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Proposed Regulation Agency Background Document

Agency name	Department of Juvenile Justice
Virginia Administrative Code (VAC) Chapter citation(s)	6 VAC 35-180
VAC Chapter title(s)	Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles
Action title	Amend Regulations Governing Mental Health Services Transition Plans for Incarcerated Juveniles [Action 5468]
Date this document prepared	July 10, 2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Regulation Governing Mental Health Services Transition Plans for Incarcerated Juveniles (6VAC35-180) establishes a process for ensuring the provision of post-release services for juveniles committed to the Department of Juvenile Justice (the department) or detained in a postdispositional program who have been identified as having a recognized mental health, substance abuse, or other therapeutic treatment need. This department has not amended this regulation since it took effect in 2008.

The intent of this regulatory action is to conduct a comprehensive review and amendment of the existing chapter to ensure that the regulation (i) establishes requirements that are feasible for applicable staff in juvenile correctional centers, court service units, and post-D programs operated by juvenile detention centers; (ii) is not broader in scope than intended by the governing statute, and (iii) includes provisions

aimed at successfully transitioning youth with recognized mental health, substance abuse, or other treatment needs from these facilities to the community.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

- CPMT means community policy and management team.
- CSU means court service unit.
- FAPT means family assessment and planning team.
- MHSTP means mental health services transition plan.
- Pre-D means predispositional.
- Post-D means postdispositional.
- QMHP means qualified mental health professional.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The impetus for this set of changes is a periodic review conducted in 2019, the findings of which were published on March 27, 2019. In its findings, the department recommended amending the regulation as "the best strategy for promoting consistency in application and compliance."

On November 13, 2019, the Board of Juvenile Justice (the board) approved the department's request to file a Notice of Intended Regulatory Action to initiate the comprehensive review and amendment of this chapter.

On June 21, 2023, the Board of Juvenile Justice approved the department's request to proceed to the Proposed stage of the standard regulatory process for this chapter.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The promulgating entity is the Board of Juvenile Justice.

Code of Virginia § 16.1-293.1 requires the board, in consultation with the Department of Behavioral Health and Developmental Services, to promulgate a regulation that addresses the process for planning and providing post-release services for individuals identified as having a mental health, substance abuse, or other therapeutic treatment need who are committed to the department pursuant to § 16.1-278.8(A)(14) or placed in a postdispositional program pursuant to subsection B of § 16.1-284.1.

Additionally, pursuant to § 66-10, the board is granted broad authority to “promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth.”

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

This regulation took effect on January 1, 2008, and has not been amended since, despite the requirement in Code of Virginia § 2.2-4007.1 to review regulatory chapters every four years. To come into compliance with the quadrennial review requirement, on March 27, 2019, pursuant to authorization granted by the board and in accordance with the process outlined in § 2.2-4007.1 of the Code of Virginia, the department submitted a Periodic Review Report regarding this regulatory chapter. In the report, the department recommended that the chapter be amended to address inconsistent, obsolete, and ambiguous provisions with a goal of promoting consistency in the regulation’s application, increasing compliance, and improving outcomes for eligible youth with mental health, substance abuse, or other therapeutic treatment needs.

Substance

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.

The bulk of the proposed amendments to this chapter are intended to update terminology and clarify language in its various provisions. There are, however, several substantive changes:

Section 50: The amended provision adds a subsection relieving the CSU or JDC of the requirement to enter into an MOU with each covered jurisdiction if the program certifies that it is using a FAPT for the development and monitoring of each MHSTP.

Section 50: The amended provision adds a requirement that MOUs be reviewed every five years and updated as needed.

Section 60: The amended provision removes the requirement that the MOU include a timeline for implementing services upon the juvenile’s release since such timelines are addressed elsewhere in the regulation.

Section 65: This is a new section added to clarify that the facility determines eligibility for MHSTP planning before the facility case review meeting.

Section 70: The amended provision removes the ability for the facility case review meeting to take place no later than 30 days after the juvenile’s release, bringing it into alignment with § 16.1-293.1 of the Code of Virginia, which requires that planning take place prior to the juvenile’s release.

Section 80: The amended provisions clarify who shall participate in the facility case review meeting.

Section 90: The amended provisions clarify who, exactly, should receive the results of the facility case review meeting and require that those results be provided in writing.

Section 100: The amended provision adds a requirement that CSU staff begin the process of identifying the necessary resources to carry out the recommendations from the facility case review meeting between the time of that meeting and the 30-day meeting required in this section.

Section 120: The amended provisions make adjustments to who will participate in the development of plans not referred to a FAPT.

Section 130: The amended provisions require greater specificity in describing the substance use, mental health, or other treatment and supports that will be made available to the juvenile.

Section 140: The amended provision removes language requiring that the plan be completed no later than 30 days following a court order for release of the juvenile, bringing it into alignment with § 16.1-293.1 of the Code of Virginia, which requires that planning be completed prior to the juvenile’s release.

Section 150: The amended provision requires written documentation from the treatment provider if the juvenile’s treatment needs have been met and treatment should be discontinued. Additionally, the probation or parole officer will have discretion to discontinue a juvenile’s treatment if they determine that sufficient progress has not been made or that the service provider is ineffective.

Section 180: This is a new section requiring a self-assessment to evaluate the facility’s or program’s compliance with this chapter. The process will be similar to the self-audit process all facilities and programs must undergo pursuant to 6VAC35-20-61, except that it would not be part of the facility’s or program’s formal certification audit.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

The primary advantage of the changes proposed in this action is greater clarity in the regulatory provisions, which the department believes will increase compliance with the regulatory requirements and improve outcomes for affected youth. These improvements include ensuring appropriate, ongoing treatment for substance use or other mental health conditions, higher treatment compliance, better functioning within the community upon release from incarceration, and lower likelihood of reoffending.

There are no anticipated disadvantages to these changes.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no applicable federal requirements for this regulatory chapter.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as

tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

Other state agencies affected by this regulation include the Department of Social Services and the Department of Health insofar as they are members of the community policy and management team and/or the family assessment and planning team, as set forth in the Children’s Services Act. The Department of Corrections may be required to send a representative to the facility case review meeting if the juvenile will be released from incarceration to adult probation. Additionally, the Department of Social Services will be required to participate in the facility case review meeting if the juvenile was in the custody of DSS immediately prior to commitment or will be released back to DSS custody. In any of these cases, the impact is expected to be minimal.

Localities Particularly Affected

No localities are particularly affected.

Other Entities Particularly Affected

Service providers working with formerly incarcerated juveniles may see minimal impacts from some of the clarifying changes made in these amendments, such as the ability for the probation or parole officer to discontinue treatment if the service provider is found to be ineffective. In no case are these impacts expected to be significant.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources.</p>	<p>The department does not anticipate any quantifiable costs or savings from the changes in this regulation. The regulation does not generate any fees or revenues.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>The department does not anticipate any quantifiable costs or savings for other state agencies from the changes in this regulation. The regulation does not generate any fees or revenues.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>These regulatory changes are intended to update and clarify the language in the chapter, thereby</p>

	making it easier for the regulated entities to comply with its provisions.
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Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees, or revenues resulting from the regulatory change.	The department does not anticipate any quantifiable costs or savings for localities. This regulation does not impose any fees or result in any revenues.
Benefits the regulatory change is designed to produce.	These regulatory changes are intended to update and clarify the language in the chapter, thereby making it easier for the regulated entities to comply with its provisions.

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	Other individuals likely to be affected by these changes will be the incarcerated juveniles who are the focus of the chapter's provisions.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated, and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	The department serves approximately 4,000 youth annually who would meet the definition of incarcerated and whose eligibility for mental health services transition planning would need to be assessed. The department serves approximately 1,600 through the CSUs as parolees or probationers whose eligibility also would need to be assessed. The proposed changes to the regulation have no impact on those numbers. (Source: 2022-2024 Strategic Plan) The department does not expect any small businesses to be impacted by these regulatory changes.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	The affected juveniles incur no costs related to this regulation. The department does not expect any small businesses to be impacted by these regulatory changes.

<p>Benefits the regulatory change is designed to produce.</p>	<p>The primary benefit of the proposed changes is greater clarity in the regulatory provisions, which the department believes will increase compliance with the regulatory requirements and improve outcomes for affected youth. These improvements include ensuring appropriate, ongoing treatment for substance use or other mental health conditions, higher treatment compliance, better functioning within the community upon release from incarceration, and lower likelihood of reoffending.</p>
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Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

A viable alternative to amending this regulation is to leave it as currently constructed. This approach is less desirable, however, because the regulation would remain vague, increasing the risk of noncompliance and less favorable outcomes for youth. Additionally, the regulation would retain provisions in conflict with the Code of Virginia. The department determined after a comprehensive review that amending the regulation is the better choice.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

No small businesses are likely to be impacted by this regulatory action.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

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 is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

This form is not being used to report the result of a periodic review or small business impact review.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

No public comments were received following publication of the previous stage.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The Department of Juvenile Justice is providing an opportunity for comments on this regulatory proposal, including (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments also may be submitted by mail, email, or fax to Ken Davis, 600 E. Main Street, Richmond, VA 23219, <mailto:kenneth.davis@djj.virginia.gov>, fax 804-371-6497. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of this stage of this regulatory action.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between the existing VAC Chapter(s) and the proposed regulation. If the existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
10	N/A	Section 10 contains definitions for the following terms: <u>department</u> (of juvenile justice); <u>direct discharge</u> (release from commitment with no supervision conditions imposed); <u>facility</u> (juvenile correctional center, alternative placement, or detention home operating a postdispositional program); <u>identified as having a recognized mental health, substance abuse, or other therapeutic treatment need</u> (a resident who meets the criteria set forth in 6VAC35-180-30 based on an objective assessment or diagnosis by a mental health professional); <u>incarceration</u> (confinement in a detention home operating a postdispositional program, a juvenile residential facility, or an alternative placement as a result of commitment to the department); <u>indeterminately committed</u> (committed to the department with a length of stay calculated in accordance with the Code of Virginia and the department's	<p>Add definitions for the following terms: <u>annual</u> (within 13 months of the previous occurrence); <u>court service unit, CSU, or unit</u> (state or locally operated court service unit established pursuant to §§ 16.1-233 and 16.1-235 of the Code of Virginia); <u>individual service plan</u> (a written plan of action developed to meet the needs of a juvenile); <u>mental health clinician</u> (a clinician licensed to provide assessment, diagnosis, treatment planning, treatment implementation, and similar clinical counseling services or a license-eligible clinician under supervision of a licensed mental health clinician); and <u>mental health services transition plan</u> (the plan resulting from the process described by 6VAC35-180-70 through 6VAC35-180-160).</p> <p>Replace the term <u>qualified mental health professional</u> with <u>mental health clinician</u> here and throughout the proposed text.</p> <p>Revise the definition of <u>juvenile</u> so that it includes both youth who currently are incarcerated and those who have been released from incarceration; concurrently, remove the definition of <u>resident</u>. This change is intended to reduce confusion by using a single term to refer to youth whose mental health services transition planning is governed by this regulation. Replace the term</p>

		<p>Length of Stay Guidelines); <u>juvenile</u> (an individual, regardless of age, who has been confined in a detention home operating a postdispositional detention program, a juvenile residential facility or an alternative placement as a result of commitment to the department or an individual, regardless of age, who is under the supervision of or receiving services from a court service unit); <u>mental health services transition planning</u> (the enhanced planning process described by 6VAC35-180-70 through 6VAC35-180-160 that results in a mental health services transition plan); <u>resident</u> (an individual who was committed to the department and resides in a juvenile residential facility or a detention home operating a postdispositional detention program, including those over 18 who are being released from incarceration but excluding those who will be released directly from the department to an adult correctional institution or jail to complete the remainder of a blended sentence); <u>serious offender</u> (an individual committed to the department pursuant to §§ 16.1-278.8 and 16.1-285.1 of the Code of Virginia).</p>	<p><u>resident</u> with <u>juvenile</u> throughout the proposed text.</p> <p>Revise the definition of <u>identified as having a recognized mental health, substance abuse, or other therapeutic treatment need</u> so that it reads <u>identified as having a recognized mental health or substance use disorder, or being at significant risk for the recurrence of such disorders if not treated</u>. Further update the definition for style and terminology.</p> <p>Revise the definition of <u>incarceration</u> so that its structure is consistent with that of the definition of <u>juvenile</u>. The substance of the definition is unchanged.</p> <p>Revise the definition of <u>indeterminately committed</u> to remove an improper incorporation by reference of the department's Length of Stay Guidelines.</p> <p>Revise the definition of <u>serious offender</u> to remove an unnecessary Code of Virginia citation to subdivision A 17 of § 16.1-278.8.</p>
20	N/A	<p>This section describes the purpose and goal of the chapter and, with one exception, does not impose any requirements on the regulated community. The single requirement in this section is that services should be provided in the least restrictive setting consistent with public safety and the juvenile's treatment needs.</p>	<p>Following guidance from the Registrar of Regulations, repeal this section in its entirety, except for the least restrictive setting requirement. Move that requirement to Section 140 of this chapter.</p>

30	N/A	Section 30 establishes the criteria for mental health services transition planning by requiring (i) that a qualified mental health professional determine a resident has a current diagnosis for a mental illness that is likely to cause significant impairment in the resident's functioning (a list of examples is provided) or (ii) that the resident currently be receiving medication for a mental illness as previously described and that the provider has indicated that the medication will remain necessary upon release from the facility.	Update terminology as discussed in Section 10 and remove the listed examples of qualifying mental health conditions as unnecessary and potentially misleading since it is not exhaustive.
50	N/A	This section requires that each CSU and detention home operating a postdispositional detention program enter into a memorandum of understanding (MOU) with the public agencies that are required to participate in the community policy and management team (CPMT), as established by § 2.2-5205 of the Code of Virginia, for each jurisdiction covered by the CSU or detention home. The MOU must specify the parties' commitment to participate in the planning process.	<p>Add a new subsection (B) relieving the CSU or JDC of the MOU requirement if the program certifies that it is using a family assessment and planning team (FAPT) established in accordance with § 2.2-5207 of the Code of Virginia for the development and implementation of each MHSTP. This certification must be documented on a department-approved form and must describe the extent to which the FAPT is responsible for the development and implementation of the MHSTP. This change is intended to alleviate concerns by some members of the workgroup that many CSUs and JDCs either do not fully understand the MOU requirement or are struggling to comply with it because it requires the local attorney for each jurisdiction to review the MOU, which creates significant delays.</p> <p>Add a requirement that MOUs be reviewed every five years and updated as needed. This aligns with existing agency best practices.</p>
60	N/A	Section 60 describes the required content of the MOUs discussed in Section 50, as follows: 1. The substance abuse or mental health treatment and services the agencies will make available for residents being released from incarceration;	<p>Insert a reference to the new subsection added in Section 50 allowing for certification that a FAPT is being used in lieu of an MOU for the development and monitoring of the MHSTP.</p> <p>Remove the requirement that the MOU include a timeline for implementing services upon the juvenile's release. Timelines should be individualized based</p>

		<p>2. The extent of any involvement of the FAPT in the development and implementation of the MHSTP;</p> <p>3. The process and responsible parties for making referrals and assisting the resident and the resident's family with applying for services identified in the plan;</p> <p>4. An implementation timeline for services upon release;</p> <p>5. Funding sources;</p> <p>6. Methods for maximizing available funding sources and the process and parties responsible for applying for insurance or other benefits; and</p> <p>7. Methods for handling confidential information in accordance with relevant state and federal laws or regulations.</p>	<p>upon each juvenile's needs. Moreover, Section 130 provides that the MHSTP itself shall specify the projected time frame over which each service will be provided, so there is no need to address the time frame in this section.</p>
N/A	65	N/A	<p>Add a new section to clarify that the facility determines eligibility for MHSTP planning prior to the facility case review meeting. The existing regulation suggests that this determination is made at the time of the facility case review meeting, which is misleading.</p>
70	N/A	<p>Section 70 describes the timing and purpose of the facility case review meeting. Specifically:</p> <p>A. For residents indeterminately committed to the department, committed to the department as a serious offender for less than 24 months, or placed in a detention home with a postdispositional program, designated facility staff must conduct a case review meeting at least 90 days before the resident's scheduled release.</p> <p>B. For residents committed to the department as a serious offender for 24 months or longer, designated staff must conduct a case review</p>	<p>Update Subsection A to reflect the addition of Section 65 and to eliminate duplicative language and align with the Registrar's style guidance.</p> <p>Move the requirements currently captured in Subsection C to Subsection A (continuing service needs of the juvenile, family involvement, progress toward release, and anticipated release date).</p> <p>Update the language in Subsection B to align with Subsection A, and add a reference to 6VAC35-180-30 for clarity.</p> <p>Add new language in Subsection C providing that whenever a juvenile will return to court for a judicial review and the facility has at least 90 days' notice, the staff must conduct the facility case review meeting at least 90 days prior to</p>

		<p>meeting at least 90 days before the second anniversary of the resident's commitment and annually thereafter.</p> <p>C. In addition to the criteria established in Section 30, the facility case review must address the continuing needs of the resident, family involvement, the resident's progress toward release, and the anticipated release date.</p> <p>D. The time frames established in this section may be waived if a judicial order for release makes such time frames impracticable. In such cases, the review must be completed as soon as possible, but no more than 30 days after the resident's release.</p>	<p>the court appearance. This clarifies the facility's responsibility to conduct the MHSTP facility case review meeting ahead of time in those instances when the department exercises its discretion to petition the court for a hearing for early release for good cause. Additionally, this language will reduce the need to waive the required time frames since the governing statute does not appear to allow for the MHSTP to be completed after a juvenile's release.</p> <p>Remove the provision in subsection D allowing the facility case review meeting to take place no later than 30 days after the resident's release. Section 16.1-293.1 of the Code of Virginia states that the plan must be "completed prior to the person's release" and does not make any provision for completing the plan after that time.</p> <p>Add language clarifying that nothing in this section relieves staff of the obligation to complete the facility case review before the juvenile's release, even if they are unable to meet the time frames required elsewhere in this section.</p>
80	N/A	<p>This section establishes the participants in the facility case review meeting and directs that they must participate either in person or via telephone or video conference unless clearly impractical or inappropriate and documented in the case file. Participants shall include:</p> <ol style="list-style-type: none"> 1. The resident; 2. The resident's probation or parole officer or a representative of the Department of Corrections, as appropriate; 3. A qualified mental health professional familiar with the resident's case; 4. Facility staff knowledgeable about the resident; and 5. Other community agency staff, as appropriate. <p>In addition, this section directs the resident's family</p>	<p>Add language in A 1 to allow an exception to the requirement that the juvenile participate in the case review meeting if clinical or safety concerns preclude the juvenile's participation.</p> <p>Update A 4 to clarify that a facility case manager or designee should participate rather than "staff knowledgeable about the resident." The existing language could result in unintended consequences since other facility staff may be knowledgeable about the juvenile but should not be participating in the facility case review meeting.</p> <p>Add a provision at A 6 specifically to require participation by the Department of Social Services (DSS) for those juveniles who were in the custody of DSS immediately prior to commitment or who will be released to DSS.</p> <p>Remove the vague language pertaining to participants in B, and clarify that the juvenile's parent or legal guardian must be invited to the meeting and given the</p>

		members, caregivers, legal guardian, or legally authorized representative to be invited and given the opportunity to participate in developing the resident's plan.	<p>opportunity to participate in developing the MHSTP.</p> <p>Based in part upon a recommendation from the disAbility Law Center of Virginia (dLCV), add Subsection C giving the professional members of the facility case review team the discretion to invite other individuals to participate in the facility case review meeting or provide input to the team, including those suggested by the juvenile or the juvenile's parent or legal guardian.</p>
90	N/A	This section requires that the results of the facility case review be distributed to the parties who participated in the meeting and that the distribution be documented in the resident's record.	<p>Update this section to specify who, exactly, should receive the results of the facility case review meeting: the juvenile, the juvenile's parent or legal guardian, and each agency participating in the meeting.</p> <p>Add language clarifying that the distributed information shall be in writing.</p>
100	N/A	<p>Section 100 sets out the requirements to begin mental health services transition planning, including:</p> <p>A. If the resident meets the criteria set out in 6VAC35-180-30, the probation or parole officer who participated in the facility case review meeting shall notify the responsible agency or agencies identified in the MOU and schedule a meeting for no later than 30 days prior to the resident's anticipated release to develop the mental health services transition plan.</p> <p>B. If the resident will receive a direct discharge from the department upon turning 21 and will not be subject to adult parole supervision or will be released from a detention home at age 18 or older without being placed on probation, the meeting shall be scheduled and proceed only with the resident's documented consent and, as required by law, the consent of the parent or legal guardian.</p>	<p>Create a new Subsection A to require CSU staff to begin the process of identifying the necessary resources to carry out the recommendations from the facility case review meeting between the time of that meeting and the 30-day meeting required later in this section.</p> <p>Add language at (the new) Subsection B to reflect the new process created in Section 50 allowing facilities to avoid entering into an MOU if the FAPT is involved in the planning process.</p> <p>Remove language from (the new) C that makes an unnecessary reference to 21-year-olds who will not be subject to adult parole supervision. That qualification is contemplated in the definition of "direct discharge" and is redundant.</p> <p>Remove the requirement that 18- or 21-year-olds consent to the 30-day meeting. While a youth may decline services upon reaching the age of 18 or 21, as applicable, the department believes it is in the youth's best interest to proceed with the meeting and carry out the program or facility's legal obligations.</p> <p>Remove the requirement that the parent or legal guardian consent to the meeting for 18- or 21-year-olds since they will have reached the age of legal consent.</p>

		<p>C. The time frame in Subsection A shall be waived if a judicial order for release makes the time frame impracticable. In such cases, the review must be completed as soon as possible, but no later than 30 days after the resident's release.</p>	<p>Add language in (the new) D clarifying that, even if the 30-day meeting cannot be held within the required time frame, the probation or parole officer still must conduct the meeting prior to the juvenile's release.</p>
110	N/A	<p>This section provides that if the resident's case is referred to the local FAPT established under the Comprehensive Services Act, the meeting will be conducted in accordance with the FAPT's policies.</p>	<p>Update the reference to the Comprehensive Services Act to the Children's Services Act to align with a 2015 change made by the General Assembly.</p> <p>Update the language to state that the 30-day meeting required in Section 100 be conducted in accordance with the policies of the CSA program if the case is referred to the local FAPT. Some CSA programs have policies that govern the CPMT and the FAPT separately.</p> <p>Add language indicating that additional parties may be invited to or required at the meeting in accordance with 6VAC35-180-120 (see discussion below).</p>
120	N/A	<p>Section 120 establishes the participants in the meeting to develop the MHSTP if the case is not referred to a local FAPT.</p> <p>A. Required participants include the resident; the resident's parent, legal guardian, or legal custodian; the resident's probation or parole officer of a representative of the Department of Corrections; and a representative of one or more of the agencies participating in the MOU established in Section 50.</p> <p>B. Other family members or other people, agencies, or institutions having a legitimate interest in the plan's development for purposes of providing treatment or services also may be invited to participate.</p> <p>C. Additionally, if any of the individuals required or allowed to participate is</p>	<p>Add language in A 1 to allow an exception to the requirement that the juvenile participate in the meeting if clinical or safety concerns preclude their participation.</p> <p>Remove redundant qualifying language in A 2 pertaining to the juvenile's parent's or legal guardian's participation in the meeting.</p> <p>Add the facility case manager or designee to the list of required participants at A 4.</p> <p>Add Subsection B authorizing the professional members of the team to determine whether other individuals, including those suggested by the juvenile, parent, or legal guardian, shall be invited to attend or provide input.</p> <p>Remove Subsections C and D as unnecessary.</p>

		<p>unable to attend the planning meeting, they may provide information prior to the meeting.</p> <p>D. Finally, all participants must be available to each other during the meeting, either in person or by telephone or video conference.</p>	
130	N/A	<p>Subsection A of this section establishes the required content of the MHSTP:</p> <ol style="list-style-type: none"> 1. The person assigned case management responsibilities for developing and implementing the MHSTP; 2. The kinds of substance abuse, mental health, or other treatment that will be made available to the resident; 3. The provider or providers who will be responsible for delivering each service; 4. The projected time frame over which each service will be provided; 5. The proposed sources through which the services will be funded; 6. Any applications for services, insurance, and other financial assistance that must be completed in order for the resident to obtain the identified services. <p>Subsection B provides that all issues pertaining to the implementation of the plan must be resolved to the extent possible prior to the resident's release.</p>	<p>Update A 2 to require that the plan name the specific substance abuse, mental health, or other treatment <i>and</i> supports that will be made available to the juvenile.</p> <p>Add clarifying language to A 4 that the projected time frame for each service should be based on the needs of the juvenile and access to resources.</p> <p>Remove the specific examples cited in A 5 because they could lead to the erroneous conclusion that the list is exhaustive.</p> <p>Update the language in A 6 to align the provision with Subsection C of § 16.1-293.1 of the Code of Virginia, which requires, at a minimum, that the agency responsible for case management make the necessary referrals and assist in applying for the services identified in the plan, including completing and submitting applications that may only be submitted upon release.</p> <p>Add Subdivision A 7 to require the plan to include potential barriers for successful plan implementation.</p> <p>Move the requirement in Subsection B to Section 140 and add a new Subsection B requiring that all participants in the plan's development sign the plan.</p> <p>Make additional changes to A 2, A 3, and A 6 for style and clarity.</p>
140	N/A	<p>This section establishes the time frames for completion of the MHSTP and related tasks:</p> <p>A. The written plan must be completed at least 10 days prior to the resident's release unless such time frame is</p>	<p>Remove language in A requiring that the plan be completed no later than 30 days following a court order for release. Code of Virginia § 16.1-293.1 requires that the plan be completed prior to release, so this provision violates the statute.</p>

		<p>rendered impracticable by a judicial order to release the resident, in which case, the plan must be completed as soon as possible, but no later than 30 days following the date of the court order for release.</p> <p>B. All referrals and applications must be completed within sufficient time frames to ensure the continuity of treatment and the implementation of recommended services upon release.</p> <p>C. All participants in the development of the plan must sign the plan, indicating their commitment to fulfill the responsibilities assigned to them.</p>	<p>Add language in A to clarify that the written plan must be completed, even if the time frame required in this subsection cannot be met.</p> <p>Clarify in B that all referrals for service must be made prior to release.</p> <p>Add a new Subsection C requiring that, to the extent possible, all issues pertaining to the implementation of the plan must be resolved prior to release.</p> <p>Add a new Subsection D requiring that all services in the plan be provided in the least restrictive setting consistent with public safety and the juvenile's treatment needs.</p>
150	N/A	<p>Section 150 addresses reports to probation or parole officers, including a requirement that the person or agency responsible for providing treatment services to juveniles must report the juvenile's treatment progress to the probation or parole officer when that treatment is a condition of probation or parole. The section further provides that treatment services may be discontinued when the juvenile's treatment need has been met, at which time the probation or parole officer must be notified. Finally, the probation or parole officer also must be notified when the juvenile discontinues participation in treatment or is suspended or terminated from a treatment program.</p>	<p>Update the language in this section to require that notification of discontinued treatment must be made <i>in writing</i> to the probation or parole officer.</p> <p>Add language granting the probation or parole officer the discretion to discontinue a juvenile's treatment if they determine that sufficient progress has not been made or that the service provider is ineffective. This change will help ensure that department staff remain actively involved in assessing the juvenile's treatment and provides the department some discretion not to prolong ineffective treatment unnecessarily.</p>
160	N/A	<p>This section requires that the parties to the MHSTP review and assess the juvenile's progress and the continued applicability of the plan every 90 days. Additionally, any changes to the plan must be made in writing, and all participants must sign and</p>	<p>Clarify that the 90-day review should be conducted by the parties who participated in the development of the plan. The existing language of "parties to the plan" is somewhat vague and could be misinterpreted.</p> <p>Add Subsection C detailing who, specifically, must receive copies of the</p>

		receive copies of the revised plan.	revised plan. This list includes the juvenile, the juvenile's parent or legal guardian, the service provider, and the mental health clinician, if applicable. Language currently in Subsection B requires all team members to receive copies of the plan, which may not be appropriate.
170	N/A	<p>Section 170 concerns the final MHSTP review prior to the termination of probation or parole.</p> <p>A. When a juvenile is on probation or parole, the individuals and agencies participating in the implementation of the MHSTP shall meet no later than 30 days before the juvenile's anticipated release to determine if any of the services provided for in the plan should continue beyond release.</p> <p>B. If it is determined that one or more service should continue, an updated plan shall be developed. All participants must sign and receive a copy of the updated plan.</p> <p>C. If treatment services continue beyond the juvenile's release from supervision, the service provider or case manager has no further duty to report the juvenile's progress to the probation or parole officer.</p>	Make two minor changes for clarity and style.
N/A	180	N/A	Add a new Section 180 to require a self-assessment to evaluate the facility's or program's compliance with this chapter. Currently, there is no mechanism for ensuring compliance with these requirements. The process established in Section 180 would be similar to the self-audit process all facilities and programs must undergo pursuant to 6VAC35-20-61 except that it would not be part of the facility's or program's formal certification audit.