

AMENDED IN SENATE AUGUST 22, 2014
AMENDED IN SENATE AUGUST 19, 2014
AMENDED IN SENATE AUGUST 4, 2014
AMENDED IN ASSEMBLY APRIL 22, 2014
AMENDED IN ASSEMBLY APRIL 3, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1614

Introduced by Assembly Member Stone

February 6, 2014

*An act to amend Section 17325 of the Family Code, to amend Section 123302 of the Health and Safety Code, and to amend Section 10072 of the Welfare and Institutions Code, relating to ~~public social services~~: *electronic transfers*.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1614, as amended, Stone. ~~Electronic benefits transfer cards~~: *transfers: payments and benefits*.

(1) Existing law provides for financial and food assistance benefits to needy Californians including, among other programs, the California Work Opportunity and Responsibility to Kids (CalWORKs) program and CalFresh, under which each county provides for financial and food assistance benefits to qualified individuals who meet specified eligibility criteria.

Existing law, administered by the State Department of Social Services, provides for the establishment of a statewide electronic benefits transfer (EBT) system for the purpose of providing those financial and food

assistance benefits. Existing law authorizes a county to deliver CalFresh benefits and, upon election by the county, CalWORKs benefits through the use of an EBT system. Existing law requires, among other things, that the system have a 24-hour per day toll-free telephone hotline for the reporting of lost or stolen cards that will provide recipients with information on how to have the card and personal identification card number replaced.

This bill would require the 24-hour toll-free telephone hotline to provide recipients, at no additional cost, the above-described information and to allow an authorized representative or head of household to access or request the transaction history detail, as specified. This bill would require the system to have an Internet Web site that will provide the same information and allow an authorized representative or head of household to view or request the transaction history detail.

The bill would require a county human services agency to make available to an authorized representative or head of household all electronic benefit transaction history details that are available to the county human services agency within 10 business days after a request has been received.

This bill would also require that the EBT system be designed to inform recipients when the system does not function or is expected not to function for more than a one-hour period between 6 a.m. and midnight during any 24-hour period.

(2) Existing law, except as specified, authorizes a recipient to be charged a fee, not to exceed the amount allowable by applicable state and federal law and customarily charged to other customers, for cash withdrawal transactions that exceed 4 per month.

This bill would require the EBT system to be designed to ensure that recipients of benefits under the CalWORKs program have access to using or withdrawing benefits with minimal fees or charges, including an opportunity to access benefits with no fees or charges.

(3) Existing law requires that EBT system consumers be informed regarding how to use the EBT card and how to protect the card from misuse.

This bill would also require a consumer to be informed of where they can use their EBT cards to withdraw benefits without incurring a fee, charge, or surcharge. This bill would also require the county to use information provided by the department to inform recipients of benefits under the CalWORKs program of, among other things, the methods of electronic delivery of benefits available and any applicable fees, charges,

or surcharges associated with the EBT system. ~~The bill would also require a county to inform recipients of benefits under the CalWORKs program of additional options to which they are entitled regarding the receipt of benefits.~~

(4) The bill would require the department to implement these provisions by all-county letters or similar instructions no later than April 1, 2015, and until regulations are adopted on or before October 1, 2016.

This bill would also make a conforming change.

By increasing the duties of counties in administering public social services programs, this bill would impose a state-mandated local program.

(5) Existing law obligates a parent to support his or her child. Existing law establishes the Department of Child Support Services within the California Health and Human Services Agency, which administers all services and performs all functions necessary to establish, collect, and distribute child support. Existing law, commencing January 1, 2015, requires, if child support payments are directly deposited to an account of the recipient's choice, that the payments only be deposited to a qualifying account, as defined, and prohibits a person or entity that issues a prepaid card or maintains or manages a prepaid card account from accepting or facilitating the direct deposit of child support payments to a prepaid card account that does not meet the requirements of a qualifying account.

This bill would prohibit the Department of Child Support Services from being held liable for authorizing a direct deposit of child support payments into a prepaid card account designated by the recipient that does not meet the requirements of a qualified account.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17325 of the Family Code, as added by
2 Section 1 of Chapter 180 of the Statutes of 2014, is amended to
3 read:

4 17325. (a) (1) Notwithstanding any other law, if child support
5 payments are directly deposited to an account of the recipient’s
6 choice, as authorized under the federal Electronic Fund Transfer
7 Act (EFTA) (15 U.S.C. Sec. 1693 et seq.), the payments may only
8 be deposited to an account that meets the requirements of a
9 qualifying account, as defined in paragraph (2), for deposit of child
10 support payments.

11 (2) For purposes of this section, a “qualifying account” is one
12 of the following:

13 (A) A demand deposit or savings account at an insured financial
14 institution in the name of the person entitled to the receipt of child
15 support payments.

16 (B) A prepaid card account that meets all of the following:

17 (i) The account is held at an insured financial institution.

18 (ii) The account is set up to meet the requirements for
19 passthrough deposit or share insurance so that the funds accessible
20 through the account are eligible for insurance for the benefit of
21 the person entitled to the receipt of child support payments by the
22 Federal Deposit Insurance Corporation in accordance with Part
23 330 of Title 12 of the Code of Federal Regulations, or the National
24 Credit Union Share Insurance Fund in accordance with Part 745
25 of Title 12 of the Code of Federal Regulations.

26 (iii) The account is not attached to any credit or overdraft feature
27 that is automatically repaid from the account after delivery of the
28 payment.

29 (iv) The issuer of the card complies with all of the requirements,
30 and provides the holder of the card with all of the consumer
31 protections, that apply to a payroll card account under the rules
32 implementing the EFTA or other rules subsequently adopted under
33 the EFTA that apply to prepaid card accounts.

34 (3) A person or entity that issues a prepaid card or maintains or
35 manages a prepaid card account that does not comply with
36 paragraph (2) shall not accept or facilitate the direct deposit of
37 child support payments to the prepaid card account.

1 (b) For purposes of this section, the department shall not be
2 held liable for authorizing a direct deposit of child support
3 payments into a prepaid card account designated by the recipient
4 that does not comply with paragraph (2) of subdivision (a).

5 ~~(b)~~

6 (c) For the purposes of this section, the following definitions
7 shall apply:

8 (1) “Financial institution” means a state or national bank, a state
9 or federal savings and loan association, a mutual savings bank, or
10 a state or federal credit union.

11 (2) “Issuer” means a person or entity that issues a prepaid card.

12 (3) “Payroll card account” shall have the same meaning as that
13 term is defined in the regulations implementing the EFTA.

14 (4) “Prepaid card” or “prepaid card account” means either of
15 the following:

16 (A) A card, code, or other means of access to funds of a recipient
17 that is usable at multiple, unaffiliated merchants for goods or
18 services, or usable at automated teller machines.

19 (B) The same as those terms or related terms are defined in the
20 regulations adopted under the EFTA regarding general use
21 reloadable cards.

22 ~~SECTION 4.~~

23 *SEC. 2.* Section 123302 of the Health and Safety Code is
24 amended to read:

25 123302. (a) (1) Notwithstanding any other law, the department
26 may design, implement, and fund an electronic benefits transfer
27 (EBT) system for the California Special Supplemental Food
28 Program for Women, Infants, and Children. Sections 10066, 10067,
29 and 10068 of, and subdivision ~~(t)~~ (m) of Section 10072 of, the
30 Welfare and Institutions Code, shall apply to the administration
31 of this section.

32 (2) The department shall not implement any EBT system
33 authorized by this section until the department completes a
34 feasibility study, and funding for the system is provided in the
35 annual Budget Act.

36 (b) The department shall seek the advice of the Electronic
37 Benefits Transfer Committee, created by Section 10067 of the
38 Welfare and Institutions Code, in implementing this section, and
39 shall obtain the approval of the United States Department of

1 Agriculture, which is the federal governing agency, prior to the
 2 establishment of any EBT system.

3 (c) The department shall develop a plan to determine the
 4 feasibility of implementing an EBT system for the California
 5 Special Supplemental Food Program for Women, Infants, and
 6 Children by January 1, 2003, and shall report its findings to the
 7 Legislature by July 1, 2003.

8 ~~SEC. 2.~~

9 *SEC. 3.* Section 10072 of the Welfare and Institutions Code is
 10 amended to read:

11 10072. The electronic benefits transfer system required by this
 12 chapter shall be designed to do, but not be limited to, all of the
 13 following:

14 (a) To the extent permitted by federal law and the rules of the
 15 program providing the benefits, recipients who are required to
 16 receive their benefits using an electronic benefits transfer system
 17 shall be permitted to gain access to the benefits in any part of the
 18 state where electronic benefits transfers are accepted. All electronic
 19 benefits transfer systems in this state shall be designed to allow
 20 recipients to gain access to their benefits by using every other
 21 electronic benefits transfer system.

22 (b) To the maximum extent feasible, electronic benefits transfer
 23 systems shall be designed to be compatible with the electronic
 24 benefits transfer systems in other states.

25 (c) All reasonable measures shall be taken in order to ensure
 26 that recipients have access to electronically issued benefits through
 27 systems such as automated teller machines, point-of-sale devices,
 28 or other devices that accept electronic benefits transfer transactions.
 29 Benefits provided under Chapter 2 (commencing with Section
 30 11200) of Part 3 shall be staggered over a period of three calendar
 31 days, unless a county requests a waiver from the department and
 32 the waiver is approved, or in cases of hardship pursuant to
 33 subdivision (p).

34 (d) The system shall provide for reasonable access to benefits
 35 to recipients who demonstrate an inability to use an electronic
 36 benefits transfer card or other aspect of the system because of
 37 disability, language, lack of access, or other barrier. These
 38 alternative methods shall conform to the requirements of the
 39 Americans with Disabilities Act (42 U.S.C. Sec. 12101, et seq.),
 40 including reasonable accommodations for recipients who, because

1 of physical or mental disabilities, are unable to operate or otherwise
2 make effective use of the electronic benefits transfer system.

3 (e) The system shall permit a recipient the option to choose a
4 personal identification number, also known as a “PIN” number,
5 to assist the recipient to remember his or her number in order to
6 allow access to benefits. Whenever an institution, authorized
7 representative, or other third party not part of the recipient
8 household or assistance unit has been issued an electronic benefits
9 transfer card, either in lieu of, or in addition to, the recipient, the
10 third party shall have a separate card and personal identification
11 number. At the option of the recipient, he or she may designate
12 whether restrictions apply to the third party’s access to the
13 recipient’s benefits. At the option of the recipient head of
14 household or assistance unit, the county shall provide one electronic
15 benefits transfer card to each adult member to enable them to
16 access benefits.

17 (f) The system shall have a 24-hour per day toll-free telephone
18 hotline for the reporting of lost or stolen cards that will provide
19 recipients, at no additional cost to the recipient, with information
20 on how to have the card and personal identification number
21 replaced, and that will allow an authorized representative or head
22 of household to access, over the telephone, the transaction history
23 detail for at least the last 10 transactions and to request that the
24 transaction history detail for at least the past two months be sent
25 by mail.

26 (g) The system shall have an Internet Web site that will provide
27 recipients, at no additional cost to the recipient, with information
28 on how to have the card and personal identification number
29 replaced, and that will allow an authorized representative or head
30 of household to view the transaction history detail for at least the
31 last 10 transactions and to request that the transaction history detail
32 for at least the past two months be sent by mail.

33 (h) In addition to the ability to receive transaction history detail
34 pursuant to subdivisions (f) and (g), a county human services
35 agency shall make available to an authorized representative or
36 head of household, at no additional cost to the authorized
37 representative or head of household, all electronic benefit
38 transaction history details that are available to the county human
39 services agency within 10 business days after a request has been
40 received by the agency.

1 (i) (1) A recipient shall not incur any loss of electronic benefits
2 after reporting that his or her electronic benefits transfer card or
3 personal identification number has been lost or stolen. The system
4 shall provide for the prompt replacement of lost or stolen electronic
5 benefits transfer cards and personal identification numbers.
6 Electronic benefits for which the case was determined eligible and
7 that were not withdrawn by transactions using an authorized
8 personal identification number for the account shall also be
9 promptly replaced.

10 (2) A recipient shall not incur any loss of cash benefits that are
11 taken by an unauthorized withdrawal, removal, or use of benefits
12 that does not occur by the use of a physical EBT card issued to the
13 recipient or authorized third party to directly access the benefits.
14 Benefits taken as described in this paragraph shall be promptly
15 replaced in accordance with the protocol established by the
16 department pursuant to paragraph (3).

17 (3) The State Department of Social Services shall establish a
18 protocol for recipients to report electronic theft of cash benefits
19 that minimizes the burden on recipients, ensures prompt
20 replacement of benefits in order to minimize the harm to recipients,
21 and ensures program integrity. This protocol may include the
22 automatic replacement of benefits without the need for recipient
23 reporting and verification.

24 (j) Electronic benefits transfer system consumers shall be
25 informed on how to use electronic benefits transfer cards, how to
26 protect their cards from misuse, and where consumers can use their
27 cards to withdraw benefits without incurring a fee, charge, or
28 surcharge.

29 (k) The electronic benefits transfer system shall be designed to
30 inform recipients when the electronic benefits transfer system does
31 not function or is expected not to function for more than a one-hour
32 period between 6 a.m. and midnight during any 24-hour period.
33 This information shall be made available in the recipient's preferred
34 language if the electronic benefits transfer system vendor contract
35 provides for services in that language.

36 (l) Procedures shall be developed for error resolution.

37 (m) No fee shall be charged by the state, a county, or an
38 electronic benefits processor certified by the state to retailers
39 participating in the electronic benefits transfer system.

1 (n) Except for CalFresh transactions, a recipient may be charged
2 a fee, not to exceed the amount allowed by applicable state and
3 federal law and customarily charged to other customers, for cash
4 withdrawal transactions that exceed four per month.

5 (o) The electronic benefits transfer system shall be designed to
6 ensure that recipients of benefits under Chapter 2 (commencing
7 with Section 11200) of Part 3 have access to using or withdrawing
8 benefits with minimal fees or charges, including an opportunity
9 to access benefits with no fee or charges.

10 (p) A county shall exempt an individual from the three-day
11 staggering requirement under subdivision (c) on a case-by-case
12 basis for hardship. Hardship includes, but is not limited to, the
13 incurrence of late charges on an individual's housing payments.

14 (q) A county shall use information provided by the department
15 to inform recipients of benefits under Chapter 2 (commencing with
16 Section 11200) of Part 3 of all of the following:

17 (1) The methods of electronic delivery of benefits available,
18 including distribution of benefits through the electronic benefits
19 transfer system or direct deposit pursuant to Section 11006.2.

20 (2) Applicable fees and charges, including surcharges, consumer
21 and privacy protections, and liability for theft associated with the
22 electronic benefits transfer system.

23 (3) How to avoid fees and charges, including opting for delivery
24 of benefits by direct deposit and using the electronic benefits
25 transfer card solely at surcharge free locations.

26 (4) Where to withdraw benefits without a surcharge when using
27 the electronic benefits transfer system.

28 ~~(r) A county shall inform a recipient of benefits under Chapter~~
29 ~~2 (commencing with Section 11200) of Part 3 of all of the~~
30 ~~following:~~

31 ~~(1)~~

32 (5) That a recipient may authorize any available method of
33 electronic delivery of benefits and instructions regarding how the
34 recipient may select or change his or her preferred method of
35 electronic delivery of benefits and that the recipient shall be given
36 the opportunity to select the method prior to the first payment.

37 ~~(2)~~

38 (6) That a recipient may be entitled to an alternative method of
39 delivery if the recipient demonstrates an inability to use an
40 electronic benefits transfer card or other aspect of the system

1 because of disability, language, lack of access, or other barrier
2 pursuant to subdivision (d) and instructions regarding how to
3 determine whether the recipient qualifies for an alternative method
4 of delivery.

5 ~~(3)~~

6 (7) That a recipient may be entitled to an exemption from the
7 three-day staggering requirement under subdivision (c) on a
8 case-by-case basis for hardship pursuant to subdivision (o) and
9 instructions regarding how to determine whether the recipient
10 qualifies for the exemption.

11 (r) A county is in compliance with subdivision (q) if it provides
12 the recipient a copy of the information developed by the
13 department. A county may provide a recipient information, in
14 addition to the copy of the information developed by the
15 department, pursuant to subdivision (q), either verbally or in
16 writing, if the county determines the additional information will
17 benefit the recipient's understanding of the information provided.

18 ~~SEC. 3.~~

19 SEC. 4. Notwithstanding the rulemaking provisions of the
20 Administrative Procedure Act (Chapter 3.5 (commencing with
21 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
22 Code), the ~~department~~ State Department of Social Services shall
23 implement Sections 2 and 3 of this act by all-county letters or
24 similar instructions no later than April 1, 2015, and until regulations
25 are developed. The department shall adopt regulations
26 implementing this act on or before October 1, 2016.

27 ~~SEC. 4.~~

28 SEC. 5. If the Commission on State Mandates determines that
29 this act contains costs mandated by the state, reimbursement to
30 local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.