

Legal Assistance Resource Center of Connecticut, Inc.

44 Capitol Avenue, Suite 301 ♦ Hartford, Connecticut 06106
(860) 278-5688 x203 ♦ (860) 836-6355 cell ♦ Rpodolsky@LARCC.org ♦ (860) 278-2957 fax

S.B. 94 -- Payroll debit cards

Labor Committee public hearing -- February 18, 2010
Testimony of Raphael L. Podolsky

Recommended Committee action: SUPPORT WITH AMENDMENT

I am testifying on behalf of the low-income clients of the legal aid programs in Connecticut. S.B. 94 makes clear that employers may pay employees using "payroll cards." These are special debit cards that draw funds from a separate account in the name of the employer. They therefore differ from "direct deposit" combined with a traditional debit card, in that the deposit goes into the employee's own account. We support the concept of the bill but believe that additional protections for the employee need to be added.

Payroll cards, if structured properly, have advantages for employees, particularly for employees who do not have their own bank accounts. The three most important advantages we believe are that (1) the cards allow the employee to avoid expensive check-cashing services, (2) they protect the employee's wages from execution after deposit into a bank (wage executions are still implemented before deposit), and (3) they reduce the risk of loss through mail theft. If set up without adequate protections, however, these benefits can be lost. One disadvantage of the cards is that, because payroll cards are not connected to checking accounts, they in most cases cannot be used to pay rent, since most landlords are not set up for electronic payment. That is why direct deposit is preferable to payroll cards for most employees and payroll cards work best for "unbanked" employees.

S.B. 94, in its present form, contains several critical protections. Most important, it requires employee consent, prohibits coercion, and allows employees who are being paid by payroll card to opt out. In 2006, the General Assembly adopted analogous legislation, now codified as General Statutes Section 17b-179(j)(2) through (j)(4), by which the Department of Social Services can transfer child support payments in the Title IV-D system to custodial parents through debit cards drawn on a DSS account. I have attached a copy of that statute. That law itemizes a number of protections that DSS must satisfy before it can use such an account. These include providing direct deposit as an alternative for those who want it, requiring that the card in general be subject to the same rules as other debit cards, and assuring that the card-user can make normal usage of the card without fees. In fact, card users are not charged fees for either point-of-service usage (e.g., at a grocery store) or ATM withdrawals from ATMs in the depository bank's network. As drafted, S.B. 94 provides only a single free withdrawal per pay period and only if the "full" deposit is withdrawn. This creates the risk of charges for routine use of the card at points of service that can make a payroll card more expensive than check cashing services. We urge the Committee to review the Title IV-D law and to include some of its provisions in this bill. In addition, a section should be added to this bill making clear that funds in the employer's

payroll card account are exempt from execution by creditors of either the employee or the employer. This is analogous to the language added in 2006 to General Statutes 52-367b(r) concerning bank account executions in the Title IV-D act.

We would be happy to help with the drafting of any changes to the bill that the Committee may want to make.

Electronic Funds Transfer of Child Support in the Title IV-D System

(adopted as Sec. 3 of P.A. 06-149)

Connecticut General Statutes Sec. 17b-179, subsection (j) (2) through (4)

(j) (2) The commissioner may implement electronic funds transfer for all support payments processed through the State Disbursement Unit. The commissioner may establish a debit account at a financial institution, as defined in section 469A(d)(1) of the Social Security Act, for any recipient of support payments whose support payments are processed through the State Disbursement Unit and who does not establish and designate an account for the receipt of such payments by electronic funds transfer. Deposits to such account shall be limited to such support payments and accessible solely by means of a debit card that may be used to make purchases at participating retail outlets and obtain cash at automated teller machines. Any fees incurred for the use of such debit card, other than fees prohibited by this subsection or by agreement between the commissioner and the financial institution implementing the debit account, shall be the sole responsibility of the recipient of support payments for whom such account was established.

(3) No debit card system authorized under subdivision (2) of this subsection shall be implemented, and no contract to implement such system may be entered into by the commissioner, unless such system or contract provides that the financial institution holding the debit account:

(A) imposes no charges to recipients of support payments for use of the debit card at (i) a point of sale terminal, or (ii) an automated teller machine, including an automated teller machine outside of the financial institution's network, for withdrawals from the account up to the maximum number of withdrawals specified in such contract;

(B) assures the availability of a substantial number of in-network automated teller machines in all regions of the state in accordance with subparagraph (A) of this subdivision;

(C) provides the recipient, without fee: (i) An adequate mechanism for promptly determining on and after the date a deposit is made that a deposit has been received and credited to the recipient's account, and (ii) account balance information by telephone or on the financial institution's Internet web site;

(D) provides the recipient, without fee, regular written monthly account transaction statements which, at the recipient's option, may be received by mail or on the financial institution's Internet web site;

(E) provides to recipient accounts the full protections of Regulation E of the Federal Reserve Board, 12 CFR Part 205, as from time to time amended;

(F) to the extent that fees are permitted, prohibits the assessment of fees against recipients that are not assessed by the financial institution against other users of debit cards; and

(G) provides customer service to recipients in languages other than English.

(4) The commissioner, or the financial institution if such contract so requires, shall provide the recipient with a notice at the initial issuance of the debit card and at least annually thereafter that conforms to the requirements specified in this subdivision and is limited to the type of debit card account authorized by subdivision (2) of this subsection. The notice shall be in plain language and in an easily readable and understandable format and shall identify

(A) all service and penalty fees and their amounts;

(B) the procedure for reporting and replacing a lost or stolen debit card and the allocation of liability for its unauthorized use;

(C) the procedure for reporting account errors and the allocation of liability for such errors;

(D) the procedure for obtaining funds when a debit card is lost or stolen;

(E) the possibility, if any, of overdrafts; and

(F) other similar consumer information.