

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1011

(Delegate Carter, *et al.*)

Judiciary

Judicial Proceedings

Juvenile Law - Lead Testing - Authorized

This bill authorizes the juvenile court, after a petition has been filed but before adjudication, to order the child to undergo blood lead level testing. Before trial, a court exercising criminal jurisdiction in a case involving a child is also authorized to order a blood lead level test. The results of the test must be provided to the child, the child's parent or guardian, the child's attorney, and the State's Attorney.

Fiscal Summary

State Effect: Potential increase in general fund expenditures for court ordered testing in cases in which the child's family is unable to pay for the testing. Under one set of assumptions, State expenditures increase by \$59,100 annually.

Local Effect: Local health departments can handle the bill's requirements using existing resources.

Small Business Effect: Minimal. Private laboratories may receive additional requests for blood level testing due to the bill.

Analysis

Current Law: A petition may be filed with the juvenile court alleging that a child is delinquent or in need of supervision, or that an adult violated provisions of law related to contributing to the delinquency of a minor.

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 alcoholic beverage 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.

However, a circuit court may transfer a case involving such a child to the juvenile court if a transfer is believed to be in the interests of the child or society (“reverse waiver”). A reverse waiver is not permitted in certain circumstances, including if a child was previously transferred to juvenile court and adjudicated delinquent. The District Court also has the authority to transfer cases to juvenile court under certain circumstances. In addition, the juvenile court may waive 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.

Background: According to the federal Centers for Disease Control and Prevention (CDC), adverse health effects exist in children at blood lead levels less than 10 micrograms per deciliter. Lead poisoning has various side effects, including learning disabilities and behavioral problems. No treatments are known to lower the blood lead levels for children with lead levels less than 10 micrograms per deciliter. Measuring blood levels below the 10 micrograms per deciliter threshold is difficult. Therefore, although CDC warns there are no safe blood lead levels, the 10 micrograms per deciliter threshold is the standard measure at which statistics are reported.

According to the most recent data available, the number of children with elevated blood lead levels has been decreasing at both the State and national level. At the State level, out of the 106,452 children 0 to 72 months of age tested for lead in 2008, 713 (0.7%) were found to have blood lead levels greater than 10 micrograms per deciliter. This compares with 23.9% in 1993, the first year in which this data was tracked, and is the sixteenth straight year in which the rate has dropped. According to the Maryland Department of the Environment, lead paint dust from deteriorated lead paint or home renovation is the major source of exposure for children in Maryland.

The Department of Health and Mental Hygiene (DHMH) advises that due to the State’s fiscal difficulties, its Laboratories Administration is scheduled to discontinue clinical blood lead level testing on July 1, 2010. Accordingly, it will not be able to perform any testing ordered by this bill.

State Expenditures: General fund expenditures will increase minimally to the extent that lead testing is ordered for a child who is unable to pay the costs or otherwise obtain free testing. These expenditures are difficult to predict beforehand, as they will depend on the number of times testing is ordered and the extent to which a child’s family is

unable to otherwise pay for the testing. For purposes of this analysis, it is assumed that if a child's family is unable to pay the costs of testing, the Judiciary will be responsible for the costs of any testing that is ordered.

However, *for illustrative purposes only*, according to the Department of Juvenile Services Annual Report, in fiscal 2009 there were 16,890 petitions filed with the court. If lead testing is ordered in 10% of those cases, and a child's family is unable to pay the costs in half of those cases, general fund expenditures would increase by as much as \$44,336 in fiscal 2011, which reflects the bill's October 1, 2010 effective date and by \$59,115 annually.

The Department of Juvenile Services (DJS) advises that under the assumption that the Judiciary will be responsible for any expenditures associated with a child who is unable to pay the costs of testing that has been ordered, there is no direct fiscal impact. However, DJS notes that any delay in adjudication pending the results of testing may lead to longer average lengths of stay for youth in detention. If substantial delays result from the blood testing, DJS will need to adjust its Facilities Master Plan in light of the new population trends, which may require additional beds in some facilities.

Local Fiscal Effect: Although some children may go to local health departments to have blood samples drawn and sent to private laboratories for testing, because lead testing is not required in all cases, any impact to local health departments is expected to be minimal and absorbable within existing budgeted resources.

Small Business Effect: Private laboratories may charge up to \$70 for testing, although some insurance carriers may cover the costs of testing for some children and some community organizations provide free lead testing according to DHMH.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Centers for Disease Control, Department of Health and Mental Hygiene, Department of Juvenile Services, Office of the Public Defender, State's Attorneys' Association, Department of Legislative Services

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