

# SSI and felony warrants

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If Social Security learns there's a certain type of criminal warrant out for you, you may lose or be turned down for (denied) SSI benefits, and might face an overpayment. If they're wrong about the warrant, or you have other good reasons, you can protest or appeal, but otherwise you must take care of the underlying charge.

## **What can I do if Social Security believes I'm a "fleeing felon?"**

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You must do these things:

1. **Address the underlying warrant.** Contact the agency that issued the warrant to get your warrant number and a copy of the warrant. Social Security can tell you which agency issued the warrant.

After you receive your warrant number and copy of the warrant, you must contact the prosecutor's office that issued the warrant (<https://waprosecutors.org/prosecutordirectory/>) to take care of the underlying issue.

You may be able to get the warrant dismissed, if, for example, you were fleeing from abuse, you couldn't afford to stay there while the criminal issue was resolved, you're a victim of identity theft and they got the wrong person, or the probation officer said you didn't register your move, but you did.

If the prosecutor won't dismiss the warrant, you must work with the prosecutor - preferably through your criminal attorney - to take care of the matter.

2. Read the **Advance Notice of Suspension** that Social Security should have sent you. It should say:

- o What your rights are
- o When you must exercise your rights
- o Why Social Security is suspending your benefits
- o Where, when (date), and why the warrant was issued

If the Notice doesn't have this information, ask Social Security for it.

3. **Appeal (protest) the suspension** by the appropriate deadline to keep getting SSI during the protest process.
  - o **If Social Security learned about the warrant by a computer match**, you'll have 35 days to respond before they stop your SSI.
  - o **If Social Security learned about the warrant from another source** (such as the newspaper, neighbors or relatives, or law enforcement contacts), you'll get 15 days.

**If you or someone acting for you reports the warrant**, Social Security will suspend your SSI right away. You'll get an overpayment notice and suspension notice at the same time. You can appeal an overpayment the same way you appeal a decision to deny your application.

1. If you protest the suspension by the deadline, you can keep getting SSI while Social Security figures out if you qualify for a good cause exception. If you don't protest by your deadline to do so, the process will still take place, but you'll stop getting SSI. Social Security will only give back your SSI if you win your protest.

**You have 12 months to protest the notice of suspension at all.** After that, all you can do is take care of the underlying warrant, unless you qualify for the mandatory good cause exception. You'll probably have to reapply for SSI and wait for a new decision on your new application.

**What is the "fleeing felon rule?"**

This is a Social Security rule that you're not eligible to get SSI (<https://www.ssa.gov/ssi>) if you're fleeing prosecution or incarceration. Social Security will assume you're fleeing prosecution or incarceration if you have a **felony arrest warrant, even an old one, for a "crime of flight,"** meaning one of these:

- Escape from Custody
- Flight to Avoid Prosecution or Confinement
- Flight-escape

If you're applying for SSI when Social Security finds out that you're fleeing prosecution, they'll deny your application. If you're already getting SSI when they find out, they'll end your benefits and could try to get back what SSI they've already paid you (called charging you with an overpayment). If your spouse or children get SSI because they're your dependents, Social Security will decide that they're ineligible too.

**This Social Security rule also applies to juvenile offenders.** If you're under age 18, and you get dependent benefits (<https://www.ssa.gov/faqs/en/questions/KA-02053.html>), you could lose those benefits if Social Security believes you're avoiding prosecution or jail time, or you violated conditions of your release.

**Even if you no longer get SSI for other reasons,** Social Security may try to charge you with an overpayment if they think you got SSI during a period when you were avoiding prosecution or incarceration.

### **How do I protest the Notice of Suspension?**

The Notice should list a Social Security "**contact office**" for you to make your protest. You must put your protest in writing and keep a copy.

If you deliver the original protest letter to the contact office, ask the person taking it to date-stamp your copy. You can also send the letter using certified mail - return receipt requested. The post office will return the green receipt to you after delivering your letter. Keep that receipt with your copy of your protest letter for proof you protested the suspension of your SSI on time.

After you send your protest notice, you generally have 90 days to prove that Social Security shouldn't have stopped your SSI. During the 90 days, you must **do at least one of these**:

- Show Social Security proof that you satisfied (cleared) your warrant.

- Show Social Security proof of “good cause” to let you keep your SSI. You can ask Social Security for more time to get proof. Social Security may give you up to **90 more days** for this.
- Tell Social Security that you don’t have a warrant, that they’ve identified the wrong person.

### How can I show “good cause” to keep my SSI?

It depends on the facts of your situation. Social Security **must** let you keep your SSI if you can prove either of these:

- The court that issued or has authority over the warrant has found you not guilty of or dismissed the underlying offense, canceled the warrant for your arrest, or issued any similar clearing order.
- You’re not the person named in the warrant due to identity fraud.

Social Security also gives you a chance to show good cause for “mitigating circumstances.” There are 2 ways to prove this, called **Option A** and **Option B**.

**Option A**—you must prove all of these:

- The criminal offense you were charged with or convicted of was non-violent and not drug related.
- You haven’t been convicted of any other felonies since the warrant was issued.
- The law enforcement agency that issued the warrant reports it won’t extradite you or won’t act on the warrant.

**Option B**—you must prove all of these:

- The criminal offense with which you were charged or convicted was non-violent and not drug related.
- You weren’t convicted of any other felony crimes since the date the warrant was issued.
- The warrant is or was the only existing warrant, and was issued 10 or more years before the date the computer match processed the current warrant information.
- You can’t take care of a warrant due to certain disabilities listed in Social Security’s rules (<https://secure.ssa.gov/apps10/poms.nsf/lnx/0202613910>), **or** you can’t manage your own payments, **or** you’re legally incompetent, **or** Social Security has appointed a representative payee over your payments, **or** you live in a long-term care facility, such as a nursing home or mental treatment or care facility.

Social Security prefers proof of good cause to be official, such as on the letterhead of the court or law enforcement agency that issued the warrant or court document. If you can't provide this, you may come up with other good proof.

For **example**, you can use a fax from the agency that issued the warrant. It must have the name of the person making the report, that person's job position for the agency or court issuing the warrant, and the date. Social Security can also verify the facts through a call to or from the agency or court or your doctor or nursing home administrator.

**I lost the good cause exception. How else can I challenge the suspension?**

It depends. A Notice to Suspend benefits may come with a notice of overpayment. If you get both, follow the steps for both notices.

**Will this affect my other benefits?**

If Social Security decides that you're fleeing prosecution or incarceration, you may also lose other benefits, such as food stamps, Veterans benefits, TANF, Pregnant Persons Assistance, and Aged, Blind or Disabled (ABD) cash.

If you get a notice saying your DSHS or VA benefits have ended because you're fleeing prosecution or incarceration, try to talk to a lawyer.

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