

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 479
 Judiciary

(Delegate Mosby, *et al.*)

Juvenile Law - Lead Testing and Behavioral Health Assessment

This bill *requires*, instead of authorizes, the juvenile court or a court exercising criminal jurisdiction in a case involving a child to order a child to undergo blood lead level testing if the child’s parent or guardian consents. It *requires*, instead of authorizes, the juvenile court to direct the Department of Juvenile Services (DJS) or another qualified agency to make a specified study concerning a child who is subject to the jurisdiction of the juvenile court. DJS must conduct a comprehensive behavioral health assessment of the child as part of the study. The bill also requires, before trial, a court exercising criminal jurisdiction in a case involving a child to order the child to undergo a comprehensive behavioral health assessment by a physician, psychiatrist, psychologist, or any other professionally qualified person.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$8.0 million primarily for staff, testing, and assessment costs, as discussed below. Revenues are not affected.

(\$ in millions)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	8.0	10.6	10.6	10.6	10.6
Net Effect	(\$8.0)	(\$10.6)	(\$10.6)	(\$10.6)	(\$10.6)

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

Local Effect: The bill does not materially impact the workload of the circuit courts.

Small Business Effect: Potential meaningful.

Analysis

Current Law: A juvenile court *may* order a child to undergo blood lead level testing after a petition in the juvenile court has been filed. The order must be issued prior to an adjudication (a determination if the allegations in the petition are true). A court exercising criminal jurisdiction in a case involving a child *may* also order the child to undergo blood lead level testing. A copy of the results of a test must be provided to the child, the child's parent or guardian, the child's counsel, and the State's Attorney.

After a petition or citation has been filed in the juvenile court, the court *may* direct DJS or another qualified agency to make a study concerning the child, the child's family and environment, and other matters relevant to the disposition of the case. As part of the study, the child or any parent, guardian, or custodian may be examined at a suitable place by a professionally qualified person. The report of a study is admissible as evidence at a waiver hearing and a disposition hearing but not at an adjudicatory hearing.

In general, the juvenile court has jurisdiction over a child alleged to be delinquent, in need of supervision, or who has received a citation for specified violations. The juvenile court does not have jurisdiction over children at least age 16 who are alleged to have committed specified violent crimes, children age 14 and older charged with a capital crime, and children who have previously been convicted as an adult of a felony and are subsequently alleged to have committed an act that would be a felony if committed by an adult. Unless transferred to the juvenile court in accordance with statutory procedures, those cases are heard in adult criminal court.

The juvenile court may also waive its jurisdiction over a child alleged to be delinquent who is age 15 or older or who is younger than age 15 and is charged with committing an act which, if committed by an adult, would be punishable by death or life imprisonment. The court may waive its jurisdiction only after it has conducted a waiver hearing held prior to the adjudicatory hearing and after notice has been given to all parties. If jurisdiction is waived, the case is heard in adult criminal court.

The Lead Poisoning Prevention Program, within the Maryland Department of Environment (MDE), primarily addresses the prevention of lead poisoning in children through the regulation of lead paint in rental properties. The program also provides blood lead surveillance through a registry of test results of all children tested in Maryland and oversees case management follow-up by local health departments for children with elevated blood lead levels. Although MDE receives the results of all tests for individuals younger than age 18, the vast majority of testing is performed on children younger than age 6. Of the 137,377 blood lead tests reported in calendar year 2016 (the most recent data available), 125,984 tests were for children younger than age 6. MDE reports results of elevated blood lead levels, as specified, to local health departments and the Maryland Department of

Health. State law requires MDE or a local health department, upon receipt of the results of a blood test for lead poisoning indicating that a child younger than age 6 has elevated blood lead levels, as specified, 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 a rental dwelling unit.

State Expenditures: General fund expenditures increase by \$7,952,972 in fiscal 2019, which accounts for the bill’s October 1, 2018 effective date. This estimate reflects expenditures associated with contractual services to perform the required tests and assessments, as well as the cost of DJS hiring one administrator to track the completion and disposition of the required assessments. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- 9,302 blood lead level tests are conducted annually (or 6,977 in fiscal 2019 to reflect the bill’s October 1, 2018 effective date), which represents tests for approximately 616 juveniles charged as adults and 8,686 juveniles for whom petitions were filed in the courts;
- each blood lead level test is \$15;
- 616 comprehensive behavioral health tests assessments are conducted annually for juveniles charged as adults (462 in fiscal 2019);
- 7,686 additional comprehensive behavioral health assessments are conducted annually (5,765 in fiscal 2019) for juveniles for whom petitions were filed in the court, which reflects new assessments after accounting for the estimated number of comprehensive behavioral health assessments that DJS already conducts (1,000); and
- each comprehensive behavioral health assessment costs \$1,250.

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Salaries and Fringe Benefits	\$59,840
Contractual services for testing and evaluation	7,887,773
Operating Expenses	<u>5,359</u>
Total FY 2019 State Expenditures	\$7,952,972

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

Although courts are authorized to order blood lead level testing, DJS reports that it receives very few orders for such testing. Accordingly, the above estimate reflects the expenditures associated with testing all of the juveniles under the bill's purview, without offsetting for tests that may already be performed pursuant to the court's authority to order testing. To the extent that parents or guardians do not consent to the testing, such costs are reduced. The Department of Legislative Services (DLS) notes that due to increased efforts in the State to test children for lead exposure, many juveniles who become subject to the jurisdiction of either a juvenile or adult court may have already been tested for lead exposure at a younger age.

As noted above, DJS based its estimate on costs associated with assessments for all juveniles for whom a petition has been filed. However, it notes that relevant statutory provisions also specify that the required study must concern "other matters relevant *to the disposition of the case.*" If the bill is interpreted to instead only require behavioral health assessments for cases that actually reach disposition (after the facts set forth in the petition are sustained at an adjudicatory hearing), estimated expenditures would be *significantly* lower, as only 3,080 additional assessments would be required annually for juvenile matters. To the extent that that contractual costs for such assessments are lower than those set forth in the estimate above, as provided by DJS, expenditures decrease further.

The Office of the Public Defender (OPD) notes that the bill has the potential to significantly impact costs associated with its litigation of juvenile matters, as OPD may need to utilize expert testimony to explain the results of the testing and assessments at hearings, particularly in regards to the impact of lead poisoning. Although DLS agrees with this assessment, it notes that quantifying such expenditures is speculative, as the need for expert testimony is driven by the outcome of any tests and assessments and cannot be reliably predicted beforehand.

Because the bill results in additional blood lead level tests being reported to MDE, administrative costs associated with maintaining the childhood lead registry increase minimally.

Small Business Effect: Potential meaningful to the extent that a small business is awarded a contract to perform blood lead level testing or comprehensive behavioral health assessments.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Maryland Department of the Environment; Maryland Department of Health; Department of Juvenile Services; Department of Legislative Services

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