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Michael Smith, K. Williams; Sens. Delcollo, Lockman,  
Poore, Sokola, Wilson

HOUSE OF REPRESENTATIVES  
150th GENERAL ASSEMBLY

HOUSE BILL NO. 166

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO CHILDHOOD LEAD POISONING  
PREVENTION ACT.

1 WHEREAS, Delaware is evaluating the blood lead levels of only 23% of children under the age of 5 each year.

2 WHEREAS, only 43.67% of children age 12-14 months are receiving a blood lead level screening or test, even  
3 though such screening or testing at 12 months of age is required by law in the Childhood Lead Poisoning Prevention Act.

4 WHEREAS, between 2012 and 2016, more than 1650 Delaware children who were screened or tested had  
5 elevated levels of lead in their blood.

6 WHEREAS, a universal screening method is needed to determine children with elevated blood lead levels because  
7 Delaware does not have sufficient data on the concentration centers of elevated blood lead levels that could be used for  
8 more targeted screening,

9 WHEREAS, Delaware's Childhood Lead Poisoning Prevention Act currently does not require lead poisoning  
10 screening for children older than 2 years of age, even though the American Academy of Pediatrics reports that 20% of  
11 children are diagnosed at age 3, and that lead poisoning can occur through school age.

12 WHEREAS, the use of blood lead level screening at age 12 months and 24 months is part of the  
13 "Recommendations for Preventive Pediatric Health Care" by Bright Futures/American Academy of Pediatrics, as updated  
14 in 2017.

15 WHEREAS, Delaware trails most mid-Atlantic and northeast states in the implementation of universal screening  
16 for children age 2 and above.

17 WHEREAS, children at age 2 are often fully mobile in the home and engage in hand-to-mouth behaviors that  
18 make them most likely to be vulnerable to lead poisoning.

19 WHEREAS, Delaware's "Strategic Plan to Eliminate Childhood Lead Poisoning By 2010" has not accomplished  
20 its overarching goal "to reduce the incidence of lead poisoning to less than one percent of all children under the age of six."

21 WHEREAS, children at risk of lead poisoning include those who live or spend time in housing built before 1978  
22 or adjacent to a lead paint removal, renovation or demolition project, use playground equipment that has been painted with  
23 lead paint, wear jewelry or play with toys that contain lead, eat certain food items, including wild game and those purchased  
24 at dollar stores that may contain lead, and drink lead-contaminated water, as well as transfer from a parent of family  
25 member who is exposed to lead dust from their place of employment or through recreation, including certain arts and crafts  
26 or firearms use, or wears certain cosmetics that contain lead.

27 WHEREAS, identification of elevated blood lead levels through screening and testing is essential for identifying  
28 individuals with elevated blood lead levels, so that the source of exposure can be removed from the child's environment  
29 and supplementary dietary and educational resources can be provided to help these children to overcome some of the  
30 developmental challenges of lead poisoning.

31 WHEREAS, on April 16 2019 the Journal of the American Medical Association (Vol. 321, No. 15) reported that  
32 the United States Preventive Services Task Force "found adequate evidence that questionnaires and other clinical prediction  
33 tools to identify asymptomatic children with elevated blood lead levels are inaccurate".

34 WHEREAS, in 2016 the American Academy of Pediatrics Council on Environmental Health concluded that  
35 "screening questionnaires frequently used in the primary care setting fail to identify children who have elevated blood lead  
36 concentrations" (PEDIATRICS Vol. 138, No. 1; July 2016).

37 WHEREAS, the following zip codes have been targeted by the Division of Public Health as having an elevated  
38 risk for lead poisoning due to the preponderance of homes constructed prior to 1978 that may contain lead paint: 19701,  
39 19702, 19703, 19706, 19709, 19711, 19713, 19720, 19733, 19801, 19802, 19803, 19804, 19805, 19806, 19808, 19809,  
40 19810, 19904, 19933, 19934, 19938, 19939, 19940, 19941, 19943, 19945, 19901, 19946, 19947, 19950, 19952, 19953,  
41 19956, 19958, 19960, 19962, 19963, 19966, 19968, 19971, 19973, 19975, and 19977.

42 WHEREAS, childhood lead poisoning can be prevented.

43 NOW, THEREFORE:

44 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

45 Section 1. Amend Chapter 26, Title 16 of the Delaware Code by making deletions as shown by strike through and  
46 insertions as shown by underline as follows:

47 § 2601 Short title and definitions.

48 (a) This act shall be known and may be cited as the Childhood Lead Poisoning Prevention Act.

49 (b) As used in this Chapter:

50 (1) "Testing" means a venous blood lead test where blood is drawn from a vein.

(2) "Elevated Blood Lead Level" means any blood lead level determined by regulations established by the Department of Public Health to be detrimental to the health, behavioral development, or cognitive potential of a child.

(3) "Screening" means a capillary blood lead test, including where a drop of blood is taken from a finger or heel of the foot.

§ 2602 Physicians and health-care facilities to screen children.

(a) Every health-care provider who is the primary health-care provider for a child shall order screening of that child, in accordance with standards promulgated by the Division of Public Health, at or around 12 and 24 months of age for lead poisoning.

~~(b) In addition to the screening required by subsection (a) of this section, every health-care provider who is the primary health-care provider for a child shall determine based upon criteria promulgated by the Division of Public Health whether that child should be screened for lead poisoning at or around 24 months of age. The health-care provider shall order screening for children for whom screening is suggested by said criteria. The health-care provider shall maintain records of the determination regarding the necessity of screening at 24 months of age.~~

~~(c)(b) Unless the child is at high risk for lead poisoning, as determined by the primary health-care provider, pursuant to guidelines promulgated by the Division of Public Health, screening shall not be required for any child who is over 12 months of age on March 1, 1995. If screening determines that blood lead level is elevated, a blood lead test shall be ordered by the healthcare provider according to regulations established by the Division of Public Health.~~

~~(c) Healthcare providers are encouraged to use their clinical judgement to determine when testing should be used in lieu of screening.~~

(d) All laboratories and healthcare providers involved in blood lead level analysis, including screening and testing, will participate in a universal reporting system as established by the Division of Public Health.

(e) Nothing in this section shall be construed to require any child to undergo a lead blood level screening or test whose parent or guardian objects on the grounds that the screening or test conflicts with the parent's or guardian's religious beliefs.

(f) All laboratories and healthcare providers involved in blood lead level analysis, including screening and testing, will participate in a universal reporting system as established by the State Board of Health.

§ 2603 Screening prior to child care or school enrollment.

For every child ~~born on or after March 1, 1995, and~~ who has reached the age of 12 months, child care facilities and public and private nursery schools, preschools and kindergartens shall require proof of screening for lead poisoning for admission or continued enrollment; except in the case of enrollment in kindergarten, such ~~testing~~ screening may be done

within 60 calendar days of the date of enrollment. A statement shall be provided from the child's primary health-care provider that the child has been screened for lead poisoning or in lieu thereof a certificate signed by the parent or guardian stating that the screening is contrary to that person's religious beliefs.

§ 2604 Reimbursement by third-party payers.

~~Screening-Blood lead testing, screening,~~ screening-related services and diagnostic evaluations as required by § 2602 of this title shall be reimbursable under health insurance contracts and group and blanket health insurance as provided by Chapter 33 and Chapter 35, respectively, of Title 18.

§ 2605 Childhood Lead Poisoning Advisory Committee.

Section 2. Amend Chapter 33, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3337 Lead poisoning screening reimbursement.

All individual health insurance policies which are delivered or issued for delivery in this State by any health insurer, health service corporation, health maintenance organization or any health services and facilities reimbursement program operated by the State and which provide a benefit for outpatient services shall also provide a benefit for a baseline lead poisoning screening, ~~test,~~ or as defined in Title 16 Chapter 26 Childhood Lead Poisoning Prevention Act, ~~for children at or around 12 months of age.~~ Benefits shall also be provided for lead poisoning screening, testing, and diagnostic evaluations, and screening and testing supplies and home-visits for children ~~under the age of 6 years~~ who are at high risk for lead poisoning in accordance with guidelines and criteria set forth by the Division of Public Health. Such testing shall be deemed to be a covered service, notwithstanding any policy exclusions for services which are part of or related to annual or routine examinations. Nothing in this section shall prevent the operation of such policy provisions as deductibles, coinsurance allowable charge limitations, coordination of benefits or provisions restricting coverage to services rendered by licensed, certified or carrier-approved providers or facilities. Nothing in this section shall apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care or other limited health insurance policies.

~~This section shall apply to all policies, contracts, certificates or programs issued, renewed, modified, altered, amended or reissued on or after March 1, 1995.~~

Section 3. Amend Chapter 35, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3554 Lead poison screening reimbursement.

All group and blanket insurance policies, which are delivered or issued for delivery in this State by any health insurer, health service corporation, health maintenance organization or any health services and facilities reimbursement

111 program operated by the State which provide a benefit for outpatient services shall also provide a benefit for a baseline lead  
112 poisoning screening, ~~test or testing for children at or around 12 months of age~~ as defined in Title 16 Chapter 26 Childhood  
113 Lead Poisoning Prevention Act. Benefits shall also be provided for lead poisoning screening, testing, and diagnostic  
114 evaluations for children ~~under the age of 6 years~~ who are at high risk for lead poisoning in accordance with guidelines and  
115 criteria set forth by the Division of Public Health. Such screening, testing, lead testing supplies, and home-visits shall be  
116 deemed to be a covered service, notwithstanding any policy exclusions for services which are part of, or related to, annual  
117 or routine examinations. Nothing in this section shall prevent the operation of such policy provisions as deductibles,  
118 coinsurance allowable charge limitations, coordination of benefits or provision restricting coverage to services rendered by  
119 licensed, certified or carrier-approved providers or facilities. Nothing in this section shall apply to accident-only, specified  
120 disease, hospital indemnity, Medicare supplement, long-term care or other limited health insurance policies.

121 ~~This section shall apply to all policies, contracts, certificates or programs issued, renewed, modified, altered,~~  
122 ~~amended or reissued on or after March 1, 1995.~~

123 Section 4. Within 12 months of enactment, the Division of Public Health is directed to promulgate regulations for  
124 the implementation and enforcement of this Act. The Division of Public Health is directed to report on elevated blood lead  
125 levels annually to the Delaware General Assembly by delivering a copy of such report to the Clerks of the House of  
126 Representatives and Senate.

#### SYNOPSIS

At this time, blood lead level screening and testing rates are well below what the Division of Public Health would expect them to be based upon the risk factors that determine when screening or testing is necessary. This bill simplifies the requirements and the process for healthcare providers and eliminates confusion that may be causing the low compliance rate for screening or testing, and defines terms used in the Act. This bill mandates screening, defined as capillary blood test, at 12 and 24 months of age. The bill clarifies insurance coverage for the costs of compliance with the Act. The Division of Public Health is also directed to report on elevated blood lead levels to the General Assembly annually and to develop regulations to implement and enforce the Act within 12 months of being enacted.