

Help SSI and Social Security Beneficiaries with Criminal/Traffic Debt Get Relief

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Many individuals—including people who receive benefits from the Social Security Administration (SSA)—have criminal or traffic court debt in state courts. Court debt can include fines, fees, restitution, interest, or other charges. Courts typically expect individuals with court debt to make payments, but low-income SSA beneficiaries may be struggling with this debt, while keeping up with basic living expenses.

Court debt can be especially burdensome for older adults and individuals with disabilities who receive Supplemental Security Income (SSI) or Social Security benefits. These individuals typically live on a fixed income and cannot work and earn substantial wages that would allow them to pay off this debt. Additionally, older adults have fewer remaining years in which they could potentially pay off debt.

Federal law provides a powerful right for these low-income SSA beneficiaries. But most people (including judges, attorneys, and SSA beneficiaries themselves) don't even know about it. This fact sheet describes the federal law, as well as information on the advocacy process as it works in Virginia. The federal law described here is applicable across the country, and the information in this fact sheet may be a helpful example for interested advocates everywhere.

THE LAW AND WHY IT MATTERS

This law is the SSA anti-alienation law, which mandates that “none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.” 42 U.S.C. § 407(a).

Courts around the country have found this provision to apply to court debt. This prohibition means that courts cannot count SSA benefits toward a person's income and cannot ask that people make any payments against court debt from those benefits, whether the court is trying to collect money or is setting up a payment plan.

For those Virginians whose sole source of income is SSA benefits, no payments should be expected toward their court debt (at least unless or until they have other income).

WHAT SSA BENEFICIARIES WITH COURT DEBT CAN DO

Affected Virginians, and their advocates, should raise this issue with courts where they owe court debt—it could reduce or even eliminate a debt causing financial stress, and it will help the courts gain experience with implementing the SSA anti-alienation requirement.

In most cases, SSA beneficiaries with court debt will either 1) have a payment plan with the court where they owe court debt (most typically overseen by the court clerk's office), or 2) be interacting with a collection agent overseeing that debt (which could include the Virginia Department of Taxation, the local Commonwealth's Attorney's office, a local treasurer, or a private agency). Beneficiaries should contact whoever is overseeing their court debt and ask that their SSA benefits not be counted as income in determining their ability to pay. If they have no other source of income, beneficiaries should ask that installment payments be set at zero, unless or until they have other income.

HAVE QUESTIONS?

Legal Aid Justice Center is working on this issue, and may be able to provide an answer. Email finesandfees@justice4all.org or call (804) 643-1086.

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