

**CHAPTER 180.**

**REGULATIONS GOVERNING MENTAL HEALTH SERVICES TRANSITION PLANS**

**FOR INCARCERATED JUVENILES.**

PART I.

GENERAL PROVISIONS.

**6 VAC 35-180-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

“Department” means the Virginia Department of Juvenile Justice.

“Direct discharge” means the release of a resident from commitment to the department with no supervision conditions imposed upon the resident by the department or a court.

“Facility” means a juvenile correctional center operated by the department, an alternative placement for = under the direct custody of the department, or a detention home operating a postdispositional detention program serving residents sentenced under subdivision A 14 of § 16.1-278.8 and subsection B of § 16.1.284.1 of the Code of Virginia.

“Identified as having a recognized mental health, substance abuse, or other therapeutic treatment need” means a resident who meets established criteria set forth in 6 VAC 35-

180-30 based on objective assessment or diagnosis by a qualified mental health professional, as provided for in this regulation.

“Incarceration” means confinement in a detention home operating a postdispositional detention program pursuant to subdivision A 16 and subsection B of § 16.1-284.1 of the Code of Virginia or in a juvenile residential facility or a secure facility as defined in § 16.1-228 of the Code of Virginia operated or contracted for by the department or in an alternative placement as a result of a commitment to the department pursuant to subdivision A 14, A 16, or A 17 of § 16.1-278.8 or § 16.1-285.1 of the Code of Virginia.

“Indeterminately committed” means commitment to the department pursuant to subdivision A 14 of § 16.1-278.8 of the Code of Virginia with the resident’s length of stay calculated in accordance with § 16.1-285 of the Code of Virginia and the department’s Length of Stay Guidelines.

“Juvenile” means an individual, regardless of age, who has been confined in a detention home operating a postdispositional detention program pursuant to subdivision A 16 and subsection B of § 16.1-284.1 of the Code of Virginia or in a juvenile residential facility or a secure facility as defined in § 16.1-228 of the Code of Virginia operated or contracted for by the department or in an alternative placement as a result of a commitment to the department pursuant to subdivision A 14, A 16, or A 17 of § 16.1-278.8 or § 16.1-285.1 of the Code of Virginia or and individual, regardless of age, who is under the supervision of or receiving services from a court service unit.

“Mental health services transition planning” means the enhanced planning process described by 6 VAC 35-180-70 through 6 VAC 35-180-160 to ensure the provision of mental health, substance abuse, or other therapeutic treatment services upon a resident’s release from incarceration. This planning process is considered “enhanced” because it is more comprehensive than the standard process for developing a plan for probation, parole, or aftercare. This process shall result in a mental health transition services plan.

“Resident” means an individual, both a juvenile or an adult, who is or was committed to the department pursuant to § [16.1-285.1](#) or subdivision A 14 or A 17 of § [16.1-278.8](#) of the Code of Virginia and resides in a juvenile residential facility or a secure facility defined in § 16.1-228 of the Code of Virginia operated or contracted for by the department or placed in a detention home that is operating a postdispositional detention program pursuant to subdivision A 16 of § 16.1-278.8 and subsection B of § [16.1-284.1](#) of the Code of Virginia. For purposes of this regulation, the term includes residents being released from incarceration that are 18 years old or older and excludes any individual sentenced under § 16.1-272 of the Code of Virginia who will be released directly from a department facility to an adult correctional institution or jail to complete the remaining portion of a blended sentence.

“Serious offender” means an individual who was committed to the department pursuant to subdivision A 17 of § 16.1-278.8 and § 16.1-285.1 of the Code of Virginia.

**6 VAC 35-180-20. Purpose and goal.**

A. This chapter is intended to ensure the planning and provision of postrelease services addressing the mental health, substance abuse, or other therapeutic treatment needs of incarcerated residents as they transition back into their communities. The goal is to ensure implementation and continuity of necessary treatment and services in order to improve short- and long-term outcomes for juvenile offenders with significant needs in these areas. Services should be provided in the least restrictive setting consistent with public safety and the resident's treatment needs. The plan shall address the resident's need for and ability to access medication, medical insurance, disability benefits, mental health services, and funding necessary to meet the resident's treatment needs.

B. This chapter is intended to be applied in conjunction with other relevant regulations of agencies of the Commonwealth (e.g., 6 VAC 35-150, Standards for Nonresidential Services Available to Juvenile and Domestic Relations District Courts; 6 VAC 35-140, Standards for Juvenile Residential Facilities; 22 VAC 42-10, Standards for Interdepartmental Regulation of Children's Residential Facilities; and 8 VAC 20-660, Regulations Governing the Reenrollment of Students Committed to the Department of Juvenile Justice).

**6 VAC 35-180-30. Criteria for mental health services transition planning.**

A resident will be identified as having a recognized mental health, substance abuse, or other therapeutic need and will qualify for mental health services transition planning when one of the following criteria is met:

1. A qualified mental health professional determines that the resident has a current diagnosis for a mental illness that is likely to result in significant impairment in the resident's functioning in the community, including, but not limited to, the following: psychotic disorders, major affective disorders, substance use disorders, and posttraumatic stress disorder.
2. The resident is currently receiving medication treatment for a mental illness as described in subdivision 1 of this section, and the provider has indicated a treatment necessity to continue such medication upon release.

**6 VAC 35-180-40. Confidentiality.**

For all activities conducted in accordance with this chapter, confidential information shall be handled in accordance with all relevant state or federal laws or regulations addressing the sharing of confidential information.

PART II.

AGREEMENTS AMONG AGENCIES AND SERVICE PROVIDERS.

**6 VAC 35-180-50. Interagency Memorandum of Understanding.**

Each court service unit (CSU) and detention home that is operating a postdispositional detention program shall enter into a single, integrated 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 that is operating a postdispositional detention program. The MOU shall specify the parties' commitment to participate in the planning process established in this chapter and in § 16.1-293.1.B of the Code of Virginia. Other public or private agencies may be party to these agreements as appropriate.

**6 VAC 35-180-60. Content of agreements.**

The Memorandum of Understanding shall identify:

1. The substance abuse, mental health, or other therapeutic treatment and case management services that the agencies will make available for residents being released from incarceration;
2. If, and with what restrictions, the Family Assessment and Planning Teams (FAPT), as established by § 2.2-5207 of the Code of Virginia, shall be responsible for the development and implementation of the mental health transition plan as

described in 6 VAC 35-180-100 or how the mental health transition planning process will take place when the FAPT will not serve as the responsible entity;

3. The process and parties responsible for making the necessary referrals specified in the plan and for assisting the resident and resident's family with the process of applying for services identified in the plan;

4. A timeline for implementation of services upon the resident's release from incarceration;

5. The sources of funding that may be utilized to provide the services;

6. Methods for maximizing available sources of funding, including Medicaid, and the process and parties responsible for initiation of application(s) for insurance or other benefits that may be used to fully or partially fund such services; and

7. Methods for handling confidential information in accordance with all relevant state or federal laws or regulations addressing the sharing of confidential information.

PART III.

FACILITY REVIEW OF RESIDENT'S CASE.

**6 VAC 35-180-70. Timing and purpose of the facility case review.**

A. In the event that the resident is indeterminately committed to the Department, is committed to the Department as a serious offender for less than 24 months, or is placed in a detention home that is operating a postdispositional detention program, then at least 90 days before a resident's scheduled release from a juvenile correctional center or a detention home that is operating a postdispositional detention program, designated staff at the facility where the resident resides shall review the resident's case, including the resident's individualized service plan, to determine if the resident qualifies for the enhanced mental health services transition planning based on the criteria set forth in 6 VAC 35-180-30.

B. In the event that the resident is committed to the department as a serious offender for 24 months or greater, then at least 90 days before the second anniversary of that resident's commitment, designated staff at the facility where the resident resides shall review the resident's case, including the resident's individualized service plan, to determine if the resident qualifies for enhanced mental health services transition planning based on the criteria set forth in 6 VAC 35-180-30. The resident's case shall be reviewed annually thereafter for determination of whether the resident continues to be identified as having a recognized mental health, substance abuse, or other

therapeutic treatment need and continues to qualify for mental health services transition planning.

C. In addition to an assessment of the criteria set forth in 6 VAC 35-180-30, the facility case review shall address the continuing needs of the resident, family involvement, the resident's progress towards discharge, and the anticipated release date.

D. The time frames designated in subsections A and B of this section may be waived in the event that a judicial order for release of a resident sentenced under § 16.1-285.1 (serious offender incarcerated in a juvenile correctional center) or § 16.1-284.1 (placement in a detention home that is operating a postdispositional detention program) of the Code of Virginia makes such time frames impracticable. In such cases, review shall be completed as soon as possible, but no later than 30 days after the resident's release.

**6 VAC 35-180-80. Participants in facility case review.**

A. The following parties shall participate (either in person or via telephone or video-conference) in the facility review unless clearly impractical or inappropriate (as determined by the professional members of the facility review team) and documented in the case file:

1. The resident;
2. The resident's probation or parole officer, or a representative of the Department of Corrections (adult probation), if applicable;
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, if appropriate (e.g., Department of Social Services (DSS) personnel for a resident to be released to DSS custody).

B. The resident's family members, caregivers, legal guardian, or legally authorized representative shall be invited and given the opportunity to participate in the development of the resident's plan.

**6 VAC 35-180-90. Distribution and documentation of facility case review.**

The results of the facility case review, including any recommendations for treatment or other services, shall be distributed to the parties who participated in the meeting. The distribution shall be documented in the resident's record.

PART IV.

ENHANCED TRANSITION PLANNING.

Article 1.

Developing the Transition Plan.

**6 VAC 35-180-100. Enhanced mental health transition planning.**

A. If the resident meets the criteria set out in 6 VAC 35-180-30, the probation or parole officer present at the facility case review meeting shall (i) notify the responsible agency or agencies identified in the Memorandum of Understanding established pursuant to 6 VAC 35-180-50, and (ii) schedule a meeting, to be conducted no later than 30 days prior to the resident's anticipated release, to develop the resident's mental health services transition plan.

B. However, when a resident (i) will receive a direct discharge from the department upon attaining the age of 21 and will not be subject to adult parole supervision, or (ii) will be released from a detention home that is operating a postdispositional program at age 18 or older without having been 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 his parent or legal guardian.

C. The time frames designated in subsection A of this section shall be waived in the event that a judicial order for release of a resident sentenced under § 16.1-285.1 (serious offender incarcerated in a juvenile correctional center) or § 16.1-284.1

(placement in a detention home that is operating a postdispositional detention program) of the Code of Virginia makes such time frames impracticable. In such cases, review shall be completed as soon as possible, but no later than 30 days after the resident's release.

**6 VAC 35-180-110. Referral to family assessment and planning team.**

If the resident's case is referred to the local family assessment and planning team established under the Comprehensive Services Act (§ 2.2-5200 et seq. of the Code of Virginia), the meeting will be conducted in accordance with the policies of the family planning and assessment team.

**6 VAC 35-180-120. Development of the plan if other than family assessment and planning team.**

A. If the resident's case is not referred to the local family assessment and planning team, the following persons shall participate (either in person or via telephone or video-conference) in the development of the mental health services transition plan unless clearly impractical or inappropriate (as determined by the professional members of the enhanced mental health transition planning team) and documented in the case file:

1. The resident;
2. The resident's parent, legal guardian, or legal custodian unless clearly inappropriate (as determined by the professional members of the review team) and documented in the case file;

3. Unless the resident will not be receiving any postrelease supervision, the resident's probation or parole officer or a representative of the Department of Corrections for those offenders determinately committed under § 16.1-285.1 of the Code of Virginia who will be released to adult supervision; and

4. A representative of one or more of the agencies participating in the Memorandum of Understanding established by 6 VAC 35-180-50, as applicable and appropriate.

B. The following persons may be invited to participate in the meeting to develop the resident's mental health services transition plan:

1. Other family members or caregivers who are judged to be critical to the resident's successful completion of treatment services; and

2. Any other person, agency, or institution having a legitimate interest in the development of the plan for the purpose of providing treatment or services for the resident who is the subject of the plan.

C. If the persons invited pursuant to subsection A and B of this section are unable to participate in the planning meeting as described in subsection D of this section, they may provide information prior to the meeting.

D. All participants in the development of the plan shall be concurrently available to each other during the transition services planning meeting, either in person, or by telephone conference call, or by video-conference.

Article 2.

Content of the Plan.

**6 VAC 35-180-130. Content of the plan.**

A. The plan shall specify:

1. The person(s) assigned case management responsibilities for the development and implementation of the mental health transition services plan. Case management includes making all referrals and coordination of all aspects of the plan;
2. The kinds of substance abuse, mental health, or other therapeutic 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 (funding sources may include, but are not limited to, Medicaid, Comprehensive Services Act (§ 2.2-5200 et seq. of the Code of Virginia), Family Access to Medical Insurance Security, private insurance, and other federal, state, or local funds such as Promoting Safe & Stable Families funds, federal mental health and substance abuse block grant funds, Virginia Juvenile Community Crime Control Act funds, DJJ Transitional Services funds, and other state general funds available to the

Community Service Boards, the department, or other agencies participating in the planning process); and

6. Any applications for services, insurance, and other financial assistance that must be completed in order for the resident to obtain the identified services. Such applications include (i) those that may be completed and submitted before the resident's release from incarceration; (ii) those applications that may be completed before, but may not be submitted until after, the resident is released from incarceration; and (iii) those applications that may not be initiated until after the resident's release from incarceration. The plan shall assign responsibility for assisting the resident or the resident's parents or guardians in completing such applications.

B. To the extent possible, all issues pertaining to the implementation of the plan shall be resolved prior to the resident's release.

Article 3.

Completion and Implementation of the Plan.

**6 VAC 35-180-140. Time frames for completing the plan and related tasks.**

A. To facilitate the process of referrals for services and application and enrollment for financial and other assistance, the written plan shall be completed at least 10 days prior to the resident's release from incarceration unless such time frame is rendered impracticable by a judicial order to release the resident from incarceration. In such instances, the plan shall be completed as soon as possible, but in no event later than 30 days following the date of the court order for release.

B. All referrals for services and all applications for financial and other assistance shall be completed within sufficient time frames to ensure continuity of necessary treatment and implementation of recommended services upon the resident's release.

C. All participants in the development of the plan shall sign the plan, indicating their commitment to fulfill the responsibilities assigned to them.

PART V.

REVIEW OF THE PLAN.

**6 VAC 35-180-150. Reports to probation or parole officer.**

When it is a condition of probation or parole that the juvenile, upon release from a facility, must participate in one or more treatment services provided in accordance with this chapter, the person or agency responsible for providing such clinical services shall report to the probation or parole officer on the juvenile's progress toward meeting the plan's objectives at least monthly as long as the juvenile remains under probation or parole supervision.

When the juvenile's treatment need has been met, the service may be discontinued, and the probation or parole officer shall be notified that the juvenile has completed the treatment.

When the juvenile discontinues participation in the treatment or is suspended or terminated from the program, the probation or parole officer shall be notified as soon as practicable of the juvenile's changed status.

**6 VAC 35-180-160. Periodic review of mental health transition plan.**

A. Every 90 days, the parties to the plan shall review and assess the juvenile's progress and continued applicability of the plan.

B. Any changes to the plan shall be made in writing. All participants shall sign and receive copies of the revised plan.

**6 VAC 35-180-170. Final review prior to termination of probation or parole.**

A. If the juvenile has been placed on probation or parole, the individuals and agencies participating in the implementation of the mental health transition plan shall convene no later than 30 days before the juvenile's anticipated release from probation or parole supervision to determine if any of the services provided for in the plan should continue beyond the juvenile's release from probation or parole supervision.

B. If the determination is made that one or more services should continue, an updated plan shall be developed for the juvenile, including identification of the case manager to be responsible for the plan from that point forward. All participants shall sign and receive a copy of the updated plan.

C. If treatment services are continued beyond the juvenile's release from probation or parole, the service provider and case manager shall have no further duty to report to the probation or parole officer on the juvenile's progress in treatment.

I certify that this regulation is full, true, and correctly dated.

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Deron M. Phipps, Regulatory Coordinator

Department of Juvenile Justice

Date: