

# SENATE BILL REPORT

## SB 6386

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As of January 25, 2012

**Title:** An act relating to fraud in state assistance programs.

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

**Sponsors:** Senators Carrell, Becker, Zarelli, Hargrove, Delvin, Schoesler, Honeyford and Keiser.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/26/12.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Jennifer Strus (786-7316)

**Background:** For purposes of receiving public assistance benefits, only the recipient or the recipient's authorized representative may use an electronic benefits transfer (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 on the use of an EBT card is a class 4 civil infraction under RCW 7.80.120. 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 DSHS except for Medicaid and other medical programs. OFA is 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. No later than December 31, 2011, OFA is to report to the Legislature on the development of the office, identification of any barriers to meeting the stated goals of 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.

On January 3, 2012, OFA issued its report on the development of its office. One of the barriers to meeting the stated OFA goals, as identified in the report, was investigator's access

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to child care records when conducting a fraud investigation. Both the State Auditor, in its audit of the subsidized child care program last year, and OFA recommended that fraud investigators be provided immediate access to child care records, especially attendance records.

**Summary of Bill:** Unless a recipient's family member has been assigned as a protective payee, none of the recipient's family members can use the EBT card. A second or subsequent violation of the EBT card usage rules constitutes a misdemeanor.

In assigning a personal identification number (PIN) to an EBT card, DSHS cannot use any numbers that already appear on the card. DSHS must randomly assign all PINs to the EBT. DSHS must include the recipient's photograph on a replacement EBT card that is issued to a recipient who has lost his or her EBT card more than once in a calendar year.

A person who buys and uses an EBT or an EBT card when the person is not authorized to do so is guilty of a gross misdemeanor. A person who traffics in stolen EBT cards is guilty of a felony. A person in possession of more than one EBT for which they are not authorized is guilty of a misdemeanor.

An investigator for OFA has immediate access to all child care records maintained by licensed and unlicensed child care providers upon the investigator's request.

As a condition of receiving a child care subsidy, the subsidy applicant or recipient must:

- obtain a statement from the child care provider stating that the provider will seek payment only for children who are receiving child care services when the provider indicates the children are present; and
- obtain a signed waiver from the provider allowing access to the child care premises and records upon a request by an OFA investigator.

**Appropriation:** None.

**Fiscal Note:** Requested on January 23, 2012.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.