

June 26, 2017

Dear Members of Congress:

On behalf of the 119 undersigned organizations, we **urge you to oppose** efforts to cut Supplemental Security Income (SSI) to offset the costs of the Maternal, Infant, and Early Childhood Home Visiting Program (MIECHV program).

H.R. 2824 would reauthorize the MIECHV program, which funds voluntary, evidence-based home visiting programs for at-risk pregnant women and parents with young children up to kindergarten entry. The current MIECHV program has demonstrated beneficial outcomes associated with improved maternal and child health, including increased access to screening and early intervention for childhood disabilities.

Unfortunately, H.R. 2824 proposes to pay to extend this valuable maternal and child home visiting program by cutting off SSI entirely for certain adolescents and adults with disabilities, as well as seniors.

H.R. 2824 would **revive an old, failed policy** that had catastrophic effects for many people with disabilities and seniors, employing procedures that did not withstand judicial scrutiny. The Social Security Act currently prohibits SSI payments to individuals fleeing from law enforcement to avoid prosecution or imprisonment. The existing system is already working to ensure that those who shouldn't be paid SSI benefits don't receive them.

The proposed cut, Section 201 of H.R. 2824, would bar payment of SSI benefits to people with an outstanding arrest warrant for an alleged felony or for an alleged violation of probation or parole. Most of the warrants in question are decades old and involve minor infractions, including warrants routinely issued when a person was unable to pay a fine or court fee, or a probation supervision fee.

Based on prior experience with SSA's failed former policy, the people who would be affected are **those whose cases are inactive and whom law enforcement is not pursuing**. Many people are not even aware that a warrant was issued for them, as warrants are often not served on the individual. A very high percentage of people who would lose benefits have mental illness or intellectual disability. Many are unaware of the violation, may not have understood the terms of parole or probation, or may have other misunderstandings about their case.

Warrant databases are notoriously inaccurate. Fourteen percent of the arrest warrants processed by the federal Warrant Information Network in 2004 were later dismissed by the court or returned unexecuted.¹ The state of Alabama, even with an audit mechanism

¹ Brief for Petitioner at 35, *Herring v. United States*, 555 U.S. 135, No. 07-513 (2009) (citing U.S. Dep't of Justice, Bureau of Justice Statistics, *Compendium of Federal Justice Statistics*, 2004, at 16 (2006)).

in place, reported a 13% error rate in its arrest warrant databases.² Due to these kinds of inaccuracies, some people will have their SSI benefits cut off as a result of mistaken identity, or paperwork errors, which can take months or even years to resolve.

When this failed policy was previously implemented by SSA, many of those who had their benefits cut off had no arrest warrant outstanding against them. For example, Rosa Martinez, the lead plaintiff in *Martinez v. Astrue* was, in 2008, a 52-year old woman who received notice from SSA that she was losing her disability benefits because of a 1980 arrest warrant for a drug offense in Miami, Florida. Ms. Martinez had never been to Miami, never been arrested, never used illegal drugs, and is eight inches shorter than the person described in the warrant. Despite an obvious case of mistaken identity, Ms. Martinez was left without her sole source of income. It was only after filing a lawsuit in federal court that Ms. Martinez was able to have her benefits restored.

Resolving outstanding warrants can be very difficult and costly. People often must go before a judge in the issuing jurisdiction, and typically need counsel to assist them in navigating the process. Often, people have moved in the intervening years and live far away from the issuing jurisdiction. The proposed offset would cut off all SSI income. Losing this income will cause many people to become homeless and unable to meet their basic needs, much less resolve a warrant, a case of mistaken identity, or an error in the warrant database. Completely cutting off SSI benefits will leave people with little recourse to resolve an outstanding warrant, representing a step backward in bipartisan efforts towards criminal justice reform.

By relying on databases of outstanding arrest warrants, this proposal seeks to punish people by presuming their guilt, undermining the presumption of innocence that is the bedrock of our criminal justice system. The existence of an arrest warrant does not establish that any criminal conduct has occurred. Many arrests do not result in criminal charges, or the charges are eventually dismissed.³ Even if an individual is charged and subsequently prosecuted, he or she is presumed innocent until proven guilty.

The proposed offset also will have a **disproportionate impact on people of color**. People who are on probation are particularly susceptible to having an outstanding arrest warrant. Parolees and probationers are disproportionately people of color – in 2015, 13% of adults on probation were Hispanic, and 30% of adults on probation were African American.⁴

² Wayne A. Logan and Andrew Guthrie Ferguson, "Policing Criminal Justice Data," 101 *Minn. L. Rev.* 541, 600 n.357 (citing Transcript of Oral Argument at 26, 45–47, *Herring v. United States*, 555 U.S. 135, 154 (No. 07-513) (2009)).

³ See Thomas H. Cohen and Tracey Kyckelhahn, U.S. Department of Justice, Bureau of Justice Statistics, *Felony Defendants in Large Urban Counties, 2006*, at 10, Table 11 (2010), <http://bjs.ojp.usdoj.gov/content/pub/pdf/fdluc06.pdf> (reporting that in the 75 largest counties in the country, nearly one-third of the felony arrests did not result in a conviction because the charges against the defendants were dismissed).

⁴ U.S. Department of Justice, Bureau of Justice Statistics, *Probation and Parole in the United States 5* (2015), online at <https://www.bjs.gov/content/pub/pdf/ppus15.pdf>.

Finally, the proposed offset could harm some of the very same children who we seek to help through home visiting. In any given month, approximately 2.7 million children are estimated to live with a family member who is a senior or adult with a disability who receives SSI.⁵ These children's families are overwhelmingly the same types of families served by the MIECHV program: over 3 in 5 families with a SSI recipient age 18 or older have a total family income below 150% of the federal poverty level, and SSI makes up on average about 40 percent of these families' income.⁶ Cutting off SSI income would put families at risk of being unable to keep a roof over their heads, put food on the table, and meet other basic needs – including children's and mothers' health needs.

H.R. 2824 would also harm Social Security beneficiaries – since over half of SSI recipients who are elderly, and almost one-third of SSI recipients with disabilities, are Social Security beneficiaries.⁷

In closing, we reiterate that although the MIECHV program has demonstrated beneficial outcomes, and reauthorization must be a priority, it should not come at the expense of cuts to SSI, which would harm seniors, adolescents and adults with disabilities, and their families, and should not be raided as a pay-for for an unrelated program. We urge the U.S. Congress to reject any proposals to offset the costs of reauthorizing the MIECHV program by cutting SSI benefits.

Sincerely,

National Organizations

AFL-CIO
AFSCME
Aging Life Care Association
Alliance for Children's Rights
Alliance for Retired Americans
American Academy of Pediatrics
American Psychological Association
Association of Jewish Aging Services
Association of University Centers on Disabilities
Bazelon Center for Mental Health Law
Center for American Progress
Center for Law and Social Policy (CLASP)

⁵ Center on Budget and Policy Priorities analysis of Census Bureau data for 2014 from the March Current Population Survey; corrections for underreported benefits from U.S. Department of Health and Human Services/Urban Institute TRIM model.

⁶ Table 12 and Table 11 in Michelle Stegman Bailey & Jeffrey Hemmeter, *Characteristics of Noninstitutionalized DI and SSI Program Participants, 2013 Update*, Social Security Administration, Research and Statistics Note No. 2015-02 (Sept. 2015), <https://www.ssa.gov/policy/docs/rsnotes/rsn2015-02.html>.

⁷ Table V.F1. Percentage of SSI Federally Administered Recipients in Current-Payment Status with Participation in Selected Programs Based on SSA Administrative Records, December 2015, in *Annual Report of the Supplemental Security Income Program*, Social Security Administration (2016), https://www.ssa.gov/oact/ssir/SSI16/V_F_OtherPrograms.html#1049334.

Coalition on Human Needs
Consortium for Citizens with Disabilities Social Security Task Force
Defending Rights and Dissent
Easterseals
Economic Policy Institute Policy Center
FedCURE
FORGE, Inc.
Gray Panthers
Hand in Hand: The Domestic Employers Network
Harm Reduction Coalition
Institute for Science and Human Values
Justice in Aging
Justice Strategies
Latinos for a Secure Retirement
Leadership Conference on Civil and Human Rights
League of United Latin American Citizens
Legal Services for Prisoners with Children
Lutheran Services in America Disability Network
NAACP
NAACP Legal Defense and Educational Fund, Inc.
National Alliance on Mental Illness
National Association of Disability Representatives
National Black Justice Coalition
National Center for Lesbian Rights
National Center for Transgender Equality
National Committee to Preserve Social Security and Medicare
National Council of Churches
National Disability Rights Network
National Employment Law Project
National LGBTQ Task Force Action Fund
National Organization for Women
National Organization of Social Security Claimants' Representatives (NOSSCR)
National Women's Law Center
Paralyzed Veterans of America
People Demanding Action
PolicyWorks, Inc.
Polio Survivors Association
Prison CONversation
Rainbow PUSH Coalition
Resources for Independent Living
Root & Rebound
Sargent Shriver National Center on Poverty Law
Service Employees International Union
Social Security Works
StoptheDrugWar.org
The Arc of the United States

Union for Reform Judaism

State/Local Organizations

2-1-1 California
ABD Productions / Skywatchers
ADAPT Montana
Alameda County Community Food Bank
Berkeley Food Network
BNICEH (Black Network In Children's Emotional Health)
California Association of Food Banks
California Association of Public Authorities for In-Home Supportive Services
California Church IMPACT
California Council of the Blind
California Food Policy Advocates
California In-Home Supportive Services Consumer Alliance
California Office of the State Long-Term Care Ombudsman
California OneCare
California Partnership
Californians for Disability Rights, Inc.
Californians for SSI
Center for Independence of the Disabled, NY
Coalition of California Welfare Rights Organizations
Columbia Legal Services
Community Legal Services of Philadelphia
Community Service Society of New York
Communities Actively Living Independent & Free
Disability Law Center, Massachusetts
Disability Law Center, Utah
Disability Policy Consortium of Massachusetts
Disability Rights California
DisAbility Rights Idaho
Disability Rights New Jersey
Disability Rights North Carolina
Disability Rights Wisconsin
Empire Justice Center
Friends In Deed
GetTogether Adult Day Health Care Center
Homeboy Industries
Hunger Action Los Angeles
IMPRUVE (Independent Movement of Paratransit Riders for Unity, Vehicles, Equality)
Jewish Family Service of Los Angeles
Kentucky Protection and Advocacy
Legal Aid Society of San Mateo County
Legal Council for Health Justice
Little Tokyo Service Center

MFY Legal Services, Inc.
National Association of Social Workers, California Chapter
Northern California ADAPT
Ohio Association of Local Reentry Coalitions
Personal Assistance Services Council
Public Counsel
PUEBLO People United For a Better Life in Oakland
Pushing Limits Radio (KPFA)
Rubicon Programs
San Francisco Senior & Disability Action
Senior and Disabled Fund of San Bernardino County
Senior Services Coalition of Alameda County
Sonoma County Homeless Action!
St. Anthony Foundation
St. Mary's Center
UC Hastings Community Justice Clinics' Individual Representation Clinic
Urban Justice Center
Western Center on Law and Poverty