

What Do I Do If the Veterans Administration Stops My Benefits Because I Am A “Fugitive Felon”?

Am I a fugitive felon?

The **Veterans Administration** bars three types of felons from receiving VA benefits. The types are, (1) felony charges with an outstanding warrant; (2) felony conviction with an outstanding warrant, or (3) a violation of probation or parole when the underlying crime was a felony. Let’s look at each of these.

(1.) and (2.) Felony Warrants. A fugitive felon is someone who has an outstanding fugitive arrest warrant for a felony – which can be either a crime the law calls a felony or a crime that is punishable by at least a year in prison. You may be a fugitive felon if you have either been charged with or convicted of the felony. Here, we describe this type of felony as a “warrant.”

(3.) Violation of Probation or Parole. A fugitive felon is also defined as a person in violation of a condition of federal or state probation or parole. The crime underlying the probation or parole violation must be a felony. Here, we describe this type a felony as a “violation.”

How does being a fugitive felon affect my public benefits?

If you are a fugitive felon, you are not eligible for many federal and state public benefits. Your benefits for the following **federal programs** may be suspended:

- Social Security retirement;,
- Social Security Disability;
- Supplemental Security Income;
- Veterans benefits;
- Food Assistance; and
- TANF.

Your benefits for the following **state programs** may be terminated:

- SFA,
- General Assistance (GA) and
- Basic Food Assistance.

Eligibility for housing assistance is also affected. If you have been notified that your social security or DSHS benefits have been terminated, then see the publications titled, *What Do I Do If the Social Security Administration Stops My Benefits Because I Am A “Fleeing Felon?”* or *“What Do I Do If DSHS Stops My Benefits Because I Am A “Fleeing Felon?”* **This publication talks only about veteran benefits.**

Does being a fugitive felon affect benefits for my spouse and children?

Yes. A dependent of a veteran is not eligible for a death pension, Dependency and Indemnity Compensation (DIC), Civilian Health and Medical Program VA (CHAMPVA), or dependant's educational benefits when the veteran is a fugitive felon. Your spouse and your children will be punished for your fugitive felon status. Denied benefits include health care, services, and products.

What if I am a child and I am a fugitive felon?

The fugitive felon rule applies to juvenile offenders too. The child may lose health benefits, death benefits, DIC improved death benefits, or dependent's educational benefits. Where a family has a maximum family benefit amount, the removal of a fugitive felon child from dependent benefits will not increase the payment to the other children of that veteran when those other dependants are receiving the benefit. The VA will not pay benefits to your spouse either if she or he is a fugitive felon.

Does it matter if I didn't know or completely forgot about the warrants that make me a fugitive felon?

No. For the VA, the simple existence of a warrant or a violation appears to be enough to suspend your benefits.

If I know that I have an outstanding warrant, should I apply for benefits anyway?

No. This could cause you more problems down the line. The best plan would be to try to resolve the outstanding warrant before you apply for benefits. When you apply for federal or state public benefits, you will be asked whether you have any outstanding warrants or violations. If you know that you do, you must answer honestly. If you give your answer under oath and you don't tell the truth, then you may later be found guilty of fraud. This could result in jail time as well as in a requirement to pay back any benefits you got as a result of not telling the truth. Also if you apply for benefits and have an outstanding warrant or violation, the federal or state agency may notify the appropriate law enforcement agency of your whereabouts in order to help them to arrest you.

How far back may my benefits be suspended?

The VA maintains that you and your family were not eligible for any Veteran benefits while you were a fugitive felon. Using these eligibility rules, the VA looks back, finds the date that you became ineligible, and then notifies you that your benefits will be suspended or terminated effective that date. Since the law that created this fugitive felon status was not passed until 1995, it is unlikely that the VA can look farther back than that. The VA may also ask you to pay back any benefits you received after you became ineligible. This is called an overpayment.

What do I do when I am told that my benefits will be suspended because I am a fugitive felon?

The VA will send you a written notice, called a Notice of Adverse Decision, telling you that it intends to suspend your benefits by a certain date because you are a fugitive felon. Once the VA issues this adverse notice, there are three things you need to take care of. First, you need to act quickly to prevent your benefits from being suspended. Second, you will have to address the underlying warrant or violation. And third, if you are not successful at addressing the warrant or violation, you may have to work with an overpayment.

Look at the Notice of Adverse Decision. It should outline some of your rights.

a. Address the warrant or violation. The VA gives you **sixty days** to either resolve your fugitive felon status or prove that you are not a fugitive felon. If you do not resolve your fugitive felon status after sixty days, the Veterans Administration will cut-off all your benefits and will begin to transfer your care to a non-VA provider. You should know that most federal and state medical benefits will also not pay for your medical bills if you are a fugitive felon. The VA requires you to contact the state or federal agency that issued the warrant or the violation and resolve the matter with that state or federal agency and not with the VA.

The Notice of Adverse Decision from the VA should tell you where the warrant or violation was issued, the date it was issued, and why it was issued. If the Notice does not list this, contact the VA and get this information. Once you get this information, you must contact the federal or state agency that issued the warrant or violation and resolve the warrant or violation. First get a copy of the warrant or violation from the court that issued it. Then contact the federal or state agency that issued it. This is usually a prosecutor's office. Look for a name and address on the warrant or violation. In some areas, the local public defender will help you with getting the matter resolved.

You can show that you are not a fugitive felon if you provide proof that:

- (1) a mistake occurred due to mistaken identity;
- (2) the warrant should be cancelled;
- (3) you satisfied the warrant by being arrested or surrendering; or
- (4) there are other reasons to resolve the warrant.

If the agency that issued the warrant or violation won't dismiss it, then you must meet the terms of the warrant or violation. Try your best, either way, to resolve this within 60 days of the Notice of Adverse Decision.

b. File a Notice of Disagreement. You must file a Notice of Disagreement within **one year** of the adverse notice. A Notice of Disagreement begins the appeal process. If you have missed the 60 day window discussed just before this section, this may be your only way to appeal the adverse decision. This process may take a long time. Be sure that you understand and meet any deadlines given by the VA during the appeals process.

You should also request deferral or offset and waiver for the overpayment. See the section titled, “I just fulfilled the requirements of the warrant/violation and now the agency wants money back from me, what’s up?” below for these important deadlines.

Do I have to respond by a certain time?

Yes. The VA gives you sixty days to respond, and you must also meet the timelines for deferral, offset, or waiver.

How do I protest the Notice of Adverse Decision?

The Notice of Adverse Decision should list a contact office for you to send your protest. It is important that you meet the deadlines listed above, and you may do so by phone or by mail. It is very important to put your protest into writing too. Keep a copy of your notice of disagreement letter, and either deliver the original to the contact office, in which case you should ask the person taking your letter from you to date stamp your copy of the letter, or send the letter via certified mail, return receipt requested. The post office will return the green return receipt to you after your letter is delivered. Keep this return receipt with your copy of your notice of disagreement letter. This is your proof that you did file your notice of disagreement to the suspension of your benefits on time.

What if I am not currently getting benefits but I used to and now the VA is telling me I was not eligible then because I was a fugitive felon?

You may get a notice of an overpayment from the VA because it says it paid you benefits during a period when you were a fugitive felon. Follow the instruction given in the section titled, “What do I do when I am told that my benefits will be suspended because I am a fugitive felon.”

I just fulfilled the requirements of the warrant/violation and now the agency wants money back from me, what’s up?

If you satisfy the warrant or violation the VA will try to recover any monies paid to you during the time that you were a fugitive felon. File a written notice of disagreement as outlined in the section titled “*What do I do when I am told that my benefits will be suspended because I am a fugitive felon?*” Follow the instructions in that section to appeal the overpayment.

a. **Request Deferral or Offset of an Overpayment.** You must request a deferral or offset within **thirty days** of the notice, and the thirty days starts from the date of the notice – not the date of the mailing of the notice.

b. **Request Waiver of an Overpayment.** You also have **180 days** from the date of the notice to request waiver. Waiver means that you are asking the VA to forgive the debt. The VA will have you complete Form 5655. If the VA denies waiver, you may

appeal that decision. The VA will grant waiver if you show that it meets their “equity and good conscience” standard. Here are some criteria for that standard.

- i. Was the veteran at fault in creating the bad financial decision?
- ii. What happens when the veteran’s fault is weighed against the VA’s fault?
- iii. Will collecting the debt result in “undue financial hardship” for the veteran or her or his family by depriving them of basic family necessities?
- iv. Will collecting the debt “defeat the purpose” of the pension program, that is cancel the purpose of the benefit?
- v. Will the veteran be “unjustly enriched” if the VA does not collect the debt?
- vi. Did the veteran change her or his position to the veteran’s detriment based on a statement by the VA on which the veteran should reasonably have relied (also called equitable estoppel)?

The VA is unlikely to grant waiver if any of the following can be shown:

- i. The veteran engaged in fraud or misrepresentation of a “material fact” in getting the benefits from the VA. A material fact is that information which you were required to provide to the VA when you applied for the benefit.
- ii. The veteran did not act in good faith.

Do you have any final words of advice?

If it looks like it will take you more than sixty days to resolve your fugitive felon issue, then be sure to stock-up on medications before hand. Also, make sure that you have scheduled any appointments to see your medical providers before the sixty days is over.

If you are already past the sixty day period, then there may be programs in your area that provide low cost prescription drugs. Really emergent medical needs may be addressed at the emergency room of your local hospital. Be sure to ask for charity care coverage from the hospital billing department. You can better understand how this program works by looking at our publication called, “[*Charity Care- Medical Coverage for Hospital Based Medical Services.*](#)”

7704EN

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.
This information is current as of the date of its printing, July 2007.

© 2007 Northwest Justice Project — 1-888-201-1014, TTY 1-888-201-9737

(Permission for copying and distribution granted to the Alliance for Equal Justice and to individuals for non-commercial purposes only.)