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## Early Learning & Human Services Committee

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### SSB 6386

**Brief Description:** Enacting measures to reduce public assistance fraud.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Carrell, Becker, Zarelli, Hargrove, Delvin, Schoesler, Honeyford and Keiser).

#### Brief Summary of Substitute Bill

- Prohibits the use of an electronic benefit transfer (EBT) card by a recipient's family member who is not the recipient's authorized representative, an alternative card holder, or protective payee.
- Prohibits the Department of Social and Health Services from assigning a personal identification number (PIN) for an EBT card that contains any sequence of numbers that appears on the face of the card.
- Authorizes the Office of Fraud and Accountability to have access to child care records maintained by child care providers by consent, court order, or valid search warrant.
- Provides that the attempt to sell or exchange public assistance food benefits is a gross misdemeanor or misdemeanor offense, based upon the amount of the benefit.
- Provides that it is a class C felony or gross misdemeanor to initiate, organize, plan, finance, direct, manage, or supervise the theft for sale to others of public assistance food benefits;
- Requires the Office of Fraud and Accountability, the State Auditor's Office, and the Department of Early Learning to collaborate in an effort to identify and review overpayments and to provide the Legislature with recommendations for monetary and detection systems to prevent over payments.

**Hearing Date:** 2/20/12

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Linda Merelle (786-7092).

**Background:**

Public assistance benefits may be provided in the form of an electronic benefit transfer (EBT) card. Only the recipient or the recipient's authorized representative may use an EBT card or EBT card benefits, and the use may only be for the respective benefit purposes. The recipient may not sell, or attempt to sell, exchange, or donate an EBT card or any benefits to any other person or entity. The first violation of the use of an EBT card is a class 4 civil infraction. The penalty for the second and subsequent violations constitute a class 3 civil infraction.

In 2011 the Office of Fraud and Accountability (OFA) was established in the Department of Social and Health Services (DSHS) to detect, investigate, and prosecute any act that constitutes fraud or abuse in the public assistance programs administered by the DSHS except for Medicaid and other medical programs. The OFA is directed to conduct independent investigations into allegations of fraud and abuse, recommend policies, procedures, and best practices designed to detect and prevent fraud and abuse, analyze cost effective, best practice alternatives to the current cash benefit delivery system, and use best practices to determine the appropriate use and deployment of investigative resources.

The OFA was directed report to the Legislature on the development of the newly formed office, the identification of any barriers to meeting the stated goals of the OFA, and recommendations for improvement to the system and laws related to the prevention, detection, and prosecution of fraud and abuse in public assistance programs.

In January 2012, the OFA issued its report to the Legislature, and it identified as one of its barriers the lack of investigators' access to records of child care providers when conducting a fraud investigation. Both the State Auditor, in its 2011 audit of subsidized child care programs, and the OFA recommended that fraud investigators be provided immediate access to child care provider records, especially attendance records.

**Summary of Bill:**

Use of Electronic Benefit Transfer Cards.

A recipient's family member may only use an EBT card provided to the recipient if the family member is an eligible member of the household, the recipient's authorized family member, an alternative cardholder, or has been assigned as a protective payee.

In assigning a personal identification number (PIN) to an EBT card, the DSHS must not use a sequence of numbers that matches any sequence of numbers that appear on the front of the card.

It is a criminal offense to sell, attempt to sell, or exchange food benefits. If the amount of the benefit is \$100 or less, the offense is a misdemeanor. If the amount exceeds \$100, the offense is a gross misdemeanor.

It is a misdemeanor for a person, without authorization, to possess or have under his or her control EBT cards issued in the names of two or more persons.

It is a criminal offense to knowingly initiate, organize, plan, finance, direct, manage, or supervise the theft of food benefits for sale to others. If the value of the benefits exceeds \$100, the offense is a class C felony. It is a gross misdemeanor if the value is less than \$100.

Records of Child Care Providers.

An investigator for the OFA may gain access to all child care records maintained by licensed and unlicensed child care providers if the provider consents, a court order has ordered such access, or the investigator has a valid search warrant.

Overpayments.

The OFA, in collaboration with the Department of Early Learning and the State Auditor, must identify, review, and report to the Legislature regarding integrated monitoring and detection systems to prevent overpayments of public assistance benefits.

**Appropriation:** None.

**Fiscal Note:** Requested on February 14, 2012.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.