

Review Highlights



Lead Poisoning Prevention Program
Focused Review, Released: February 2025

Joint Legislative Oversight
& Sunset Committee

Key Findings

→ Access to Screening at 12 and 24 months.

- The CDC established the Childhood Lead Poisoning Prevention Program to reduce lead exposure and provides program guidance and funding support to states.
- Delaware's Childhood Lead Poisoning Prevention Act guides all lead poisoning prevention programs.
 - The Act includes the Delaware State Lead-Based Paint Program and Childhood Lead Poisoning Advisory Committee ("advisory committee").
 - Items for clarification identified throughout the Act.
 - Applying technical corrections and clarifications provides clear guidance for the program.

→ Water Testing Program in Delaware Schools.

- **October 2020:** Lead levels exceeded 7.5 parts per billion in 149 sites in 49 Delaware schools, all schools retested by 2023.
- **September 2023:** DOE announced "Filter First" approach which may require plumbing replacements or filter installations, other schools may require extensive and costly repairs.

→ Analysis of Funds Available.

- **Delaware Fiscal Year 2024-2025:**
 - Residential Lead Remediation - \$4.5M
 - Childhood Lead Poisoning Program - \$1.9M
- **Federal Funds:**
 - US HUD - \$1.5M (2024)
 - EPA - \$28.99M (May 2024)
 - CDC - \$540K (annual)

Staff Recommendation

→ Technical corrections and clarifications to the Childhood Lead Poisoning Prevention Act (Chapter 26 of Title 16).

- Clarify the state 2 programs: State Lead-Based Paint Program and Childhood Lead Poisoning Prevention Program.
- Update and combine annual reporting requirements.
- Clarify and update duties of the advisory commission and DPH staff support.

WHY WE DID THIS REVIEW

The Joint Legislative Oversight and Sunset Committee ("JLOSC") voted on March 2, 2023, to have their staff perform a focused review on the Lead Poisoning Prevention Program.

OBJECTIVES

- Evaluate lead poisoning screening for 12 and 24-month-old children
- Assess the Water Testing Program in Delaware schools
- Analyze funds available

BACKGROUND

1994 - Childhood Lead Poisoning Prevention Act created.

- Mandated blood lead screening for all 12-month-old children in Delaware.
- Required all childcare facilities to collect verification of screening or a certificate stating religious beliefs.

2021 - Modified screening requirements.

- Aimed to simplify requirements and process for health care providers to eliminate confusion.
- Mandated lead poisoning screenings for children 12 and 24 months old.
- Created definitions such as:
 - "Screening" defined as a capillary (finger or heel prick) blood lead test.
 - "Testing" defined as a venous blood lead test.

2023 - Act modified created State Lead-Based Paint Program.

- Tasked to eliminate lead-based paint.
- Screen properties for lead-based paint where a child with high blood lead levels resides.

Delaware Childhood Lead Poisoning Prevention Program:

- Provides and promotes access to early lead poisoning screening.
- Childhood blood lead surveillance and reporting for the State of Delaware.
- Outreach and education.

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FOCUSED REVIEW

Lead Poisoning Prevention Program



Joint Legislative Oversight
& Sunset Committee

Objective, Scope, and Methodology

The Joint Legislative Oversight and Sunset Committee (“JLOSC” or “Committee”) voted on March 2, 2023, to have their staff perform a focused, limited review on the Lead Poisoning Prevention Program.

Objective of the Review: An evaluation of the following structures of Delaware’s lead poisoning prevention programs relating to childhood screening and water sampling:

1. Access to screening at ages 12 months and 24 months.
2. Water Testing Program in Delaware schools.
3. Analysis of funds available.

Scope: 3-year period.

Methodology: Unlike full reviews, this focused review does not follow the standard, full review process which includes a self-report and formal presentation from the entity under review. In a focused review, JLOSC staff explore a specific research request and supply the Committee a report of the findings and recommendations on the topic.

To complete this report, JLOSC staff attended relevant public meetings and reviewed available public documents, which included current laws, regulations, policies, reports, and federal agency guidelines.

For purposes of researching the term “access” in review objective number 1, staff examined the current methods used to provide children at 12 and 24 months the opportunity to be screened for lead, as defined by Delaware’s Childhood Lead Poisoning Prevention Act. This report also includes current guidance from the U.S. Centers for Disease Control and Prevention’s Childhood Lead Poisoning Prevention Program, which supports effective childhood lead poisoning prevention programs and includes methods to increase a child’s access to screening. Because Delaware’s Childhood Lead Poisoning Prevention Act defines the program as the “Delaware State *Lead-Based Paint Program*” (emphasis added), we included relevant information from this program to explain how it intersects with the state’s screening efforts. The statute does not specifically reference the Delaware’s Childhood Lead Poisoning Prevention Program.

JLOSC Staff Recommendation #1

After review of information collected on the 3 assigned objectives, staff recommend that JLOSC consider sponsoring a bill making technical corrections and clarifications to the Childhood Lead Poisoning Prevention Act, in Chapter 26 of Title 16.¹

Using this staff report as a guide, the bill should revise the relevant provisions of the Delaware Code (“Code”) covering topics such as:

- Clarifying the State Lead-Based Paint Program and Childhood Lead Poisoning Prevention Program.
 - Updating definitions.
 - Clarifying duties under each program.
 - Clarifying the “universal reporting system” used by the Division of Public Health to collect and maintain program data.
 - Clarifying public information.
- Updating, clarifying, and combining annual reporting requirements for the Division of Public Health and Childhood Lead Poisoning Prevention Advisory Committee.
- Clarifying and updating duties of the Childhood Lead Poisoning Prevention Advisory Committee.
 - Clarifying and updating staff and data support provided by the Division of Public Health.

¹ JLOSC and Delaware Department of Health and Social Services staff will work together to develop statutory revisions, and JLOSC staff will engage stakeholders as appropriate.

Section 1: Access to Screening at 12 and 24 months

The federal Centers for Disease Control and Prevention (“CDC”) established the Childhood Lead Poisoning Prevention Program, which has significantly reduced lead exposure and blood lead levels in the U.S. through collaborative public health efforts. This federal program focuses on removing lead hazards and strengthening blood lead surveillance to prevent exposure in young children. It aims to increase blood lead screening, identify high-risk populations, and ensure follow-up care for affected children.

The CDC’s guidance emphasizes the importance of increasing access to blood lead screening to eliminate childhood lead poisoning. It outlines the roles of health officials, healthcare providers, and community members in developing effective screening programs. The guidance also highlights using geographic analysis to identify high-risk areas and the importance of updating screening recommendations based on new data.

CDC guidance encouraged states to develop their own laws to create and operate Childhood Lead Poisoning Prevention Programs, thereby increasing access to screening. Delaware enacted the Childhood Lead Poisoning Prevention Act in 1994, with significant updates in 2021 and 2023. The 2021 update revised screening requirements by establishing definitions, and the 2023 update created the Delaware State Lead-Based Paint Program.

Additionally, Delaware’s Childhood Lead Poisoning Prevention Program aims to increase access to lead poisoning screening. The Division of Public Health (“DPH”) operates this program, although it is not specifically named in the Childhood Lead Poisoning Prevention Act. This section of the JLOSC staff report summarizes the 3 major changes to the Act and Delaware’s Childhood Lead Poisoning Prevention Program:

- **Delaware’s Childhood Lead Poisoning Prevention Act.**
 - 1994 Enactment: Creation of the Delaware’s Childhood Lead Poisoning Prevention Act. Includes Prior Screening Requirements (1995 – 2021).
 - 2021 Update: Current Screening Requirements (2021 – Current).
 - 2023 Update: Creation of the Delaware State Lead-Based Paint Program.
- **Delaware’s Childhood Lead Poisoning Prevention Program.**
 - DPH operated, not specifically named in the Childhood Lead Poisoning Prevention Act.

Delaware’s Childhood Lead Poisoning Prevention Act.

- **1994 Enactment: Creation of the Delaware’s Childhood Lead Poisoning Prevention Act. Includes Prior Screening Requirements (1995 – 2021):**
 - Effective on March 1, 1995.
 - Requires blood lead screening for children at 12 months of age to be completed as stated in regulations.²
 - Screening consisted of a childhood lead risk questionnaire to determine if the child was at high risk for lead poisoning.³

² Screening definition not included in Code until 2021 update but directed DPH to develop regulations.

³ Example in Appendix A.

- Only high-risk children were then tested for lead poisoning.
- All laboratories and health care providers use a universal reporting system established by DPH.
- Requires childcare providers, preschools, and kindergartens to require proof of blood lead screening for admission or continued enrollment or a certificate stating religious beliefs.⁴
- **2021 Update: Current Screening Requirements (2021 – Current):**⁵
 - Research by the American Academy of Pediatrics and the U.S. Preventive Services Task Force found that previously used childhood lead risk questionnaires were inadequate for identifying all potential lead exposure risks.
 - Aims to simplify requirements and process for health-care providers and eliminate confusion that may be causing the low compliance rate for screening or testing.
 - Creates chapter definitions for:
 - “Elevated blood lead level” as meeting or exceeding 3.5 micrograms per deciliter or a blood lead level that the CDC establishes as its blood lead reference value, whichever is lower.⁶
 - “Screening” defined as a capillary (finger-prick or heel-prick) blood lead test.
 - “Testing” defined as a venous blood lead test.
 - Requires primary health care providers to order screening for children at 12 and 24 months.⁷
 - Health care providers must order testing for a screening result indicating an elevated blood lead level.⁸
 - Health-care providers must report and follow universal reporting systems for blood lead levels.⁹

⁴ 16 Del. C. § 2603.

⁵ House Bill No. 222 with House Amendment No. 1, 151st General Assembly, enacted June 2021.

⁶ This is the current Code definition. The CDC no longer uses the term “elevated blood lead levels” because, under the CDC, there is not a safe lead level in children’s blood. The CDC has encouraged actions based on blood lead levels, using a population-based blood lead reference value (“BLRV”), since 2012 to identify children with higher levels compared to most children.

⁷ Update encouraged by a CDC cooperative agreement, with an example provided in Appendix B. DPH regulations further clarify screening and testing requirements but do not specify that permitted screening methods must be FDA-approved. The advisory committee raised concerns about the use of non-FDA-approved screening methods.

⁸ DPH regulations clarify the timeline for valid blood lead level screening and testing but do not include the CDC-recommended schedule for confirmatory testing. Additionally, the advisory committee urged DPH in their 2024 annual report to update regulations to adopt using 2 capillary screenings within 12 weeks to confirm an elevated blood lead level. However, this recommendation does not align with the Code, which defines “testing” as a venous blood lead test, and it is not known to be part of a CDC cooperative agreement.

⁹ According to the 2023 DPH annual report, the Healthy Homes and Lead Poisoning Surveillance System database receives and maintains reported test results. The term “universal reporting system” is not defined in Code or DPH regulations as a CDC-supported system; however, the CDC identifies the Healthy Homes and Lead Poisoning Surveillance System as a web-based data management platform that it developed and supports.

- Creates DPH annual reporting requirement.¹⁰
- **2023 Update: Creation of the Delaware State Lead-Based Paint Program:**
 - Currently defines the “program” as the Delaware State Lead-Based Paint Program.¹¹
 - Provides case management after universal reporting system notification of a child with an elevated blood lead level.¹²
 - Promptly screen properties for lead-based paint where a child with high blood lead levels lives and treat the paint to abate or remediate lead hazards.
 - Eliminate lead-based paint from residences where children are exposed to lead.
 - Prohibit landlords of properties where the State has paid for lead-based paint abatement from raising rent for 3 years.
 - Ensure that landlords and local governments do not cause unreasonable delays in the abatement of lead-based paint.
 - Creates a dedicated fund for abatement and remediation of lead-based paint hazards to hold all levels of state government accountable for funding abatement efforts.
 - Expands DPH annual reporting requirements to include:¹³
 - Information on the number of lead-exposure sites with identified lead-based paint hazards that have been, and have not been, the subject of lead-based paint remediation or abatement efforts.¹⁴
 - Include contractor-reported delays associated with county or municipal government entities.¹⁵
 - Identifies program oversight:¹⁶
 - Delaware Department of Health and Social Services (“DHSS”) operates the Delaware State Lead-Based Paint Program.
 - Program director appointed by the DHSS Secretary, who is a DPH employee.
 - Program director has full authority and responsibility for the Delaware State Lead-Based Paint Program.
 - Program director and DHSS Secretary are responsible and accountable for the Delaware State Lead-Based Paint Program.
 - DHSS Secretary can allocate DHSS discretionary funds to provide support to the Delaware State Lead-Based Paint Program.

¹⁰ 16 *Del. C.* § 2606.

¹¹ Senate Bill No. 9 with Senate Amendment No. 1 and House Amendment No. 1, 152nd General Assembly, enacted July 2023.

¹² 16 *Del. C.* § 2610.

¹³ When released, the 2024 annual report will be the first to include these new reporting requirements.

¹⁴ DPH November 2023 annual report stated, “29 potential lead exposure sites were identified, and Lead Hazard Risk Assessments were performed” for fiscal year 2023.

¹⁵ 16 *Del. C.* § 2612(e)(3).

¹⁶ 16 *Del. C.* § 2608.

- Requires all program communications to be public information.¹⁷
 - Excludes confidential health information.
- Updates Childhood Lead Poisoning Prevention Advisory Committee (“advisory committee”).¹⁸
 - Expands advisory committee from 9 to 14 members.
 - Clarifies the advisory committee is a public body.
 - Adds an additional duty to “oversee” the Delaware State Lead-Based Paint Program and ensure funds are spent appropriately and activities take place in a timely manner with their associated funds.
 - This differs with the advisory committee’s duties listed in § 2605(a), Title 16 establishing this as an *advisory body* to provide advice and recommendations to the agencies responsible for program implementation.¹⁹
 - This differs with clearly established oversight duties in § 2608, Title 16 which name DHSS and a DHSS Secretary appointed Program Director (currently DPH employee).
 - This differs with clearly established rules for the Delaware Lead-Based Paint Abatement and Remediation Fund under § 2613, Title 16.

Delaware’s Childhood Lead Poisoning Prevention Program:

- DPH operated, not specifically named in the Childhood Lead Poisoning Prevention Act.²⁰
 - Implements the components of Delaware’s Childhood Lead Poisoning Prevention Program:
 - Provides and promotes access to early lead poisoning screening.
 - Targets at-risk groups.
 - Childhood blood lead surveillance and reporting for Delaware.
 - Tracks cases and connects children to follow-up services.
 - Maintains CDC-supported database.
 - Submits quarterly childhood lead data to CDC.
 - Improves blood lead testing and reporting.

¹⁷ 16 *Del. C.* § 2609.

¹⁸ Prior modifications via House Bill No. 89, 150th General Assembly, enacted May 2019 and House Bill No. 63, 151st General Assembly, enacted June 2021. Originally created by Senate Bill No. 155, 141st General Assembly, enacted June 2001.

¹⁹ Section 6 of Senate Bill No. 9, with Senate Amendment No. 1 and House Amendment No. 1 requested the advisory committee to recommend to the Governor and General Assembly a plan for a statutory requirement that all rental properties built before January 1, 1978, be screened for lead-based paint hazards. The advisory committee completed this report on December 13, 2023. Relatedly, the Department of Finance submitted a January 2024 report on potential funding sources for the state lead-based paint program requested by the same legislation.

²⁰ The Childhood Lead Poisoning Prevention Act does not specifically name this program. The DPH November 2023 annual report refers to it as the DPH Lead Poisoning Prevention Program, Delaware’s Lead Poisoning Prevention Program, or simply the Lead Poisoning Prevention Program. Additionally, the report includes information from the CDC on cooperative agreements for Delaware’s Childhood Lead Poisoning Prevention Program.

- Outreach and Education.
 - Raise awareness on the dangers of lead poisoning.
 - Increases testing.
 - Enhances connections to services for children with elevated blood lead levels.

Annual Reporting Requirements: DPH and Advisory Committee

Annual reporting requirements detail the activities related to Delaware’s Childhood Lead Poisoning Prevention Act, Delaware State Lead-Based Paint Program, and Delaware’s Childhood Lead Poisoning Prevention Program. Currently, these reporting requirements are dispersed across 4 different sections of the code.²¹ Consolidating reports into a single annual report would provide the General Assembly and the public with centralized access to all information and a more a comprehensive overview.

DPH Annual Report Findings (2023):²²

- Annual report completed by DPH to report elevated blood lead levels to the General Assembly.
 - 2 new annual reporting requirements added in 2023.
 - Include information on the number of lead-exposure sites with identified lead-based paint hazards and sites subject to remediation or abatement efforts.
 - Include contractor reported delays associated with county or municipal government entities.²³
 - November 2023 annual report highlights:
 - DPH reported a total of 15,826 blood lead test results for children under 6 years old.²⁴
 - 11,275 were initial tests.²⁵
 - Race not identified in 51.3% of the reported tests.²⁶
 - Over 48% of the reported ethnicity data were indicated as unknown.
 - Reported percentages for children tested for blood lead level analysis at 12 and 24 months.²⁷

²¹ 16 Del. C. §§ 2605, 2606, 2608, 2612(a)(3)(c.), and 2612(e)(3).

²² DPH *Childhood Blood Lead Surveillance in Delaware* annual report, dated November 2023 and covers fiscal year 2023. The 2024 annual report not available as of February 10, 2025.

²³ Code states the Delaware State Lead-Based Paint Program will make a “public report” by January 1. It is unclear if this is a separate report or part of the annual reporting.

²⁴ Federal and state regulations mandate lead screening for all Medicaid-insured children. The advisory committee’s 2024 annual report includes screening totals for Medicaid-insured children for fiscal years 2021-2024. Consolidating all data into a single annual report would provide a comprehensive overview.

²⁵ The charts in the DPH November 2023 annual report do not include residency demographics for screening and results. However, the report does mention the top 10 zip codes.

²⁶ In August 2023, state regulations were updated to require laboratories and health care providers to submit documentation and report full demographic information. The updates also include provisions for collecting any missing data.

²⁷ DPH does not differentiate between screening and testing for purposes of their annual reports.

- 12 months below 48% (2018-2023).²⁸
- 24 months:²⁹
 - 42% (2022).
 - 39% (2023).
- Annual Report Conclusions:
 - Continued efforts to expand access to screening included:
 - Educating healthcare providers on required screening and reporting.
 - Improving the completeness of screening and testing reports.
 - Educating parents.
 - Efforts expected to improve blood lead testing and test reporting.
 - Planning is not included in this annual report.

Advisory Committee Annual Report Findings (2024):³⁰

- Annual report completed by the advisory committee to report intervention activities, studies of incidence, the State Blood Lead Screening Program, and monitoring and implementation of regulations.³¹
- December 2024 annual report highlights:³²
 - Ongoing challenges and efforts:
 - Need for better funding.
 - Improved coordination between programs.
 - Updates to regulations and screening requirements.
 - Advisory committee activities:
 - DHSS and DOE program reviews.
 - Statewide Screening Plan research.
 - Past recommendation updates.³³
 - Committee challenges.³⁴
 - Primary prevention focus:

²⁸ The DPH November 2023 annual report includes information from calendar years 2018-2022 and fiscal year 2023. Report notes a drop in blood lead testing in 2020 and 2021 due to the Coronavirus pandemic.

²⁹ Testing at 24 months mandated in 2021. DPH noted in their 2021 annual report that the number of children with lead poisoning in Delaware is underrepresented due to low compliance rates in testing

³⁰ Annual report requirement inconsistent with the annual reporting requirement for DPH with respect to due date and recipients.

³¹ "State Blood Lead Screening Program" is not a program name included in Code.

³² Contacts within the General Assembly could not confirm its receipt. The advisory committee's October 2024 meeting minutes indicate that this is the first annual report completed since 2021. On October 9, 2024, the advisory committee chair emailed JLOSC members and staff a letter along with a different report prepared by the advisory committee. Copies of the letter and report are attached to this JLOSC staff report, along with other public comments.

³³ Advisory committee states past recommendations were included in a 2021 annual report available [online](#) and the 2023 Lead-Safe Rental Housing Plan required by Senate Bill No. 9 available [online](#).

³⁴ The advisory committee is using DPH-contracted meeting support, provided by Social Contract, for committee research. It is unknown if this level of support is standard for other DHSS advisory boards under DHSS contracts with Social Contract.

- Emphasis on rental housing.
- Intervention activities.
- Studies of incidence.
- Childhood Lead Poisoning Prevention Program initiatives:
 - Data improvements.
 - Community lead screening pilot project.
 - Partnerships for remediation services.
 - Outreach, education, and service coordination.
 - Annual data provided relating to DPH State Service Centers and Community Health Services Mobile Units.
 - 722 screenings performed at 6 DPH State Service Centers.³⁵
 - Hudson State Service Center (Newark).
 - Porter State Service Center (Wilmington).
 - Williams State Service Center (Dover).
 - Milford State Service Center at the Riverwalk (Milford).
 - Thurman Adams State Service Center (Georgetown).
 - Anna C. Shipley State Service Center (Seaford).
 - 81 screenings performed by 3 DPH Community Health Services Mobile Units.³⁶
 - Provides another method Delawareans can access free blood lead screening.³⁷
 - Uses the capillary (finger-prick or heel-prick) method.³⁸
- Annual Report Conclusions:
 - Call for continued efforts to address lead hazards, including increased funding.
 - Importance of improving screening and intervention programs.

Section 2: Water Testing Program in Delaware Schools

In February 2020, the Delaware Department of Education (“DOE”) and DPH received a grant from the Environmental Protection Agency (“EPA”) to sample water in Delaware schools and identify lead levels in drinking water. The first round of tests in October 2020 analyzed 1,600 samples, revealing lead levels exceeding 7.5 parts per billion, the EPA’s cutoff, at 149 sites in 49 schools.

Issues with testing and reporting unsafe lead concentrations in school drinking water prompted DOE’s then-Secretary Mark Holodick to announce a retesting initiative. Starting in December 2022 and continuing through the first quarter of 2023, the State of Delaware

³⁵ Data covered calendar years 2019-2023. DPH State Service Centers offer blood lead screening by appointment. Parents or guardians must bring their child’s medical records.

³⁶ Mobile units served all three counties, but the report data is not broken down by location or county. The CDC recommends focusing screening efforts on high-risk neighborhoods and children.

³⁷ No appointments necessary at mobile units, however the locations and availability are not well-publicized. This screening information is out of date on the DPH Lead Poisoning Prevention [website](#). There is a COVID-19 vaccination [link](#) on the DPH lead testing [website](#) but no information provided that this is the website that includes the mobile unit information. Secretary Manning recently indicated during her January 2025 Senate confirmation hearing that DHSS had launched a website update project.

³⁸The data covers the calendar year from September 23, 2023, to September 24, 2024.

allocated \$1.5 million for this new round of sampling, conducted by BATTAs Environmental using EPA guidance. By 2023, every school in Delaware had been sampled, with initial results analyzed by the DPH Laboratory.³⁹

Both the 2020 and 2023 testing initiatives followed the EPA’s “3-Ts” guidance for reducing lead in drinking water. This process involves taking a 250-millimeter “first-draw” sample after letting the taps sit stagnant for at least 8 hours. If high lead levels are detected, a 30-second flush sample is taken to identify lead in the plumbing behind the fixture.

In September 2023, DOE published a summary report with the latest testing results and recommendations, advocating a “Filter First” approach to lead remediation in Delaware schools.⁴⁰ This initiative involves installing high-quality filtration systems and replacing outdated fixtures to effectively reduce lead levels. By shifting from a reactive strategy to a proactive model, Delaware aims to prevent potential exposure to lead and other drinking water contaminants. The DOE indicated that the “Filter First” approach would be the next part of risk reduction, though its current status is unclear.⁴¹

According to DPH’s website, solutions vary for each school. Some may need simple fixes like plumbing replacements or filter installations, while others require extensive and costly repairs. Regular testing will continue, and DPH will monitor results to ensure compliance with EPA guidelines.

Section 3: Analysis of Funds Available

The General Assembly has dedicated funds for Delaware’s Childhood Lead Poisoning Prevention Program for a number of years. The most recent statutory update created the Delaware Lead-Based Paint Abatement and Remediation Fund (“the Fund”). There are requirements on how the money must be spent and a provision that the Fund may not lapse or revert to the General Fund. There is an annual requirement that a proposed budget from the Governor to the General Assembly must contain a proposed appropriation to the Fund.

In 2024, Delaware’s proposed budget set aside nearly \$925K for childhood lead poisoning prevention and an additional \$2M for lead remediation efforts. Both of these were granted as “one-time” items. Delaware’s 2025 budget set aside one-time allocation of \$2.5M for residential lead remediation and a one-time allocation of \$1M to support the childhood lead poisoning prevention program.

In 2024, DHSS applied for and received a grant for \$1.5M from the United States Department of Housing and Urban Development (“HUD”) for its Lead Hazard Reduction Program. This grant program aims to protect children under the age of 6 from lead poisoning by identifying and eliminate lead-based paint hazards and addressing broader health concerns within homes. These funds will be dispersed over a period of 3 years.

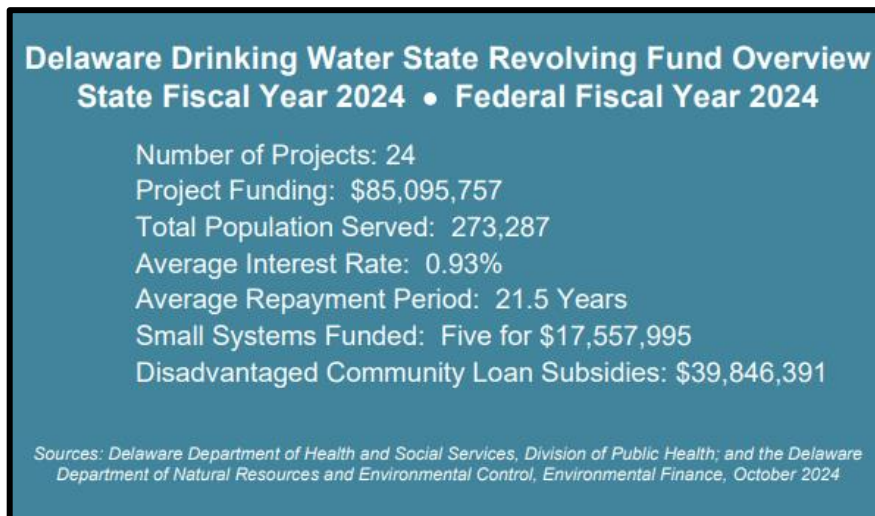
³⁹ DPH [website](#) provides links to the DOE summary [report](#) on drinking water sampling in Delaware schools and an interactive mapping [dashboard](#). Results also available on the [Delaware Open Data Portal](#).

⁴⁰ Report available on DHSS Public Health Alert [website](#) for Safe School Drinking Water.

⁴¹ DOE has not issued an update report following their September 2023 summary report on drinking water sampling in Delaware schools naming the “Filter First” approach as the next step in risk reduction.

Additionally, DHSS receives \$340K per year from the EPA for DHSS' Renovation, Repair, and Painting Program. This program provides funding to train, certify, and oversee contractors who renovate, repair, or paint homes. The EPA requires that projects that disturb lead-based paint in homes, childcare facilities, and preschools built before 1978 be performed by lead-safe certified contractors.

In May 2024, the EPA announced that Delaware would be granted \$28.65M to help the state identify and replace lead service lines. These funds are to be dispersed through the EPA's Drinking Water State Revolving Fund ("DWSRF"). Delaware has received a substantial amount from EPA's DWSRF in the past, but the 2024 announcement was a significant increase in funding, specifically to be used to combat lead found in water pipes.⁴² DPH maintains 2 EPA-required annual reports dedicated to DWSRF and the public water system supervision program.⁴³ The chart below from DPH November 2024 DWSRF report (page 1) shows the Delaware DWSRF overview for fiscal year 2024.



Lastly, the CDC helps state and local health departments through cooperative agreements to support childhood lead poisoning prevention. Prevention efforts focus on improving blood lead testing and reporting, tracking cases, connecting children to follow-up services, and targeting at-risk groups. Those who receive these agreements are expected to work closely with other agencies, partners, and groups that serve children. They work to set up a complete system for children exposed to lead, which includes referrals, follow-ups, and evaluations. These efforts aim to raise awareness, increase testing, and better manage children with high blood lead levels.

The CDC supports Delaware's lead poisoning prevention activities through a cooperative agreement, providing \$375K for program activities in fiscal year 2022. Delaware's program strategies for these funds included ensuring blood lead testing and reporting, enhancing surveillance, and improving linkages to services.

⁴² EPA State Revolving Fund ("SRF") annual summary dashboard available [online](#). Displays SRF information for DWSRF and clean water programs (2000-2024) and can be filtered by state.

⁴³ DWSRF November 2024 annual report available [online](#). Annual public water system supervision program compliance reports (1999-2023) available on DPH Office of Drinking Water [website](#).

Delaware continues to work with the CDC through a cooperative agreement, the current funding cycle is September 30, 2021 – September 29, 2026, with current annual funding of \$540K. The CDC provides success stories for 3 of these funding years on their website.⁴⁴ These achievements include:

- Collaborating with the Latin American Community Center to conduct outreach.
 - Serves New Castle County.
- Revising the Childhood Lead Poisoning Prevention Act in 2021 to mandate lead screening at 12 and 24 months.
- Restoring data sharing with the CDC.
 - Corrected record errors and communication issues with the Healthy Homes and Lead Poisoning Surveillance System.
 - Updated DPH regulations in 2023 to minimize missing data information via human error by laboratories or health care providers.

These initiatives and achievements aim to raise awareness, increase testing, and provide better management for children with elevated blood lead levels.

⁴⁴ Information about the program and success stories available on the CDC [website](#).

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Appendix A

Prior Screening Requirements under Childhood Lead Poisoning Prevention Act (1995-2021)

Screening meant completing a Childhood Lead Risk Questionnaire (“risk questionnaire”).

At least 1 “yes” response to the Childhood Lead Risk Questionnaire determined high-risk and prompted further testing.

Childhood Lead Risk Questionnaire		
Child Name _____	Age _____	
Date _____	Yes	No
Does your child live in or regularly visit a house or apartment (including grandparents or other relatives) or childcare center built before 1978?		
If yes, does this space have chipping, peeling or deteriorated paint?		
If yes, has the space recently been renovated or remodeled, or are there ongoing renovations or remodeling?		
Does your child have a sibling, playmate or family member with a confirmed elevated blood lead level?		
Does your child live with an adult whose job or hobby involves exposure to lead such as house painting or remodeling, auto body work or repair, welding, manufacturing, jewelry or pottery making, or bullet recasting?		
Does your child have an iron deficiency or anemia, or a developmental delay or behavioral problems?		
Does your child have excessive mouthing habits, like thumb or finger sucking or nail biting, or eating dirt, paint chips or other non-food items?		
In the past 12 months, did your child move to Delaware County from a foreign country?		
Does your child consume alternative remedies (Azarcon, Greta), imported candies, or food cooked or stored in imported pottery?		
<div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block; margin-right: 5px;"></div> You answered yes to one or more of these questions. Your child is at risk of lead poisoning and needs a blood lead test.		

Appendix B

Current Screening Requirements under Childhood Lead Poisoning Prevention Act (2021-current)

Screening is defined as a capillary (finger-prick or heel-prick) test (risk questionnaire no longer used):



Testing is defined as a venous blood draw but only required if a capillary test is over 3.5 micrograms per deciliter:



***A health care provider can use clinical judgement and order testing (venous blood draw) instead of screening (skipping the capillary test).**

Appendix C

Public Comments Received

- 1. Nancy Willing – January 26, 2023.**
- 2. Amy Roe – October 9, 2024.**
 - a. Childhood Lead Poisoning Prevention Advisory Committee Sunset Review Letter dated October 8, 2024.
 - b. Lead-Safe Rental Housing Plan dated December 13, 2023.
- 3. Fern Goldstein – November 7, 2024.**
 - a. Letter from Fern Goldstein, President, Learning Disabilities Association of Delaware dated December 1, 2024.
- 4. Sarah Bucic – December 4, 2024.**
 - a. Sunset Review Sign on Letter dated December 1, 2024.
 - b. Petition for sunset review letter undated.

From: Nancy Willing
Sent: Thursday, January 26, 2023 7:40 AM
To: Sunset (Mailbox Resources); Nancy Willing
Subject: Joint Legislative Oversight and Sunset Meeting public comment

ATTN: Joint Legislative Oversight and Sunset Committee

Dear members,

I signed onto a petition from Lead-Free DE that requests an evaluation from this committee on State programs that address childhood lead poisoning. The Civic League for New Castle County also takes this position.

I cannot be in Dover today to stand with Lead-Free Delaware on this issue, but please know these petition signatories are your constituents who need your help. Please consider this request at your meeting today.

Nancy

Nancy Willing
VP and Lobbyist
Civic League for NCC

McAtee, Amanda A (LegHall)

From: Amy Roe <amywroe@gmail.com>
Sent: Wednesday, October 9, 2024 2:04 PM
To: Sunset (Mailbox Resources); DorseyWalker, Sherry (LegHall); Hoffner, Kyra (LegHall); Richardson, Bryant L (LegHall); Gay, Kyle E (LegHall); Huxtable, Russell (LegHall); Pettyjohn, Brian (LegHall); Johnson, Kendra (LegHall); Parker Selby, Stell (LegHall); Collins, Rich G (LegHall); Spiegelman, Jeff (LegHall); Cade, Cerron (OMB); McAtee, Amanda A (LegHall); Kowal, Benjamin V (LegHall)
Cc: Cassell-Carter, Carla M. (OMB); Godfrey, Andrea (OMB); Carling Ryan; Manning, Josette (DHSS); William Bowser
Subject: JLOSC Targeted Review, Childhood Lead Poisoning
Attachments: CLPPAC Sunset Review Letter_2024_10_08.pdf; Lead-Safe Rental Housing Plan.pdf

Dear Rep. Dorsey Walker, Sen. Hoffner, and members of the Joint Legislative Oversight and Sunset Committee,

The Childhood Lead Poisoning Prevention Advisory Committee submits the attached letter for your consideration in your targeted review of childhood lead poisoning prevention. Our letter focuses on the following areas: blood lead screening and testing, safe drinking water in schools, and funding.

We have also attached the Lead Safe Rental Housing Plan (CLPPAC, 2023), which is referenced in the letter, for your convenience.

We look forward to providing any additional information that you may require, and to your analysis.

Confirmation of receipt of this email from your staff would be appreciated.

Thank you,
Amy Roe, Ph.D., Chair
Bill Bowser, Vice-Chair
Childhood Lead Poisoning Prevention Advisory Committee

October 8, 2024

To: **Joint Legislative Oversight and Sunset Committee**
Sunset@delaware.gov

From: **Childhood Lead Poisoning Prevention Advisory Committee**
Chair: Amy Roe, Ph.D., amywroe@gmail.com
Vice-Chair: Bill Bowser, wbowser@comcast.net

Re: **Childhood Lead Poisoning Prevention Program, Targeted Review**

Cc: Office of Management and Budget
DHSS Secretary Josette Manning

Thank you for the opportunity to provide input into your targeted review of the Childhood Lead Poisoning Prevention Program (the Program), which provides valuable services to Delaware children exposed to lead. The Program is currently undersupported in funds, leading to gaps in intervention for children with lead poisoning.

While we are limiting our comments to the three areas identified for your targeted review (screening, school water, and funding), the committee also believes strongly in the benefits of primary prevention. Lead paint remediation should be performed preemptively in pre-1978 homes in order to avoid additional children being poisoned, as we described in our [Lead-Safe Rental Housing Plan](#), with proposed legislation, that we shared with you in December 2023. Such action will require state funds in addition to those outlined here.

Childhood lead exposure provides numerous cognitive, behavioral, and health impacts that harm a child's ability to succeed in school and in life. Delaware taxpayers are already paying for the costs of lead poisoning in our schools, in healthcare, the workplace, and the legal system. A comprehensive and integrated approach to screening, surveillance, intervention, and prevention is demonstrated to be highly cost-effective. For example, "each dollar invested in lead paint hazard control results in a return of \$17-221" in a "conservative estimate" to savings from healthcare costs, special education, and criminal justice, and increases in lifetime earnings (Gould, 2009).

About Lead Poisoning

Lead is a dangerous neurotoxin and childhood lead poisoning is a serious public health issue in Delaware. It is now widely recognized by the global public health community, including the U.S. Centers for Disease Control and Prevention (CDC, 2022), the World Health Organization (WHO, 2023), the American Academy of Pediatrics (AAP, 2016), and the U.S. Preventive Services Task Force (USPSTF, 2019), that there is no safe level of lead in children's blood.

The potential lifelong impacts of lead exposure, including low levels of lead, are described by the AAP (2016) as follows: cognitive deficits, including intellectual deficits, diminished academic abilities, attention deficits, and lower IQ; behavioral problems, including inattention, impulsivity, aggression, hyperactivity, and elevated risk of attention deficit/hyperactivity disorder (ADHD); antisocial behaviors, encompassing conduct disorder, delinquency, and criminal behaviors, including arrests and convictions later in life; reproductive problems, including spontaneous abortion, low birth weight, and reduced growth in children, kidney failure and renal failure; decreased hearing; and cardiovascular effects.

Lead exposure does not always show immediate symptoms, making it difficult for healthcare providers to identify. While lead exposure can present clinical features at lower levels, exposure can also be asymptomatic at higher levels (AAP, 2016; USPSTF, 2019; Wani et. al, 2015). This has necessitated routine universal screening in Delaware's Childhood Lead Poisoning Prevention Act, which since 2021 has required blood lead screening for all children twice by age two: screening at 12 months of age, and again at 24 months of age.

The half-life of lead in blood is short, approximately 40 days, making the narrow window of detection through a blood lead screening or test especially important (Wani et al, 2015: 58, 59). Delays in screening outside the recommended time-frames in the Childhood Lead Poisoning Prevention Act or after a suspected exposure decrease the likelihood that the lead poisoning can be identified and the source of exposure promptly remedied.

While Delaware has not yet published the outcome of Lead Risk Assessments performed in the households of children with blood lead levels at or above the CDC's Blood Lead Reference Value (BLRV) of 3.5 µg/dL, analysis from our neighboring state of Maryland shows that lead paint, including lead dust from deteriorating paint, is the primary source of lead exposure (Maryland Department of Environment, 2020). Lead dust from deteriorated lead paint is also widely recognized in the peer-reviewed

literature as the “major source” of childhood lead poisoning and “the most common pathway of lead exposure” in households in the United States (Needleman, 2004: 218; Garrison and Ashley, 2021).

Other important sources of exposure include contaminated water from lead service lines, leaded fixtures, and premise plumbing; contaminated soil; imported cosmetics; aluminum cookware; consumer products and foods; and various hobbies and occupations of family members who transport lead dust into the home on their clothes, including those that involve firearms, construction, refinishing old furniture, and arts such as stained glass.

The October 2023 the U.S. Food and Drug Administration’s nationwide recall of certain single-serving applesauce pouches, including WanaBana, Weis, and Schnucks Apple Cinnamon Fruit Purée, due to elevated lead levels reveals the importance of rapid public health response to emerging sources of exposure.

Committee Program Review

In January 2024 the Childhood Lead Poisoning Prevention Advisory Committee (Committee) initiated a review of state programs that impact children exposed to lead. This program review has included quarterly reports from the Childhood Lead Poisoning Prevention Program (the Program) and the Lead Based Paint Program in the Division of Public Health (DPH), as well as reports from the DPH Birth to Three Regional Programs, the Renovation, Repair and Painting Program, blood lead screening at public health clinics located at state service centers and the mobile unit, the Division of Medicaid & Medical Assistance, and water sampling in state-funded child care centers by the Department of Education.

While we have not yet completed our program review, we are confident that the information provided here represents a systematic understanding of the services provided and gaps that should be addressed in the three areas identified for the Joint Legislative and Sunset Committee targeted review: blood lead screening and testing, safe drinking water in schools, and funding.

Blood Lead Screening and Testing

Considerable focus in the past five years since the restart of the Committee by the General Assembly in 2019 (HB 89) has been on improving blood lead screening and testing. Screening and testing all Delaware children at the schedule prescribed has benefits. Screening and testing are:

Diagnostic: blood lead screening or testing is the most reliable mechanism to identify children who have elevated blood lead levels and require intervention.

Age-Sensitive: early and repeated screening when children are mobile in the home and engage in hand-to-mouth behaviors is most effective for identifying exposure and improves the ability of the brain to improve some of the long term learning and behavioral effects of lead exposure.

Results in Prevention: screening and testing initiates the process where the source of exposure to lead can be identified and removed, including services provided by the Program, such as case management and Lead Risk Assessment, and the Lead Based Paint Program.

Enables Help: children are eligible for early intervention services through the Birth to Three Regional Programs with a venous blood lead level of 5 µg/dL or above.

Delaware's original Childhood Lead Poisoning Prevention Act, signed in 1994, required universal blood lead screening or testing for all children at 12-months of age. The Act was amended in 2010 (HB 300), which established screening by questionnaire at 24 months of age. Research by the American Academy of Pediatrics (AAP, 2016) and the US Preventive Services Task Force (USPSTF, 2019) determined that questionnaires were unable to capture all of the various areas of lead exposure risk, some of which may not even be known to the parent. Questionnaires were discontinued in Delaware in 2021 (HB 222), and universal blood lead screening or testing for all Delaware children is now required at age 1 and again at age 2, irrespective of risk factors. These new requirements were incorporated into DHSS Regulations 4459A, which also identified the specific age ranges that qualify as a 12-month test and a 24-month test (Delaware Register, August 2023).

In addition, since 1989 all children receiving Medicaid services have been required to have a blood lead screening or test at 12-months of age, and again at 24-months of age, as part of the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program expansion in the Omnibus Budget Reconciliation Act of 1989.

Universal Screening Requirements for Delaware Children

	First Screening or Test	Second Screening or Test
Title 16 Delaware Code Ch 26: Childhood Lead Poisoning Prevention Act	12 months of age	24 months of age
DHSS 4459A Regulations Governing the Childhood Lead Poisoning Prevention Act	9 to 15 months of age	21 to 27 months of age
Medicaid EPSDT Requirements (Bright Futures Guidelines, 2017)	12 months of age	24 months of age

The Childhood Lead Poisoning Prevention Act defines screening and testing as follows:

Screening: A capillary blood lead test, including where a drop of blood is taken from a finger or heel of the foot.

Testing: A venous blood lead test where blood is drawn from a vein.

Confirmatory Testing and Regulatory Consistency: DHSS Regulations 4459A require confirmatory venous tests of all capillary screening results prior to receiving services by the Department of Public Health. Children with a confirmatory venous test $\geq 3.5 \mu\text{g/dL}$ are therefore eligible for the following services, whereas children who received only capillary screenings are not eligible:

1. Case Management by the Childhood Lead Poisoning Prevention Program
2. Home Risk Assessment to identify the source of exposure
3. Abatement of lead paint hazards by the Lead Based Paint Program
4. Early intervention services through the Birth to Three Regional Programs

The existing requirement for a venous confirmatory test creates a barrier for addressing childhood lead poisoning. Barriers identified by the Committee include:

1. Venous testing is much more difficult for the child, especially for the young children who are required to be screened at ages one and two.
2. Parents are not consistent in taking their children to a laboratory for venous blood draws, even if a healthcare provider writes a prescription, due to various reasons including fear of the blood draw, transportation, and the time required for the test.
3. Lack of awareness of the importance of a confirmatory test, by both parents and healthcare providers.
4. Children who do not have a healthcare provider or do not attend wellcare visits are unlikely to be screened or to receive confirmatory testing.

5. Children without health insurance coverage may confront additional barriers to accessing a healthcare provider or affording the cost of a venous blood lead test.

Instead of requiring a venous blood lead test, the CDC Case Definition for Lead in Blood (CDC, 2023) permits the use of two capillary blood lead screenings performed within 12 weeks of each other to confirm the result. Bringing Delaware policy for confirmatory testing in line with the CDC Case Definition would reduce the medical burden for venous blood lead testing, which is much more difficult for the child and time-consuming for the parent, while maintaining rigor in the method of analysis and confirming the result with federally-approved methods.

Verification of Screening: Since 1994, the Childhood Lead Poisoning Prevention Act has required that child care facilities and public and private nursery schools, preschools, and kindergartens shall require proof of screening for lead poisoning upon admission or continued enrollment.

In August 2022, the Department of Education updated Office of Childcare Licensing regulations and required proof of lead screening by their regulations to conform to the screening requirements of the Childhood Lead Poisoning Prevention Act (934 Regulations for Family and Large Family Child Care Homes, Delaware Register, August 2022).

To assist school nurses with verifying screening, the General Assembly required the Program to share screening data with school nurses in 2023 (HB 227) and blood lead level results in 2024 (HB 401). The Memorandum of Understanding for the implementation of HB 401 is underway, and data transfers are expected to begin by January 2025.

There are challenges to the enforcement of the Childhood Lead Poisoning Prevention Act though the verification of screening by licensed child care facilities and school nurses:

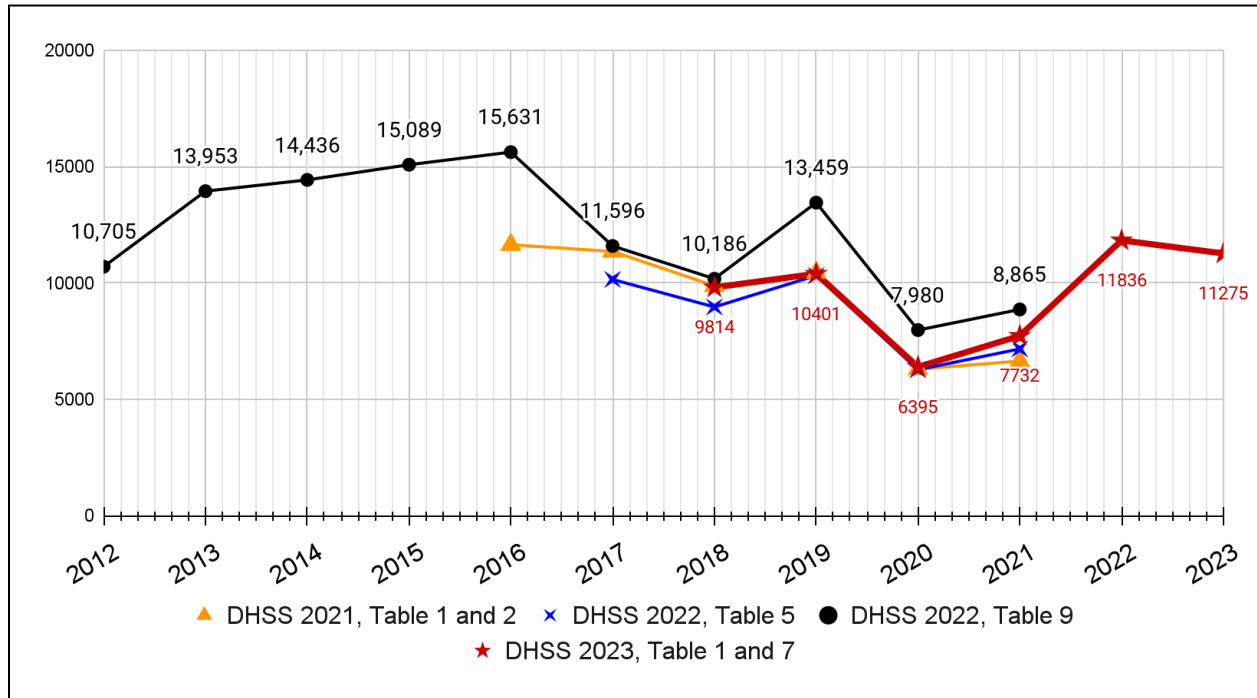
1. Healthcare providers often do not include blood lead screening on medical records submitted for child care or kindergarten enrollment.
2. Child care facilities verify a medical screening that they do not have the ability to perform, and are therefore in the unfortunate position of having to educate healthcare providers of their responsibilities to perform, document, and report the screening.
3. Those licensed child care facilities that do not verify blood lead screening upon enrollment risk losing their license.

4. There are a number of child care facilities that are exempt from licensure, which are listed in Title 14 Admin Code 933 DELACARE: Regulations for Early Care and Education and School-Age Centers § 4.3. There is no verification of screening for exempt facilities.
5. While school nurses had historically been able to contact DPH to request screening information from their database, in January 2023 this practice was discontinued. HB 227 (2023) restored school nurse access to lead screening information directly from DPH, though this process is currently cumbersome.
6. Child cares do not have any direct access to blood lead screening information maintained by DPH.
7. Licensed child care facilities and school nurses are not provided with resources or materials to assist them in the task of verifying screening.

As critical partners in providing for the needs of Delaware children, school nurses and childcare providers deserve robust support. School nurses and childcare facilities need the information necessary to verify screening and, where appropriate, provide care in the school or childcare environment, make referrals to Birth to Three or 619 Programs, recommend nutritional support, collaborate with special education coordinators, and assist children with ongoing or past exposure.

Screening and Testing Rates: Following HB 222 in 2021, DHSS now provides annual reports to the General Assembly, and has published reports for 2021, 2022, and 2023. Screening and testing data reported in these Blood Lead Surveillance Reports (DHSS 2022a, 2022b, and 2023) show that screening and testing **peaked in 2016** with 15,631 children screened or tested.

DHSS Blood Lead Surveillance Reports: Delaware Children who Received a Blood Lead Screening or Test, Birth to Age 6



Data sources: DHSS 2022a, 2022b, and 2023. Data from 2012 to 2022 represent calendar year totals. 2023 data represent Fiscal Year 2023, not calendar year 2023.

The significant decline in blood lead screening following the 2016 peak in screening resulted, in part, from the following challenges:

1. Lack of Program oversight due to the discontinuation of the Committee in 2012 (the Committee was restarted by HB 89 in 2019).
2. Need for funding for education of healthcare providers and parents about screening and testing.
3. The recent COVID-19 pandemic, where children were not attending well-care visits in person and therefore did not have access to point-of-care screening.
4. The Magellan recall of the LeadCare II Analyzer from July 2021 to February 2022, which is the principle method for capillary blood lead screening.
5. Temporary discontinuation of data access to school nurses that enabled them to verify screening in 2023.

The rebound in screening that began in 2022 and 2023 is believed to benefit from:

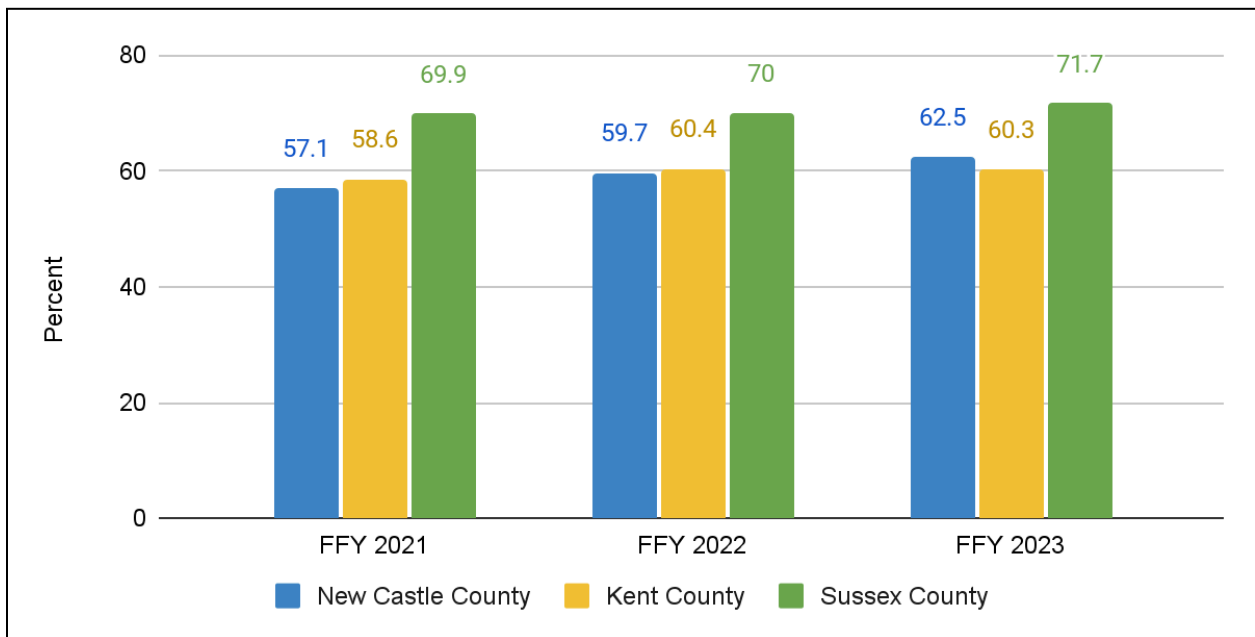
1. Expanded universal screening to all children at age 2, in addition to age one, in 2021 (HB 222).

2. Targeted approach by Delaware MCOs to improve blood lead screening rates for members receiving Medicaid services.
3. Updated regulations by the Office of Childcare Licensing in 2022 that tie screening verification to licensure.
4. The efforts of school nurses to verify screening upon kindergarten enrollment.

All children receiving Medicaid services are also required to receive a blood lead screening or test at 12-months of age, and again at 24-months of age, as part of the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program. Delaware’s Division of Medicaid and Medical Assistance (DMMA) tracks blood lead screening for children receiving Medicaid services.

Screening rates in Sussex County exceed those of Kent and New Castle County by approximately 10%. Screening rates for children receiving Medicaid services in Delaware are on par with the national average, which from 2008 to 2022 has ranged from 59.4% to 70%.¹

Blood Lead Screening Rate (Percent) for Children Receiving Medicaid Services by County and Federal Fiscal Year (FFY) 2021-2023.



New Castle, Kent, and Sussex County data: Health-Care Effectiveness Data and Information Set (HEDIS); provided by the Division of Medicaid and Medical Assistance, August 20, 2024.

¹ National average data represent the percentage of children 2 years of age who had one or more capillary or venous lead blood test for lead poisoning by their second birthday; provided by National Committee for Quality Assurance (NCQA, 2024).

DHSS provides capillary blood lead screening through two programs, at Public Health Clinics located in six State Service Centers, two of which are in each county, and through Mobile Units deployed in October 2022 in all three counties.

DHSS Public Health Clinics

New Castle County	Kent County	Sussex County
Hudson State Service Center 501 Ogletown Rd., Newark 302-283-7587	Williams State Service Center 805 River Rd., Dover 302-857-5140	Thurman Adams State Service Center 544 S. Bedford St., Georgetown 302-515-3174
Porter State Service Center 509 W. 8th St., Wilmington 302-777-2860	Milford State Service Center at the Riverwalk 253 NE Front St., Milford 302-424-7140	Anna C. Shipley State Service Center 530 Virginia Ave., Seaford 302-628-6772

While the Mobile Unit is only able to perform capillary blood lead screening using the Magellan LeadCare II analyzers, the Public Health Clinics are also able to refer to Labcorp for a venous blood lead test.

Mobile Units operate typically during business hours on weekdays, though sometimes on evenings and weekends. The location and times of the Mobile Units are not well publicized, though pdf flyers for each week are now posted online.²

In March 2024 we requested data from DPH about the number of blood lead screenings performed by the Public Health Clinics and the Mobile Unit, but that data are not yet available to be included here. As a result, the success of the Mobile Unit at performing lead screenings is not something we have been able to determine, though we do believe it would benefit from:

1. Easy to access schedules more than a few days in advance,
2. Expanded partnerships with schools, childcare facilities, community organizations, and special events,
3. Evening and weekend hours, and
4. Greater publicity, including press releases and social media.

Complicating screening is the reliance of some healthcare providers on Filter Paper, which is a controversial screening method³ currently accepted by the Program, even

² <https://coronavirus.delaware.gov/vaccine/where-can-i-get-my-vaccine/>

³ Information we received earlier this year directly from the Dr. Matt Karwowski, Chief Medical Officer of the Division of Laboratory Sciences at the National Center for Environmental Health at CDC, informed us that the limitations of filter paper can lead to “false positives (over-reporting), which draws down limited

though it is not approved for blood lead analysis by the FDA or waived under the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88), and has been banned in the State of California (CDPH, 2023). From 2019 to 2023, **2486 Delaware children** were screened with Filter Paper. The Program should therefore carefully gauge the negative impacts of using unreliable screening methods if it moves to a federally-recommended confirmation of laboratory analysis (CDC Case Definition for Lead in Blood), especially given that CLIA-waived screening methods are available at the point of care, and pharmacies also have the ability to perform CLIA-waived screenings in Delaware since 2022 (HB 399).

Recent Program Activities: To improve blood lead screening and testing rates, the Program funded a healthcare provider training program that was conducted virtually in October 2023 and successfully applied for a capacity-building grant from HUD in 2024. The program has also more recently begun partnering with Delaware Readiness Teams and the Latin-American Community Center to improve training, education, and outreach.

Challenges and Needs: Efforts should be made to improve statewide blood lead screening and testing to at least 2016 levels in the immediate future. Overcoming barriers to improve screening should be a data-driven process. The Program would benefit from substantial improvements to the following:

Data Validation and Surveillance Reporting: The accuracy and quality of data collected and reported by the Program about childhood lead poisoning would benefit by ongoing oversight by the State Epidemiologist to ensure that best practices for data management and collection are maintained, quality control measures are performed, and reporting is clear and complete. The Committee has requested the assistance of the State Epidemiologist in developing a template for annual Blood Lead Surveillance Reports to ensure they provide the information of interest to the Committee in overseeing programs and advising on policy.

DELI: Childhood lead poisoning data are slated to merge into the new Delaware Epi Lab Insight (DELI) data management program in 2025. The use of the current data management tool, Healthy Homes and Lead Poisoning Surveillance System (HHPSS), has contributed to substantial problems in the ability to track and manage data with the needed level of complexity.

public health resources, and false negatives (under-reporting), which has the potential to negatively impact patient care”.

Data Transfers to DHIN: Due to the lifelong effects of childhood lead poisoning, patient care would benefit from healthcare provider-access to blood lead results throughout a patient's lifetime. DHSS has been collecting lead poisoning data in its universal reporting system since the original Childhood Lead Poisoning Prevention Act went into effect in 1995. Making this blood lead level information available to primary healthcare providers is especially valuable when individuals change healthcare providers or are considering pregnancy or the decision to breastfeed, have broken bones or osteoporosis, or when treating the cardiovascular and physiological effects of lead exposure later in life, which may require followup lead testing in adults.

Enforcement: While the Childhood Lead Poisoning Prevention Act (Title 16 § 2616) enables DHSS to adopt regulations to administer, implement, and enforce the Act, enforcement duties have instead fallen on school nurses and licensed child care facilities. This creates a tremendous burden on already over-extended service-providers, and also contributes to delays in screening, as many children are not screened until they register for kindergarten. Delays in screening can mean years of ongoing lead exposure, which could otherwise be addressed. Delaware should examine alternatives that can assist child cares and school nurses in performing the duties necessary to verify screening, including providing data access to child cares as was recently provided to school nurses (HB 227 in 2023 and HB 401 in 2024), or assuming some of the verification responsibilities directly.

Healthcare Provider Education and Outreach: Healthcare provider education, including the screening and testing requirements and medical care during case management, is critical to reducing the duration of exposure for children with lead poisoning and facilitates prompt recovery to reduce long-term impacts. Complicating treatment, childhood lead poisoning is often subclinical, meaning that no symptoms are shown until it is too late. Ongoing and consistent healthcare provider education and outreach are necessary, including:

1. Prompt notification of changes to regulations, requirements, and product recalls that impact the pediatric healthcare community,
2. Annual trainings on childhood lead poisoning available free of charge,
3. Distribution of materials for use in healthcare provider offices for clinical care and for distribution to families, and
4. Improved coordination between the Program's case management team and healthcare providers beginning at the point of first blood lead screening to detect lead exposure at or above the CDC BLRV (3.5 µg/dL).

Statewide Screening Plan: Delaware would benefit from a Statewide Screening Plan to guide policy and action to improve screening rates. The Committee is in the research phase of developing a Statewide Screening Plan for Delaware to improve childhood blood lead screening and testing in the state. Our efforts involve a careful review of state data, policies, and practices, and an evaluation of best practices from other states and the peer-reviewed literature. To date, our focus has considered the following elements: baseline screening and testing information, screening and testing opportunities, screening barriers, verification of screening, blood lead result validity, screening goals, and children at greatest risk. When our research is complete, which we anticipate will occur in 2025, we would appreciate the opportunity for the Joint Legislative and Sunset Committee to review our plan and potentially assist in its implementation.

Safe Drinking Water in Schools

The safe drinking water in schools issue is a project undertaken by the Department of Education (DOE). In 2020, the DOE was awarded a \$209,000 grant from the U.S. Environmental Protection Agency (EPA) for testing lead in drinking water in schools. In 2022, as results began to show concerning levels of lead, and with the encouragement of Committee members and the public, the Department of Education initiated a resampling program using state funds. The EPA advised Delaware to use an action level of 7.5 ppb. Sampling was completed in 2023, and the results of those samples are available on a public data dashboard⁴ and are summarized in the DOE Summary Report.⁵

Childcare Water Testing: In 2024 DOE announced they would soon begin water sampling for lead in 50 state-funded child care centers using Water Infrastructure Improvements for the Nation Act (WIIN) grant funds administered by the Environmental Protection Agency (EPA).

As with the 2022-2023 water sampling in public schools, samples will follow the EPA's 3Ts protocols, which require stagnation times of 8-18 hours. Fixtures with results at or above 5 ppb will be immediately shut off and subject to remediation. Remediation options include removal and/or replacement of the fixture or installation of appropriate filtration, and fixtures used for consumption will not be returned to service until additional sampling confirms levels below the 5 ppb action level.

⁴ <https://data.delaware.gov/stories/s/2023-Lead-in-Drinking-Water-Sampling-Results-Dashb/pc3b-a6j3>

⁵

<https://publichealthalerts.delaware.gov/wp-content/blogs.dir/203/files/sites/203/2023/09/Lead-Sampling-Report-w-attachment-1-REV.pdf>

The General Assembly can support safe drinking water in schools with the following:

Funding for Filter First in Schools: DOE has already committed to a Filter First strategy for safe drinking water in schools. The “Filter First” strategy is more effective for addressing lead in water used for drinking and food preparation, instead of a “test and chase” approach. Testing is an unreliable method for detecting lead contamination in drinking water; samples can vary widely from one to another based on water chemistry and temperature, pipe condition, vibrations from nearby roads and construction, and intermittent water flow. The installation and maintenance of certified lead-reducing filters (ANSI 42 and 53) take the guesswork out of water quality and provide an immediate source of safe water for children.

Filter first will take dedicated funding. A comprehensive filter first strategy would involve one filtered drinking water station for each 100 students in public schools, as well as 1 per each pre-kindergarten classroom, school nurses office, and teachers lounge, in addition to filters in kitchen, food lab, and food preparation areas. Filters require maintenance, including replacement, which would be determined by the model selected.

Health-Based Standard: The General Assembly should establish a health-based standard for lead in drinking water. The American Academy of Pediatrics (AAP, 2016) recommends the following:

State and local governments should take steps to ensure that water fountains in schools do not exceed water lead concentrations of 1 ppb.

Monitoring: Long-term monitoring of the drinking water in schools, including sampling and confirmation that filters are changed as required, should be included in the maintenance of drinking water in schools to verify water safety in the future.

Funding for Childhood Lead Poisoning Prevention

State of Delaware Budget: The Delaware General Assembly first allocated state funds for the Childhood Lead Poisoning Prevention Program in FY 2024. Previously, the program operated exclusively on federal grants. In addition, residential lead remediation funds were allocated to the Lead-Based Paint Program, which was established in 2023 (SB 9) for the abatement of housing with lead paint hazards for children with blood lead levels at or above the CDC BLRV (3.5 µg/dL). Budget requests for FY 2024 and FY 2025 were made as “one-time items”, indicating a need for a more sustainable, long-term approach to funding.

Fiscal Year	Childhood Lead Poisoning Prevention	Residential Lead Remediation
FY 2024	\$924,700	\$2,000,000
FY 2025	\$1,100,000	\$2,500,000

Funding Received through Federal Grants: DHSS also receives funding through federal grants for childhood lead poisoning surveillance, capacity building, and to implement the EPA Renovation, Repair, and Painting Program.

Program	Funding
CDC Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Children	\$540,000/year
CDC Lead Capacity Building Grant	\$1,500,000 over 3 years
EPA Renovation, Repair, and Painting Program	\$340,000/year

CDC Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Children: provides grant funds for Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Children for the monitoring of screening of children for lead poisoning. DHSS has been a grant recipient of these funds since the Program was established in 1995. The current performance period for these funds extends from Fall 2021-2026 with an annual budget of \$540,000 and focuses on three strategies: 1) ensure blood lead testing and reporting, 2) ensure blood lead surveillance, and 3) improve linkages of lead-exposed children to recommended sites or services.

HUD Lead Hazard Reduction and Capacity-Building Grant: provides funding for applicants to develop and expand the infrastructure necessary to undertake comprehensive programs to identify and control lead-based paint hazards in eligible privately owned rental or owner-occupied housing. DHSS’s 2024 application was approved and grant funds are expected to be awarded later this year.

EPA Renovation, Repair, and Painting Program: provides funding for the training, certification, and enforcement of renovation, repair, and painting contractors. Contractors that perform work that disturbs lead-based paint,

including the replacement of windows or other home repairs, must be certified by the Division of Public Health.

Additional Federal Grant Opportunities: DHSS does not receive funds from the following federal grants. Successful application of these grants would supplement the state's ability to respond to childhood lead poisoning needs, and DHSS should apply for these funds as soon as feasible.

Children's Health Insurance Program (CHIP): provides funds for lead-abatement activities with an eligible Health Services Initiative (HSI). Nineteen states already have HSI programs approved under CHIP, which are available for lead hazard abatement work under Title XXI of the Social Security Act. Delaware has not yet determined whether it is eligible for these funds.

HUD Lead Hazard Control and Healthy Homes: provides funding for the remediation of lead paint hazards in homes. The last successful DHSS application was for \$3,288,728 for the 2014-2017 grant cycle. Using these funds, DHSS completed lead abatement in 952 housing units. DHSS applied on May 5, 2023 but funds were not awarded. DHSS intends to apply again in 2027, following completion of the HUD Lead Hazard Reduction and Capacity-Building Grant. Currently, New Castle County is Delaware's sole grantee.

Housing Units Abated for Lead Hazards in Delaware Using HUD Lead Hazard Control and Healthy Homes Grant Funds

Grant Years	Housing Units Completed	Location
1999-2010	779	Wilmington
2014-2017	173	Kent and Sussex Counties

Additional Annual Funding Needs

The budget allocated in FY 2024 and FY 2025 are insufficient to meet the basic needs of the Childhood Lead Poisoning Prevention Program and the Lead Based Paint Program. Because of improvements in screening rates, and anticipated changes to confirmatory testing, the number of children requiring services is expected to increase. The danger of a waiting list that will backlog programs and overwhelm capacity has the potential to bury the Program in the near future.

In addition to maintaining the existing funding allocated for FY 2024 and 2025, we propose the following as sustainable program funding to meet the program needs:

Program	Funding Request
Case Management	\$535,500
Lead Risk Assessments	\$542,500
Lead Paint Hazard Control and Abatement	\$5,827,500
Filter First in Homes	\$35,000
Interim Controls	\$188,500
Public Education and Outreach	\$250,000
Total	\$7,379,000

Case Management: The Program’s ability to perform case management is currently underfunded, which has limited its impact. Case managers work with families to bring blood lead levels down, coordinate with healthcare providers for follow-up testing, and make referrals to the Birth to Three Regional Program. Case managers only initiate their involvement when a venous blood lead test confirms a blood lead level at or above the CDC BLRV (3.5 µg/dL). Case managers are not public health nurses, even though they provide health guidance to families with confirmed cases of lead poisoning. Bringing case managers to a higher standard with the use of public health nurses, and expanding case management to all children with a blood lead level result at or above the BLRV, irrespective of confirmatory test, is recommended to ensure that families are receiving appropriate health advice from a healthcare professional, are aware of the health risks of lead poisoning, understand the need for followup screening or testing, and are able to take the steps necessary to bring blood lead levels down, as well as coordinate efforts between the Program and the family and to be a point of contact. Expanding case management to an estimated 700 children per year at **\$765 per child** (15 hours/child at a public health nurse’s average wage of \$51/hour) suggests Delaware should budget **\$535,500** for case management.

Lead Risk Assessments (LRA): LRAs cost the program **\$1200 each** for the Lead Based Paint Hazard Assessment and **\$300 to \$400** for water sampling, depending on which contractor is used. Identifying the source of exposure is critical to preventing longer-term damage to the child and other members of the household, and the Program is required by SB 9 (2023) to perform a LRA for all children with a blood lead level at or above the CDC’s BLRV (3.5 µg/dL) that live in housing built prior to 1978. Because screening and testing rates are improving, and the State is taking steps to adopt the CDC Case Definition for confirmation of results, the number of households identified

who may need a LRA may also increase. The State of Delaware should prepare for the need to perform 350 LRAs per year in the near future, and should therefore budget **\$542,500**.

Lead Paint Hazard Control and Abatement: Delaware does not yet have baseline information on the cost of lead hazard control and abatement, making it difficult to predict how much is needed. Costs from nearby Baltimore show that “per unit cost for lead hazard control work is between \$10,000 and \$17,000, and the per-unit cost of abatement is between \$30,000 and \$50,000 (Scrivener, 2022: 10). Delaware should prepare for a conservative estimate of **\$17,000 per unit** for an approximate 315 units, as well as an additional **\$1500 per unit** for relocation during abatement required by SB 9 (2023), and should therefore budget **\$5,827,500**.

Filter First in Homes: The Program has identified the health-based standard of 1 ppb recommended by the American Academy of Pediatrics (AAP 2016) as the target for lead in water when performing LRAs, which began in July 2024. We have no comparable reference for the level of need for the removal of lead hazards in water in Delaware, and also understand that water could be contaminated in premise plumbing that would need to be replaced, or also in lead service lines.

Improving the safety of drinking water has become a federal priority due to its profound impacts on lead poisoning. On May 2, 2024, the Environmental Protection Agency announced that Delaware would receive \$28,650,000 for lead pipe replacement, as part of President Biden’s Bipartisan Infrastructure Law, which is investing \$15 Billion in lead service line replacement nationwide (EPA, 2024).

The “Filter First” approach to addressing lead in water is considered an affordable best practice that protects drinking water at the point of consumption while acknowledging that testing at the tap is an imperfect method due to variability of water chemistry and temperature, pipe condition, vibrations from nearby roads and construction, and intermittent water flow from one day to the next (Masters et al., 2016; Triantafyllidou et al, 2007). Filter First makes the drinking water safe immediately, instead of waiting for extensive testing and repairs.

Pitcher filters are recommended in homes, as many modern kitchen faucets are not suited for traditional faucet-mounted filters, and lead is removed prior to consumption. The National Sanitation Foundation (NSF) oversees certifications for water filters, and NSF/ANSI 53 water filters are certified to remove 99% of lead (NSF, 2024; ANSI 2024). Pour-through water filters have been demonstrated to perform as designed (Tully et al., 2024).

Delaware should distribute NSF/ANSI 53 pour-through water pitchers with a one year supply of filters for each household with a child with a blood lead level at or above the CDC BLRV (3.5 µg/dL), irrespective of the type of screening or test. At **\$50 per household** for NSF/ANSI 53-certified pour-through water filtration, Delaware should budget **\$35,000** to provide safe drinking water to each lead-poisoned child.

Interim Controls: Interim controls are “a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporarily containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs” (Title X, quoted in HUD, 2012: 1-12).

While specialized cleaning alone is not sufficient to reduce lead paint and dust hazards in a home, and cleaning interventions need to be repeated frequently, they can serve an immediate need of addressing lead hazards while abatement is scheduled, though the benefits are “short-lived” (Ettinger et al., 20002). Improper cleaning raises the risk that lead dust and particles can be spread over a greater surface area, and from one room to another, increasing the lead hazard.

Estimates of expected costs for Interim Controls include a total of **\$188,500** for the following:

Professional cleaning services: Professional cleaning services are documented to immediately reduce lead dust levels in children’s homes, but dust levels return to pre-cleaning levels after three to six months, indicating that frequent, repeated cleanings are required to maintain lead dust hazards (Campbell et al., 2003). For those children with blood lead levels at or above **10 µg/dL**, professional cleaning services should be procured for each household every three months until the Lead Based Paint Program is able to complete its work.

We estimate professional cleaning services for an estimated **31 households** with a child with a blood lead level at or above 10 µg/dL, using the 6-year average from 2016-2021 reported in Table 2 of the 2021 Blood Lead Surveillance Report (DHSS 2022a). The Lead-Safe Cleveland Coalition (2024) reports that Interim Controls cost between \$500 and \$5,000 based on property condition. Using a conservative estimate of **\$1500 per household**, Delaware should budget **\$46,500** for Interim Controls for households with children with blood lead levels at or above 10 µg/dL.

Cleaning education and supplies: To facilitate immediate temporary reduction in lead hazards during the interim period between identifying lead-poisoned children and more permanent measures undertaken through the Lead Based Paint Program, we suggest that the Program proactively educate families on interim controls and distribute appropriate cleaning materials in sufficient quantities for repeat use. This includes cleaning supplies, such as those that contain trisodium phosphate (TSP), and proper instruction on how to use them. We estimate the need for cleaning instruction consultation estimated at **\$400 each** and supplies at **\$100 each** for **284 households**,⁶ leading to a total budget need of **\$142,000**.

Education and Outreach: Public education and outreach for prevention of lead poisoning and response for those who are exposed have largely been driven by federal grants. While greater focus on educating healthcare providers has been initiated, Delaware needs a holistic public education and outreach program that can provide general education and targeted information.

Public education is an area of particular need, especially in raising general awareness that childhood lead poisoning remains a public health risk that is also preventable. In 2019 DHSS launched a billboard campaign, but the messaging was somewhat confusing. Public education should be well thought-out with clear messaging and actionable steps that families can take to protect their children, including a focus on screening all children twice by age two, the importance of primary prevention, product recalls and emergency health alerts, follow up steps for children who are exposed, and the resources that are available. Messaging delivery should include public libraries, schools, child cares, community partners, as well as social media and the press.

⁶ See Lead Paint Hazard Control and Abatement above for justification of the estimated number of households, which is 315. Subtracting the 31 estimated to require professional cleaning leads to a total of 284 households requiring cleaning education and supplies.



DHSS billboard for childhood lead poisoning in downtown Wilmington, September 2, 2019.

The Program would benefit from improved use of existing public education and outreach platforms, including social media, and explore the potential for multimedia educational content and partnerships with community organizations to share the message on lead poisoning prevention, the importance of screening “twice by age two”, and common lead hazards, particularly degrading lead paint.

Healthcare providers would also benefit from regular updates from the Program about screening and testing requirements, the responsibilities of providers to provide care, and emerging issues, such as product recalls that impact Delaware. Healthcare providers should never decline to perform a blood lead screening when it is requested by a parent and should proactively provide care when blood lead levels approach the BLRV.

Delaware should budget **\$250,000** to be used specifically for public education and healthcare provider outreach.

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Lead-Safe Rental Housing Plan

**Prepared for Governor John Carney and the Delaware General Assembly
by the Childhood Lead Poisoning Prevention Advisory Committee**

State of Delaware

December 13, 2023

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Background

The Childhood Lead Poisoning Prevention Advisory Committee (CLPPAC) is pleased to present to the Governor and General Assembly our proposal for a statutory requirement for lead-safe rental housing.

The CLPPAC was tasked by SB 9 with developing a plan to ensure that rental housing is lead safe and does not pose a health hazard to tenants, to be submitted to the Governor and General Assembly by January 1, 2024, which must include:

1. A plan for a statutory requirement that all rental properties built before January 1, 1978, be screened for the presence of lead based paint hazards, as defined at 40 C.F.R. § 745.65, before the rental properties are made available to a new tenant, and at least once before January 1, 2026, even if the rental properties are not made available to a new tenant, and that all lead based paint hazards are abated or remediated promptly on discovery.
2. Provisions for the state to augment, where appropriate, the cost of lead abatement or remediation based on an objective eligibility standard, through the use of state or federal funds.
3. Specific recommendations to ensure that an adequate work force is available to perform all screening, remediation, and abatement work required by the adoption of the statutory requirement under paragraph (2)a. of this Section.

In the 45 years since the sale of lead paint for residential use was banned in the United States, 19 states and many more counties and municipalities have taken steps to prevent lead poisoning in rental housing.¹ Delaware, in comparison, has fallen behind. The age of our housing stock, paired with our enduring neglect of lead-poisoning hazards in rental housing, has harmed generations of Delaware children. This will continue until fundamental changes are made to ensure that rental housing is safe.

Primary prevention, the removal of lead hazards before a child is exposed, is recognized as the “most reliable and cost-effective measure” to ensure that children do not experience harmful effects from lead poisoning. Primary prevention is superior to all other methods, including parent education, hand-washing, and cleaning to control dust (AAP, 2016; Garrison and Ashley, 2021: 555), and “yields large economic benefits” (Needleman, 2004: 219).

¹ State-level lead abatement mandates and enactment year: Connecticut 1992, Washington D.C. 1983, Georgia, 2000, Illinois, 1992, Kentucky, 1974, Louisiana, 1988, Massachusetts, 1971, Maryland 1995, Maine 1991, Michigan 2005, Minnesota 1991, Missouri 1993, North Carolina 1989, New Hampshire 1993, Vermont New Jersey 1971, Ohio 2003, Rhode Island 2002, South Carolina 1979, and Vermont 1996 (Gazze, 2021: 30).

This Lead-Safe Rental Housing Plan is a deliberate strategy to prevent childhood lead poisoning in Delaware.

What is Lead Poisoning?

“The scientific community and many political leaders now recognize that lead poisoning has been among the most important epidemics affecting children in the United States in the last century” (Markowitz and Rosner, 2013: 16).

While child blood lead levels are documented to have declined over the past several decades, it is now widely recognized by the global public health community, including the U.S. Centers for Disease Control and Prevention (CDC), the World Health Organization (WHO), the American Academy of Pediatrics (AAP), and the U.S. Preventive Services Task Force (USPSTF), that there is no safe level of lead in children’s blood:

“No safe blood lead level in children has been identified” (CDC, 2022).

“There is no level of exposure to lead that is known to be without harmful effects” (WHO, 2023).

“There is no identified threshold or safe level of lead in blood” (AAP, 2016).

“No safe level of lead exposure has been established” (USPSTF, 2019).

The potential impacts of lead exposure, including low levels of lead, are described by the AAP (2016) as follows:

- Cognitive deficits, including intellectual deficits, diminished academic abilities, attention deficits, and lower IQ
- Behavioral problems, including inattention, impulsivity, aggression, hyperactivity, and elevated risk of attention deficit/hyperactivity disorder (ADHD)
- Antisocial behaviors, encompassing conduct disorder, delinquency, and criminal behaviors, including arrests and convictions later in life
- Reproductive problems, including spontaneous abortion, low birth weight, and reduced growth in children
- Kidney failure and renal failure
- Decreased hearing
- Cardiovascular effects

Lead exposure does not always show symptoms, making it difficult for healthcare providers to identify. While lead exposure can present clinical features at lower levels, exposure can also be asymptomatic at higher levels (AAP, 2016; USPSTF, 2019; Wani et. al, 2015). This has necessitated routine universal screening in Delaware’s Childhood Lead Poisoning Prevention Act, which since 2021 has required blood lead screening for all children at 12 months of age, and again at 24 months of age.

Lead exposure can occur through three pathways into the body: inhalation, ingestion, or through skin contact. The amount of lead absorbed by the body depends upon several factors, including lead chemistry and the metabolism of the individual, which is impacted by their age, stresses on the body, and degree of malnutrition for certain minerals, including iron and calcium. Lead has a half-life in blood of approximately 40 days, and is either excreted or stored in bone, teeth and soft tissue, including the brain, spleen, kidney, liver, and lungs (Wani et al, 2015: 58, 59).

While health effects of lead were known for many centuries, toxic neurological effects of lead poisoning were only first described in modern medical literature in 1839 in France (Walusinski, 2021). Cases of childhood lead poisoning were first reported in the United States in 1887, and by the 1930s childhood lead poisoning was considered common in urban areas with older housing, with Baltimore being the first U.S. city to offer free blood lead testing to children in 1935 (Markowitz and Rosner, 2002: 41; 55).

Pursuit of an acceptable threshold of lead in children's blood was initially based on observations made by industrial hygienists about symptomatic exposure among adult workers in factories where lead paint and other lead-based products were manufactured. The threshold of acceptable lead in blood has been regularly lowered since the 1960s,² with no safe level of lead now widely recognized in the medical literature (ibid). In more recent decades, research has provided evidence of disproportionate, cumulative, neurological, and behavioral effects of low levels of exposure among children, which has prompted a greater policy response to prevent childhood lead poisoning across the U.S. and other countries (Markowitz and Rosner, 2002; 2013; Bellinger and Bellinger, 2006).

Understanding Childhood Lead Poisoning Rates in Delaware

Childhood lead poisoning is a serious public health issue in Delaware. Using reported screening and testing³ data, Delaware Department of Health and Social Services (DHSS) tracks blood lead levels and has documented that in the 10-year period between 2012 and 2021, 5212 Delaware children up to 72 months of age were identified with a blood lead level at or above the

² Definitions for interpreting children's blood lead levels in the United States: 1960 = 60 µg/dL; 1970 = 40 µg/dL for undue or increased lead absorption; 1975 = 30 µg/dL for undue or increased lead absorption; 1978 = 30 µg/dL for elevated blood lead level; 1985 = 25 µg/dL for elevated blood lead level; 1991 = 10 µg/dl for level of concern; 2012 = 5 µg/dL for reference value; and 2021 = 3.5 µg/dL for reference value (Ruckhart, 2021: 1509).

³ Federal law has required lead poisoning assessments for children receiving Medicaid services since 1989. Universal screening for lead poisoning was initiated in Delaware with SB 78 in 1994, which mandated a blood lead screening for all children at 12 months of age. In 2010, a second screening at 24 months of age through the use of a risk questionnaire was added by SB 300. The use of risk questionnaires were discontinued in 2021 when HB 222 expanded the universal blood screening requirements for all children at 24 months of age. The regulations implementing HB 222 were finalized and appeared in the Delaware Register on August 1, 2023.

CDC's 2021 Blood Lead Reference Value of 3.5 µg/dL,⁴ as shown in Figure 1 (DHSS, 2022b: 17). This Blood Lead Reference Value is not a health-based standard to determine a level of safety, and CDC acknowledges that there is no safe level of lead in children's blood (Ruckhart et al., 2021).

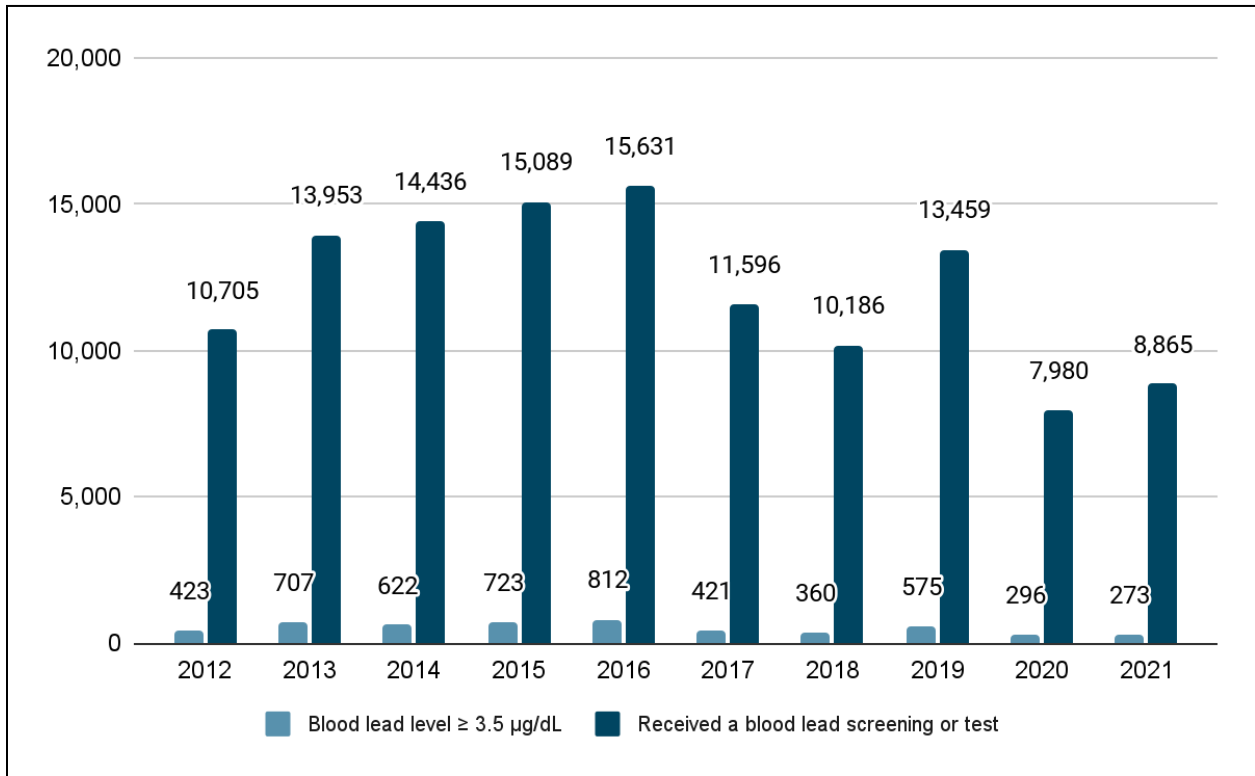


Figure 1. Delaware children up to 6 years of age who received a blood lead screening or test, and with blood lead levels at or above the 2021 CDC Blood Lead Reference Value of 3.5 µg/dL (DHSS, 2022b: 17).

Childhood lead poisoning is a statewide problem in Delaware, with blood lead levels documented in all three counties. Kids Count in Delaware (2022) reports the incidence of lead exposures at or above the CDC's Blood Lead Reference Value for children up to 6 years of age on a map by zip code, which is shown in Figure 2.

⁴ The CDC lowered the Blood Lead Reference Value (BLRV) from 5 µg/dL to 3.5 µg/dL in October 2021. The BLRV is intended to assist in the identification of children with higher levels of lead in their blood compared to most children and is based on the 97.5th percentile of the blood lead values among U.S. children ages 1-5 years (Ruckhart et al., 2021).

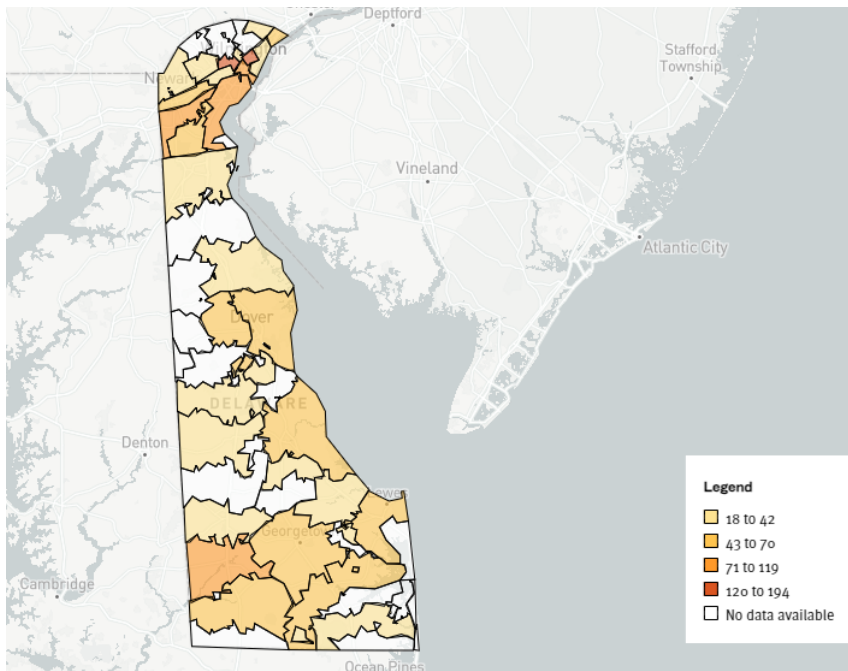


Figure 2. Statewide map of children up to 6 years of age with blood lead levels at or above the CDC Blood Lead Reference Value of 3.5 µg/dL from 2016-2021 by zip code (Kids Count in Delaware, 2022).

While Delaware has collected blood lead screening and testing data in a universal reporting system since the original Childhood Lead Poisoning Prevention Act was passed and signed into law in 1994 (SB 78), DHSS describes blood lead screening and testing as an underrepresentation of the true scale of the problem of childhood lead poisoning in Delaware:

It is evident that the number of lead-poisoned children in Delaware is underrepresented due to low compliance rates in testing. As efforts to increase the testing percentage continue, along with testing now required at 24 months of age, it is anticipated that the number of lead-poisoned children identified will drastically increase (2022a: 22).⁵

Compliance with screening and testing was compromised by the COVID-19 pandemic, which dramatically reduced blood lead screening and testing in Delaware when medical provider offices were closed or limited to urgent care, and well-child visits transitioned to a telehealth model (DHSS 2022a: 12). While the full impacts of the COVID-19 pandemic on lead poisoning are still being researched, “stay-at-home orders may have increased household exposure” to

⁵ Screening and testing rates will need to overcome the following barriers, which have been identified through DHSS’s Performance Improvement Project in 2022; they include: knowledge deficit, lack of transportation for routine care and lead testing, difficulty communicating with providers because of language and/or reading preferences/abilities, non-adherence with preventive care visits, provider lack of knowledge of screening requirements, provider distrust of LeadCare Analyzer results (due to false positives), competing priorities during patients’ office visits, lack of point of care testing resources, lack of resources for patient follow-up, and inability to coordinate care with the targeted population (DHSS 2022c: 5, 6).

lead (Anthes, 2021). This is thought to be largely due to the greater time children spent during the pandemic in lead-contaminated homes instead of in lead-safe school and childcare environments.

Further complicating blood lead screening during the COVID-19 pandemic, on July 6, 2021, the CDC issued a recall of the reagent used in some blood lead screening equipment due to falsely low results, preventing the use of finger-stick testing for lead poisoning across the country (CDC, 2021). Manufacturing resumed in February 2022.

While available evidence indicates urgency, the true size of the problem has been masked by these inadequacies in screening and testing. Improving lead screening rates is a priority for Delaware. For the 2021 CDC National Center for Environmental Health grant requirements for Childhood Lead Poisoning Prevention and Surveillance of Blood Lead Levels in Children (CDC-RFA-EH21-2102; funding for 2021-2026), Delaware is obligated to develop, update, and implement an appropriate statewide screening and testing plan in collaboration with the CLPPAC.

Blood Lead Screening Alone is Insufficient to Protect Delaware's Children

While screening is an important diagnostic and public health tool in the identification of children with lead poisoning, Bruce Lanphear and Richard Hornung, two of the most experienced and influential researchers on the topic of childhood lead poisoning, have identified the deficiencies in the blood lead screening-only approach, and have stressed housing inspection or assessment as the most valuable tool in primary prevention:

Unfortunately, this [blood testing] strategy fails to prevent the adverse consequences of lead exposure because the child with an elevated blood lead concentration is used as a trigger to control lead hazards. In contrast, screening housing to identify those that contain lead hazards should focus our efforts on the prevention of lead toxicity (Lanphear and Hornung, 2005: 306).

Lead-contaminated floor dust, the condition of housing, and rental status are offered as the best available diagnostic tools to target resources for lead hazard control “prior to occupancy” and before a child becomes exposed. This will prevent the lifelong debilitating health, neurological, and behavioral impacts of lead poisoning (Lanphear and Hornung, 2005: 308, 310).

Rental Housing and Lead Poisoning Hazards

When the American Academy of Pediatrics published their most recent policy statement on the prevention of childhood lead toxicity in 2016, they emphasized the severity of the problem of lead paint in housing in their very first sentence:

[T]oo many children still live in housing with deteriorated lead-based paint and are at risk for lead exposure with resulting lead-associated cognitive impairment and behavioral problems (AAP, 2016: 1).

Lead dust from deteriorated lead paint is widely recognized in the peer-reviewed literature as the “major source” of childhood lead poisoning (Needleman, 2004: 218) and “the most common pathway of lead exposure” in households in the United States. The urgency of addressing the problem of lead paint in housing on public health, specifically for children, cannot be overstated:

Exposure to residential lead dust will continue to be a public health problem until housing with deteriorated lead paint and lead contaminated soil is remediated (Garrison and Ashley, 2021: 555).

Lead paint hazards are created through both chips and dust that can be ingested or inhaled. These hazards may or may not be visible to the naked eye and can result in exposures that are either unknown or undetected until it is too late. Lead dust and lead chips are created by deteriorating lead paint and in areas under friction and impact, such as doors and windows that are opened and closed, painted floors or stairs that are walked upon, and handrails and painted door handles that are handled regularly. In addition to lead-painted surfaces that can generate chips and dust, all surfaces that are able to be reached by children are of particular concern (EPA, 2021).

The connection between lead paint and childhood lead poisoning has been recognized for more than a century. As early as 1909, countries in Europe⁶ began banning lead paint for interior painting (Markowitz and Rosner, 2002: 16). In 1910 the U.S. House of Representatives held the first congressional hearing on lead paint, in which witness testimony proclaimed lead paint “is a poison” (Warren, 2000: 44). The City of Baltimore, Maryland began sampling loose paint for lead in 1935, established its first housing ordinance for lead paint removal or abatement in 1941, and banned the new application of lead paint on the interiors of dwellings in 1951 (Markowitz and Rosner, 2002: 31, 32, 56, 143). Congress passed the Lead-Based Paint Poisoning Prevention Act of 1971, which prohibited lead paint in residences constructed or rehabilitated with federal funds, and the 1987 Housing Act directed HUD to perform a lead inspection in all public housing developments (Markowitz and Rosner, 2013: 125, 133).

An astonishing amount of lead was in house paint. Painters who followed the 1945 government-recommended recipe in the U.S. Department of Commerce’s Paint Manual (Walker and Hickson, 1945) mixed 100 pounds of white lead (lead carbonate) with two to three gallons of linseed oil. The prescribed formulas represent 1.4 ounces to 1.9 ounces of pure lead applied per square foot on interior surfaces for each layer of paint.⁷ While professional painters were

⁶ France, Belgium, and Austria banned white lead for interior painting in 1909, followed by Tunisia and Greece in 1922, Czechoslovakia in 1924, Great Britain, Sweden and Belgium in 1926, Poland in 1927, Spain and Yugoslavia in 1931, and Cuba in 1934 (Markowitz and Rosner, 2002: 16).

⁷ The mixing ratios for paint applied to interior plaster and wallboard included 100 pounds of “white lead paste” (89% lead carbonate) to cover areas of 600 to 800 square feet of painted surface, depending upon whether it was an unpainted surface, a second coat, or repainting a previously-painted surface (Walker and Hickson, 1945: 5, 12, 14). Based on atomic mass, lead carbonate is 77% pure lead.

mixing paints, ready-to-apply and premixed paints were becoming popular in the 20th century. Even ready-to-apply lead paint contained “about 16 pounds of white lead” per gallon (Markowitz and Rosner, 2002: 52; 2013, 8). The layers of lead paint that remain on the walls of housing units constructed prior to 1978 have the potential to contain tremendous quantities of pure lead, with exposure to miniscule amounts of lead dust contributing to dangerous levels of exposure.

Housing constructed prior to 1978 is one of the leading sources of childhood lead poisoning in the United States today; the U.S. Consumer Product Safety Commission’s ban on the sale of lead paint for use in residential and child-occupied facilities became effective on February 28, 1978. Even this initial ban still allowed lead in paint. In 2008, the definition of the permissible level of lead in paint was lowered from 600 to 90 parts per million (ppm) (Federal Register 1977, 42(170), 43957-44210; Federal Register 2009, 74(164), 43031–43042).

The prevalence of lead paint in the U.S. housing stock is assessed by the U.S. Department of Housing and Urban Development, which reports the following percentages of homes with Lead-Based Paint by construction year in the United States: before 1940 = 87%, 1940-1959 = 69%, and 1960-1977 = 30% (HUD 2021). Significantly, renter-occupied households are nearly twice more likely to have deteriorated paint than owner-occupied housing (Garrison and Ashley, 2021: 549).⁸

Delaware State Housing Authority estimated that 108,662 (28.5%) housing units in the state are renter occupied, and of these, 5,534 are estimated to be substandard⁹ (DSHA, 2023). The National Center for Healthy Housing estimated that “45% of housing in Delaware was built prior to 1978 and may contain lead-based paint” (NCCH, 2022). At the county level, New Castle County has the oldest housing inventory; “68% of rental homes were built before 1979 [sic.] and 20% were constructed before 1950” (DHSS, 2022a: 14). Analysis of lead paint hazards in housing by census tract found the predicted risk rate for household exposure to large areas of deteriorated lead paint in Delaware to be between 1.23 and 1.42 percent (Garrison and Ashley, 2021: 552). DHSS’s *Childhood Blood Lead Surveillance in Delaware 2021 Annual Report* also noted that “many Delawareans live in rental properties, and do not have the financial ability or legal authority to remediate the presence of lead” (DHSS 2022a: 7).

Title X of the Housing and Community Development Act, which passed Congress in 1992, requires disclosure of known lead hazards upon lease or sale. Since 1996, regulations to implement Title X have mandated disclosure of known lead hazards to tenants prior to signing a lease (Federal Register 1996, 61(45), 9064-9088). These policies have not led to sweeping improvements in lead hazard reduction, as described by Jacobs and Brown (2023: 236):

⁸ Rental housing status as a household characteristic is a significant predictor of deteriorated paint and has an adjusted odds ratio of 1.82 times, with a 95% confidence interval 1.82-1.83, compared to owner-occupied housing (Garrison and Ashley, 2021: 549).

⁹ Substandard housing was defined in 2000 in [Title 24 CFR §5.425](#) as dilapidated, does not have operable indoor plumbing, does not have a usable flush toilet, does not have a usable bathtub, does not have electricity, does not have a safe or adequate source of heat, should but does not have a kitchen, or has been declared as unfit for habitation by a local government.

Most homes remain uninspected for lead. The current law is limited to disclosure of “known lead paint and/or lead-based paint hazards,” which allows most sellers or landlords to simply check a “don’t know” box on a form, denying buyers and renters the knowledge of whether lead paint hazards are present. This loophole means that parents usually do not have the information they need to protect their children because they do not know exactly where the lead is located in their homes, and landlords, property managers, and owners do not know where their maintenance and capital improvements should be focused.

Housing with lead hazards is unfit for habitation due to its potential to poison tenants. Without action by the federal government, states must correct the shortcomings of Title X. Risk assessments or inspections of lead paint hazards prior to rental unit occupancy, and after lead hazard removal to prevent lead poisoning, are long overdue and have been identified as a priority by lead poisoning researchers for decades (Jacobs and Brown, 2023; Lamphear and Hornung, 2005; and Needleman, 1998).

By emphasizing the value of eliminating the lead hazard compared to other methods of lead poisoning prevention in the home, the AAP (2016: 1) maintained that “lead poisoning prevention education directed at hand-washing or dust control fails to reduce children’s blood lead concentrations.” Dust control efforts that focus on parent education about the importance of cleaning have not effectively reduced blood lead levels in children (Nussbaumer-Streit et al., 2000). Lead dust is particularly tenacious; cleaning-only efforts have the potential to simply spread the lead around. The past effort to encourage parents to better clean their homes instead of addressing the source of exposure has resulted in many lead-poisoned children.

Lead Paint Hazard Control is a Wise Public Investment

Childhood lead exposure provides numerous cognitive, behavioral, and health impacts that harm a child’s ability to succeed in school and in life. Delaware taxpayers are already paying for the costs of inaction and the state should responsibly shift from a reactionary spending paradigm that only funds activities for children after they are lead-poisoned to greater investment in primary prevention.¹⁰ “Each dollar invested in lead paint hazard control results in a return of \$17-221” in a “conservative estimate” to savings from healthcare costs, special education, and criminal justice, and increases in lifetime earnings (Gould, 2009).

¹⁰ Existing state programs for children with lead poisoning include early intervention services funded through IDEA Part C for all children age birth to three years with a blood lead venous test at or above 5 µg/dL; case management and a home lead paint risk assessment by the Department of Public Health for all children with a blood lead level at or above the CDC’s 2021 Blood Lead Reference Value of 3.5 µg/dL; as well as other programs, including school-based special education services (some of which may be funded by IDEA Part B); school-based behavior programs, including increased need for school resource officers; additional pressure on the criminal justice system; and the new Lead Based Paint Program established by SB 9 in 2023.

Arguments against the economics of primary prevention have been described by University of Pittsburgh pediatrician Herbert Needleman, who was among the first researchers to document the neurological harm caused by low levels of exposure, twenty-five years ago: “The belief that we cannot afford primary prevention coexists in a mutual paradox with another powerful fiction: that the struggle to eliminate lead poisoning has been won” (Needleman, 1998: 1876). The struggle to eliminate childhood lead poisoning is far from over in Delaware, and the need for serious consideration and funding for primary prevention is long overdue.

This Lead-Safe Rental Housing Plan supplements the Delaware Lead Based Paint Program, also created by SB 9, which addresses lead paint hazards in homes of children with identified blood lead levels at or above CDC’s Blood Lead Reference Value. This is a secondary prevention measure, which is essential to stop ongoing exposure and to protect other current and future residents of the household.

Existing Data Gaps

While progress has been made in the collection of data and reporting on childhood lead poisoning in recent years,¹¹ Delaware continues to operate in a data-poor environment with respect to many of the aspects of childhood lead poisoning within rental housing. Data gaps we identified are as follows:

1. **How many rental properties would be covered by this proposal?** Because there is no statewide registration for rental housing, we do not know how many rental units are in the state and how many were constructed prior to the 1978 U.S. Consumer Product Safety Commission ban on the sale of lead paint for residential use. Some municipalities provide rental licenses and track rental properties, and New Castle County has a seemingly optional rental registration system. Rental license or registration is not universally performed across the state, and the municipalities that do track rental properties have their own exemptions from when a rental license is needed. We can make estimates based upon other data sources, but do not have a firm number on how many residential rental units were constructed prior to 1978.
2. **How many Delaware children are lead-poisoned due to lead paint in rental housing?** DHSS has performed home lead-paint risk assessments for children with blood lead levels at or above 10 µg/dL until mid-2022, when it lowered the threshold to 7.5 µg/dL. SB 9 mandated a home assessment for all children with a blood lead level at or above CDC’s Blood Lead Reference Value of 3.5 µg/dL, which went into effect on November 14, 2023. DHSS has not yet reported the results of any of its home risk assessments and did not begin entering data from these assessments into its tracking software (HHLPS) until earlier this year. We therefore cannot parse out how many

¹¹ Progress to date includes the requirement that the Childhood Lead Poisoning Prevention Program produce annual reports in 2021 (HB 222), the transition of the data management of children with lead screening, testing, or case management to the CDC-supported Healthy Homes and Lead Poisoning Surveillance System (HHLPS) in 2015, and the transition to electronic reporting of all lead screening and test results to the department of Public Health (DHSS, 2022a).

children with lead poisoning were exposed due to lead paint in their home, and how many resided in rental housing. Because the DHSS risk assessment can be declined by the tenant, there are also some households that lack a risk assessment, the numbers of which also have not been reported. Instead of having this data, we have had to rely upon national datasets and analysis.

3. Are there rental units that have repeatedly exposed children to lead over time?

The potential exists for the same rental unit to have exposed numerous children over a period of years, with subsequent occupants exposed to lead-paint hazards. The ability to identify rental units that have repeatedly exposed children would greatly assist in prioritizing enforcement. However, this Lead-Safe Rental Housing Plan, which requires that lead-based paint hazards are eliminated, will prevent repeated poisoning of children.

4. Are occupational exposures among lead-paint contractors a current health risk in our state?

While DHSS receives all blood lead test results, including adult blood lead test results, Delaware is one of the few remaining states that does not yet participate in the CDC's Adult Blood Lead Epidemiology and Surveillance (ABLES) program, and does not report on the results of adult blood lead tests. The ability to develop recommendations for appropriate and health-protective training certification of lead assessors, inspectors, or contractors would be greatly assisted by information on the impact of this type of work on the lead exposure of the workforce.

Methodology for Plan Recommendations

The CLPPAC developed this Lead-Safe Rental Housing Plan over a series of public meetings¹² using a program evaluation model that incorporated the following steps:

1. Problem identification and scope: these were defined for us by SB 9.
2. Literature review: the extensive literature on this subject is incorporated throughout this document.
3. Program comparison: we identified programs in surrounding states and other jurisdictions, and compared these based upon consistent policy themes and performance measures. We specifically looked at the following programs, which are described in detail in Appendix C:
 - a. Maryland's Lead Law (1994)
 - b. New Jersey's Lead-Based Paint Inspections in Rental Dwellings (1971, 2023)
 - c. Philadelphia, PA's Lead Paint Disclosure and Certification Law (2011, 2020)

¹² CLPPAC public meetings devoted to this Lead-Safe Rental Housing Plan were held on August 17, 2023, September 28, 2023, October 17, 2023, November 15, 2023, November 29, 2023, December 5, 2023, December 7, 2023 Listening Session, and December 13, 2023.

- d. Buffalo, NY's Proactive Rental Inspection (2020)
 - e. Detroit, MI's Lead Paint Inspections for Rental Properties (2010)
 - f. Burlington, VT's Lead Poisoning Prevention Law (1996, 2022)
4. Identification of barriers: we documented the challenges we are presented with, including data gaps, which we describe in this report.
 5. Draft development: we developed a preliminary set of priorities for stakeholder feedback.
 6. Stakeholder engagement: we invited stakeholders to our meetings throughout the process, and held a virtual listening session on December 7, 2023 to specifically listen to stakeholder concerns.
 7. Draft review: we reviewed and refined draft language, continuing to hone ideas and document their justification.
 8. Final report: we voted on this final report on December 13, 2023.

Deficiencies With Programs in Other Jurisdictions

Through our literature review and program comparison we have identified some program deficiencies that have guided our decision-making. These are cautionary tales of how we do not want the program to proceed in Delaware.

1. Policies that have poor compliance: the program comparison found varying rates of compliance that indicate that reliance on existing municipal rental housing inspectors to inspect all rental units constructed before 1978, as required by SB 9, will overwhelm capacity. Programs using this approach, such as in Detroit and Buffalo, have failed to inspect most rental units, and have taken years to appropriately staff themselves, exposing many children to potential lead poisoning. As a result, instead of engaging in the prescribed activities of lead-free or lead-safe certification, landlords in many of the jurisdictions with rental unit requirements simply absorb the depreciation in the value of their properties (Gazze, 2021). Maintaining a vibrant rental housing market without decreased property values requires a systematic approach that includes the assistance and enforcement components included here.
2. Policies that lead to housing discrimination: the approach taken by some states, such as Ohio and Massachusetts, require inspections and lead-safe certification only in instances where the rental unit houses a tenant less than the age of 6 years old. In the case of Ohio, it has led to a "statistically significant, sizable, and economically meaningful" increase in targeted evictions. "To combat this unintended consequence while also taking advantage of the societal benefit of lead abatement, a preferable policy would be for states to enact lead abatement laws forcing *all* rental properties to be fully abated, as is the current case in Maryland, Rhode Island, and Vermont. Passage of this type of

lead abatement law may lead to the full capture of benefits of lead abatement without the unintended consequence of increased evictions” (Fesko, 2023).

3. Policies that pass the costs of lead abatement on to renters: Based on their analysis of Ohio’s lead policies, Fesko (2023) identified that “states should also fund lead poisoning prevention funds, not only to provide education and support to renters, but to support landlords in abating the lead in their properties, resolving the incentive compatibility problem.”

Plan Recommendations Summary

The following list summarizes our recommendations, which are provided in full detail in the next section.

Recommendation 1. The Delaware General Assembly should amend the Residential Landlord-Tenant Code (Title 25 Delaware Code) to include the provisions of the Lead-Safe Rental Housing Plan.

Recommendation 2. A comprehensive statewide system for the registration of all residential rental units within the Department of Health and Social Services to document all residential rental units and to identify which rental units are in need of lead hazard certification, to be completed with all rental units registered by January 1, 2025, and the establishment of a state database to manage rental unit registration and certification that is publicly accessible through an internet portal.

Recommendation 3. Non-discrimination requirements to prevent retaliation against a tenant as a result of the new Lead-Safe Rental Housing Plan.

Recommendation 4. Requirements for lead-free and lead-safe certification and registration for all residential rental housing units constructed prior to January 1, 1978, with a schedule for reinspection when lead paint is not completely removed, and the establishment of supporting regulations, all which should be operating and with full compliance by January 1, 2026.

Recommendation 5. Standardized education and disclosure requirements to be provided by landlords to tenants.

Recommendation 6. Tenant protection measures to ensure that tenants are not exposed during lead paint hazard removal work.

Recommendation 7. Administrative warrants and enforcement mechanisms to provide the process of lead hazard assessment or inspection and hazard removal for those rental units that are out of compliance.

Recommendation 8. Penalties for rental unit owners that fail to comply with the Lead-Safe Rental Housing Plan.

Recommendation 9. Establish a Lead Paint Hazard Control Grant Program and apply for federal funds.

Recommendation 10. Support market-based mechanisms to encourage workforce development.

Recommendation 11. Provide the Childhood Lead Poisoning Prevention Program within the Division of Public Health with adequate staffing and support to accomplish the goals of SB 9 and the Childhood Lead Poisoning Prevention Act.

Recommendations for a Lead-Safe Rental Housing Plan

Recommendation 1. Residential Landlord-Tenant Code

The Delaware General Assembly should amend the Residential Landlord-Tenant Code (Title 25 Delaware Code) to include the provisions of the Lead-Safe Rental Housing Plan.

We selected the Residential Landlord-Tenant Code as the most appropriate location for the Lead-Safe Rental Housing Plan for several reasons: it provides reasonable parameters within which the Lead-Safe Rental Housing Plan can be effectively implemented, the definition of rental unit is comprehensive, existing exemptions are reasonable, and access to the courts are practical for this particular policy need. Adding the Lead-Safe Rental Housing Plan to the Residential Landlord-Tenant Code will provide the best structure for successful implementation, particularly in comparison to placement elsewhere in the Delaware Code.

Health, safety, and welfare: DHSS's ability to ensure lead-safe rental housing in those units where a child is lead-poisoned has been hampered by the existing language in the Residential Landlord Tenant Code. Landlord obligations relating to the rental unit (Title 25 Del. Code § 5305) require landlords to "provide a rental unit which shall not endanger the health safety and welfare of the tenants or occupants" and is "kept in a clean and sanitary condition."

DHSS has reported to the primary prevention subcommittee of the CLPPAC that at least one municipality, Georgetown, updated their municipal code to enhance enforcement, but because the Residential Landlord Tenant Code does not specifically mention lead paint hazards as a component of health, welfare, safety, clean, or sanitary, their hands are tied and they cannot require landlords to implement lead hazard correction activities. We therefore recommend that the terminology that already exists in the Residential Landlord Tenant Code for "health, welfare or safety" and "clean and sanitary" be clarified to include lead paint hazards.

No new exemptions for public housing: As a result of our analysis of other jurisdictions and the federal reviews of lead hazards in federally-subsidized housing, the Lead-Safe Rental Housing Plan implementation should not exempt public housing or subsidized housing.

Some jurisdictions that we examined, for example Philadelphia’s Lead Paint Disclosure and Certification Law, provided exemptions for housing authorities in certain zip codes, while other jurisdictions, such as Maryland’s Lead Law and New Jersey’s Lead-Based Paint Inspections in Rental Dwellings, do not exempt federally-subsidized housing.

While there have been requirements for lead-safe housing specific to federally-subsidized housing since the Lead-Based Paint Poisoning Prevention Act of 1971 and the 1987 Housing Act, these initiatives have not provided universal protection from lead hazards. The Office of the Inspector General (2022) of the U.S. Department of Housing and Urban Development found lead paint hazards remain a concern in public housing, and also noted in their analysis that Delaware did not provide complete data about blood lead levels. The U.S. Government Accountability Office (2021) further found that while federal standards for lead paint safety exist, the evaluation methods for the housing choice voucher program were inadequate and left approximately 229,000 young children under 6 years of age at risk of lead exposure.¹³

The lack of lead-safe federally-subsidized housing, and the need to address this need, prompted \$5 million in HUD grant funding awarded to the Wilmington Housing Authority in 2023 to begin the process of identifying and addressing lead paint hazards in the City of Wilmington. The press release of this award by Senator Chris Coons (2023) stated:

“The grant will give the Wilmington Housing Authority the ability to expedite identifying and eliminating lead-based paint hazards much faster than we were previously able and will enhance our efforts to provide affordable and safe housing to the people we serve,” said Wilmington Housing Authority Executive Director Ray Fitzgerald.

Existing exemptions in the Landlord-Tenant code may need to be revised in future: The current exemptions in the Residential Landlord-Tenant Code provide an appropriate framework for prioritizing implementation of lead-safe and lead-free certification. Because there is no safe level of lead in children’s blood (ibid.), and the potential for lead hazards in some of the exempt rental units from the Residential Landlord-Tenant Code could leave children exposed to lead hazards, we recommend that exemptions be revisited within the next 5 years.

Recommendation 2. Universal Registration

A comprehensive statewide system for the registration of all residential rental units within the Department of Health and Social Services to document all residential rental units and to identify which rental units are in need of lead hazard certification, to be completed with all rental units registered by January 1, 2025, and the establishment of a

¹³ Section 8 inspections (HUD, 2023) allow for 2 square feet of deteriorated paint per room or 10% of a component and do not assess lead dust hazards.

state database to manage rental unit registration and certification that is easily publicly accessible through an internet portal.

The complexity of establishing a system in which all rental housing with the potential for lead paint hazards based on construction year to be made lead-safe is more challenging in Delaware in comparison to other jurisdictions with similar policies because Delaware lacks comprehensive state oversight over residential rental housing registration. We examined Delaware's local governments for an indication of those that tracked rental housing and found that of Delaware's 57 municipalities, only 31 require rental permits of some kind. Of Delaware's three counties, only New Castle County has a seemingly-voluntary rental unit registration. The data tracking of information that does exist for housing construction year is also fragmented and distributed across Delaware's three counties.

The large proportion of residential rental units that are currently estimated to be constructed prior to the U.S. Consumer Product Safety Commission's ban on lead paint for residential use means that Delaware would require lead hazard inspections and certification for an estimated 48,898 housing units that are both renter-occupied and built prior to 1978.¹⁴

The landlord is the most appropriate party to identify the housing characteristics of their rental units and universal registration is the most efficient use of state resources to gather the necessary data to monitor compliance and program metrics. Identification of all residential rental units, and having that registration process identify the construction year of the rental unit, would create the most efficient use of state resources, particularly when instances arise when enforcement may need to verify the construction year of a known rental unit to determine if the property owner is delinquent in providing certification.

The Department of Health and Social Services is the most appropriate agency for the responsibility to manage and enforce the provisions of the Lead-Paint Rental Housing Plan because of its comprehensive approach to childhood lead poisoning prevention. DHSS already oversees the certification for other businesses for health and safety standards, including restaurant inspections, and issues permits for food establishments. DHSS is already responsible for overseeing monitoring and compliance of other statewide resources for lead hazards, specifically drinking water. DHSS houses and enforces Delaware's regulations for Lead-Based Paint Hazards (Title 16 Administrative Code 4459), and since 2014 has been authorized by the EPA to administer and enforce the lead-based paint Renovation, Repair and Painting (RRP) program, including certification for lead-based paint activities (EPA, 2014). DHSS also houses the new Lead Based Paint Program established by SB 9 in 2023.

We also considered the Delaware State Housing Authority (DSHA) and Department of Natural Resources and Environmental Control (DNREC) for program oversight responsibilities. While DSHA could make sense from a housing-only perspective, and DNREC from a pollution-only

¹⁴ Delaware State Housing Authority estimated that 108,662 housing units are renter occupied in Delaware (DSHA, 2023), and The National Center for Healthy Housing estimated that "45% of housing in Delaware was built prior to 1978 and may contain lead-based paint" (NCCH, 2022).

perspective, we excluded them due to their lack of existing oversight and expertise on the issue of lead paint hazards in housing in favor of DHSS.

Registration Database: We envision the registration as internet-based, and therefore a matter of database management for the state government. To increase transparency over lead hazards by prospective tenants and the public, the state database to manage rental unit registration and certification should be kept current and easily publicly accessible through an internet portal.

The registration portal should include parameters for monitoring and enforcement of the Lead-Safe Rental Housing Plan, including the address of the rental unit, the date the rental unit was constructed, and the terms of any existing rental agreement. The database should be searchable by the name and address of the landlord, the address of the rental unit, the date the rental unit was constructed, the terms of any lease, and whether the rental unit and premises have been certified as lead-safe or lead-free.

We understand that the timeline for the creation and population of this database with registrants is aggressive, and note that due to the deadline for full lead-safe certification and remediation of lead paint hazards provided to the CLPPAC by SB 9, we believe that the process of a year between registration and the completion of all certification and lead hazard remediation is needed.

Recommendation 3. Non-Discrimination

Non-discrimination requirements to prevent retaliation against a tenant as a result of the new Lead-Safe Rental Housing Plan.

While DHSS has not reported results on lead paint risk assessments that are performed as part of the current Childhood Lead Poisoning Prevention Program, anecdotal evidence of tenants declining a risk assessment for fear of eviction, and research in the peer-reviewed literature (Fesko, 2023), reveals retaliation against tenants to be a concern.

To prevent this from occurring, the Residential Landlord-Tenant Code should include specific language to prevent discrimination, including non-discrimination:

1. For filing a complaint, testifying about a lead hazard, or assisting in an investigation.
2. For becoming lead poisoned or having a child who has blood lead screening or test that indicates exposure to lead.
3. For having children under the age of 6 or for becoming pregnant.
4. Arbitrary acts of discrimination pertaining to lead poisoning.

Recommendation 4. Lead-Free and Lead-Safe Certification

Requirements for lead-free and lead-safe certification and registration for all residential rental housing units constructed prior to January 1, 1978, with a schedule for reinspection when lead paint is not completely removed, and the establishment of supporting regulations, all which should be operating and with full compliance by January 1, 2026.

We propose that the General Assembly amend the Residential Landlord-Tenant Code to require lead-safe or lead-free certification for all residential rental units constructed prior to January 1, 1978; these residential rental units cannot be rented without such certification.

We were impressed with the distinction made between lead-safe and lead-free rental units by other jurisdictions, including Maryland and Philadelphia, to distinguish between those rental units that do not have lead paint at all from those that do have lead paint remaining, but this paint has been treated in such a manner that it does not create a lead dust hazard or has the potential to poison children.

This is also consistent with the guidance from the peer-reviewed literature (*ibid.*), that identifying and addressing lead-contaminated floor dust, the condition of housing, and rental status are the best available diagnostic tools to target resources for lead hazard control and childhood lead poisoning prevention.

The Residential Landlord-Tenant Code should be amended to require the following:

1. Define the term “rental unit constructed before January 1, 1978” to mean a rental unit in which a construction permit was obtained before January 1, 1978 or when construction of the rental unit was started before January 1, 1978.
2. Lead hazard assessment or inspection of all rental units constructed prior to January 1, 1978.
3. Lead-safe or lead-free certification required for all rental units constructed prior to January 1, 1978 before a rental agreement or lease is signed. If a rental unit is unable to receive a certification due to a lead hazard, the hazard must be eliminated in order for the rental unit to receive certification before occupancy.
4. Lead-free certification, which provides certification that there is no lead paint in the rental unit, should be performed using x-ray fluorescence technology on all painted surfaces in each room and in common areas. Lead-free certification should not expire for the rental unit, and should not require renewal at any time, unless a child receives a blood lead level at or above the CDC’s Blood Lead Reference Value, or if lead paint or a lead paint hazard are discovered in the unit or premises.

5. Lead-safe certification, which provides certification that there are no lead paint hazards in the rental unit, or common areas, including the following for all painted surfaces within all rooms within the rental unit and all common areas on the premises:
 - a. all lead-painted surfaces are appropriately encased or repainted;
 - b. no exposed lead paint surfaces;
 - c. no peeling, flaking, or chipping lead paint; and
 - d. no lead dust.

Lead-safe certification should expire and rental units should be recertified every four years. This is consistent with neighboring jurisdictions and is necessary due to the continuous emergence of lead hazards and lead dust from existing lead paint from normal wear and tear. For example, Philadelphia's lead-safe rental housing program requires reinspection for lead-safe certificates every four years, and New Jersey requires re-inspection every 3 years or upon tenant turnover, whichever comes first.

6. Require the Department of Health and Social Services to establish regulations that define terminology, some of which already exists in the DHSS Regulations.
 - a. DHSS Regulations 4459 Lead-Based Paint Hazards already define abatement, certified inspector, clearance levels, common area, component or building component, deteriorated paint, dust wipe sample, encapsulant and encapsulation, friction surface, impact surface, lead-based paint, lead-based paint hazard, lead-contaminated dust, lead hazard screen, paint in poor condition, risk assessment, visual inspection for clearance testing, visual inspection for risk assessment, and window trough.
 - b. DHSS should be instructed to establish regulations that define the following terms before January 1, 2025: lead-safe certification, lead-free certification, lead-safe certification assessor or inspector, and lead-free certification assessor or inspector.

Alternative inspection methods should not be included: While it was suggested during our stakeholder listening session that Section 8 housing inspections should be accepted as a lead safe inspection, the Section 8 inspection checklist does not certify that a rental unit is lead-safe. Section 8 inspections allow for 2 square feet of deteriorated paint per room or 10% of a component (HUD, 2023) and do not assess lead dust hazards. We therefore recommend that the use of alternate inspection methods, such as those that currently exist for Section 8, that are not comprehensive in their assessment of lead paint hazards or lead dust, not be allowed.

Recommendation 5. Education

Standardized education and disclosure requirements to be provided by landlords to tenants.

Title X of the 1992 Housing and Community Development Act requires disclosure of known lead hazards to tenants when they sign their lease. Unfortunately, because there are no existing federal or state requirements in Delaware that landlords must inspect their rental units for lead hazards, this provision has been largely ignored (ibid.). Incorporating federal education requirements in Title X into the Residential Landlord-Tenant Code provides additional opportunities for education of lead poisoning prevention, and the already federally-required distribution by landlords to tenants of an EPA pamphlet entitled *Protect Your Family from Lead in Your Home*. This is considered a best-practice and is incorporated into Maryland's and Philadelphia's lead safe rental housing policies.

The lead-free or lead-safe certification is an additional opportunity to educate tenants on lead hazards and how to avoid them. Standardized forms designed by DHSS for use by landlords should be in place well before the January 1, 2026 deadline.

Recommendation 6. Tenant Protection Measures

Tenant protection measures to ensure that tenants are not exposed during lead paint hazard removal work.

A period of greatest risk for exposure is during any abatement, renovation, remediation, or repair of lead paint hazards, where lead dust is disturbed or created:

[H]ousehold interventions lead to a significant increase in blood lead concentrations for young children, especially six-month old infants. Compared with children over 40 months of age, the odds of having an increase in blood lead levels of 5.0 µg/dL or higher following abatement were high (Nussbaumer-Streit et al., 2000).

To prevent lead poisoning of tenants during activities intended to correct lead hazards, we recommend the following:

1. Only those certified to work with lead paint hazards by DHSS should perform any work, and not tenants.
2. Tenants should be temporarily relocated until the unit is able to pass a lead-safe certification inspection, which is especially important in those instances where lead hazards could be created, such as disturbing lead paint or generating lead dust through scraping and sanding, or when a lead-painted building component is removed.
3. Landlords and tenants should also be able to terminate a lease through mutual agreement instead of requiring relocation during the remediation of lead hazards.

Temporary relocation of tenants while lead hazard work is performed is also required in Maryland, while Philadelphia and New Jersey do not have specific requirements. The health

risks of exposure due to inhalation or ingestion during any renovation warrant extreme caution, prompting our recommendation of temporary relocation.

Labor certification requirements are common practice in other jurisdictions with similar policies. Maryland requires any work that disturbs painted surfaces in affected properties to be certified by the Maryland Department of Environment and EPA. Philadelphia requires Pennsylvania state certification and EPA certification. New Jersey also requires state and federal certifications of all workers who are inspectors, risk assessors, and abatement contractors.

Recommendation 7. Administrative Warrants

Administrative warrants and enforcement mechanisms to provide the process of lead hazard assessment or inspection and hazard removal for those rental units that are out of compliance.

Resistance to compliance with an assessment or inspection for certification, either by the property owner or the tenant out of fear of retaliation, is a concern that has the potential to undermine the entire effort to provide lead-safe rental housing. In Newark, for example, a large proportion of rental units receive no inspection at all, despite municipal requirements for rental permits, because their inspectors are turned away at the door. Families with a lead-poisoned child that are eligible for a home lead paint risk assessment with the Childhood Lead Poisoning Prevention Program sometimes decline the assessment for fear of retaliation from their landlord.¹⁵

The public health hazard of lead poisoning, which was described as one of the most important epidemics impacting children in the last century (Markowitz and Rosner, 2013: 16), warrants complete commitment by the Governor and the General Assembly and the establishment of policies that prevent loopholes and guarantee enforcement.

The General Assembly has already established administrative warrants for other public health crises, such as for controlled substances (Title 16 Delaware Code § 4782). We propose an identical process for administrative warrants for the identification of lead paint hazards in rental housing constructed prior to January 1, 1978. Certificates of exemption for a period of six months should be available to be applied for in those instances where good-faith efforts are made to comply.

Recommendation 8. Penalties

Penalties for rental unit owners that fail to comply with the Lead-Safe Rental Housing Plan.

We recommend that the General Assembly amend the Residential Landlord-Tenant Code to include the following penalties for failure to comply:

¹⁵ DHSS has not published data on the rates at which assessments are declined in their annual reports, though a rate of 5% has been discussed in our meetings.

1. Civil penalty of \$20/day for all rental units that are not registered with the state.
2. Civil penalty of \$500/day for rental units that fail to file a Lead-Safe or Lead-Free Certification.
3. Suspension of access to summary possession for rental units that fail to file a Lead-Safe or Lead-Free Certification as required by law.
4. Consideration should be given to extend the deadlines for penalties for acts of good faith to provide lead hazard inspection/assessment or hazard control within a reasonable time frame.

Enforcement mechanisms are taken extremely seriously in neighboring jurisdictions. Maryland requires a \$20/day fine for failure to register or renew a rental unit, \$500/day fine for failure to file lead-safe certification, and civil penalties up to \$25,000. Philadelphia requires a \$2,000/day fine/day for failure to file lead-safe certification, a refund of all rent for the period without a certification, allows for private lawsuits and damages, and will revoke housing licenses. New Jersey assesses fines of \$1,000/week, and because New Jersey has also allocated the responsibility of enforcement to municipalities, municipalities are also subject to fines of \$1,000/week. Detroit offered the most aggressive penalties we reviewed, which can be assessed in amounts up to \$8,000/day.

Recommendation 9. Grants and Funding Support

Establish a Lead Paint Hazard Control Grant Program and apply for federal funds.

The General Assembly should establish grant funds in support of landlords to comply with the assessment/inspection, certification, and removal of lead hazards in their rental units that are required by the Lead-Safe Rental Housing Plan. This should prioritize rental units for families with children, are visited regularly by children, or with a pregnant tenant. The distribution of funds in the grant program should be overseen by the CLPPAC.

These grants should be prioritized for designated funding in the state budget for the 2024-2025 fiscal year to stimulate compliance and provide meaningful support to the impacted rental unit owners; the General Assembly should not wait until the inspection deadline of January 1, 2026 to encourage rental housing inspections or assessments through grant funds.

Pursuit of sustainable funding for lead-safe housing is imperative. In addition to designated emergency funding to assist landlords in the needed lead hazard inspections or assessments, and to make rental units lead-safe, DHSS should also:

1. Apply for funds through the HUD Office of Lead Hazard Control and Healthy Homes for the remediation of lead paint hazards in homes. The last successful DHSS application was for \$3,288,728 for the 2014-2017 grant cycle. DHSS applied on May 5, 2023 but funds were not awarded. Currently, New Castle County is Delaware's sole grantee.

2. If at all feasible, establish a Health Services Initiative (HSI) to leverage the Children's Health Insurance Program (CHIP) to provide funds for lead-abatement activities. Nineteen states already have HSI programs approved under CHIP, which are available for lead hazard abatement work under Title XXI of the Social Security Act. The application process is described as "straightforward" and requires states to develop a proposed lead abatement initiative (Mann et. al., 2017).

Recommendation 10. Workforce Development

Support market-based mechanisms to encourage workforce development.

Strengthening the workforce that is needed to perform assessments, inspections, and hazard control must be aggressive. As evidenced by our comparison of policies in other jurisdictions, allowing for the market to respond to the need for assessment/inspection, certification, and lead-hazard removal, instead of swelling the size of government to accomplish tasks, such as in Detroit and Buffalo, seems to be most successful.

The ability of rental unit owners to comply with the requirements for lead-safe housing could be impinged by local access to an inadequate workforce and could also contribute to price-gouging in the market. While Delaware is bordered by jurisdictions that already require lead-safe certification requirements for rental housing and therefore resides within a region that has developed and maintained a trained workforce, ramping up a workforce within Delaware to the scale required to accommodate the necessary tasks is no small undertaking. We therefore support the establishment of incentives for workforce training, with particular emphasis on training individuals in impacted communities.

In the November 1, 2023 [Delaware Register](#), DHSS proposed amendments to Title 16 regulations 4459 Lead-Based Paint Hazards to permit those abatement workers certified outside of Delaware with which Delaware does not already have reciprocity to apply for a provisional certification in Delaware for one year. Such measures should be expanded to include inspectors and assessors to enable a greater workforce for performing inspections or assessments.

In the national effort to make rental housing lead-safe, there is a longstanding and robust relationship demonstrated in the research that workforce training for lead hazard inspection and control reduces unemployment and underemployment in lead-impacted communities, and strengthens communities by providing income alternatives that reduce homelessness (Needleman, 1989; Markowitz and Rosner, 2013).

In light of these benefits, it is also imperative that we not create a cohort of lead-poisoned adults who are performing lead-hazard removal work. We therefore recommend that DHSS participate in the CDC's Adult Blood Lead Epidemiology and Surveillance (ABLES) program and provide annual reports to the General Assembly with the results of adult blood lead surveillance efforts in the state.

To facilitate health-protective and adequate workforce development, we therefore recommend the General Assembly to direct DHSS to:

1. Expand training for lead paint assessment, inspection, lead hazard removal, and abatement certification in partnership with community-based organizations in zip codes with higher rates of housing constructed prior to 1978.
2. Offer this training at a reduced cost for a period of 6 years.
3. Enable those certified in other states to apply for provisional certification in Delaware.
4. Enroll Delaware in the CDC's Adult Blood Lead Epidemiology and Surveillance (ABLES) program and annually report adult blood lead data to the General Assembly.

Recommendation 11. State Agency Staffing

Provide the Childhood Lead Poisoning Prevention Program within the Division of Public Health with adequate staffing and support to accomplish the goals of SB 9 and the Childhood Lead Poisoning Prevention Act.

The Childhood Lead Poisoning Prevention Program operates on a shoestring budget and relies heavily on contract and part-time employees to perform tasks which, even before SB 9, were substantial. SB 9 has added additional responsibilities, including the new requirements for case management and home risk assessments for all children with blood lead levels at or above the CDC's Blood Lead Reference Value of 3.5 µg/dL, and to establish the new Lead Based Paint Program.

DHSS must maintain the ability to competitively apply for federal funds, including the Lead Hazard Control and Healthy Home grants and CHIP lead abatement funds, to provide sustainable federal funding for lead abatement.

This proposed Lead Safe Rental Housing Plan will continue to add responsibilities in data management and reporting, as well as other burdens to the agency, in addition to the proposed requirements for landlords. The proper government structure and support for childhood lead poisoning prevention activities as a whole is required, including a shift from seasonal and contract employees to a sustainably-funded staffing structure with full-time positions to perform the needed work.

Program Challenges and Future Considerations

Challenges we identified in our literature and program comparison, through our discussions, and in listening to stakeholders reveal that the commitment by all involved to overcome the following challenges is imperative to the future success of this concept.

1. Aggressive timeline for implementation: SB 9 provided the guardrails that guided our thinking on the timeline for implementation of this plan, which required that all rental housing constructed prior to January 1, 1978 be certified safe from lead paint hazards for inhabitants by January 1, 2026. The size of this undertaking, which requires universal registration of all rental housing units, assessments and inspections of an estimated 48,898 housing units within the next two years has frustrated stakeholders, particularly landlords. At approximately 260 work days per calendar year, this represents an assessment inspection rate of 188 units/day if performed in a one-year period, or 94 units/day if performed over a two-year period.

Care should be given to a timeline in a final proposal that can be successful without adding further delays and prolonging the conditions of lead poisoning for tenants. Delaware is already decades late in addressing a problem that has garnered national attention for close to a century, has prompted a federal ban 45 years ago, and has inspired action in surrounding states and across the country.

2. Program costs: While successful programs for lead-safe certification and hazard control in rental units have been in place in neighboring jurisdictions for decades and have demonstrated success, developing a new and similar program will have costs that must be absorbed by government, including registration, data tracking, and enforcement, as well as costs that should be offset by government, including some of the costs to landlords, so that Delaware maintains a vibrant and productive rental housing market and is able to provide safe, affordable housing into the future. The nature of this problem is at the core of public health; housing should not poison its inhabitants. A robust financial support system for landlords to accelerate implementation of lead-safe rental housing should be explored. The state has a responsibility to appropriately support the program costs with the proposals outlined here.
3. Fully rehabilitated rental units: Comments at the stakeholder listening session requested consideration that rental units that are fully gutted and completely rehabilitated should qualify as post-1978. This is somewhat complicated, because it would need to be demonstrated that all painted components of the rental unit and common areas were completely removed and replaced, and renovation activities did not generate lead dust or create hazards that could pose a hazard to tenants. Such documentation does not appear to be included in building permits, certificates of occupancy, or the International Building Code. Providing a mechanism for fully gutted buildings to demonstrate that they have removed all lead hazards and obtained a lead dust clearance sufficient to warrant an exemption would require further modification of how lead paint removal is documented and inspected for buildings that are completely rehabilitated.
4. Insurance coverage for lead hazards: Feedback received during the stakeholder listening session indicated that obtaining lead insurance is cost-prohibitive. EPA and HUD rules on Renovation, Repair and Painting establish a standard on methods and training of employees which also allows the insurance market to assess the risk and

offer coverage. The General Assembly may wish to consider policies like those in Rhode Island to make lead hazard liability insurance more accessible for rental housing. For example, the State of Rhode Island Lead Mitigation Act specifically provides guidance on insurance coverage and requires insurance companies to provide lead paint liability insurance to owners of pre-1978 residential rental properties that are in compliance with the Housing Resources Commission Lead Mitigation Regulations.

5. Certification for Real-Estate Transactions: Because we are proposing lead-safe certification to expire after 4 years, it was recommended that qualifying inspections performed as part of a real-estate transaction within the past 4 years should also be eligible for the certification of the rental unit, so long as they meet the criteria established by DHSS for certification. The current process for housing inspection for real estate sales is not something that we examined, and would warrant further research.
6. Sensitive Information in a Public Database: A suggestion was made that the public-facing portion of the registration database should not include information that could be used in fraudulent scams, including fraudulent deed transfers. It should be noted that the City of Newark already provides a public database of all of its rental licenses that include owner information. This is something that should be looked at carefully.
7. Landlord-Certification to Perform Inspections: We received feedback requesting that the plan include the ability for landlords and property managers to have access to lead hazard training and certification to assist in keeping their costs down, with appropriate oversight inspections to ensure that inspections and clearance are thorough. The importance of independent third-party inspectors is well-documented in other jurisdictions and could create additional oversight needs for DHSS to ensure that inspections or assessments are performed correctly and documented accurately.

Stakeholder Impact and Feedback

The CLPPAC sought stakeholder feedback, particularly from housing providers, throughout the development of the plan, including a stakeholder listening session on December 7, 2023 to listen to feedback on the plan. While stakeholder engagement was not required for us by SB 9, we felt that this engagement could help us to understand the challenges of making all rental housing built before 1978 lead-safe and identify opportunities to improve the plan.

Feedback collected throughout this process was categorized by theme and then compared to the programs in our evaluation model and existing peer-reviewed research on this topic. Some of the recommendations from stakeholders were incorporated into this document, while others, which were found to be either inconsistent with best practice, contrary to the objectives of the plan as required by SB 9, or had the potential to cause harm and perpetuate childhood lead poisoning, were not included in the plan.

While we did receive positive feedback about the tenant protections included in the plan, general comments from housing providers about the plan overall were negative, and included the following criticisms: the timeline was suggested to be unrealistic; the costs borne by landlords were considered too high; an adequate workforce to implement the necessary tasks does not exist; and the plan would result in increased vacancy rates, shortages in rental housing, decreased availability and affordability of rental housing, and increased rents. These criticisms are consistent with those documented in the historical record for landlord opposition to primary prevention over the past 90 years (Markowitz and Rosner, 2002; 2013; Needleman, 1998; and Warren, 2000) and have not negatively impacted the other jurisdictions with similar programs that we reviewed.

Recommendations for plan improvement that we received that were incorporated into the plan include the following: administrative warrants would enable the ability to perform inspections and lead hazard control work in those instances where access to the rental unit is denied by the landlord or tenant; mutual agreement between tenants and landlords to terminate a lease in addition to temporary relocation requirements should be allowed; delay of penalties and extension of the compliance timeline for those landlords who had, in good faith, attempted to comply with the certification requirements and any needed repairs; and alternate funding sources for lead abatement, including CHIP funding, should be pursued by the state.

Recommendations that we feel may have merit but warrant further consideration beyond our ability to meet the January 1, 2024 deadline established by SB 9 were included in the Program Challenges and Future Considerations section of this plan, and include: dwellings that are fully gutted and rehabilitated should be able to qualify as post-1978 and therefore be exempt from inspection; rental hazard insurance should be made more affordable; a lookback period for those rental properties that have already received a qualifying inspection, such as for a real-estate transaction; the public-facing side of the rental unit registry should be sensitive to the type of information that is provided to prevent fraudulent activities; and landlords should be eligible to receive training and certification so that they can perform the inspections. Recommendations that we did not incorporate into this plan, and our reasoning, are provided in Appendix B.

Conclusions

In this plan, the CLPPAC presents a comprehensive approach to eliminate childhood lead poisoning from lead paint hazards in rental housing. Our research has demonstrated that pre-1978 rental housing is the most significant cause of childhood lead poisoning in the United States, and that rental unit assessment or inspection and lead-hazard removal are the most responsible and cost-effective approaches to primary prevention available. This is not a controversial idea; it has proven to be effective in other jurisdictions where similar policies have been implemented, including by our immediate neighbors in Maryland and Philadelphia.

Childhood lead poisoning is not a problem that has already been solved. It remains a serious public health threat in Delaware, with hundreds of children identified with lead poisoning each

year, and likely many more who are not identified. The passive approach that Delaware has used to address lead poisoning for the past decades, surveillance and offering services only after a child has a lead exposure documented on a blood lead test, has failed to prevent children from becoming lead-poisoned. A new proactive approach described here emphasizes primary prevention, is urgent, and demands the complete commitment of the Governor and the General Assembly to provide the necessary authority, funding, and support to ensure that all rental housing is safe for its inhabitants.

The plan we present, while containing critical details that are essential to its successful implementation, is really quite simple: rental housing must emerge from the shadows, it must be counted and accounted for, it must be inspected for the invisible lead hazards that poison children, and it must be made safe for habitation.

Delaware's Residential Landlord Tenant Code already requires rental housing to be healthy and safe, and to not endanger the welfare of occupants. Somehow along the way, lead poisoning got left out of the interpretation of these words. Our research has shown that as a whole, pre-1978 rental housing is not safe from lead hazards, is nearly twice as likely to have deteriorated paint than owner-occupied housing, and is widely regarded as the most important source of childhood lead poisoning. Because Delaware has not yet addressed this risk, any particular pre-1978 rental housing unit may not be healthy, may not be safe, and may truly endanger the welfare of occupants, and should therefore be inspected or assessed and lead hazards promptly corrected.

We hope that the Governor, the General Assembly, and others who read this document will seriously consider the contents of this plan and assist in its implementation.

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Appendix A. Proposed Legislation



SPONSOR: Sen. XXXXXX

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. XX

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO THE RESIDENTIAL LANDLORD-TENANT CODE

WHEREAS, lead exposure poses significant health risks, particularly to young children, causing developmental delays, learning difficulties, and other severe health issues;

WHEREAS, rental housing built before 1978 may contain lead-based paint, which can deteriorate over time, leading to potential exposure through peeling, chipping, or flaking paint;

WHEREAS, establishing certification requirements for rental housing as lead-free or lead-safe will safeguard the health and well-being of tenants, especially children;

WHEREAS, creating a certification program will encourage landlords to undertake necessary measures to eliminate lead hazards, thereby reducing the prevalence of lead poisoning cases; and

WHEREAS, it is in the public interest to enact legislation that promotes safe and healthy living environments by addressing the hazards associated with lead exposure in rental housing.

NOW, THEREFORE,

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

Section 1: Amend Part III, Title 25 by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 54. Lead-Based Paint Hazard Reduction.

§ 5401. Definitions.

For purpose of this chapter:

- (1) The term “alternative housing” shall be as defined by the regulations of the Department and shall include reasonable out-of-pocket expenses incurred as a result of relocating the tenant to alternative housing such as rent charged for the alternative housing above the cost of the tenant’s existing unit, costs to move back and forth from the alternative housing, and storage costs for personal belongings.
- (2) The term “constructed” shall mean the date on which a construction permit was obtained. If no construction permit was obtained, it shall mean the date that construction was started.

- (3) The term “Department” shall mean the Department of Health and Social Services.
- (4) The term “lead-based paint hazard” shall be as defined by the regulations of the Department.
- (5) The term “lead free” means that lead is not present in any form anywhere in the rental unit or premises.
- (6) The term “lead inspector” shall be as defined in the regulations of the Department.
- (7) The term “lead safe” means a designation made after an inspection by a lead inspector that a rental unit and premises do not have a lead-based paint hazard at the time of the inspection.
- (8) The term “regularly visited” shall mean at least two (2) times a week for three (3) or more hours at least ten (10) weeks per year.
- (9) The term “rental unit constructed before January 1, 1978” shall mean a rental unit for which a construction permit was obtained before January 1, 1978. If no permit was obtained, it shall mean that construction of the rental unit was started before January 1, 1978.

§ 5402. Registration of Rental Units.

- (a) Effective January 1, 2025, every rental unit shall be registered with the Department prior to the commencement of a rental agreement on such rental unit.
- (b) The registration shall include the name and address of the landlord and any property manager, the address of the rental unit, the date the rental unit was constructed, and the expiration of the term of any existing rental agreement.
- (c) The failure to register a rental unit shall be punishable as follows: a civil penalty of \$20 per day per rental unit until the unit is registered.

§ 5403. Rental Unit Registry.

- (a) The Department shall establish and maintain a registry of all rental units by September 1, 2024.
- (b) The registry shall be kept current and made available to the public in a format that is searchable by the name and address of the landlord and any property manager, the address of the rental unit, the date the rental unit was constructed, the term of any existing lease, and when and whether the rental unit and premises have been certified as lead safe or lead free.

§ 5404. Certification of Rental Units as Lead Free or Lead Safe.

- (a) Effective January 1, 2026, a certificate for any rental unit constructed before January 1, 1978, shall be required. The certificate shall certify that the rental unit and premises are “lead free” or “lead safe.” The certificate shall be filed with the Department prior to January 1, 2026 and prior to the commencement of any rental agreement on such rental unit after January 1, 2026. The certificate shall include the name and address of the landlord and any property manager, the address of the rental unit, the lead inspector issuing the certificate, the date the certificate was issued, the date of the inspection of the rental unit and premises, and whether the rental unit and premises are certified as lead free or lead safe. The information provided in the certificate shall be included in the rental unit registry created by the Department as required by this chapter.
- (b) Only individuals approved as lead inspectors by the Department shall issue certificates. No individual shall be approved by the Department as a lead inspector unless such individual has successfully completed a training program established by the Department on the identification and evaluation of lead paint hazards or a training program of another state that the Department has determined to be as stringent as the program established by the Department.
- (c) No certificate shall be issued unless the lead inspector conducts an inspection and evaluation of the rental unit and premises in a manner required by the regulations of the Department.

(d) The Department shall establish and maintain a list of all lead inspectors. Such list shall be available to the public.

(e) The failure to obtain and file a certificate prior to January 1, 2026 or the commencement of a rental agreement shall be punishable as follows: a civil penalty not to exceed \$500 per day per rental unit until the required certificate is obtained and filed with the Department. No civil penalty shall be imposed if a certificate exemption is issued by the Department prior to January 1, 2026, or the commencement of a rental agreement after January 1, 2026. A certificate exemption shall only be issued upon a showing that it is not possible to timely obtain a certificate. The length of the certificate exemption shall not exceed six (6) months. No certificate exemption shall be issued if a lead hazard exists that makes the rental unit uninhabitable unless the landlord provides the tenant alternative housing as required by this chapter.

(f) The tenant shall permit reasonable access to the rental unit and premises for an inspection and evaluation by a lead inspector as required by this chapter.

(g) The failure to obtain and file a certificate shall preclude the landlord from bringing an action for summary possession of the rental unit for which a certificate is required. This section shall not apply if the landlord has obtained a certificate exemption issued by the Department prior to January 1, 2026, or the commencement of a rental agreement commencing after January 1, 2026. A certificate exemption shall only be issued upon a showing that it is not possible to timely obtain a certificate. The length of the certificate exemption shall not exceed six (6) months. No certificate exemption shall be issued if a lead hazard exists that makes the rental unit uninhabitable unless the landlord provides the tenant alternative housing as required by this chapter.

(h) The landlord shall provide for alternative lodging when an inspection and evaluation by a lead inspector, as required by this chapter, reveals that the rental unit is inhabitable as a result of a lead-based paint hazard before or during the abatement or remediation of the rental unit. The landlord shall provide the tenant with reasonable advance notice before the tenant is required to move into or out of the alternative housing. Nothing in this chapter shall preclude a tenant and landlord from agreeing to terminate a rental agreement so long as such agreement is voluntary and not coerced.

(i) The lead inspector shall inform the Department, the landlord, and tenant of any lead-based paint hazard revealed during an inspection and evaluation of a rental unit. The lead inspector shall provide the landlord and tenant with information regarding the safe remediation and abatement of lead-based paint hazards as required by the regulations of the Department.

§5405. Recertification of Rental Units as Lead Free or Lead Safe.

(a) Any rental unit certified as lead safe shall be recertified as follows:

- i. prior to the commencement of any rental agreement more than four years after the date on which such unit was last certified as lead safe;
- ii. if an individual residing in the unit or regularly visiting the rental unit develops an elevated blood level as defined by the regulations of the Department; or
- iii. if a lead-based paint hazard is discovered in the rental unit or premises.

(b) Any rental unit certified as lead free need not be recertified unless:

- i. a lead-based paint hazard is discovered in the rental unit;
- ii. an individual residing in the rental unit or regularly visiting the rental unit develops an elevated blood level as defined by the regulations of the Department; or
- iii. if a lead-based paint hazard is discovered in the rental unit or premises.

§ 5406. Disclosure of Registration and Certification.

(a). Effective January 1, 2026, every rental agreement shall contain a written disclosure that the rental unit has been registered as required by this chapter.

(b). Effective January 1, 2026, every rental agreement on a rental unit constructed prior to January 1, 1978 shall contain a disclosure that the rental unit and premises have been certified as lead safe or lead free, the date of the certification, and the lead inspector issuing the certificate. The landlord shall provide the tenant with a copy of the certificate within seven (7) days of a request for such certificate. Failure to provide such certificate shall be punishable as follows: a civil penalty of \$50 per day until the certificate is provided to the tenant.

(c). The Department shall promulgate regulations addressing the format of the disclosures required by this chapter.

§ 5407. Educational Materials.

The landlord shall provide the tenant with any educational materials required to be provided by the regulations of the U.S. Environmental Protection Agency or the Department. Such material shall be provided before the tenant occupies the rental unit. Failure to provide the required educational materials shall be punishable as follows: a civil penalty of \$20 per day until the materials are provided to the tenant.

§ 5408. Lead Paint Hazard Control Grant Program.

The Department shall establish and administer a lead paint hazard control grant program to assist eligible landlords in obtaining a required certificate or in the remediation or abatement of lead hazards in a rental unit. Preference for grants shall be given for rental units which are the primary residence for children under six, pregnant individuals, or are regularly visited by a child under six (6) years of age. The program shall also provide grants to assist eligible tenants to obtain temporary alternative lodging while a rental unit serving as their primary residence is undergoing lead paint remediation or abatement.

§ 5409. No Discrimination.

(a). It shall be unlawful to discriminate against an individual because such individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing relating to the presence of a lead-based paint hazard in a rental unit or premises, the failure to register the rental unit or to obtain or provide a certificate.

(b). It shall be unlawful to discriminate against an individual because the individual or someone residing with such individual in a rental unit has an elevated blood lead level or is perceived as having an elevated blood level. It shall also be unlawful to discriminate against an individual seeking to rent a rental unit because the individual or someone who would be residing in the rental unit has an elevated blood level or is perceived as having an elevated blood level.

(c). It shall be unlawful to discriminate against an individual because the individual or someone who is or would be residing in the rental unit is pregnant or is under six years of age (unless the rental unit is qualified as housing for older persons under the Delaware Fair Housing Act).

(d). Prohibited discriminatory acts shall include, but are not limited to, the following: arbitrary refusal to renew a rental agreement; arbitrary refusal to enter into a rental agreement; termination of tenancy; arbitrary rent increase or decrease in service to which a tenant is entitled; or any constructive eviction.

§5410. Enforcement.

(a) Any officer or employee of the Secretary of Department designated by the Secretary shall:

- i. Execute and serve administrative inspection warrants issued under the authority of this State;
- ii. Make seizures of property pursuant to this chapter;
- iii. Have all powers of constables and other police officers of the State, counties and other subdivisions of the State; and
- iv. enforce this chapter.

(b). Issuance and execution of administrative inspection warrants shall be as follows:

i. Any person authorized to issue search warrants in this State may, within the person's jurisdiction and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this chapter or rules hereunder and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this chapter or rules hereunder, sufficient to justify administrative inspection of the rental unit or premises in the circumstances specified in the application for the warrant.

ii. A warrant shall issue only upon an affidavit of a designated officer or employee having knowledge of the facts alleged, sworn to before the judge or justice of the peace and establishing the grounds for issuing the warrant. If the judge or justice of the peace is satisfied that grounds for the application exist or that there is probable cause to believe they exist, the judge shall issue a warrant identifying the rental unit or premises to be inspected, the purpose of the inspection and, if appropriate, the type of property to be inspected or seized, if any. The warrant shall:

a. State the grounds for its issuance, and the name of each person whose affidavit has been taken in support thereof;

b. Be directed to a person authorized by §5410(a) to execute it;

c. Command the person to whom it is directed to inspect the rental unit or premises identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

d. Identify the item or types of property to be seized, if any; and

e. Direct that it be served during normal business hours and designate the judge or justice of the peace to whom it shall be returned.

iii. A warrant issued pursuant to this section must be executed and returned within 10 days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one (1) credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

iv. The judge or justice of the peace who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the Prothonotary in the county in which the inspection was made.

(c). The Secretary may make administrative inspections of rental units in accordance with the following provisions:

i. When authorized by an administrative inspection warrant issued pursuant to this section, an officer or employee designated by the Secretary, upon presenting the warrant and appropriate credentials to the tenant may enter the rental unit for the purpose of conducting an administrative inspection.

ii. This section does not prevent the inspection of a rental unit without a warrant or prevent entries and administrative inspections, including seizures of property, without a warrant:

a. If the tenant consents:

b. In situations presenting imminent danger to health or safety:

c. In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or

d. In all other situations in which a warrant is not constitutionally required.

§5411. Regulations.

The Department shall promulgate regulations to effectuate this chapter.

Section 2: Amend Part III, Title 25, §5305 by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5305. Landlord obligations relating to the rental unit.

(a) The landlord shall, at all times during the tenancy:

(1) Comply with all applicable provisions of any state or local statute, code, regulation or ordinance governing the maintenance, construction, use or appearance of the rental unit and the property of which it is a part;

(2) Provide a rental unit which shall not endanger the health, welfare or safety of the tenants or occupants, is free of lead and certified as lead safe or lead free as required by chapter 54, and which is fit for the purpose for which it is expressly rented;

(3) Keep in a clean and sanitary condition, free of lead and certified as lead safe or lead free as required by chapter 54, all common areas of the buildings, grounds, facilities and appurtenances thereto which are maintained by the landlord;

(4) Make all repairs and arrangements necessary to put and keep the rental unit and the appurtenances thereto in as good a condition as they were, or ought by law or agreement to have been, at the commencement of the tenancy; and

(5) Maintain all electrical, plumbing and other facilities supplied by the landlord in good working order.

SYNOPSIS

This bill requires all rental units to be registered with the Department by January 1, 2025 and all rental units constructed before January 1, 1978 to be assessed by an approved lead inspector by January 1, 2026 and all lead hazards promptly corrected . It requires rental units certified as lead safe to be recertified every four (4) years.

This bill requires the Department to establish and maintain a registry of all rental units and their status as lead-free or lead safe.

This bill requires the landlord to provide alternative housing to tenants while a rental unit is made lead-free or lead safe.

This bill also requires every rental agreement on a rental unit constructed prior to January 1, 1978 contain a disclosure that the unit has been certified as lead-free or lead safe.

This bill requires landlords to provide the tenant with educational materials about lead-based paint hazard prior to tenancy.

This bill requires the Department to establish and maintain a grant program to assist landlords in obtaining a required certificate or in remediating or abating lead-based hazards in rental units and to assist tenants in obtaining alternative housing while rental units are undergoing remediation or abatement.

This bill prohibits discrimination against individuals who have made a complaint or participated in an investigation, hearing or other proceeding about a lead-based paint hazard in a rental unit or the failure to register or certify a rental unit. It also prohibits discrimination because an individual residing in a rental unit or seeking to rent a rental unit has or is perceived to have an elevated blood level. It prohibits discrimination because an individual who is or would be residing in a rental unit is pregnant or under six (6) years of age unless the rental unit qualifies as housing for older persons under Delaware law.

The bill provides that the Secretary of the Department shall designate individuals who can enforce the chapter and a procedure to obtain administrative warrants.

The bill provides for fines for the failure to timely register or to obtain and file a required certificate, unless an exemption of up to six (6) months is granted by the Department. Fines are also provided for failure to provide the tenant with educational materials or a copy of the required certificate, when requested.

The bill bars landlords who have failed to obtain and file a required certificate from commencing an action for summary possession of the rental unit, unless a certificate exemption of up to six months has been issued by the Department.

The bill directs the Department to promulgate regulations to effectuate the chapter.

The bill amends the landlord obligations under §5305 to include providing a rental unit and common area free of lead and certified as lead free or lead safe.

Author: XXXXXXXXX

Appendix B. Stakeholder Suggestions Not Included in the Plan

Stakeholder feedback that was not included in this plan, with our justification for why the suggestion was excluded, include the following:

Suggestion	Justification for Exclusion from the Plan
Tenants should be able to choose to live in lead-contaminated housing, and their choice to do so should release the landlord from liability for any lead poisoning that occurs in the rental unit, if an appropriate lead hazard warning about the dangers is provided to the tenant.	We found this contrary to the direction provided by SB 9, extremely dangerous for health, and problematic ethically.
Households with children should be inspected and abated first; requiring lead-safe certification for households occupied only by adults adds unnecessary costs.	This is counter to anti-discrimination objectives; these types of policies were shown by the research to result in an increase in evictions in other jurisdictions.
Inspections performed for Section 8 should be able to qualify as a lead-safe inspection.	We examined Section 8 inspection protocols and found that they do not currently include lead dust; they also allow for deteriorated paint to continue in the dwelling (2 square feet of deteriorated paint per room or 10% of a component).
Instead of making rental housing lead-safe, focus should be more on public education so people can know how to protect themselves from lead poisoning; lead-safe housing requirements are a poor use of resources.	This is counter to our task assigned by SB 9, our research has also concluded that public education alone is not sufficient to prevent lead hazards, and that the removal of lead hazards from rental housing is the most important mechanism for primary prevention. This has also been a talking-point of the lead industry and housing providers for many years, has been used elsewhere to delay policy action, and has perpetuated the continuation of childhood lead poisoning (Markowitz and Rosner, 2002, 2013; Warren, 2000).
Property owners should be exempt from hiring lead-safe contractors and should be able to perform the work themselves.	We examined the EPA rules for lead hazard work and found this to be counter to federal requirements. Certification exemptions for owners to perform their own work apply only to owner-occupied units and exclude owners if someone outside the immediate family resides in the unit.

Suggestion	Justification for Exclusion from the Plan
Not enough children are lead-poisoned to take action; “why should we care about only a few hundred lead-poisoned children?”	Delaware children are not disposable. Existing data and research demonstrate childhood lead poisoning to be a severe public health crisis warranting immediate action.
Inspections should be limited to rental turnovers; this would assist with addressing lead hazards in occupied units.	This would introduce loopholes that would prevent inspection for long periods of time and could undermine the effort. Best practices from other programs utilized a routine schedule for reinspection to prevent hazards that can continue to develop from lead paint left behind due to wear and tear.
The plan should allow for a visual inspection for lead dust and degrading paint instead of dust sampling.	Lead dust can be invisible to the naked eye and can evade detection until a child becomes lead-poisoned. The only way to detect the presence of lead is through a dust sample.
Liability protection: protections for landlords from lead poisoning claims if they comply with the program.	This is not something we have seen in the research or our program analysis.
Registration of all rental units is outside the scope of SB 9; all rental units should not be required to register in a state database.	The shadow economy of rental housing without adequate health protections and accountability currently perpetuates ongoing childhood lead poisoning in Delaware.
Lead hazards should be a private matter, the state should not be involved, and instead lead hazards should be resolved privately between the landlord and the tenant.	Lead poisoning is a matter of public health that is already regulated and managed by the state and federal governments, including the Environmental Protection Agency, Department of Housing and Urban Development, Food and Drug Administration, and Consumer Product Safety Commission. Toxic exposures to poisons are not a private matter between a property owner and a tenant.
The program should target the oldest housing first, inspect and abate them, and then proceed to newer housing.	This is beyond the scope as outlined in SB 9. Furthermore, lead paint was banned 45 years ago and too much time has passed to justify further delays.

Suggestion	Justification for Exclusion from the Plan
<p>A request by the City of Newark in regard to the tremendous annual turnover in rental housing that occurs at the same time due to the large proportion of rental units for students at the University of Delaware. Providing a mechanism to space the compliance and reporting, particularly if it includes the municipal government, would be appreciated.</p>	<p>The proposed plan would not require any inspections or record-keeping by municipalities, so this should not create a new burden for them that could create a bottle-neck at any particular time of year. If municipalities decided to incorporate new changes to the Delaware Code into their municipal code, this may then become an issue for them.</p>

Appendix C. Programs in Other Jurisdictions

We carefully evaluated the following programs in other jurisdictions, which are also summarized as follows:

State of Maryland: Adopted in 1994, Maryland's Lead Law is considered highly effective at preventing childhood lead poisoning. The Green and Healthy Homes Initiative (2020) which implements Maryland's Lead Law, reports that Maryland's proactive approach to primary prevention, which includes the rental housing program and other prevention initiatives, has resulted in a 98% reduction in childhood lead poisoning since 1993.

The Lead Law is mandatory for all rental dwellings constructed prior to 1978, and includes housing authorities and housing choice voucher programs. All rental properties must be registered with the Maryland Department of Environment as well as with the county where they are located, registration must be renewed annually, and includes a \$30 fee. Property owners must obtain a lead risk reduction certificate at every change of tenancy and other triggering events, and provide certification that interior and exterior painted surfaces of the rental unit meet the risk reduction standard for lead paint and dust. Lead hazards that are identified must be corrected within 30 days, include relocation of the tenant during lead hazard reduction work, and educational materials must be provided. Advanced abatement measures are required if a pregnant tenant or child under the age of 5 has a blood lead level at or above 5 µg/dL. All work must be performed by those certified by the state and EPA. Exemptions to the Lead Law include hotels, motels, seasonal, and transient rental facilities. Penalties for violation include \$20/day for failure to register, \$500/day for failure to file an inspection certificate (not to exceed \$100,000), and civil penalties not to exceed \$25,000.

City of Philadelphia: Adopted in 2011 and updated in 2020, Philadelphia's Lead Paint Disclosure and Certification Law applies to all rental units constructed prior to March 1978, though it excludes public housing authorities and housing choice voucher programs in specific zip codes. The program is implemented as part of the city's annual rental license and enforced by the City of Philadelphia, and requires lead-safe certificates for all rental units, which must be updated every 4 years. Lead-free certification lasts forever. Lead hazards must be remediated to the extent that the unit can pass inspection prior to tenant occupancy, and educational materials must be provided. All workers must be licensed by the state and EPA. There are no exemptions for temporary housing units, dormitories, or hotels. Penalties include \$2,000 per offense per day, with each day constituting a separate offense; refund of rent for the period without a lead inspection certification; landlords may be subject to a private lawsuit for money damages and attorney's fees; and housing licenses may be revoked.

State of New Jersey: While New Jersey's original lead-safe rental housing laws began in 1971, the Lead-Based Paint Inspections in Rental Dwellings was revised in 2023, applies to all rental units constructed prior to 1978, and is enforced by local governments. Lead-safe certification is required within 2 years or with tenant turnover, whichever is sooner, and thereafter every 3 years or upon tenant turnover. Tenant turnover restarts the 3-year clock. The periodic

lead-based paint inspection applies to interior spaces within dwellings and common areas that tenants of a rental dwelling have access to, including hallways and basements. All lead paint hazards must pass clearance, including a lead dust wipe inspection, as part of a post remediation inspection. New Jersey requires all workers to be licensed in the state and by the EPA, and does not have specific education requirements. Seasonal rentals that do not have consecutive leases are exempt. Penalties for both the landlord of \$1,000/week and for the local government \$1,000/week are assessed.

City of Buffalo: Buffalo, New York added a proactive rental inspection lead screening for rentals to their existing certificate of rental compliance in 2020 and has incorporated a 6-year phased-in approach to full capacity that focuses on areas with a history of childhood lead poisoning. The city schedules inspections with property owners; units that fail inspection are issued an order of remedy with inspection clearance required within 60 days. Units that pass inspection are in good standing for a period of 3-years. Penalties for negligence include fines and loss of rental license.

City of Detroit: Rental properties in Detroit, Michigan must have lead clearance certification before they can be rented. Rental units constructed prior to 1978 must have a lead inspection and risk assessment performed to determine the presence of lead based paint and lead based paint hazards. If lead based paint hazards exist, the hazards must be controlled prior to occupancy, all workers must be licensed, and the rental unit must pass clearance inspection. Penalties range from \$500 to \$8,000 and can be assessed daily.

City of Burlington: Burlington, Vermont requires all landlords to certify compliance with the state's Essential Maintenance Practices for lead hazards. Property owners must conduct a visual assessment of each unit annually and upon tenant turnover to detect and remedy deteriorating paint, perform specialized cleaning of all interior surfaces that are subject to lead safe cleaning procedures at tenant turnover, and provide educational materials. City inspectors are authorized to enter into rental homes on the basis of carrying out local, periodic inspections. If refused, Vermont District Court may issue search warrants for unit entry provided probable cause. Failure to observe lead-safe practices may result in a \$500 fine and/or a stop work order, loss of occupancy certificate, and civil and/or criminal penalties.

McAtee, Amanda A (LegHall)

From: LDA Delaware
Sent: Thursday, November 7, 2024 10:54 AM
To: Sunset (Mailbox Resources)
Subject: Lead Poisoning
Attachments: Sunset Review Sign On Letter 2024.jpg



Please see the attached letter below:

Fern Goldstein
President, LDA of Delaware
info@ldadelaware.org
www.ldadelaware.org
302-464-0926



6005 Connerly Place
Middletown, DE 19709
info@ldadelaware.org
www.delaware.org

December 1, 2024

To: Joint Legislative Oversight and Sunset Committee
Sunset@delaware.gov

Re: Childhood Lead Poisoning

Childhood lead poisoning is a serious public health issue that involves the expenditure of state and federal resources for preventing lead poisoning, tracking lead-poisoned children, and providing intervention services for lead-poisoned children.

In January 2023, over 230 Delawareans petitioned the Joint Legislative Oversight and Sunset Review Committee to evaluate the Childhood Lead Poisoning Prevention Program, the Childhood Lead Poisoning Advisory Committee, the Department of Education (which conducted water sampling of schools), and both the Department of Health and Social Services and Department of Education for their early intervention services for children with lead poisoning. We requested a thorough review by your committee so that our state programs can be improved, appropriately organized, and adequately staffed and funded.

We are disappointed to learn that, though a review is taking place now, it is occurring behind closed doors without any public presentation of information, without soliciting any public input, and without the ability of the public to oversee the process. This is particularly concerning because the public directly petitioned you, the Joint Legislative Oversight and Sunset Committee, yet the public, and potentially you as legislators, are not being included in the review. We ask that the Joint Legislative Oversight and Sunset Review committee conduct its review of childhood lead poisoning programs in a transparent and public manner so that the public can observe and participate. This should include a public hearing where presentations by agency staff are made, a solicitation of public input, and complete disclosure of all documents and information used in the review.

Sincerely,



President, LDA of Delaware

LDADE does not endorse or recommend any person, product, or program for children and adults with learning disabilities. All content contained in this communication is for informational purposes only; therefore, LDADE cannot be held liable for any decisions or actions taken by any person or persons reading this communication.



6005 Connery Place
Middletown, DE 19709
info@ldadelaware.org
www.delaware.org

December 1, 2024

To: **Joint Legislative Oversight and Sunset Committee**
Sunset@delaware.gov

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Sincerely,

A handwritten signature in cursive script that reads "Jan Goldstein".

President, LDA of Delaware

From: Sarah Bucic
Sent: Wednesday, December 4, 2024 3:25 PM
To: Sunset (Mailbox Resources)
Cc: DorseyWalker, Sherry (LegHall); Hoffner, Kyra (LegHall); Johnson, Kendra (LegHall); Parker Selby, Stell (LegHall); Collins, Rich G (LegHall); Richardson, Bryant L (LegHall); Spiegelman, Jeff (LegHall); Gay, Kyle E (LegHall); Huxtable, Russell (LegHall); Pettyjohn, Brian (LegHall); Amy Roe
Subject: Childhood Lead Poisoning - Sunset Review
Attachments: Sunset Review Sign On Letter 2024.pdf; Petition for sunset review_Final 2023_01_23.pdf

Dear Delaware Sunset Review Committee,

Please find attached a sign on letter asking for a more thorough review of childhood lead poisoning by the Sunset Review Committee. This is a follow up to our petition submitted in January 2023. I'm attaching the original petition and our request.

Thank you for your attention to this important issue impacting Delaware's children and families.

Sincerely,

Sarah Bucic, MSN, RN
Amy Roe, Ph.D.



December 1, 2024

To: **Joint Legislative Oversight and Sunset Committee**
Sunset@delaware.gov

Re: **Childhood Lead Poisoning**

Childhood lead poisoning is a serious public health issue that involves the expenditure of state and federal resources for preventing lead poisoning, tracking lead-poisoned children, and providing intervention services for lead-poisoned children.

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We ask that the Joint Legislative Oversight and Sunset Review committee conduct its review of childhood lead poisoning programs in a transparent and public manner so that the public can observe and participate. This should include a public hearing where presentations by agency staff are made, a solicitation of public input, and complete disclosure of all documents and information used in the review.

ACLU of Delaware

Mike Brickner, Executive Director

Black Mothers in Power

Shané Darby, Founder

Central Delaware NAACP Education Committee

Dr. Terri Hodges, Chair Education Committee, NAACP

The Civic League of New Castle County

President - Charles C. Stirk Jr

The Delaware Black Commission

Jakim Mohammed

Delaware Nurses Association

Executive Director, Christopher E. Otto, MSN, RN, CCRN

Delaware School Nurse Association

President Denise Bradley Buffin, RN, MEd, MSN, NCSN, School Nurse, DSNA President

Delaware PTA

President Kelly Coffey

Health Educated, Inc

Founder, Kristin Ball Motley, PharmD, MBA

Lead-Free Delaware

Amy Roe, Ph.D. & Sarah Bucic MSN, RN

Sierra Club Delaware Chapter

Dustyn Thompson, Chapter Director

Sons Health & Safety

Chantae' Vinson

**Petition for Sunset Review of the DHSS, DPH, the Lead Poisoning Prevention Program,
and the Childhood Lead Poisoning Prevention Program**

To: Joint Legislative and Sunset Review Committee: Senators Kyra L. Hoffner, Kyle Evans Gay, Russell Huxtable, Brian Pettyjohn, and Bryant L. Richardson; and Representatives Sherry Dorsey Walker, Kendra Johnson, Stell Parker Selby, Richard G. Collins, and Jeffrey N. Spiegelman.

Joint Legislative Oversight and Sunset Committee,

We, the undersigned, petition the Joint Legislative Oversight and Sunset Committee to act immediately to evaluate the following programs that manage the State of Delaware's childhood lead poisoning issue.

The State's programs are not effective, have not provided required services for children with lead poisoning, have impeded progress on reducing childhood lead poisoning, are not compliant with the Delaware Childhood Lead Poisoning Prevention Act and the federal requirements of the Individuals with Disabilities Education Act (IDEA Part C) and the Safe Drinking Water Act (WIIN Grant).

- Childhood Lead Poisoning Prevention Program, which is responsible for managing childhood lead poisoning prevention, including data and case management.
- Childhood Lead Poisoning Advisory Committee, which was re-established in 2019, for composition of committee members, and completion of required tasks.
- Department of Education Operations Support, which has conducted water sampling for lead utilizing the federal WIIN Grant and state funds of an unknown source, and does also not perform lead risk assessments for public schools
- DHSS/DOE Idea Part C, which provides early child intervention to children with elevated blood lead levels $\geq 5 \mu\text{g/dL}$.

Our state programs are challenged in many ways, and have not demonstrated an ability to adequately prevent childhood lead exposure or respond to the needs of children who are exposed to lead.

We therefore request a thorough review by your committee so that our state programs can be improved, appropriately organized, and adequately staffed and funded.

Civic League for New Castle County
Delaware Coalition for Open Government
Delaware Nurses Association

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Dawn Alexander [REDACTED] 19806
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Sally Barclay	[REDACTED]	om	19806
Philip Barnes	[REDACTED]	n	19703
Kira Bell	[REDACTED]	l.com	19713
KendraBober	[REDACTED]	com	19810
Kristen Bossert	[REDACTED]	ail.com	19968
Rebecca Brill	[REDACTED]	n	19810
Julie Bristowe	[REDACTED]		19807
David Bryan	[REDACTED]	n	19958
Jay Bucic	[REDACTED]	m	19809
Sarah Bucic	[REDACTED]	om	19809
Vanja Bucic	[REDACTED]	m	19809
Joan Budd	[REDACTED]		19808
Joseph Budd	[REDACTED]		19808
Paul Budd	[REDACTED]	n	19808
Cheryl Burns	[REDACTED]		66046
Frank Burns	[REDACTED]		19711
Kathryn Burritt	[REDACTED]	om	19958
Judith Butler	[REDACTED]	com	19806
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Charito Calvachi-Mateyko	[REDACTED]	pl.com	19711
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Shane Cannon	[REDACTED]	.com	19802
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Catherine Ciferni	[REDACTED]	om	19711
Knisha Clark	[REDACTED]		19802
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