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**Testimony of Robyn Merrill, Maine Equal Justice Partners
In Opposition to LD 1820 "An Act To Reduce Abuse of the Temporary Assistance for Needy Families Program through Restriction of Electronic Benefits Transfers" and LD 1822 "An Act To Increase Integrity in the Temporary Assistance for Needy Families Program through Restriction of Expenditures"**

March 25, 2014

Good afternoon Senator Craven, Representative Farnsworth and members of the Committee on Health and Human Services, my name is Robyn Merrill and I work for Maine Equal Justice Partners. I am speaking today in opposition to LD 1820 and LD 1822.

Our clients, people with low income receiving Temporary Assistance for Needy Families (TANF), are not opposed to these proposals because they want to use their benefits to buy alcohol or cigarettes, or to post bail. The single mom I was recently talking with about these bills did not object to them because she wanted to use the \$485 she receives each month to provide for her two children for anything other than rent. Instead the families receiving TANF who I have talked with about these bills object to them because they fear they will contribute to the unfair stigmatization they already face, and the humiliation they feel, because they need help. Their feelings are well founded. These bills reinforce negative stereotypes of people with low income; they are divisive and they do nothing to come up with solutions to the most serious problem these families face, which is poverty and a lack of opportunity to rise out of poverty. I ask you to look beyond the anecdotes and evaluate the facts when you are considering both of these bills.

LD 1822 that would prohibit the purchase of certain items with the electronic benefits transfer (EBT) card does not make sense from a perspective of sound public policy or smart government.

First, it is unnecessary. New federal and state law already bans the use of EBT cards in liquor stores, casinos and adult entertainment facilities. TANF recipients have been notified that they are prohibited from using their EBT card at these types of venues and will be disqualified from the program for at least

one year and get referred to the fraud investigation unit if they violate this new law. Implementation of blocking purchases at some of these locations is still underway. If the State does not take the proper actions to prohibit such EBT card use we will be subject to federal penalties. It is important that Maine stay focused on implementing these new restrictions and that we do this right in order to comply with the law and avoid federal fines.

Second, prohibiting certain purchases, unlike blocking certain venues, would be costly and impossible to effectively administer and enforce. Experts agree that restricting purchases with an EBT card is nearly impossible to administer and has little impact on the “misuse” of benefits. The United States Government Accountability Office (GAO) has concluded that such proposals are fraught with difficulties. The GAO studied implementation of EBT restrictions by examining the experience of six states that have attempted to prevent certain types of TANF EBT transactions. The GAO concluded that these states encountered numerous challenges with implementation and enforcement, including difficulties with identifying certain locations that could be prohibited and limitations in available data to effectively administer such prohibitions.

Third, it is in our State’s interest to address fraud and misuse where it exists, but we must also use our resources wisely and allocate them proportionately based on the extent and breadth of the problem. Massachusetts spent a lot of time and resources to impose EBT card restrictions more aggressively with minimal results. After expending a great amount of time and money, Massachusetts narrowed potential offenders down to a list of six. Four of these cases have been dismissed; one remains pending and in only one case has an offense been established resulting in a claim by the state for a recovery of \$7.17 for a pack of cigarettes purchased by that individual. Maine should not head down the same rabbit hole. Evidence simply does not support claims of widespread fraud or misuse of EBT cards. Maine Department of Health and Human Services data show that only 3/10ths of 1% of all EBT transactions were improper. Put another way, 99.7% of people are using their benefits as intended.

For this reason, and others, we also strongly oppose LD 1820 that would prohibit parents receiving TANF from accessing their benefits using their EBT card outside of Maine. The bill as written would prevent TANF recipients from using their EBT cards at all out of state, even to access other benefits like SNAP. The federal SNAP statute and regulations require state agencies to facilitate interoperability and portability nationwide so that SNAP beneficiaries can access SNAP benefits in any state so the bill would need to be re-written to overcome that problem. Even if the bill were re-written to clarify that only TANF benefits could not be accessed outside of Maine, this proposal still raises legal concerns and presents

serious public policy concerns. This bill invites constitutional challenge as it is designed to deter constitutionally protected interstate travel and would do so by preventing or forbidding transactions occurring outside of Maine, which would be an improper state regulation of interstate commerce. The Constitution also protects the right to travel in its most basic sense—the right to enter and leave another state without being subject to state-imposed burdens. State restrictions or prohibitions on out-of-state access to or spending of cash assistance are inconsistent with that right.

Actually blocking EBT purchases out-of-state would require changes to the EBT system that would come at a high cost, if they could even be done effectively. It makes little sense to spend money to address a problem that is not supported by the data. Despite sensational claims made by proponents of this measure, no more than a fraction of one percent of TANF transactions is made outside of Maine. The state with the most out-of-state transactions by far is New Hampshire. Likewise, there is no evidence that beneficiaries' out-of-state expenditures are frivolous. Families receiving TANF may travel outside their home state for a number of reasons: to care for a relative; to visit family; to look for a job; to attend a funeral; or to accompany a child on a school trip, or escape domestic violence. Families that live near the border may also cross state lines into New Hampshire to work, shop, or go to school. It makes little sense to prohibit these families from doing this, but that is what the proposed bill would accomplish.

For all of these reasons, we strongly urge you to oppose the proposed EBT restrictions and vote ought not to pass on LD 1820 and LD 1822.

Thank you for the opportunity to speak with you today. I would be glad to answer any questions you may have.