SPONSOR: Rep. Lambert & Rep. Dorsey Walker & Sen. Gay
Reps. Gray, K. Johnson, Kowalko, Lynn, Minor-Brown, Morrison, K. Williams; Sens. Hansen, S. McBride, Pinkney, Poore, Sokola, Walsh

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 485

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

WHEREAS, Chapter 26 of Title 16 of the Delaware Code, the Childhood Lead Poisoning Prevention Act, requires every child born on or after March 1, 1995, who has reached the age of 12 months, to be tested for lead poisoning before admission or continued enrollment in a childcare facility, public or private nursery school, or preschool or kindergarten; and

WHEREAS, Delaware is evaluating the blood levels of only 23% of children under the age of 5 each year; and

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

WHEREAS, between 2012 and 2016, more than 1,650 Delaware children who were screened or tested had elevated levels of lead in their blood; and

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

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

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

WHEREAS, the Childhood Lead Poisoning Advisory Committee, in the Committee's 2021 report to the General Assembly, recommended mandating universal blood lead testing around 2 years of age (21-27 months) with one catch up test before age 6 for those with no previous tests, or those whose previous test was before 21 months of age; and

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WHEREAS, the Interagency Coordinating Council adopted, effective May 1, 2021, a lowering of the threshold for eligibility for early intervention services in children with lead poisoning from 10 mcg/dl to 5 mcg/dL; and

WHEREAS, as of May 2021, the CDC uses a blood lead reference value (BLRV) of 3.5 micrograms per deciliter (µg/dL) to identify children with higher levels of lead in their blood compared to most children; and

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

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

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

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

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

WHEREAS, according the World Health Organization, "Lead exposure can have serious consequences for the health of children. At high levels of exposure lead attacks the brain and central nervous system, causing coma, convulsions and even death. Children who survive severe lead poisoning may be left with intellectual disability and behavioral disorders. At lower levels of exposure that cause no obvious symptoms, lead is now known to produce a spectrum of injury across multiple body systems. In particular, lead can affect children's brain development, resulting in reduced intelligence quotient (IQ), behavioral changes such as reduced attention span and increased antisocial behavior, and reduced educational attainment. Lead exposure also causes anemia, hypertension, renal impairment, immunotoxicity and toxicity to the reproductive organs. The neurological and behavioral effects of lead are believed to be irreversible."; and

WHEREAS, according to the Mayo Clinic, "Lead poisoning can be hard to detect. Even people who seem healthy can have high blood levels of lead. Signs and symptoms usually don't appear until dangerous amounts have accumulated. Signs and symptoms of lead poisoning in children include: Developmental delay, Learning difficulties, Irritability, Loss of appetite, Weight loss, Sluggishness and fatigue, Abdominal pain, Vomiting, Constipation, Hearing loss, Seizures, Eating things, such as paint chips, that aren't food (pica)."; and

WHEREAS, according to the Mayo Clinic, "Although children are primarily at risk, lead poisoning is also dangerous for adults. Signs and symptoms in adults might include: High blood pressure, Joint and muscle pain, Difficulties with memory or concentration, Headache, Abdominal pain, Mood disorders, Reduced sperm count and abnormal sperm, Miscarriage, stillbirth or premature birth in pregnant women."; and

WHEREAS, lead can be found in paint, makeup, toys, apple juice and other juices, and spices, such as turmeric, chili powder, and red pepper; and

WHEREAS, IDEA Part C Early Intervention, administered at DHSS, does not collect data regarding how many children receiving early intervention services are eligible for those services due to lead exposure; and

WHEREAS, families of children referred for an early intervention or a special education evaluation in Delaware are not currently required to submit 12 or 24 month lead screening results prior to the determination of eligibility for services. Currently, blood lead levels are not required to be documented in early intervention and special education eligibility repots; and

WHEREAS, currently, school nurses, special education coordinators, and early intervention case managers are not able to access information related to a child's blood lead level, even though lead poisoning is a critical factor in determining a child's needed education and mental health supports; and

WHEREAS, the following zip codes have been targeted by the Division of Public Health as having an elevated risk for lead poisoning due to the preponderance of homes constructed before 1978 that may contain lead paint: 19701, 19702, 19703, 19706, 19709, 19711, 19713, 19720, 19733, 19801, 19802, 19803, 19804, 19805, 19806, 19808, 19809, 19810, 19904, 19933, 19934, 19938, 19939, 19940, 19941, 19943, 19945, 19901, 19946, 19947, 19950, 19952, 19953, 19956, 19958, 19960, 19962, 19963, 9966, 19968, 19971, 19973, 19975, and 19977; and

WHEREAS, childhood lead poisoning can be prevented.

NOW, THEREFORE:

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

Section 1. Amend § 2602, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

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

(a) Every health-care provider who is the primary health-care provider for a child shall order lead poisoning screening of the child, under regulations adopted by the Division of Public Health, at or around 12 and 24 months of age.

(b) [Repealed.]

(c) (1) If screening under subsection (a) of this section determines that a child has an elevated blood lead level, the health-care provider shall order testing under regulations adopted by the Division of Public Health.

(2) A health-care provider is encouraged to use the health-care provider's clinical judgement to determine when testing should be used in lieu of screening under subsection (a) of this section.

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

(e) Nothing in this section may be construed to require any child to undergo screening or testing if the child's parent or guardian objects on the grounds that the screening or testing conflicts with the parent's or guardian's religious beliefs.

(f) [Repealed.]

(g) All laboratories and health-care providers shall, no less than one time per month, provide the reports prepared under subsection (d) of this section to the Division of Public Health's lead program, to a designee at the IDEA Part C Lead Agency, and to a designee at the IDEA Part B Lead Agency.

(h) The IDEA Part C Lead Agency shall establish a system for notifying all families of children ages birth through 36 months determined to have blood lead level of 3.5 micrograms per deciliter or higher of their children's early intervention eligibility under IDEA Part C Established Conditions.

(i) The IDEA Part C Lead Agency shall implement or utilize an already established data system for collecting and maintaining the information regarding all children ages birth through 36 months with elevated blood lead level of 3.5 micrograms per deciliter or higher. This data system will indicate the total number of children and the ages of the children with elevated blood lead level and the number and ages of children whose families accepted early intervention services. This data shall be reported once per year to all of the following:

(1) The Interagency Coordinating Council (ICC).

(2) The Governor's Advisory Council for Exceptional Citizens (GACEC).

(3) The Chair of the Delaware Early Child Council.

(4) The Childhood Lead Poisoning Advisory Committee (CLPAC).

(5) The General Assembly by delivering a copy of the report to the Secretary of the Senate, Chief Clerk of the House of Representatives, and the Director and Librarian of the Division of Research.

(j) The IDEA Part B Lead Agency shall establish a designee for receiving the elevated blood lead level reports and shall share this information no less than one time per month with all of the following:

(1) The lead nurse.

(2) The Special Education Director, or a designee at each Local Educational Agency (LEA). Information will be shared based on the LEA in which children reside.

(k) The IDEA Part B Lead Agency shall report the total number and ages of children with an elevated blood lead level of 3.5 micrograms per deciliter or higher and the number and ages of these children who are receiving early intervention or special education services through their LEA once per year to all of the following:

(1) The Governor's Advisory Council for Exceptional Citizens (GACEC).

(2) Special Education Strategic Plan Advisory Council (SESPAC).

(3) The Chair of the Delaware Early Child Council.

(4) The Childhood Lead Poisoning Advisory Committee (CLPAC).

(5) The General Assembly by delivering a copy of the report to the Secretary of the Senate, Chief Clerk of the House of Representatives, and the Director and Librarian of the Division of Research.

Section 2. Amend § 2603, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 2603. Screening ~~prior to child care or school enrollment.~~ for all children enrolled in child care facilities or enrolled in public or private nursery schools, preschools, kindergarten through grade 12, and early intervention programs.

(a) Requirement for proof of screening for lead poisoning.

(1) For every child who has reached the age of 12 ~~months,~~ months and is under the age of 24 months, child care ~~facilities~~ facilities, and public and private ~~nursery schools, preschools, and kindergartens~~ schools shall require proof of a 12-month screening at or around 12 months of age for lead poisoning under subsection (c) of this section for admission or continued enrollment.

~~(a)~~ (2) For every child who is 24 months old or older, child care facilities, public and private nursery schools, preschools, kindergarten through grade 12, and early intervention programs shall require proof of a 24-month screening for lead poisoning at or around 24 months of age under subsection (c) of this section for admission or continued enrollment. Failure to obtain a 12-month screening does not exclude a child who has proof of a 24-month screening from admission or continued enrollment. If an enrolling child is older than 24 months and has not received a 24-month

screening, a screening shall be performed and proof of the screening provided prior to enrollment regardless of the age of the child.

(b) ~~Except in the case of enrollment in kindergarten, the~~ The screening under subsection (a) of this section may be done within 60 calendar days ~~of the date of enrollment.~~ from the first day of attendance. Schools shall include students without proof of screening in their unit count.

(c) ~~A~~ Upon enrollment, a child's parent or guardian must provide 1 of the following:

(1) A statement from the child's primary health-care provider that the child has received a screening for lead ~~poisoning.~~ under subsection (a) of this section for the child's age along with the date and results of the lead screening.

(2) A certificate signed by the parent or guardian stating that the screening is contrary to the parent's or guardian's religious beliefs.

(d) The Department of Health and Social Services and the Department of Education shall collaborate on data collection, management, and access so that child care facilities, public and private schools, and early intervention programs can comply with this act. The Department of Health and Social Services and the Department of Education shall ensure that the granularity of the blood lead data is sufficient for school nurses, birth to three early intervention staff, and special education coordinators to properly assign students into early intervention and special education programs and to develop individual and family service plans (IFSP) and individual education plans (IEP).

(e) Public and private schools shall provide school nurses, special education coordinators, and early intervention case managers with the blood lead level for each child enrolled in their school or program and establish a method by which school nurses, special education coordinators, and case managers can access the blood lead level data. Prior to identifying a child for IDEA Part C or Part B eligibility for services, a 12-month or 24-month lead screening must be obtained by the evaluation team and reported in the eligibility report.

(f) The Department of Education shall annually, on or before June 1, provide a report on the number of children enrolled in the unit count for Delaware schools who did and who did not have a blood lead screening or test to the General Assembly by delivering a copy of the report to the Secretary of the Senate, Chief Clerk of the House of Representatives, and the Director and Librarian of the Division of Research.

(g) The lead agency for IDEA Part C shall annually, on or before June 1, provide a report on the number of children receiving Birth to Three Early Intervention Services and who did not have a blood level screening or test to the General Assembly by delivering a copy of the report to the Secretary of the Senate, Chief Clerk of the House of Representatives, and the Director and Librarian of the Division of Research.

(h) The Department of Education's Office of Child Care Licensing (OCCL) shall annually, on or before June 1, provide a report on the total number of children enrolled in child care, the total number who did and did not provide a blood level screen or to the General Assembly by delivering a copy of the report to the Secretary of the Senate, Chief Clerk of the House of Representatives, and the Director and Librarian of the Division of Research.

Section 3. This Act takes effect 180 days after its enactment into law.

SYNOPSIS

This Act continues work started with the passage of HB 222 to ensure blood lead tests for school, child care, and early intervention programs enrollment meet standards and allow for the efficient transmission of blood lead screen data to schools, child care facilities, and early intervention service providers to provide a better opportunity to assist children with different levels of lead exposure. The Act defines the requirement for both a 12-month and a 24-month screening for children enrolled in child care facilities, public and private schools, and early intervention programs while clarifying the failure to obtain a 12-month screening does not prevent enrollment for children who provide proof of a 24-month screening. The Act also establishes requirements making blood lead level data available to school nurses and special education coordinators.