

Control Unlawful Fugitive Felon Act of 2015

The *Control Unlawful Fugitive Felon (CUFF) Act of 2015* amends the Social Security Act to prohibit an individual who is the subject of an outstanding arrest warrant for a felony or parole violation from receiving Social Security Retirement and Disability benefits, Special World War II benefits, and Supplemental Security Income (SSI) payments. This bill addresses issues raised by three recent court cases, which have had the effect of expanding the eligibility of fugitive felons for government benefits. The bill effectively overturns those court cases, returning the implementation of this policy to its original intent of restricting government benefits for individuals avoiding prosecution, custody, or confinement for a crime or an attempt to commit a crime that is considered a felony, or violating a condition of probation or parole.

History of Federal Law

- In August 1996, President Clinton signed the welfare reform law, Public Law 104-193, the *Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, which restricted the eligibility of fugitive felons, and probation and parole violators for SSI benefits.
- Later the policy was expanded to Social Security Retirement and Disability benefits, and Special World War II benefits as part of P.L. 108-203, the *Social Security Protection Act of 2004*.

History of Court Cases

- In December 2005, the U.S. Court of Appeals for the Second Circuit issued a decision in [*Fowlkes v. Adamec*](#), which held that the existence of an outstanding arrest warrant does not make a beneficiary a fugitive felon and that the term “fleeing” means “the conscious evasion of arrest or prosecution.”
- In December 2006, [*Clark v. Astrue*](#) was filed, and the U.S. Court of Appeals for the Second Circuit ruled that SSA’s policy of suspending Social Security and SSI benefits whenever someone has an outstanding warrant for an alleged violation of probation or parole was unlawful. As part of the court decision in April 2012, as many as 140,000 beneficiaries had their [Social Security or SSI benefits restored](#) back to October 2006, at a total cost of nearly \$1 billion.
- In October 2008, in [*Martinez v. Astrue*](#), plaintiffs argued that SSA policy requiring only an outstanding felony warrant for an individual to be considered a fugitive felon is not consistent with the statute or regulations, which require a finding of flight. *Martinez* was settled in September 2009, which resulted in the restoration of over 200,000 Social Security and SSI benefit recipients and the repayment of \$700 million in benefits deemed unlawfully withheld from 80,000 people.
- As a result of these cases, SSA can discontinue benefits in only three [National Crime Information Center Uniform Offense Class Codes](#): (1) Escape; (2) Flight to avoid

prosecution, confinement, etc.; and (3) Flight-Escape, significantly limiting the scope and effectiveness of this policy.

Proposed Legislation and Rationale

- This bill revises the language of this provision to discontinue benefits for individuals who are “the subject of an arrest warrant ...” compared to the previous language of “fleeing to avoid” arrest, which was the main legal challenge.
- In cases in which benefits are discontinued, SSA has the authority to determine whether good cause exists for benefits to be restored with a [step-by-step procedure](#). SSA’s process will remain to obtain the names of individuals with outstanding warrants, as verified by the Social Security Inspector General, and to send the beneficiary a letter explaining the implications for future benefit payments. The burden to establish good cause is on the beneficiary.
- Examples of good cause include if the beneficiary was exonerated in court, erroneously implicated because of identity fraud, or accused of a non-violent and not drug-related crime.
- Most importantly, this legislation applies only to felony charges, or a crime carrying a minimum term of one or more years in prison. It is not the intent to punish individuals convicted of misdemeanors, such as outstanding parking tickets.
- If Social Security benefits are denied due to incorrect information, benefits can be restored once the affected individual resolves any outstanding issues with the appropriate SSA office.

Cost

A preliminary CBO estimate indicates this bill would result in savings of \$2.3 billion over ten years for the OASDI trust funds (off-budget mandatory savings) as well as \$2.5 billion over ten years in the SSI program (on-budget mandatory savings).