



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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**6 VAC 35-71 – Regulations Governing Juvenile Correctional Centers**  
**Department of Juvenile Justice**  
October 31, 2009

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### **Summary of the Proposed Amendments to Regulation**

The Board of Juvenile Justice (Board) proposes to consolidate the provisions of two current regulations (6 VAC 35-51 and 6 VAC 35-140) into one new regulation that will govern Juvenile Correctional Centers (JCC). Most provisions in this new regulation will not vary in any substantive way from those mandated by current regulation, current Board policy and current law. There are, however, several new requirements in the new regulation. Specifically, the Board proposes to:

- Require each JCC to have a community liaison and allow each facility to form a community advisory committee,
- Require all direct care staff to maintain current certification in CPR and first aid,
- No longer require newly constructed facilities to have separate bathrooms from those that are available for residents to use,
- Change requirements for resident sleeping areas to take into account older facilities that do not have a physical room configuration that allows them to comply with current regulations,
- Require copies of facilities' visitation procedures to be mailed to parents of new residents by the end of the business day immediately following the resident's admission,
- Allow the requirement for residents to shower daily to be modified if necessary to maintain security of the facility so long as the modification is approved by the JCC superintendant or a mental health provider,

- Institute an exception to the rule that requires staff to give residents privacy bathing, dressing or using the bathroom so that suicidal residents can be supervised at all times,
- Allow exceptions to normal meal rules, so long as the substitute meals meet nutritional requirements, on the advice of a mental health provider or at the order of the superintendent of the facility if needed to maintain facility security and
- Require facilities to provide two hot meals a day.

## **Result of Analysis**

The benefits likely exceed the costs for most proposed changes. There is insufficient information to determine if benefits outweigh costs for one of these proposed changes. The costs and benefits of these changes are discussed below.

## **Estimated Economic Impact**

Current regulations require all JCCs to have a community advisory committee which includes individuals from the communities where the JCCs are located. At some JCCs, however, no community members are interested in joining the required committee. Because of this, the Board proposes to only require JCCs to have a community liaison and allow the JCCs to choose whether to form a community advisory committee. This change will benefit JCCs by allowing them to meet their regulatory responsibility to communicate with the larger community without requiring them to form a committee that the larger may or may not want to participate in. This change is unlikely to add costs to any affected entity.

Currently, all JCC staff that will work directly with residents must complete CPR and first aid training as part of their initial training. Current regulations do not require direct care staff to recertify in CPR/first aid once their initial certification has lapsed but JCC policy does. The Board proposes to move this policy into regulation. JCCs have CPR/first aid instructors on staff and recertification is required every two years. To the extent that first aid/CPR skills may be necessary in the jobs of these staff, requiring maintenance of that certification is likely also beneficial.

Current facility requirements for juvenile correctional centers require that there be a separate bathroom facilities (from those open to residents) for staff. Current regulations also require that no more than four residents sleep in one room and that beds be placed at least three

feet apart. The Board proposes to remove the requirement for separate staff bathrooms. The Board also proposes to remove the requirement that there be no more than four residents per bedroom because the Board now allows dormitory sleeping areas in facilities. The Board proposes to specify that the requirement that beds be at least three feet apart only applies to facilities built after July 1981 because facilities built before then have concrete barriers in the sleeping areas that make it impossible to safely place beds that far apart. The Department of Juvenile Justice (DJJ) will benefit from these regulatory changes as they allow greater flexibility in building new facilities where space is used more efficiently and also allows older facilities to safely house residents without running afoul of regulatory requirements.

Current regulations require that copies of facilities' visitation procedures to be mailed to parents of new residents within 24 hours of the resident's admission. The Board proposes to change this requirement so that facility staff have until the end of the business day following an admission to mail this information. Facility staff will benefit from having slightly more flexibility to mail out information to parents on days when mail is picked up and as it fits into staff duties.

Current regulations require facilities to give all residents the opportunity to shower daily. The Board proposes to allow showers to be restricted as necessary to maintain the security of the JCC. This action will only be allowed with the approval of the superintendent of the facility in question or, for individual residents, on the advice of their mental health provider. This change will benefit facility staff as it will allow them to get permission to temporarily suspend daily showers if permitting them would adversely impact facility safety. This change will also provide a benefit for residents who, for instance, may be suicidal; with the advice of that resident's mental health provider, staff will be able to temporarily suspend shower privileges rather than having to choose between violating a resident's privacy rights or allowing the resident to shower alone when that might allow the resident the opportunity to harm themselves.

Current regulations require that residents be given privacy from sight supervision by staff of the opposite sex when they are bathing, dressing or using bathroom facilities. The Board proposes to allow an exception to this rule if constant supervision is needed because of a mental health condition. This change will benefit facility staff who currently cannot both follow the current regulatory requirement and ensure the safety of residents who wish to harm themselves.

Suicidal residents may temporarily lose their right to privacy on account of this change but this cost is likely outweighed by the benefit of increased safety for these individuals.

Current regulations require that facilities provide three daily meals, one of which must be hot, that provide for all the nutritional requirements of a healthy diet. Exceptions to meal rules are currently allowed to meet religious restrictions and on the order of a medical doctor.

The Board proposes to extend the exceptions to the meal rules to include those recommended for a resident by his or her mental health provider and those necessary to ensure the safety of the facility and its residents. Any replacement meals that are offered in lieu of normal meals must provide the same nutrition. This change will allow facility staff greater to meet the nutritional needs of the residents while still keeping them safe.

The Board also proposes to change regulation to reflect current practice which has JCCs serving two hot meals a day rather than one. Preparation of hot meals is likely to cost more than offering cold meals (such as cereal and fruit for breakfast or sandwiches for lunch) but it is unlikely that these additional meals would be more nutritious. While there may be some benefit for residents who enjoy hot meals more than they do cold ones, it is unclear whether that benefit would outweigh the additional costs that facilities will incur.

## **Businesses and Entities Affected**

DJJ reports that this regulation will affect the seven state-operated juvenile correctional centers.

## **Localities Particularly Affected**

No locality will be particularly affected by this proposed regulatory action.

## **Projected Impact on Employment**

This regulatory action will likely have no impact on employment in the Commonwealth.

## **Effects on the Use and Value of Private Property**

This regulatory action will likely have no effect on the use or value of private property in the Commonwealth.

## **Small Businesses: Costs and Other Effects**

Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

## **Small Businesses: Alternative Method that Minimizes Adverse Impact**

Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

## **Real Estate Development Costs**

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

## **Legal Mandate**

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.