposal allows a JDC, through written procedures, to grant an exception to this general rule in order to maintain facility security or to manage residents with maladaptive behaviors. The exception would need to be approved either by the administrator, his designee, or a mental health professional. This proposal is intended to acknowledge those extenuating circumstances that may necessitate depriving a resident of his daily shower. The proposal would also make the JDC regulation more closely resemble the existing JCC regulatory provision governing showers in 6VAC35- 71-610.

730	N/A	<p>Residents' privacy: Generally, when residents are bathing, dressing, or toileting, they must have privacy from sight supervision by members of the opposite sex. Medical personnel performing medical procedures or staff helping residents who have physical or mental disabilities that necessitate such supervision are excused from this provision, provided it is justified in the resident's record.</p>	<p>The proposal amends the provision to clarify that the justification must be included in the resident's health care record.</p>
740	N/A	<p>Nutrition: (B) JDCs must provide special diets or make alternative dietary schedules available for residents if prescribed by a physician or necessary to observe a resident's established religious dietary practices.</p>	<p>(B) The proposal changes the individual authorized to prescribe special diets or alternative dietary schedules from the physician to a licensed health care professional. This will give nurses in JDCs and other licensed health care professionals the authority to make these decisions. The proposal also adds language giving the JDCs the discretion to provide special diets to residents who have used food and equipment inappropriately, resulting in a threat to facility security if approved in writing by the administrator, his designee, or a QMHP. This will allow staff greater discretion in ensuring facility safety. The proposal makes other minor changes for style.</p>
770	N/A	<p>Recreation: JDCs must have recreation programs scheduled so as not to conflict with meals, religious services, educational programs or other regular events. Recreation programs must include regularly scheduled indoor and outdoor recreational activities. Outdoor recreation will be available whenever practicable consistent with the program.</p>	<p>The proposal strikes the reference to "other regular events." This provision is vague and has not enhanced compliance among JDCs. The proposal replaces "will" with "shall" in this provision in order to emphasize that there is an imperative duty on JDCs to ensure that outdoor recreation is available whenever practicable. These edits are minor and are intended to enhance compliance and provide additional guidance to staff in JDCs. The changes are not expected to impact facility operations significantly.</p>
780	N/A	<p>Residents' funds: JDCs may use a resident's funds solely for the benefit of the resident; for payment of his fines, restitution, costs, or support ordered by a court; or to pay restitution to the</p>	<p>The proposal adds a qualifier to clarify that the funds referred to in this section are the individual resident's personal funds, such as funds obtained through the resident's paid work assignments, and are not the facility's programming funds. This additional language is consistent with DJJ's interpretation in</p>

		facility for damaged property or personal injury.	the Compliance Manual, which has been in effect since 2014. As such, the proposed change is not expected to impact residents, staff, or operations.
790	N/A	Fundraising: JDCs may not use residents in fundraising activities without the resident’s consent and the written permission of the resident’s legal guardian.	The proposal adds a parent as an individual who may consent in writing to the resident’s participation in these fundraising activities. The proposal also adds an “as applicable,” to indicate that the parent or legal guardian’s written permission would not be required for those residents 18 or over. The change will not impact residents, staff, or operations.
800	N/A	Admission and orientation: JDCs must have written procedures that govern the process for admitting residents and orienting them to the detention center. (C) JDCs must conduct orientation for residents before assigning them to housing units or rooms. (D) The staff performing admission and orientation must be trained before engaging in these duties.	(C) The proposal strikes the directive that the orientation occur before assigning the resident to a housing unit or room. For many JDCs, this requirement is logistically challenging, given the hour that some residents arrive to the facility and other complications that may arise. Eliminating this requirement will give administrators the discretion to determine the resident’s housing assignment before orientation. (D) The proposal removes, as extraneous, the language related to training, as this requirement is set out in Section 190 (required initial training for employees). Finally, the proposal adds a new requirement (A)(3) to the admission process. The new language requires JDC staff to conduct a general assessment of the juvenile’s physical condition before admitting him to the program. Based upon the initial assessment, the administrator or his designee may not admit into the JDC’s custody a person who is (i) visibly under the influence of alcohol or drugs and deemed to require medical attention; or (ii) in need of immediate emergency medical attention. The proposal requires such individuals to receive written medical clearance from a physician or QMHP in an outside medical setting before the facility administrator may admit him into the facility. This additional language helps ensure that individuals experiencing a medical crisis receive medical attention before they are admitted.
810	N/A	Residents’ personal possessions:	The proposal makes minor style edits.

820	N/A	<p>Mental health screening: JDC residents must undergo mental health screenings pursuant to § 16.1-248.2 to determine their suicide risk level and need for a mental health assessment. The mental health screening must include: (1) a preliminary screening at admission, including a structured interview and observation, as provided in facility procedures; and 2) the administration of an objective, department-approved mental health screening instrument within 48 hours of admission.</p>	<p>The proposal adds language that gives the facility administrator the discretion to supplement the department-approved mental health screening instrument with additional questions or observations, as authorized in the facility’s written procedures. Current DJJ Guidelines require JDCs to utilize the Massachusetts Youth Screening Instrument – Second Version (MAYSI-2) as the required screening instrument. The MAYSI-2 includes a domain addressing suicide ideation, but many JDCs wish to supplement the instrument with their own additional questions to assist in assessing the immediacy of a resident’s suicide threat or risk. Because there is nothing in the current regulation explicitly prohibiting the provision of this additional information as part of the mental health screening, this proposal is not expected to have any additional impact on residents, staff, or facility operations.</p>
830	N/A	<p>Classification plan:</p>	<p>The proposal makes minor style edits</p>
840	N/A	<p>Discharge: The existing regulation sets out the requirements and conditions for resident discharges. The regulation uses the terms “discharge” and “release” interchangeably.</p>	<p>In order to reduce confusion, the proposal replaces references to “discharge,” including in the catchline, with “release.” The proposal makes additional style edits. These changes will not impact residents, staff, or operations.</p>
860	N/A	<p>Structured programming: JDCs must implement a structured daily routine designed to meet the objectives of any individual service plan.</p>	<p>The proposal makes a minor technical change for clarification. JDCs must develop service plans solely for those residents participating in a post-D program. The proposal adds language indicating that the requirement to satisfy the service plan’s objectives applies solely where applicable (i.e., where residents have a service plan in place). This change provides clarity and is not expected to impact residents, staff, or operations</p>
870	N/A	<p>Written communication between staff; daily log: (A) JDCs must implement procedures for a daily log or other written communication between staff and residents. (B) The date and time of the entry and identity of the scribe must be recorded. (C) If the log is electronic, entries must post the date, time, and name of the scribe</p>	<p>(B) The proposal retains the requirement regarding the date and time of the entry, but gives the JDC the discretion to establish the manner by which the individual making entries must be identified. This is a procedural issue that should be addressed in written procedures. The proposal will allow facilities to determine how best to document the recorder’s identification (e.g., for a single log entry versus each log entry, etc) and may minimally reduce</p>

		The computer must prevent previous entries from being overwritten	the time expended to document these events. (C) The proposal acknowledges this new discretion by providing that, to the extent the facility's log is electronic, all entries must be made in accordance with the new requirements in §870(B).
880	N/A	Additional assignments of direct care staff: (B) Residents in JDCs may not have sole responsibility for support functions, including, but not limited to food service, maintenance of building and grounds, and housekeeping. The implication is that residents may participate in these activities, provided other individuals, presumably nondirect care personnel, have primary or some shared responsibility.	The proposal adds language expressly permitting residents to assist in support functions, provided they are part of the established structured program. This clarifies the provision and is consistent with DJJ's current interpretation in its Compliance Manual. Thus, the change is not expected to have any additional impact on residents, staff, or operations. The proposal removes food service from the list of examples of duties for which a resident may not be solely responsible. Under § 480 of the current regulation, residents are strictly prohibited from working in the JDC's food service, and no exceptions are permitted. Because the change reflects language in an existing regulatory provision, the change will not impact residents, staff, or operations.
890	N/A	Staff supervision of residents: (B) Direct care staff may not be on duty and responsible for the direct care of residents for more than six consecutive days without a rest day except in an emergency. Rest day means a period of not less than 24 consecutive hours during which a staff person is not responsible for performing operational duties in a JDC, including participation in applicable trainings. (H) JDCs must implement written procedures governing the transportation of residents outside the JDC and across jurisdictions.	The proposal moves the definition of "rest day" to § 10 to comply with the Style Manual and modifies the definition by prohibiting direct care staff from performing duties related to supervision , rather than related to the operation of a JDC, on their rest days. This change will permit direct care staff to participate in training and other activities on their rest days, as long as the activity does not involve supervising residents. This will benefit administrators who struggle with the logistics of scheduling training for various full-time, part-time, and relief staff and assist them in ensuring that staff are adequately and timely trained. The provision may impose additional burdens on direct care staff whose facility administrators opt to allow training on rest days. H) The requirements regarding written procedures and transportation outside JDCs have been incorporated into the revised § 630 (Transportation of residents), rendering this provision duplicative.
900	N/A	Staffing pattern: (A) During resident's scheduled hours awake, at least one direct	(A) The proposal adds language directing the JDC to develop, implement, and document a staffing

		<p>care staff member must be awake, on duty, and responsible for supervising every 10 residents on the premises or participating in off-campus, JDC-sponsored activities.</p>	<p>plan to ensure that the facility has sufficient staffing for the safe supervision of residents. This requirement is consistent with PREA. (B) The proposal modifies the direct care employee to resident staffing ratio from 1:10 to 1:8 in order to comply with the standards applicable to juvenile residential facilities under PREA. PREA's juvenile facility standards mandate that every secure juvenile facility maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours, except in discrete exigent circumstances. Retaining the existing provision would render the regulation in conflict with PREA. JDCs are required to comply with PREA and undergo a separate PREA audit to determine compliance. However, to the extent a facility fails to meet these staffing requirements, it may be deemed noncompliant in its PREA audit as well as the state certification audit. Therefore, this provision may create additional burdens for facilities that are not in compliance with the explicit PREA provisions addressing staffing ratios. The proposal also replaces participating with attending in subsection (B) so that in the unlikely event that a resident is off campus and merely attending but not participating in an event, the JDC would still need to meet the staffing ratios. The proposal makes other minor edits for style.</p>
920	N/A	<p>Work and employment: (A) Paid and unpaid chores must accord with the resident's age, health, ability, and individual service plan. (B) Chores shall not interfere with school programs, study periods, meals, or sleep. (C) The facility administrator or designee must evaluate the appropriateness of the work and fairness of the pay for work assignment and resident employment opportunities.</p>	<p>(A) The proposal removes the requirement that these chores accord with the resident's service plan. This requirement is unnecessary and can impede a JDC's ability to impose chores as a behavior management tool or for other purposes. (B) The proposal broadens the provision prohibiting interference with school programs, study periods, meals, or sleep to include paid work assignments, in addition to unpaid assignments. (C) The proposal limits the facility administrator's duty to evaluate the appropriateness of work and fairness of pay to external employment opportunities for residents. This change seeks to reflect facility practices and is not expected to have additional impact.</p>

930	N/A	Health authority: Every JDC must have a health authority responsible for organizing, planning, and monitoring the provision of resident health care. Eligible individuals may include physicians, nurses, nurse practitioners, government authorities, health administrators, health care contractors, or health agencies.	The proposal adds “psychiatrist” to the list of individuals who may be designated as a “health authority.” While most JDCs do not have psychiatrists on staff, this provision will give JDCs that are currently employing psychiatrists and those who elect to do so in the future, greater discretion in determining which position is best suited to serve as the facility’s health authority.
940	N/A	Provision of health care services: Nurses must provide treatment consistent with Virginia’s laws and regulations governing nurses, and other health-trained personnel must provide care within their level of training and certification	The proposal removes the reference to other health-trained personnel, as the manner and level of care that these individuals must provide is established in § 960 of the regulation. This change will not impact residents, staff, or operations.
950	N/A	Health care procedures: (B) JDCs must ensure that certain written information about every resident (e.g., contact information for physician, dentist, and relative) is readily accessible to staff to respond to medical or dental emergencies	The proposal adds a minor qualifier that such information must be readily accessible to designated staff. This change will compel facility administrators to determine which staff members would require this information to effectively respond to medical and dental emergencies and ensure that this information is readily accessible to such staff in medical crises. The proposal mirrors the language in the JCC regulation. The proposal makes other minor style edits. These changes are not expected to significantly impact residents, staff, or operations.
960	N/A	Health-trained personnel:	The proposal makes minor style edits.
970	N/A	Consent to and refusal of health care services: (A) Health care services must be provided in accordance with § 54.1-2969 of the Code of Virginia.	(A) The proposal corrects this misleading statement regarding § 54.1-2969. It is the consent for health care services, and not the services themselves, that must accord with this statutory section. The proposal also removes the explicit use of the term “informed consent” but retains the concept that JDCs must obtain this consent before providing health care services. These are nonsubstantive changes that will not impact residents, staff, or operations.
980	N/A	Health screening at admission: (A) Residents must undergo a preliminary health screening	(A) The proposal removes the requirement that the preliminary health screening occur immediately upon admission. The purpose of this

		<p>immediately upon admission consisting of a structured interview and observation by health care or health trained personnel. (B) If an admitted resident poses a health or safety threat to himself or others, he must be separated from the general population but must receive comparable services.</p>	<p>amendment is to give the facility some leeway if circumstances prevent the JDC from conducting the screening immediately. (B) The proposal clarifies that for residents who are determined to pose a health or safety threat to themselves or others, the separation from general population need persist only for as long as the resident remains a risk. This change is intended for clarity and not expected to further impact residents, staff, or facilities.</p>
990	N/A	<p>Tuberculosis screening:</p>	<p>The proposal makes minor style edits</p>
1000	N/A	<p>Residents' medical examination; responsibility for preexisting conditions: This section addresses the requirements for a resident's initial physical exam upon admission. Generally, residents must receive an initial physical within five days of admission unless there is documented evidence of a complete health exam within the previous 90 days. In these cases, the physician or qualified health care practitioner must review the resident's health record and update as necessary.</p>	<p>The proposal makes a minor edit to clarify that the record that the physician or qualified health care practitioner must review or update as necessary is the resident's health care record. This is consistent with the terminology used throughout the regulation. This change clarifies existing language and will not impact residents, staff, or facilities. Additionally, the proposal adds language addressing the information that must be collected and included as part of the resident's physical exam, as currently set out in § 1030. This section speaks to the requirements for residents' health care records. As this change reflects current duties, it will have no additional impact.</p>
1010	N/A	<p>Infectious or communicable diseases: A resident with a communicable disease may be housed in the general population only if a licensed physician certifies that the facility can care for the resident without jeopardizing others in the facility and knows the necessary treatment and procedures to protect residents and staff</p>	<p>The proposal changes the individual authorized to make this certification from a licensed physician to a health care professional. The objective is to allow other licensed health care professionals, such as nurses, to make this determination. The proposal makes other minor edits for style and clarification that will not impact residents, staff, or the facility.</p>
1020	N/A	<p>Suicide prevention: JDCs must have written procedures providing for a suicide prevention and intervention program and providing that all direct care staff be trained and retrained in the program.</p>	<p>The proposal adds cross references to §§ 190 (required initial training for employees) and 200 (retraining requirements for employees), the two training sections that address suicide prevention and makes additional minor edits.</p>
1030	N/A	<p>Residents' health care records: In furtherance of</p>	<p>The proposal moves the specified content that must be included as part of</p>

		the objective of addressing health care records, subsection B of this section enumerates the content that must be included in the report completed when the resident obtains a physical pursuant to § 1000, such as information regarding the resident's vision and hearing exams, nutritional requirements, and restrictions on physical activities.	the resident's physical examination report into § 1000, which is specific to the resident's physical and, therefore, directly applicable to this section. The proposal replaces references to "health record" with "health care record" consistent with the terminology used elsewhere in the regulation. The proposal makes additional minor edits for style purposes. These non-substantive revisions will not impact residents, staff, or operations.
1040	N/A	First aid kits: (A) Every JDC must maintain a well-stocked first aid kit and inventory of its contents. The kit must be readily accessible to address residents' minor injuries and medical emergencies. (B) First aid kits should be monitored in accordance with established facility procedures.	The proposal modifies the provision to require that JDCs maintain such kits in the facility and all facility vehicles used to transport residents. This change may result in additional expenses for those facilities that maintain a fleet of vehicles for resident transportation and do not maintain first aid kits in these vehicles. (B) The proposal replaces the reference to "should" in this subsection with "shall," in order to impose an imperative duty on the facility, rather than a recommendation, to monitor the kits in accordance with facility procedures. The proposal also clarifies that these procedures must be written and makes additional style edits that are not expected to have a significant impact on residents, staff, or facility operations.
1050	N/A	Hospitalization and other outside medical treatment of residents: When residents require medical attention outside the JDC, they must be transported safely.	The proposal strikes this vague requirement. The newly added provisions addressing transportation of residents outside JDCs (§§ 630 and 635) set out specific rules related to the safe transportation of residents (e.g., prohibition against transporting juveniles with adults charged with a criminal act, mandate to inform third party transporters of resident's immediate medical needs and mental health condition, etc). The removal of this vague requirement is not expected to have a significant impact.
1060	N/A	Medication: (A) All medication shall be securely locked, except (i) as required by 6VAC35-101-1250 (delivery of medication in post-D programs) or (ii) if otherwise ordered by a physician individually for keep-on-person or equivalent	(A) The proposal modifies the provision to clarify that the exception applies if authorized rather than required in written procedures pursuant to 6VAC35-101-1250. That section gives facilities with residents in post-D placements for longer than 30 days the discretion to establish in written procedures whether these residents will be permitted to

		<p>use. (H) If a medication incident or adverse drug reaction occurs, staff must promptly contact a poison control center, pharmacist, nurse, or physician and take actions as directed. (K) Disposal and storage of unused, expired, and discontinued medications must accord with applicable laws and regulations.</p>	<p>selfmedicate. This change is intended to provide clarification and will not impact residents, staff, or facilities. (H) The proposal adds hospitals to the list of entities a JDC may contact in response to a medication incident or adverse drug reaction. The proposal also strikes the definition for medication incident and places it in § 10 in accordance with the Style Manual. (K) The proposal expands this provision to include medical implements, in addition to medications to provide guidance as to how to address the disposal of medical implements. The proposal makes a number of additional style changes.</p>
<p>1070</p>	<p>N/A</p>	<p>Behavior management: (A) JDCs must implement a behavior management program. (B) The JDC must have written procedures governing the program that provide for orientation of residents. (B)(3) – Written procedures must define and list the privileges and sanctions used and available for use. Sanctions may include a cooling-off period where a resident is placed in a room for up to 60 minutes and must identify alternatives to room confinement. Written procedures must establish documentation requirements when privileges or sanctions are imposed. (D) The facility administrator must review the JDC’s behavior intervention techniques and procedures at least annually to determine appropriateness for the population served.</p>	<p>(A) – (B) The proposal clarifies that: (i) these programs must be implemented in each facility; and (ii) with respect to the written procedures addressing orientation, residents must be oriented to the behavior management program. These changes are intended for clarity and will not have an additional impact. (B)(3) – The proposal imposes additional requirements that direct the JDCs to identify, in written procedures, the specific behaviors or offenses that may result in the listed privileges or sanctions and the maximum duration of the sanction for the delineated behavior or offense. This will ensure that JDC personnel have clear parameters as to the types of offenses that may warrant various sanctions. References to “sanctions” in this section are replaced with “consequences” to acknowledge those rare occasions in which residents may utilize a selfimposed “cooling-off” period as a means of controlling their own behaviors. The proposal also strikes the explanation for “cooling-off” period currently provided in this section and incorporates this information into the newly added definition for “cooling-off” period, in § 10. The proposal replaces references to “room confinement” with “disciplinary room restriction (see §§ 1100 and 1105 discussion for additional information). Finally, the proposal adds a new subsection (C) that establishes additional parameters for “cooling-off periods.” Facilities that use cooling-off periods must develop and comply with written procedures that: i) identify the</p>

			<p>area in which the period will be served; ii) ensure that residents can verbally or electronically communicate with staff while cooling off, iii) require that staff check on residents who are cooling off at 15 minute intervals or more often if the circumstances require, iv) direct that each cooling-off period be documented, including whether the periods are voluntary or compulsory, and v) ensure that the information is staff-accessible and capable of being reviewed. (E) The proposal enhances the facility administrator's duty to review the facility's internal behavior intervention techniques and procedures. The amendments direct facility administrators to collect information on the JDC's behavior intervention techniques and procedures, including the use of room restriction and cooling-off periods, and to review this information at least annually to inform the facility's practices. These new, more specific directives may create additional data-gathering responsibilities for staff in JDCs, which may require additional positions or an update to existing systems or software and may result in an increased workload for existing staff. This change will ensure that each JDC is collecting information to determine patterns regarding room restriction and cooling-off periods and the effectiveness of these interventions.</p>
1080	N/A	<p>Disciplinary process: (B) Generally, alleged rule violations that could result in room restriction trigger a disciplinary report requirement. No disciplinary report is required, however, for residents placed in "cooling-off periods" that do not exceed 60 minutes. (C) JDC staff must document each rule violation punishable by room restriction in a disciplinary report. Once the report is completed and the resident has exercised his due process rights, staff must then render a decision. The entire process must occur within 12 hours after the</p>	<p>(B) The proposal removes the language in this section restricting cooling-off periods to 60 minutes because the 60-minute cap has been incorporated into the definition of "cooling-off period" in § 10. (C) The proposal strikes the provision directing JDC staff to document the interruption of the twelve-hour period during the resident's scheduled sleeping hours. This requirement is unnecessary given that the disciplinary report must identify the date, time, and location of the incident. This change will reduce the paperwork required of staff in JDCs and is not expected to impact residents. (D)(1) As with subsection (C), the proposal strikes the provision directing JDC staff to document the interruption of the 24-hour period during the resident's scheduled sleeping hours, based on the</p>

		<p>alleged rule violation, including weekends and holidays. If the 12 hours ends during the resident's scheduled sleeping hours, the JDC must document the delay and the clock resumes at the start of the resident's waking hours. (D)(1) The resident may appeal the decision, and the facility administrator or designee has 24 hours from the alleged rule violation to rule on the appeal. If the time frame ends during the resident's scheduled sleeping hours, the delay must be documented and the clock resumes at the start of the resident's waking hours. The facility administrator may conduct his review electronically. (D)(2) The JDC must notify the resident in writing of the results of the appeal. (E) A copy of the disciplinary report must be placed in the case record when a resident is determined guilty. The report must be removed from the resident's record and maintained in accordance with 6VAC35-101-330 (maintenance of residents' records) when a resident is determined not guilty of the rule violation.</p>	<p>same rationale as above. The proposal also removes as unclear and confusing the facility administrator's authority to conduct his review electronically. (D)(2) The proposal strikes the requirement that the resident be notified in writing, instead requiring the JDC to document by signature of the resident and staff that the resident was informed of the results of the appeal. This will give staff flexibility as to how the appeal results will be disseminated to the affected residents. (E) The proposal strikes the language that makes the duty to place the disciplinary report in the resident's case record contingent upon a guilty outcome. Instead, the proposal requires all disciplinary reports to be placed in the resident's record, regardless of the ultimate determination of innocence or guilt. This will reduce administrative responsibilities for staff. This change is not expected to impact the resident. The proposal removes the separate catchlines in subsections (A) through (E) (e.g., procedures, disciplinary report, review of rule violation, appeal, and report retention). Generally, pursuant to the Style Manual, catchlines should not be assigned to subsections and subdivisions. The proposal replaces references to "sanctions" in this section with "consequences," specifically to acknowledge that "cooling-off periods" may be compulsory or, in some cases, resident-imposed (see discussion of Section 1070). References to "room confinement" are replaced with "room restriction."</p>
1090	1115	<p>Physical restraint: (A) JDCs shall use physical restraints as a last resort only after less restrictive interventions have failed or to control residents whose behavior poses a risk to the safety of the resident, others, or the public. (A)(2) Staff may physically restrain a resident only after less restrictive behavior interventions have failed or when failure to restrain would harm the resident or others. (A)(3) Only staff</p>	<p>The proposal repeals Section 1090 and moves all of its contents into a new Section 1115 so that the physical restraint, mechanical restraint, and restraint chair sections can be grouped together. The proposal strikes (A)(2) in its entirety as duplicative. The proposal changes the identified parties for whom the resident's behavior must pose a risk in order for physical restraints to be applied to include the resident, staff, or others, rather than the resident, others, or the public. The proposal adds a cross reference to direct the reader to the training requirements set out in §§ 190 and 200 and makes additional minor</p>

		<p>trained in proper and safe restraint may implement, monitor, or discontinue physical restraints.</p>	<p>style edits. These nonsubstantive changes are not expected to impact residents, staff, or operations.</p>
<p>1100</p>	<p>N/A</p>	<p>Room confinement and isolation: (A) Written procedures must govern how and when residents may be confined to a locked room for segregation and isolation. (B) When a resident is confined to a locked room, including for isolation, staff must check the resident visually at least every 30 minutes and more often if circumstances indicate. Staff must check residents on suicide watch at least every 15 minutes in accordance with approved procedures. (C) Residents in isolation must be afforded the opportunity for at least one hour of physical exercise outside of the locked room every calendar day, unless the resident's behavior or other circumstances justify an exception. The rationale for the exception must be documented. (D) - (E) If a resident is confined to his room for more than 24 hours, the facility administrator or designee must be notified. (E) – (F) If confinement extends to more than 72 hours, the confinement and steps planned or taken to resolve the situation must be reported immediately to the director or designee. Verbal reports must be followed immediately with a written, faxed, or secure email report. (F) - (G) Room confinement may not exceed five consecutive days unless ordered by a medical provider. (H) – (I) The administrator or designee must make personal contact with each</p>	<p>(A) The proposal replaces references to “segregation” or “room confinement (e.g., “confined to a locked room),” throughout this chapter and more specifically, in this section, with “room restriction.” The proposal also replaces references to isolation with “disciplinary room restriction,” in this section and chapter. These changes are intended to reflect the nomenclature that has been adopted in many JDCs and to change the negative images and connotations often associated with these formerly used terms. The proposal adds additional information that must be included in written procedures addressing “room restriction” including: 1) actions that may result in room restriction; 2) factors to consider before imposing room restriction; 3) situations that necessitate a debriefing with the resident and the parameters around such debriefing; and 4) conditions under which staff must consult with a QMHP for residents who self-injure while in room restriction.</p> <p>(B) The proposal increases the frequency of visual checks for residents placed in room restriction to once every 15 minutes and removes the special provision addressing residents on suicide watch. As a result, staff must conduct visual checks on all residents on room restriction at 15- minute intervals.</p> <p>(C) The proposal specifies that the physical exercise is large muscle activity and requires the facility administrator or his designee’s approval before any exception may be applied.</p> <p>(D) – (E) The proposal is amended to require the facility administrator to provide written approval in order for room restriction to continue beyond 24 hours, which approval must include a rationale of why the continued room restriction is necessary.</p> <p>(E) – (F) The proposal adds language requiring that for room restriction anticipated to exceed 72 hours, the medical and mental health status of the resident be assessed by a QMHP or</p>

		<p>resident who is confined to a locked room each day of confinement.</p>	<p>qualified medical professional during the initial 72-hour period and on a daily basis after the 72-hour period elapses until the resident is released from room restriction. (F) - (G) The proposal adds mental health providers to the individuals authorized to order restriction beyond 5 days. (H) - (I) The proposal directs the administrator to ensure that all restricted residents, except those in disciplinary room restriction, are restricted only as long as necessary to address the resident's negative behavior or threat. The proposal directs the administrator, during the daily visit, to assess and document whether nondisciplinary restricted residents are prepared to return to general population and, for all restricted residents, whether they require a mental health evaluation. (J) The proposal adds a new subsection that prohibits JDCs from housing more than one restricted resident per room. These changes reflect the national trend towards more monitoring protocols, additional opportunities for resident/staff interaction, and other changes aimed at ensuring the continued safety of restricted residents. While these changes are anticipated to impose significant additional administrative responsibilities on JDC staff that may necessitate hiring additional personnel, the changes will help to ensure that room restriction is administered in a manner that ensures the safety of both residents and staff and produces the most positive outcome for residents.</p>
<p>N/A</p>	<p>1105</p>	<p>Disciplinary room restriction: Section 1100 also addresses "isolation," which is intended to apply when residents are placed in confinement for violating a facility rule, after application of the disciplinary process. Section 1100 provides that during isolation, residents are prohibited from participating in activities with other residents, and all activities are restricted, with the exception of eating,</p>	<p>The proposal removes this provision from § 1100 and places it in this new § 1105, intended to address isolation solely. The proposal also amends this provision to prohibit JDCs from restricting legally required educational programming and special education services, in addition to the existing prohibitions. This new language is consistent with state and federal law. The proposal removes writing and reading from the list of activities JDCs are prohibited from restricting and adds language requiring the administrator or his designee to provide opportunities for residents placed in disciplinary room</p>

		sleeping, personal hygiene, reading, and writing.	restriction to engage in reading or writing activities in accordance with their safety or security needs. This change acknowledges the potential safety issues for restricted residents who are given writing utensils or reading materials during their restriction period and gives facility administrators some discretion as to how to provide opportunities for these exercises in a manner that ensures the resident's safety. The proposal also adds language requiring the JDC to have written disciplinary room restriction procedures that: (i) permit residents to be placed in disciplinary room restriction only after application of the disciplinary process and (ii) require JDCs to comply with the behavior management requirements with respect to disciplinary room restriction
1110	N/A	Administrative confinement: This section addresses the rules for residents placed in administrative confinement, a special housing unit, or designated cell established for protective custody or to manage residents whose behaviors seriously threaten facility security.	The proposal repeals this section in its entirety. The general provisions addressing room restriction are comprehensive and sufficient to encompass residents who are placed in room restriction for protective custody purposes or to address special management of behaviorally-challenged residents. Furthermore, few JDCs currently have separate housing units or designated cells established for protective custody. As such, repealing this section is not expected to have a significant impact on residents, staff, or facility operations.
Article 3, §1130	N/A	Mechanical restraints: (A)-(A)(1) - JDCs must have department-approved written procedures governing mechanical restraints. The procedures must specify the conditions for use of mechanical restraints. (A)(2) – (A)(6), (B) – These sections require JDCs to include in their written procedures parameters on mechanical restraint use, including provisions for: (i) notifying the facility administrator or designee immediately when restraints are used in emergencies; (ii) never using restraints as a	(A) – (A)(1) -The proposal strikes the general provision that effectively authorizes facilities, through written procedures, to determine the purposes and conditions for which mechanical restraints may be used, replacing it with a provision limiting permissible uses of mechanical restraints to the following purposes: (i) to control residents whose behavior imminently risks their own safety or that of staff or others; (ii) for controlled movement, or (iii) to address emergencies. The proposal moves the enumerated list of mechanical restraints into the definition in Section 10 and expressly excludes mechanical restraint chairs from this list to allow for distinct treatment. (A) (2) – (A)(6), B) – Rather than directing JDCs to include these

		<p>sanction; (iii) never restraining residents to fixed objects or in unnatural positions; (iv) recording each restraint, except restraints for transportation or during video court proceedings, in the case file or central log book; and (v) maintaining a written record of distribution of routine and emergency restraint equipment. Additionally, the procedure must require training for staff authorized to use mechanical restraints and such training must address checking for circulation and injuries.</p>	<p>provisions in their procedures, the proposal adds a new subsection (B) that imposes many of these requirements outright. The requirements differ in that: (i) there is a new provision allowing mechanical restraint use only for as long as necessary to address the intended purpose in subsection (A); (ii) a QMHP, mental health clinician, or other qualifying licensed medical professional may terminate mechanical restraint use upon determining the restraint poses a health risk; (iii) JDCs must have systems of accountability in place, rather than a written record, regarding distribution of mechanical restraints; (iv) staff authorized to use mechanical restraints need not be trained specifically on how to check for signs of circulation or injuries (as these specific duties will be borne by health-trained staff as discussed below, and (v) these restrictions and requirements have been expanded to apply to the use of protective devices, (as defined in Section 10), in addition to mechanical restraints. These new provisions will help to limit the duration of mechanical restraint and protective device use and ensure properly trained and knowledgeable medical or mental health professionals can assess any threats to the resident's physical or mental health brought on by placement in the chair.</p> <p>In addition, the proposal expressly permits JDCs to secure residents to hospital beds or wheelchairs in outside medical settings if authorized in writing by the facility administrator. This change will enhance safety in nonsecure medical settings by giving the facility administrator additional discretion to control residents who are dangerous or pose a flight risk.</p> <p>The proposal adds a subsection (C) applicable when JDCs wish to continue using a mechanical restraint to control a resident after the initial threat necessitating the restraint is abated. In these cases, if the facility deems continued use of the restraint necessary because the resident is threatening to injure himself or others, the JDC must notify a health care provider and mental</p>
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			<p>health clinician or QMHP before continuing use of the restraint.</p> <p>A new subsection (D) prohibits JDCs from using protective devices if the use is not in connection with a restraint and requires the JDC to remove the device as soon as the resident is released from the restraint.</p> <p>Finally, the proposal adds a new subsection (E) expressly authorizing the use of spit guards on JDC residents provided: the guard’s design does not inhibit the resident’s ability to breathe and allows for visibility and the device is sold specifically to prevent biting or spitting. The proposal allows these devices to be used only on residents who previously bit or spit on someone at the current facility or threaten, attempt to, or actually spit on a resident or staff in the course of being restrained.</p> <p>The spit guard must be applied so as not to inhibit the resident’s breathing, and staff must ensure the resident is reasonably comfortable and has access to water and meals while the guard is in place. Staff also must supervise the resident constantly while the guard is in place and if the resident exhibits signs of respiratory distress, staff must take immediate action to prevent injury and to notify supervisory staff. Staff may not use a guard on an unconscious, vomiting or resident in obvious need of medical attention.</p> <p>These changes will help to reduce the use of mechanical restraints and protective devices, control the duration of such use, and ensure that such devices are used in the safest manner.</p>
1140	N/A	<p>Monitoring restrained residents: (A) JDCs’ written procedures must require staff to make direct personal checks on mechanically-restrained residents a minimum of once every 15 minutes and more frequently if the resident’s behavior warrants. Other provisions in this chapter applicable to staff checks on residents</p>	<p>(A) The proposal clarifies this provision by replacing the reference to a “direct personal check” with a “face-to-face” check to indicate that the employee and resident must be in close proximity and staff must be able to look directly at the resident’s face to satisfy this requirement. In addition, the proposal adds new language directing the employee to try to engage verbally with the resident during these checks and offering examples of permissible</p>

		<p>(e.g., § 1100) require staff to check the resident “visually,” which suggests a distinction between direct personal checks and visual checks. Furthermore, during the checks, staff must monitor the resident’s circulation and monitor him for injuries. (B) If a JDC mechanically restrains a resident for more than two cumulative hours in a 24-hour period (except during routine transportation) staff must immediately consult with a health care provider and mental health professional. (C) If a mechanically restrained resident exhibits self-injurious behavior, staff must consult immediately (and document such consultation) with a mental health professional and must monitor the resident in accordance with established protocols that comply with Section 1150. (see discussion below).</p>	<p>approaches for engagement. Finally, the proposal requires a healthtrained staff member to monitor the resident for signs of circulation and for injuries during each periodic check. These changes will help to ensure that residents restrained for extended periods are being properly monitored and are not escalating. (New B) –The proposal adds a new subsection (B) that requires JDCs to allow residents mechanically restrained for longer than one hour to exercise each of his limbs for at least 10 minutes every two hours in order to prevent blood clots. This is consistent with the National Commission on Correctional Health Care’s Standards for Health Services in Juvenile Detention and Confinement Facilities. (B) - (New C) - The proposal amends this subsection to allow staff to consult with either a QMHP or a mental health clinician, in addition to the health care provider, when a resident is mechanically restrained for two hours cumulatively during a 24-hour period, and moves this provision to subsection (C). (New D) – The proposal moves the provision that addresses residents who exhibit self-injurious behaviors while mechanically restrained to subsection (D) and adds language requiring staff to respond by whatever means appropriate to ensure the threat or harm is stabilized before consulting with the QMHP or mental health clinician. This adds a layer of protection for both staff and residents and ensures that staff will stabilize the threat before contacting the mental health professional for additional guidance. The proposal also removes the provision requiring the protocol to comply with section 1150, as that section is being repealed (see discussion of Section 1150 below).</p>
N/A	1145	N/A	<p>Written procedures regarding mechanical restraints and protective devices: The proposal adds language requiring JDCs to establish written procedures to reflect all of the provisions established in Article 3 (§ 1130, 1140, and 1145). This eliminates the need to require procedures related to specific requirements in each section.</p>
1150	N/A	<p>Restraints for medical and mental health purposes:</p>	<p>The proposed amendments to Sections 1130 and 1140 expressly address</p>

		<p>JDCs' written procedures currently govern the use of restraints for medical and mental health purposes and must address what authorization is necessary for restraint use and when, where, how, for what duration, and what types of restraints may be used.</p>	<p>notifications and authorizations needed for general use of restraints, as well as guidance on permissible purposes, duration, and types of restraints, rendering a provision applicable solely to restraints for medical and mental health purposes unnecessary. Furthermore, adopting the proposed amendments to Sections 1130 and 1140 and repealing this provision guarantee that JDCs across the state will have a more uniform process in place when applying mechanical restraints.</p>
<p>N/A</p>	<p>Article IV, § 1153</p>	<p>Section 1130 of the existing regulation lists, among other authorized mechanical restraints, mobile restraint chairs and requires JDCs to establish written procedures governing the conditions under which they may be used. Because mobile restraint chairs fall under the list of permissible mechanical restraints, all of the existing restrictions in Sections 1130 and 1140 applicable to mechanical restraints apply to the mobile restraint chair.</p>	<p>Mechanical restraint chair; general provisions. Rather than leaving the discretion to JDCs to decide the conditions under which restraint chairs may be used, the proposal creates a new Article IV and establishes several new sections (§§1153 through 1159) that impose restrictions on their use. Section 1153 sets forth general provisions regarding the use of restraint chairs in JDCs. Among these: (i) restraint chairs may never be used as a sanction; (ii) staff authorized to use the chair must receive initial and annual training; (iii) before a resident is placed in the chair, the JDC administrator must approve; (iv) with the exception of situations in which residents volunteer to be placed in the chair, staff must notify the health authority immediately upon placing the resident in the chair, who must assess the resident's health condition or behavior and determine if he should be placed in a health unit for emergency involuntary treatment; (v) for residents exhibiting self-injurious behavior while in the chair, staff must take appropriate action to stabilize the threat, consult a mental health clinician or QMHP immediately thereafter, and obtain approval for continued use; (vi) the health authority, mental health clinician, QMHP, or other qualifying licensed medical professional may terminate use of the chair if they determine it poses a health risk; (vii) each use of the chair triggers a requirement to complete a serious incident report and comply with all other provisions in Section 80, (viii) each use must be documented in the resident's case file or a central logbook, and must include specific information, and (ix)</p>

			<p>once a resident is released from the chair, staff must conduct a debriefing.</p> <p>The new provisions in this Section and throughout this Article will result in additional duties and obligations for staff, but are intended to ensure that staff are using restraint chairs sparingly, that the appropriate staff are notified of and sign off on initial or continued use of the chair, that the chair will not be used if such use presents a health risk, and that the JDC maintains sufficient documentation to assess and evaluate each use of the restraint chair</p>
N/A	1154	N/A	<p>Mechanical restraint chair use for controlled movement; conditions. The proposed amendments outlined in Sections 1154 and 1155 highlight the following three purposes for which residents may be placed in the restraint chair: (i) for controlled movement from one area of the facility to another, (ii) as a self-regulation tool, or (iii) if their behavior directly and immediately threatens themselves or others. Under this section, residents may be placed in the restraint chair for purposes of controlled movement provided: (i) their refusal to move directly and immediately threatens the resident or others or interferes with required facility operations; and (ii) placement in the chair is the least restrictive option available to ensure the resident's safe movement. These controls ensure that JDCs will use the restraint chair as a last resort and only for as long as is necessary to transport the resident</p>
N/A	1155	N/A	<p>Mechanical restraint chair use for purposes other than controlled movement; conditions for use. Under the proposal, a JDC may use the chair for purposes other than controlled movement if: (i) the resident's behavior presents a direct, immediate threat to himself or others; (ii) less restrictive alternatives were attempted, unsuccessfully, and (iii) the resident remains in the chair only until the threat is abated or the resident gains self-control. The proposal allows for continued restraint after the direct threat is abated if staff determines continued restraint is needed to maintain security due to the resident's credible threat to</p>

			<p>injure himself or others; however, staff must consult with and obtain approval from a QMHP or mental health clinician before continuing the restraint. When residents are placed in the chair voluntarily in accordance with an approved plan of care by a QMHP, these restrictions do not apply. The proposal also adds monitoring requirements applicable when JDCs use the chair for purposes other than controlled movement. Staff must employ constant one-on-one supervision and attempt to engage verbally with the resident while restrained. Health-trained staff must check the resident for signs of circulation or injury once every 15 minutes. Staff also must ensure that the resident is reasonably comfortable and has access to meals, water, and toilet.</p>
N/A	1156	N/A	<p>Monitoring residents placed in a mechanical restraint chair: This new provision, applicable regardless of the purpose for which the chair is used, requires JDC staff to allow residents restrained in the chair for longer than one hour to exercise each of their limbs for a minimum of 10 minutes every two hours to prevent blood clots. This provision is consistent with the National Commission on Correctional Health Care's Standards for Health Services in Juvenile Detention and Confinement Facilities.</p> <p>The proposal also requires JDCs to film staff placing the resident in the chair when he is restrained for controlled movement, and the entire restraint, from placement to release, when the resident placed in the chair for purposes other than controlled movement. These provisions will enable the department to assess whether the JDC has complied with these regulatory requirements.</p>
N/A	1157	N/A	<p>Department monitoring visits: In order to ensure that JDCs are complying with the regulatory provisions regarding use of the chair, the proposal subjects the JDC to a monitoring visit by department staff for each use of the chair, regardless of the purpose or duration of the restraint. The proposal also requires the department to annually submit for the board's review and consideration, a written report outlining the results of</p>

			each such monitoring visit. These provisions will allow the department and board to monitor JDC compliance with the mechanical restraint chair provisions and to determine whether, based on the information obtained, the board should revisit the regulatory authorization to use the chair.
N/A	1158	N/A	Written procedures regarding mechanical restraint chairs: The proposal requires JDCs to have written procedures in place that reflect the requirements in Article 4 (Sections 1153 through 1158). This eliminates the need to require procedures related to specific requirements in each section. Although the proposal imposes additional duties on staff, it will ensure that JDCs have written procedures in place for carrying out the mandates of this article.
1160	N/A	Approval of postdispositional detention programs: JDCs must have board approval to operate post -D programs, as indicated on their board-issued certificate. The board must base its approval on the program’s compliance with each of the existing post-D regulatory provisions currently set out in §§1170 through 1270.	Effective September 2013, the department amended its Certification Regulations (6VAC35-20) to give the director, rather than the board, the authority to certify residential facilities regulated by DJJ. In accordance with these changes, the proposal lists the director as the individual authorized to conduct post-D program certifications. As this requirement is contained in the current Certification Regulations and reflects the current practice, this change will not impact facility operations. The proposal also removes the requirement that the board base its approval of the program on its compliance with the post-D regulatory provisions. A JDC cannot meet many of the regulatory requirements in the aforementioned sections (e.g., requirement to develop a service plan within 30 days of the resident’s admission; required information that must be contained in post-D record, etc.) without having first been certified to operate the program.
1170	N/A	Agreement with court service unit: Post-D programs must request written agreement with the CSU of the committing court that defines working relationships and responsibilities in implementing and utilizing the post-D program.	The proposal imposes a more stringent requirement on JDCs operating post-D programs that reflects the existing practice for most programs. The proposal requires the post-D program to enter into a written agreement with the CSU, rather than merely requesting a written agreement. Absent this language, a mere request by the applicable post-D program for a written agreement would be sufficient, without

			the actual execution of an agreement. Execution of a written agreement will ensure that the parties have agreed to the terms regarding these programs. The proposal also replaces references to the “committing court” with the “court ordering placement” because residents are not committed to post-D programs.
1180	N/A	Placements in postdispositional detention programs: (B)(2) – If a court orders a resident to a post-D program, the JDC must develop a written plan with the CSU within five business days that will allow the resident to participate in at least one locally available treatment program in the community or at the JDC.	The proposal directs JDCs to address how the resident will be transported as part of the plan, and gives JDCs the authority to allow, as part of the plan, JDC and CSU staff, as well as other adults approved by the JDC to be responsible for transporting the residents. This provision is currently part of the Guidelines for Transporting Juveniles in Detention that will no longer be incorporated by reference into the regulation. Prior to January 1, 2016, JDCs were subject to this requirement by virtue of the Guidelines. Therefore, this change is not expected to have any additional impact on residents, staff, or facilities.
1190	N/A	Program description	The proposal makes a minor style edit.
1200	N/A	Individual service plans in postdispositional detention programs: (A) JDCs with postD programs must ensure that a service plan is developed and placed in each post-D resident’s record. The plan must specify short term and long term goals, the objectives, strategies, and time frames for reaching them, and the individuals responsible for carrying out the plan.	The proposal removes the requirement that the service plan specify short- and long- term goals. The duration of a post-D program is, at most, 180 days, and service plans for resident participants must be completed within 30 days following their admission. This gives the resident only five months to accomplish whatever goals are established and eliminates the need to distinguish between short and long-term goals. The proposal will allow the post-D staff more leeway in developing appropriate goals for residents participating in the program. The proposal also makes minor style edits. These changes will not significantly impact residents, staff, or operations.
1210	N/A	Progress reports in postdispositional detention programs:	The proposal makes minor style edits.
1220	N/A	Case management services in postdispositional detention programs:	The proposal makes minor style edits.
1230	N/A	Residents’ health care records in postdispositional detention programs	The proposal makes minor style edits.
1240	N/A	Services by licensed professionals in	(A) The proposal strikes this specific directive in favor of a more general

		<p>postdispositional detention programs: (A) If a post-D program refers a resident to a licensed professional in private practice, the program must consult the applicable licensing authority's Internet web page or use other appropriate means to verify the person's licensure.</p>	<p>directive that the facility verify the individual's licensure. This amendment will give JDCs the discretion to use whatever means are appropriate to verify the individual's licensure and will prevent the department from having to update the regulation unnecessarily when means of verifying this information evolve. As this change will not impact the resident's access to services provided by professionally-licensed individuals, the proposal is not expected to impact residents, and will have little if any impact on post-D staff, who currently may elect to verify through the licensing authority's website or by other appropriate means.</p>
1250	N/A	<p>Delivery of medication in postdispositional detention programs:</p>	<p>The proposal makes minor style edits.</p>
1270	N/A	<p>Release from a postdispositional detention program. This and other sections of the regulation use the terms "release" and "discharge" synonymously to refer to a resident's liberation from a JDC upon completion of the program or by court order.</p>	<p>In order to reduce confusion, the proposal makes minor style changes by replacing references to "discharge" with, "release" and by adding explicit language clarifying that a "release" involves a release from a detention center. The change is not expected to impact residents, staff, or operations.</p>
9999		<p>Documents incorporated by reference: The existing regulations incorporate two DJJ-created, Board-approved documents: 1) Guidelines for Transporting Juveniles in Detention; and 2) the department's Compliance Manual – Juvenile Secure Detention Centers. The Guidelines provide rules regarding the transportation of juveniles to medical and dental appointments, psychological and psychiatric assessments, and other destinations. The compliance manual provides additional interpretive guidance on how to comply with this chapter.</p>	<p>The proposal removes both the Guidelines for Transporting Juveniles in Detention and the Compliance Manual from the list of document reference. This change is necessitated by 1VAC7-10-140, which, effective January 1, 2016, prohibits agencies from incorporating their own documents by reference into a regulation unless the agency establishes that the documents or circumstances are unique and highly unusual. The provisions in the Guidelines for Transporting Juveniles have been placed in §§ 640 and 650 of the regulation. The Compliance Manual will remain in effect; however, compliance with its provisions will no longer be mandated by regulation. s incorporated by</p>