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## Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Criminal Justice Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	6 VAC20-172-20, 6VAC20-173-20, 6VAC20-174-20, 6VAC20-230-20, 6VAC20-250-20, and 6VAC20-260-20
<b>VAC Chapter title(s)</b>	Regulations Relating to Private Security Services Businesses; Application Fees Regulations Relating to Private Security Services Training Schools; Application Fees Regulations Relating to Private Security Services Registered Personnel; Fees Regulations Relating to Special Conservators of the Peace; Fees Regulations Relating to Property and Surety Bail Bondsmen; Fees Regulations Relating to Bail Enforcement Agents; Fees
<b>Action title</b>	Amendments to Schedule of Fees
<b>Date this document prepared</b>	07/10/2021

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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 Department of Criminal Justice Services (DCJS) is responsible for regulating Private Security Services Businesses (PSSBs), Private Security Services Training Schools (PSSTS), Private Security Services Registered Personnel (PSSRP), Special Conservators of the Peace (SCOPs), Property and Surety Bail Bondsmen (BBs), and Bail Enforcement Agents (BEAs) within the Commonwealth of Virginia. These regulatory responsibilities are managed within DCJS' Division of Licensure and Regulatory

Services (DLRS). DCJS is charged with duties that include, but are not limited to: the processing of applications for licensure, certification, and registration for all six; processing application fees; examining the qualifications for each applicant for said certification, license, or registration; certifying training schools and instructors authorized to conduct training in accordance with training standards established by the Criminal Justice Services Board; collecting fees for registration and renewal that are sufficient to cover all expenses for administration and operation of all six regulatory programs; receiving and investigating complaints related to these programs; administration of appropriate disciplinary action to individuals and businesses who violate applicable Code and regulations; and the denial, revocation, and suspension, or failure to renew registrations, for just cause. DCJS does not receive any general funds to perform the duties delegated by the Code of Virginia, but the Code does authorize DCJS to charge fees promulgated by the CJSB to cover the costs associated with the management and operation of all regulatory programs.

The purpose of this regulatory action is to amend and revise the fee schedules associated with all aforementioned chapters of the Virginia Administrative Code. The fee schedules has not been amended since 2003, 2004, 2008, and 2009, respectively. The proposed fee amendments are primarily based upon inflation since this time, as many have not been revised in well over ten years. DCJS manages seven programs within the DLRS, therefore the fee schedule does not accurately reflect the costs that would be required if DCJS had established an operation that was solely for each program. Each program enjoys an economy of scale by the DLRS managing all seven programs under its umbrella. Instead of each program operation having its own management team, call center, application processors, investigators, adjudication unit, etc. DLRS provides all of these services for all seven programs, thus reducing the costs for all seven programs. The current issue is that the seven programs are not generating sufficient fees for DLRS to operate at the desired level. DCJS has to augment DLRS by providing services and support that DLRS cannot fund. Neither DCJS nor DLRS can continue to operate this way, as DLRS is required by Code to generate the fees necessary to run the programs. In addition, DLRS is operating without an inadequate amount of investigators, adjudication personnel, customer service personnel, application processors, and other necessary personnel for the DLRS to operate at the desired level of service. DLRS is also in the process of updating its databases and online systems to meet constituent demand, and needs additional funding for this process in order to maintain adequate and efficient IT support for the systems and databases going forward.

## 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.*

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DCJS: Department of Criminal Justice Services  
 CJSB: Criminal Justice Services Board, DCJS' policy board  
 BB: Property and Surety Bail Bondsmen  
 BEA: Bail Enforcement Agents  
 SCOP: Special Conservator of the Peace  
 PSSB: Private Security Services Businesses  
 PSSTS: Private Security Services Training Schools  
 PSSRP: Private Security Services Registered Personnel  
 DLRS: Division of Licensure and Regulatory Services, a division within DCJS  
 PIAVA: Private Investigators Association of Virginia  
 VABA: Virginia Bail Association  
 ESA-VA: Electronic Security Association of Virginia  
 PISA: Private Investigators and Security Association  
 Department: Department of Criminal Justice Services  
 Board: Criminal Justice Services Board  
 Division: Division of Licensure and Regulatory Services

## 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 Executive Order 14 (as amended, July 16, 2018), "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."*

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The current fee schedules were established in 2003, 2004, 2008, and 2009, respectively. They were developed and promulgated primarily based on fiscal analysis conducted and completed at that time. The fee schedules were sufficient to meet the needs of DCJS and DLRS at the time, but due to inflation and other fiscal demands, this is no longer the case. While there are currently no mandates for these proposed regulatory changes, DLRS and the CJSB made the decision to move forward with necessary amendments to the fee schedules in the December 12, 2019 Board meeting.

## 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.*

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Pursuant to § 9.1-141 Powers of Board relating to private security services businesses, the Board may adopt regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), establishing compulsory minimum, entry-level, in-service, and advanced training standards for persons employed by the private security services businesses in classifications defined in § 9.1-138. The Board shall be guided by the policy of this section to secure the public safety and welfare against incompetent or unqualified persons engaging in the activities regulated by this section and Article 4 (§ 9.1-138 et seq.) of this chapter. The Board may also establish the qualifications of applicants for registration, certification, or licensure under Article 4 (§9.1-138) of this chapter, as well as levy and collect fees for registration, certification, or licensure and renewal that are sufficient to cover all expenses for administration and operation of a program of registration, certification, and licensure for private security services businesses and training schools in order to ensure continued competency, and to prevent deceptive or misleading practices by practitioners and effectively administer the regulatory system adopted by the Board.

Additionally, § 9.1-139 provides that no person shall act as a private security services training school or solicit students for private security training in the Commonwealth without being certified by the Department. No person shall be issued a private security services training school certification until a school director is designated in writing on forms provided by the Department. In addition, § 9.1-142 states that in addition to the powers otherwise conferred upon it by law, the Department may charge each applicant for licensure, certification or registration a nonrefundable fee as established by the Board to cover the costs of the Department for processing an application for a registration, certification, or license and enforcement of these regulations, and other costs associated with the maintenance of this program of regulation.

Pursuant to § 9.1-185.2 Powers of the Criminal Justice Services Board relating to bail bondsmen, the Board shall have full regulatory authority and oversight of property and surety bail bondsmen. The Board shall adopt regulations that are necessary to ensure respectable, responsible, safe, and effective bail bonding within the Commonwealth. The Board's regulations shall include but not be limited to regulations that (i) establish the qualifications of applicants for licensure and renewal under this article; (ii) examine, or cause to be examined, the qualifications of each applicant for licensure, including when necessary, the

preparation, administration, and grading of examinations; (iii) levy and collect nonrefundable fees for licensure and renewal that are sufficient to cover all expenses for administration and operation of a program of licensure; (iv) ensure continued competency and prevent deceptive or misleading practices by practitioners; (v) administer the regulatory system; (vi) provide for receipt of complaints concerning the conduct of any person whose activities are regulated by the Board; (vii) provide for investigations and appropriate disciplinary action if warranted; (viii) establish standards for professional conduct, solicitation, collateral received in the course of business, firearms training and usage, uniforms and identification, documentation and recordkeeping requirements, reporting requirements, and methods of capture for the recovery of bailees; and (ix) allow the Board to suspend, revoke or refuse to issue, reissue or renew a license for just cause. The Board shall not adopt compulsory minimum firearms training standards in excess of 24 hours per year for bail bondsmen. In adopting its regulations, the Board shall seek the advice of the Private Security Services Advisory Board, established pursuant to § 9.1-143.

With regard to SCOPs, and pursuant to § 9.1-150.2 of the Code of Virginia, Powers of Criminal Justice Services Board relating to special conservators of the peace appointed pursuant to § 19.2-13, the Board shall adopt regulations establishing the compulsory minimum, entry-level, in-service, and advanced training standards for SCOPs, in addition to providing for the collection of fees for registration and renewal that are sufficient to cover all expenses for administration and operation of a program of registration. § 9.1-150.2 also delegates the Board with ensuring continued competency and prevention of deceptive or misleading practices by practitioners, in addition to adopting compulsory, entry-level training standards that shall not exceed, but shall be a minimum of 98 hours for unarmed special conservators of the peace, and that shall not exceed, but shall be a minimum of 130 hours for armed special conservators of the peace. In adopting its regulations, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § 9.1-143.

Furthermore, § 9.1-185.2 Powers of the Criminal Justice Services Board relating to bail bondsmen states that the Board shall have full regulatory authority and oversight of property and surety bail bondsmen. §9.1-185.6 states that a license granted to a bondsman by the Department shall authorize such person to enter into bonds, as defined in § 19.2-119, in any county or city in the Commonwealth. This license shall be for a term of two years, and may be renewed upon the filing of an application in the form prescribed by the Department, and payment of the nonrefundable renewal application processing fee, also prescribed by the Department. In addition, subsection C states that applicants for renewal of a bail bondsman license shall undergo a criminal history background check, as set out in subdivision B3 of § 9.1-185.5 and shall provide all other documentation listed in subsections C and D of § 9.1-185.5, as the Department deems appropriate. § 9.1-185.3 also states that the Department may charge each applicant for licensure a nonrefundable fee as established by the Board to cover the costs of processing an application for licensure, enforcement of regulations, and other costs associated with the maintenance of the program of regulation.

With regard to BEAs, pursuant to § 9.1-186.2 Powers of Department and Board relating to bail enforcement agents, the Board shall have full regulatory authority and oversight of bail enforcement agents. The Board not only adopts regulations establishing compulsory minimum entry-level and in-service training and education for bail enforcement agents, but also provides for the Board to adopt regulations that are necessary to ensure respectable, responsible, safe, and effective bail enforcement within the Commonwealth. This includes (under subsection C), the ability to levy and collect nonrefundable fees for licensure and renewal that are sufficient to cover all expenses for administration and operation of a program of licensure to ensure continued competency and prevent deceptive or misleading practices by practitioners. Like the others, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § 9.1-143. Additionally, § 9.1-186.6 provides that a license be granted to a bail enforcement agent by the Department, and shall authorize such person to engage in the business of bail recovery. Every BEA license issued pursuant to this article shall be for a term of two years, and may be renewed for an ensuing two-year period, upon the filing of an application in the form prescribed by the Department and payment of the nonrefundable renewal application processing fee prescribed by the Department.

**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's intended to solve.*

In order to execute the regulatory responsibilities relegated to DCJS, DLRS must be adequately funded to support the direct and indirect costs associated with managing and operating a regulatory program. DLRS is funded solely by the revenue collected from licensure, registration, and certification fees paid by applicants related to the programs managed within DLRS. DLRS does not receive any money from general funds. The proposed amendments and revisions to the fee schedules primarily reflect the cost of inflation since the last changes in 2003, 2004, 2008, and 2009, respectively. Changes are also being proposed in some cases where the current fees are not sufficient to cover the costs associated with processing of applications.

**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.*

DCJS regulates the BB, BEA, SCOP, PSSB, PSSTS, and PSSRP regulatory programs within DLRS. The charts below identify the proposed amendments to the fee schedules:

6VAC20-172-20. Application Fees.

Part II

Application Fees.

- A. Schedule of Fees. The fees listed below reflect the costs of handling, issuance, and production associated with administering and processing applications for licensing, certification, and other administrative requests for services relating to private security services.

CATEGORIES	FEES
Fingerprint <u>form</u> processing <u>fee</u>	<del>\$50</del> <u>\$35</u>
Initial business license - 1-year license	<del>\$550</del> <u>\$765</u>
Initial business license - 2-year license	<del>\$800</del> <u>\$1,120</u>
Business license renewal - 2-year license	<del>\$500</del> <u>\$1,120</u>
Business license category <u>fee</u>	<del>\$50</del> <u>\$70</u>
<u>Replacement/duplicate license wall certificate</u>	<u>\$40</u>
Initial compliance agent certification	<del>\$50</del> <u>\$70</u>
Compliance agent certification renewal	<del>\$25</del> <u>\$70</u>

<u>Replacement/duplicate certification wall certificate</u>	<u>\$40</u>
Regulatory compliance <u>Compliance agent</u> entry-level training	<del>\$75</del> <u>\$105</u>
Regulatory compliance <u>Compliance agent</u> in-service training	<del>\$50</del> <u>\$70</u>

**B. Reinstatement fee.**

1. The department shall collect a reinstatement fee for license or certification renewal applications not received on or before the expiration date of the expiring license or certification.
2. The reinstatement fee shall be 50% above and beyond the renewal fee of the license, certification, or any other credential issued by the department wherein a fee is established and renewal is required.

**C. Dishonor of fee due to insufficient funds.**

1. The department may suspend the license, certification, or authority it has granted any person who submits a check or similar instrument for payment of a fee required by statute or regulation that is not honored by the financial institution upon which the check or similar instrument is drawn.
2. The suspension shall become effective upon receipt of written notice of the dishonored payment. Upon notification of the suspension, the person or licensee may request that the suspended license, certification, or authority be reinstated, provided payment of the dishonored amount plus any penalties or fees required under the statute or regulation accompanies the request. Suspension under this provision shall be exempt from the Administrative Process Act.

~~**D. Manual processing service fee.** The department shall collect a \$5.00 service fee for any applications under this chapter that are submitted to the department by other means than the available electronic methods established by the department.~~

6VAC20-173-20. Application Fees.

Part II

Application Fees.

- E. Schedule of Fees.** The fees listed below reflect the costs of handling, issuance, and production associated with administering and processing applications for licensing, certification, and other administrative requests for services relating to private security services.

CATEGORIES	FEES
CRIMINAL HISTORY RECORDS CHECK	
Fingerprint <u>form</u> processing <u>fee</u>	<del>\$50</del> <u>\$35</u>
CERTIFICATIONS	
Initial training school <u>certification</u>	<del>\$800</del> <u>\$1,120</u>

Training school <u>certification</u> renewal	\$500 <u>\$1,120</u>
Training school category <u>fee</u>	\$50 <u>\$70</u>
Initial instructor certification	\$50 <u>\$70</u>
Instructor certification renewal	\$25 <u>\$70</u>
Instructor certification category <u>fee</u>	\$10 <u>\$15</u>
Initial detector canine handler examiner certification	\$50 <u>\$70</u>
Detector canine handler examiner certification renewal	\$25 <u>\$70</u>
Replacement/ <u>duplicate wall certificate</u> card	\$20 <u>\$40</u>
TRAINING RELATED	
Entry-level training exemption <u>Training waiver processing fee</u>	\$25 <u>\$50</u>
In-service training alternative credit evaluation <u>fee</u>	\$25 <u>\$50</u>
<u>Manual</u> Training <u>training</u> completion roster form	\$30 <u>\$50</u>

**F. Reinstatement fee.**

3. The department shall collect a reinstatement fee for license or certification renewal applications not received on or before the expiration date of the expiring license or certification.
4. The reinstatement fee shall be 50% above and beyond the renewal fee of the license, certification, or any other credential issued by the department wherein a fee is established and renewal is required.

**G. Dishonor of fee due to insufficient funds.**

3. The department may suspend the license, certification, or authority it has granted any person who submits a check or similar instrument for payment of a fee required by statute or regulation that is not honored by the financial institution upon which the check or similar instrument is drawn.
4. The suspension shall become effective upon receipt of written notice of the dishonored payment. Upon notification of the suspension, the person or licensee may request that the suspended license, certification, or authority be reinstated, provided payment of the dishonored amount plus any penalties or fees required under the statute or regulation accompanies the request. Suspension under this provision shall be exempt from the Administrative Process Act.

**H. ~~Manual processing service fee.~~ The department shall collect a \$5.00 service fee for any applications under this chapter that are submitted to the department by other means than the available electronic methods established by the department.**



Application Fees.

- I. Schedule of Fees. The fees listed below reflect the costs of handling, issuance, and production associated with administering and processing applications for licensing, certification, and other administrative requests for services relating to private security services.

CATEGORIES	FEES
Fingerprint <del>form</del> processing <del>application</del> <u>fee</u>	<del>\$50</del> <u>\$35</u>
Initial registration ( <u>includes photo ID production fee</u> )	<del>\$25</del> <u>\$50</u>
Registration renewal ( <u>includes photo ID production fee</u> )	<del>\$20</del> <u>\$45</u>
Additional registration category <del>form</del> <u>fee</u>	<del>\$20</del> <u>\$45</u>
Replacement/ <u>duplicate photo ID</u> registration card	<del>\$20</del> <u>\$45</u>
Firearm endorsement <u>training verification fee</u>	<del>\$10</del> <u>\$40</u>
Entry level training exemption <u>Training waiver processing fee</u>	<del>\$25</del> <u>\$50</u>
<del>In-service training alternative credit evaluation</del>	<del>\$25</del>

J. Reinstatement fee.

- 5. The department shall collect a reinstatement fee for license or certification renewal applications not received on or before the expiration date of the expiring license or certification.
- 6. The reinstatement fee shall be 50% above and beyond the renewal fee of the license, certification, or any other credential issued by the department wherein a fee is established and renewal is required.

K. Dishonor of fee due to insufficient funds.

- 5. The department may suspend the license, certification, or authority it has granted any person who submits a check or similar instrument for payment of a fee required by statute or regulation that is not honored by the financial institution upon which the check or similar instrument is drawn.
- 6. The suspension shall become effective upon receipt of written notice of the dishonored payment. Upon notification of the suspension, the person or licensee may request that the suspended license, certification, or authority be reinstated, provided payment of the dishonored amount plus any penalties or fees required under the statute or regulation accompanies the request. Suspension under this provision shall be exempt from the Administrative Process Act.

~~L. Manual processing service fee. The department shall collect a \$5.00 service fee for any applications under this chapter that are submitted to the department by other means than the available electronic methods established by the department.~~

6VAC20-230-20. Fees.

- M. Schedule of Fees. The fees listed below reflect the costs of handling, issuance, and production associated with administering and processing applications for licensing, certification, and other administrative requests for services relating to private security services. Fees are nonrefundable.



CATEGORIES	FEES
Initial registration	\$60 <del>\$85</del>
Registration renewal	\$60 <del>\$85</del>
Application for training exemption <u>Training waiver processing fee</u>	\$25 <del>\$50</del>
Fingerprint card processing <u>form</u>	\$50 <del>\$35</del>
Replacement photo identification <del>letter</del> <u>card</u>	\$20 <del>\$40</del>
<u>Additional category application</u>	<u>\$40</u>

**N. Reinstatement fee.**

- 7. The department shall collect a reinstatement fee for license or certification renewal applications not received on or before the expiration date of the expiring license or certification.
- 8. The reinstatement fee shall be 50% above and beyond the renewal fee of the license, certification, or any other credential issued by the department wherein a fee is established and renewal is required.

**O. Dishonor of fee due to insufficient funds.**

- 7. The department may suspend the license, certification, or authority it has granted any person who submits a check or similar instrument for payment of a fee required by statute or regulation that is not honored by the financial institution upon which the check or similar instrument is drawn.
- 8. The suspension shall become effective upon receipt of written notice of the dishonored payment. Upon notification of the suspension, the person or licensee may request that the suspended license, certification, or authority be reinstated, provided payment of the dishonored amount plus any penalties or fees required under the statute or regulation accompanies the request. Suspension under this provision shall be exempt from the Administrative Process Act.

6VAC20-250-20. Fees.

Part II

Fees

- P. Schedule of Fees.** The nonrefundable application processing fees listed below reflect the costs that are sufficient to cover all expenses for administration and operation of the program. These fees include the costs of handling, issuance, and production associated with administering and processing applications for licensing and other administrative requests for services relating to bail bonding services.

Bail bondsman license application (Initial/Renewal) \$900 ~~\$1,200~~

Licensure category fee:

Surety	\$100 <del>\$100</del> <u>\$135</u>
Agent	\$100 <del>\$100</del> <u>\$135</u>
Property	\$250 <del>\$250</del> <u>\$330</u>
Firearms endorsement (annually) <u>training verification</u>	\$30 <del>\$30</del> <u>\$40</u>
Fingerprint card processing <u>form</u>	\$50 <del>\$50</del> <u>\$35</u>
Replacement/ <u>duplicate credential fee</u> photo identification	\$30 <del>\$30</del> <u>\$40</u>
Reinstatement <u>fee</u>	\$250
<del>In-service alternate training credit</del> <u>Training waiver</u> <u>processing fee</u>	\$25 <del>\$25</del> <u>\$50</u>
Manual processing fee	\$20

**Q. Dishonor of fee payment due to insufficient funds.**

9. The department may suspend the license it has granted any person who submits a check or similar instrument for payment of a fee required by statute or regulation that is not honored by the financial institution upon which the check or similar instrument is drawn.
10. The suspension shall become effective upon receipt of written notice of the dishonored payment. Upon notification of the suspension, the person or licensee may request that the suspended license, certification, or authority be reinstated, provided payment of the dishonored amount plus any penalties or fees required under the statute or regulation accompanies the request. Suspension under this provision shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

(Statutory Authority: § 9.1-185.2 of the Code of Virginia)

6VAC20-260-20. Fees.

Part II

Fees

- A. Schedule of fees. The following fees reflect the costs of handling, issuance, and production associated with administering and processing applications for licensing and other administrative requests for services relating to bail enforcement services:

Categories	Fees
Initial bail enforcement agent license	\$200 <del>\$200</del> <u>\$265</u>
Bail enforcement agent license renewal (biannually)	\$200 <del>\$200</del> <u>\$265</u>

Firearms endorsement <del>training verification</del> (annually)	\$30 <del>\$40</del>
Fingerprint card processing <del>form fee</del> (biannually)	\$50 <del>\$35</del>
Replacement/ <del>duplicate license card</del> photo-identification	\$30 <del>\$40</del>
Partial training exemption	\$25
In-service alternative training credit <del>Training waiver request processing fee</del>	\$25 <del>\$50</del>

B. Reinstatement fee.

1. The department shall collect a reinstatement fee for license renewal applications not received on or before the expiration date of the expiring license.
2. The reinstatement fee shall be 50% above and beyond the renewal fee of the license or any other credential issued by the department wherein a fee is established and renewal is required.

C. Dishonor of fee payment due to nonsufficient funds.

1. The department may suspend the license it has granted any person who submits a check or similar instrument for payment of a fee required by statute or regulation that is not honored by the financial institution upon which the check or similar instrument is drawn.
2. The suspension shall become effective upon receipt of written notice of the dishonored payment. Upon notification of the suspension, the licensee may request that the suspended license or authority be reinstated, provided payment of the dishonored amount plus any penalties or fees required under the statute or regulation accompanies the request. Suspension under this provision shall be exempt from the Administrative Process Act.

(Statutory Authority §§ 9.1-102 and 9.1-186.2 of the Code of Virginia)

**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.*

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Although initial communication with DCJS' constituents about the increase in fees has been accepting and positive, the only foreseen disadvantages could be financial for certain individuals and/or businesses.

There are no further disadvantages to the Commonwealth, and no other pertinent matters of interest to the regulated community, government officials, nor the public.

**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 is not any requirement of this regulatory change that is more restrictive than applicable federal requirements, as there are not presently any federal requirements related to this regulatory change.

**Agencies, Localities, and Other Entities Particularly Affected**

*Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "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: None applicable.

Localities Particularly Affected: None applicable.

Other Entities Particularly Affected: Entities affected include the Private Investigators Association of Virginia (PIAVA), the Virginia Bail Association (VABA), the Electronic Security Association of Virginia (ESA-VA), and the Private Investigators and Security Association (PISA).

**Economic Impact**

*Pursuant to § 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 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:</p> <ul style="list-style-type: none"> <li>a) fund source / fund detail;</li> <li>b) delineation of one-time versus on-going expenditures; and</li> <li>c) whether any costs or revenue loss can be absorbed within existing resources</li> </ul>	<p>Projected revenues collected by DCJS resulting from this change are expected to increase. As some of the fees are one-time and others are on-going expenditures (i.e. license renewals, etc.), the projected revenue can vary. No costs or revenue loss can be absorbed within existing resources as DLRS does not receive any general funds revenue, and the current fee structure has not been amended across the board in excess of ten years. In those ten years, the number of</p>
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	<p>individuals and businesses serviced, as well as inflation costs, have risen substantially.</p> <p>**Please see the below table for projected revenues (It is important to note that DCJS needs to carry over funding every year to pay for lower revenue streams).**</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>None applicable.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>Benefits to this regulatory change include DLRS having the ability to be adequately funded to support the direct and indirect costs associated with managing and operating a regulatory program. DLRS is funded solely by the revenue collected from licensure, registration, and certification fees paid by applicants related to the programs managed by DCJS, and, in many cases, these fees are not currently covering the costs associated with processing these applications.</p>

**Impact on Localities**

<p>Projected costs, savings, fees or revenues resulting from the regulatory change.</p>	<p>No projected impact to localities.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>No projected impact to localities.</p>

**Impact on Other Entities**

<p>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.</p>	<p>Entities affected include the Private Investigators Association of Virginia (PIAVA), the Virginia Bail Association (VABA), the Electronic Security Association of Virginia (ESA-VA), and the Private Investigators and Security Association (PISA).</p>
<p>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:</p> <p>a) is independently owned and operated and;</p> <p>b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There are 2,011 businesses, 135 training schools, 48,177 private security registrations, 2,353 compliance agents, 585 instructors, 298 bail bondsmen, 180 bail enforcement agents, and 396 special conservators of the peace.</p>
<p>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:</p> <p>a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;</p>	<p>Projected costs for affected individuals and the aforementioned entities varies based on certification(s), licensure, etc. but are not expected to affect recordkeeping or other administrative costs required for compliance by small businesses. The fee increases reflect inflation and have not been amended across the</p>

<p>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.</p>	<p>board in ten years. As some fees are annual and others biannual, the time required to comply with the new fee structure will vary, but will go into effect once this regulation becomes final. There are no costs related to the development of real estate for commercial or residential purposes as a result and/or consequence of this regulatory change.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>This regulatory change will benefit DCJS in that DLRS will be able to better support the services provided to its constituents for all seven programs. Currently, the seven programs are not generating sufficient fees for DLRS to operate at the desired level, and DCJS has been forced to augment DLRS by providing services and support that it cannot fund. The increase in fees will assist with not only running the programs and costs associated, but will help with the updating of its databases and online systems to maintain adequate IT support going forward.</p>

\*\*The below table is the revenue, cash balance, and expenditures for the Division of Licensure and Regulatory Affairs within the Department of Criminal Justice Services (DCJS). Please be aware that based on the bi-annual fee structure, DCJS needs to carry over funding every year to pay for lower revenue streams.

DLRS by fiscal year (DCJS)	ACTUAL			DCJS PROJECTIONS BASED ON CURRENT FEES		
	2019	2020	2021	2022	2023	2024
Beginning Cash	\$695,539	\$482,853	\$322,946	\$369,621	\$372,831	\$100,110
Revenue	\$3,035,226	\$2,989,766	\$3,195,461	\$3,143,977	\$3,000,000	\$3,425,000
Expenditures	(\$3,175,133)	(\$3,076,895)	(\$3,092,435)	(\$3,068,046)	(\$3,200,000)	(\$3,200,000)
Revenue – Expend.	(\$139,907)	(\$87,129)	\$103,026	\$75,931	(\$200,000)	\$225,000
Transfers	(\$72,779)	(\$72,779)	(\$56,351)	(\$72,721)	(\$72,721)	(\$72,721)
Ending Cash	\$482,853	\$322,946	\$369,621	\$372,831	\$100,110	\$252,389

### 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.*

DCJS has considered the following with regard to any viable alternatives to increasing the fee schedules:

- The budget that DLRS is currently operating under cannot be reduced further and minimally meet the statutory and regulatory requirements of administering these regulatory programs.
- DLRS does not receive any general funds revenue, while the current fee structure has not been amended across the board in excess of ten years. Meanwhile, inflation and the number of individuals and businesses serviced by has increased substantially.

### Regulatory Flexibility Analysis

*Pursuant to § 2.2-4007.1B 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.*

After analysis, there is no viable alternative or regulatory method for DCJS, pursuant to § 2.2-4007.1B of the Code of Virginia.

### 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 Executive Order 14 (as amended, July 16, 2018), 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.*

As required by § 2.2-4007.1 E and F of the Code of Virginia, DCJS has considered not only continued need for these regulations, but also the comments received concerning the proposed fee increases and the regulations themselves. While the aforementioned regulations do not overlap with any federal or state law or regulation, they are absolutely necessary to DCJS, in order to continue to assist and support the outside entities mentioned above (like the PISA, PIAVA, etc.) as well as the many private security personnel and training entities conducting business within the Commonwealth. Again, most of these fees have not been reevaluated to allow for inflation in many years, and as many of DCJS’ constituents agree—this increase in fees is necessary.



## Public Comment

*Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency 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.*

Commenter	Comment	Agency response
Mr. David Needler, President of the PIAVA Board of Directors	The PIACA respectfully asked that the one-year initial business license option be continued, as it might pose a financial hardship, especially after the COVID-19 pandemic, for many of its members if only the two-year option exists.	DCJS conducted a thorough analysis of what was proposed by this constituent and found his argument for the reintegration of the one-year option for an initial business license was a credible one. After corresponding with Mr. Needler and discussing within the agency, DCJS ultimately decided to adopt his suggestion and keep the one-year license as an option.

## 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 Criminal Justice Services 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, (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 may also be submitted by mail, email or fax to Kristi Shalton, 1100 Bank Street, Richmond, Virginia 23219, or at (804) 786-7801 or via email to [kristi.shalton@dcjs.virginia.gov](mailto:kristi.shalton@dcjs.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 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 existing VAC Chapter(s) and the proposed regulation. If 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
172-20	N/A	Schedule of fees. The fees listed below reflect the costs of handling, issuance, and production associated with administering and processing applications for licensing, certification, and other administrative requests for services relating to private security services.	Increase to the schedule of fees and elimination of the manual processing service fee. Addition of replacement/duplicate license and certification wall certificate fees. All reflect inflation.
173-20	N/A	Schedule of fees. The fees listed below reflect the costs of handling, issuance, and production associated with administering and processing applications for certification and other administrative requests for services relating to private security services.	Increase to the schedule of fees and elimination of the manual processing service fee. All reflect inflation.
174-20	N/A	Schedule of fees. The fees listed below reflect the costs of handling, issuance, and production associated with administering and processing applications for registration and other administrative requests for services relating to private security services.	Increase to the schedule of fees. Elimination of the in-service evaluation fee and the manual processing service fee. All reflect inflation.
230-20	N/A	Schedule of fees. The fees listed below reflect the costs of handling, issuance, and production associated with administering and processing applications for licensing, registration, certification and other administrative requests for services related to private security services. Fees are nonrefundable.	Increase to the schedule of fees. All reflect inflation.
250-20	N/A	Schedule of fees. The nonrefundable application processing fees listed below reflect the costs that are sufficient to cover all expenses for administration	Increase to the schedule of fees and elimination of the manual processing fee. All reflect inflation.

		and operation of the program. These fees include the costs of handling, issuance, and production associated with administering and processing applications for licensing and other administrative requests for services relating to bail bonding services.	
260-20	N/A	Schedule of fees. The following fees reflect the costs of handling, issuance, and production associated with administering and processing applications for licensing and other administrative requests for services relating to bail enforcement services.	Increase to the schedule of fees. All reflect inflation.

If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

**Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace**

New chapter-section number	New requirements to be added to VAC	Other regulations and laws that apply	Change, intent, rationale, and likely impact of new requirements

If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.

If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.

**Table 3: Changes to the Emergency Regulation**

Emergency chapter-section number	New chapter-section number, if applicable	Current <u>emergency</u> requirement	Change, intent, rationale, and likely impact of new or changed requirements since emergency stage