



Proposed Regulation Agency Background Document

Agency name	Department (Board) of Juvenile Justice
Virginia Administrative Code (VAC) citation	6VAC35-30
Regulation title	Regulations Governing State Reimbursement of Local Juvenile Residential Facility Costs
Action title	Comprehensive Review of the Regulation for Clarity and Improvement
Date this document prepared	February 6, 2009

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

Brief summary

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

This regulation was last reviewed in 1992. Since then, there has been a restructuring, both in the Department of Juvenile Justice (DJJ) and in localities. An advisory committee was convened by the department with individuals representing the department, local detention homes, and the Board of Juvenile Justice. Experts were consulted on technical issues. The regulation was reviewed and modifications were recommended to address outdated terms and substantive changes necessary to streamline the process for localities requesting reimbursement that keeps with the goals of enhancing the clarity of the regulation and achieving improvements that will be reasonable, prudent, and will not impose any unnecessary burden on its regulants or the public.

Acronyms and Definitions

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

The Agency Background Document does not contain any acronyms or terms that are not defined or short-cited in the "Definition" section of the regulation.

Legal basis

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

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

Additionally, the legal authority of the Board of Juvenile Justice to promulgate regulations governing reimbursement of construction costs for local juvenile residential facilities is found in § 16.1-309.5 (C) of the Code of Virginia. This Code section states that “the Board shall promulgate regulations to include criteria to serve as guidelines in evaluating requests for such reimbursements and to ensure the geographically equitable distribution of state funds for such purpose.”

Moreover, § 16.1-322.7 of the Code of Virginia requires the Board of Juvenile Justice to promulgate regulations governing the schedule for and manner of state reimbursement to the cities or counties or any combination thereof for costs of construction of local or regional detention homes. It further requires regulations regarding the minimum standards for the construction, equipment, administration, and operation of the facilities.

Purpose

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

The Regulations Governing State Reimbursement of Local Juvenile Residential Facility Costs, 6VAC35-30, sets forth the process by which the department and the Board of Juvenile Justice will approve the Commonwealth’s reimbursement of a portion of a locality’s cost of constructing a juvenile residential facility. It establishes the process for evaluating requests from localities for state reimbursement of local juvenile residential facility construction costs, including criteria to assess need, priorities for construction projects, and a methodology for determining appropriate costs. The regulation also provides the basis for the department’s “Guidelines for Minimum Standards in Design and Construction of Juvenile Facilities,” which addresses technical matters of construction and furnishings.

The last comprehensive review of the Regulations Governing State Reimbursement of Local Juvenile Residential Facility Costs was completed on September 9, 1992. Since that time, there has been a restructuring, both in the Department of Juvenile Justice and in localities. Additionally, many of the terms used in the regulation are outdated. Thus, the regulation was reviewed in light of current practices; and it was determined that a comprehensive review of and substantive changes to the regulation are necessary to streamline the process for localities requesting reimbursement that keeps with the goals of enhancing the clarity of the regulation and achieving improvements that will be reasonable, prudent, and will not impose any unnecessary burden on its regulants or the public.

Substance

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

The following changes have been proposed for the Regulations Governing State Reimbursement of Local Juvenile Residential Facility Costs:

1. **Section 10:** Updated referenced statutes, regulations, and documents.
2. **Section 20:**
 - ✓ Updated the definition section and terms used, including (i) removing unused terms and (ii) clearly defining components of the needs assessment and planning study and detailing what constitutes a substantive change.
 - ✓ Removed square footage reference in the definition of area; this is addressed in section 65.
 - ✓ Added definitions for (i) board approved funding formula; (ii) efficiency ratio; (iii) project; and (iv) sponsor.
3. **Section 30:** Deleted this section as the statutory references are provided in the regulatory footnotes.
4. **Section 35 (new):** Added a pre-screening step to the process to ensure that all projects subject to the regulation are identified early in the planning process.
5. **Section 40:** Added language to clarify the distinct phases of the process and the responsibilities of each party during these phases.
6. **Section 45 (new):** Added a section to clarify the sponsor/locality's responsibilities in the event of a legislative moratorium on construction/reimbursement.
7. **Section 50:** Deleted this section as it was not in the correct order of the process and was duplicative of other parts of the regulation.
8. **Section 60:**
 - ✓ Moved the board approved funding formula to its own section.
 - ✓ Added an additional component of the board's review – review of efficiency.
 - ✓ Added a provision to allow the board to adjust the amount being requested for reimbursement when (i) functional areas are not included or are planned at a non-conforming size; (ii) support service areas are at a non-conforming size; (iii) the efficiency ratio is not appropriate; and (iv) the facility includes areas for extraordinary program activity. This section replaces a statewide average absolute limitation (from footnote i in appendix 2e of the *Step-by-Step Procedures for Approval and Reimbursement for Local Facility Construction, Enlargement, and Renovation*).
 - ✓ Clarified that phased reimbursements may be utilized.
9. **Section 65 (new):**
 - ✓ Moved the funding formula currently in this section from section 60.
 - ✓ Made the following changes from the previous formula:
 - i. Removed the requirement to convert the per-bed costs using per-bed area allowances based on the average gross square footage of actual and proposed local facilities in Virginia. The cost per square footage is already regionally accounted for using the R.S. Means location factor, and the proposed language will increase board oversight for efficiency in section 60.
 - ii. Changed the contingency percentage from 3% to 10%. Since this formula governs the Schematic Design Document, the 10% would impose the same standard used for state construction at this stage of design.
 - iii. Added an inflation factor into the calculation for consistency with the practices of the Department of Corrections.
 - iv. Changed the maximum square footage requirement from 600 square feet per bed for all facilities to (i) 700 for facilities up to 35 residents; (ii) 650 for facilities of 36 to 79 residents; and (iii) 550 for facilities with 80 or more residents.
10. **Section 70:** Removed funding priorities as the Code requires priority to multi-jurisdictional facilities. The current regulation requires a needs assessment, and the proposed regulation allows the Board to conduct efficiency analyses.
11. **Section 80:** Included timeframes for communications.
12. **Section 90:** Made technical changes to update the references and clarify the steps in the process.
13. **Section 100:** Made technical changes including clarifying the documents required at this stage.

- 14. **Section 110:** Made technical change to the title.
 - 15. **Section 120:**
 - ✓ Amended and provided the timeframes for communications between the department and the sponsor.
 - ✓ Added a provision that the department’s failure to respond would serve as acceptance of the recommendation.
 - 16. **Section 130:**
 - ✓ Stated the timeframe for submission of inspection and progress reports.
 - ✓ Added a provision that the department’s failure to respond would serve as acceptance of the inspection and progress report.
 - ✓ Added a provision that the sponsor’s failure to timely submit the inspection or progress reports may constitute grounds to deny reimbursement.
 - ✓ Added a provision that the sponsor’s failure to obtain approval of a substantive change may constitute grounds to deny reimbursement.
 - 17. **Section 140:** Clarified the required components of the schedule for final inspection.
 - 18. **Section 150:** Made technical changes.
 - 19. **Section 160:** Made technical changes.
 - 20. **Section 170:** Made technical changes.
 - 21. **Section 180:** Made technical changes.
 - 22. **Section 190:** Added a provision that a failure to comply with the regulation may result in the failure to obtain board certification or department approval to house juveniles in the facility.
- Documents Incorporated by Reference:** Updated the title of the document.

Issues

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

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

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

The proposed amendments have been vetted through an advisory committee consisting of individuals representing detention homes across the Commonwealth who would be affected by the changes in reimbursement for juvenile residential facilities. Having clear, concise, and consistent requirements for localities seeking reimbursement for construction of local facilities fosters improved communication between the department, the Commonwealth, and localities.

The proposed amendments should pose no disadvantage to the public or the Commonwealth. In fact, providing the board with additional authority to review requests for space efficiency and appropriate use of space will promote improved functionality in future construction projects.

Requirements more restrictive than federal

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

There are neither applicable federal requirements nor requirements contained in the proposed regulation that exceed applicable federal requirements.

Localities particularly affected

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

This regulation will affect any locality, group of localities, or commission seeking state reimbursement for the construction of local juvenile residential facilities. No locality will be particularly affected by the proposed regulation as the formula and criteria for reimbursement is applied to all sponsors of local juvenile residential facilities. However, the board shall, as required by the Code of Virginia, give preference to requests for reimbursement for regionalized local facilities as those facilities normally serve three or more localities as determined by the needs assessment.

Public participation

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

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

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

A public hearing will not be held.

Economic impact

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

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.</p>	<p>Funding is provided by the General Assembly for the reimbursement for construction, renovation, or enlargement of a juvenile residential facility. Section 16.1-309.5 requires such reimbursement to be for “one-half of the cost.” Expenditures would include one-time and on-going costs depending on actual construction.</p>
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	<p>The core components of this regulation were not recommended to be changed. Any construction must be based on an approved needs assessment and is subject to the approval of the Governor and the General Assembly.</p> <p>The square footage requirement, in the funding formula, was changed. In practice, this had been limited to 600 square feet for each facility. The proposed regulation would change this to 550 for facilities of 80 or more residents; 650 for facilities of 36-79 residents; and 700 square feet for facilities of up to 35 residents. This requirement is based on the (1) changes in services provided by detention centers requiring additional infrastructure, such as, (i) mental health clinicians are mandated in each facility and such individuals must have confidential areas and (ii) many facilities are providing for video communication technology that requires additional, separate, and secure space; and (2) changes in the recommendations of the Office of Juvenile Justice Delinquency Prevention and the American Correctional Association for square footage.</p> <p>With the tiered provision, this may have minimal impact. Of the 24 existing facilities, seven have a licensed capacity of 35 or less; nine have a licensed capacity of 36 to 79; and eight have a licensed capacity of 80 or more. Of the seven most recently constructed facilities, one has a licensed capacity of 35 or less; three have licensed capacity of 36 to 79; and three have a licensed capacity of 80 or more.</p> <p>However, these changes are not absolute. The board has been granted additional authority to review the facility for efficiency in design and construction and, thus, will have override authority should sponsors seek reimbursements for facilities that do not meet appropriate functional requirements.</p> <p>Any actual or projected costs cannot be determined.</p> <p>There is a current moratorium on construction. If any reimbursement is sought, it must be directly appropriated by the General Assembly.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>The regulation applies to any locality, localities, or commissions (the “sponsor”) seeking reimbursement for construction of local juvenile residential facilities. The regulation’s primary purpose is to detail the process by which any such request will be made. The requirements have been streamlined; and the responsibilities of the department, board, and sponsor have been more clearly delineated. There could be either a positive or negative economic effect on localities (in opposition to any such effect on the Commonwealth as stated above) – the maximum square footage per bed has been reduced for facilities with 80 or more residents and increased for facilities with 79 or less residents.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>Localities, commissions, sponsors, architectural and engineering firms providing services, and service providers. The requirements have been streamlined; and the responsibilities of the department, board, and sponsor (and any businesses contracted related</p>

	thereunder) have been more clearly delineated and should result in clarity of requirements and smoother compliance with the applicable components.
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	There are 24 juvenile residential detention facilities across the state that would be affected by this regulation. However, only Loudoun has submitted a needs assessment to the board. It is unclear whether any additional facilities are planning construction or expansion absent any action on their part. The number of small businesses affected would depend on the actions of the localities seeking reimbursement.
All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and do include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	The substantive changes to the regulation, other than the square footage per bed change, will require minimal, if any, costs for the sponsors, businesses, or other entities. The overall purpose of this revision was to streamline the regulations; and, it is projected, that there will be an overall positive impact of the proposed changes There are no specific costs relating to the development of real estate.
Beneficial impact the regulation is designed to produce.	The beneficial impact of this regulation is that it ensures a cost-effective method for determining the need for a facility, the requirements to be met in constructing, enlarging, or renovating the facility, and the justification for reimbursement.

Alternatives

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

Retaining the regulation in its current form was considered. However, given changes in terminology and the evolution of practices since 1992, the department determined that a comprehensive review and updating of the regulation was essential to improve the process by which localities seek reimbursement for the construction of children’s residential facilities and to be consistent with the goals to clarify and improve the process.

Also, as part of the review process, the committee assessed whether any of the needed changes, clarifications, or updates could be accomplished through additional guidance documents or training rather than revising the regulatory provisions. The conclusion was reached that reviewing and amending the current regulation was the only practicable alternative for addressing certain issues identified during the periodic review of this regulation.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less

stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This regulation may affect small businesses inasmuch as a small business provides a service subject to this regulation (i.e.; architectural/engineering or construction services) through reimbursement to a locality being reimbursed for costs related to the construction of its juvenile residential facility. The proposed regulation clarifies and streamlines the process any locality and its participating businesses must follow in seeking construction reimbursements. Having clear, concise, and consistent requirements across localities (i) provides such entities with clear requirements and (ii) ensures consistency in such requirements through the Commonwealth. The regulation thus would benefit any affected small business.

Public comment

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

Commenter	Comment	Agency response

No public comments were received during the NOIRA stage.

Family impact

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

The anticipated amendments are not expected to have an impact on the institution of the family and family stability. Although delinquent children and children in need of supervision may be housed in facilities governed by this regulation, the regulation itself governs the process of monitoring construction and reimbursing the costs of construction. Thus, the regulation would neither strengthen nor erode the authority and rights of parents in the education, nurturing, and supervision of their children; would neither encourage nor discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, one’s children, or elderly parents would neither strengthen nor erode the marital commitment; and would neither increase nor decrease disposable family income.

Detail of changes

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

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

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
10		Charges the state Board of Youth and Family Services, the Department of Youth and Family Services, and the Office of Capital Outlay Management within the Department of Youth and Family Services with responsibilities regarding the approval for construction, enlargement, renovation, programs, services, architectural and engineering review, and reimbursement by localities.	Clarifies the responsibilities of the Board of Juvenile Justice as required under §§ 16.1-309.5 and 16.1-309.9 of the Code of Virginia regarding the construction, enlargement, purchase, renovation, minimum standards, and applicable documents governing local juvenile residential facilities. Also deletes documents that are no longer used as a basis for this regulation. Changes the terminology for Youth and Family Services to Juvenile Justice.
20		Defines “ACA” as American Correctional Association.	Deletes the definition as it no longer applies to the regulation.
20			Adds the definition “Area allowance per bed” to describe the formula used to arrive at the area allowance per bed (<i>see</i> proposed section 65).
20		Defines “Architectural/Engineering (A/E) services.”	Deletes the definition as it no longer applies to the regulation.
20		Defines “Board” as the Virginia Board of Youth and Family Services.	Changes the definition to mean the Virginia Board of Juvenile Justice. Changes all references to “Board” to “Board of Juvenile Justice” throughout the document to reflect the current name.
20			Adds the definition “Board approved funding formula” to mean the method by which construction costs are calculated (<i>see</i> proposed section 65).
20		Defines “Board approved standards” as a regulation or section or subsections promulgated and approved by the Board of Youth and Family Services and includes Chapters 50, 100, and 40 of Title 6.	Amends the definition to “Board regulation” as promulgated and approved by the board.
20		Defines “Department” or DYFS as the Department of Youth and Family Services.	Changes the definition that “Department” or “DJJ” means the Department of Juvenile Justice. Changes all references to “Department” to

			Department of Juvenile Justice or DJJ throughout the document to reflect the current name.
20			Adds “Efficiency ratio” to mean the proportion of a building’s net usable area to its gross floor area.
20		Defines “enlargement” or “expansion” as expanding an existing local facility by constructing additional areas.	Deletes this definition as it is no longer needed.
20		Defines “furnishings and equipment” as built-in equipment or fixtures included in a structure at the time of construction.	Deletes this definition as it is no longer needed.
20		Defines “locality’s representative” as an individual licensed by the Virginia Department of Commerce as an architect or engineer.	Deletes this definition as it is no longer needed.
20		Defines “needs assessment” as an evaluation of trends and factors affecting current and future local facility needs.	Expands the definition to include that each project shall identify target population, needs, and all alternatives.
20		Defines “new construction” as a new or replaced facility.	Deletes the definition as it is no longer needed.
20		Defines “operating capacity” as the operating capacity based on “per bed area allowances.”	Deletes the definition as it is no longer needed.
20		Defines “planning study” as an overall description of a proposed project.	Expands the definition to include program description and design, relationship of the project to existing facilities, project’s schedule, details of the project, and a cost/benefit analysis.
20		Defines “procedures” as the Department of Youth and Family Services Procedures for Receiving State Reimbursement for Local Facility Construction, Enlargement, Renovation, and Operating Funds, and for the Development and Operation of New Programs.	Deletes the definition as it is no longer applicable.
20			Adds definition “project” to mean any proposed or actual new construction, renovation, enlargement, or expansion of a juvenile residential facility that is or will be subject to approval by the department or regulation by the board.
20		Defines “renovation” as altering or otherwise modifying an existing local facility and does not include routine maintenance.	Deletes this definition as it is no longer needed.
20		Defines “replacement” as constructing a local facility in	Deletes this definition as it is no longer needed.

		place of a like local facility.	
20		Defines “reviewing authority” as the department, division, or agency to which the Governor has delegated authority to act in his behalf.	Deletes this definition as it is no longer needed.
20			Adds definition “sponsor” to mean a city, county, commission, or any combination thereof, or any private entity under contract or arrangement with any city, county, commission, or any combination thereof, that is actually or proposing to build, renovate, expand, or operate a local facility.
20		Defines “substantive change” as user generated design changes affecting operational and functional performance of the facility.	Expands this definition to address any deviation from an approved plan or design that will affect, impact, change the capacity, or result in a sponsor seeking additional reimbursement.
30		<u>Legal basis.</u> Section was promulgated to carry out the provisions of §§ 16.1-313 and 16.1-322.5 through 16.1-322.7 of the Code of Virginia.	Repeals this section as the statutory authority is footnoted in the <i>Virginia Register</i> . Additionally, statutory authority that governs part, but not all, of this chapter, is specifically referenced in section 160.
	35		<p>Adds a section providing for a pre-screening process for all construction, which may be subject to this chapter.</p> <p>Addresses criteria regarding submission of documentation for construction, renovation, enlargement, or expansion of a local facility. After review, the department will inform the sponsor if the project is subject to this regulation.</p> <p>Determines how a request is categorized so both the department and the localities are clear as to the application of the requirements of this chapter.</p>
40		<u>Reimbursement request.</u> Details the outline needs assessment and planning study stages involved in a request for reimbursement.	<p>Deletes specific dates of submission to the board and requires that the department advise the sponsors of the deadline for submissions. Thus, there is flexibility for when submissions will be due depending on when the process is initiated.</p> <p>Adds criteria for submission of a needs assessment and steps involved in the process for approval.</p> <p>Adds requirement for the sponsor to submit a complete planning study accompanied by an estimate of the total amount of reimbursement. Addresses requirements of the board to consider the study.</p> <p>Deletes items to accompany the request for</p>

			<p>reimbursement. Such requirements are detailed throughout the chapter and inclusion in this section is unnecessarily duplicative.</p> <p>Also, contains technical changes.</p>
	45		<p>Adds a section addressing the effect of a legislative moratorium on the request for reimbursement process. Includes instructions for a sponsor to obtain reimbursement in such times that the Virginia General Assembly has imposed a moratorium on reimbursement of construction costs.</p>
50		<p><u>Preliminary Review</u>. Provides localities a review of the needs assessment prior to formally submitting a reimbursement request.</p>	<p>Repeals this section. Provisions are covered, in part, in proposed section 35, which has been enhanced to clearly state required circumstances and documentation prior to initiation of construction.</p> <p>Under the new provision a needs assessment is not required to be submitted to the board unless it is determined that the proposed construction is subject to the regulation.</p> <p>Reduces unnecessary board action for projects not subject to this chapter.</p>
60		<p><u>Criteria for board funding recommendation</u>. Requires the board to review the sponsor’s demonstrated need, operational cost efficiency, and construction cost in consideration for reimbursement. Also allows for the phased reimbursement of construction costs.</p>	<p>Deletes requirement that the design shall meet the standards of the board and ACA.</p> <p>Deletes construction cost formula. Provisions were moved to section 65, as amended.</p> <p>Adds board review of construction costs for efficiency of facility (modeled on Department of Correction regulations). Includes criteria board may use to adjust the amount being requested for reimbursement.</p> <p>Further clarifies the criteria for phased reimbursement of projects.</p> <p>Also, contains technical changes.</p>
	65		<p>Adds a section specifically addressing the funding formula, which is currently provided for in subsection C of 6VAC35-30-60. Instructs how to calculate estimated construction costs at the Schematic Design Documents level in the planning study phase.</p> <p>Changes the existing formula as follows:</p> <ul style="list-style-type: none"> - In subdivision A (2), changes the 900 square foot limit to reference a three-tiered square footage limit depending on the size of the facility; - In subdivision A (3), changes the contingency percentage from 3% to 10%. In this regulation, the total construction cost must

			<p>be provided at the beginning of the process. Changes the percentage to correspond with the practices for state construction and by the Department of Corrections (where the contingency is 10% at the beginning and 3% at the end of the process);</p> <ul style="list-style-type: none"> - In subdivision A (3), adds consideration of an inflation factor (modeled on state construction and the Department of Corrections); and - In subsection B, adopts a three-tiered square footage maximum (based on the square footage recommendation of the Office of Juvenile Justice Delinquency Prevention; changes in the model standards for juvenile detention facilities since this regulation was last reviewed; a review of the efficiency of existing facilities; and a review of square footage ratios of recently constructed facilities in the Commonwealth).
70		<p><u>Funding priorities.</u> Lists the funding priorities that must be considered in requests for reimbursement.</p>	<p>Deletes criteria that served as the guide for determining the level of priority given to requests for reimbursement.</p> <p>Expands reference to how board shall prioritize reimbursement requests.</p> <p>Also, contains technical changes.</p>
80		<p><u>Board recommendations to the Governor.</u> Requires the department to notify the locality of the board’s decision and submit any recommendations to the Governor for consideration and approval.</p>	<p>Expands how the department is to notify the sponsor of the board’s decision and when.</p> <p>Deletes reference to §§ 16.1-313 and 16.1-322.7 of the Code of Virginia.</p> <p>Also, contains technical changes.</p>
90		<p><u>Preliminary design.</u> Sets forth requirements for the sponsor and department at the preliminary design phase.</p>	<p>Changes references to “locality” to “sponsor” here and in other places in the document.</p> <p>Deletes requirement for locality to submit preliminary design documents to other regulatory agencies.</p> <p>Amends that preliminary design documents shall be reviewed for compliance with applicable statutes, regulations, and any guidance documents incorporated herein.</p> <p>Amends reference to construction documents as “working drawings” in the CPSM.</p> <p>Adds that the department shall notify the sponsor when the project has progressed to the construction documents phase.</p> <p>Also, contains technical changes.</p>
100		<p><u>Construction documents.</u> Sets</p>	<p>Adds that construction documents shall</p>

		<p>forth requirements for the sponsor and department related to the review of construction documents.</p>	<p>include 100% complete working drawings and specifications as well as all required review approvals from local building, health, and fire officials.</p> <p>Adds that the department will review documents for compliance with applicable statutes, regulations, and any guidance documents incorporated herein.</p> <p>Deletes the requirement that the locality will be advised in writing within 10 working days.</p> <p>Also, contains technical changes.</p>
110		<p><u>Changes during project development.</u> Sets forth the circumstances when the review process will be suspended and the actions of the sponsor necessary to continue in the process.</p>	<p>Changes the title to <u>Change order process</u> to better describe the section.</p>
120		<p><u>Bids.</u> Sets forth requirements for the sponsor and department in the bidding process.</p>	<p>Changes the title to <u>Bidding.</u></p> <p>Changes the requirement that comments by the department shall be forwarded to the sponsor within 10 working days to five business days.</p> <p>Adds that the department's failure to respond in the required timeframe shall serve as acceptance of the sponsor's recommendation as to the award of the contract.</p> <p>Also, contains technical changes.</p>
130		<p><u>Construction.</u> Sets forth requirements for the sponsor and department during the construction phase.</p>	<p>Changes reference to working days to business days.</p> <p>Adds that any failure to seek and obtain approval of a substantive change may constitute grounds to deny the requested reimbursement.</p> <p>Deletes that a representative of the department may visit the project site during the construction period to observe.</p> <p>Also, contains technical changes.</p>
140		<p><u>Final inspection.</u> Sets forth requirements for the sponsor and department related to the final inspection of projects.</p>	<p>Amends the language to describe the schedule of final inspection.</p> <p>Deletes reference that the fire official of the authority having jurisdiction shall conduct a plan review and approve the construction. This is required by the fire and building code and by other board regulations.</p> <p>Also, contains technical changes.</p>

150		<u>Record documents.</u> Details requirements for record documents.	Contains technical changes.
160		<u>Legal basis.</u> Sets forth the legal basis for the private construction of juvenile facilities.	Changes the title of this section to <u>Private construction of juvenile facilities.</u> Deletes reference to § 16.1-313 of the Code of Virginia. Also, contains technical changes.
170		<u>Contract authorization.</u> Sets forth the requirements for contract authorization for the private construction of juvenile facilities.	Changes the title of this section to <u>Requirements for contract authorization.</u> Also, contains technical changes.
180		<u>Request for final reimbursement for all projects.</u> Sets forth documentation and sponsor requirements related to the request for final reimbursement for all projects.	Includes grammatical changes for clarification.
190		<u>Compliance.</u> Details the consequences of failing to comply with the requirements of this Chapter.	Expands on the results of failure to meet compliance requirements by adding that failure to comply with this chapter may result in the facility not obtaining board certification or department approval to house juveniles.
Documents		Lists the Documents Incorporated by Reference.	Adds The Step-by-Step Procedures for Approval and Reimbursement for Local Facility Construction, Enlargement, and Renovation, issued by the Department of Juvenile Justice. Deletes the Procedures for Receiving State Reimbursement for Local Facility Construction, Enlargement, Renovation, and Operating Funds, and for the Development and Operation of New Programs. The “procedures” document is a part of the “step-by-step” document. This change incorporates the full document, which also contains construction specifications as an incorporated document.