

**Assembly Bill No. 1614**

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Passed the Assembly August 27, 2014

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*Chief Clerk of the Assembly*

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Passed the Senate August 26, 2014

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2014, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

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 electronic transfers.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1614, Stone. Electronic 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.

(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.

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

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

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

(2) For purposes of this section, a "qualifying account" is one of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The department shall seek the advice of the Electronic Benefits Transfer Committee, created by Section 10067 of the Welfare and Institutions Code, in implementing this section, and shall obtain the approval of the United States Department of Agriculture, which is the federal governing agency, prior to the establishment of any EBT system.

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

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

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

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

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

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

(d) The system shall provide for reasonable access to benefits to recipients who demonstrate an inability to use an electronic benefits transfer card or other aspect of the system because of disability, language, lack of access, or other barrier. These alternative methods shall conform to the requirements of the Americans with Disabilities Act (42 U.S.C. Sec. 12101, et seq.), including reasonable accommodations for recipients who, because of physical or mental disabilities, are unable to operate or otherwise make effective use of the electronic benefits transfer system.

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

(f) The system shall have a 24-hour per day toll-free telephone hotline for the reporting of lost or stolen cards that will provide recipients, at no additional cost to the recipient, with information on how to have the card and personal identification number replaced, and that will allow an authorized representative or head of household to access, over the telephone, the transaction history detail for at least the last 10 transactions and to request that the

transaction history detail for at least the past two months be sent by mail.

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

(h) In addition to the ability to receive transaction history detail pursuant to subdivisions (f) and (g), a county human services agency shall make available to an authorized representative or head of household, at no additional cost to the 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 by the agency.

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

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

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

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

(k) The electronic benefits transfer system shall be designed to inform recipients when the electronic benefits transfer 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. This information shall be made available in the recipient's preferred language if the electronic benefits transfer system vendor contract provides for services in that language.

(l) Procedures shall be developed for error resolution.

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

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

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

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

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

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

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

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

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

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

(6) That a recipient may be entitled to an alternative method of delivery if the recipient demonstrates an inability to use an electronic benefits transfer card or other aspect of the system because of disability, language, lack of access, or other barrier pursuant to subdivision (d) and instructions regarding how to determine whether the recipient qualifies for an alternative method of delivery.

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

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

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

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made

pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.









Approved \_\_\_\_\_, 2014

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*Governor*