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## Proposed Regulation Agency Background Document

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| <b>Agency name</b>                                    | Department (Board) of Juvenile Justice  |
| <b>Virginia Administrative Code (VAC) citation(s)</b> | 6 VAC35-71  |
| <b>Regulation title(s)</b>                            | Regulation Governing Juvenile Correctional Centers  |
| <b>Action title</b>                                   | Comprehensive review of regulatory provisions governing juvenile correctional centers that are currently contained in 6VAC35-71 |
| <b>Date this document prepared</b>                    | February 15, 2018   |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The Regulation Governing Juvenile Correctional Centers establishes the minimum standards to which staff in juvenile correctional centers (JCCs) must comply. The existing regulation addresses program operations, health care, personnel and staffing requirements, facility safety, residents' rights, and the physical environment. It contains additional provisions for boot camps and privately operated JCCs. The regulation seeks to promote the safety and security of residents, staff, volunteers, interns, and contractors, while protecting the rights of youth committed to the Department of Juvenile Justice (department) and preparing them for successful re-entry into the community following their commitment.

This regulatory action will involve a comprehensive overhaul of the Regulation Governing Juvenile Correctional Centers to reflect the department's continued efforts to transform its approach to juvenile justice, including implementing the community treatment model (CTM) in its housing units, abolishing the

use of segregation as a disciplinary measure in any existing and future JCCs, requiring additional monitoring of confined residents, enhancing training for department personnel and staff, and increasing required staff-to-resident ratios in order to comply with federal law.

This regulatory action will clarify the regulatory requirements and achieve improvements that are reasonable, prudent, and will not impose an unnecessary burden on JCCs, programs, or the general 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.*

- ACA means the American Correctional Association.
- CTM means the community treatment model.
- CPP means a community placement program.
- CPS means Child Protective Services.
- DJJ means the Department of Juvenile Justice.
- JCC means juvenile correctional center.
- JCO means juvenile correctional officer.
- QMHP means qualified mental health professional.
- RDC means the Reception and Diagnostic Center.
- PREA means the Prison Rape Elimination Act.
- SGA means the Student Government Association

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.*

Section [66-13](#) of the *Code of Virginia* provides the department with the authority to “receive juveniles committed to it by the courts of the Commonwealth” and to “establish, staff, and maintain facilities for the rehabilitation, training, and confinement of such juveniles.”

The Board of Juvenile Justice (board) is entrusted with general, discretionary authority to promulgate regulations by [§ 66-10](#) of the *Code of Virginia*, which authorizes the board to “promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth.”

Also contained in this regulation are the provisions governing privately-operated JCCs and boot camps. These are mandated by [Chapter 2.1](#) of Title 66 (Juvenile Corrections Private Management Act) and [§ 66-13](#) of the *Code of Virginia*, respectively.

The promulgating entity is the board.

## Purpose

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

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Having clear, concise regulations is essential to protecting the health, safety, and welfare of residents, staff, and visitors in JCCs and citizens in the community. With clear expectations for the administrators running these facilities, the facilities will be able to run more smoothly and utilize any extra resources for supporting the needs of the residents, thus supporting the overall rehabilitation and community safety goals of the department.

In June 2016, the board authorized the submission of a Notice of Intended Regulatory Action (NOIRA) to initiate the regulatory process for a comprehensive review of the Regulation Governing Juvenile Correctional Centers set out in 6VAC35-71. To complete the comprehensive review and revisions to this regulation, the department convened a committee consisting of representatives from various divisions of the department. The committee recommended revisions to the regulation with the goal of streamlining the language, clarifying ambiguous provisions, and imposing new requirements that align with the following changes that have occurred since the department's last review of the regulation.

*Community Treatment Model:* The department has adopted and implemented a CTM in the JCCs similar to a successful program operated in Missouri. The model uses a relationship-oriented approach to help residents identify and resolve negative behaviors that contribute to their criminogenic risk and encourages: (i) the assignment of residents to a permanent community with consistent staffing; (ii) highly structured, planned group activities that encourage constant interaction and engagement among staff and residents; and (iii) therapeutic structured activities that build interpersonal skills and promote positive behavior change.

*Prison Rape Elimination Act:* In 2003, Congress enacted the PREA (Public Law No. 108-79) to "provide for the analysis of the incidence and effects of prison rape in federal, state, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape." The Act created a commission charged with developing standards for the elimination of prison rape. The final rule for these standards became effective in 2012; however, correctional facilities were given until October 2017 to comply with the standards related to staffing requirements and staffing ratios. Although the department has adopted written procedures to incorporate PREA's mandates, a handful of the existing regulatory provisions conflict with the PREA standards for juvenile facilities. The department is proposing amendments to these provisions to comply with the mandates in PREA.

*Room Confinement:* Legislation (Senate Bill 215) introduced during the 2016 Virginia General Assembly session by Senator Barbara Favola would have required the department to promulgate regulations that specified the parameters for imposing room confinement in JCCs and juvenile detention centers. Although the legislation ultimately failed, it prompted the department to make room confinement a focal point for examination during the comprehensive review of this chapter.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.*

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The department is recommending the following new provisions be added to the regulation, as summarized below:

- Section 215 prohibiting employees and contractors from supervising residents if they pose a substantial risk to the health and safety of others in the JCC and enabling the JCC to require evaluations before the individual may resume the role;
- Section 545 addressing the rules staff must follow if an emergency or other situation necessitates a facility or unit lockdown, including mandated periodic checks of locked down residents, required notification to or approval by the superintendent, and the provision of daily opportunities for interaction with the superintendent and for large muscle exercise.
- Section 735 requiring JCC housing units to function as therapeutic communities with staff and resident consistency, daily therapeutic activities, and oversight by an interdisciplinary JCC team.
- Section 765 requiring JCCs, where practicable, to increase family and natural support engagement opportunities through visitation, contacts, and other opportunities.

The department is recommending a number of substantive revisions to existing language in this regulation, as summarized below:

- Change the frequency of and staff required to make periodic visits to housing units, and allow parameters to be determined through written procedures;
- Amend the initial and retraining requirements to: (1) specify the required training hours for medical staff; and (2) allow medical staff and direct supervision employees to receive a portion of training prior to assuming their roles, with the remaining hours completed before the expiration of their first year of employment;
- Broaden the category of staff required to be trained and retrained in the implementation of a suicide prevention program to include direct supervision employees, security employees, and medical staff.
- Remove duplicative orientation requirements that are addressed as part of the required initial training and require that contractors be *oriented* rather than *trained* on expectations of working in a secure environment;
- Remove any explicit or implicit provision authorizing volunteers and interns to be alone with residents and add language explicitly prohibiting them from assuming direct care or direct supervision responsibilities;
- Add language requiring contractors who regularly serve residents to comply with the same tuberculosis mandates as other employees;
- Expand the types of tobacco prohibited and the category of individuals precluded from using tobacco products on the JCC premises.
- Expand required documentation for JCC monthly evacuation drills to include the staff tasks completed and the staff members responsible for conducting and documenting the drill;
- Mandate that manual or instrumental body cavity searches must be conducted at a local medical facility except in exigent circumstances creating a threat to the health of a resident.
- Limit the facility's current broad requirement to restrict diets or impose alternative dietary schedules for managing maladaptive behavior so as to require such diets or alternative schedules only when food or culinary equipment has been used inappropriately, jeopardizing JCC security.
- Reduce the maximum time permitted between the JCC's evening meal and the following day's morning meal from 15 hours to 14 hours and remove the superintendent's existing authority to increase the time on holidays and weekends.
- Amend existing provisions requiring staff to furnish residents with a copy of written information (e.g., rules of the facility; disciplinary reports) to allow staff the discretion to show residents displaying maladaptive behavior written information in lieu of providing a copy.
- Permit direct supervision employees who meet certain requirements to be alone with residents without direct care employees conducting the required visual checks;
- Adjust the required staff-to-resident ratio from 1:10 to 1:8, consistent with PREA, and authorize security staff to transport residents for routine or emergency purposes.
- Amend the process for residents with formal charges for rule violations to mandate that disciplinary issues be handled within the therapeutic community, consistent with the behavior management program, and with consideration of the facility's safety and security and the rehabilitation rather than punishment of the resident.

- Place a 60-minute cap on timeout periods, permit timeout only when less restrictive alternatives were employed unsuccessfully, and allow a resident to be released from timeout upon demonstrating the ability to comply with facility expectations.
- Place additional checks and restrictions on the use of room confinement in JCCs by: (1) removing isolation as a permissible form of room confinement; (2) requiring confined residents to be monitored visually at least every 15 minutes, (3) imposing a graduated review and approval process for confinement beyond 24, 48, and 72 hours; (4) setting out a case management review process for confinement periods that exceed five days; and (5) requiring additional staff interaction with confined residents. Delay the implementation of these room confinement provisions to allow the department sufficient time to change its operations.
- Remove provisions related to the now terminated administrative segregation units in JCCs.
- Amend the regulatory provision addressing the use of mechanical restraints to: (1) remove the requirement to notify the superintendent or designee immediately when mechanical restraints are used in emergencies; (2) prohibit the use of mechanical restraints for routine, on-campus movement, except in limited circumstances; and (3) allow use of a mobile restraint chair solely for transporting residents and require that the resident be released from the chair once the intended destination is reached.
- Reduce the maximum duration a resident may be mechanically restrained before requiring a consultation with a mental health professional from two cumulative hours to one consecutive hour, and specify that staff must take appropriate action to address a mechanically restrained resident who is exhibiting self-injurious behavior before consulting a mental health professional.
- Mandate that staff members responsible for transporting residents maintain a valid driver's license and report to the facility administrator or designee changes in their license status, and expand the staff authorized to transport residents by vehicle.

### Issues

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

These amendments are expected to be advantageous to the public in that, as a result of the proposed revisions mandating therapeutic communities, emphasizing family inclusion as a primary component of residents' rehabilitation and reducing the use of mechanical restraints and the practice of room confinement, JCCs will be more focused on the rehabilitation of residents. These changes are intended to reduce recidivism among released residents, thereby improving public safety. Additionally, safety will be enhanced among JCC staff and residents due to modified staff to resident ratios, compliance with the PREA mandates, enhanced screenings for medical issues with contractors, expanded smoking prohibitions within the secure perimeter, gradual phase-out of room confinement as a disciplinary sanction in juvenile correctional centers, increased frequency of visual room checks for residents placed in room confinement, and more stringent monitoring of residents demonstrating self-injurious behaviors.

### Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal which is 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.*

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

### Localities particularly affected

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

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The proposed regulation will govern the single state-operated JCC and any additional JCCs, boot camps, or privately operated JCCs established in the future. Although several locally operated secure juvenile detention centers operate detention re-entry programs and CPPs for juveniles who are directly committed to the department, these arrangements are excluded explicitly from the regulatory definition of JCCs and are not addressed in this regulation; therefore, no localities are impacted directly by the proposed revisions to the regulation.

### Public participation

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

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

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

A public hearing will not be held following the publication of this stage of the regulatory action; however, the board accepts public comment at each of its quarterly meetings. The next board meeting is scheduled to take place on Wednesday, April 25, 2017.

### Economic impact

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

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| <p><b>Projected cost to the state to implement and enforce the proposed regulation, including:</b><br/> <b>a) fund source / fund detail; and</b><br/> <b>b) a delineation of one-time versus on-going expenditures</b></p>  | <p>Nominal. The de minimus cost of updating procedures and program monitoring criteria will be absorbed internally through existing systems.</p>  |
| <p><b>Projected cost of the new regulations or changes to existing regulations on localities.</b></p>   | <p>None. The regulation affects one state-operated JCC (Bon Air Juvenile Correctional Center). No localities are impacted directly.</p>   |
| <p><b>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</b></p>  | <p>Currently, the regulation affects one state-operated JCC. Revisions to this regulation will affect the facility's administration, staff, and any contract service providers, in addition to the residents in the facility.</p>   |
| <p><b>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that:<br/> a) is independently owned and operated and;<br/> b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>   | <p>Currently, the single state-operated JCC contracts with different groups for services, which may fall under the definition of a small business. These services and program providers may be publicly or privately operated, and it is unknown how many meet the criteria for small businesses.</p>   |
| <p><b>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including:</b><br/> <b>a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and</b><br/> <b>b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</b></p> | <p>Nominal. The substantive changes to the regulation, while requiring the implementation of some additional procedures, will require minimal, if any, costs for the affected individuals, businesses, or other entities. The department already has implemented the enhanced staffing requirements in order to comply with the PREA mandate; therefore, the department has absorbed the costs associated with this substantive revision. There are no specific costs relating to the development of real estate.</p> |
| <p><b>Beneficial impact the regulation is designed to produce.</b></p>  | <p>Having clear, concise, and consistent requirements for the existing JCC and any future JCCs will promote the health, safety, and welfare of residents, staff, and the general public by ensuring consistency in services throughout the Commonwealth and improving safety for staff and residents in JCCs.</p>   |

## Alternatives

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

A viable alternative to revising the regulation is to leave the regulation as currently written and allow department procedures to govern the process. This approach is unfavorable because the department would continue to have vague regulations which tend to reduce facility compliance. Additionally, the

department would continue to have regulatory provisions that are in conflict with PREA and that do not align with the department's ongoing transformation to a therapeutic model. The department conducted a comprehensive review of the regulations and procedures and determined that amending the regulation is the least burdensome alternative.

### Regulatory flexibility analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

The proposed regulation may affect small business inasmuch as a small business provides a program or service subject to this regulation. Having clear, concise, and consistent requirements across JCCs (i) provides such entities with clear requirements and (ii) ensures consistency in such requirements throughout the Commonwealth. The proposed amendments provide the least burdensome alternative for ensuring that: (i) JCC staff responsible for the supervision or medical care of juveniles are trained properly and sufficiently; (ii) juveniles are not being confined for longer than is necessary to address the behavior or situation necessitating the confinement; and (iii) requirements related to resident supervision comply with federal mandates.

### Periodic review and small business impact review report of findings

*If you are using this form to report the result of a periodic review/small business impact review that was announced during the NOIRA stage, please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.*

This regulation establishes the minimum standards for state-operated and privately operated JCCs and boot camps. The regulation remains necessary to protect the public health, safety, and welfare and to comply with the *Code of Virginia*. In accordance with [§ 66-13](#) of the *Code of Virginia*, the department has the authority to establish, or contract with private entities, political subdivisions or commissions to establish juvenile boot camps. The board must establish standards for the development, implementation, and operation of the boot camps. Additionally, several revisions are recommended to clarify vague provisions and for brevity and simplicity.

The department received no public comments or complaints concerning the proposed revisions to the regulation during the NOIRA public comment period. However, public comments were offered at various board meetings after the close of the NOIRA public comment period. The comments from the Legal Aid Justice Center's Just Children Program and the disAbility Law Center of Virginia were positive in nature.



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

**Public comment**

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

The NOIRA was published in the Virginia Register of Regulations on October 3, 2016. The public comment period ended on November 2, 2016. No public comments were received during the NOIRA public comment period. However, the following public comments were offered at board meetings following the close of the NOIRA public comment period.

| <b>Commenter</b>   | <b>Comment</b>  | <b>Agency response</b>  |
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| Amy Woolard, Legal Aid Justice Center’s JustChildren Program<br><i>November 14, 2017</i> | Commended the department on its work with the JCC regulations and indicated that the JustChildren program looks forward to continued collaboration on additional provisions, including the room confinement issue.  | The department appreciates the time, participation, and valuable input offered by this stakeholder. |
| Kerry Chilton, disAbility Law Center of Virginia<br><i>January 8, 2018</i>               | Thanked the department for its careful consideration of the issues surrounding room confinement and commented that the proposed revisions make significant progress toward limiting the use of room confinement, a practice which has detrimental effects on both mental and physical care. The draft regulations provide increased protections for youth in room confinement, including greater access to health care professionals. | The department appreciates the time, participation, and valuable input offered by this stakeholder. |

**Family impact**

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

This regulatory action is expected to have a positive impact on families, particularly those families who have children committed to the department. The proposed revisions to the regulation contain many requirements intended to ensure the inclusion of family members and other individuals who offer natural supports to residents throughout the resident’s commitment to DJJ, and in that manner is expected to

strengthen the parents' authority in the education and nurturing of their children. Additionally, when residents receive services through a facility's program or staff member, to the extent the regulation improves those services or promotes health and safety in those services, they are expected to have a positive impact on families. The regulation will serve to bolster family relationships and communities, given the focus to prevent delinquency and promote youth development. The regulation is not expected to have any impact on marital commitment or disposable family income.

### Detail of changes

*Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.*

For changes to existing regulation(s), please use the following chart:

| Current section number | Proposed new section number, if applicable | Current requirement   | Proposed change, intent, rationale, and likely impact of proposed requirements  |
|------------------------|--|---|---|
| 10                     | N/A  | <p><b>Definitions:</b> The current definitions governing JCCs are provided in Section 10 (definitions) and include the following terms: <b>annual</b> (<i>within 13 months of previous event</i>), <b>board</b> (<i>of juvenile justice</i>), <b>case record or record</b> (<i>resident and resident's family information</i>), <b>contraband</b> (<i>unauthorized items</i>), <b>department</b> (<i>of juvenile justice</i>), <b>direct care</b> (<i>period of commitment to DJJ</i>), <b>direct care staff</b> (<i>individuals responsible for care of residents, implementing behavior management program, and security of facility</i>), <b>direct supervision</b> (<i>working with residents outside the presence of direct care staff</i>), <b>director</b> (<i>of DJJ</i>), <b>emergency</b> (<i>sudden unexpected occurrence requiring immediate action</i>), <b>health care record</b> (<i>record of medical screening and exam information</i>), <b>health care services</b> (<i>actions taken for the resident's well-being</i>), <b>health-trained personnel</b> (<i>individual trained by medical professional</i></p> | <p>The <i>Form, Style and Procedure Manual for Publication of Virginia Regulations</i> instructs that all definitions be placed at the beginning of the regulation as the first numbered section. The following terms defined in other sections of the regulation were moved to Section 10 and were revised slightly for style: <b>aversive stimuli</b> (550 –<i>forces applied to a resident that are harmful or noxious</i>), <b>behavior management</b> (745 –<i>principles to help residents achieve positive behavior and to address resident's inappropriate behavior</i>), <b>boot camp</b> (1230 –<i>short-term juvenile residential program that includes basic military training</i>), <b>human research</b> (130 – <i>systematic investigation utilizing human subjects</i>), <b>legal mail</b> (560 – <i>written communication from a designated class of individuals</i>), <b>mechanical restraint</b> (1180–<i>use of device that involuntarily restricts freedom of movement</i>), <b>medication incident</b> (1070 – <i>error made in administering medication to a resident</i>), <b>physical restraint</b> (1130 – <i>behavior intervention techniques that prevent an individual from moving</i>), <b>rest day</b> (820 – <i>a minimum 24-hour period when direct care staff has no duties related to JCC operation</i>), <b>sick call</b> (1040</p> |

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|  | <p>to perform specific medical-related duties), <b>individual service plan or service plan</b> (written plan of action to meet a resident's needs), <b>juvenile correctional center, JCC, or facility</b> (facility operated by or under contract with DJJ where care is provided to residents), <b>living unit</b> (space for group of juvenile residents to reside), <b>on duty</b> (period during which staff responsible for direct supervision of residents), <b>parent or legal guardian</b> (includes biological, adoptive, court-appointed, and delegated), <b>premises</b> (tract of land and buildings), <b>Reception and Diagnostic Center or RDC</b> (intake and evaluation JCC), <b>regulatory authority</b> (board or DJJ, if designated by the board), <b>resident</b> (individual committed to DJJ residing in a JCC), <b>rules of conduct</b> (list of JCC's rules or regulations), <b>superintendent</b> (individual with responsibility for JCC on-site management), <b>volunteer or intern</b> (individual or group providing goods and services voluntarily), and <b>written</b> (communicated in writing – hard copy or electronic).</p> | <p>– evaluation and treatment of a resident in a clinical setting), <b>timeout</b> (1120 – requiring resident to move to specific location for a specific period of time to address problem behavior, and <b>vulnerable population</b> (555 – resident assessed reasonably likely to be exposed to the possibility of attack).</p> <p>Substantive revisions were made to the following existing terms:<br/> <b>Case record</b> – removed reference to “electronic,” which is contemplated in the definition of written.<br/> <b>Direct care staff</b> –replaced term with direct care employee.<br/> <b>Direct supervision</b>—revised to clarify that not being “in the presence of direct care staff” means direct care staff are not within close proximity and do not have direct, continuous visual observation of or the ability to hear sounds or words spoken by the resident. The proposal moves the specific duties of direct supervision employees to the definition for the new term, “direct supervision employee.”<br/> <b>-Health care record</b> –term removed and replaced with medical record. Definition retained.<br/> <b>-Health-trained personnel</b> – modified consistent with the definition for this term used in the ACA standards.<br/> <b>-Human research</b> – revised to comply with the revisions to <a href="#">Chapter 170</a> that took effect in December 2016.<br/> <b>-Individual service plan</b> -- moved several required elements to the individual service plan provision in Section 790.<br/> <b>-Juvenile correctional center</b> - excluded from this definition facilities that operate alternative direct care placements (e.g., JDC-operated CPPs or detention re-entry programs).<br/> <b>-Legal mail</b> - revised to add the department and the regulatory authority as members of the designated class of correspondents.<br/> <b>-Living unit</b> – term replaced with housing unit. Definition retained.<br/> <b>-Mechanical restraint</b> –amended to list the devices authorized for DJJ use.<br/> <b>-On duty</b> – removed reference to <u>direct supervision</u> in this definition as that terminology suggests that direct care staff</p> |
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|  |  | <p>could never be “on duty.”</p> <p><b>Premises</b> - clarifies that the premises of a JCC include only the tracts of land <b>within the secure perimeter</b>, so as to exclude buildings on the JCC campus that are outside the secure perimeter.</p> <p><b>-Reception and Diagnostic Center</b> – removed term and definition, as this JCC is now closed.</p> <p><b>-Rest day</b> – expanded to exclude duties related to JCC or DJJ employment.</p> <p><b>-Timeout</b> –revised to cap the timeout period at 60 minutes.</p> <p><b>-Volunteer or intern</b> – revised to clarify that volunteers or interns are under the direction and authority of the JCC, consistent with a similar change made to Chapter 101, governing juvenile secure detention centers.</p> <p><b>Vulnerable population:</b> revised to clarify that the determination as to whether a resident is assessed as “vulnerable” is made by JCC staff.</p> <p>Additionally, the following definitions for undefined terms used throughout the existing regulation were added: <b>active supervision/ actively supervise</b> (<i>direct care employee actively patrols and conducts checks at least once every 15 minutes</i>), <b>assistant superintendent</b> (<i>individual who assists superintendent regularly</i>), <b>community manager</b> (<i>individual who supervises, coordinates, and directs staff in multiple housing units</i>), <b>contractor</b> (<i>individual who has contracted to provide services to a JCC</i>), <b>direct supervision employee</b> (<i>non-security staff authorized to directly supervise residents</i>), <b>gender identity</b> (<i>internal sense of being male or female</i>), <b>grievance</b> (<i>resident communication reporting a condition that presents hardship or harm to a resident</i>), <b>housing unit</b> (<i>replaced term, “living unit”</i>) <b>immediate family member</b> (<i>parent or legal guardian, step-parent, grandparent, spouse, child, sibling, and step-sibling</i>), <b>lockdown</b> (<i>restriction of residents to their housing unit or other area to relieve tension, conduct facility search, or respond to imminent threats or other unexpected circumstances</i>); <b>medical record</b> (<i>replaced term, “health care record”</i>), <b>natural support</b> (<i>person in community, including extended family,</i></p> |
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|    |     |   | <i>with whom resident has developed a relationship), <b>room confinement</b> (involuntary placement of resident in room outside of sleeping hours to ensure facility safety or security, or to protect property, excluding timeouts and confinement resulting from lockdowns) and <b>security staff</b> (staff responsible for maintaining the safety, care, and well-being of residents and the safety and security of the facility).</i>   |
| 20 | N/A | <b>Previous regulations terminated:</b> This section outlines the regulatory chapters that were replaced when the department revised its JCC regulations in January 2014.         | These chapters were part of a previous regulatory iteration and reference to them is now obsolete and unnecessary. The proposal is not expected to impact facility operations, residents, or staff.  |
| 30 | N/A | <b>Certification:</b> JCCs must maintain a certification demonstrating compliance with the certification provisions in Chapter 20.  | The proposal modifies the reference to certification regulations in Chapter 20 to mirror the title of the existing Certification Regulations.  |
| 40 | N/A | <b>Relationship to the regulatory authority:</b> JCCs must submit reports and information needed to establish compliance with the regulatory chapter to the regulatory authority. | The proposal requires that this information be submitted to the audit team leader, rather than the regulatory authority, consistent with the current mandate in Chapter 20. This amendment will not impact facility operations, staff, or residents.   |
| 50 | N/A | <b>Variations:</b> As set out in this section and in Chapter 20, a JCC superintendent may request a variance to relieve the JCC from meeting certain regulatory requirements.     | The proposal amends the catchline to “Variations and waivers.” The proposal gives the director or his designee, rather than the superintendent, the authority to request a variance. This will ensure an additional level of review and scrutiny before these requests are submitted to the board. Additionally, the proposal specifies, as in Chapter 20, that variations may be granted only for noncritical regulatory requirements. Finally, the proposal adds a new subsection C that describes the director’s authority to issue waivers to noncritical regulatory requirements pending the board’s determination on a variance. These amendments are intended to closely mirror the language in Chapter 20 and are not expected to impact facility operations, residents, or staff. |
| 55 | N/A | <b>Operational procedures:</b> This section currently requires that operational procedures be accessible to all staff.  | The proposed revisions add a qualifier that these procedures be <b>readily</b> accessible to staff, consistent with the Regulations Governing Juvenile Detention Centers (6VAC35-101). The operational procedures give staff clear guidance on how to operate within the JCCs and should be easily accessible.   |

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| 60 | N/A | <p><b>Serious incident reports:</b><br/>                 Within 24 hours after an incident occurs, the JCC must report the following to the director or his designee: serious illnesses, incidents, injuries, or accidents involving the injury of a resident; unpermitted absences from the facility; and other events listed in written procedures. The JCC must maintain a written report of these events that includes the name or identifying information of the person to whom the report was made, including any law enforcement or CPS personnel.</p> | <p>The proposal modifies the catchline to “Incident reports” to provide a more generalized catchline. The proposal removes the requirement that the incident report identify the name or identifying information of the person to whom the report was made, instead allowing staff to identify the law enforcement agency or local department of social services to which the report was made. This proposal eliminates the unnecessary requirement of obtaining the name of the individual to whom the report was made, particularly in instances in which the calls will be routed to a local social service division.</p>   |
| 70 | N/A | <p><b>Suspected child abuse or neglect:</b> 1) When staff reasonably suspect a resident is being abused or neglected, current law requires that they report the matter immediately to the local department of social services. 2) A child abuse or neglect occurring at a JCC, during a JCC-sponsored event, or involving JCC staff must be reported to the court service unit and others within 24 hours.</p>  | <p>1) The proposal expands the entities to which suspected child abuse or neglect cases may be reported to include the Department of Social Services’ toll-free child abuse and neglect hotline. 2) The proposal clarifies that the report must be made to the <b>supervising</b> court service unit. This clarification will help JCCs comply with the regulation. Additionally, for consistency, the proposal replaces the reference to the CPS unit with the department of social services. These changes are not expected to impact facility operations, residents, or staff.</p>  |
| 75 | N/A | <p><b>Reporting criminal activity:</b> 1) JCC staff must report all known resident or staff criminal activity. 2) Upon receiving this information, the superintendent must notify the proper persons or agencies, including applicable law enforcement or CPS agencies, and must cooperate with the investigation.</p>  | <p>The proposal clarifies that: 1) the reporting obligation refers to all criminal activity <b>alleged to have been committed</b> by residents or staff, and 2) that the superintendent must report this information to the local department of social services’ division of CPS. The proposal is intended to provide clarity and consistency with the reporting requirements elsewhere in this chapter.</p>   |
| 80 | N/A | <p><b>Grievance procedure:</b> The JCC must comply with the department’s grievance procedure, which must be posted in an area that is: i) accessible to residents, and ii) easily accessible to parents and legal guardians. The grievance procedure must provide for documented, timely responses to all grievances.</p>   | <p>The proposal removes the requirement that the grievance procedure be <b>posted</b> in an area easily accessible to parents and legal guardians, instead requiring it be made <b>available</b> in an area easily accessible to those individuals. This proposal gives the JCC the flexibility to determine how this information should be disseminated in the event that parents are in an area in which information cannot be posted. The proposal also removes the requirement that the procedures provide for timely responses to grievances, which will ensure that JCC staff members investigating grievances will have ample time to conduct a thorough investigation.</p> |

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| 90  | N/A | <p><b>Resident advisory committee:</b> Every JCC, except the RDC, must have a resident advisory committee consisting of residents that meets monthly with the superintendent or designee to raise issues on behalf of residents and to have input into planning, problem-solving, and decision-making in the residential program.</p>  | <p>In 2017, the department changed this committee to an SGA, which is reflected in the modified catchline. Under the proposal, the SGA must develop a constitution and bylaws. Additionally, the JCC must provide the SGA with additional opportunities to meet with the residents they represent. Finally, the JCC must post a copy of the bylaws and constitution in each housing unit and ensure that residents are oriented. The proposal seeks to ensure that residents have a voice and are aware of the organization. The proposal is not expected to change facility operations significantly.</p>   |
| 100 | N/A | <p><b>Administration and organization</b></p>  | <p>The proposal makes minor edits for style purposes.</p>  |
| 110 | N/A | <p><b>Organizational communications:</b> The superintendent, assistant superintendent, chief of security, treatment program supervisor, or counseling supervisor, if designated by the superintendent, must visit the living units and activity areas in the JCC at least weekly to encourage contact with employees and residents and to observe informally the facility's living and working conditions.</p> | <p>The proposal eliminates references to the chief of security, treatment program supervisor, and counseling supervisor positions, which no longer exist. It changes the duties of the assistant superintendent by requiring him and the community manager to regularly and frequently visit each housing unit under their jurisdiction. Additionally, it requires the JCC to establish written procedures about the duration, content, and manner of these meetings. The proposal ensures that key staff are monitoring the housing unit activities regularly. It may increase staff responsibilities but will enhance operations in housing units.</p> |
| 120 | N/A | <p><b>Community relationships:</b></p>   | <p>The proposal makes minor edits for style purposes.</p>  |
| 130 | N/A | <p><b>Participation of residents in human research:</b> Currently, JCCs are prohibited from using residents as subjects of human research except as authorized in Chapter 170, which governs human research requests. The definition for human research is contained in this section.</p>  | <p>The proposal adds the official title for the regulation governing human research in Chapter 170 and moves the definition of "human research" to Section 10. These non-substantive revisions will not impact JCC operations, residents, or staff.</p>  |
| 140 | N/A | <p><b>Background checks:</b> Employees and contractors who directly serve residents and will be alone with the resident in a JCC must undergo a series of background checks, including a fingerprint check. Employees may be hired pending the fingerprint results but may work with residents only when directly supervised by staff with completed background checks.</p>                                    | <p>The proposal clarifies that when an employee exercises the option to begin work pending the fingerprint results, he may work only with residents who are under the direct <b>or active</b> supervision of staff whose background checks have been completed. The current language does not capture the scenario in which an employee who takes advantage of this fingerprint exception is with a resident who is under the active supervision of a direct care employee.</p>  |

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| <p>150</p> | <p>N/A</p> | <p><b>Required initial orientation:</b> 1) Under subsection A of this section, all employees must receive a basic orientation on eight general topics before the expiration of their seventh work day, including, the basic objectives of the program. 2) Additionally, subsection B requires that all direct care staff receive basic orientation on the facility’s philosophy and services, the behavior management program, behavior intervention procedures, residents’ rules of conduct, resident disciplinary and grievance procedures, child abuse and neglect, standard precautions, and documentation requirements. The current regulation directs readers to 6VAC35-71-240 for volunteer orientation requirements.</p>   | <p>1) The proposal clarifies that the orientation required before expiration of the seventh work day includes the basic tenets of the behavior management program. This amendment seeks to ensure that every JCC employee is oriented to the CTM. 2) The proposal removes the orientation requirements in subsection B applicable to direct care employees, which mandates that all direct care staff receive training on the topics listed in subsection B; orientation on these topics is duplicative. 3) The proposal clarifies that Section 240 addresses orientation requirements for volunteers <b>and interns</b>. Finally, the new language mandates that contractors receive an orientation on the expectations of working within a secure environment. Section 160 of the regulation requires contractors to have <b>training</b> required to perform their position responsibilities in a correctional setting. These revisions will ensure that all employees are acclimated to the CTM and remove any duplicative orientation requirements on direct care staff.</p>   |
| <p>160</p> |            | <p><b>Required initial training:</b> 1) JCC employees must complete initial training that is based on the JCC population’s needs and that will give them the competencies to perform their duties. Contractors must receive training to perform their duties in a correctional setting. 2) Direct care (former JCO’s) and direct supervision employees (e.g., teachers, therapists, etc.) must complete at least 120 hours of training in the following 16 enumerated topics before they are responsible for the direct care of a resident: a) emergency preparedness; b) first aid and CPR; c) the behavior management program; d) rules of conduct; e) behavior interventions and restraint training, if applicable; f) child abuse/neglect; g) mandatory reporting; h) appropriate relationships; i) appropriate staff and resident interactions; j) suicide prevention; k) resident rights; l) standard precautions;</p> | <p>1) The proposal removes the requirement that the initial training be based on the population’s needs and intended to give the employees the competencies to perform their duties, instead requiring that all employees receive agency-approved training. This will give the department’s training unit the authority to determine the appropriate level and type of training for each individual position. 2) The proposal adds security staff to the employees that must receive 120 hours of initial training in the 16 enumerated topics. Security staff must maintain facility and resident safety and security, but do not meet the definition of “direct care staff” because they are not responsible for implementing the program of care or the behavior management program. Pursuant to an existing variance, security staff are authorized to transport residents off-campus even though they are not direct care staff; therefore, they should receive the same level and volume of training as other staff with resident supervision responsibilities. The proposal modifies the training requirements for direct supervision employees by mandating that they</p> |



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|            |            | <p>m) signs and symptoms; n) adolescent development; o) rules applicable to the position; and p) other required topics. 3) Employees providing medical services are not required to fulfill a specified number of initial training hours, but must receive training in tuberculosis control. Confirmation of licensure for contract employees satisfies the requirements for training.</p>  | <p>complete an initial 80 hours of agency-approved training before taking on their direct supervision responsibilities, and the remaining 40 hours before the end of their first year of employment. The board issued a variance to this effect in 2014 in order to address the logistical challenges associated with scheduling training for teachers and other staff who work directly with residents and have rolling start dates in the facilities. 3) The proposal mandates that, in addition to training in tuberculosis control, employees providing medical services receive 40 hours of agency-approved training inclusive of each of the topics required for direct care and direct supervision staff, with the exception of first aid and CPR, recognition of signs and symptoms, behavior management, residents' rules of conduct; and the department's behavior interventions. Medical providers must receive the remaining 80 hours of training before the end of their first year of employment. The proposal requires that the department's written procedures delineate which positions fall under which categories for training purposes. Finally, the proposal specifies the content that must be included as part of the behavior management training. These modifications are intended to ensure that staff receives the appropriate levels of training needed to maintain facility safety and security.</p> |
| <p>170</p> | <p>N/A</p> | <p><b>Retraining:</b> Direct care staff and employees providing direct supervision of residents must receive 40 hours of annual training in the following topics: a) suicide prevention; b) appropriate professional relationships; c) appropriate interaction among staff and residents; d) child abuse and neglect; e) mandatory reporting; f) residents' rights g) standard precautions; h) behavior management techniques; and i) other topics, as well as training sufficient to maintain CPR certification. Employees administering medication must receive annual training on medication administration.</p> | <p>The proposal changes the requirements related to retraining to reflect many of the changes to the required initial training section. The proposal expands the existing requirement to receive 40 hours of annual training to include medical service providers and security staff. The proposal specifies that employees providing medical services are not required to receive retraining in the Department's behavior management program. Additionally, it adds security employees and direct supervision employees to the list of employees that must receive retraining to maintain a current certification in first aid and CPR. The proposal removes the requirement that contractors receive retraining required to perform their position responsibilities as these individuals will be required to receive an orientation under</p>   |

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|     |     |  | the proposal. The proposal clarifies that the required training for employees who administer medication shall, at a minimum, include a review of the components required in the regulatory provision addressing medication (Section 1080). Finally, the proposal prohibits staff who have failed to timely complete their retraining requirements from having direct supervision responsibilities, as well as direct care responsibilities, pending completion of the retraining requirements.   |
| 180 | N/A | <b>Code of ethics</b>  | The proposal makes minor modifications for style purposes.   |
| 185 | N/A | <b>Employee tuberculosis screening and follow-up:</b> By their start dates and annually, JCC employees must submit a tuberculosis screening or assessment no older than 30 days. If an employee encounters infectious tuberculosis or develops chronic respiratory symptoms for a specified duration, he must undergo a subsequent screening. An employee suspected of having communicable tuberculosis may not return to work or have contact with residents or staff until cleared by a physician. | The proposal expands the existing tuberculosis screening requirements, as well as the prohibition against returning to work or having contact with residents to contractors who regularly provide services directly to residents. Such contractors are equally as susceptible to contracting and spreading communicable tuberculosis as other employees, and should be subject to the same requirements. The proposal seeks to prevent the spread of disease among staff and residents in JCCs by expanding the categories of individuals subject to this requirement. Additionally, the bill adds "health-trained professionals" as individuals authorized to clear staff to return to work once they are suspected of having tuberculosis.   |
| N/A | 215 | N/A  | <b>Physical or mental health of personnel:</b> This proposal adds a new section mandating that employees or contractors with medical or other issues that significantly risk substantial harm to the health and safety of individuals in the facility, or who are unable to perform their job-related functions be removed from resident supervision duties. The proposal authorizes the JCC to require a health evaluation before the individual may resume supervision responsibilities. This proposal will ensure that staff with resident supervision responsibilities are mentally and physically capable of performing essential job-related supervisory functions. The measure is consistent with DJJ's current practices; and will impose no additional burden on facility operations. |
| 220 | N/A | <b>Selection and duties of volunteers and interns:</b> Volunteers and interns may not be responsible for the duties of   | The proposal expands the list of duties for which volunteers and interns may not be responsible to include duties of direct supervision. Direct supervision staff  |

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|     |     | <p>direct care staff. Direct care staff, consistent with their duties to maintain the safety of residents, implement the behavior management program, and maintain the security of the facility, are responsible for supervising residents.</p>   | <p>provide services to residents outside the presence of direct care staff and may be alone with residents for temporary periods. Failing to omit volunteers and interns from the duties of direct supervision arguably acts as an implicit authorization. These individuals are not subject to the same rigorous training requirements as staff in the JCC. In order to promote safety, volunteers and interns should be prohibited from direct supervision responsibilities and from being alone with residents. This is the current practice in the existing JCC.</p> |
| 230 | N/A | <p><b>Volunteer and intern background checks:</b> Regular volunteers or interns in a JCC who will be alone with a resident in performing their duties must undergo a background check, including a reference check, criminal history record check, fingerprint check with the Virginia State Police and FBI, central registry check with CPS, and a driving record check if applicable to their duties.</p> | <p>The proposal makes a minor change to the catchline for style purposes and removes the requirement that the volunteer or intern be alone with the resident in the performance of the position's duties in order to be required to undergo the background check. In order to promote safety and security, volunteers and interns should not be left alone with residents. This is consistent with the JCC's current practices; therefore, this proposal is not expected to have any additional impact.</p>  |
| 240 | N/A | <p><b>Volunteer and intern orientation and training:</b> Currently, individuals who volunteer regularly or are interns in a JCC and will be alone with the resident or are the designated leader for a group of volunteers must receive a basic orientation on eight topics regarding the JCC.</p>  | <p>The proposal removes the requirement that volunteers or interns in a JCC <b>who will be alone with the resident</b> must receive this orientation. Volunteers and interns should be prohibited from being alone with residents. The proposal also expands the orientation requirement to include individuals who volunteer and have contact with residents.</p>   |
| 260 | N/A | <p><b>Maintenance of records:</b> This section addresses the rules for maintaining written case records and health care records. The regulation requires that a separate written or automated case record be maintained for each resident. In addition, separate health care records must be maintained for each resident.</p>  | <p>The proposal removes the reference to automated case records, as unnecessary. The regulation defines written to include electronic records; therefore, whenever reference to written records is made, it should be understood that this captures automated or electronic records. In addition, the proposal replaces all references to "health care records" with "medical records" for purposes of consistency. These non-substantive revisions are not expected to impact facility operations, residents, or staff.</p>   |
| 270 | N/A | <p><b>Face sheet.</b> At admission, staff must complete a face sheet for each resident containing certain information, including the resident's full name, last known residence, birth date, sex, and</p>   | <p>The proposal expands the information that must be captured on the resident's face sheet at admission to include the resident's gender identity. The purpose of this requirement is to provide staff with additional information regarding the</p>   |

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|     |     | race.  | resident that may help the facility make important decisions regarding staffing, monitoring, placement, and other issues.   |
| 280 | N/A | <b>Physical environment:</b> The JCC must maintain a current copy of its annual inspection by fire prevention authorities indicating compliance with the Virginia Statewide Fire Prevention Code. If the fire prevention authorities have not inspected the facility in a timely manner, the JCC is required to maintain documentation of its request to schedule the annual inspection. Although the existing regulation defines “annual” as “13 months from the previous incident,” for purposes of these inspections only, the definition of annual is defined by the Virginia Department of Fire Programs, State Fire Marshall’s Office. | The proposed revision removes the Virginia Department of Fire Programs’ ability to define “annual” for these purposes. Additionally, the proposal strikes the use of “timely” such that if the fire prevention authorities fail to inspect the facility’s buildings and equipment, the facility will be required to maintain documentation of its request to schedule the annual inspection. While the State Fire Marshall’s office may operate on a different inspection schedule, this revision ensures that the JCC will make efforts to schedule these inspections annually. DJJ anticipates additional efforts will need to be expended by staff members to ensure that the inspections are performed on an annual basis; however, this proposed revision will protect the health and safety of residents and staff in JCCs. |
| 290 | N/A | <b>Equipment and systems inspections and maintenance:</b>  | The proposal makes minor edits for style purposes.  |
| 310 | N/A | <b>Heating and cooling systems and ventilation:</b> Heat must be distributed in all occupied rooms to maintain a temperature no less than 68 degrees, unless otherwise mandated by state or federal authorities. Air conditioning or mechanical ventilating systems must be provided in all resident-occupied rooms when the room temperature exceeds 80 degrees; no mention is made of state or federal authorities.  | The proposal adds an exception to the requirement regarding air conditioning if otherwise mandated by state or federal authorities to mirror the language addressing heat distribution. This change is not expected to impact facility operations, residents, or staff.   |
| 320 | N/A | <b>Lighting:</b> JCCs must ensure that operable flashlights or battery-powered lanterns are accessible to each direct care staff on duty.  | The proposal expands the individuals to whom these flashlights and lanterns must be accessible to include security staff in order to ensure that security staff with supervisory roles will have access to these essential items.   |
| 350 | N/A | <b>Toilet facilities:</b> A JCC must have a specified number of toilets, hand basins, and showers/tubs per resident. The maximum employees on duty in the living unit are counted in the calculation when there is no separate bathroom for staff.   | This proposal replaces the reference to living unit with “housing unit,” to reflect the department’s current terminology. This non-substantive revision is not expected to impact facility operations, staff, or residents.   |
| 360 | N/A | <b>Sleeping areas:</b> Male and female residents must have separate sleeping areas.  | The proposal clarifies that although the separate sleeping areas for males and females is the general requirement,  |

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|     |     |  | facilities are authorized to make placement decisions based on a case-by-case analysis of whether a placement would ensure a resident's health and safety or present management or security problems. Adding this language enables JCCs to remain compliant with the PREA provision in §115.342(d) that an agency must consider individually whether a placement for a transgender or intersex resident in a unit for male or female residents would ensure the resident's health and safety and present management or security problems.   |
| 400 | N/A | <b>Smoking prohibition:</b><br>Residents may not use, possess, purchase, or distribute tobacco products. Staff and visitors may not use these products in areas of the facility or its premises where residents may see or smell the product.  | The proposal expands the prohibition to include nicotine vapor products. Additionally, the prohibition against using such items is expanded to include contractors and interns. The proposal removes the qualifier that these items may not be used in areas where residents may see or smell the product. These revisions are intended to ensure that the facility remains smoke-free and to prevent residents from accessing these items.   |
| 410 | N/A | <b>Space utilization:</b> 1) JCCs must provide both an indoor and outdoor recreation area. The indoor recreation area must have appropriate recreation materials. 2) Also, JCCs must have space for administrative activities, including, as appropriate to the program, confidential conversations and the storage of records and materials. 3) Finally, JCCs must have a central medical room with medical examination <b>facilities</b> equipped in consultation with the health authority. | 1) The proposal requires JCCs to include appropriate recreation materials in their outdoor recreation areas to mirror the existing requirement for indoor recreation areas. This is consistent with the ACA requirements governing JCC recreation programs and ensures that residents have options for outdoor activities. 2) The proposal removes the unnecessary qualifier that the requirement to provide space for confidential conversations is necessary only if appropriate to the program. There are numerous instances in which a resident may need to have confidential conversations with attorneys, QMHPs, or others, and JCCs should ensure that these areas are available. 3) The proposal modifies the requirements regarding medical rooms by requiring that the JCC have a central medical <b>area</b> with medical examination <b>rooms or other spaces designated to ensure privacy of care</b> . The term "JCC" is synonymous with "facility," thus the existing reference to examination facilities is inconsistent with the current definition. These modifications will provide additional clarity and guidance that may increase compliance with the regulatory provisions. |
| 420 | N/A | <b>Kitchen operation and safety:</b>   | The proposal makes a minor modification   |

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|     |     | JCCs must follow procedures governing access to areas where food or utensils are stored and the inventory and control of accessible culinary equipment.   | to clarify that the procedures must be written, consistent with other references to procedures throughout the chapter. The change is not expected to impact facility operations.  |
| 430 | N/A | <b>Maintenance of buildings and grounds:</b> Buildings and grounds must be safe, maintained, and reasonably free of clutter and rubbish.  | The proposal modifies the wording in order to emphasize that the JCC is responsible for maintaining the interior and exterior areas of the facility, as well as items and fixtures in the JCC, such as locks, mechanical devices, and furniture. This is a minor clarification and is not expected to have an additional impact on facility operations.   |
| 440 | N/A | <b>Animals on the premises:</b> Animals maintained on the JCC premises must be housed a reasonable distance from sleeping, living, eating, and food preparation areas.  | The proposal removes the requirement that such animals be housed a reasonable distance from sleeping, living, and eating areas. This amendment will allow the department to establish animal training or other programs in JCCs in the future. To the extent that the department adopts such a program, this revision would impact residents, as well as staff, in the facilities.  |
| 460 | N/A | <b>Emergency evacuation procedures:</b> 1) JCCs must have written emergency response procedures for restoring services during or after emergencies that address providing a planned, personalized means of effective egress for residents who use wheelchairs, crutches, canes, or other mechanical devices. 2) Additionally, all employees must be trained to implement the emergency preparedness plan and evacuation procedures, including evacuation of residents with special needs. 3) Contractors and volunteers must receive an orientation regarding their duties in implementing the plan. 4) The JCC must make annual revisions to the emergency preparedness plan, as necessary; communicate the changes to employees, contractors, volunteers, and interns; and incorporate the changes into training for these individuals, as well as into resident orientation. 5) Finally, the JCC must conduct evacuation drills monthly and maintain a record for each drill | 1) The proposal expands the language to require that the plan for egress consider not only residents who use mechanical devices, but visitors, volunteers, interns, staff, or others who may be in the facility and acknowledges the possibility that individuals within the facility may have other special needs. The proposal also replaces the references to “egress” with “evacuation” consistent with the catchline. 2) The proposal cross references the required initial and retraining requirements set out in Section 160 and 170 of this chapter and explains that the training regarding evacuation procedures must address individuals who require special accommodations, consistent with other changes to this section. 3) The proposal expands the pool of staff who must be oriented on evacuation procedures to include interns so as to mirror the existing requirements for contractors and volunteers. This is consistent with the department’s current practices and is not expected to impact facility operations, residents, or staff. 4) The proposal adds residents to the list of individuals to whom the annual revisions must be communicated to ensure that all residents are aware of changes to the evacuation plan. 5) The proposal expands the information that |

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|     |     | that identifies the date and time of the drill and other specified information.  | must be included in the record documenting the evacuation drill to include: a) the staff tasks completed and b) the name of the staff members responsible for conducting and documenting the drill. This is consistent with the regulatory requirements for juvenile detention centers in Chapter 101.  |
| 470 | N/A | <b>Security procedures:</b> JCCs must follow written security procedures related to post orders or shift duties for security post.   | In 2015, the Department divided its JCO position into two separate categories: direct care employees and security series employees. Under this new structure, resident specialists were assigned additional duties related to implementing the department's CTM model and fell under the direct care classification. Under the new structure, security specialists do not fall under the direct care classification because they are not responsible for implementing the behavior management program. This proposal expands the content that must be included in written procedures (and followed) to include post orders or shift duties for direct care posts, as well as security posts.  |
| 480 | N/A | <b>Searches of residents:</b> 1) Resident searches are governed by written procedures, which must provide that: searches of residents' persons be conducted only to maintain facility security and control contraband. 2) Written procedures must direct that searches be conducted by personnel authorized to conduct the searches. 3) Pat down and frisk searches must be conducted by personnel of the same sex as the resident being searched, except in emergencies. 4) Strip searches and visual inspections of body cavities must be performed by personnel of the same sex as the resident, in a private area, and any witness must be of the same sex as the resident. 5) Manual or instrumental body cavity searches may be performed only upon written permission by the facility administrator or by a court order and must be conducted by a qualified medical professional, witnessed by personnel of the same sex as the resident and | 1) The proposal recommends reordering the provisions so as to emphasize the importance of ensuring that all searches of residents be permissible only to maintain facility security and control contraband and in such a manner as to protect the dignity of the resident to the greatest extent possible. 2) The proposal further restricts authorization to conduct searches to individuals who have received the required training. Also, the proposal mandates that written procedures include a prohibition against searching transgender or intersex residents solely to determine their genital status, consistent with the PREA requirement. 3-4) The proposal removes the references to requirements regarding searches conducted by personnel and witnessed by individuals of the same sex as the resident being searched so as to allow the JCC to establish written procedures that comply with the provisions of PREA. 5) The proposal amends the provision regarding body cavity searches to require that, except in exigent circumstances that threaten the health of a resident, body cavity searches be conducted away from the JCC at a local medical facility. This amendment protects the department from potential |

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|     |     | documented in the resident’s medical file.   | liability that could result from these searches.  |
| 490 | N/A | <b>Communications systems.</b> Each JCC must have a means for communicating between the control center and housing units.  | The proposed revision replaces “living unit” with “housing unit” to reflect the department’s nomenclature. This non-substantive amendment is not expected to impact facility operations.  |
| 500 | N/A | <b>Emergency telephone numbers.</b> An emergency telephone number must be given to residents and the adults responsible for their care if a resident is away from the facility and not being supervised by direct care staff or law enforcement officials.   | The proposal adds a new subsection A that requires each JCC to have an emergency telephone number where staff may be contacted 24 hours per day and seven days per week. The proposal requires that the emergency telephone number be provided when a resident is away from the facility and not under the supervision of <b>security staff</b> , in addition to direct care staff and law enforcement officials. This revision is intended as clarification and is not expected to have an additional impact on facility operations.   |
| 510 | N/A | <b>Weapons</b>   | The proposal makes minor modifications for style purposes.  |
| 540 | N/A | <b>Transportation.</b> JCCs must have written safety rules for transporting residents and the use and maintenance of vehicles. Written procedures must provide for the verification of appropriate licensure for staff who transport residents. Finally, under Section 820, there must be at least one trained direct care staff on duty and actively supervising residents at all times that one or more residents are present. | The proposed revisions require each JCC to follow the written safety and security procedures governing transportation of residents. This ensures that facilities will not only develop the required procedures and compel staff to follow the mandates set out in these procedures. The proposal adds language requiring that, at a minimum, the written procedures direct staff to maintain a valid driver’s license and to report to the facility administrator or designee any suspension, revocation, restriction or other change in their driver’s license status. This explicit requirement will protect residents being transported by ensuring that the driver’s license status of staff authorized to transport them is monitored routinely. The proposal adds a new subsection D requiring residents to be supervised by <b>either</b> security staff or direct care staff during routine and emergency transportation. This will enable security staff who are not responsible for implementing the behavior management program, as contemplated in the definition of direct care staff, to transport residents without requiring a variance from the board. |
| N/A | 545 | N/A  | <b>Lockdowns:</b> The proposal adds a new section addressing lockdowns, wherein all or a group of residents are restricted to various areas within the facility to relieve temporary facility tensions, search for contraband, or respond to an imminent  |



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|     |     |  | <p>threat. The proposal is necessary to draw a clear distinction between “room confinement” and “lockdowns,” though many of the rules for each are in harmony. The provision establishes the protocol for lockdowns, including: 1) superintendent or designee approval before a lockdown may be imposed, except in emergencies; 2) required notifications to the superintendent in the event of an emergency necessitating a lockdown, and the two positions above the superintendent for all lockdowns except routine facility searches; 3) notifications and a plan for addressing lockdown to the administrator two positions above the superintendent if a lockdown extends beyond 72 hours; 4) staff protocols when lockdown results in room confinement for residents including a) visual checks of confined residents at 15 minute intervals; b) assurance that the resident has a means of immediate communication with staff; c) allowance for at least one hour daily of large muscle exercise outside of the locked room unless circumstances justify an exception; d) superintendent daily personal contact with the confined resident; and e) monitoring of and consultation with a QMHP for residents who exhibit self-injurious behavior during confinement. These additions will help to ensure that the appropriate approvals are provided before a lockdown is ordered; lockdowns are not employed for longer than is necessary to address the threat or concern; and residents are being adequately monitored, have the ability to contact staff in emergencies, and are receiving adequate daily exercise.</p> |
| 550 | N/A | <p><b>Prohibited Acts:</b> 1) JCCs are prohibited from subjecting residents to discrimination that violates the U.S. or Virginia Constitutions or state and federal statutes and regulations. 2) JCCs may not deprive residents of drinking water or necessary food unless ordered by a licensed physician for a legitimate medical purpose and documented in the resident’s record. 3) JCCs may not deny residents contact and visits with their attorneys, probation</p> | <p>1) The proposal expands the types of discrimination to which residents may not be subject to include discrimination in violation of executive orders. This recommendation ensures that JCCs will be mindful of any executive orders issued now or in the future that prohibit discrimination. 2) The proposal adds health-trained personnel to the entities that may order the facility to deprive a resident of drinking water or food and expands the purpose for which this deprivation may be granted to include legitimate dental purposes. Additionally, the proposal clarifies that these orders</p>   |

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|     |     | <p>officers, the regulatory authority, a supervising agency representative, or representatives of other groups. 4) JCCs may not subject residents to actions that are humiliating, degrading, abusive, or unreasonably impinge on the residents' rights. Additionally, JCCs may not deprive residents of opportunities for bathing or access to toilets unless ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record.</p> | <p>must be documented in the resident's <b>medical</b> record. Pursuant to Section 260, medical records must be retained separately from case records. This revision ensures that this information will be retained in the proper record. 3) The proposal expands the protected entities for purposes of contacts and visitations to include the resident's parole officer and the resident's "human rights advocate" assigned to conduct the resident's due process hearings or resolve his grievances or complaints. 4) In addition to the prohibition against humiliating actions, the proposal prohibits JCCs from subjecting residents to retaliation for reporting such humiliating, degrading, abusive, or other such actions. This amendment is consistent with the PREA mandate in Section 115.333, which prohibits facilities from retaliating against residents for reporting sexual abuse. This is a current practice in the existing JCC and is not expected to have any additional impact on facility operations. The proposal makes other minor changes, such as: i) striking, "but not limited to," consistent with the rules for regulatory construction set out in 1VAC7-10-30; ii) replacing physicians with health care professionals as the entity authorized to excuse JCCs from allowing a resident access to bathing or toilet facilities and sleep and to order the administration of laxatives, enemas or emetics; and iii) clarifying that the record in which these exceptions must be retained are <b>medical</b> records. Finally, the proposal requires employees to be trained on the prohibited actions as required in 6VAC35-71-160 and 170. This language is intended as a cross reference and should not impose additional requirements on employees.</p> |
| 555 | N/A | <p><b>Vulnerable Population:</b> JCCs must implement procedures to assess whether a resident is vulnerable to attack or harm.</p>  | <p>The proposal adds language that requires the facility to give serious consideration in making the vulnerable population assessment to the resident's own views regarding his or her safety. The proposal adds language prohibiting JCCs from assigning LGBT or intersex residents to housing or other placements solely on the basis of that status, and from considering their statuses as indicative of a likelihood of being sexually abusive. This requirement is consistent with the PREA mandate set out in § 115.342.</p>   |

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|     |     |   | The proposal moves the definition of vulnerable population to Section 10 of the chapter consistent with the Style Manual.   |
| 560 |     | <b>Resident's Mail:</b> 1) Staff, if in the presence of the recipient, may open to inspect for contraband but shall not read legal mail. 2) Staff are not authorized to read mail addressed to parents, immediate family members, legal guardians, guardians ad litem, counsels, courts, officials of the committing authority, public officials, or grievance administrators without the court's permission or unless the director or designee reasonably believes facility security is threatened. 3) First class letters and packages addressed to transferred or released residents must be forwarded.                        | 1) The proposal clarifies that the recipient that must be present when staff is inspecting the mail is the <b>resident</b> to whom the mail is addressed. The proposal also moves the definition for "legal mail" to Section 10 in accordance with the Style Manual. 2) The proposal broadens the types of resident mail that staff is prohibited from reading in the absence of a security threat or without court permission to include all "outgoing mail." 3) Finally, it clarifies that staff must forward letters and packages addressed to released or transferred residents to the resident's last known address in order to provide additional guidance as to how to respond when such items are received at the facility. These changes are consistent with the department's current practices and encourage residents to communicate freely with others, provided such communication does not threaten facility security and safety. The changes align with ACA standards and the CTM. |
| 570 | N/A | <b>Telephone Calls:</b> Telephone calls must be permitted in accordance with written procedures that consider the need for facility security and order, the resident's behavior, and program objectives.  | The proposal removes the specific language that requires written procedures to account for the need for facility security and order, the resident's behavior, and program objectives in providing telephone privileges. Instead, the regulation imposes a more general requirement that telephone calls be permitted in accordance with written procedures.   |
| 580 | N/A | <b>Visitation:</b> 1) JCCs are prohibited from unreasonably restricting a resident's contacts and visits with immediate family members or legal guardians. 2) Residents may have visitors, consistent with written procedures that take into account the need for facility security and order, the behavior of individual residents and the visitors, and the importance of helping the resident maintain strong family and community relationships. 3) Visitation procedures must be mailed to the residents' parents or legal guardians and other applicable persons by the close of the next business day after the resident's | 1) The proposed revisions strike the reference to legal guardians, which is captured in the definition of immediate family members. This non-substantive revision is not expected to impact facility operations. 2) The proposal requires JCCs to allow visitors occasional opportunities to visit the resident's housing unit or room and to interact with staff if practicable and safe. This revision is consistent with the department's transformation efforts and emphasis on family inclusion as a major component of juvenile rehabilitation. The revisions require the development of visitation procedures outlining the parameters of visits to housing units and residents' rooms. This proposal will give visitors and staff clear guidance regarding expectations and rules for these visits,   |

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|     |     | arrival at the JCC. 4) Finally, residents are precluded from visiting the homes of employees under the existing regulation.   | which will help to ensure their safety during these visits. The proposal will result in a minimal increase in staff responsibilities. 3) The proposal strikes the requirement that visitation procedures be mailed to “other applicable persons,” due to ambiguity and impracticability. 4) The proposal adds the homes of volunteers, interns, and contractors, to the list of places residents are prohibited from visiting. This measure is intended to protect staff and residents.   |
| 590 | N/A | <b>Contact with attorneys, courts and law enforcement.</b> JCCs may not compel a resident to submit to questioning by law enforcement, but residents may submit to such questioning voluntarily. JCCs must implement written procedures for obtaining resident consent before such contact.   | The proposal clarifies that the resident must provide <b>written consent</b> prior to any contact with law enforcement and makes other minor edits for style purposes.  |
| 620 | N/A | <b>Resident’s modesty.</b> Residents must be given modesty from routine sight supervision by staff members of the opposite sex while bathing, dressing, or conducting toileting activities except in certain circumstances. This does not apply to residents with disabilities who may need assistance with these activities.   | The proposal replaces all references to modesty, including the reference in the catchline, with “privacy” for style purposes. The proposal clarifies that the resident’s <b>medical</b> record will contain the support for an exception when staff presence is necessary to assist residents with disabilities. These non-substantive revisions are not expected to impact facility operations.  |
| 630 | N/A | <b>Nutrition:</b> 1) JCCs must provide residents with a daily diet consisting of at least three nutritionally balanced meals, two of which must be hot meals. 2) JCCs must provide special diets or allow for alternative dietary schedules when prescribed by a physician, to observe a resident’s established religious dietary practices, or for special management of maladaptive behavior or to maintain facility security. 3) Menus of served meals must be kept on file for at least six months. 4) JCCs may not allow more than 15 hours to pass between the evening meal and breakfast the following day, except when the superintendent approves an extension of time during holidays and weekends, in which case, no more than 17 hours may pass between the two | 1) The proposal establishes an exception to the two hot meals rule in emergencies, such as fires and natural disasters. 2) The proposal replaces references to “physician” with “licensed health care professional,” to enable nurse practitioners to authorize special diets or alternative dietary schedules. The proposal also modifies the requirement regarding special diets and alternative schedules for managing maladaptive behavior to apply only when food or culinary equipment has been used inappropriately, resulting in a threat to facility security. This change conforms with the ACA’s general standard that juveniles and staff eat the same meals. 3) The proposal removes the 6-month filing requirement for menus of meals served, and mandates that these menus be retained on file in accordance with all applicable federal requirements. 4) The proposal reduces the maximum time period between dinner and breakfast to |

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|     |     | meals.  | 14 hours and removes the superintendent's authority to extend that time period during weekends and holidays, which will bring the JCCs into conformity with the ACA's 14-hour cap.  |
| 660 | N/A | <b>Recreation:</b> JCCs must implement recreational program plans that are scheduled so that activities do not conflict with meals, religious services, or educational programs.  | The proposal requires that the recreational plan be developed and supervised by a person trained in recreation or a related field, in accordance with the Department's current interpretation of this provision. The proposal also removes the vague directive that activities be scheduled so as not to conflict with "other regular events."  |
| 670 | N/A | <b>Residents' funds.</b>  | The proposal makes minor modifications for style purposes.  |
| 680 | N/A | <b>Admission and orientation:</b> This section requires that residents receive an orientation on the behavior management program. 1) During the orientation, residents must receive written information describing rules of conduct, sanctions for rule violations, and the disciplinary process. 2) If the resident has a language or literacy problem that may create confusion about the rules of conduct and related regulations, staff or a qualified person must assist the resident. | 1) The proposal gives staff the discretion to provide residents who are noncompliant or displaying maladaptive behavior one or more opportunities to view the written information in lieu of providing the resident with a copy, and if staff exercises this discretion, they must give the resident a written copy once he demonstrates compliance with the rules. In certain instances, providing residents with a written copy can threaten facility security or the resident's own safety, and staff should have additional discretion when these situations arise. The proposal also strikes "but not limited to" used in subsection B, consistent with the Style Manual. 2) The proposal rearranges and modifies the language in the section by striking the requirement that staff or a qualified person assist residents who have language or literacy problems with the rules of conduct and other related regulations. Instead, the proposal imposes a more general requirement that all admission and orientation information be provided to the resident in an age- or developmentally appropriate and accessible manner. Finally, the proposal adds a requirement that the facility maintain documentation that all of the orientation requirements set out in this chapter are satisfied. |
| 690 | N/A | <b>Residents' personal possessions.</b> When a resident arrives at a JCC with items that are prohibited in the facility, the JCC must dispose of contraband items, and for nonperishable legal property, the JCC may securely store the property for  | The proposal specifies that the department may dispose of such unclaimed personal property after a documented attempt to return it in accordance with <a href="#">§ 66-17</a> of the <i>Code of Virginia</i> , as well as in accordance with written procedures. Under § 66-17, the director may sell or otherwise dispose of   |

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|     |     | return at release or make efforts to return the property to the resident's parent or legal guardian. Under the existing regulation, if a resident's personal property remains unclaimed six months after the JCC makes a documented attempt to return the property, the property may be disposed of according to written procedures. | such property but must keep the proceeds of the sale for one year from the date of the child's attaining the age of majority, after which time, the unclaimed proceeds must be paid into the state treasury.  |
| 700 | N/A | <b>Classification plan:</b> JCCs must use an objective classification system to determine appropriate security levels, needs, and most appropriate services for each resident and for assigning the resident to a living unit according to their needs and existing resources.   | This proposal requires the JCC to use the objective classification system to determine the resident's level of risk rather than his appropriate security level. The department utilizes an objective screening tool for determining a resident's level of risk, and that determination drives an indeterminately committed resident's length of stay and impacts other decisions around the resident's needs, services, and appropriate housing, all of which should be driven by his level of risk, rather than his security level. The proposal also replaces the reference to "living unit" with "housing unit." |
| 710 | N/A | <b>Resident transfer between and within JCCs:</b> Currently, if a resident is transferred to a more restrictive unit, program, or facility within a JCC or between JCCs, the JCC must afford the resident due process safeguards before making the transfer.   | The proposal removes the provision regarding transferring a resident to a more restrictive facility within a JCC because, based upon the definition of "facility" in Section 10, there are no existing facilities within JCCs. This non-substantive amendment is not expected to have any impact on facility operations.  |
| 720 | N/A | <b>Release:</b> If an indeterminately committed resident is not released by court order, the JCC must ensure that a copy of the comprehensive release summary is completed and added to the resident's records within 30 days after release. The section uses the term "release" and "discharge" interchangeably.                    | This proposal replaces references to "releases" contained within this section and in the catchline, with "discharge" in order to reduce confusion and to reflect the proper name for the required comprehensive summary. These revisions provide clarification and are not expected to impact facility operations.  |
| N/A | 735 | N/A  | <b>Therapeutic communities in housing units.</b> This proposal adds a new section requiring each JCC to ensure that every housing unit is functioning as a therapeutic community that includes the following components: 1) consistent and continued staffing in housing units; 2) consistent and continued resident assignment to a housing unit; 3) daily, structured therapeutic activities; and 4) direction and monitoring by an interdisciplinary team of JCC staff. The  |

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|     |     |   | department must establish written procedures governing these communities. This proposal seeks to maintain consistent leadership and programming in housing units and to ensure that each housing unit is focused on providing therapeutic remedies to address resident behavior and issues. As part of its transformation, the department has transitioned each of its housing units to incorporate therapeutic communities. The proposal is not expected to have additional impact on facility operations. |
| 740 | N/A | <b>Structured programming:</b> Every JCC must implement a structured daily routine that includes <b>appropriate supervision</b> , designed to meet the resident’s needs; provide protection, guidance, and supervision; ensure the delivery of program services; and meet the objectives of the resident’s individual service plan.   | This proposal strikes the language requiring the structured daily routine to include appropriate supervision. This language is duplicative, given the requirement that the routine be designed to provide protection, guidance, and supervision. This non-substantive change is not expected to impact facility operations.   |
| 745 | N/A | <b>Behavior management:</b> Every JCC must implement a behavior management program approved by the director or his designee. The provision defines “behavior management program.” Written procedures governing the program, among other requirements, must define and list techniques that are used and available for use and specify which employees are authorized to use which techniques. | The proposal removes the requirement that the written procedures specify the employees authorized to use each technique. This provision is unnecessary. Additionally, the proposal mandates that the written procedures governing the behavior management program list and explain techniques available or used to manage behavior. Finally, the proposal moves the definition of behavior management to Section 10 of this chapter consistent with the Style Manual.                                       |
| 747 | N/A | <b>Behavior support contract:</b> The Department must develop a behavior support contract for residents whose behaviors indicate a need for additional supports. Before a staff member may work alone with a resident, he must review and prepare to implement the resident’s support contract.   | This proposal narrows the category of individuals who must review and be prepared to implement the resident’s behavior support contract to include only staff regularly assigned to work with a resident in a housing unit, so as to exclude teachers, relief staff, and others who may work with residents outside the housing unit and who may be under time constraints that make implementing the contract challenging.   |
| 750 | N/A | <b>Communication with court service unit staff:</b> JCCs must invite a resident’s probation or parole officer to participate in any classification and staffing team meetings at the RDC and any treatment team meetings.   | This proposal removes the reference to meetings at RDC, as that facility closed in 2015. Because the RDC no longer exists, this amendment is not expected to impact facility operations.  |
| 760 | N/A | <b>Communication with parents.</b>  | This proposal removes the reference to  |

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|     |     | JCCs must provide a resident's parent or legal guardian, as appropriate and applicable, with written notice of and the opportunity to participate in classification and staffing meetings at RDC and treatment team meetings.  | meetings at RDC, as that facility closed in 2015. Because the RDC no longer exists, this amendment is not expected to impact facility operations, residents, or staff.   |
| N/A | 765 | N/A  | <b>Family Engagement:</b> This proposal adds a new section that requires JCCs to ensure the inclusion of immediate family members and natural supports during the resident's commitment to the department by: 1) permitting the resident a specified number of weekly calls to immediate family members or natural supports, 2) ensuring that events are arranged periodically that involve family members and natural supports, 3) ensuring that an appropriate visiting area is available for family visits, and 4) maximizing involvement of immediate family members and natural supports in the resident's treatment. These revisions will promote family and natural support inclusion in every facet of the resident's JCC tenure.  |
| 770 | N/A | <b>Case management services.</b>   | The proposal makes minor modifications for style purposes.   |
| 790 | N/A | <b>Individual service plans.</b> 1) JCC employees must develop an individual service plan for each resident within 30 days of the resident's arrival at a JCC facility. Residents housed at RDC for 60 days or less are excluded from this requirement and for longer than 60 days must have a service plan developed at that time. 2) Among its requirements, the service plan must describe the resident's strengths and needs, current level of functioning; and established goals, objectives, and strategies. | This proposal removes the provisions regarding residents housed at RDC, as that facility closed in 2015. This change is not expected to impact facility operations. 2) Additionally, the proposal removes the requirement that the individual service plan include the resident's current level of functioning. The purpose of the service plan is to ensure that there is a plan for services that addresses the resident's needs. A description of the resident's current level of functioning is unnecessary, given the requirement that the resident's strengths and needs be identified in the service plan. Additionally, the provision incorporates portions of the existing "individual service plan" definition by mandating that the service plan describe in measurable terms the short-term and long-term goals, objectives, strategies, and time frames for reaching those goals, as well as the individuals responsible for carrying out the service plan. These revisions were pulled from the existing definition of "individual service plan," and are not expected to impact facility operations. Finally, the proposal rearranges some of the |



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|     |     |  | language and makes other minor, non-substantive changes for style purposes.   |
| 800 | N/A | <b>Quarterly reports.</b>  | The proposal makes minor modifications for style purposes.  |
| 805 | N/A | <b>Suicide prevention:</b> The JCC must have written procedures providing that each JCC have a suicide prevention and intervention program developed in consultation with a qualified medical or mental health representative. Additionally, the procedures must require all direct care staff to be trained and retrained in implementing the suicide prevention program.       | This proposal expands the staff that must be trained and retrained in the suicide prevention program to include direct supervision staff, security staff, and staff providing medical services. This is consistent with the proposed revisions to the Required initial training and Retraining sections under Sections 160 and 170.   |
| 810 | N/A | <b>Behavioral health services.</b>   | The proposal makes minor modifications for style purposes.  |
| 815 | N/A | <b>Daily log.</b> JCCs must maintain a daily log that records the significant happenings or problems experienced by residents. Entries must contain the entry date, name of the individual making the entry, and time of the entry.  | This proposal replaces all references to the daily log, including the reference in the catchline of this section, with “daily housing log,” in order to clarify the type of log that must be maintained. Additionally, language is added indicating that if the daily housing unit log is electronic, all entries must contain the entry date, the individual making the entry, and the time of each entry. The computer program’s functionality must prevent previous entries from being overwritten. The proposal ensures that JCCs utilizing electronic daily logs will follow the same protocol for recording daily entries and will have a mechanism for preserving entries. The language is consistent with Chapter 101, governing detention centers. If the JCCs begin utilizing these electronic resources, there may be some additional costs to secure software that prevents entries from being overwritten. |
| 820 | N/A | <b>Staff supervision of residents:</b><br>1) Staff are precluded from being “on duty” more than six consecutive days without a rest day, except in an emergency. The term “rest day” is defined in this section. 2) Additionally, at least one trained direct care staff must be on duty and actively supervising residents at all times that one or more residents are present. | 1) The proposal clarifies that direct care employees must be actively supervising residents at all times and in any area on the premises in which one or more residents are present. Further, it moves the definition of “rest day” to Section 10 pursuant to the Style Manual.<br>2) The proposal also clarifies that the one trained direct care staff must be actively supervising residents in any area on the premises in which one or more residents are present. The proposal adds language authorizing direct supervision employees to “actively supervise” residents (i.e., to be alone with residents without direct care staff conducting 15-minute visual checks  |

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|     |     |  | <p>on residents) provided the direct supervision employee receives required training, demonstrates the ability to perform physical requirements involving personal protection, is able to communicate directly with a direct care employee through two-way radio or other means during the period of active supervision, and notifies a direct care employee immediately prior to and following actively supervising residents. This proposal is consistent with a 2014 variance issued by the Board of Juvenile Justice and will permit teachers and certain mental health service employees to continue providing residents with services without interruption when direct care employees are unavailable.</p>   |
| 830 | N/A | <p><b>Staffing pattern:</b> During resident waking hours, JCCs must have at least one direct care employee awake, on duty, and responsible for the supervision of every 10 residents. During the hours that residents are asleep, there must be at least one direct care employee on duty and responsible for the supervision of every 16 residents.</p> | <p>The proposal modifies the direct care employee-to-resident ratio from 1:10 to 1:8. This amendment mirrors the PREA mandate that every secure juvenile facility maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during sleeping hours, except in discrete exigent circumstances. Moreover, the proposal authorizes security staff to transport residents for routine or emergency purposes, although they do not qualify as direct care employees. This change is consistent with a 2016 variance issued by the board granting security employees this authority. Finally, the proposal requires these staffing ratios be satisfied “wherever youth are present in the facility.” This language seeks to prohibit JCCs from assessing compliance with the required staffing ratios based on the aggregate number of staff and residents on campus.</p> |
| 840 | N/A | <p><b>Outside personnel:</b> 1) JCC staff must monitor situations in which outside personnel work in the immediate presence of residents. 2) Adult inmates are prohibited from working in the immediate presence of residents and must be monitored so as to prevent direct contact or interaction between the resident and the adult inmate.</p>        | <p>1) The proposal requires that these situations be “supervised” rather than “monitored” so as to ensure that at least one staff member is present and providing supervision whenever outside personnel are working in the immediate presence of residents. The term “monitoring” implies that staff are viewing the situation, rather than supervising. 2) The proposal replaces “inmate” with “adults confined in a public or privately-operated prison or a local jail.” The department discourages the use of “inmates” to refer to individuals confined in correctional facilities. This non-substantive amendment is not expected to impact facility operations.</p>  |

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| 850 | N/A | <p><b>Facility work assignments:</b> A resident's paid and unpaid work assignments must accord with his age, health, ability, and individual service plan.</p>   | <p>The proposal removes the requirement that work assignments accord with the resident's service plan. Unpaid facility chores may be imposed for practical or other purposes outside the resident's independent needs or rehabilitation. The proposal gives staff the discretion to assign facility chores without referring to the service plan.</p>   |
| 860 | N/A | <p><b>Agreements governing juvenile industries work programs.</b> Pursuant to <a href="#">§ 66-25.1</a> of the <i>Code of Virginia</i>, the department may contract with public or private entities for the operation of a work program. This section identifies the requirements of the agreement, including the steps for hiring and supervising residents, the manner of compensation, and other issues.</p>  | <p>This proposal adds language requiring the director or his designee to review the agreement for compliance with this regulatory section prior to execution. Additionally, the proposal prohibits the director or his designee from executing an agreement that omits one or more elements set out in this section unless explicitly authorized by the board. These amendments are needed to comply with the statutory mandate that the b promulgate regulations governing the form <b>and review process</b> for these proposed agreements. The proposal has the potential to delay the process for executing these agreements.</p>   |
| 880 | N/A | <p><b>Local health authority:</b> JCCs must have a designated local health authority who represents a specified list of health-related professions or entities (e.g., physician, head nurse, health agency) to organize, plan, and monitor the provision of health care services in the JCC.</p>   | <p>This proposal replaces all references to "local health authority" in this section, including in the catchline, with "health authority" in order to prevent confusion. The proposal directs JCCs to have one health authority for each JCC in order to eliminate ambiguity. Finally, the proposal makes additional minor edits for style.</p>   |
| 890 | N/A | <p><b>Provision of health care services:</b> 1) Health care providers must be guided by recommendations of the American Academy of Family Practice or the American Academy of Pediatrics in the provision of medical services. 2) Treatment by nursing personnel must be performed pursuant to the laws and regulations governing nursing in Virginia. 3) Other health-trained personnel must provide care within their level of training and certification.</p> | <p>1) The proposal removes the requirement that the JCC be guided by these sources in its entirety because neither source captures the full spectrum of juveniles that may reside in a JCC (up to age 21). 2) The existing language regarding treatment is restricted to nurses and does not adequately contemplate all of the licensed health care professionals that currently provide services in JCCs, such as physicians, nurse practitioners, and other licensed health care professionals. The proposal specifies that all such licensed professionals must provide treatment pursuant to the applicable laws and regulations governing their practices in Virginia. 3) Finally, the proposal adds language requiring the facility to retain documentation of the training received by health-trained personnel necessary to perform any designated health care services, which shall be sufficient to</p> |

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|     |     |  | demonstrate compliance with this provision. Currently, this provision is included in Section 900 of this chapter.  |
| 900 | N/A | <p><b>Health care procedures.</b> The department must have and implement written procedures for: 1) promptly providing emergency services for each resident, as provided by statute or by the agreement with the resident’s legal guardian, if under the age of 18 or the resident if over the age of 18; 2) providing emergency services for any resident experiencing signs of suicidal or homicidal thoughts, symptoms of mood or thought disorders, or other mental health problems. 3) Certain written information concerning each resident must be readily accessible to designated staff to respond to a medical or dental emergency, including the physician or dentist to be contacted; and the name, address, and telephone number of a relative or other person to be notified. 4) Subsection C and D of this regulation require other health-trained personnel to provide care appropriate to their level of training and certification and requires the facility to retain documentation of the training received by health-trained personnel necessary to perform designated health care services.</p> | <p>1) The current provision regarding emergency services for residents under or over age 18 is unclear and confusing. The proposal rewords this provision to clarify that the procedures must address the provision of emergency services for all residents, consistent with current law, including residents who have reached the age of consent. 2) The proposal requires the department to provide applicable and appropriate ongoing treatment for residents experiencing suicidal or homicidal thoughts, in addition to the current directive to provide emergency services. The goal is to ensure that residents displaying mental health issues receive ongoing treatment in these scenarios. 3) The proposal makes a minor revision to require that, in addition to identifying the dentist or physician to be contacted, that the information contain the address and telephone number of the physician. Additionally, the proposal replaces the general reference to the “relative or other person” with the “parent, legal guardian, or supervising agency as applicable,” as the person whose name, address and telephone number must be readily available to respond to these emergencies. 4) The proposal strikes subsection C as duplicative (provided in Section 890) and moves subsection D to Section 890, as this provision applies directly to the information covered in Section 890.</p> |
| 930 | N/A | <p><b>Consent to and refusal of health care services.</b> Currently, the resident or parent or legal guardian, as applicable, shall be advised by a medical professional of the nature, consequences, and risks of the proposed treatment, exam, or procedure, and the alternatives to it. Health care services must be provided in accordance with <a href="#">§ 54.1-2969</a> of the <i>Code of Virginia</i>.</p>  | <p>The proposal makes non-substantive revisions to the language for the purpose of style and clarity. Additionally, it clarifies that it is the consent for health care services, and not the actual health care services, that must be provided in accordance with 54.1-2969. This statute addresses the authority of minors to consent to medical treatment and provides that when a minor who is separated from the custody of his parent or guardian needs medical treatment, authority commensurate with that of a parent is conferred, for the purpose of consenting to such surgery or treatment, to DJJ’s director or his designees for minors committed to DJJ. The statute also identifies occasions in which a minor will</p>   |

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|     |     |  | be treated as an adult for purposes of consenting to medical procedures or treatments. The proposed revisions are intended to clarify the regulatory requirements and may help increase compliance in this area, but are not expected to impact facility operations.   |
| 950 | N/A | <b>Tuberculosis screening:</b> Within seven days of placement, each resident shall have had a screening assessment for tuberculosis. The screening assessment can be no older than 30 days.  | This proposal adds an exception for residents transferred from another JCC. These residents were subject to the initial and annual TB screening or assessment requirements, rendering an additional screening duplicative. The proposal replaces “placement” with “arrival at a JCC” in order to clarify that residents transferred from alternative placements operated by secure juvenile detention centers must meet this tuberculosis screening requirement. The proposal also clarifies that screenings and assessments are two separate things. Finally, the proposal makes minor edits for style.   |
| 960 | N/A | <b>Medical examinations:</b> 1) Within five days of arrival at a JCC, all residents must receive a physical by a physician or a physician-supervised qualified health care practitioner to determine any medical needs or threats to the health of staff or other residents. Residents transferred directly from another JCC are exempt from this requirement. 2) In part, the physical must include a recording of the resident’s height, weight, body mass index, temperature, pulse, respiration, and blood pressure. 3) Residents transferring from one JCC to another may offer the report of a medical exam within the preceding 13 months in lieu of a physical exam. | 1) The proposal replaces the reference to arrival at a JCC, with “at initial intake,” which is intended to capture any instance in which a resident has a first intake for direct commitment at a JCC. 2) The proposal removes the requirement that the physical include a recording of the resident’s body mass index. This is not an ACA mandate and is not medically necessary. 3) The proposal modifies the physical exam requirements for residents transferred to the JCC from a direct care placement. In these scenarios, the report of a medical exam conducted within the preceding 13 months may be accepted, but only at the discretion of the health care provider who has reviewed the resident’s health screening and prior medical examination report. This amendment places the determination as to whether a subsequent physical is necessary in the hands of a medical provider, rather than offering a blanket exception if an exam was completed in the past 13 months. |
| 970 | N/A | <b>Dental examinations:</b> 1) Within seven days of <i>arrival</i> at a JCC, all residents not directly transferred from another JCC must receive a dental exam. 2) For residents transferring from one JCC to another, the report of a dental examination within the preceding 13 months is   | 1) The proposal replaces the reference to “arrival” with “initial intake,” as in the section above, and extends the 7-day deadline to 14 days to allow the facility additional time to conduct the examination. This is consistent with the ACA’s existing standards. 2) The proposal modifies the current blanket exemption from the dental exam requirement for  |

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|      |     | acceptable.   | residents transferring to the JCC from <b>any direct care placement</b> who have had a dental examination performed within the previous 13 months. The exam may be waived only at the discretion of the dentist upon review of the previous dental exam documentation. This amendment places the determination as to the necessity of a subsequent dental exam in the hands of the dentist rather than providing a blanket exception if a previous exam was completed in the past 13 months.   |
| 990  | N/A | <b>Health screening for intrasystem transfers:</b><br>Residents transferred between JCCs must receive a medical, dental, and mental health screening upon arrival at the new facility. The screening must include, in part, a review of the resident's health care record.  | This proposal replaces the term "health care record" with "medical record" consistent with the changes throughout this regulatory chapter.   |
| 1000 | N/A | <b>Infectious or communicable diseases:</b> Currently, if a resident has a known transferable communicable disease, the JCC may not house him in the general population unless a <b>licensed physician</b> certifies that the facility can care for the resident without jeopardizing others and the JCC knows what treatment and procedures are necessary to protect residents and staff. Written procedures must be implemented requiring staff to be trained in standard precautions initially and annually. | The proposal replaces the licensed physician with a health care professional as the authority that may certify to these requirements. This gives nurses and other such staff the ability to make these decisions. The proposal also adds a cross reference to the training requirements set out in 6VAC35-71-160 and 6VAC35-71-170. These revisions are not expected to have a significant impact on facility operations.  |
| 1020 | N/A | <b>Resident's health records:</b><br>1) JCCs must maintain separate health records, which must include documentation of the initial physical, annual physical, and any follow-up medical care recommended by the physician.<br>2) The physical exam report must include, in part, vision exams; hearing exams; the resident's general, physical condition and documentation of apparent freedom from communicable disease; and any allergies, chronic conditions, and disabilities.                             | The proposal replaces references to "health records" with "medical records" in the catchline and elsewhere in this section for purposes of consistency. The proposal also replaces references to handicaps with disabilities for style purposes. 1) The proposal requires that the record contain documentation of the provision of follow-up medical care indicated by the needs of the resident in addition to those recommended by the physician. 2) The proposal changes the requirements regarding hearing and vision exams to require the administration of these exams on students in the third, seventh, eighth, and tenth grades, at a minimum. This change mirrors the Board of Education's requirements regarding |

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|      |     |  | hearing and vision exams as set out in <a href="#">8VAC-20-250-10</a> . 3) Further, the proposal clarifies that the resident’s physical must include documentation of his communicable disease status rather than “freedom from communicable disease status.” This revision contemplates the possibility that a resident’s physical may reveal the presence of communicable disease and emphasizes that this, too, must be documented in the resident’s physical. 4) The proposal also adds language requiring that the physical exam report include the resident’s current medical conditions or concerns so as to delineate specific information that must be included as part of the physical. The proposal makes additional edits for style. |
| 1030 | N/A | <b>First aid kits:</b> Every JCC must have first aid kits maintained according to written procedures.  | The proposal directs JCCs to maintain first aid kits in the facility as well as in facility vehicles used to transport residents. This amendment will help JCC staff respond to minor resident injuries while transporting residents off-campus. This is consistent with current practices in the JCCs and is not expected to impose any additional requirements on JCC staff.   |
| 1040 | N/A | <b>Sick call:</b> JCCs must provide residents with daily opportunities to request health care services. This section defines “sick call.”  | The proposal moves the definition of sick call to Section 10 pursuant to the Style Manual.   |
| 1050 | N/A | <b>Emergency medical services</b>  | The proposal makes minor modifications for style purposes.   |
| 1060 | N/A | <b>Hospitalization and other outside medical treatment of residents:</b> If a resident needs hospital care or other medical treatment outside the facility, the resident must be transported safely and in accordance with applicable security procedures applied consistent with the severity of the medical condition.   | The proposal removes the vague language that the resident be transported safely, instead mandating that the resident be transported in accordance with applicable <b>safety and security procedures</b> . This revision will ensure that the department develop procedures that address the safe transportation of residents and that enumerate behaviors deemed hazardous.  |
| 1070 | N/A | <b>Medication:</b> This section addresses the administration of medication to residents.1) A program of medication, including procedures regarding the use of over-the-counter medication pursuant to written or verbal orders signed by personnel authorized by law to give such orders must be initiated for a resident only when prescribed in writing by a person authorized by law to prescribe medication. | 1) The proposal seeks to clarify a confusing provision by emphasizing that medication may be initiated for residents only when prescribed in writing by a person who has the authority to write prescriptions. This includes over-the-counter medication administered pursuant to a written or verbal order issued by personnel authorized to dispense these orders. 2) Additionally, the proposal replaces the erroneous citation to <i>Code of Virginia</i> §54.1-2408 with <i>Code of Virginia</i> § <a href="#">54.1-3408</a> . 3) The proposal adds   |

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|      |     | <p>2) All medications must be administered consistent with the requirements of <i>Code of Virginia</i> § 54.1-2408. 3) When a “medication incident” occurs (defined in this section as an error made in administering a medication to a resident), staff must contact a physician, nurse, pharmacist, or poison control center and take whatever actions are directed.</p>  | <p>hospitals to the list of entities that may be contacted in the event of a medication incident. The proposal moves the definition of “medication incident” to Section 10 of this chapter consistent with the Style Manual. The proposal also makes a number of minor edits for purposes of style and consistency.</p>  |
| 1080 | N/A | <p><b>Release physical:</b> Within 30 days before release, every resident must receive a medical exam by a physician or a physician-supervised qualified health care practitioner. The physician may exempt a resident from this exam requirement if the resident has had a <b>sufficiently recent</b> full medical exam.</p>   | <p>The proposal removes the requirement that the full exam be “sufficiently recent,” instead, allowing the resident to have a medical exam “conducted within 90 days” to be excused from having to undergo a subsequent medical exam at release. This language seeks to establish clear guidance for physicians and other staff authorized to excuse the requirement to receive a release physical.</p>  |
| 1110 | N/A | <p><b>Disciplinary process:</b> 1) As part of the resident discipline process, when a resident is charged with a rule violation that cannot be addressed informally, staff must prepare a disciplinary report and provide a copy of the written report to the resident within 24 hours of the alleged rule violation. 2) Once the disciplinary process is applied, the resident may be subject to a number of sanctions, including, for example, room confinement. The existing regulation allows staff to place the resident in confinement for up to 24 hours pending the formal hearing available under the disciplinary process if necessary to protect facility safety and security. Confinement exceeding 24 and 72 hours is subject to the review and notice requirements established in <a href="#">6VAC35-71-1140</a>.</p> | <p>1) This proposal gives staff the discretion to provide residents who are noncompliant or displaying maladaptive behavior with opportunities to view the written report in lieu of receiving a copy. The proposal is intended to prevent residents from using the copy in a disruptive manner or to threaten the safety of the resident or others in the JCC. If the resident demonstrates the ability to comply with the JCC rules, the proposal requires staff to provide the resident with a copy of the report at that time. 2) The proposal strikes the entire subsection (E) addressing room confinement due to the department’s plan to abolish room confinement as a disciplinary measure in the JCC facilities and the corresponding changes being proposed to the regulatory sections addressing isolation (<i>For additional information, see Section 1140 -1160</i>). 3) Additionally, the proposal directs JCCs to ensure that resident behavioral issues are addressed therapeutically with consideration of resident and staff safety and security, and with the goal of rehabilitating, rather than punishing the resident. This language is intended to direct JCCs to follow a therapeutic approach that aligns with the CTM to address behavioral issues.</p> |
| 1120 | N/A | <p><b>Timeout:</b> 1) JCCs are permitted to use “timeouts”, defined in this</p>   | <p>1) The proposal moves the definition of timeout to Section 10 (note that the</p>  |



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|      |     | <p>section as periods in which a staff member requires a resident to move to a location away from a source of reinforcement for a specific period of time or until the problem behavior has subsided. 2) JCCs must implement written procedures that govern the timeout conditions, location, and maximum duration based on the resident’s chronological and development level.</p>   | <p>amended definition caps timeout periods at 60 minutes consistent with the ACA standards). 2) The proposal replaces the current required content for written procedures governing timeout with a mandate that the procedures include the following: a) that residents may be placed in timeout only after the application of less restrictive alternatives; b) that timeout may not be applied for chargeable offenses; c) that a resident must be released from timeout when he demonstrates the ability to rejoin the activity; and d) that staff must have the authority to determine the area in which a resident will serve timeout on an individual basis. These changes will ensure that timeout periods are used sparingly, are applied only for the time needed to address the behavior, take place in the appropriate location, and do not undermine the objectives of the CTM.</p> |
| 1130 | N/A | <p><b>Physical restraint:</b> 1) JCCs may use physical restraints as a last resort only after less restrictive behavior interventions have failed or to control residents whose behavior poses a risk to the safety of the residents, others, or the public. 2) JCCs must implement written procedures governing physical restraint that must identify control techniques that are appropriate for identified levels of risk.</p>   | <p>1) The proposal narrows a JCC’s authority to apply physical restraints by removing the conjunction “or” so as to permit the application of physical restraints only when less restrictive interventions have failed to control these residents. This change is consistent with best practices. 2) Additionally, the revision strikes the requirement that the written procedures identify control techniques, as it is more appropriate to cover these techniques in training rather than in written procedures. 3) The proposal also removes duplicative language in this section, moves the definition of “physical restraint” to Section 10 of the regulation, and makes other changes for style purposes.</p>  |
| 1140 | N/A | <p><b>Room confinement:</b> 1) Written procedures must govern how and when room confinement may be employed. 2) Staff must visually check confined residents every 30 minutes or more frequently depending upon the circumstances. 3) Staff must provide confined residents with the opportunity for one hour of physical exercise outside the room daily, unless the resident’s behavior or other circumstances justify an exception, which exception must be approved and documented as required in</p> | <p>The proposal makes the following changes to the existing provisions in this section: 1) Expands the content required in written procedures governing room confinement to include such issues as actions subject to room confinement, factors to consider prior to confining a resident, the process for determining whether the resident’s behavior warrants confinement, and other issues that will ensure that the JCC procedures provide clear and sufficient guidance to staff that will utilize this tool. 2) Increases the frequency of the required checks to occur every 15 minutes, consistent with the ACA standards, as well as the majority of</p>   |

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|  |  | <p>written procedures. 4) Confinement beyond 24 hours requires notice to the superintendent/designee. 5) Confinement beyond 72 hours requires a report to the administrator one level above the superintendent. If the report is submitted verbally, a written report must follow. 6). While confined, residents must have a means of verbal or electronic communication with staff. 7) For confined residents exhibiting self-injurious behavior, staff must consult immediately with a QMHP and monitor the resident in accordance with existing protocols.</p> | <p>states that require visual checks during room confinement at intervals of 15 minutes or less. 3) Clarifies that the mandated physical exercise must be “large muscle exercise” and allows an exception only if the resident’s behavior is threatening, presents an imminent danger to himself or others, or otherwise justifies an exception or other circumstances prevent the activity. 4) Expands the directive to require that the superintendent or his designee be notified and provide written approval for confinement beyond 24 hours. This change is intended to ensure that room confinement cases are being properly monitored and reviewed by key JCC and department officials. 5) Establishes a process when residents are confined beyond 48 hours, including requirements for notification of and written approval by the superintendent’s supervisor. Additionally, the proposal amends the notification process for room confinement beyond 72 hours to require a written report to and written approval by the administrator two positions above the superintendent. A treatment team must complete the report outlining the steps to resolve the confinement, consistent with written procedures governing the report. 6) Clarifies that the confined resident’s means of communicating with staff must be immediate. 7) Mandates that before staff consults with the QMHP when residents are self-injuring, staff must first respond to the resident’s behavior. The objective is to ensure that staff will attempt to extinguish any such self-injurious behavior or otherwise respond to the behavior before the consulting with the QMHP.</p> <p>The proposal recommends the following new provisions geared towards enhancing the safety and security of confined residents:</p> <p>8) Direct staff to employ measures to ensure the continued health and safety of all confined residents; 9) Require that residents receive daily visits from a qualified medical or mental health professional to assess the resident’s status, consistent with the ACA standards regarding such visits.</p> |
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|      |  |   | <p>The proposal recommends the following new provisions addressing additional opportunities for meaningful contact with staff:</p> <p>10) Require a designated staff member to visit with the resident within the first three hours of placement in room confinement to explain the reasons for, behavioral expectations during, and necessary steps to be released from confinement;</p> <p>11) Require that residents confined for six or fewer waking hours have the opportunity for an additional visit with another staff member during waking hours to discuss the resident’s status or the impact of the room confinement and mandate two such visits daily during waking hours for residents confined for more than six waking hours.</p> <p>12) Additionally, the proposal sets out a regulatory requirement for a new case management process to address residents who require confinement beyond five days. The proposal requires a facility-level review triggered upon the expiration of the resident’s fifth day in room confinement, followed by a higher level review if the initial review determines that continued confinement is necessary. The committee reviews will be ongoing until either the committee determines it is safe to release the resident to general population or other arrangements can be made. This process will ensure that the resident is receiving the appropriate interventions during the extended confinement period and that key department officials are constantly reviewing the case. 13) Finally, the proposal delays the effective date for this section to allow the department adequate time to implement these changes.</p> |
| 1150 |  | <p><b>Isolation:</b> When residents are confined as a disciplinary sanction for a rule violation (isolation), the room confinement provisions in 6VAC35-71-1140 apply. However, residents may not serve isolation for periods longer than five days. Residents may not participate in activities with other residents during isolation; however, the JCC must allow the resident to eat, sleep, attend to personal hygiene, read,</p> | <p>The proposal repeals this entire regulatory section. As with many states, the department is seeking to abolish room confinement as a disciplinary sanction in its JCCs and to allow room confinement only when resident’s actions threaten facility security or the safety and security of others in the facility or in order to prevent certain types of property damage. The department plans to gradually phase out this practice in its JCCs and will need additional time to implement this change. Therefore, the proposal delays the</p>   |

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|      |     | write, and engage in physical exercise. Residents placed in isolation may not be housed more than one to a room.   | effective date for this section.  |
| 1160 |     | <b>Administrative segregation:</b> Historically, the department has utilized administrative segregation units to address residents with intense behavioral needs. Currently, JCCs are prohibited from housing more than two residents placed in administrative segregation units in one room. With some permitted exceptions, residents placed in these units must be provided basic living conditions similar to those afforded residents in general population.  | The proposal repeals the entire provision addressing administrative segregation units. Due to physical plant limitations and a lack of available resources, DJJ no longer offers these units in its existing JCC. Even if the department reinstates these units in the future, the proposed room confinement provisions set out in Section 1140 would be sufficient to capture instances in which residents are placed in room confinement on these units. The proposal delays the effective date for repeal of this section in order to be consistent with the related room confinement provisions in Sections 1140 and 1150.  |
| 1180 | N/A | <b>Mechanical restraints.</b> 1) Written procedures must stipulate the conditions under which specified mechanical restraints (handcuffs, waist chains, leg irons, disposable plastic cuffs, leather restraints, and mobile restraint chairs) may be used. 2) Written procedures must mandate that the superintendent or his designee be notified immediately when mechanical restraints are used in emergencies. 3) Every use of a mechanical restraint, with the exception of use for off-campus transportation, must be recorded in the resident's case file or a central log book. | 1) The proposal strikes the specified types of mechanical restraints enumerated in this section and incorporates these and several additional DJJ-authorized mechanical restraints into the definition, which has been moved to Section 10. 2) The proposal strikes the superfluous mandate to notify the superintendent or designee when such restraints are used in emergencies. DJJ has a mechanism for informing high-level officials of emergencies, thus rendering this requirement unnecessary. 3) The proposal eliminates the staff's discretion to choose whether to document the use of the restraint in the resident's case file <b>or</b> central log book, instead requiring that the information be recorded on both instruments in order to ensure that there is sufficient documentation whenever mechanical restraints are used. Additionally, the proposal clarifies that the exception for documenting mechanical restraint use when a resident is being transported applies only for off-campus movement and not when residents are being moved across campus. 4) The proposal prohibits the use of mechanical restraints for routine on-campus transportation except in those limited circumstances in which heightened security is necessary or the resident is non-compliant and must be moved for purposes of safety or security. This language is intended to ensure that residents have some freedom of |

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|      |     |  | <p>movement while moving across campus.</p> <p>5) The proposal adds language restricting a JCC’s authority to use mobile restraint chairs solely for purposes of controlled movement of a resident from one area of the JCC to another. Once the resident has reached his intended destination, he must be released immediately from the chair. The language expressly permits staff to utilize the chairs only if less restrictive interventions were unsuccessful in moving the resident or when the restraint chair is the least restrictive intervention available for the resident’s movement. The proposal explicitly prohibits staff from confining a resident to a restraint chair if the resident is not being moved. These measures will ensure that restraint chairs are used sparingly and safely.</p>   |
| 1190 | N/A | <p><b>Monitoring residents placed in mechanical restraints:</b> 1) Written procedures must require staff to make a direct personal check on mechanically-restrained residents at least every 15 minutes or more often if the resident’s behavior warrants. 2) If a resident is restrained mechanically for more than two hours cumulatively in a 24-hour period, except during routine transportation, staff must immediately consult with a QMHP. 3) If a mechanically restrained resident exhibits self-injurious behavior, staff must consult with a QMHP immediately and apply the appropriate monitoring protocols.</p> | <p>1) The proposal requires staff to make <b>visual</b>, rather than <b>direct personal</b> checks on the resident every 15 minutes. This removes any ambiguity as to the type of checks that must be conducted. 2) The proposal reduces from two cumulative hours to one consecutive hour the maximum duration a resident may be restrained mechanically before a consult with a QMHP is necessary. This change provides an added safeguard to help ensure that residents’ emotional and mental well-being are closely monitored during extended periods of mechanical restraint. 3) The proposal mandates that staff first take “appropriate action” when confronted with a mechanically-restrained, self-injuring resident before consulting with the QMHP. This change will direct staff to address the resident’s self-harm before consulting the QMHP.</p> |
| 1200 | N/A | <p><b>Restraints for medical and mental health purposes.</b></p>   | <p>The proposal makes minor modifications for style purposes.</p>  |
| 1210 | N/A | <p><b>Private contracts for JCCs:</b> 1) A privately-operated JCC must adhere to the requirements of department procedures, including but not limited to procedures regarding case management, the use of restraints, confidentiality, visitation, community relationships, and media access. 2) Privately operated JCCs must develop department-approved procedures to facilitate the</p>   | <p>1) The proposal removes the reference to “but not limited to” consistent with the rules for regulatory construction. 2) The proposal replaces the department with the director or his designee as the entity required to approve these procedures. This revision is intended to ensure that these procedures are approved in the same manner as other procedures applicable to the state-operated JCCs.</p>   |

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|      |     | transfer of their operations in the event that the contract is terminated.   |   |
| 1230 | N/A | <b>Definition of boot camp:</b> This section defines “boot camp.”  | The proposal repeals this section and moves the definition for boot camp to Section 10 of the regulation.   |
| 1250 | N/A | <b>Residents’ physical qualifications.</b> The written procedures addressing admissions for boot camps must require a written statement from a physician that the resident meets the American Pediatric Society’s guidelines to participate in contact sports.       | The proposal removes the requirement that the resident meet the American Pediatric Society’s guidelines, as a boot camp program may have residents over age 18. Currently, the department does not operate any boot camp programs; therefore, this revision will not impact facility operations. Should these programs be reinstated, the revision will not impact facility operations.   |
| 1260 | N/A | <b>Residents’ nonparticipation:</b> Juvenile boot camps must have department-approved written procedures for handling non-compliant residents.   | The proposal replaces the department with the director or his designee as the entity required to approve these procedures. This revision is intended to ensure that the procedures are approved in the same manner as other procedures applicable to state-operated JCCs.   |
| 1270 | N/A | <b>Program description:</b> Juvenile boot camps must have a written program description of the type and duration of treatment and supervision that will be provided upon the resident’s release from the program.  | The proposal requires that juvenile boot camp programs established by or resulting from a contract with the DJJ must mandate at least six months of intensive after care following a resident’s release from the program, in addition to providing the type of treatment and supervision that will be provided upon the resident’s release from the program. § 66-13 of the <i>Code of Virginia</i> authorizes DJJ to establish or contract with others to establish boot camps. The board must develop standards for these camps, which must include at least 6 months of intensive aftercare. |
| 9999 |     | <b>Documents incorporated by reference:</b> The existing regulations incorporate the department’s Compliance Manual for the Regulation Governing Juvenile Correctional Centers. The manual provides additional guidance to regulated entities concerning compliance. | The proposal strikes the Compliance Manual as a document incorporated by reference pursuant to 1VAC7-10-140, which prohibits agencies from incorporating their own documents by reference.  |

*Note: Where numbered lists are provided in the table, the assigned numbers in the “Current requirement” column are intended to correspond with the assigned numbers in the “Proposed change” column. The numbers do not necessarily correspond with numbered lists in the regulation.*