



Final Regulation Agency Background Document

Agency name	Department (Board) of Juvenile Justice
Virginia Administrative Code (VAC) citation	6VAC35-180
Regulation title	Mental Health Services Transition Plans for Incarcerated Juveniles
Action title	Final Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles
Date this document prepared	May 8, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The proposed regulations provide the framework for creating a mental health services transition plan for the provision of mental health, substance abuse, or other therapeutic treatment services for persons returning to the community following commitment to a juvenile correctional center or postdispositional detention. The goal is to ensure implementation and continuity of necessary treatment and services in order to improve short- and long-term outcomes for juvenile offenders with significant needs in these areas. Services should be provided in the least restrictive setting consistent with public safety and the juvenile's treatment needs. The plan shall address the juvenile's need for, and ability to access, medication, medical insurance, disability benefits, mental health services, and funding necessary to meet the juvenile's treatment needs.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

The Board of Juvenile Justice adopted the final regulation, “Mental Health Services Transition Plans for Incarcerated Juveniles,” at its June 13, 2007 meeting. The Board of Juvenile Justice approved a final public comment period and a delayed enactment date of January 1, 2008, in order to provide the Department sufficient time to draft applicable procedures and modules for implementation.

Legal basis

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

Section 66-10 of the Code of Virginia establishes the general authority of the Board of Juvenile Justice to promulgate regulations.

During the 2005 session, the General Assembly enacted Senate Bill 843 and House Bill 2245 thereby creating §16.1-293.1 of the Code of Virginia. (See Chapters 334 and 405 of the 2005 Acts of the Assembly.) Section 16.1-293.1 provides that the “Board of Juvenile Justice, after consultation with the Department of Mental Health, Mental Retardation and Substance Abuse Services, must promulgate regulations for the planning and provision of postrelease services for persons committed to the Department of Juvenile Justice (“DJJ” or the “Department”) pursuant to subdivision A 14 of §16.1-278.8 or placed in a postdispositional detention program pursuant to subsection B of §16.1-284.1 and identified as having a recognized mental health, substance abuse, or other therapeutic treatment need.” Section 16.1-293.1 also specifies certain elements that must be included in the transitional treatment plan, which, therefore, will be addressed in the regulation.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the regulation is to ensure the planning and provision of postrelease services addressing the mental health, substance abuse, or other therapeutic treatment needs of incarcerated juveniles as they transition back into their communities. The goal is to ensure implementation and continuity of necessary treatment and services in order to improve short- and long-term outcomes for juvenile offenders with significant needs in these areas. Services should be provided in the least restrictive setting consistent with public safety and the juvenile’s treatment needs.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The regulation specifies how individuals will be identified as having a recognized mental health, substance abuse, or other therapeutic treatment need. The regulation requires that the transitional services plan be in writing and completed prior to the person's release. The plan must be designed to ensure continuity of necessary treatment and services.

The regulation requires that:

1. The mental health services transition plan identify the mental health, substance abuse, or other therapeutic needs of the person being released;
2. Appropriate treatment providers and other persons from state and local agencies or entities, as defined by the board, participate in the development of the plan.

In addition, the regulation provides that appropriate family members, caregivers, and other relevant persons are to be invited to participate in the development of the person's plan.

The regulation requires that, prior to the person's release from incarceration, the identified agency or agencies responsible for the case management of the mental health services transition plan will make the necessary referrals specified in the plan. The regulations also require identifying the person who will assist in applying for insurance and other services identified in the plan, including completing and submitting applications that may be submitted only upon release.

Issues

Please identify the issues associated with the proposed regulatory action, including:
1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
2) the primary advantages and disadvantages to the agency or the Commonwealth; and
3) other pertinent matters of interest to the regulated community, government officials, and the public.
If there are no disadvantages to the public or the Commonwealth, please indicate.

The regulation enhances the public safety because the services mandated therein should reduce recidivism by juveniles who have been incarcerated and identified with a mental health treatment need. Of juveniles committed to the Department, 52% of males and 76% of females have been diagnosed with a major mental health disorder (not including attention deficit hyperactivity disorder, oppositional defiant disorder, conduct disorder, substance abuse or dependence, and mental retardation); 60% of the males and 90% of the females are identified at the staffing at the Reception and Diagnostic Center with having a mental health treatment need. 58% of the juveniles have taken psychotropic medications prior to commitment and an average of 35% of the residents in the institutions were prescribed psychotropic medications; 16% have been hospitalized on at least one occasion in mental hospitals prior to commitment. Approximately 62% of males and 49% of females have an identified substance abuse disorder and 70% of all

juveniles are identified at the staffing at the Reception and Diagnostic Center as having a treatment need for substance abuse services.

About 1,000 juveniles are released each year from a JCC. This regulation is intended to ensure the planning and provision of postrelease services addressing the mental health, substance abuse, or other therapeutic treatment needs of incarcerated juveniles as they transition back into their communities. The goal is to ensure implementation and continuity of necessary treatment and services in order to improve short- and long-term outcomes for juvenile offenders with significant needs in these areas. Services should be provided in the least restrictive setting consistent with public safety and the juvenile’s treatment needs. The plan shall address the juvenile’s need for, and ability to access, medication, medical insurance, disability benefits, mental health services, and funding necessary to meet the juvenile’s treatment needs.

The regulatory action poses no disadvantages to the public or the Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

This is a new regulation promulgated pursuant to §16.1-293.1 of the Code of Virginia (see Chapter 333 and 405 of the 2005 Acts of the Assembly). No prior version of this regulation is in existence. All sections are new and all changes made to the text between the proposed and final stages are detailed beginning on page 17. Of the changes made since the proposed stage, those which are substantive or quasi-substantive are delineated with an asterisk.

Section number	Requirement at proposed stage	What has changed	Rationale for change

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Summary of Public Comment & Agency’s Response

Commenters: The Department received comments from the Virginia Coalition for Juvenile Justice, c/o Juvenile Law and Policy Clinic, T.C. Williams School of Law, University of Richmond (hereinafter referred to as VCJJ); the JustChildren Program, Legal Aid Justice Center, Charlottesville, VA 22903 (hereinafter referred to as JustChildren); and Voices for Virginia’s Children (hereinafter referred to as VVC). Those comments are summarized below.

Summary of Comments:

Commenter	Comment
Voices for	Consider titling thusly: “Regulations Governing Behavioral Health Services Transition Plans for

<p>Virginia’s Children (VVC)</p>	<p>Incarcerated Juveniles”. Since both mental health and substance use disorder treatments are addressed, the “behavioral health” title may be more precise than “mental health”.</p> <p>DJJ Response:</p> <p>We thank the commenting party for their feedback. However, the Department does not recommend any changes to the title of the proposed regulation in order to maintain consistency between the title of the governing statute “Mental health services transition plan” and the regulation. Both the statute and the regulation define services in which substance abuse services are incorporated into the scope of the regulation that will govern the implementation of the transition planning process.</p>
<p>Virginia Coalition for Juvenile Justice (VCJJ)</p>	<p>Regulations should require earlier transition planning.</p> <p>Research by the U.S. Office of Juvenile Justice and Delinquency Prevention indicates that preparation for aftercare begins soon after disposition and continues during incarceration. We suggest identifying the juveniles who potentially require transition planning during evaluation at RDC, and using the ninety day facility review as the time to make real plans and include the community partners in the Memorandum of Understanding. This would allow the service planning and coordinating to begin and necessary application for public benefit to be processed in a timely manner. As the proposed regulations read, it makes it unlikely that juveniles will actually receive services by release.</p> <p>DJJ Response:</p> <p>In light of the comment, Department members discussed the scope of the population identified and the timing of identification and planning for the juvenile. The Department notes that, while at the Reception and Diagnostic Center, the juvenile undergoes a mental health screening. Services are provided in the facility thereafter, if determined to be necessary. This evaluation and any subsequent services will then streamline into the transition planning detailed in the proposed regulation.</p> <p>The Department also reviewed the process by which the proposed regulation was drafted. The governing statute, Virginia Code §16.1-293.1, required the Department to draft the regulation after consultation with the Board of Mental Health, Mental Retardation, and Substance Abuse Services (MHMRSAS) and other related agencies. The Department convened a work group that met on six occasions from July 2005 through March 2006. Participants in the group included representatives from DJJ, Department of Rehabilitative Services, Department of Correctional Education, Department of Medical Assistance Services, Court Service Units, Department of MHMRSAS, Department of Social Services, Detention Superintendent’s Association, Virginia Commission on Youth, local detention homes, Department of Corrections, University of Richmond, local Community Service Boards, Virginia Municipal League, JustChildren, and the Board of Juvenile Justice. The proposed regulation was developed and drafted through negotiated compromise within the group. After the final work session, the proposed regulation was presented to the Commissioner of the Department of MHMRSAS for review.</p> <p>Additionally, in light of this comment, the Department reviewed (1) the Medicaid application process for incarcerated individuals; (2) the FAPT process; and (3) the availability of services in communities and with the Community Service Boards (CSBs). The Department also reviewed the individuals present at the 90- and 30-day meetings and the appropriateness of staged planning. The Department notes that nothing in the proposed regulation prohibits the planning and referral processes from starting before the 30-day enhanced mental health transition planning meeting, if deemed necessary.</p>

	<p>Given the nature of the statutory requirements utilized in the drafting process, we do not believe the proposed edit is necessary. As determined in the work group, we believe the proposed transition planning timing is appropriate.</p> <p>DJJ does not recommend the proposed change be adopted.</p>
<p>VCJJ</p>	<p>Include all appropriate candidates for the mental health transition process.</p> <p>We suggest that qualified mental health professionals attend all planning meetings, the definition of eligibility be expanded, and serious juvenile offenders always receive mental health transition plans as part of the report that the Department sends Judges before serious offender review hearings.</p> <p>DJJ Response:</p> <p>In light of the comment, the Department reviewed the process by which the proposed regulation was drafted. Virginia Code §16.1-293.1 required the Department to draft the regulation after consultation with the Board of Mental Health, Mental Retardation, and Substance Abuse Services and other related agencies. The Department convened a work group that met on six occasions from July 2005 through March 2006. Participants in the group included representatives from DJJ, Department of Rehabilitative Services, Department of Correctional Education, Department of Medical Assistance Services, Court Service Units, Department of MHMRSAS, Department of Social Services, Detention Superintendent’s Association, Virginia Commission on Youth, local detention homes, Department of Corrections, University of Richmond, local Community Service Boards, Virginia Municipal League, JustChildren, and the Board of Juvenile Justice. The proposed regulation was developed and drafted through negotiated compromise within the group. After the final work session, the proposed regulation was presented to the Commissioner of the Department of MHMRSAS for review.</p> <p>Regarding the commenting party’s request for the definition of eligibility and, given the nature of the statutory requirements utilized in the drafting process, we do not believe that the proposed edit is necessary. As determined in the work group, we believe the regulation identifies the appropriate candidates for the mental health transition process. Thus, since the current language was thoroughly discussed in the work group and was a compromise among the parties, DJJ does not recommend the suggested change to the proposed draft.</p> <p>The Department further reviewed the commenting party’s request to include a qualified mental health professional at the 90-day facility review and the 30-day enhanced transition planning meetings. The Department discussed the need, availability, and logistics of a qualified mental health professional’s attendance at these meetings. The Department recommends including language requiring a qualified mental health professional at the 90-day facility review meeting but believes such attendance is not necessary at the 30-day enhanced mental health transition meeting. The enhanced mental health transition planning team will have the opinions and recommendations of the qualified mental health professional provided at the 90-day facility review meeting to utilize in the planning process.</p> <p>In response to the portion of the comment requesting serious juvenile offenders be specifically identified in this section, we note that serious juvenile offenders are included in the definition of residents. However, upon review of the proposed language, the Department agrees that clarifying language would be helpful. The Department agrees to change the language in 6VAC35-180-70 to include a 90-day review of serious offenders with commitments greater than two years before the two year review and annually thereafter for subsequent review of whether the resident remains eligible under the regulation for such services. The 30-day enhanced mental health planning meeting would occur 30 days prior to the actual release date</p>

	<p>and, if release occurs unexpectedly, as soon, but not exceeding 30 days, thereafter. The Department further agrees to exclude residents who are released directly to adult correctional institutions from this requirement. Changes consistent with this paragraph are recommended.</p>
<p>VCJJ</p>	<p>Make general transition planning more efficient for staff, families, wards, and community providers.</p> <p>By requiring that the 30 day meeting take place in conjunction with the re-enrollment planning meeting, the Department would be proposing a process in line with federally acknowledged research which shows that collaboratively crafted, comprehensive aftercare plans are most successful in decreasing juvenile recidivism.</p> <div style="border: 1px solid black; padding: 5px;"> <p>DJJ Response:</p> <p>In light of the comment, the Department reviewed the process by which the proposed regulation was drafted. Virginia Code §16.1-293.1 required the Department to draft the regulation after consultation with the Board of Mental Health, Mental Retardation, and Substance Abuse Services and other related agencies. The Department convened a work group that met on six occasions from July 2005 through March 2006. Participants in the group included representatives from DJJ, Department of Rehabilitative Services, Department of Correctional Education, Department of Medical Assistance Services, Court Service Units, Department of MHMRSAS, Department of Social Services, Detention Superintendent’s Association, Virginia Commission on Youth, local detention homes, Department of Corrections, University of Richmond, local Community Service Boards, Virginia Municipal League, JustChildren, and the Board of Juvenile Justice. The proposed regulation was developed and drafted through negotiated compromise within the group. After the final work session, the proposed regulation was presented to the Commissioner of the Department of MHMRSAS for review.</p> <p>Given the nature of the statutory requirements utilized in the drafting process, we do not believe that the proposed edits are necessary. As decided in the work group, we believe the proposed mental health transition planning meeting is appropriate. Additionally, while some of the staff required in the re-enrollment planning meeting overlap with those involved in the 30-day mental health transition meeting, not all are involved in both processes. Keeping the meetings separate is consistent with the special nature of services involved for identified residents.</p> </div>
<p>VVC</p>	<p>Section 35-180-30 A. Concern that listing specific disorders, even with the added statement “including but not limited to”, could lead to narrow interpretation of the eligibility criteria. Consider deleting the list, or adding “severe conduct disorder, attention deficit/hyperactivity disorder, and Axis II personality disorder”.</p> <div style="border: 1px solid black; padding: 5px;"> <p>DJJ Response:</p> <p>In light of the comment, the Department reviewed the process by which the proposed regulation was drafted. Virginia Code §16.1-293.1 required the Department to draft the regulation after consultation with the Board of Mental Health, Mental Retardation, and Substance Abuse Services and other related agencies. The Department convened a work group that met on six occasions from July 2005 through March 2006. Participants in the group included representatives from DJJ, Department of Rehabilitative Services, Department of Correctional Education, Department of Medical Assistance Services, Court Service Units, Department of MHMRSAS, Department of Social Services, Detention Superintendent’s Association, Virginia Commission on Youth, local detention homes, Department of Corrections, University of Richmond, local Community Service Boards, Virginia Municipal League, JustChildren, and the Board of Juvenile Justice. The proposed regulation was</p> </div>

	<p>developed and drafted through negotiated compromise within the group. After the final work session, the proposed regulation was presented to the Commissioner of the Department of MHMRSAS for review.</p> <p>The language the commenting party has proposed for the criteria for qualifying for mental health services transition planning would drastically expand the scope of individuals identified as eligible for transition services beyond the compromised agreement attained in the work group and the information previously submitted to the Department of Planning and Budget and to the Department of MHMRSAS. Thus, since the current language was thoroughly discussed in the work group and was a compromise among the parties, the Department does not recommend the suggested changes to the proposed draft.</p>
<p>JustChildren</p>	<p>Omitting youngsters, by limiting diagnosis, in need of this planning puts those youngsters, their families, and public safety at risk. Further, best practices literature states that earlier transition planning is the key to successfully decreasing juvenile recidivism. Determining mental health services transition plan eligibility 90 days before release for most juveniles and 30 days after release in cases of juveniles being released early would do youth a great disservice. The possibility of having troubled youth reenter communities without carefully crafted mental health transition plans should provide impetus to begin identifying eligible juveniles at the Reception and Diagnostic Center and to broaden the eligibility category.</p> <p>We therefore suggest that eligibility language be broadened as follows:</p> <p>6 VAC 35-180-30. Criteria for Mental Health Services Transition Planning.</p> <p><u>Juveniles are to be identified as being eligible for mental health services transition planning when they receive a battery of assessments and evaluations at the Reception and Diagnostic Center.</u> A juvenile will qualify for mental health services transition planning when one of the following criteria is met:</p> <p>A. A qualified mental health professional determines that the juvenile has a current diagnosis for a mental illness that is likely to result in significant impairment in the juvenile's ability to functioning in the community, including, but not limited to, the following: psychotic disorders, major affective disorders, substance use disorders, and posttraumatic stress disorder.</p> <p>B. The juvenile is currently receiving medication treatment for a mental illness as described in section A. above, and the provider has indicated a treatment necessity to continue such medication upon discharge.</p> <div style="border: 1px solid black; padding: 5px;"> <p>DJJ Response:</p> <p>In light of the comment, the Department met and discussed the scope of the population identified and the timing of identification and planning for the juveniles. The Department notes that while at the Reception and Diagnostic Center the juvenile undergoes a mental health screening. Services are provided in the institution thereafter, if determined to be necessary. This evaluation and any subsequent services will then streamline into the transition planning detailed in the proposed regulation. However, the resident's status may change between initial assessment and timing of release. The proposed regulation takes these circumstances into account.</p> <p>Additionally, the Department reviewed the process by which the proposed regulation was drafted. Virginia Code §16.1-293.1 required the Department to draft the regulation after consultation with the Board of Mental Health, Mental Retardation, and Substance Abuse Services and other related agencies. The Department convened a work group that met on six occasions from July 2005 through March 2006. Participants in the group included</p> </div>

	<p>representatives from DJJ, Department of Rehabilitative Services, Department of Correctional Education, Department of Medical Assistance Services, Court Service Units, Department of MHMRSAS, Department of Social Services, Detention Superintendent’s Association, Virginia Commission on Youth, local detention homes, Department of Corrections, University of Richmond, local Community Service Boards, Virginia Municipal League, JustChildren, and the Board of Juvenile Justice. The proposed regulation was developed and drafted through negotiated compromise within the group. After the final work session, the proposed regulation was presented to the Commissioner of the Department of MHMRSAS for review.</p> <p>Given the nature of the statutory requirements utilized in the drafting process, we do not believe that the proposed edits are necessary.</p> <p>The proposed regulation, as decided in the work group, includes a proper timeline for identification of eligible residents (90 days before the resident’s scheduled release) and identifies the appropriate candidates for the mental health transition process (residents diagnosed with a mental health disorder that is likely to significantly impair the resident’s functioning in the community). The list of disorders is guidance in the transition planning but not exhaustive.</p> <p>Additionally, the language proposed for the criteria for qualifying for mental health services transition planning would drastically expand the scope of individuals identified as eligible for transition services beyond the compromised agreement attained in the work group and the information previously submitted to the Department of Planning and Budget and to the Department of MHMRSAS. Thus, since the current language was thoroughly discussed in the work group and was a compromise among the parties, the Department does not recommend the suggested changes to the proposed draft.</p>
<p>JustChildren</p>	<p>6 VAC 35-180-40. Confidentiality.</p> <p>The draft regulations appropriately require compliance with HIPAA and other federal laws in handling confidential medical and alcohol and drug abuse records and information. These requirements also appear in 6 VAC 35-180-60. The process for developing a mental health transition plan is replete with challenges to preserve confidentiality of records. The goal should be to educate the juvenile and/or his/her parent or legal guardian on privacy rights so that s/he knows his rights to permit or deny release of <u>specified</u> information in order to facilitate development and implementation of adequate plans.</p> <p>Under HIPAA and Virginia law, the decision to release medical, alcohol and drug abuse information including diagnoses of disabilities, the physical or behavioral manifestations of those disabilities, and treatment and service recommendations resides in the individual or his personal representative. 45 C.F.R. §164.508 and Virginia Code §§ 32.1-127.1:03 and 16.1-248.3.</p> <p>We believe the regulations must specifically address the necessity to seek valid authorization from the juvenile of specified information in conformity with 45 C.F.R. §164.508 and Virginia Code §§ 32.1-127.1:03 and 16.1-248.3. As the entity which possesses protected health information, DJJ has a duty to ensure that the information is not shared without proper authorizations. 45 C.F.R. §164.508.</p> <p>Because HIPAA and the Virginia Code have very strict requirements about the release of psychotherapy notes and because many of the DJJ wards have received psychotherapy services, to ensure compliance and use of best practices it seems necessary to address separately the prohibitions on release of such notes and on asking the juvenile or his representative to authorize such release. 45 C.R.F. §164.508(a)(2) and Virginia Code § 16.1-248.3.</p> <p>In summary, HIPAA and the Virginia Code place specific confidentiality specifications on DJJ</p>

	<p>and lodge in the individual juvenile the right to privacy. While the regulations cannot permit wholesale blanket releases of protected health information, it is highly possible to adopt a comprehensive method of interdisciplinary information-sharing that can enhance transition planning. The National Office of Juvenile Justice and Delinquency Prevention’s publication <i>Guidelines for Juvenile Information Sharing</i> provides comprehensive guidelines for State and local efforts to improve information sharing among key agencies involved with at-risk youth and juvenile offenders. The publication draws on the experience and expertise of leaders from youth-servicing agencies and information technology initiatives throughout the country, and creates guidelines that integrate the three critical components of juvenile information sharing – collaboration, confidentiality, and technology – into an effective developmental framework.</p> <div style="border: 1px solid black; padding: 5px;"> <p>DJJ Response:</p> <p>The Department has reviewed the applicable federal and state laws and regulations governing the disclosure of confidential juvenile records in the possession of the Department. We acknowledge that the Department and all other parties involved in implementing the regulation remain subject to all applicable state and federal laws regarding protected health information and confidential records as stated in the regulation.</p> <p>Given the numerous statutes involved with variable impact on the parties involved in the transition planning process, we do not believe that the specific changes proposed by the commenting party should be adopted. The applicable recommended changes are more appropriately addressed in Department procedures.</p> </div>
JustChildren	<p>The regulations should also refer to specific procedures for HIPAA compliance in the following:</p> <p>6 VAC 35-180-60. MOU Agreements.</p> <div style="border: 1px solid black; padding: 5px;"> <p>DJJ Response:</p> <p>We acknowledge that the Department and all other parties involved in implementing the regulation remain subject to all applicable state and federal laws regarding protected health information and confidential records as stated in the regulation.</p> <p>We do not believe that the specific changes proposed by the commenting party should be adopted. The applicable recommended changes are more appropriately addressed in Department procedures.</p> </div>
JustChildren	<p>The regulations should also refer to specific procedures for HIPAA compliance in the following:</p> <p>6 VAC 35-180-80 through 90. Participants in Facility Case Review and Distribution and Documentation of Facility Case Review.</p> <div style="border: 1px solid black; padding: 5px;"> <p>DJJ Response:</p> <p>We acknowledge that the Department and all other parties involved in implementing the regulation remain subject to all applicable state and federal laws regarding protected health information and confidential records as stated in the regulation.</p> <p>We do not believe that the specific changes proposed by the commenting party should be adopted. The applicable recommended changes are more appropriately addressed in Department procedures.</p> </div>
VCC	<p>Section 35-180-100 A. Strongly recommend a 60- or even 90-day deadline pre-release for the</p>

	<p>meeting to develop the plan. Many CSBs will have waiting times exceeding 30 days, especially for psychiatry and medication management services. To ensure continuity of care, the planning meeting should be held well in advance of release, and the application for CSB services filed early enough that the services can begin upon release.</p> <p>DJJ Response:</p> <p>In light of this comment, the Department reviewed (1) the Medicaid application process for incarcerated individuals; (2) the FAPT process; and (3) the availability of services in communities and with the Community Service Boards (CSBs). The Department also reviewed the individuals present at the 90- and 30-day meetings and the appropriateness of staged planning. The Department does not recommend adopting the proposed change and notes that nothing in the proposed regulation prohibits the planning and referral processes from starting before the 30-day enhanced mental health transition planning meeting, if deemed necessary.</p>
<p>JustChildren</p>	<p>The regulations should also refer to specific procedures for HIPAA compliance in the following: 6 VAC 35-180-100 through 130. Enhanced Mental Health Transition Planning, Referral to Family Assessment and Planning Team, Development of the Plan if Other than FAPT, and Content of the Plan.</p> <p>DJJ Response:</p> <p>We acknowledge that the Department and all other parties involved in implementing the regulation remain subject to all applicable state and federal laws regarding protected health information and confidential records as stated in the regulation.</p> <p>We do not believe that the specific changes proposed by the commenting party should be adopted. The applicable recommended changes are more appropriately addressed in Department procedures.</p>
<p>JustChildren</p>	<p>For best results in decreasing juvenile recidivism, aftercare services should parallel services initiated in institutional care. A determination of eligibility at the start of reentry planning would optimally occur at intake at a correctional facility, or no more than 15 days after intake. It often takes several months (or more) to locate funding for appropriate services (such as Social Security/Disability benefits, and Medicaid) or moving up on a waitlist at a local Community Services board, so early eligibility determinations and planning are key.</p> <p>For these reasons, we recommend that the 90 day Facility Case Review become the most substantial opportunity for all important parties to meet and begin thorough planning for a juvenile’s continuing mental health care. The Facility Case Review should more substantively resemble the 30 day Enhanced Mental Health Transition Planning meeting, and the 30 day Enhanced Mental Health Transition Planning meeting should be a time for <i>final</i> considerations about an already-developed plan, confirmation of the receipt of public benefits and financial assistance, and final assurances that treatment services are in order. This change would allow the service planning and coordinating to begin and necessary applications for public benefits to be processed in a timely manner. The proposed timeline (which allows for development of the transition plan as late as 30 days before release) makes it unlikely that juveniles will actually receive services by release. Concentrating planning at the Facility Case Review would also be a more efficient use of staff resources and time.</p> <p>It is additionally imperative that all eligible serious juvenile offenders receive mental health transition plans, and that there is sufficient time to implement these plans. In fact, Virginia Code § 16.1-285.2(B)(v) currently requires that the Department, prior to each review hearing, submit a “comprehensive aftercare plan for the juvenile.” Given this statutory requirement, the</p>

Department has no reason not to include, and may well be obligated to include, in the aftercare plan it submits to the court the kind of plan specified in these regulations. Suggested text is:

6 VAC 35-180-70. Timing and Purpose of Facility Case Review.

A. At least 90 days before a juvenile’s scheduled release from a juvenile correctional center or post-dispositional detention program, designated staff at the facility where the juvenile resides shall review the juvenile’s case, including the juvenile’s individualized service plan, to determine if the juvenile qualifies for the enhanced mental health services transition planning based on the criteria set forth in section 30 of this chapter. The facility case review shall be the foremost opportunity for thorough development of the juvenile’s mental health services transition plan, as described in 6 VAC 35-180-130; and an eligible juvenile is to emerge from the facility case review with a mental health services transition plan.

B. *[As currently written.]*

C. The time frames designated in Section A. above shall not be waived in the case of event that a judicial order for release of a juvenile sentenced under § 16.1-285.1 (serious offender incarcerated in a juvenile correctional center) or § 16.1-284.1 (placement in a postdispositional detention program) ~~makes such time frames impracticable.~~ In such cases, review shall also be completed as soon as possible, but and no later than 30-90 days after-before the juvenile’s next Serious Offender Review Hearing and shall be included in the plans submitted to the Court as required by Va. Code § 161-285.2 (for serious offenders), or presented to the Court as part of its ongoing review of cases pursuant to Va. Code § 16.284.1(C)-release.

DJJ Response:

In light of the comment, the Department met and discussed the scope of the population identified and the timing of identification and planning for the juveniles. The Department notes that while at the Reception and Diagnostic Center the juvenile undergoes a mental health screening. Services are provided in the institution thereafter, if determined to be necessary. This evaluation and any subsequent services will then streamline into the transition planning detailed in the proposed regulation.

The Department also reviewed the process by which the proposed regulation was drafted. The governing statute, Virginia Code §16.1-293.1, required the Department to draft the regulation after consultation with the Board of Mental Health, Mental Retardation, and Substance Abuse Services and other related agencies. The Department convened a work group that met on six occasions from July 2005 through March 2006. Participants in the group included representatives from DJJ, Department of Rehabilitative Services, Department of Correctional Education, Department of Medical Assistance Services, Court Service Units, Department of MHMRSAS, Department of Social Services, Detention Superintendent’s Association, Virginia Commission on Youth, local detention homes, Department of Corrections, University of Richmond, local Community Service Boards, Virginia Municipal League, JustChildren, and the Board of Juvenile Justice. The proposed regulation was developed and drafted through negotiated compromise within the group. After the final work session, the proposed regulation was presented to the Commissioner of the Department of MHMRSAS for review.

Additionally, in light of this comment, the Department met and discussed (1) the Medicaid application process for incarcerated individuals; (2) the FAPT process; and (3) the availability of services in communities and with the CSBs. The Department notes that nothing in the proposed regulation prohibits the planning and referral processes from starting before the 30-day enhanced mental health transition planning meeting, if deemed necessary.

Given the nature of the statutory requirements utilized in the drafting process, we do not believe the proposed edit is necessary. As determined in the work group, we believe the

	<p>proposed transition planning timing is appropriate. The proposed regulation clearly delineates a timeline for identifying residents in need of enhanced mental health transition planning and when such plan shall be developed and implemented. DJJ does not recommend the proposed changes be adopted.</p> <p>In response to the portion of the comment requesting serious juvenile offenders be specifically identified in this section, we note that serious juvenile offenders are included in the definition of residents. However, upon review of the proposed language, the Department agrees that clarifying language would be helpful. The Department agrees to change the language in 6VAC35-180-70 to include a 90-day review of serious offenders with commitments greater than two years before the two year review and annually thereafter for subsequent review of whether the resident remained eligible under the regulation for such services. The 30-day enhanced mental health planning meeting would occur 30 days prior to the actual release date and, if release occurs unexpectedly, as soon, but not exceeding 30 days, thereafter. The Department further agrees to exclude residents who are released directly to adult correctional institutions from this requirement. Changes consistent with this paragraph are recommended.</p>
<p>JustChildren</p>	<p>If our proposal is adopted, participants in the Facility Case Review will include the individuals currently included in the Enhanced Mental Health Transition Planning meeting. The regulations also need to require that a qualified mental health professional attend all planning meetings. The presence of such a professional is crucial to ensure that all eligible youth will be identified for mental health services transition planning and that the proper considerations are made during the planning process.</p> <p>Suggested text is:</p> <p>6 VAC 35-180-80. Participants in Facility Case Review.</p> <p>A. The following parties shall participate (either in person or via telephone or videoconference) in the facility review <u>and in the concurrent development of the mental health services transition plan</u> unless clearly inappropriate (as determined by the professional members of the facility review team) and documented in the case file:</p> <ol style="list-style-type: none"> 1. The juvenile; 2. The juvenile’s family, legal guardian, or legally authorized representative; 3. The juvenile’s probation or parole officer, or a representative of the Department of Corrections (adult probation), if applicable; 4. Facility staff knowledgeable about the juvenile and his/her mental health needs; and A qualified mental health professional; 5. <u>Facility staff knowledgeable about the juvenile and his/her mental health needs; and</u> 6. <u>A representative of one or more of the agencies participating in the Memorandum of Understanding established by 6 VAC 35-180-50, as applicable and appropriate; and</u> 7. Other community agency staff, if appropriate (e.g. DSS personnel for a youth to be released to DSS custody). <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>DJJ Response:</p> <p>The Department reviewed the commenting party’s request to include a qualified mental health professional at the 90-day facility review and the 30-day enhanced transition planning meetings. The Department discussed the need, availability, and logistics of a qualified mental health professional’s attendance at these meetings. The Department recommends including the language requiring a qualified mental health professional at the 90-day facility review meeting but does not find such attendance necessary at the 30-day enhanced mental health transition meeting. The enhanced mental health transition planning team will have the opinions and recommendations of the qualified mental health professional provided at the 90-</p> </div>

	<p>day facility review meeting to utilize in the planning process.</p> <p>In light of the comment, the Department also reviewed the process by which the proposed regulation was drafted. Virginia Code §16.1-293.1 required the Department to draft the regulation after consultation with the Board of Mental Health, Mental Retardation, and Substance Abuse Services and other related agencies. The Department convened a work group that met on six occasions from July 2005 through March 2006. Participants in the group included representatives from DJJ, Department of Rehabilitative Services, Department of Correctional Education, Department of Medical Assistance Services, Court Service Units, Department of MHMRSAS, Department of Social Services, Detention Superintendent’s Association, Virginia Commission on Youth, local detention homes, Department of Corrections, University of Richmond, local Community Service Boards, Virginia Municipal League, JustChildren, and the Board of Juvenile Justice. The proposed regulation was developed and drafted through negotiated compromise within the group. After the final work session, the proposed regulation was presented to the Commissioner of the Department of MHMRSAS for review.</p> <p>Given the nature of the statutory requirements utilized in, and the compromise agreement derived from, the drafting process, we do not believe the proposed edit to add an agency representative to the members of the Facility Case Review meeting is necessary. The proposed regulation is permissive on the attendance of agency staff and to mandate attendance would impede efficiency unnecessarily and alter the fiscal impact of the proposed regulation.</p>
<p>JustChildren</p>	<p>Proposed language would make the Enhanced Mental Health Transition Planning meeting more of a final chance to solidify plans made during the Facility Case Review. Additionally, serious juvenile offenders do not receive adequate protection under the proposed regulations. These offenders often are the youngsters most in need of continuing mental health care, and under no circumstances should such juveniles be subject to a truncated mental health services transition planning process. As previously mentioned, all eligible serious juvenile offenders should have a mental health services transition plan.</p> <p>Suggested text is:</p> <p>6 VAC 35-180-100. Enhanced Mental Health Transition Planning.</p> <p>A. If the juvenile meets the criteria set out in 6 VAC 35-180-30, the probation or parole officer present at the facility case review meeting shall (i) notify the responsible agency or agencies identified in the Memorandum of Understanding established pursuant to 6 VAC 35-180-50, and (ii) schedule a meeting, to be conducted no later than 30 days prior to the juvenile’s anticipated release, to develop-finalize the juvenile’s mental health services transition plan- <u>established during the facility case review as described in 6 VAC 35-180-70, assure that public benefits and financial assistance will be available upon the juvenile’s release, and ensure that mental health treatment will be continuous.</u></p> <p>B. <i>[As currently written.]</i></p> <p>C. The time frames designated in section A. above shall <u>not</u> be waived in the event that <u>case of</u> a judicial order for release of a juvenile sentenced under § 16.1-285.1 (serious offender incarcerated in a juvenile correctional center) or § 16.1-284.1 (placement in a postdispositional detention program) makes such time frames impracticable. In such cases, review shall be completed as soon as possible, but no later than 30-90 days after <u>before</u> the juvenile’s <u>next Serious Offender Review hearing and shall be included in the plans submitted to the Court as required by Virginia Code § 16.1-285.2 (for serious offenders), or presented to the Court as part of its mandatory review of cases pursuant to Virginia Code § 16.1-284.1(C)-release.</u></p>

	<p>DJJ Response:</p> <p>In light of the comment, the Department met and discussed the scope of the population identified and the timing of identification and planning for the juveniles. The Department notes that while at the Reception and Diagnostic Center the juvenile undergoes a mental health screening. Services are provided in the institution thereafter, if determined to be necessary. This evaluation and any subsequent services will then streamline into the transition planning detailed in the proposed regulation.</p> <p>The Department also reviewed the process by which the proposed regulation was drafted. The governing statute, Virginia Code §16.1-293.1, required the Department to draft the regulation after consultation with the Board of Mental Health, Mental Retardation, and Substance Abuse Services and other related agencies. The Department convened a work group that met on six occasions from July 2005 through March 2006. Participants in the group included representatives from DJJ, Department of Rehabilitative Services, Department of Correctional Education, Department of Medical Assistance Services, Court Service Units, Department of MHMRSAS, Department of Social Services, Detention Superintendent’s Association, Virginia Commission on Youth, local detention homes, Department of Corrections, University of Richmond, local Community Service Boards, Virginia Municipal League, JustChildren, and the Board of Juvenile Justice. The proposed regulation was developed and drafted through negotiated compromise within the group. After the final work session, the proposed regulation was presented to the Commissioner of the Department of MHMRSAS for review.</p> <p>Additionally, in light of this comment, the Department met and discussed (1) the Medicaid application process for incarcerated individuals; (2) the FAPT process; and (3) the availability of services in communities and with the community service boards. The Department also reviewed the individuals present at the 90- and 30-day meetings and the appropriateness of staged planning. The Department noted that nothing in the proposed regulation prohibits the planning and referral processes from starting before the 30-day enhanced mental health transition planning meeting, if deemed necessary.</p> <p>Given the nature of the statutory requirements utilized in the drafting process, we do not believe the proposed edit is necessary. As determined in the work group, we believe the proposed transition planning timing is appropriate. The proposed regulation clearly delineates a timeline for identifying residents in need of enhanced mental health transition planning and when such plan shall be developed and implemented. DJJ does not recommend the proposed change be adopted.</p> <p>In response to the portion of the comment requesting serious juvenile offenders be specifically identified in this section, we note that serious juvenile offenders are included in the definition of residents. However, upon review of the proposed language, the Department agrees that clarifying language would be helpful. The Department agrees to change the language in 6VAC35-180-70 to include a 90-day review of serious offenders with commitments greater than two years before the two year review and annually thereafter for subsequent review of whether the resident remained eligible under the regulation for such services. The 30-day enhanced mental health planning meeting would occur 30 days prior to the actual release date and, if release occurs unexpectedly, as soon, but not exceeding 30 days, thereafter. The Department further agrees to exclude residents who are released directly to adult correctional institutions from this requirement. Changes consistent with this paragraph are recommended.</p>
JustChildren	<p>The regulations need to require that a qualified mental health professional attend all planning meetings. The presence of such a professional is crucial to ensure that all eligible youth will be identified for mental health services transition planning and that the proper considerations are made during the planning process. Additionally, the regulations should make general transition planning more efficient for staff, families, wards, and community providers. By requiring that</p>

the 30 day meeting take place in conjunction with the re-enrollment planning meeting, as many of the same staff would be required for both, the Department would be proposing a process in line with federally acknowledged research which shows that collaboratively crafted, comprehensive aftercare plans are most successful in decreasing juvenile recidivism. The Family Education Rights and Privacy Act (FERPA) will be a consideration here and should be considered in addition to HIPAA.

Suggested text is:

6 VAC 35-180-120. Development of the Plan if Other than FAPT.

A. If the juvenile’s case is not referred to the local Family Assessment and Planning Team, the mental health services transition plan is to be finalized in conjunction with the juvenile’s re-enrollment plan as described in 8 VAC 20-660-30. The following persons shall participate in the ~~development-finalization~~ of the mental health services transition/re-enrollment plan:

1. The juvenile;
2. The juvenile’s parent, legal guardian, or legal custodian unless clearly inappropriate (as determined by the professional members of the review team) and documented in the case file;
3. Unless the juvenile will not be receiving any post-release supervision, the juvenile’s probation or parole officer or a representative of the Department of Corrections for those offenders determinately committed under Virginia Code § 16.1-285.1 who will be released to adult supervision; ~~and~~
4. A qualified mental health professional;
5. A representative of one or more of the agencies participating in the Memorandum of Understanding established by 6 VAC 35-180-50, as applicable and appropriate; and
6. Members of the juvenile’s re-enrollment team as defined in 8 VAC 20-660-10.

DJJ Response:

In light of the comment, the Department reviewed the process by which the proposed regulation was drafted. Virginia Code §16.1-293.1 required the Department to draft the regulation after consultation with the Board of Mental Health, Mental Retardation, and Substance Abuse Services and other related agencies. The Department convened a work group that met on six occasions from July 2005 through March 2006. Participants in the group included representatives from DJJ, Department of Rehabilitative Services, Department of Correctional Education, Department of Medical Assistance Services, Court Service Units, Department of MHMRSAS, Department of Social Services, Detention Superintendent’s Association, Virginia Commission on Youth, local detention homes, Department of Corrections, University of Richmond, local Community Service Boards, Virginia Municipal League, JustChildren, and the Board of Juvenile Justice. The proposed regulation was developed and drafted through negotiated compromise within the group. After the final work session, the proposed regulation was presented to the Commissioner of the Department of MHMRSAS for review.

Given the nature of the statutory requirements utilized in the drafting process, we do not believe the proposed edit suggesting alteration to the timing for planning is necessary. As determined in the work group, we believe the proposed transition planning timing is appropriate. The proposed regulation clearly delineates a timeline for identifying residents in need of enhanced mental health transition planning and when such plan shall be developed and implemented. However, we note that nothing in the proposed regulations prohibits the planning and referral process from starting before the 30-day enhanced mental health transition planning meeting, if deemed necessary. DJJ does not recommend the proposed change be adopted.

The Department further reviewed the commenting party’s request to include a qualified mental

	<p>health professional at the 90-day facility review and the 30-day enhanced transition planning meetings. The Department discussed the need, availability, and logistics of a qualified mental health professional’s attendance at these meetings. Given the nature of the statutory requirements utilized in the drafting process, we do not believe the proposed edits to add a qualified mental health professional to all planning meetings is necessary. The Department recommends including the language requiring a qualified mental health professional at the 90-day facility review meeting but believes such attendance is not necessary at the 30-day enhanced mental health transition meeting. The proposed regulation will remain permissive on the attendance of a qualified mental health professional at the 30-day enhanced transition planning meeting. To mandate attendance would impede efficiency unnecessarily and alter the fiscal impact of the proposed regulation. Furthermore, the enhanced mental health transition planning team will have the opinions and recommendations of the qualified mental health professional provided at the 90-day facility review meeting to utilize in the planning process.</p> <p>We further reviewed the commenting party’s request to include members of the re-enrollment team in the 90- and 30-day meetings. We believe that the proposed regulation sets forth adequate criteria and a timeline for identifying residents who qualify for mental health transition planning. The proposed mental health transition planning meeting is a meeting separate and distinct from the re-enrollment meeting. While some of the staff required in the re-enrollment planning meeting overlap with those involved in the 30-day mental health transition meeting, not all are involved in both processes. Keeping the meetings separate is consistent with the special nature of services involved for identified residents.</p>
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All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10	10	Definitions.	Provides the definitions for any unique words and terms used in this proposed chapter. Added definition of “Department” for clarity.
N/A	N/A	Department.	Deleted “of Juvenile Justice” after department for consistency with defined term.
N/A	N/A	Juvenile(s).	Changed to “resident(s)” throughout the document when referring to juveniles in a facility for consistency. Juvenile continues to be used in reference to youth or adults after release from a facility as defined in the regulation.
10	10	Facility.	-Added “a detention home operating” for

			clarification of postdispositional detention programs. -Added Code references.
N/A	N/A	Postdispositional detention program.	Throughout the document “a detention home operating” was inserted before the term for clarification of the programs governed by the regulation and consistency throughout the document.
10	10	Identified ... need.	Added regulation section citation for clarity.
10	10	Incarceration	-Added “detention home operating a” for clarification of term postdispositional detention programs in implementation of the regulation. -Changed “correctional center” to “residential facility or secure facility...” to ensure the regulation would be interpreted as broadly as the governing statute and for consistency with the definitions contained in the Code of Virginia and regulation. -Added reference to specific subsections and subdivisions of the Code of Virginia for clarity. -Other technical changes made for ease of reading and understanding.
10	10	Indeterminately committed.	Added definition for ease of understanding the different release circumstances included in the regulation.
10	10	Juvenile.	Amended definition of “juvenile” as a broad definition consistent with the Code and the regulation.
10	10	Mental health initiative funds.	Deleted definition as term is not used in the text of the regulation
10	10	Resident.	Added definition of “resident(s)” as used throughout the regulation when addressing youth or adults committed to the Department for conformity in use throughout the regulation and consistency in application with the scope of the governing Code.
10	10	Serious offender.	Added definition of “serious offender” for ease of understanding the different release circumstances and planning timeframes included in the regulation.

30	30	Criteria for mental health services transition planning.	<p>Provides the criteria for which a juvenile will qualify for mental health services transition planning.</p> <ul style="list-style-type: none"> -Added “be identified as having a recognized ...need and will” for consistency with the definitions. -Changed “discharge” to “release” which is the term used in practice.
40	40	Confidentiality.	<p>Ensures that all activities conducted in accordance with this proposed chapter comply with all relevant state and federal laws and regulations concerning confidentiality.</p> <ul style="list-style-type: none"> -Changed specific reference to HIPAA and 42 CFR Part 2 to a broad requirement to abide by all applicable state and federal laws and regulations. This will aid in ensuring that all relevant confidentiality requirements are followed in implementing the regulation. Such compliance is assumed in state action. -Other edits in the section are technical for ease in reading.
60	60	Content of agreements.	<p>Provides the criteria drafting the Memorandum of Understanding.</p> <ul style="list-style-type: none"> -Changed specific reference to HIPAA and 42 CFR Part 2 to a broad requirement to abide by all applicable state and federal laws and regulations. This will aid in ensuring that all relevant confidentiality requirements are followed in implementing the regulation. Such compliance is assumed in state action. -Other edits in the section are technical for ease in reading.
70	70	Timing and purpose of the facility case review.	<p>Establishes the timeframes for the juvenile correctional center or postdispositional detention program to evaluate a juvenile prior to release to determine whether or not the juvenile meets the criteria for a mental health transition plan.</p> <ul style="list-style-type: none"> *Added specific criteria (subsection B) for addressing the transition needs for a resident committed to the Department as a serious offender for 24 months or

			<p>greater with the intent to reduce the number of juveniles for whom identification as eligible could be delayed until up to 30 days after release.</p> <ul style="list-style-type: none"> -Added specific types of commitments to which subsection A applies. -Added specific Code subsections and subdivisions relied upon. -Adjusted lettering for subsections. -Other edits in the section are technical for ease in reading.
80	80	Participants in facility case review.	<p>States which parties shall be required to participate in the facility review. The parties to the review may participate via telephone or video-conference.</p> <ul style="list-style-type: none"> -Amended numbering/lettering of outline for ease of reading. - Added “impractical or” for clarification. * Deleted requirement for the participation of “the juvenile’s family, legal guardian, or legally authorized representative” and added section requiring these individuals be invited to participate in order that the section incorporate the language from the governing Code section. As edited, the section is consistent with the language of the Code. *Added “a qualified mental health professional familiar with the resident’s case” and deleted “and his mental health needs” from the facility staff description to clarify the individuals required to attend the facility case review. Thus, facility staff and the qualified mental health professional will exchange information to obtain a mutual understanding in moving forward with the plan. -Changed “youth” to “resident” for consistency in reference. -Other technical edits for ease in reading.
120	120	Development of the plan if other than family assessment and planning team.	<p>For a case not referred to the local FAPT, section 120 lists the persons who will be required to participate in the development of the mental health services transition</p>

			<p>plan.</p> <ul style="list-style-type: none"> -Added “(either in person or via telephone or video-conference)” for clarification of the means individuals may participate in the meeting and for stylistic consistency with section 80. -Added “unless clearly impractical or inappropriate (as determined by the professional members of the enhanced mental health transition planning team) and documented in the case file” for clarification of the circumstances when the meeting may proceed if a required member is absent. This reflects the practical circumstances surrounding this population and such meetings. Requiring group decision and documentation enforces the importance that all anticipated members participate. -Changed “person’s” to resident’s for consistency in term usage. -Added Code subsections where applicable.
	130	Content of the plan.	<p>Provides the requirements and contents for developing the mental health transition services plan.</p> <ul style="list-style-type: none"> -Changes are detailed above for consistency throughout the regulation.
	140	Time frames for completing the plan and related tasks.	<p>Provides the timeframes for completing the referrals for services and application and enrollment for financial and other assistance identified in the mental health transition services plan.</p> <ul style="list-style-type: none"> -Changes are detailed above for consistency throughout the regulation.
	150	Reports to probation or parole officer.	<p>Provides the timeframes for on-going progress reports when participation in one or more treatment services identified in the mental health transition services plan is mandated in accordance with a juvenile’s terms of probation or parole supervision.</p> <ul style="list-style-type: none"> -Added “upon release from a facility” for clarification of the timing applicable for the subsection.
	160	Periodic review of	Requires the parties to the mental health

		mental health transition plan.	transition services plan to perform periodic reviews concerning the juvenile’s progress and continued applicability of the plan. -No changes since proposed stage.
	170	Final review prior to termination of probation or parole.	Provides the circumstances for determining if any of the services provided for in the mental health transition services plan should continue beyond the juvenile’s release from probation or parole supervision. -No changes since the proposed stage.

Regulatory flexibility analysis

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

The agency has developed the regulations in collaboration with a stakeholder group, which included representatives of providers, community organizations, and state agencies with an interest in transitioning children with mental health issues from a secure facility back into the community. This group considered various alternatives for meeting the requirements of the legislation and attempted to develop the regulatory provisions that can be easily understood and implemented. The department intends to continue to work in collaboration with the stakeholders.

Family impact

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

The statute mandating the regulation specifies that appropriate family members, caregivers, or other persons shall be invited to participate in the development of the person’s plan. The regulation should, therefore, strengthen parents’ involvement in the process of transitioning their incarcerated child back into the community and in the plan for treatment.