

Department of Legislative Services  
 Maryland General Assembly  
 2019 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

House Bill 1233

(Delegate R. Lewis, *et al.*)

Environment and Transportation

Judicial Proceedings

**Environment - Reduction of Lead Risk in Housing - Elevated Blood Lead Levels and Environmental Investigations (Maryland Healthy Children Act)**

This bill redefines elevated blood lead level (EBL) as it applies to specified provisions of law that initiate case management, notification, and lead risk reduction requirements. The Maryland Department of the Environment (MDE) must adopt regulations for conducting environmental investigations to determine lead hazards, as specified, and include a summary of the results of any environmental investigation conducted pursuant to the bill in its annual report on statewide childhood blood lead testing. The bill also modifies provisions regarding when an affected property owner is required to satisfy the modified risk reduction standard.

**Fiscal Summary**

**State Effect:** General/special fund expenditures increase by \$762,600 in FY 2020 for staff. Future year expenditures reflect annualization, ongoing costs, and costs to hire additional staff in FY 2021. Revenues are not anticipated to be materially affected.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF/SF Exp.	762,600	1,046,500	1,093,100	1,108,900	1,163,200
Net Effect	(\$762,600)	(\$1,046,500)	(\$1,093,100)	(\$1,108,900)	(\$1,163,200)

*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 beginning in FY 2021. Minimal increase in local health department (LHD) expenditures beginning in FY 2021. Local revenues are not affected. **This bill may impose a mandate on a unit of local government.**

**Small Business Effect:** Meaningful.

## Analysis

**Bill Summary:** Elevated blood lead level is redefined to mean (1) a quantity of lead in blood that exceeds the blood lead reference level as determined by the Centers for Disease Control and Prevention (CDC) on or after October 1, 2019, or (2) beginning one-year after the date that CDC revises the blood lead reference level until one-year after a subsequent revision, the revised blood lead reference level determined by CDC.

Beginning July 1, 2020, the Secretary of the Environment must assist local governments, if necessary, to provide case management for children with an EBL greater than or equal to the reference level (instead of 10 micrograms per deciliter ( $\mu\text{g}/\text{dL}$ )). MDE or an LHD, within 10 business days after 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 the reference level (instead of 10  $\mu\text{g}/\text{dL}$ ), must notify the child's parents or legal guardian and, if the child does not reside at a property owned by the child's parent or guardian, the owner of the property where the child resides.

Beginning October 1, 2019, upon receipt of the results of a blood test for lead indicating that a person at risk has an EBL greater than or equal to the reference level (instead of 10  $\mu\text{g}/\text{dL}$ ), MDE or an LHD must notify (1) the person at risk, or in the case of a minor, the parent or guardian 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.

By July 1, 2020, MDE must adopt regulations for conducting environmental investigations to determine lead hazards for (1) children younger than age six with EBLs greater than or equal to the reference level and (2) pregnant women with EBLs greater than or equal to the reference level. The regulations must (1) be consistent or more stringent than the U.S. Department of Housing and Urban Development's Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing and (2) require an environmental investigation to be completed after receipt by MDE or a county board of health of the results of a blood lead test for children younger than age six or pregnant women with EBLs greater than or equal to the reference level.

Beginning July 1, 2020, an owner of affected property must satisfy the modified reduction risk standard within 30 days after receipt of written notice that a person at risk who resides on the property has an EBL greater than or equal to the reference level (instead of 10  $\mu\text{g}/\text{dL}$ ) *and* an environmental investigation has concluded that there is a defect at the affected property.

## **Current Law:**

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

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. 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 µg/dL, must 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.

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

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 or guardian 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.

"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*

The owner of an affected property, defined as residential rental property built before 1978, must comply with a "modified risk reduction standard" if an EBL greater than or equal to 10 µg/dL 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. Within 30 days after receipt of written notice, an owner must perform and pass a specified lead dust test and perform specified lead hazard reduction treatments.

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 2017 [\*Maryland Childhood Blood Lead Surveillance\*](#) report, the most recent data available, 151,206 blood lead tests were reported to the Childhood Lead Registry from 143,200 children ages 0-18 in 2017. A total of 131,832 tests were conducted on children younger than age 6, which represents a 19.1% increase in testing for this age group compared to the average during calendar 2010 through 2015. Of the 131,832 children tested in 2017, 388 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, up slightly from 355 in 2016. Of the 388 cases in 2017, 305 were new cases. An additional 1,661 children had blood lead levels between 5 and 9 µg/dL, down from 1,729 in 2016. Of those 1,661 cases in 2017, 1,301 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 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. According to CDC, as of February 22, 2018, 18 states and the District of Columbia require some action to be taken when a child's blood test shows at least 5 µg/dL, either through explicitly adopting the CDC's 5 µg/dL standard, or by incorporating the CDC's reference level.

### *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 \$762,567 in fiscal 2020 and by \$1.0 million in fiscal 2021, which accounts for the bill's October 1, 2019 effective date and the effective date of the new blood lead reference level. The fiscal 2020 estimate reflects the cost of hiring (1) by October 1, 2019, one environmental compliance specialist supervisor, two administrative specialists, and five environmental compliance specialists and (2) by May 1, 2020, five additional environmental compliance specialists to

promulgate regulations for conducting environmental investigations and to handle the significantly greater caseloads anticipated as a result of lowering the EBL reference level. 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 fiscal 2021 estimate reflects the cost of hiring two additional staff (one assistant Attorney General and one administrative specialist) to perform quality assurance review of modified risk reduction certificates, assist with administrative tasks associated with case development and investigations, and generally implement the lower EBL reference level.

The information and assumptions used in calculating these estimates are stated below:

- MDE activities that are triggered when the EBL reference level is met include (1) confirming the type of property associated with each case; (2) sending notices to parents/guardians and affected property owners; (3) conducting environmental investigations to identify lead hazards; (4) providing oversight and assisting LHDs as necessary; and (5) conducting compliance and enforcement of noncompliant affected property owners;
- lowering the reference level more than triples the number of cases requiring some type of action by MDE (based on 2017 data);
- some of the environmental compliance specialists need to be hired earlier in fiscal 2020 than others due to differing experience and training level requirements; 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.

	<u><b>FY 2020</b></u>	<u><b>FY 2021</b></u>
New Positions	13	2
Salaries and Fringe Benefits	\$443,345	\$962,170
Vehicle Purchases/Operations	121,631	11,875
Other Start-up Expenses/Equipment	147,870	10,180
Other Operating Expenses	<u>49,721</u>	<u>62,228</u>
<b>Total State Expenditures</b>	<b>\$762,567</b>	<b>\$1,046,453</b>

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

This estimate is based on CDC's current reference level of 5 µg/dL. To the extent CDC lowers the reference level below 5 µg/dL, costs increase further.

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.

**Local Expenditures:** Expenditures may increase significantly for additional locally owned housing entities to comply with the modified risk reduction standard due to the bill's lower EBL reference level beginning in fiscal 2021. However, the bill also modifies when an affected property owner must meet the standard by hinging the requirement on both the notice regarding EBLs *and* on the results of an environmental investigation. Thus, some local housing authorities may benefit.

In a request for information from the Department of Legislative Services during the 2018 interim, MDE provided rough estimates of the costs for an individual affected property owner to comply with the modified risk reduction standard. Based on information provided by five accredited inspectors, the average cost for a lead dust inspection is \$499. Abatement costs vary significantly depending on the condition of the property and the amount of abatement work needed; however, based on information provided by three abatement contractors, the cost of abatement can range from \$5,000 to \$10,000 per project.

LHD expenditures may also increase minimally to provide additional case management and potentially to conduct environmental investigations beginning in fiscal 2021. MDE advises that Baltimore City currently receives State/federal funding for case management. Because this analysis assumes that MDE assists LHDs as necessary, the bill is not anticipated to have a significant impact on LHDs in terms of case management. MDE is required by statute to assist local governments with environmental investigations, so there is no material impact related to environmental investigations.

Baltimore City did not respond to a request for information regarding the fiscal effect of the bill.

**Small Business Effect:** Beginning in fiscal 2021, 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 may require satisfying the modified risk reduction standard depending on the results of the environmental investigation. As discussed above, costs to meet the modified risk reduction standard range from roughly \$499 to \$10,000 depending on the condition of the property and the amount of abatement work necessary. However, as noted above, the bill also modifies when an affected property owner must meet the standard by hinging the

requirement on both the notice regarding EBLs *and* on the results of an environmental investigation. Thus, some affected property owners may benefit.

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, likely beginning in fiscal 2021.

**Additional Comments:** The Maryland Association of County Health Officers notes that county boards of health generally do not have permanent staff and are not involved in any case management or environmental investigations. These responsibilities fall on LHDs.

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### **Additional Information**

**Prior Introductions:** SB 801 of 2018, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 304, received a hearing in the House Environment and Transportation Committee, but no further action was taken. 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:** None.

**Information Source(s):** Maryland Association of County Health Officers; Baltimore, Carroll, Harford, Montgomery, Queen Anne's, and St. Mary's counties; Maryland Department of the Environment; Maryland Department of Health; U.S. Centers for Disease Control and Prevention; Department of Legislative Services

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