

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 801 (Senator Oaks, *et al.*)
 Judicial Proceedings

Environment – Reduction of Lead Risk in Housing – Elevated Blood Lead Levels

This bill lowers the threshold elevated blood lead level (EBL) (from 10 to 5 micrograms per deciliter (µg/dL)) at which (1) the Maryland Department of the Environment (MDE) must, if necessary, provide case management for children; (2) upon receipt of specified blood test results, MDE or a local health department (LHD) must provide specified notice; and (3) upon written notice, an owner of an affected property is required to satisfy the modified risk reduction standard.

Fiscal Summary

State Effect: General/special fund expenditures increase by \$1.5 million in FY 2019 due to the bill’s lower threshold. Future year expenditures reflect annualization and ongoing costs. Revenues are not anticipated to be materially affected.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF/SF Exp.	1,541,300	1,487,400	1,524,800	1,573,100	1,623,200
Net Effect	(\$1,541,300)	(\$1,487,400)	(\$1,524,800)	(\$1,573,100)	(\$1,623,200)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local expenditures may increase significantly for locally owned housing entities. Minimal increase in LHD expenditures for case management. Local revenues are not affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary/Current Law:

Case Management for Children with Elevated Blood Lead Levels and Related Notifications

Pursuant to existing statute, the Secretary of the Environment must assist local governments, if necessary, to provide case management for children with EBLs greater than or equal to 10 µg/dL. The bill decreases the threshold EBL to 5 µg/dL or greater.

Current law requires MDE or an LHD, upon receipt of the results of a blood test for lead poisoning indicating that a child younger than age six has an EBL greater than or equal to 10 micrograms, to notify the child's parents or legal guardian and, in the case of a child who lives in a rental dwelling unit, the owner of the rental dwelling unit. The bill decreases the threshold EBL that triggers this notification to 5 µg/dL or greater.

Notification of Elevated Blood Lead Level to Person at Risk and Owner of Rental Housing

Under current law, MDE or an LHD, upon receipt of blood lead test results that indicate a "person at risk" has an EBL greater than or equal to 10 µg/dL, must notify (1) the person at risk, or in the case of a minor, the parent of the person at risk, of the results of the test and (2) the owner of the affected property in which the person at risk resides or regularly spends at least 24 hours per week, of the results of the test. The notices must be on the forms prepared by MDE and must contain any information required by MDE. The bill reduces the threshold EBL to 5 µg/dL or greater beginning October 1, 2018.

Under current law and the bill, "a person at risk" is defined as a child younger than age six or a pregnant woman who resides or regularly spends at least 24 hours per week in an affected property.

The Modified Risk Reduction Standard

Current law requires the owner of an affected property, defined as residential rental property built before 1978, to comply with a "modified risk reduction standard" if an EBL of 10 µg/dL or more is found in a person at risk who resides on the property, or a defect is found in a property in which a person at risk resides. Upon receiving notification, an owner must perform and pass a specified lead dust test and perform specified lead hazard reduction treatments. The bill decreases the threshold EBL to 5 µg/dL or greater beginning October 1, 2018.

Under current law and the bill, a property owner may comply with the modified risk reduction standard by providing for the temporary relocation of tenants to either a lead-free

dwelling unit or another dwelling unit that has satisfied the risk reduction standard for an affected property within 30 days after the receipt of a notice of EBL or a notice of defect.

Background:

Lead Poisoning in Children

According to MDE's 2016 [*Childhood Blood Lead Surveillance in Maryland*](#) report, the most recent data available, 137,377 blood lead tests were reported to the Childhood Lead Registry from 129,697 children ages 0-18 in 2016. A total of 125,984 tests were conducted on children younger than age 6, which represents an 8.6% increase in testing for this age group compared to the average during calendar years 2010 through 2015. Of the 118,619 children tested in 2016, 355 children (or 0.3% of those tested) younger than age 6 were identified as having a blood lead level of greater than 10 µg/dL, down from 377 in 2015. Of the 355 cases in 2016, 270 were new cases. An additional 1,729 children had blood lead levels between 5 and 9 µg/dL, down from 1,789 in 2015. Of those 1,729 cases in 2016, 1,316 were new cases. According to MDE, much of the decline in blood lead levels in recent years is the result of implementation and enforcement of Maryland's lead law.

According to the federal Centers for Disease Control and Prevention (CDC), there is no safe level of lead exposure, and adverse health effects exist in children at blood lead levels less than 10 µg/dL. Since 2012, CDC has urged health care providers and authorities to follow up on any young child with a level as low as 5 µg/dL. CDC is no longer using the 10 µg/dL level or referring to a "level of concern." The new reference level of 5 µg/dL represents the blood lead levels of children (ages one through five) in the highest 2.5 percentiles for blood lead levels. In 2017, New Jersey became one of the first states to adopt CDC's stricter benchmarks and redefine "elevated blood lead level" to mean 5µg/dL or greater.

Maryland 2015 Lead Targeting Plan

In October 2015, the State released the Maryland Targeting Plan for Areas at Risk for Childhood Lead Poisoning (the 2015 targeting plan). The 2015 targeting plan and accompanying proposed regulations called for blood lead testing at 12 months and 24 months of age throughout the State. Previously, only children living in certain at-risk zip codes or who were enrolled in Medicaid were targeted for testing. These initiatives have significantly increased the number of children receiving blood lead testing statewide.

State Expenditures: MDE's expenditures increase by \$1,541,348 in fiscal 2019, which accounts for the bill's October 1, 2018 effective date. This estimate reflects the cost of hiring 14 environmental compliance specialists, four administrative specialists,

two environmental compliance specialist supervisors, and one assistant attorney general to handle the significantly greater caseloads anticipated as a result of lowering the threshold EBL. It includes salaries, fringe benefits, one-time start-up costs (including the purchase of equipment and vehicles), and ongoing operating expenses (including contractual services for laboratory testing). The information and assumptions used in calculating the estimate are stated below:

- MDE activities that are triggered when the EBL threshold is met include (1) confirming the type of property associated with each case; (2) sending notices to parents/guardians and affected property owners; (2) conducting environmental investigations to identify lead hazards; (3) providing oversight and assisting LHDs as necessary; and (4) conducting compliance and enforcement of noncompliant affected property owners;
- lowering the threshold results in almost five times as many cases requiring some type of action by MDE (based on 2016 data); and
- by expanding the number of properties that may be subject to the modified risk reduction standard, MDE must conduct additional training, accreditation, and oversight of lead service professionals.

Positions	21
Salaries and Fringe Benefits	\$949,721
Vehicle Purchases/Operations	234,683
Other Start-up Expenses/Equipment	196,907
Other Operating Expenses	<u>160,037</u>
Total FY 2019 State Expenditures	\$1,541,348

Some portion of MDE’s expenditures is anticipated to be covered with special funds from the Lead Poisoning Prevention Fund and the Lead Poisoning Accreditation Fund. However, MDE advises that those two special funds likely cannot cover all of its anticipated costs; thus, general fund expenditures also increase to cover any amounts not covered with special funds.

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Local Expenditures: Expenditures may increase significantly for locally owned housing entities to comply with the modified risk reduction standard due to the bill’s lower threshold for EBL levels.

LHD expenditures may increase minimally to provide additional case management. MDE advises that Baltimore City currently receives State/federal funding for case management. In addition, because this analysis assumes that MDE assists LHDs as necessary, the bill is

not anticipated to have a significant impact on LHDs. Further, the Maryland Association of County Health Officers advises that LHDs can update their materials and procedures to reflect the bill's changes using existing budgeted resources.

Small Business Effect: Small business rental property owners may incur a meaningful increase in costs to comply with the bill, as additional persons of risk may be found to have an EBL under the bill's lower threshold, which requires satisfying the modified risk reduction standard. Small business contractors engaged in the inspection, abatement, or renovation of properties with lead paint may realize a meaningful increase in the demand for their services.

Additional Information

Prior Introductions: HB 1625 of 2017, a similar bill, was referred to the House Rules and Executive Nominations Committee but no further action was taken. Its cross file, SB 1195, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. HB 1331 of 2016, another similar bill, was referred to interim study by the House Environment and Transportation Committee.

Cross File: HB 304 (Delegate R. Lewis, *et al.*) - Environment and Transportation.

Information Source(s): Maryland Department of the Environment; Maryland Department of Health; Maryland Association of County Health Officers; Centers for Disease Control and Prevention; Department of Legislative Services

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md/lgc

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