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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department (Board) of Juvenile Justice
Virginia Administrative Code (VAC) Chapter citation(s)	6 VAC35-150
VAC Chapter title(s)	Regulation for Nonresidential Services
Action title	Action to Amend Regulation for Nonresidential Services
Date this document prepared	Revised September 8, 2025

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 the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The regulation for nonresidential services establishes the minimum requirements and rules governing state-operated and locally operated court service units and nonresidential programs available to the juvenile and domestic relations district courts, including those funded through the Virginia Juvenile Community Crime Control Act.

This regulation was last amended in 2011. The department conducted an independent periodic review of the chapter in 2019 and recommended amending the chapter as the “best means of promoting consistency in its application and encouraging compliance.” The department has convened a workgroup of department staff to conduct a comprehensive review of the chapter and recommend amendments. The workgroup is recommending an overhaul of the chapter to remove obsolete provisions, eliminate references to improperly incorporated documents, add provisions to address gaps in regulatory oversight that may impact public safety, amend various sections for clarification, and remove unnecessary discretionary requirements to accomplish the Governor’s 25% reduction directive.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

CSU means court service unit.

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."

This regulatory action is a product of a [periodic review](#) conducted in 2019, in which the department concluded that the regulation should be amended to reflect changes in agency operations and philosophy, as well as legislative enactments and amendments to other impactful regulatory chapters. Additionally, the department sought to conduct a comprehensive review and overhaul of the chapter to comply with Governor Youngkin's Executive Order 19, which directs agencies and boards to reduce their regulatory requirements by 25% by the end of 2025. The Board of Juvenile Justice approved the initiation of a Notice of Intended Regulatory Action on August 18, 2025.

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 Board of Juvenile Justice is the promulgating agency. Section 16.1-233 of the Code of Virginia directs the board to establish minimum standards for court service staff and related supportive personnel and promulgate regulations pertaining to their appointment and function "to the end that uniform services, insofar as is practical, will be available to juvenile and domestic relations district courts throughout the Commonwealth." Section 16.1-235 requires DJJ to "develop and operate probation, parole, and related court services...and make such services available to juvenile and domestic relations district courts, as required by...regulations established by the board. Section 16.1-309.9 directs the board to develop, promulgate, and approve standards for the development, implementation, operation, and evaluation of the range of community-based programs, services, and facilities authorized by the Virginia Juvenile Community Crime Control Act" (VJCCCA). The current regulatory chapter carries out these statutory requirements by establishing minimum requirements for state-operated and locally operated CSUs and setting out additional requirements for nonresidential programs utilized by the juvenile and domestic relations district court, including those using VJCCCA funding. In addition to this specific authority, the Board of Juvenile Justice is empowered with general authority to "promulgate such regulations as may be necessary to carry out the provisions of [Title 66 of the Code of Virginia] and other laws of the Commonwealth."

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

The department believes this regulation is essential to protect the health, safety, and welfare of the Commonwealth's citizens. Regardless of the severity of their alleged offenses, juveniles who have contact with the Commonwealth's juvenile justice system are alleged to have committed offenses or engaged in behaviors that may threaten their own welfare and safety or that of the public's. Court service units provide intake services, case management, and supervision of juveniles involved in this process, and this regulation establishes the minimum requirements for staff in these programs. The regulation helps to fulfill the objective announced in § 16.1-233 that, "uniform services, insofar as is practical, will be available to juvenile and domestic relations district courts throughout the Commonwealth." These services are essential to fulfill the department's mission of preparing court-involved and committed youth to be successful citizens and preventing them from reoffending. The chapter also imposes requirements that help to protect juveniles who interact with court service unit staff, including ensuring staff are adequately trained and have had appropriate background checks conducted, limiting the use of force by staff, placing proper controls on searches of juveniles and other clients, and establishing requirements to address medical and psychiatric emergencies.

Additionally, the regulation promotes public safety by establishing standards for nonresidential community-based programs and services, including those established by the VJCCCA, that are available to juveniles before the court or before a juvenile intake officer. Among other protections, these standards ensure staff possess the necessary qualifications to work with juveniles, implement safeguards to avoid threats to juvenile rights, and place limits on the use of restraints on such clients. As with services provided by CSUs, these programs are intended to prevent juveniles from reoffending or getting further entrenched in the juvenile justice system.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

The department is considering the following substantive changes to this chapter:

- Amend Section 10 of the regulations to align the chapter's definitions with existing statutory and other regulatory definitions, remove terms no longer used in the chapter, and establish definitions for undefined terms;
- Clarify the distinctions between procedures with statewide application, those applicable solely to locally operated CSUs, and those applicable to individual CSUs;
- Remove all provisions that improperly incorporate written procedures into the chapter in violation of 1VAC7-10-140;
- Impose outright any requirements from improperly incorporated documents that the department deems necessary to protect public health or safety;
- Strike administrative and operational provisions that are not necessary to interpret the law or protect the public health, safety, or welfare, including those that establish needless notification requirements, impose administrative duties, and set out other detailed operational requirements;
- Eliminate provisions that unnecessarily duplicate requirements in other sections of this or other regulatory chapters;
- Remove requirements that are now impractical based on agency restructuring and changes in practices for CSUs, courts, residential facilities, and nonresidential programs;

- Amend several sections to clarify, establish, or change deadlines for satisfying certain regulatory requirements;
- Amend various sections to address gaps in regulatory oversight that may impact public safety, including sections governing requirements for transporting detained juveniles; reporting and documenting child abuse, neglect, and other serious incidents; utilizing restraints; employing force; and administering medication;
- Amend intake, probation, and parole provisions to provide clearer guidance for court service unit staff, including clarifying the processes for: (i) making entries into the department's electronic data collection system, (ii) assessing whether juveniles should be detained predispositionally, (iii) utilizing replacement intake officers, (iv) properly responding to emergencies at intake; (v) ensuring protections are afforded to victims of juvenile offenders, and (vi) addressing violations of probation and parole;
- Correct erroneous statutory citations and provisions improperly citing statutory requirements;
- Ensure regulatory provisions are properly reflected and do not conflict with requirements in the statute;
- Expand the scope of various provisions so that they address all intended programs and facilities;
- Clarify which staff are responsible for fulfilling the duties imposed in the chapter;
- Add language to reflect any relevant active variances adopted by the board since the chapter was last amended; and
- Add and modify provisions to ensure alignment with relevant language in other chapters, including provisions that address collaboration with detention center staff for youth placed in postdispositional detention programs.

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.

As part of the review of this chapter, the department considered whether any of the recommended changes, clarifications, or updates could be accomplished through administrative documents or other alternatives in lieu of these proposed amendments. The department believes amending the regulations in the manner described in this form is the least burdensome alternative that still satisfies the essential purpose of the proposal. The proposed regulatory changes are intended to provide clearer guidance for staff in court service units and other applicable nonresidential programs to assist them with carrying out their duties. Additionally, the proposed amendments are expected to result in a significant reduction in the number of discretionary regulatory requirements contained in this chapter in furtherance of Governor Youngkin's Executive Order 19. Proposed amendments are consistent with the department's current practices for responding to complaints regarding juveniles, determining whether to file a petition or implement a diversion plan, determining whether a juvenile requires an out-of-home placement, and monitoring the behavior and progress of juveniles who are detained, on probation, committed to state care, or on parole.

Retaining the current regulatory provisions without change would preserve existing provisions that: (i) are outdated, (ii) reference practices and facilities that no longer exist, (iii) impose extraneous discretionary regulatory requirements counter to the Governor's regulatory reduction directive, and (iv) improperly incorporate departmental procedures in violation of 1VAC7-10-140. Retaining the existing provisions without amendment also leaves court service units with insufficient guidance in areas that have repeatedly caused confusion and inconsistent application. For example, CSU staff have questioned the intended start date for juveniles with active diversion plans in place when a subsequent, diversion-eligible complaint is filed. The department believes providing some clarity in this area will promote consistency across CSUs and further § 16.1-233's goals of delivering uniform services, as practicable, to juvenile courts.

In addition, because they do not have the force of law, utilizing guidance and other administrative documents to impose additional requirements could render the department powerless in enforcing any additional requirements it seeks to impose. The department believes adding these provisions to the chapter are the best means of ensuring the provisions remain enforceable for state and locally operated CSUs.

**Periodic Review and
Small Business Impact Review Announcement**

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”

In addition, pursuant to the ORM procedures and § 2.2-4007.1 of the Code of Virginia, the agency is conducting a periodic review and small business impact review of this regulation to determine whether the regulation should be terminated, amended, or retained in its current form. This action was prompted by a periodic review conducted in 2019; however, because several years have passed without initiation of a corresponding action, the department hopes to use this action to conduct a subsequent periodic review. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare; (ii) minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

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. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

The Board of Juvenile Justice is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

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 website at: <https://townhall.virginia.gov>. Comments also may be submitted by mail, email, or fax to Kristen Peterson, Post Office Box 1110, Richmond, Virginia 23218-1110; (804) 773-0180 (ph); (804) 371-6497 (fax); Kristen.Peterson@djj.virginia.gov. 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 the proposed stage of this regulatory action; however, the board will review the proposed amendments to the regulation at a subsequent regularly scheduled board meeting following such publication.