SPONSOR: Rep. Lambert & Rep. Matthews & Sen. Hansen & Sen. Brown & Sen. S. McBride & Sen. Poore
Reps. Baumbach, Bentz, Bolden, Brady, Bush, Chukwuocha, Collins, Dorsey Walker, Griffith, Heffernan, K. Johnson, Kowalko, Lynn, Minor-Brown, Mitchell, S. Moore, Ramone, Schwartzkopf, Shupe, Michael Smith, K. Williams, Wilson-Anton; Sens. Gay, Pinkney, Sokola, Townsend, Walsh, Wilson

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 222
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 AND TITLE 18 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

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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

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

WHEREAS, in 2016, the American Academy of Pediatrics Council on Environmental Health concluded that "screening questionnaires frequently used in the primary care setting fail to identify children who have elevated blood lead concentrations" (PEDIATRICS Vol. 138, No. 1; July 2016); 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, 19966, 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 § 2601, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2601. Short ~~title.~~ title; definitions.

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

(b) For purposes of this chapter:

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

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

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

Section 2. Amend § 2602, Title 16 of the Delaware Code by making deletions as shown by strike through 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 ~~that~~ the child, ~~in accordance with standards promulgated~~ under regulations adopted by the Division of Public Health, at or around 12 and 24 months of ~~age for lead poisoning.~~ age.

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

(c)(1) ~~Unless the child is at high risk for lead poisoning, as determined by the primary health-care provider, pursuant to guidelines promulgated by the Division of Public Health, screening shall not be required for any child who is over 12 months of age on March 1, 1995.~~ If screening 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 will~~ 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 ~~shall~~ may be construed to require any child to undergo ~~a lead blood level~~ screening or ~~test whose~~ testing if the child's parent or guardian objects on the grounds that the screening or ~~test~~ testing conflicts with the parent's or guardian's religious beliefs.

(f) ~~All laboratories involved in blood lead level analysis will participate in a universal reporting system as established by the State Board of Health.~~ [Repealed.]

Section 3. Amend § 2603, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2603. Screening prior to child care or school enrollment.

(a) For every child ~~born on or after March 1, 1995, and~~ who has reached the age of 12 months, child care facilities and public and private nursery schools, ~~preschools~~ preschools, and kindergartens shall require proof of screening for lead poisoning for admission or continued ~~enrollment;~~ enrollment.

(b) ~~except~~ Except in the case of enrollment in kindergarten, ~~such testing~~ the screening under subsection (a) of this section may be done within 60 calendar days of the date of enrollment.

(c) ~~A statement shall be provided~~ A child's parent or guardian must provide one of the following:

(1) A statement from the child's primary health-care provider that the child has ~~been screened for lead poisoning~~ received a screening for lead poisoning.

(2) ~~or in lieu thereof a~~ A certificate signed by the parent or guardian stating that the screening is contrary to ~~that person's~~ the parent's or guardian's religious beliefs.

Section 4. Amend § 2604, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows

§ 2604. Reimbursement by third-party payers.

~~Screening,~~ Blood lead testing, screening, screening-related ~~services~~ services, and diagnostic evaluations as required by § 2602 of this title ~~shall be~~ are reimbursable under health insurance contracts and group and blanket health

insurance ~~as provided by Chapter 33 and Chapter 35, respectively, of Title 18.~~ under § 3337 and § 3554 of Title 18, respectively.

Section 5. Amend Chapter 26, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2606. Annual report.

The Division of Public Health shall annually, on or before January 1, provide a report on elevated blood lead levels 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 6. Amend § 3337, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3337. Lead poisoning screening reimbursement.

(a) All individual health insurance policies which are delivered or issued for delivery in this State by any health insurer, health service corporation, health maintenance ~~organization~~ organization, or any health services and facilities reimbursement program operated by the State and which provide a benefit for outpatient services shall ~~also~~ provide a benefit for a baseline lead poisoning ~~screening test for children at or around 12 months of age.~~ screening or testing, as defined in § 2601 of Title 16.

(b) Benefits ~~shall~~ must also be provided for lead poisoning ~~screening and diagnostic evaluations~~ screening, testing, diagnostic evaluations, screening and testing supplies, and home-visits for children ~~under the age of 6 years~~ who are at high risk for lead poisoning ~~in accordance with~~ under guidelines and criteria ~~set forth~~ established by the Division of Public Health.

(c) ~~Such testing shall be deemed to be~~ The benefits required under subsections (a) and (b) of this section are a covered service, notwithstanding any policy exclusions for services which are part of or related to annual or routine examinations.

(d) Nothing in this section ~~shall prevent~~ prevents the operation of ~~such~~ policy provisions such as deductibles, coinsurance allowable charge limitations, coordination of ~~benefits~~ benefits, or provisions restricting coverage to services rendered by licensed, ~~certified~~ certified, or carrier-approved providers or facilities.

(e) ~~Nothing in this section shall apply~~ This section does not apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term ~~care~~ care, or other limited health insurance policies.

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

Section 7. Amend § 3554, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3554. Lead poison screening reimbursement.

(a) All group and blanket insurance policies, which are delivered or issued for delivery in this State by any health insurer, health service corporation, health maintenance ~~organization~~ organization, or any health services and facilities reimbursement program operated by the State which provide a benefit for outpatient services shall ~~also~~ provide a benefit for a baseline lead poisoning ~~screening test for children at or around 12 months of age.~~ screening or testing, as defined in § 2601 of Title 16.

(b) Benefits ~~shall~~ must also be provided for lead poisoning ~~screening and diagnostic evaluations~~ screening, testing, diagnostic evaluations, screening and testing supplies, and home visits for children ~~under the age of 6 years~~ who are at high risk for lead poisoning ~~in accordance with~~ under guidelines and criteria ~~set forth~~ established by the Division of Public Health.

(c) ~~Such testing shall be deemed to be~~ The benefits required under subsections (a) and (b) of this section are a covered service, notwithstanding any policy exclusions for services which are part of, or related to, annual or routine examinations.

(d) Nothing in this section ~~shall prevent~~ prevents the operation of ~~such~~ policy provisions such as deductibles, coinsurance allowable charge limitations, coordination of ~~benefits~~ benefits, or provision restricting coverage to services rendered by licensed, ~~certified~~ certified, or carrier-approved providers or facilities.

(e) ~~Nothing in this section shall apply~~ This section does not apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term ~~care~~ care, or other limited health insurance policies.

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

Section 8. The Division of Public Health shall adopt regulations to implement and enforce this Act within 12 months of the date of enactment of this Act.

Section 9. Sections 6 and 7 of this Act apply to insurance policies, plans, and contracts that are issued, entered into, modified, or renewed on or after January 1, 2022.