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COMMONWEALTH *of* VIRGINIA  
*Board of Juvenile Justice*

## BOARD AGENDA

October 27, 2025

Virginia Public Safety Training Center – Knox Hall

9:30 a.m. Board Meeting

**1. Call To Order and Introductions**

**2. Public Comment**

**3. New Business**

**I. Presentation on Executive Order 51**

Kristen Peterson, Regulatory Affairs Coordinator, Department of Juvenile Justice

**II. Reconsideration of Request to Initiate a Notice of Intended Regulatory Action to Amend Regulations Governing Juvenile Record Information and the Virginia Juvenile Justice Information System (6VAC35-160) (Pages 2-7)**

Kristen Peterson, Regulatory Affairs Coordinator, Department of Juvenile Justice

**III. Consideration of Request to Initiate the Proposed Stage for the Comprehensive Review of 6VAC35-20 (Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities) and to Initiate a Fast-Track Action for 6VAC35-20-61 (Pages 8-47)**

Ken Davis, Regulatory Affairs Coordinator, Department of Juvenile Justice

**IV. Consideration of Request for Omnibus Fast-Track Action for Additional Regulatory Reduction and Other Amendments (Pages 48-55)**

Kristen Peterson, Regulatory Affairs Coordinator, Department of Juvenile Justice

**4. Director's Certification Actions (Pages 56-66)**

Ken Bailey, Certification Manager, Department of Juvenile Justice

**5. Director Remarks and Board Comments**

**6. Next Meeting:** December 2, 2025 – All-Virtual Public Meeting

**7. Adjournment**



Amy M. Floriano  
Director

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*Department of Juvenile Justice*

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**MEMORANDUM**

**TO:** State Board of Juvenile Justice

**FROM:** Virginia Department of Juvenile Justice

**DATE:** October 27, 2025

**SUBJECT:** Reconsideration of Request to Initiate Notice of Intended Regulatory Action to Amend Regulations Governing Juvenile Record Information and the Virginia Juvenile Justice Information System (6VAC35-160)

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**I. ACTION REQUESTED**

On August 18, 2025, the Department of Juvenile Justice (department) requested board authorization to initiate the first stage of the standard regulatory process, known as the Notice of Intended Regulatory Action (NOIRA) to enable the comprehensive overhaul of the regulatory requirements contained in 6VAC35-160, *Regulations Governing Juvenile Record Information and the Virginia Juvenile Justice Information System*. The department sought authorization for this regulatory action to align the regulation with changes to practices for entities utilizing the Virginia Juvenile Justice Information System (VJJIS), clarify existing requirements and provisions in the chapter, reduce the number of discretionary regulatory requirements to assist in carrying out the Governor's regulatory reduction mandate established in Executive Order 19 (2022), and fulfill the agency's periodic review mandate as set forth in § 2.2-4007.1 of the Code of Virginia.

In considering the department's summary of probable amendments developed by an intradepartmental workgroup, the board asked the department whether the amendments contemplated the sealing provisions contained in Chapter 23.2 (§ 19.2-392.5 et seq.) of Title 19.2 of the Code of Virginia. Because the contemplated amendments did not address these sealing provisions, the board voted to table the department's request to initiate this action and to reconsider the action at a subsequent meeting.

The department has since reviewed and analyzed the relevant statutory provisions regarding sealing of criminal history record information and court records and developed additional conceptual amendments. The department respectfully requests the board's authorization to initiate the NOIRA to enable the comprehensive overhaul of 6VAC35-160.

## II. BACKGROUND

### VJJIS Generally

Section 16.1-222 of the Code of Virginia establishes the VJJIS within the department. Pursuant to § 16.1-223, this system is tasked with receiving, classifying, and filing certain data reported to it and maintained by the department. The statute also directs the board to promulgate regulations governing the security and confidentiality of such data submitted into the VJJIS. In accordance with these statutory provisions, the regulations set forth in 6VAC35-160 were promulgated in 2004 to establish a system whereby “participating agencies,” including, among others, the department, secure juvenile detention centers, and juvenile group homes, have access to data contained within the VJJIS and are subject to rules regarding confidentiality, security, and disclosure. The regulations also set out the process by which juvenile record information may be disclosed to parties authorized to inspect juvenile record information under § 16.1-300 of the Code of Virginia, and the process for storing, retaining, and expunging such records.

### Previous Reviews

Section 2.2-4007.1 of the Code of Virginia directs agencies and boards to conduct a review of all regulations every four years “to determine whether they should be continued without change or be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact on small businesses in a manner consistent with the stated objectives of applicable law.” In accordance with the statute, if a regulation has undergone a comprehensive review in an action that solicited public comment, a periodic review is not required until four years after its effective date.” The department last conducted a periodic review of this chapter with proposed changes taking effect on September 20, 2017; thus, this chapter is overdue for a periodic review.

### Background of Chapter 23.2, Sealing of Criminal History Record Information and Court Records

During its 2021 Special Session, the General Assembly enacted Chapter 23.2 (§ 19.2-392.5 et seq.) of Title 19.2 of the Code of Virginia. The legislation was enacted to create a mechanism for sealing certain criminal offenses and associated records from access and dissemination. As originally enacted, the legislation had a delayed effective date of the earlier of July 1, 2025, or some other specified date to accommodate the development of needed automated systems. (See Chapters [524](#) and [542](#) of the 2021 Special Session Acts of Assembly, Enactment Clause #4). During the 2025 legislative session, the General Assembly further delayed the effective date for these provisions until July 1, 2026, (See [Chapter 634](#) of the 2025 Acts of Assembly) and made additional amendments to the statute.

The statute will allow for certain “records relating to an arrest, charge or conviction” and “ancillary matters” as defined in the statute, to be sealed, either automatically or through a petition process in accordance with the eligibility requirements set out in the statute. Records held by: (i) the Central Criminal Records Exchange; (ii) any court; (iii) any police department, sheriff’s office, or campus police department; or (iv) the Department of Motor Vehicles will be subject to the sealing requirements. The statute also provides a list of entities that will continue having access to sealed records and other scenarios and situations for which sealed records will remain accessible once the statute takes effect.

The sealing provisions apply solely to adults arrested, charged, or convicted of a criminal offense and juveniles tried in circuit court pursuant to § 16.1-269.1. While the department is not named as one of the agencies in possession of sealed records in § 19.2-392.5, various provisions in the statute direct law enforcement to notify other agencies known to possess these records of the applicable sealing and the limits on dissemination. State and local agencies that disseminate sealed records in violation of the statute may be subject to criminal penalties.

In addition to the anticipated amendments previously summarized at the August 18 board meeting and duplicated or described in Part III of this memo, the department plans to make additional amendments to this chapter that will align the regulation with the Sealed Records Act. Among the contemplated amendments, the department plans to incorporate terms and definitions captured in the sealing statute, establish requirements limiting access to sealed juvenile record information to individuals and entities given access under the Sealed Records Act, prohibit the dissemination of sealed juvenile record information in violation of the statute, and continue to protect the confidentiality of other protected juvenile record information in accordance with Title 16.1 of the Code of Virginia.

### **III. ANTICIPATED CHANGES DISCUSSED AT AUGUST 18 MEETING**

#### **Changes to Terms and Definitions**

The department anticipates proposing several changes to clarify and simplify existing definitions and terms, as described below:

- Establish definitions for undefined terms used or proposed for inclusion in this chapter based either on similar definitions in other chapters or definitions in other relevant resources;
- Add new terminology and strike existing definitions for terms with multiple meanings in the chapter;
- Modify terms to reflect industry use;
- Modify definitions to remove references to outdated or needlessly incorporated documents; and
- Amend terms and definitions to simplify and provide greater clarity and precision.

#### **Removal of Duplicative Provisions**

The department anticipates restructuring various sections so that provisions are no longer duplicated across sections or subsections within the chapter.

#### **Expansion of Automatically Designated ‘Participating Entities’**

The existing regulation automatically designates DJJ-operated facilities and programs, as well as locally operated court service units and secure juvenile detention centers as participating entities in the VJJIS. Such automatic designation means the entities do not need to apply to DJJ to obtain status as a participating entity. The department is hoping to expand this list to include programs that have been approved under the Virginia Juvenile Community Crime Control Act (VJCCCA) due to the volume of such programs and the burden associated with enforcing an application process for these entities.

### **Removal of Operational Provisions Not Necessary to Protect Public Health, Safety, or Welfare**

In accordance with ORM's procedures governing regulatory development and review, all regulatory activity shall be "necessary to protect the public health, safety, and welfare." The department hopes to remove several provisions in this chapter that do not meet this standard. Provisions addressing timelines for submitting data into the VJJIS or setting out requirements for correcting errors in data submissions, while beneficial in providing operational guidance, arguably are not necessary for the protection of public health, safety, or welfare. Neither are many of the detailed provisions addressing the process for challenging information contained in a juvenile record or appealing the outcome of such challenge. The department plans to remove these types of provisions from the regulation.

### **Removal of or Updates to Certain Documents Incorporated by Reference**

At the August 18, 2025, meeting, the department discussed various provisions in the chapter that "adopted textual matter by reference" to an external document, essentially requiring compliance with the external text. Specifically, the department addressed provisions incorporating external documents that, while permitted, may have become unnecessary or obsolete. The department stated its intent to remove one such incorporated information technology resource management standard (ITRM SEC 501-09.1) based on concerns that the document was outdated, had been superseded, and did not require incorporation into the regulation because the current provisions referencing the incorporated document were sufficient to accomplish the regulatory intent. The department has since submitted a fast-track action through the Virginia Regulatory Town Hall to remove the incorporated document, and the action completed the fast-track process on September 15, 2025. As a result, ITRM SEC 501-09.1 is no longer incorporated into the chapter.

The department plans to retain properly incorporated documents but will ensure the text references the most recent version rather than rescinded or superseded versions.

### **Clarification Regarding Contractual Requirements for Participating Entities**

The proposal will amend the provision currently addressing the agreements DJJ must develop with participating agencies to clarify which entities are required to execute the contract, require the execution of other documents to guarantee confidentiality of information in the VJJIS, and make several technical changes. Currently, the chapter mandates that persons given access to juvenile record information must sign an information security agreement that aligns with the requirements set out in department procedures. Additionally, the proposal will loosen the requirements regarding logical access controls so that such controls must be established by contract.

### **Removal of Impractical or Unnecessary Provisions**

The department plans to remove provisions imposing requirements that are either impractical or impossible for participating entities to achieve. In some cases, the participating entity is not a part of the department or does not have access to information needed to carry out the underlying requirement. In other cases, the requirement adds a layer of unnecessary bureaucracy that creates a conflict with the regulatory reduction mandate. Finally, some provisions are impractical because they require participating entities to provide notification of certain actions even when such actions would not trigger any similar

obligations for the recipient of the notification. Currently, the department is not enforcing these provisions and believes they should be removed.

### **Background Checks**

The department hopes to propose amendments to this chapter that, while ensuring participating entity staff who have access to the VJJIS have had the appropriate background checks, as required under the existing chapter, relinquishes the department's control over some aspects of the checks. Additionally, the department plans to specify the necessary checks that must be included in the background check, in alignment with various other regulatory chapters.

### **Responding to Requests for Records; Challenging Record Information**

The department plans to make several changes to the process for requesting juvenile record information, responding to such requests, documenting the requests and outcomes, and simplifying the process for challenging information contained within the records. The changes will seek to align the process for responding to requests more closely with that which public bodies must follow in responding to Freedom of Information Act (FOIA) requests, remove operational provisions not appropriate for regulation, ensure adequate and accurate records are maintained for such requests and responses, correct erroneous language, and provide for greater consistency with other mandated processes. Additionally, the proposal will simplify the process for challenging information contained in juvenile records and clarify requirements regarding notification of the outcome of such challenges.

### **Expungement**

- *Additional documentation requirements counter to expungement requirement:* Some expungement and recordkeeping provisions require additional notifications and documentation that will make expunging juvenile records more challenging. The department plans to modify these provisions to control the additional notifications and documentation that may be needed when juvenile records are expunged.
- *Unnecessarily burdensome or impractical requirements regarding expungements:* Some requirements in the expungement process appear unnecessarily burdensome or impractical for participating entities. Provisions imposing certain notification requirements on the data owner or requiring the creation of new documents to replace expunged documents will be amended or removed, as appropriate.

### **Statutory Language and Information**

Many of the chapter's provisions explain or reference underlying statutory provisions and use language that does not align with the statute. The department plans to correct these provisions. Additionally, some provisions in the chapter explain, quote, or reference an underlying statutory provision unnecessarily. The department plans to replace some of these provisions with language citing the statute and to remove other such provisions entirely. Finally, the proposal will reference statutory provisions that were unintentionally omitted.

## **Removal or Replacement of Outdated Provisions and Documents**

The department expects to make several amendments to the chapter to strike provisions that, due to evolving programming and changes in industry practices, have become obsolete.

## **Changes for Clarity and Style**

Because regulations must be “clearly written” and “easily understandable” to comply with § 2.2-4017 of the Code of Virginia, the department plans to make numerous technical and formatting changes, as well as a few substantive changes intended to simplify the chapter, promote consistency in language, and conform to requirements in the “Virginia Register of Regulations Form, Style, and Procedure Manual for Publication of Virginia Regulations.”

## **IV. PROCESS FOR SUBMISSION OF NOIRA AND NEXT STEPS**

Given its comprehensive review of this chapter and the numerous amendments the department plans to accomplish through this action, the department is seeking authorization to submit this action through the standard regulatory process. This process involves three stages, commencing with the NOIRA stage that announces the proposal, followed by the Proposed Stage, wherein the proposed regulatory text will be provided to the board, and ending with the Final Stage, when the regulatory language will be adopted and finalized. Each stage includes Executive Branch review, publication of the action in the Virginia Register of Regulations, and a public comment period. The timeframes for the NOIRA are illustrated in the table below:

### **Timeframes for NOIRA Stage**

<b>Action/Review</b>	<b>Deadline for Completion</b>
Submit NOIRA to Virginia Regulatory Town Hall	No deadline after board approval
Department of Planning and Budget	14-day deadline
Secretary of Public Safety and Homeland Security (if applicable)	14-day deadline
Office of Regulatory Management	14-day deadline
Governor/Chief of Staff	No deadline
Publication of NOIRA in Virginia Register	In accordance with publication schedule
Public Comment Period	30-day deadline

## **V. CONCLUSION**

The department believes filing this NOIRA action is an important preliminary step in initiating comprehensive changes to this chapter, including reducing the number of regulatory requirements, simplifying and clarifying provisions, and carrying out the statutory obligation to conduct periodic regulatory reviews every four years. Additional proposed changes will ensure regulatory provisions are in place to prohibit the dissemination of or access to sealed records by unauthorized entities. Accordingly, the department asks the board to approve this request and authorize the department to initiate the NOIRA stage of the standard regulatory process.



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**TO:** State Board of Juvenile Justice

**FROM:** Virginia Department of Juvenile Justice

**SUBJECT:** Request Authorization to Initiate the Proposed Stage for the Comprehensive Review of 6VAC35-20 (Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities) and to Initiate a Fast-Track Action for 6VAC35-20-61

**DATE** October 27, 2025

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**I. SUMMARY OF ACTION REQUESTED**

The Department of Juvenile Justice (the department) respectfully requests that the State Board of Juvenile Justice (the board) authorize (i) initiation of the Proposed stage of the standard regulatory process for the comprehensive review of 6VAC35-20 (Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities) and (ii) initiation of the Fast-Track process for Section 61 (Self-audit of programs and facilities subject to certification audits.) of 6VAC35-20.

**II. BACKGROUND**

The provisions in 6VAC35-20 establish the department's responsibility to monitor and audit juvenile residential facilities and programs, VJCCCA programs, and offices on youth and to certify residential facilities and state-operated and local court service units that are part of Virginia's juvenile justice system. It also describes the various methods by which the department measures and enforces compliance with its regulations governing those facilities and programs.

On December 6, 2024, the board authorized the initiation of a Notice of Intended Regulatory Action (NOIRA) for a comprehensive review of 6VAC35-20. The department submitted the NOIRA for Executive Branch Review on December 20, 2024, and it was approved by the Governor on April 1, 2025. The NOIRA was published in the Virginia Register of Regulations on April 21, 2025, and the 30-day public comment period commenced. The public comment period ended on May 21, 2025, and the department received no comments.

The workgroup completed work on the amendments to 6VAC35-20 this summer and was pleased to find that the changes created a reduction in the regulatory count for this regulation. With the deadline approaching to reach the Governor's regulatory reduction target, the department decided to divide the amendments into two regulatory actions: a fast-track action to advance the regulatory reductions in Section 67 and the existing standard action for the remaining amendments.

### III. RECOMMENDED AMENDMENTS FOR COMPREHENSIVE REVIEW

The workgroup recommends changes to most sections of the regulation. The proposed changes include stylistic, grammatical, and clarifying amendments; substantive changes in definitions and requirements; and the removal of provisions deemed procedural and therefore not appropriate for continued inclusion in the chapter. In determining what changes to make, the workgroup focused primarily on current practice within the Certification Unit but also took the regulatory reduction effort into account.

The recommended amendments are presented here in the order in which they appear in the regulatory text:

#### Section 10. Definitions

- Add a definition for “administrative probation” thus: “‘Administrative probation’ means the director places a program or facility on probationary certification status for up to six months pending review by the board pursuant to 6VAC35-20-115.” This is not a new term, but the workgroup determined that it needed to be defined in Section 10 so that there is a common understanding across the department and regulated parties.
- Remove the definition for “appeal of a finding of noncompliance.” The workgroup determined that the term is self-explanatory, and a definition is not needed.
- Revise the definition of “audit team leader” to clarify that findings of noncompliance can happen in circumstances other than certification audits: regulatory inquiries, for example.
- Revise the definition for “certification” or “certified” to change “for a specific period of time” to “under specified conditions.” This change recognizes that certifications not only specify the time for which a program or facility is certified but also establish maximum population or other parameters.
- Make stylistic changes to the definition of “certification action.”
- Remove from the definition of “certification audit” the requirement that the audit include an on-site visit. The increased use of technology that began during the pandemic era has created substantial efficiencies for the Certification team and has lessened the need for on-site visits, although they do remain an important part of some audits. The workgroup also recommends moving to the new Section 31 the statement that all facilities and court service units (CSUs) regulated by the board shall be subject to certification audits. Regulatory definitions may not include regulatory requirements.
- Substantially revise the definition of certification status thus: “‘Certification status’ means the type of certification issued to a program or facility as provided for in 6VAC35-20-75.” This change provides a crisper definition and has the benefit of pointing readers to the appropriate regulatory section.
- Change the definition of “compliance” to change the word “standard” to “regulation” and to remove the reference to board policies. The term “standard” is obsolete, and “regulation” is now in common use across Executive Branch agencies. The Certification Unit does not assess compliance with board policies.
- Remove the definition for “compliance documentation” because the term does not appear anywhere in the regulation.
- Make stylistic changes to the definition for “corrective action plan.”

- Make stylistic changes to the definition for “critical regulatory requirements,” and removed the statement referring to “mandatory standards” as no longer necessary.
- Make stylistic changes to “deficiency” and “noncompliance.”
- Make a stylistic change to “juvenile residential facility” or “facility.”
- Make a stylistic change to “monitoring review.”
- Remove the definition for “monitoring visit” and replaced the term with “regulatory inquiry” throughout the text. The workgroup determined the new term is more accurate and less likely to cause confusion.
- Change the word “facility” to “structure” in the definition for “newly opened facility.” Not all existing structures placed in service as a juvenile residential facility will necessarily be existing facilities.
- Remove the definition of “preliminary summary suspension order” and struck it throughout the text. The term is not used in sections of the Code of Virginia referencing summary suspension orders, and the workgroup deemed the term unnecessary and potentially confusing.
- Make a stylistic change to the definition for “program.”
- Add a definition for “regulatory inquiry” as a replacement for “monitoring visit.” “Regulatory inquiry” means a review of applicable regulations conducted on-site or by electronic means following the report of a potential regulatory violation.”
- Make a stylistic change to the definition for “regulatory requirement.”
- Change the definition for “status report” because the workgroup felt the existing definition was confusing and did not get to the heart of the term. The new definition defines “status report” as “a report summarizing a program’s or facility’s progress in completing their corrective action plan.”
- Update the definition of “VJCCCA program” so that it includes residential facilities in addition to nonresidential programs.
- Update the definition of “VJCCCA program or office on youth audit” to indicate that audit can be on-site or by electronic means.
- Remove the definition of “VJCCCA program or office on youth audit report” because the term is not used anywhere else in the regulation.
- Update the definition of written to comply with the Rules of Construction and Definitions § 1-257 of the Code of Virginia.

### **Section 30. Purpose.**

The workgroup recommends repealing this section because the Office of the Registrar of Regulations has advised us that purpose statements should not be included in regulations.

### **Section 31. Department responsibility. (New)**

With minor modifications, this new section takes the language from the repealed Section 30 and presents it as a description of the department’s responsibility in this chapter. This section also includes the requirement that all facilities and court service units regulated by the board will be subject to certification audits.

### **Section 35. Guidance documents.**

Until recently, all the department’s compliance manuals were classified as guidance documents as defined in Code of Virginia §2.2-4101. This year, however, the department determined that the compliance manual for juvenile correctional centers (JCCs) did not meet the statutory definition, and we removed it from the list of guidance documents on Town Hall. Because of this change, the catch line for Section 35 is no longer correct, and the workgroup recommends changing it to “Compliance manuals.” Additionally, the workgroup recommends changing the language in this section to reflect the change, replacing “guidance documents” in the text with

“compliance manuals.” Finally, the workgroup recommends removing the requirement that these documents “shall serve as the basis for monitoring visits, monitoring reviews, certification audits, and VJCCA program or office on youth audits,” because it is no longer accurate.

**Section 36. Program or facility relationship to regulatory authority.**

The workgroup recommends a single amendment to this section: to change “human rights of residents,” in subdivision 3, to “rights of residents.” The workgroup determined that “human rights” is overly broad and could have implications beyond the board’s intent. “Rights of residents” is more consistent with the terminology used in other chapters and, therefore, less likely to cause confusion or raise questions of scope.

**Section 36.1. Department response to reports of health, welfare, or safety violations.**

The workgroup recommends minor amendments for style.

**Section 37. Director’s authority to take immediate administrative action.**

Section 37 is a lengthy section describing the process the director must follow in issuing a summary suspension order. Many of the provisions are procedural in nature and not appropriate for regulations. Additionally, the term “preliminary suspension order” is used in the text, but that term is not defined in the Code and, therefore, is not part of the legal process of the summary suspension order. The workgroup recommends removing most of the procedural language and replacing it with references to the summary suspension order process described in § 66-24 E and F of the Code.

**Section 50. Preaudit process for certification audits.**

This section lays out the requirements for preparing for a certification audit, including notification to the program or facility and providing the program or facility with a list of the audit team members. This section then allows the program or facility manager to request that one or more of the audit team members be replaced. The workgroup deemed this entire section to be procedural in nature and recommends repealing the section.

**Section 60. Monitoring of programs and facilities.**

The workgroup recommends removing three pieces of language for this section: (i) removing the reference to monitoring visits, as mentioned in the definitions section, (ii) eliminating the reference to department procedures as an improper incorporation by reference, and (iii) removing as procedural the requirement that the department develop an annual plan for monitoring programs and facilities that are subject to certification audits. The recommendation retains the rest of the requirements but updates the formatting.

**Section 69. Newly opened facilities and new construction, expansion, or renovation of residential facilities.**

The workgroup recommends removing an improper incorporation by reference of department procedures in subsection B. The recommendation also removes as unnecessary the language, “whether or not the facility or its sponsor is seeking reimbursement for construction or operations.” The word “all” in that provision is sufficient. The workgroup also recommends removing B 4 (Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs [6VAC35-30]) to conform with the action on 6VAC35-30. The recommendation also includes a change for style in subsection C.

**Section 75. Certification of individual programs or facilities.**

The only substantive recommendation in this section is to add community placement programs to subsection A concerning which programs and facilities the director or designee shall certify. Changes for clarity and style are recommended in subsection D.

**Section 80. Certification audit procedures.**

The workgroup recommends changing the catch line to “Certification audit process” to avoid any confusion between regulations and procedures. Other changes include a rewrite of subsection A with no substantive change and the addition of “as necessary” to the provisions that the audit team must “visit the program or facility.” This reflects the use of electronic means for some audit functions. The workgroup also recommended stylistic and formatting changes to the subdivisions under subsection B.

**Section 85. Determining compliance with individual regulatory requirements.**

The workgroup recommends several changes to this section, including the removal of all the provisions under subdivision 1. The language under subdivision 1 is partially repetitive of section 100 and also includes an improper incorporation by reference of department procedures. The recommendation also removes the provisions containing an improper incorporation by reference in subsection C. The entire section, then, is reformatted to be consistent with the Registrar’s style guidelines.

**Section 91. Corrective action plans and certification audit reports.**

The workgroup recommends substantial changes to this section, beginning with the removal of the requirement in A 2 that the department issue guidelines to provide for the format and process for the department’s review and approval of corrective action plans. The workgroup determined that this provision was overly prescriptive and more appropriate for a procedure than a regulation. The proposal also removes the requirement in A 4 that the program or facility administrator be responsible for developing and implementing a written corrective action plan. This will allow flexibility for program and facility administrators to delegate this task if they deem it appropriate. The workgroup also recommends removing all the language from subsection B through the end of the section and replacing those provisions with a single, simpler subsection that requires the Certification Unit Manager to submit a certification audit report to the director or designee and that the report should contain the program’s or facility’s corrective action plan if there was a finding of noncompliance. This section also will be reformatted consistent with the guidelines from the Registrar.

**Section 92. Variance Request.**

The recommendations for this section are relatively minor. The workgroup recommended removing the requirement in A 5 that requests for a variance contain the date at which time compliance is expected. Some variance requests are for situations where compliance is not expected or it is impossible to project when compliance might be achieved. For example, New River Valley Juvenile Detention Center currently has a variance allowing it to operate without a purpose-built control center. Compliance depends upon whether the local governing body decides to renovate the facility or build a new facility that would comply with the requirement. New River Valley JDC has no control over this matter and, therefore, cannot reasonably be expected to provide a date for expected compliance. The remaining recommended changes are for style and clarity.

**Section 93. Waivers.**

The workgroup recommends in A (ii) adding “the public” to the list of people or groups who should not be threatened by noncompliance with a regulatory requirement for which a waiver is requested. Also in A, the workgroup recommended reversing the order of (iii) and (iv) so that adverse effects to juveniles’ care or services is listed before “enforcement will create an undue hardship.” Because the idea of undue hardship is so subjective, the workgroup recommends removing that item and moving subsection B into its place, thus: “(iv) emergency conditions or circumstances make compliance with the regulatory requirement impossible or impractical.” In subsection C, the workgroup recommends removing the language requiring the board to act on variance requests

at its first meeting following notice from the director or designee that a waiver has been granted. The requirement is more restrictive than the provision in subsection 92 D that requires variance requests to be placed on the agenda for consideration at the next regularly scheduled meeting, and the workgroup decided subsection 92 D was the more appropriate requirement. The workgroup recommends additional changes for style and formatting.

**Section 94. Appeal process for a finding of noncompliance.**

The workgroup recommends several changes to this section. First, in subsection A, add “a monitoring review, or a regulatory inquiry” to the list of actions for which a program or facility administrator may appeal a finding of noncompliance. The recommendation also makes a change to require the program or facility administrator to submit their appeal to the certification manager or designee instead of the director or designee. A change recommended for subsection C also would change “department personnel” to “the certification manager or designee” to clarify accountability. The workgroup also recommends that if the certification manager or designee cannot informally resolve the appeal, he must forward the appeal to his supervisor rather than to the director. The certification manager’s supervisor then must issue a decision on the appeal and notify the program or facility administrator within 15 business days of receipt. The appeal will only go to the director if the result of the appeal to the certification unit manager’s supervisor is unsatisfactory. In this case, the director has 15 business days to issue a decision and notify the program or facility administrator. The director may delay the finding for an additional 30 days if that time is needed to gather more information or to organize a hearing on the appeal. If the finding of noncompliance is still unresolved after the appeal to the director, the program or facility administrator may appeal the director’s decision to the board within 30 days of the receipt of the director’s decision. The department then must place the appeal on the agenda for the board’s next regularly scheduled meeting. The workgroup further recommends revising subsection E to clarify that if the appeal is granted and the finding overruled *at any step*, the finding of noncompliance must be removed from the certification audit report. Finally, the workgroup recommends updates to the formatting to account for the preceding changes.

**Section 100. Certification action.**

The proposal for this section also includes several changes. First, in subsection A, the workgroup recommends adding language to allow a program or facility administrator to appear via videoconference at the certification action meeting and clarified that the administrator may be represented by counsel at the meeting. In B 3, the workgroup recommends revising the language pertaining to unresolved health, welfare, or safety violations to be more specific and more consistent with language elsewhere in this chapter. Another recommendation in C 5 b would replace the requirement that a program or facility be decertified upon a status report finding of less than 100% compliance with critical regulatory requirements or less than 90% compliance with noncritical regulatory requirements, and replace it with the language “may be placed on probationary certification status or decertified.” This gives the department more discretion in dealing with matters of noncompliance rather than forcing a decertification. The workgroup further recommends in D 1 that the improper incorporation by reference of department procedures be removed. Finally, the workgroup recommends several changes for style and clarity throughout the section.

**Section 210. VJCCCA programs and offices on youth self-evaluations.**

The workgroup recommends removing an improper incorporation by reference of department procedures in subsection A. Other changes are recommended for style and clarity.

**Section 220. VJCCCA program and office on youth audits.**

The workgroup recommends removing an improper incorporation by reference of department procedures in subsection B. A change recommended for subsection C clarifies that the department is responsible for

documenting findings of noncompliance. The workgroup recommends a few additional changes for style and clarity.

**Section 230. VJCCCA program and office on youth audit findings.**

The workgroup recommends a change in subsection A to clarify that the department is responsible for reporting audit findings. An additional change in subsection C allows monitoring to be accomplished by telephone or electronic contact in addition to subsequent documentation. Finally, the workgroup recommends additional changes for style and clarity.

**Sections 90, 120, 150, 200, and 240**

The workgroup recommends several changes to these sections for style and clarity. No substantive changes are recommended.

**IV. RECOMMENDED AMENDMENT FOR FAST-TRACK ACTION**

The workgroup initially recommended amendments to section 61 of this chapter as part of the comprehensive review action discussed above. Considering the Governor's mandate to reduce overall regulatory requirements and associated documents, and given the reduction that will result from recommended amendments to section 61, the department recommends separating this section from the main action and sending it through the Fast-Track process. The recommendation is as follows.

**Section 61. Self-audit of programs and facilities subject to certification audits.**

The workgroup recommends removing the document incorporated by reference (DIBR) "Guidance Document: Self-Audits/Evaluations, September 2013." The document should be removed because (i) it constitutes an improper incorporation by reference, (ii) at 12 years old, the document is outdated, and (iii) the document is no longer required because the Certification Unit provides forms to programs and facilities for their use in completing their self-audits. The workgroup also recommends changes for style and clarity.

**V. CONCLUSION**

The department believes the changes discussed in this memorandum will improve the certification regulation by eliminating unnecessary provisions, improving the clarity and accuracy of the text, identifying responsible parties where the existing regulation is vague, and removing an outdated and unnecessary incorporated document. By moving section 61 forward as a Fast-Track action, the department will be one step closer to reaching the Governor's stated regulatory reduction goals. For these reasons, the department respectfully requests that the board authorize initiation of the Fast-Track process for section 6VAC35-20-61 and advancement of the Proposed Stage for the remaining proposed amendments to the regulation.

**Project 8196 - NOIRA**

**Department (Board) of Juvenile Justice**

**Periodic Review of the Regulation Governing the Monitoring, Approval, and Certification  
of Juvenile Justice Programs and Facilities**

**6VAC35-20-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Administrative probation" means the director places a program or facility on probationary certification status for up to six months pending review by the board pursuant to 6VAC35-20-115.

~~"Appeal of a finding of noncompliance" means the action taken by a facility or program administrator after a certification audit when there is disagreement with a finding of noncompliance with an individual regulatory requirement.~~

"Audit team leader" means the person designated by the director or designee to organize and facilitate the certification a regulatory audit, or the audit of a VJCCCA program or office on youth, or any other audit or regulatory inquiry.

"Board" means the Virginia Board of Juvenile Justice.

"Certification" or "certified" means the formal finding that a program or facility is approved to operate ~~for a specific period of time~~ under specified conditions as provided for in 6VAC35-20-100.

"Certification action" means the department's decision to issue or deny certification or to decertify a program or facility as provided for in 6VAC35-20-100 or the board's decision to ~~take action~~ act pursuant to 6VAC35-20-115.

"Certification audit" means the process by which designated personnel assess a program's or facility's compliance with applicable regulatory requirements, ~~which includes an on-site visit,~~ the

results of which are reported in a certification audit report for certification action as provided for in 6VAC35-20-100. ~~All facilities and court service units regulated by the board shall be subject to certification audits.~~

"Certification audit report" means the official report of certification audit findings prepared by the audit team leader as provided for in 6VAC35-20-90.

"Certification status" means the type of certification issued to a program or facility, ~~which includes the period of time specified in the certificate, during which the program or facility is approved to operate and must maintain compliance with its regulatory requirements and any corrective action plan, as provided for in 6VAC35-20-75.~~

"Compliance" means meeting the requirements of a ~~standard or an applicable board policy, regulation.~~

~~"Compliance documentation" means specific documents or information including records, reports, observations, and verbal responses to establish or confirm compliance with a regulatory requirement by a program or facility.~~

"Conditional certification" means a temporary certification status issued to a new or newly opened facility as provided for in 6VAC35-20-100.

"Corrective action plan" means a ~~written document that,~~ document written in accordance with 6VAC35-20-91, ~~states~~ stating what has been or will be done to bring all deficiencies into compliance with regulatory requirements.

"Critical regulatory requirements" means ~~these~~ the regulatory requirements for programs or facilities, ~~as defined by the board, that must be maintained at~~ requiring 100% compliance. ~~Critical regulatory requirements were previously termed "mandatory standards."~~

"Decertified" means a status imposed in accordance with 6VAC35-20-120 when it is determined that a program or facility has not met an acceptable percentage of compliance with its regulatory requirements as provided for in 6VAC35-20-85.

"Deficiency" ~~and/or~~ "noncompliance" means that the program or facility (i) does not meet or has not demonstrated that it meets a regulatory requirements~~requirement~~ or (ii) does not comply with the Virginia Juvenile Community Crime Control Act local plan approved by the board.

"Department" means the Virginia Department of Juvenile Justice.

"Director" means the Director of the ~~Department of Juvenile Justice~~department.

"Health, welfare, or safety violation" means any action or omission that causes an immediate and substantial threat to the health, welfare, or safety of the juveniles or staff in juvenile residential facilities.

"Juvenile residential facility" or "facility" means a publicly or privately operated facility or placement, certified pursuant to this chapter, where 24 hour-per-day care is provided to residents who are separated from their legal guardians ~~and that is certified pursuant to this chapter~~. As used in this regulation, the term includes juvenile group homes and halfway houses, juvenile secure detention centers, and juvenile correctional centers.

"Monitoring review" means a review by designated department personnel assessing ~~the~~a program's or facility's compliance with regulatory requirements. A monitoring review may be conducted via electronic means and does not require on-site examination of the program or facility. A monitoring review may be done in conjunction with a program's or facility's self-audit, which is provided for in 6VAC35-20-61.

~~"Monitoring visit" means an on-site evaluation and inspection by designated personnel to assess a program's or facility's compliance with regulatory requirements.~~

"Newly opened facility" means (i) a facility that is newly constructed or (ii) an existing facility structure that is being placed in service as a juvenile residential facility.

"Office on Youth" means nonresidential programs funded via the Virginia Delinquency Prevention and Youth Development Act (Chapter 3 (§ 66-26 et seq.) of Title 66 of the Code of Virginia).

~~"Preliminary summary suspension order" means an order issued by the director as provided in 6VAC35-20-37 taking immediate action against a program or facility when there is a known substantial health, welfare, or safety threat. This order is issued summarily prior to review by the board and is subject to due process protections after issuance.~~

"Probationary certification" means the temporary status granted to a program or facility to provide a period of time in which to demonstrate compliance with regulatory requirements.

"Program" means a court service unit or a nonresidential service subject to applicable regulatory requirements. For the ~~purpose~~purposes of this regulation, VJCCCA programs and offices on youth are not included in this definition.

"Program or facility administrator" means the individual responsible for the operations of a program or facility subject to regulatory requirements.

"Regulatory inquiry" means a review of applicable regulations conducted on site or by electronic means following the report of a potential regulatory violation.

"Regulatory requirement" means a provision of a regulation promulgated by the board to which a program or facility must adhere. A section, subsection, or subdivision of a regulation may include multiple regulatory requirements as ~~provided for~~discussed in 6VAC35-20-85.

~~"Status report" means a report that summarizes a review of the areas on which there was a finding of noncompliance and states the program's or facility's compliance standing indicated through the review. For a status report, the regulatory requirements are monitored at the same~~

~~level of compliance as assessed in the certification audit.~~ summarizing a program's or facility's progress in completing their corrective action plan.

"Summary suspension order" means an order issued by the director in accordance with § 66-24 of the Code of Virginia and 6VAC35-20-37 temporarily suspending a program's or facility's certification.

"Variance" means a board action that relieves a program or facility from having to meet a specific regulatory requirement or develop a corrective action plan for that regulatory requirement for a determined period of time.

"VJCCCA program" means a nonresidential program or residential facility established under the Virginia Juvenile Community Crime Control Act (Article 12.1 (§ 16.1-309.2 et seq.) of Chapter 11 of Title 16.1 of the Code of Virginia).

"VJCCCA program or office on youth audit" means the ~~on-site~~ visit by designated department personnel, on site or by electronic means, to assess a program funded through the Virginia Juvenile Community Crime Control Act (Article 12.1 (§ 16.1-309.2 et seq.) of Chapter 11 of Title 16.1 of the Code of Virginia) or the Virginia Delinquency Prevention and Youth Development Act (Chapter 3 (§ 66-26 et seq.) of Title 66 of the Code of Virginia) for compliance with the regulatory requirements as provided for in 6VAC35-150 (Regulation for Nonresidential Services) and 6VAC35-60 (Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs), as applicable.

~~"VJCCCA program or office on youth audit report" means an official report of a VJCCCA program or office on youth audit.~~

"Waiver" means a formal statement from the department temporarily excusing a program or facility from meeting a noncritical regulatory requirement pending board action on a formal variance request.

"Written," "writing," or "in writing" as defined in § 1-257 of the Code of Virginia means the required information is communicated in writing. Such writing may be available in either hard copy or electronic form; any representation of words, letters, symbols, numbers, or figures, whether (i) printed or inscribed on a tangible medium or (ii) stored in an electronic or other medium and retrievable in a perceivable form.

**6VAC35-20-30. Purpose. (Repealed.)**

~~This regulation prescribes how, in accordance with §§ 16.1-234, 16.1-249, 16.1-309.9, 16.1-309.10, 16.1-349, 66-10, 66-24, and 66-25.1:3 of the Code of Virginia, (i) the department will monitor and audit juvenile residential facilities, programs, VJCCCA programs, and offices on youth; (ii) the department will certify residential facilities and state-operated and local court service units that are part of the Commonwealth's juvenile justice system; and (iii) the board will review certification audit reports of programs and facilities found in noncompliance with applicable regulatory requirements.~~

**6VAC35-20-31. Department responsibility.**

In accordance with §§ 16.1-234, 16.1-249, 16.1-309.9, 16.1-309.10, 66-10, 66-24, and 66-25.1.3 of the Code of Virginia, (i) the department will monitor and audit juvenile residential facilities, programs, VJCCCA programs, and offices on youth, (ii) the department will certify residential facilities and state-operated and local court service units that are part of the Commonwealth's juvenile justice system, and (iii) the board will review certification audit reports of all programs and facilities. All facilities and court service units regulated by the board shall be subject to certification audits.

**6VAC35-20-35. Guidance documents Compliance manuals.**

To help programs and facilities meet all regulatory requirements, the department shall prepare guidance documents compliance manuals compiling all regulatory requirements applicable to

each type of program or facility subject to this chapter and stating how compliance will be assessed. ~~The guidance documents shall serve as the basis for monitoring visits, monitoring reviews, certification audits, and VJCCCA program or offices on youth audits.~~ The guidance documents compliance manuals shall be posted on the department's website at <http://www.djj.virginia.gov>.

**6VAC35-20-36. Program or facility relationship to regulatory authority.**

A. The program or facility shall submit or make available to the audit team leader such reports and information required to establish compliance with applicable regulatory requirements. Documentation supporting compliance with regulatory requirements shall be retained by the program or facility from the date of the previous certification audit or VJCCCA program or office on youth audit.

B. The program or facility administrator shall notify the director or designee within five business days of any significant change in administrative structure or newly hired chief administrative officer or program or facility administrator or director.

C. The program or facility administrator shall, in accordance with the process established by the department, notify the director or designee of the following:

1. Any serious incidents affecting the health, welfare, or safety of citizens, individuals under the supervision of the department, or staff;
2. Lawsuits against or settlements relating to the health, welfare, safety, or ~~human~~ rights of residents; and
3. Any criminal charges or reports of suspected child abuse or neglect against staff relating to the health, welfare, safety, or human rights of residents.

**6VAC35-20-36.1. Department response to reports of health, welfare, or safety violations.**

Whenever the department becomes aware of a health, welfare, or safety violation, the department shall take immediate action to correct the situation if ~~not already done by the program or facility.~~ the program or facility has not already done so. The department's actions may include, ~~but are not limited to,~~ the following:

1. Reporting the situation to child protective services, the Virginia State Police or the law-enforcement agency with jurisdiction, or other enforcement authorities, as applicable and appropriate; or
2. Taking any action authorized in 6VAC35-20-37 for violations in a juvenile residential facility; or
3. Reporting to the board no later than its next regularly scheduled meeting (i) the nature and scope of the health, welfare, or safety violation and (ii) the action taken by the department or the program or facility to correct the violation.

**6VAC35-20-37. Director's authority to take immediate administrative action.**

~~A. Nothing in this regulation shall be construed to limit the director's authority to take immediate administrative action in accordance with law whenever (i) evidence is found of any health, welfare, or safety violation or (ii) a program or facility is not in compliance with regulatory requirements or the Virginia Juvenile Community Crime Control Act requirements. Such administrative action may include, but is not limited to (a) withholding funds; (b) removing juveniles from the program or facility; (c) placing the program or facility on probationary certification status for up to six months pending review by the board pursuant to 6VAC35-20-115; or (d) summarily suspending the certificate pursuant to subsection B of this section. In taking such action, the department shall notify the program or facility administrator, the administrative entity to which the~~

~~program or facility reports, and the board, in writing, of the reason for the administrative action and the action the program or facility must take to correct the violation.~~

~~B. In accordance with subsection A of this section, the director may issue a preliminary summary suspension order of the certificate of the juvenile residential facility regulated by the board as follows:~~

~~1. A preliminary summary suspension order may be issued when conditions or practices exist in the facility that pose an immediate and substantial threat to the health, welfare, or safety of the residents including, but not limited to, the following:~~

~~a. Violations of any provision of applicable laws or applicable regulations made pursuant to such laws;~~

~~b. Permitting, aiding, or abetting the commission of any illegal act in the regulated facility;~~

~~c. Engaging in conduct or practices that are in violation of statutes related to abuse or neglect of children;~~

~~d. Deviating significantly from the program or services for which a certificate was issued without obtaining prior written approval from the regulatory authority or failing to correct such deviations within the specified time; or~~

~~e. Engaging in a willful action or gross negligence that jeopardizes the care or protection of the resident.~~

~~2. The director shall immediately upon issuance of the preliminary summary suspension order and without delay notify the certificate holder verbally and in writing via (i) facsimile, (ii) electronic mail, or (iii) hand delivery of the issuance of the preliminary order of suspension and the opportunity for a hearing before the director or designee within three business days of the issuance of the preliminary summary suspension order. The chair of~~

~~the board must be notified immediately when the director issues a preliminary summary suspension order. In accordance with 6VAC35-20-36.1, the director shall report the action taken to the board no later than its regularly scheduled meeting.~~

~~a. The certificate holder may decline the opportunity for an appeal to the director or designee.~~

~~b. Whenever an appeal is requested and a criminal charge is also filed against the appellant involving the same conduct, the appeal process shall be stayed until the criminal prosecution is completed. During such stay, the certificate holder's right of access to the records of the department regarding the matter being appealed shall also be stayed. Once the criminal prosecution in court has been completed, the department shall advise the appellant in writing of his right to resume his appeal within the time frames provided by law and regulation.~~

~~3. The certificate holder may appear before the director or designee by personal appearance or by telephone. Any documents filed may be transmitted by facsimile and the facsimile and any signatures thereon shall serve, for all purposes, as an original document.~~

~~a. Upon request, the department shall provide the appellant a summary of the information used in making its determination. Information prohibited from being disclosed by state or federal law or regulation shall not be released. In the case of any information being withheld, the certificate holder shall be advised of the general nature of the information and the reasons, of privacy or otherwise, that it is being withheld.~~

~~b. The director or designee shall preside over the appeal. With the exception of the director, no person whose regular duties include substantial involvement with the certification of the facilities shall preside over the appeal.~~

~~(1) The certificate holder may be represented by counsel.~~

~~(2) The certificate holder shall be entitled to present the testimony of witnesses, documents, factual data, arguments, or other submissions of proof.~~

~~4. The director or designee shall have the authority to sustain, amend, or reverse the preliminary summary suspension order. If sustained or amended, the order is considered final. The director or designee shall notify the certificate holder in writing of the results of the appeal and of the right to appeal the final order to the appropriate circuit court within 10 business days of the decision. Notification of the results of the appeal before the director or designee shall be mailed certified with return receipt to the certificate holder.~~

~~a. The chair of the board must be immediately notified when the director issues a final summary suspension order. In accordance with 6VAC35-20-36.1, the director shall report the action taken to the board no later than its next regularly scheduled meeting.~~

~~b. If the certificate holder is not satisfied, the certificate holder may dispute the noncompliance finding in accordance with 6VAC35-20-90.~~

A. The director shall have the authority to take immediate administrative action when (i) evidence is found of a health, welfare, or safety violation or (ii) a program or facility is not in compliance with regulatory requirements or Virginia Juvenile Community Crime Control Act requirements. Action may include:

1. Withholding funds;

2. Removing juveniles from the program or facility;

3. Placing the program or facility on administrative probation; or

4. Issuing a summary order of suspension of the certificate pursuant to subsection E of § 66-24 of the Code of Virginia.

B. If the director issues a summary suspension order, the process shall be governed by subsection F of § 66-24 of the Code of Virginia.

C. Upon request, the department shall provide the program or facility administrator a summary of the information used in taking administrative action pursuant to subsection A of this section.

1. The department shall withhold any information prohibited from being disclosed by state or federal law or regulations.

2. If information is withheld, the department shall advise the program or facility administrator of the general nature of the information and the reasons for withholding it.

**6VAC35-20-50. Preaudit process for certification audits. (Repealed.)**

~~A. At least six months in advance of a certification audit, the department shall notify each program or facility to be audited of the scheduled audit date and the name of the designated audit team leader.~~

~~B. At least 90 calendar days before the scheduled audit, the program or facility administrator may request that the audit be rescheduled. Except as provided in 6VAC35-20-100, audits, even if rescheduled, must occur before the expiration of the current certification, unless specifically approved by the director.~~

~~C. The audit team leader shall provide the program or facility administrator with a list of audit team members as soon as practicable, but no later than 10 business days before the scheduled certification audit. Upon notification of the audit team members, the program or facility administrator may request that one or more members of the audit team be replaced. Every reasonable effort will be made to comply with the request. Any subsequent addition or substitution of the audit team members shall be communicated to the program or facility administrator as soon as practicable and may be made subject to the mutual agreement of the audit team leader and program or facility administrator.~~

**6VAC35-20-60. Monitoring of programs and facilities.**

A. All programs or facilities subject to regulations issued by the board shall be subject to periodic, scheduled ~~monitoring visits or monitoring reviews conducted in accordance with department procedures.~~

~~B. The department shall annually develop a plan for monitoring programs and facilities subject to certification audits, which shall provide for at least the following:~~

~~1. All programs and facilities that are subject to certification audits shall receive at least one scheduled monitoring visit per year. A certification audit shall satisfy the requirement of a scheduled monitoring visit.~~

~~2. Additional monitoring visits or monitoring reviews may be conducted at the request of the board, department, or program or facility administrator.~~

B. All programs and facilities subject to certification audits shall receive at least one scheduled monitoring review per year. A certification audit shall satisfy this requirement.

C. Additional monitoring reviews may be conducted at the request of the board, department, or program or facility administrator.

**6VAC35-20-69. Newly opened facilities and new construction, expansion, or renovation of residential facilities.**

A. When a newly opened facility seeks certification to allow the admission of residents, the facility administrator shall contact the director or designee to request a review of the facility for conditional certification.

B. The facility administrator and the department shall follow the requirements of this chapter ~~and department procedures~~ in reviewing a facility prior to the admission of residents. New construction, expansions, and renovations in all juvenile residential facilities, ~~whether or not the~~

~~facility or its sponsor is seeking reimbursement for construction or operations,~~ shall conform to the governing provisions of the following regulations:

1. Regulation Governing Juvenile Correctional Centers (6VAC35-71);
2. Regulation Governing Juvenile Secure Detention Centers (6VAC35-101); and
3. Regulation Governing Juvenile Group Homes and Halfway Houses (6VAC35-41); and
4. ~~Regulation Governing State Reimbursement of Local Juvenile Residential Facility Costs (6VAC35-30).~~

C. ~~Except as provided in subsection D of this section,~~ a newly constructed, expanded, or renovated facility shall, except as provided in subsection D of this section, obtain conditional certification as provided in 6VAC35-20-100 prior to the placement of residents in the new facility or portion of an existing facility subject to the expansion or renovation.

D. The director or designee shall consider the request for certification within 60 days of receiving the request and report of the basic audit findings. Actions taken by the director or designee shall be governed by the provisions of 6VAC35-20-100.

**6VAC35-20-75. Certification of individual programs or facilities.**

A. The director or designee shall certify each (i) juvenile residential facility ~~and (ii) court service unit,~~ (ii) community placement program, and (iii) court service unit.

B. The director or designee may extend a current certification for a specified period of time pending a certification audit and the completion of an administrative review, provided the department is not aware of any health, welfare, or safety violations.

C. If a program's or facility's certification expires prior to the director's or designee's consideration of the certification audit report, the program's or facility's current certification status shall continue in effect until the director or designee takes certification action.

D. ~~The~~During the term of the certificate and at the request of a program or facility administrator or the department, the director or designee may, ~~upon the request of a program or facility administrator or the department,~~ modify ~~during the term of the certificate~~ the conditions of a certificate relating to a program's or facility's certification status or capacity, the residents' age range or sex, the facility's location, or changes in the services offered and provided.

E. A certificate is not transferrable and automatically expires when there is a change of ownership or sponsorship of the program or facility.

F. When the program or facility ceases to operate, the program or facility administrator shall return the certificate to the director or designee. The department shall notify the board of the change in the program's or facility's status.

**6VAC35-20-80. Certification audit ~~procedures~~process.**

A. The program or facility shall demonstrate ~~compliance as required in this chapter that the program or facility has no areas of noncompliance that pose an immediate and direct danger to residents.~~ that it has no areas of noncompliance that pose an immediate and direct danger to residents.

B. The audit team shall (i) visit the program or facility as necessary and (ii) review and examine sufficient documentation to adequately render a determination of compliance as provided for in 6VAC35-20-85.

1. The burden of providing proof of compliance with regulatory requirements rests with the program or facility staff.

2. A program or facility with an approved variance or waiver shall provide ~~such~~ documentation of the variance or waiver to the certification audit team.

~~3. It is permissible to~~The facility or program administrator or staff may provide additional documentation ~~should~~if the certification team ~~request~~requests it; however, ~~such~~the documentation must already exist when the audit begins.

4. Compliance shall be determined through documentation, interview, and observation.

**6VAC35-20-85. Determining compliance with individual regulatory requirements.**

A. During the audit process, the department shall determine whether the program or facility is compliant with each regulatory requirement. ~~To be found in compliance, the following shall be shown:~~

~~1. The program or facility shall:~~

~~a. For critical regulatory requirements, demonstrate 100% compliance;~~

~~b. For noncritical regulatory requirements with multiple elements, the certification audit team will make a determination of compliance as provided in department procedures that shall require (i) an acceptable percentage of compliance with the entire regulatory requirement or (ii) any single element; or~~

~~c. For all noncritical regulatory requirements, demonstrate an acceptable percentage compliance as provided in department procedures.~~

~~2.~~B. The program or facility shall not have:

~~a.~~1. Any ~~circumstance or condition constituting~~ a pattern of action that ~~presents a concern for~~puts at risk the health, welfare, or safety of the residents, program participants, or staff;  
or

~~b.~~2. Any circumstance or condition that presents an immediate threat to the health, welfare, or safety of the residents, program participants, or staff.

~~B. The determination of noncompliance shall be a decision made by the entire certification team.~~

~~C. For purposes of calculating percentage of compliance, the determination of what constitutes individual regulatory requirements (e.g., section, subsection, subdivision, or element in a list in the regulatory chapter) will be specified as provided in department procedures.~~

C. The determination of noncompliance shall be a decision made by the entire certification team.

#### **6VAC35-20-90. Certification audit findings.**

A. Upon the completion of the audit, ~~the certification audit findings shall be discussed~~the audit team leader shall discuss the certification audit findings with the program's or facility's administrator or designee.

B. ~~A written report of the findings from the certification audit shall be submitted, within~~Within 10 business days following the certification audit, the audit team leader shall submit a written report of the findings to (i) the program or facility administrator and (ii) the director or designee. Any finding of noncompliance with a regulatory requirement shall be documented.

C. ~~Any program or facility that is cited for noncompliance with a regulatory requirement may within 10 business days of receiving the written report of the findings for the certification audit.~~Within 10 days of receiving the written report of the findings of the certification audit, a program or facility that is cited for noncompliance may:

1. Request in writing a variance in accordance with 6VAC35-20-92; or
2. Appeal the finding of noncompliance in writing and in accordance with ~~department procedures and~~ 6VAC35-20-94.

**6VAC35-20-91. Corrective action plans and certification audit reports.**

~~A.~~ For each finding of noncompliance, the program or facility administrator shall develop a corrective action plan.

~~1A.~~ The corrective action plan shall be submitted to the department within 30 calendar days of receipt of the written certification audit findings. For good cause, the department may grant a 30-calendar day extension to a program or facility administrator for the development of the corrective action plan.

~~2.~~ The department shall issue guidelines that provide for (i) the format and (ii) the process for the department's review and approval of corrective action plans.

~~3B.~~ The corrective action plan shall include the following:

~~a1.~~ A description of any extenuating or aggravating factors contributing to the noncompliant circumstances or conditions;

~~b2.~~ A description of each corrective action ~~required or tasks~~ or task required to correct the deficiency and prevent its recurrence;

~~c3.~~ The actual or proposed date of ~~task~~ completion of the corrective action; and

~~d4.~~ The identification of the person responsible for oversight of ~~each element of the~~ implementation of the corrective action plan.

~~C.~~ If the corrective action proposed by the program or facility involves a request for a variance in accordance with 6VAC35-20-92, the corrective action plan must also state what action will be taken to meet or attempt to meet the regulatory requirement should the request for the variance be denied.

~~4.~~ The program or facility administrator shall be responsible for developing and implementing a written corrective action plan.

~~5D. If a finding of noncompliance results in a request for an appeal of the finding of noncompliance or a variance, documentation~~Documentation of the request for a variance or of the appeal of the finding of noncompliance should be attached to the corrective action plan.

~~B. Each certification audit report submitted to the director or designee shall contain:~~

- ~~1. The program's or facility's name, administrator, and location;~~
- ~~2. A summary of the program's or facility's population served, programs, and services provided;~~
- ~~3. The date of the certification audit and the names of the audit team leader and members;~~  
~~and~~
- ~~4. Notation of all regulatory requirements for which there was a finding of noncompliance as provided for in 6VAC35-20-85.~~

~~If there is a finding of noncompliance with a regulatory requirement, the report shall describe the noncompliance and incorporate the program's or facility's corrective action plan for each area of noncompliance. If a program or facility administrator fails to submit a corrective action plan within the time specified, the certification audit report shall be submitted to the director or designee for consideration.~~

~~C. The program or facility administrator shall submit to the audit team leader, upon completion of the corrective action plan, documentation confirming all corrective actions have been fully executed.~~

E. The Certification Unit Manager shall submit a certification audit report to the director or designee. The certification audit report should contain the program's or facility's corrective action plan if there was a finding of noncompliance.

**6VAC35-20-92. Variance request.**

A. ~~Any request for a variance must be submitted in writing~~Variance requests must be submitted in writing by the program or facility manager. If the request is submitted subsequent to a finding of noncompliance in a certification audit, the request must be submitted within 10 business days of receiving the written report of the findings from the certification audit. All requests shall include:

1. The noncritical regulatory requirement for which a variance is requested;
2. The justification for the request;
3. Any actions taken to ~~come into~~achieve compliance;
4. The person responsible for ~~such~~those ~~action~~actions; and
5. ~~The date at which time compliance is expected; and~~
65. The specific time period requested for ~~this~~the variance.

B. Documentation of any variance requests stemming from a finding of noncompliance in a certification audit shall be submitted ~~along with the corrective action plan for correcting any deficiencies cited during the certification audit~~ as provided for in 6VAC35-20-91.

C. ~~A requested variance shall not be implemented prior to obtaining the approval of the board.~~Variances must be approved by the board prior to implementation.

D. ~~Requests for variances~~Variance requests shall be placed on the agenda for consideration at the next regularly scheduled board meeting.

E. ~~In issuing variances, the~~The board shall specify the scope and duration of the variance.

**6VAC35-20-93. Waivers.**

A. When a program or facility has submitted a formal variance request to the board concerning a noncritical regulatory requirement, the director may, ~~but is not required to,~~ grant a waiver

temporarily excusing a program or facility from meeting the requirements of the regulation when (i) the regulatory requirement is not required by statute or by federal or state regulations other than those issued by the board; (ii) noncompliance with the regulatory requirement will not result in a threat to the health, welfare, or safety of residents, the community, ~~or staff; or the public;~~ (iii) enforcement will create an undue hardship; and (iv) juveniles' care or services would not be adversely affected. (iii) juveniles' care or services will not be adversely affected; and (iv) emergency conditions or circumstances make compliance with the regulatory requirement impossible or impractical.

~~B. A waiver shall be granted only when the program or facility is presented with emergency conditions or circumstances making compliance with the regulatory requirement either impossible or impractical.~~

~~CB. The waiver shall be in effect only until such time as the board acts on the variance request. The board will act on the matter at its first meeting following notice from the director or designee that a waiver has been granted.~~

~~DC. The director or designee shall promptly notify the board chair promptly in writing of waivers granted and the rationale for ~~so granting them.~~~~

~~ED. A program or facility operating under a waiver approved by the director or designee will not be cited for noncompliance with the requirements of a regulatory requirement subject to a waiver during the time it operates pursuant to a waiver approved by the director or designee.~~ regulatory requirements subject to the waiver.

#### **6VAC35-20-94. Appeal process for a finding of noncompliance.**

A. A program or facility administrator may appeal a finding of noncompliance ~~eduring~~ a monitoring review, or a regulatory inquiry by submitting the appeal to the ~~director or~~

~~designee~~certification manager or designee within 10 business days of the receipt of written notification of the audit findings.

B. The ~~manager for the certification team or designee~~certification manager or designee shall contact the program or facility administrator and make every effort to resolve the appeal within 10 business days of receipt of the appeal.

C. If ~~department personnel~~the certification manager or designee and the program or facility administrator are not able to informally resolve the issue on appeal, the request for an appeal shall be forwarded by the ~~manager for the certification team~~Certification Unit Manager or designee ~~as soon as practicable to the director or designee~~to the certification manager's direct supervisor. The certification manager's supervisor shall issue a decision on the appeal and notify the facility or program administrator within 15 business days of receipt.

1. ~~The director or designee shall issue a decision on the appeal within 15 business days of receipt.~~

2. ~~The program or facility administrator shall be informed as soon as practicable, but no later than the end of the next business day, of the director's or designee's decision.~~

D. If the results of the appeal to the certification manager's supervisor are unsatisfactory, the program or facility administrator may make further appeal to the director within 15 business days of receipt of the decision. The director shall issue a decision and notify the facility or program administrator within 15 business days of receiving the appeal. To gather more information or to organize a hearing on the appeal, the director may delay the finding for an additional 30 days.

~~DE.~~ If the appealed finding of noncompliance remains unresolved after ~~exhaustion of the informal review and~~ the appeal to the director or designee, the program or facility administrator may appeal the director's or designee's decision to the board within 30 calendar days of receipt of the director's decision. ~~Upon request~~if the appeal to the board is requested, the department

shall place the appealed finding of noncompliance on the board's agenda for consideration at its next regularly scheduled meeting.

EF. If the appeal is granted and the finding overruled at any step, the finding of noncompliance shall be removed from the certification audit report.

FG. An appeal pursuant to this section does not negate the requirement to submit a corrective action plan, as required by 6VAC35-20-91, on the disputed regulatory requirement.

**6VAC35-20-100. Certification action.**

A. The department shall notify the program or facility administrator of the date, time, and location the director or designee will take certification action relating to the program's or facility's certification audit. The program or facility administrator shall have the right to appear in person or via videoconference by and to be represented by counsel or other qualified representative when the director or designee considers the audit report and makes a certification decision. The program or facility administrator shall be provided notice of the right to appear 10 business days prior to the director's or designee's consideration of the audit report and final certification determination.

B. A conditional certification for up to six months will be issued to a new program or a newly opened facility that:

1. Demonstrates 100% compliance with (i) all applicable critical regulatory requirements and (ii) ~~any~~ physical plant regulatory requirements;
2. Demonstrates at least 90% compliance with all noncritical regulatory requirements and has an acceptable corrective action plan; and
3. ~~Has no unresolved health, welfare, or safety violations.~~ Has (i) no pattern of action that puts at risk the health, welfare, or safety of the residents, program participants, or staff

and (ii) no circumstance or condition that presents an immediate threat to the health, welfare, or safety of the residents, program participants, or staff.

C. Upon review of the audit findings and any acceptable corrective action plans, the director or designee shall take the following certification actions:

1. If the certification audit finds the program or facility in 100% compliance with all regulatory requirements, the director or designee shall certify the program or facility for three years.

2. If the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance ~~or~~with all regulatory requirements, the director or designee shall certify the program or facility for a specific period of time, up to three years.

3. If the certification audit finds the program or facility in less than 100% compliance with all critical regulatory requirements or less than 90% ~~or~~with all noncritical regulatory requirements or both, and a subsequent status report, completed prior to the certification action, finds 100% compliance ~~or~~with all critical regulatory requirements and 90% or greater compliance ~~or~~with all noncritical regulatory requirements, the program or facility shall be certified for a specified period of time, up to three years.

4. If the certification audit finds the program or facility in less than 100% compliance with all critical regulatory requirements or less than 90% ~~or~~with all noncritical regulatory requirements or both, and a subsequent status report, completed prior to the certification action, finds less than 100% compliance ~~or~~with all critical regulatory requirements or less than 90% compliance ~~or~~with all noncritical regulatory requirements or both, the program or facility shall be subject to the following actions:

a. If there is an acceptable corrective action plan and no conditions or practices exist in the program or facility that pose an immediate and substantial threat to the health, welfare, or safety of the residents, the program's or facility's certification shall be continued for a specified period of time up to one year with a status report completed for review prior to the ~~extension of the~~ end of the extended certification period.

(1) If the status report results find the program or facility in 100% compliance ~~or~~ with all critical regulatory requirements and 90% or greater compliance ~~or~~ with all noncritical regulatory requirements, the program or facility shall be certified for a specified period of time, up to three years, retroactive to the date upon which the prior certification was scheduled to expire.

(2) If the status report results find that the program or facility continues to be at less than 100% compliance ~~or~~ with the critical regulatory requirements or less than 90% compliance ~~or~~ with all noncritical regulatory requirements, the program or facility shall be placed on probationary certification status for a specified period of time, up to one year.

b. If there is not an acceptable corrective action plan or there is a health, welfare, or safety violation or both, the program or facility shall be placed on probationary certification status for a specified period of time up to one year or decertified.

5. Whenever a program or facility is placed on probationary certification status, a status report shall be completed prior to the expiration of the probationary certification period.

a. If the status report results find the program or facility in 100% compliance ~~or~~ with all critical regulatory requirements and 90% or greater compliance ~~or~~ with all noncritical regulatory requirements, the program or facility shall be certified for a specified period

of time, up to three years retroactive to the date upon which the prior certification was scheduled to expire.

b. If the status report results find that the program or facility continues to be at less than 100% compliance ~~en~~with the critical regulatory requirements or less than 90% compliance ~~en~~with all noncritical regulatory requirements, the program or facility ~~shall~~ may be placed on probationary certification status or decertified.

6. When a program or facility is placed on probationary certification status, (i) the director or designee shall, ~~taking into account the program's or facility's history of compliance with regulatory requirements,~~ specify the duration of the probationary certification status, taking into account the program's or facility's history of compliance with the regulatory requirements, and (ii) the department and program or facility shall provide a status report to the board at all meetings for the duration of this status .

a. If the status report indicates no continued areas of noncompliance, the director or designee ~~shall~~may certify the facility for up to three years, subject to the provisions of subdivision 8 of this subsection.

b. If any area of noncompliance continues thereafter, the director or designee may (i) continue the probationary certification status, (ii) decertify the program or facility as provided for in 6VAC35-20-120, or (iii) take any other action provided for by law.

7. If the certification audit report indicates an immediate threat to the health, welfare, or safety ~~to~~of the residents of a facility, ~~notwithstanding the foregoing provisions,~~ the director or designee may decertify the program or facility as provided for in subsection D of this section and 6VAC35-20-120 or take any other action provided for by law.

8. If a program's or facility's certification status is continued after the initial period expires, the subsequent certification will be retroactive to the date of expiration, unless the director or designee specifically issues a certification with different terms.

D. Any program or facility, regardless of current certification status, may be decertified or denied certification when:

1. The program or facility has an unacceptable level of compliance, ~~as provided in department procedures,~~ with applicable regulatory requirements without acceptable corrective action plans to address deficiencies;

2. The program or facility, if on probation or administrative probation, has not corrected the circumstances that were cited in placing the program or facility on probation or administrative probation to the point that the program or facility would qualify for at least conditional certification;

3. The program's or facility's staff have knowingly (i) committed, permitted, aided or abetted any illegal act in the program or facility resulting in a criminal conviction; (ii) violated child abuse or neglect laws; (iii) deviated significantly from the program or services for which a certificate was issued without prior approval from the director or designee; (iv) failed to correct any such deviations within the time specified by the director or designee; or (v) falsified records, and the facility administrators knew or should have known and ~~have~~ failed (i) to report the actions and (ii) to take immediate remediating actions; or

4. If the program or facility fails to adequately correct the health, welfare, or safety violation ~~per~~ in accordance with 6VAC35-20-36.1.

E. Certification decisions may be issued outside the requirements of subsections C and D of this section under the following circumstances:

1. The director may consider any aggravating and mitigating circumstances affecting the facts resulting in ~~any~~ finding of noncompliance, including, ~~but not limited to~~, the history of the program or facility and the ability of the program or facility to predict and control the conditions resulting in the noncompliance. In ~~such~~those circumstances, the director may operate outside the requirements of subsection C of this section.

2. When considering whether to place a program or facility on probationary certification status or to decertify a program or facility due to a finding of noncompliance ~~or~~with a critical regulatory requirement, the director may consider whether the facility (i) had control over and knowledge of the circumstances, behaviors, or conditions leading to the finding and (ii) took appropriate steps to ~~immediately~~ rectify the situation immediately. In ~~such~~these cases, the director may continue the certification ~~in lieu~~ instead of taking those actions.

F. Once the director or designee takes certification action, the department shall issue a certificate or letter clearly identifying the program or facility, the certification status, and the period of time during which the certification will be effective unless the certificate is revoked or surrendered sooner. The program or facility administrator shall be informed, briefly and generally, of the factual or procedural basis ~~when~~ upon which ~~any~~ program or facility is issued a probationary certification or is decertified.

G. A program's or facility's status shall remain in effect until subsequent action by the director or designee.

**6VAC35-20-120. Actions following decertification or denial of certification.**

A. When a program or facility operated by the department is decertified or denied certification, the department shall take remedial action and may choose to close the program or facility or relocate the residents.

1. A report shall be sent to the board within 90 calendar days after the decertification or denial detailing the actions taken by the department to (i) bring the program or facility into compliance with all regulatory requirements and (ii) protect the health, welfare, ~~or~~ and safety of the residents.

2. If after 90 calendar days the program or facility has not met the requirements for at least conditional certification and the department has not closed the program or facility, the board shall recommend appropriate action to the Governor and the Secretary of Public Safety ~~appropriate action to be taken under the circumstances and~~ Homeland Security.

B. When a program or facility that is locally, regionally, or privately operated is decertified or denied certification, the board and the department may take any and all of the following actions as appropriate ~~to the circumstances~~:

1. The program or facility supervisory administrator and the governing authority may be required to reorganize the program structure or take necessary personnel action or any other steps as that may be necessary to qualify the program or facility for at least a conditional certification within 90 calendar days.

2. The director or designee may, ~~as applicable~~, reduce or suspend funding to the program or facility in accordance with §§ 16.1-322.1, 16.1-309.9 C, or 66-30 of the Code of Virginia or may withdraw the approval required by § 16.1-249 A (3) and (4) of the Code of Virginia.

3. ~~The Pursuant to § 16.1-309.9 b of the Code of Virginia, the board may enter an order, pursuant to § 16.1-309.9 B of the Code of Virginia,~~ prohibiting or limiting the placement of children in the program or facility.

4. The department shall not utilize use facilities for residential placements ~~that are~~ if they have been decertified or denied certification.

**6VAC35-20-150. Critical regulatory requirements for juvenile residential facilities.**

A. The board has the sole authority for ~~designating~~ to designate critical regulatory requirements. The board shall ~~identify the designated~~ designate critical regulatory requirements at the first board meeting after the final regulation is published in the Virginia Register of Regulations.

B. The list of designated critical regulatory requirements may be amended by a majority of the board at a regularly scheduled board meeting only when (i) the proposed change was ~~raised~~ presented at a previous board meeting ~~but not voted upon~~ and a date for final consideration and voting is was set at that meeting; (ii) notice of the proposed change is was posted with the notice of the board meeting ~~designated for discussion and voting~~ where the amendment will be discussed and voted upon; (iii) ~~consideration of the~~ proposed change is was placed on the designated board meeting agenda ~~at which a vote is anticipated~~; and (iiiiv) written notice is was provided to the facility administrators prior to the designated board meeting ~~at which the vote is anticipated~~.

C. A person may request to review the critical regulatory requirements ~~can be made by any person~~ at any time.

D. The list of ~~designated~~ critical regulatory requirements shall be posted on the department's website at <http://www.djj.virginia.gov>.

**6VAC35-20-200. Monitoring of VJCCCA programs or offices on youth.**

The department shall develop a schedule for monitoring all VJCCCA programs or offices on youth, ~~that~~ The schedule shall ~~provide for~~ include at least one scheduled on-site VJCCCA program or office on youth audit every two years. Whenever deemed necessary or appropriate, additional monitoring ~~visits or~~ reviews may be scheduled.

**6VAC35-20-210. VJCCCA programs and offices on youth self-evaluations.**

A. All VJCCCA programs and offices on youth shall, ~~in accordance with department procedures or manuals, do the following:~~

1. Conduct an annual self-evaluation; and
2. Provide the department with a written summary report of (i) the self-evaluation process and (ii) the findings of the self-evaluation.

B. The department shall set the schedule for each VJCCCA program or office on youth to conduct the self-evaluation and complete their report.

C. The department shall review each VJCCCA program's or office on youth's self-evaluation report and provide feedback to the VJCCCA program or office on youth.

**6VAC35-20-220. VJCCCA program and office on youth audits.**

A. During the program audit, the VJCCCA program or office on youth shall demonstrate an acceptable level of compliance, ~~as provided in this chapter,~~ with all (i) statutory requirements; (ii) the approved local plan approved by the board; and (iii) applicable regulatory requirements; ~~and (iv) applicable department procedures or manuals.~~

B. The burden of proving compliance with the applicable requirements listed in subsection A ~~requirements~~ rests with the VJCCCA program or office on youth staff.

C. ~~Any~~ The department shall document findings of noncompliance ~~shall be documented.~~

**6VAC35-20-230. VJCCCA program and office on youth audit findings.**

A. Upon completion of the VJCCCA program or office on youth audit provided for in 6VAC35-20-200, ~~the VJCCCA program or office on youth audit findings shall be reported~~ the department shall report the audit findings to the VJCCCA program plan contact or office on youth program

director ~~along with~~ and provide a copy to the individual person with supervisory authority over ~~that individual~~ them.

B. The VJCCCA program plan contact or office on youth program director may appeal the ~~VJCCCA program or office on youth~~ audit findings to the director or designee.

C. The department will monitor the progress of the VJCCCA program or office on youth in correcting the identified noncompliance. Monitoring may be accomplished by ~~through~~ subsequent documentation, telephone or electronic contact, ~~and or monitoring visits~~ visits to the VJCCCA program or office on youth.

**6VAC35-20-240. Effect of VJCCCA program or office on youth noncompliance.**

A. If the department determines that a VJCCCA program or office on youth is not in compliance, it may suspend all or ~~any~~ portion of the VJCCCA program's or office on youth's funding until ~~there is compliance~~ they achieve compliance, as provided in subsection C of § 16.1-309.9 of the Code of Virginia.

B. The department shall notify the person responsible for the daily administration of the VJCCCA program or office on youth of the intent to withhold funding prior to ~~such~~ withholding funds. The notification shall include the justification for the intended withholding and any corrective actions the VJCCCA program or office on youth must complete.

C. Within 10 business days of receiving notice of the department's intent to withhold funding, ~~The~~ the VJCCCA program or office on youth may appeal in writing to the director or designee the decision to withhold funding to the director or designee the withholding of funding, ~~in writing, within 10 business days of receiving notice of the department's intent to withhold the~~ funding.

**Project 8485 - Fast-Track**

**Department (Board) of Juvenile Justice**

**Fast-Track Action to Remove Self-Audit DIBR**

**6VAC35-20-61. Self-audit of programs and facilities subject to certification audits.**

A. All programs and facilities subject to certification audits shall, ~~in accordance with the department's Guidance Document: Self Audits/Evaluations, September 2013, conduct, except in the year the program or facility is subject to a certification audit,~~ conduct an annual self-audit for compliance with applicable regulatory ~~requirements.~~ requirements, except in the year the program or facility is subject to a certification audit.

B. The self-audit reports shall be made available during the certification audit.

Documents Incorporated by Reference (6VAC35-20)

DOCUMENTS INCORPORATED BY REFERENCE (6VAC35-20)

[Guidance Document: Self Audits/Evaluations, September 2013, Department of Juvenile Justice](#)



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**MEMORANDUM**

**TO:** State Board of Juvenile Justice

**FROM:** Virginia Department of Juvenile Justice

**DATE:** October 27, 2025

**SUBJECT:** Consideration of Request for Omnibus Fast-Track Action for Additional Regulatory Reduction and Other Amendments

**I. ACTION REQUESTED**

The Department of Juvenile Justice (department) respectfully requests authorization from the Board of Juvenile Justice (board) to amend various sections across several chapters of the Virginia Administrative Code through the fast-track regulatory process. The department seeks amendments through this expedited process to enable the agency to accomplish additional regulatory reduction by the December 31, 2025, deadline established in the Office of Regulatory Management's (ORM's) *Regulatory Reduction Guide* and to provide additional clarification for regulatory provisions that are not included in actions currently underway. The sections proposed for amendment include the following:

- **Regulation Governing Juvenile Group Homes and Halfway Houses (6VAC35-41):**
  - Section 530, Internet Access
  - Section 940, Outside Personnel Working in the Facility
- **Regulation Governing Juvenile Correctional Centers (6VAC35-71):**
  - Section 640, Reading Materials
- **Regulation Governing Juvenile Secure Detention Centers (6VAC35-101):**
  - Section 750, Reading Materials
  - Section 910, Outside personnel working in the detention center
- **Regulation for Nonresidential Services (6VAC35-150):**
  - Section 60, Organizational structure
  - Section 320, Notice of juvenile's transfer

## II. BACKGROUND

In furtherance of Executive Order 19, issued at the start of this administration and directing executive branch agencies to reduce their discretionary regulatory requirements by 25%, on July 11, 2025, Governor Youngkin issued the subsequent Executive Order 51. This EO establishes a statewide agentic artificial intelligence-powered regulatory review and report and instructs executive branch agencies to use the AI-generated report (AI report) to identify additional areas for regulatory and guidance document reduction.

For each subsection in a regulation, the AI report identifies the number of discretionary requirements imposed on regulated entities other than the department and provides recommendations for amending the substance of the provision, typically to reduce the number of discretionary regulant requirements, and to recommend other revisions to simplify the language and reduce the word count. Agencies are expected to review the report's analysis and determine whether they will adopt its recommendations for streamlining requirements.

In part, the amendments proposed in this memorandum are a product of the department's preliminary review of the AI report. One deficiency in the AI report is its inability to account for any proposed regulatory or guidance document amendments already underway. The department currently has 10 such regulatory actions in some stage of review on the Virginia Regulatory Town Hall. Adopting many of the report's recommendations could delay the current review process while the additionally proposed amendments are considered by the board and are undergoing executive branch review. To avoid disrupting and further delaying these initially proposed amendments, the department's analysis of the report focused primarily on regulatory requirements that had not surpassed the NOIRA stage in a standard regulatory action. In addition, for purposes of this preliminary analysis and given the quick turn around for completing and submitting proposed amendments for this October meeting, the department ruled out any regulatory chapters or provisions whose governing statutes require the board to consult with external entities in promulgating or amending the chapter<sup>1</sup>. The department plans to conduct an enhanced analysis of the AI report, which may generate additional proposed amendments for the board to consider at its December meeting.

In addition to the preliminary proposed amendments resulting from the AI tool's recommendations, the department has identified a few regulatory provisions requiring minor changes for clarity that were omitted from the larger comprehensive standard actions currently under review. This preliminary review also revealed some provisions DJJ originally flagged for repeal under comprehensive actions that can be expedited through separate fast-track actions.

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<sup>11</sup> As an example, the Delinquency Prevention and Youth Development Act (Chapter 3 Section 66-26 et. seq. of Title 66 of the Code of Virginia), which provides the statutory basis for the regulation contained in 6VAC35-60, Minimum Standards for Virginia Delinquency Prevention and Youth Development Grant Act Programs, requires the department to "seek the assistance of representatives of county and city governing bodies, private nonprofit youth service agencies, and private citizens having expertise in the development and subsequent revisions of the standards."

### III. PROPOSED AMENDMENTS FOR RESIDENTIAL FACILITIES

#### Residential Regulations - Background

The Regulation Governing Juvenile Group Homes and Halfway Houses (6VAC35-41), Regulation Governing Juvenile Correctional Centers (6VAC35-71), and the Regulation Governing Juvenile Secure Detention Centers establish minimum standards for each of the three types of residential facilities currently regulated by the board. Among other topics, the three chapters address staffing and personnel requirements, the facility's physical plant, residents' rights, and provisions to ensure safety and security of staff and residents.

For several years, these chapters have been undergoing comprehensive amendments through the standard regulatory process. The actions underway will amend most sections in each chapter; however, the workgroups tasked with reviewing the regulations opted to retain a few sections they deemed straightforward and valuable in protecting resident and staff safety and guarding residents' rights.

Considering the regulatory reduction mandate and the AI report recommendations, the department is seeking additional amendments to these originally retained sections, as described below:

#### Internet Access for Group Home Residents (6VAC35-41-530)

Currently, 6VAC35-41-530 directs juvenile group home facilities that allow residents access to the Internet to have procedures in place governing Internet usage. The AI report recommends amending this provision, in part, so that such group home facilities are authorized, but are not mandated, to maintain such procedures. The department believes this change is consistent with ORM's requirements that regulations are necessary to interpret the law or protect public health or safety. The fact that the regulations governing juvenile correctional centers and secure juvenile detention centers do not contain a similar provision mandating procedures for resident Internet usage suggests that regulation in this area is not necessary. Therefore, the department recommends amending this provision so that procedures regarding Internet usage are no longer mandatory. This change would eliminate a discretionary regulatory requirement, thereby decreasing the board's aggregate regulatory provisions in furtherance of the Governor's regulatory reduction mandate. The AI report also recommends amending the language to make it clear that the authorization is limited to the development of "reasonable procedures." The current regulation does not impose a "reasonableness" standard.

#### Reading Materials for Juvenile Correctional Center and Juvenile Detention Center Residents.

##### **JCC Provision (6VAC35-71-640)**

*Reading materials that are appropriate to residents' ages and levels of competency shall be available to all residents.*

##### **JDC Provision (6VAC35-101-750)**

*A. Reading materials that are appropriate to residents' ages and levels of competency shall be available to all residents.*

- B. Written procedure shall be developed and implemented governing resident access to publications.*

The regulations governing juvenile correctional centers and secure juvenile detention centers both mandate that facilities under their jurisdiction have reading materials appropriate to residents' ages and levels of competency and made available to all residents. Subsection B of 6VAC35-101-750 takes an additional step by requiring the development and implementation of written procedures governing resident access to publications. Like the concern raised above, the department believes that procedures governing access to publications, while possibly beneficial to residents in these facilities, are not necessary to interpret the law or protect public health, safety, or welfare. An entity's adoption of procedures does not guarantee that the requirements contained therein would serve to protect residents in the facility. The AI report, therefore, recommends amendments to subsection B of 6VAC35-101-750 that would change the language so that written procedures are permitted but not required, are reasonable, and are authorized for adoption by "appropriate facility staff." These proposed changes align with the AI report's recommendations and would accomplish minimal additional regulatory reduction. Because the AI report's recommendations for minor language changes conflict with instructions from the Form, Style, and Procedure Manual for Publication of Virginia Regulations (Style Manual), the department declines to adopt the report's nonsubstantive recommended revisions to these sections; however, the department is proposing additional revisions for simplification and word reduction.

#### **Outside Workers in Group Homes and Juvenile Detention Centers**

##### ***Group Home Provision (6VAC35-41-940). Outside personnel in the facility***

- A. Facility staff shall monitor all situations in which outside personnel perform any kind of work in the immediate presence of residents in the facility.*
- B. Adult inmates shall not work in the immediate presence of any resident and shall be monitored in a way that there shall be no direct contact between or interaction among adult inmates and residents.*

##### ***JDC Provision (6VAC35-101-910). Outside personnel in the detention center.***

- A. Detention center staff shall monitor all situations in which outside personnel perform any kind of work in the immediate presence of residents in the detention center.*
- B. Adult inmates shall not work in the immediate presence of any resident and shall be monitored in a way that there shall be no direct contact between or interaction among adult inmates and residents.*

Both the group home and the detention center regulations contain substantively identical provisions directing staff in such facilities to monitor situations in which personnel from outside the relevant facility work in the presence of facility residents. Both sections also provide that "adult inmates" **shall not** work in the immediate presence of residents.

According to the Style Manual, the phrase, "shall not" is used to negate the obligation to act but not the permission to act." The manual indicates that "may not" is the more appropriate phrase to denote a ban because it is "the strongest expression of prohibition of the action of a verb." The department proposes to amend subsections B of 6VAC35-41-940 and 6VAC35-101-910 by replacing "shall not" with "may not" to clarify that the relevant facilities are banned from allowing adult inmates to work in the immediate

presence of residents. The department is proposing several additional revisions to 6VAC35-41-940 to simplify the language and reduce the provision's word count, consistent with the AI report's recommendations. Similar nonsubstantive changes are proposed to section 910 of the JDC regulation.

#### **IV. PROPOSED AMENDMENTS FOR COURT SERVICE UNITS**

At the August 18, 2025, board meeting, the board heard the department's request to initiate an action for a comprehensive review of the Regulation for Nonresidential Services through the standard regulatory process. Department staff provided a general description of the agency's anticipated proposed amendments to the chapter, including the department's plan to remove several provisions deemed operational and unnecessary to interpret the law or protect the public health, safety, or welfare. The department did not expressly identify the regulatory sections that would be amended in accordance with this intent.

The department has identified two such sections in this chapter intended for repeal as part of the comprehensive standard regulatory process. Rather than waiting for the action to undergo this three-stage process, the department is requesting that the following two provisions be repealed through the fast-track process to accomplish additional regulatory reduction ahead of the December 31, 2025, deadline.

##### **Organizational Structure (6VAC35-150-60)**

The current regulation requires state and locally operated court service units to maintain a written description and organizational chart of their units showing current lines of authority, responsibility, and accountability. The department deems this provision operational and administrative and believes the requirement is not necessary to interpret the law or protect public health, safety, or welfare. Accordingly, the department recommends a repeal of the entire section.

##### **Notice of Juvenile's Transfer (6VAC35-150-320)**

Currently, state and local CSU staff are required to notify a juvenile's parent or legal guardian within 24 hours if they become aware of a juvenile's transfer to another residential facility unless they know the juvenile's parent or legal guardian has been advised of the transfer. The provision also requires documentation of the notification in the juvenile's case record. While the department agrees that it is essential for parents or legal guardians of children placed in a residential facility to be notified upon the juvenile's transfer to a different facility, the department believes the onus for this notification should fall on the transporting residential facility, which would be expected to have additional knowledge regarding the details and terms surrounding the transfer. The department believes that this type of notification would be appropriate as a best practice but does not need to be regulated.

#### **V. PROCESS FOR SUBMISSION OF FAST-TRACK ACTION AND NEXT STEPS**

Executive Order 51 requires Executive Branch agencies that decide to adopt the reduction recommendations proposed in the AI report to use the fast-track process outlined in the Administrative Process Act to implement such regulatory amendments or repeals, as practicable. Section 2.2-4012.1 of the Code of Virginia allows for an expedited regulatory process for submitting proposed regulations that are not expected to generate controversy. The "fast-track process" allows state agencies to bypass the

initial stage of the standard regulatory process and compresses the timeframes for executive branch review of the regulatory package. If a member of the applicable standing committee of the Senate or House of Delegates, a member of the Joint Commission on Administrative Rules (JCAR), or ten or more members of the public raise objections to the proposed amendment, the package is continued using the standard, three-stage process.

Because the proposed amendments here seek to repeal unnecessary regulatory provisions that are not essential to protect public health, safety, or welfare and to lessen the requirements for other provisions, the department believes the proposed amendments will be noncontroversial. The fast-track process appears to be the quickest and most efficient means of accomplishing the proposed amendments and repeals. The table below provides the required timeframes, commencing with submission of the action through the Virginia Regulatory Town Hall, proceeding through the executive branch review phases, and following the process through completion of review when the proposed amendments become effective.

**Timeframes for Fast-Track Stage**

Action/Review	Deadline for Completion
Submit Action to Virginia Regulatory Town Hall	No deadline after board approval
Office of the Attorney General	No deadline
Department of Planning and Budget	30-40 <sup>2</sup> day deadline
Secretary of Public Safety and Homeland Security	14-day deadline
Office of Regulatory Management	14-day deadline
Governor/Chief of Staff	No deadline

**VI. CONCLUSION**

The department believes filing these fast-track actions will help the department in its efforts to achieve additional regulatory reduction by the December 31 deadline. Accordingly, the department asks the board to approve this request and authorize the department to initiate fast-track actions for the amendments and repeals described in this memorandum.

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<sup>2</sup> The Department of Planning and Budget’s initial review considers whether the regulatory package is appropriate for the fast-track process and must occur within 10 days of DPB’s receipt of the package. After the initial review, DPB has 30 days to prepare its policy and economic analyses.

**Fast-track Action to Accomplish Additional Regulatory Reduction for Group Home Regulations (6VAC35-41)**

**6VAC35-41-530. Internet access.**

Facilities that allow resident Internet access ~~to the Internet shall have~~ may establish reasonable procedures governing such usage.

**6VAC35-41-940. Outside ~~personnel working~~ workers in the facility.**

A. Facility staff shall monitor all situations ~~in which~~ where outside ~~personnel~~ workers perform ~~any kind of work~~ in the immediate presence of facility residents ~~in the facility~~.

B. Adult inmates shall may not work in the immediate presence of any a resident and shall be monitored ~~in a way that there shall be no~~ to prevent direct contact ~~between~~ or interaction ~~among~~ between adult inmates and residents.

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**Fast-track JCC Regulatory Amendments for Additional Discretionary Requirement Reduction (6VAC35-71)**

**6VAC35-71-640. Reading materials.**

Reading materials ~~that are~~ appropriate to residents' ages and ~~levels of competency~~ levels shall be available to all residents.

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**Fast-track JDC Regulatory Amendments for Additional Discretionary Requirement Reduction (6VAC35-101)**

**6VAC35-101-750. Reading materials.**

A. Reading materials ~~that are~~ appropriate to residents' ages and ~~levels of competency~~ levels shall be available to all residents.

B. ~~Written procedure shall be developed and implemented~~ Appropriate facility staff may adopt and implement written procedures governing resident access to publications.

**6VAC35-101-910. Outside ~~personnel working~~ workers in the detention center.**

A. Detention center staff shall monitor all situations ~~in which~~ where outside ~~personnel~~ workers perform ~~any kind of work~~ in the immediate presence of detention center residents ~~in the detention center~~.

B. Adult inmates shall may not work in the immediate presence of any a resident and shall be monitored ~~in a way that there shall be no~~ to prevent direct contact ~~between~~ or interaction ~~among~~ between adult inmates and residents.

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**Fast-track Action to Expedite Regulatory Reduction for Nonresidential Services  
Regulation (6VAC35-150)**

**6VAC35-150-60. Organizational structure. (Repealed.)**

~~There shall be a written description and organizational chart of the unit showing current lines of authority, responsibility, and accountability, including the unit director's reporting responsibility.~~

**6VAC35-150-320. Notice of juvenile's transfer. (Repealed.)**

~~When CSU staff have knowledge that a juvenile has been moved from one residential facility to another residential facility and do not have knowledge that the juvenile's parents or legal guardians have been advised of the transfer, CSU staff shall notify the juvenile's parents or legal guardians within 24 hours and shall document the notification in the juvenile's case record.~~

**SUMMARY**  
**DIRECTOR'S CERTIFICATION ACTIONS**  
**October 6, 2025**

Certified the Chesterfield Juvenile Detention Home and Post-dispositional Detention Program to October 27, 2028, with a letter of congratulations for 100% compliance. Approved a new Age Range of 11 to 17. **Page 2**

Certified the Richmond Juvenile Detention Center to June 12, 2028, with a letter of congratulations for 100% compliance. **Page 5**

Authorized an increase in the capacity of Virginia Beach Crisis Intervention Home to 16 residents. **Page 7**

Certified Bon Air Juvenile Correctional Center to April 12, 2027. **Page 10**

**CERTIFICATION AUDIT REPORT  
TO THE  
DEPARTMENT OF JUVENILE JUSTICE**

**PROGRAM AUDITED:**

Chesterfield Juvenile Detention Home  
9700 Krause Road  
Chesterfield, Virginia 23832  
Phone: (804) 748-1460  
Marilyn Brown, Director  
[brownmag@chesterfield.gov](mailto:brownmag@chesterfield.gov)

**AUDIT DATES:**

August 19, 2025

**CERTIFICATION ANALYST:**

Sherron Key

**CURRENT TERM OF CERTIFICATION:**

October 28, 2022 – October 27, 2025

**REGULATIONS AUDITED:**

6VAC35-101 Regulation Governing Juvenile Secure Detention Centers

**PREVIOUS AUDIT FINDINGS- September 13, 2022:**

100% Compliance Rating

**CURRENT AUDIT FINDINGS – August 19, 2025:**

100% Compliance Rating

**DIRECTOR'S CERTIFICATION ACTION – October 6, 2025:** Certified the Chesterfield Juvenile Detention Home and Post-dispositional Detention Program to October 27, 2028, with a letter of congratulations for 100% compliance. Approved a new Age Range of 11 to 17.

*Pursuant to 6VAC35-20-100C.1, if the certification audit finds the program or facility in 100% compliance with all regulatory requirements, the director or designee shall certify the facility for three years.*

**TEAM MEMBERS:**

Sherron Key, Team Leader  
Ronnie Moore, Central Office  
Leah Nelson, Central Office  
Dr. Christopher Moon, MD, Central Office  
Kenneth Gallop, Chesapeake Juvenile Services  
Christopher Haws, Virginia Beach Juvenile Detention Center  
Tom Agee, Crater Juvenile Detention Home

**PROGRAM DESCRIPTION**

Chesterfield Juvenile Detention Home provides a highly structured program of care to meet the physical, educational, and medical needs of the juveniles detained. The safety and security of the community as well as the residents and staff of the detention home are the primary objectives. Chesterfield Juvenile Detention Home's purpose statement is "To provide a safe, secure and supportive environment for court-involved youth with the goal of promoting individual growth through education and empowerment".

**POPULATION SERVED:**

The Chesterfield Juvenile Detention Home was originally constructed in 1973 as a 33-bed facility but later expanded and renovated in 2003 to 90 beds. The facility provides safe and secure housing of male and female juveniles age 7-17 both pre-dispositional and post-dispositional before the courts in Chesterfield County and the City of Colonial Heights. The Chesterfield Juvenile Detention Home also serves the Department of Juvenile Justice with the Central Admission and Placement Unit (CAP), the Community Placement Program (CPP), and Individual Bed Placement (IBP). The CPP is a male only program at the facility. The facility also serves juveniles age 18+ in the Post-Dispositional Program and the Community Placement Program. The Chesterfield Juvenile Detention Center has designated eight beds for the Post-Dispositional Program and six beds for the Community Placement Program.

**SERVICES PROVIDED**

- Facility: (Services offered by facility staff)
  - Chesterfield JDH School Program
  - Recreation
  - Food Service
  - Medical
  - Behavior Management Program with 3 Levels (progressive incentives with higher levels)
  - Psycho-Educational Groups conducted by CJDH Senior Mental Health Clinician, MHSS Mental Health Case Manager and youth counselors
  - Crisis Counseling and Support – Provided by both CJDH Senior Mental Health Clinician and Mental Health staff assigned to CJDH but employed by Chesterfield Department of Mental Health Support Services
  - Reading Program, including Library Book Club with Chesterfield County Public Library
  - Homework Period
  - Structured Free Time (table games, cards, letter writing, phone calls)
  - Specialized Programming for Summer Enrichment, Winter, and Spring Breaks (yoga, art, cooking, chess tournaments, musical theatre, etc.)
  
- Community Placement Program:
  - Individual and Group Counseling
  - Moral Reconciliation Therapy (MRT)
  - Aggression Replacement Training (ART)
  - Substance Abuse Counseling provided by MHSS
  - Art Therapy
  - Richmond Young Writers' Writing Workshops
  - Extended Visitations and Family Events including virtual visitation
  - Special Events and Community-based Outings
  
- Post-d Program:
  - Individual and Group Counseling
  - Moral Reconciliation Therapy (MRT)
  - Aggression Replacement Treatment (ART)
  - Life Skills curriculum provided by One Heart
  - Community Service
  - Parent Counseling
  - Art Therapy
  - Richmond Young Writers' Writing Workshops

- Greenhouse Program
  - Partnership with CSU to share cost of Family Resources Coordinator to allow transition/aftercare for post-d residents to begin 30 days prior to release and 90 days post-release
  - Transitional Services (mentoring, job search/apprenticeships) provided through contract with One Heart
  - Extended Visitations and Family Events
  - Special Events and Community-based Outings
  - Furloughs
- 
- Community: (Services offered by community agencies and resources)
    - Crisis Counseling and Support – Mental Health staff assigned to CJDH but employed by Chesterfield Department of Mental Health Support Services
    - Library Activities– partnership with Chesterfield County Public Libraries
    - Activities provided by Volunteers (Church Groups) and Guest Speakers
    - On-site STD testing and treatment – partnership with Chesterfield Health Department and Virginia Department of Health

**SIGNIFICANT CHANGES SINCE LAST AUDIT:**

- Significant investment in facility infrastructure including whole-building generator project as well as replacement and addition of camera system
  - Expansion of contracts with DJJ to include Individual Bed Placements (IBP)
  - Continued expansion of Summer Enrichment program, including hosting a summer intern through the county's internship program, providing enrichment activities during Spring and Winter breaks as well
  - Ongoing improvements of Behavior Management Program, based on monthly data reviews and feedback from residents, resulting in expansion of incentives
  - Expansion of library and partnership with CCPL, including a volunteer librarian who manages the collections and meets with the kids, at a minimum, once a week
  - Establishment of Quality Assurance Coordinator role and the development of systems for monitoring ongoing compliance with state and federal regulations as well as adoption of best practices
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**CERTIFICATION AUDIT REPORT  
TO THE  
DEPARTMENT OF JUVENILE JUSTICE**

**PROGRAM AUDITED:**

Richmond Juvenile Detention Center  
1700 Oliver Hill Way  
Richmond, Virginia 23219  
(804) 646-2937  
Shelia L. Hinton, Superintendent  
[shelia.hinton@rva.gov](mailto:shelia.hinton@rva.gov)

**AUDIT DATE:**

July 23, 2025

**CERTIFICATION ANALYST:**

Wanda Parris-Flanagan

**CURRENT TERM OF CERTIFICATION:**

June 12, 2022, through June 11, 2025

**REGULATIONS AUDITED:**

6VAC35-101 Regulation Governing Juvenile Detention Centers

**PREVIOUS AUDIT FINDINGS – April 20, 2022:**

98.9%

No repeat deficiencies from previous audit.

**6VAC35-101-650 (A). Prohibited Actions. CRITICAL**

**6VAC35-101-1080 (B). Disciplinary process.**

**CURRENT AUDIT FINDINGS – July 23, 2025:**

100% Compliance

**DIRECTOR'S CERTIFICATION ACTION – October 6, 2025:** Certified the Richmond Juvenile Detention Center and Post-dispositional Program to June 12, 2028, with a letter of congratulations for 100% compliance.

*Pursuant to 6VAC35-20-100C.1, if the certification audit finds the program or facility in 100% compliance with all regulatory requirements, the director or designee shall certify the facility for three years.*

**TEAM MEMBERS:**

Wanda Parris-Flanagan, Team Leader  
Kenneth Bailey, Central Office  
Miguel Hansen, Blue Ridge JDC  
Pamela Jeffries, Rappahannock JDC  
Dr. Christopher Moon, Central Office  
Leah Nelson, Central Office

**POPULATION SERVED:**

The Richmond Juvenile Detention Center (RJDC) is a 60-bed facility designated to provide temporary and safe custody to male and female juvenile offenders between the ages of ten and 17. The age range for residents admitted to the Post Dispositional Program is 14-17 and for the Re-Entry Program approved age range is 16-19.

The facility, which is approximately 17 years old, is divided into six 10-bed pods. The facility contains an intake and medical area, several classrooms, a library/computer lab, and there are security cameras scanning the interior and exterior perimeter of the building.

**PROGRAM DESCRIPTION:**

The facility has a behavior management program that provides a system of rewards for positive behavior and teaches residents to be accountable for their behavior. Recreation is incorporated into the academic program and during leisure time. Residents participate in psycho-educational groups five days a week and life skills twice a week. Programs are designed to ensure residents have a more productive transition when they return home or are transferred to other facilities.

**SERVICES PROVIDED:**

The Detention Center provides a wide range of helpful services that support the resident's physical, emotional, mental and social development. These services include, but are not limited to education, recreation, counseling, nutrition, medical and health care services, reading, visitation, communication and continuous supervision.

The Richmond Juvenile Detention Center's Post-Dispositional Program is governed by the Code of Virginia and certified through the VA Department of Juvenile Justice. It provides the Thirteenth Court Service Unit with a secure residential alternative to commitment to DJJ for the City of Richmond youths. These non-violent juvenile offenders from 14-17 years of age are suspended commitments to DJJ and can spend up to six months in the Post-D Program. The program is designed to meet their individual, behavioral, educational and treatment needs. The participation of parents and/or legal guardians is an integral component of the program as they take part in the treatment and progress of the youth through their transition back home.

Residents receive medical and mental health services as needed. Three nutritious meals and two snacks are provided daily by the facility food services in accordance with USDA requirements.

The Dr. Virgie Binford Education Center, operated by the Richmond Public School system, is an eleven-month academic program. An array of services is provided to include GED preparation, remedial courses, social skills and basic reading, writing, and math lessons. A principal, several teachers and support staff operate the facility education program. When a resident is released, all their grades and testing results are communicated to the resident's designated school.

**CENTRAL ADMISSION AND PLACEMENT UNIT**

Due to the closure of some juvenile correctional centers within the VA Department of Juvenile Justice, the RJDC serves as an intake site for DJJ to conduct intakes/evaluations for juvenile offenders committed to DJJ. The intake process includes interviews, orientations, assessments and testing completed by DJJ staff. After completion of this three-week intake process, residents remain at the facility until accepted into a Community Placement Program (CPP) or placement at Bon Air JCC. When a placement is arranged, the residents are transported by DJJ to their designated facility placement.

**COMMUNITY:**

RJDC provides religious programs and activities offering spiritual guidance for those desiring such. The facility also provides volunteer programming with citizen involvement in assisting the staff in the education, recreation and religious programs for residents. RJDC also provides psychiatric and mental health services.

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**PROGRAM REQUEST  
TO  
THE DEPARTMENT OF JUVENILE JUSTICE**

**CERTIFIED PROGRAM:**

Virginia Beach Crisis Intervention Home  
811 13<sup>th</sup> Street  
Virginia Beach, Virginia 23451  
(757) 422-4521  
William Wimbish, Deputy Director of TYS  
[wwimbish@tyscommision.org](mailto:wwimbish@tyscommision.org)

**CURRENT TERM OF CERTIFICATION:**

May 13, 2024, through May 12, 2026

**SUBMITTED:**

August 6, 2025

**CERTIFICATION ANALYST:**

Sherron Key

William Wimbish has submitted a request to increase the capacity of the Crisis Intervention Home from 12 resident to 16 residents.

A modification of their certificate is allowed pursuant to:

*6VAC35-20-75 D. The director or designee may, upon the request of a program or facility administrator or the department, modify during the term of the certificate the conditions of a certificate relating to a program's or facility's certification status or capacity, the residents' age range or sex, the facility's location, or changes in the services offered and provided.*

**DIRECTOR'S CERTIFICATION ACTION – October 6, 2025:** Authorized an increase in the capacity of Virginia Beach Crisis Intervention Home to 16 residents.

Mr. Sherron Key has reviewed the request, and his findings are noted in the following.

After an onsite visual inspection, measurement of bedroom dimensions, bedroom resident capacity, and bathroom to resident ratio, I have concluded that Virginia Beach Crisis does have the capacity to increase their bed space and maintain compliance with DJJ regulations. After inspection of the facility, it was confirmed that the home has three bedrooms to house male residents with two available bathrooms with a sink, tub/shower, and basin. Two rooms share a bathroom with a maximum of two residents per room, and the remaining room can sleep four residents with one bathroom for exclusive use. The square footage of the rooms meets the minimum requirement of at least 60 square feet per resident. All bedrooms on the male side exceed the required square footage.

It was also confirmed that the female side of the facility, separated by a barrier wall, has a total of three bedrooms and two bathrooms with a sink, tub/shower, and a basin. Two rooms share a bathroom with a maximum of two residents per room, and the remaining room can sleep four residents with one bathroom for exclusive use. The square footage of the rooms, also, meets the minimum requirement of at least 60 square feet per resident. All bedrooms exceed the required square footage.

All beds were bunk style and met the spacing requirements and are at least five feet apart exceeding the five-foot spacing in the rooms with two bunk beds on the girls and boys sides.

## FORMAL REQUEST FOR CERTIFICATION MODIFICATION

TO: Certification Unit, Department of Juvenile Justice

FROM: Virginia Beach Crisis

Intervention Home DATE: [8/6/2025]

RE: Request for Certificate Capacity Revision

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This document serves as a formal request to the Certification Unit of the Department of Juvenile Justice for a modification to our current facility certification. We are respectfully requesting an extension and revision to increase the residential capacity of our building based on our physical infrastructure and available accommodations.

Our facility currently holds certification to house twelve residents according to our existing certificate. However, after careful evaluation of our rooms, beds, and bathroom facilities, we have determined that our building can appropriately accommodate sixteen residents while maintaining proper occupancy standards and ensuring a quality experience for the youth we serve.

The proposed capacity increase would establish our facility with eight female beds and eight male beds, bringing our total occupancy to sixteen residents. This arrangement reflects the actual physical capabilities of our building and would allow us to better serve the community while maintaining all safety and comfort standards required by the Department of Juvenile Justice.

In support of this request, we are submitting a complete facility floor plan that includes the square footage of every room within our building. Our facility encompasses over 4,000 square feet, which ensures appropriate spacing and provides an enhanced experience for the youth entrusted to us by the Department of Juvenile Justice. This documentation demonstrates that our physical space can comfortably and safely accommodate the requested increase in capacity.

We have maintained full compliance with 6VAC35-41 Regulation Governing Juvenile Group Homes and Halfway Houses as promulgated by the Board of Juvenile Justice throughout our operation. Our current Certificate of Certification, which is effective from May 13, 2024 through May 12, 2026, was awarded to the Virginia Beach Crisis

Intervention Home under the authority of Amy Floriano, Director of the Department of Juvenile Justice.

We respectfully request that Director Amy Floriano review this capacity modification request and take the appropriate certification action to reflect our facility's true capacity. We believe this revision will enable us to better serve

the youth in our community while maintaining the high standards of care and safety that the Department of Juvenile Justice expects and that we are committed to providing.

Submitted by: **William Wimbish Deputy Director**

A handwritten signature in black ink, appearing to read 'W. Wimbish', with a long horizontal line extending to the right.

Virginia Beach Chesapeake • Portsmouth • Franklin • Suffolk • Isle of Wight County • Southampton County

**CERTIFICATION STATUS REPORT  
TO THE  
DEPARTMENT OF JUVENILE JUSTICE**

**PROGRAM AUDITED:**

Bon Air Juvenile Correctional Center  
1900 Chatsworth Avenue  
Richmond, Virginia 23235  
(804) 323-2550  
Angela Haule, Superintendent  
[angela.haule@djj.virginia.gov](mailto:angela.haule@djj.virginia.gov)

**AUDIT DATES:**

September 18, 2025

**CERTIFICATION ANALYST:**

Wanda Parris-Flanagan  
Dr. Christopher Moon, Medical  
Compliance Administrator

**CURRENT TERM OF CERTIFICATION:**

April 12, 2021 – April 11, 2024

**DIRECTOR'S CERTIFICATION ACTION September 23, 2024:** Extended the current certification status of Bon Air Juvenile Correctional Center to April 12, 2025, with a referral to the DJJ Medical Compliance Administrator for monitoring of the area of noncompliance and a status report. On April 23, 2025, this was amended to September 23, 2025. A new comprehensive correction action plan was implemented.

*Pursuant to 6VAC35-20-100 (4.a)*

*If the certification audit finds the program or facility in less than 100% compliance with all critical regulatory requirements or less than 90% on all noncritical regulatory requirements or both, and a subsequent status report, completed prior to the certification action, finds less than 100% compliance on all critical regulatory requirements or less than 90% compliance on all noncritical regulatory requirements or both, the program or facility shall be subject to the following actions:*

- a. If there is an acceptable corrective action plan and no conditions or practices exist in the program or facility that pose an immediate and substantial threat to the health, welfare, or safety of the residents, the program's or facility's certification shall be continued for a specified period of time up to one year with a status report completed for review prior to the end of the extension.*

**6VAC35-71-1070 (J). Medication. CRITICAL**

**J. Medication refusals shall be documented including action taken by staff. The facility shall follow procedures for managing such refusals, which shall address:**

- 1. Manner by which medication refusals are documented; and**
- 2. Physician follow-up, as appropriate.**

**January 2024 Audit Finding: Noncompliant**

**Three of eight applicable medication refusals reviewed did not have documentation of action taken by staff.**

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**Program Response**

**Cause:**

Multi-tasking; Incomplete documentation.

**Effect on Program:**

Variable — A critical incidence could occur for failure to follow by 6VAC35-1070 (J).

**Planned Corrective Action:**

- Train all staff on the importance of adherence to 6VAC35-71-1070(J)
- Random MAR checks by Nursing Supervisor
- Peer review by nursing staff

**Completion Date:**

3/2024

**Person Responsible:**

Nursing Staff. Nursing Supervisors and Nurse Manager

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**Status Review on 8/1/2024: Noncompliant**

Three of six applicable medication refusals reviewed did not have documentation of action taken by staff.

On September 23, 2024, the Director extended the certification to April 12, 2025, and extended the certification again on April 12, 2025, to September 23, 2025, for the implementation of a comprehensive plan of action.

**That plan consisted of the following.**

Electronic notification sent to staff who were found out of compliance as a warning.

- Reminder sent to staff on the importance of adherence to 6VAC35-71-1070(J) and HSOP 4.3 - 3.07
  - Weekly MAR checks by Nursing Supervisors (Divide into 3 areas)
    - Nair MARs from 61 to 64
    - Minor MARs from 65 to 68
    - Herndon MARs from CI
  - Peer review (daily) by nursing staff
  - The Nurse Manager will add another level of review by periodically reviewing the checks done by the Nursing Supervisors.
- 

**Status Review on September 18, 2025: Compliant**

Six of six MARs reviewed properly documented the actions taken by staff.

**DIRECTOR'S CERTIFICATION ACTION – October 6, 2025: Certified Bon Air Juvenile Correctional Center to April 12, 2027.**

*Pursuant to 6VAC35-20-100C.2, if the certification audit finds the program or facility in less than 100% compliance with all regulatory requirements and a subsequent status report, completed prior to the certification action, finds 100% compliance on all regulatory requirements, the director or designee shall certify the facility for a specific period of time, up to three years.*

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