

# ASSEMBLY, No. 3411

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED MARCH 7, 2016

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**Assemblywomen Lampitt, Tucker and Assemblyman Conaway**

**SYNOPSIS**

Requires DOH regulations regarding elevated blood lead levels in children, and appropriate responses thereto, to be consistent with latest Centers for Disease Control and Prevention recommendations.

**CURRENT VERSION OF TEXT**

As introduced.

(Sponsorship Updated As Of: 12/20/2016)

1 AN ACT concerning childhood lead poisoning, and amending  
2 P.L.1985, c.84, P.L.1995, c.316, and P.L.1995, c.328.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 2 of P.L.1985, c.84 (C.26:2-131) is amended to read  
8 as follows:

9 2. As used in this act:

10 **[a.]** "Child" means a person one through five years of age **;** .

11 **[b.]** "Commissioner" means the Commissioner of Health **;** .

12 **[c.]** "Department" means the Department of Health **;** .

13 **[d.]** "Lead poisoning" means **[a concentration of lead as**  
14 **defined in Chapter XIII of the State Sanitary Code established**  
15 **pursuant to section 7 of P.L. 1947, c. 177 (C. 26:1A-7)]** the  
16 poisoning of the bloodstream that results from prolonged exposure  
17 to lead or lead-based substances in water, paint, building materials,  
18 or the environment, and which causes uncorrectable developmental  
19 delay and decreased mental functioning capacity in children, and in  
20 severe cases, can lead to a child's premature death.

21 (cf: P.L.1985, c.84, s.2)

22

23 2. Section 7 of P.L.1995, c.316 (C.26:2-137.1) is amended to  
24 read as follows:

25 7. The Department of Health shall specify by regulation,  
26 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
27 (C.52:14B-1 et seq.):

28 a. The lead screening requirements provided for under  
29 P.L.1995, c.316 (C.17:48E-35.10 et al.), including the age of the  
30 child when initial screening should be conducted, the time intervals  
31 between screening, when follow-up testing is required, the methods  
32 that shall be used to conduct the lead screening, and , in accordance  
33 with the latest recommendations of the federal Centers for Disease  
34 Control and Prevention and the provisions of P.L.1995, c.328  
35 (C.26:2-137.2 et seq.), the level of lead in the bloodstream that shall  
36 **[be considered to be "lead poisoning"]** necessitate the undertaking  
37 of responsive action; and

38 b. The childhood immunizations recommended by the  
39 Advisory Committee on Immunization Practices of the United  
40 States Public Health Service and the Department of Health.

41 (cf: P.L.1995, c.316, s.7)

42

43 3. Section 1 of P.L.1995, c.328 (C.26:2-137.2) is amended to  
44 read as follows:

45 1. The Legislature finds and declares that:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 a. According to the New Jersey Department of Health, 630,000  
2 children under the age of six are at risk of lead poisoning in New  
3 Jersey and should be screened for elevated blood lead levels. Of  
4 this number, the Department of Health estimates that 177,000 pre-  
5 school children are at particularly high risk of lead poisoning;

6 b. Approximately 70,000 pre-school children, or almost 10**[%]**  
7 percent of the population of children under age six, are currently  
8 screened for lead poisoning;

9 c. Screening is an essential element **[of]** in the fight to reduce  
10 and eventually eliminate childhood lead poisoning, and  
11 identification of children in the early stages of lead exposure can  
12 prevent children from suffering severe cases of lead poisoning;

13 d. There is no safe level of lead exposure in children, and even  
14 low levels of lead in the bloodstream have been shown to affect IQ,  
15 attention span, and academic achievement, in a manner that cannot  
16 be corrected;

17 e. Although lead can be found in many sources, lead exposure  
18 is entirely preventable, and the federal Centers for Disease Control  
19 and Prevention recognizes that the best way to address the problem  
20 of lead poisoning is to take action to prevent children from coming  
21 into contact with lead, while providing appropriate treatment and  
22 case management to those children who are found to have elevated  
23 blood lead levels;

24 f. A universal lead screening program will identify which  
25 children require medical evaluation and treatment , and will alert  
26 parents about the need to identify and abate lead hazards in their  
27 **[home]** homes;

28 **[e.** A universal lead screening program that is integrated with  
29 education] g. The integration of educational and community  
30 outreach programs , as part of a universal lead screening program,  
31 will raise public consciousness about the insidious dangers of  
32 childhood lead poisoning, **[and]** encourage parents to take  
33 preventive steps to make their homes lead-safe , and encourage  
34 communities to strengthen lead exposure prevention programs; and

35 **[f.]** h. Universal lead screening and **[the]** universal reporting  
36 of lead test results will **[provide]** allow the Department of Health  
37 and local boards of health **[with]** to obtain information on **[high**  
38 **risk]** neighborhoods and communities that are at a high risk for lead  
39 exposure, and **[can result in]** thereby allow for the implementation  
40 of targeted lead hazard reduction programs in the areas of greatest  
41 need.

42 (cf: P.L.1995, c.328, s.1)

44 4. Section 2 of P.L.1995, c.328 (C.26:2-137.3) is amended to  
45 read as follows:

46 2. As used in this act:

47 "Commissioner" means the Commissioner of Health **[:]** .

1 "Department" means the Department of Health **;** .

2 "Elevated blood lead level" means a level of lead in the  
3 bloodstream that equals or exceeds five micrograms per deciliter or  
4 other such amount as may be identified in the most recent  
5 recommendations from the federal Centers for Disease Control and  
6 Prevention, and that necessitates the undertaking of responsive  
7 action.

8 "Lead poisoning" means **[**an elevated level of lead in the  
9 bloodstream, as established by regulation of the department  
10 pursuant to this act;**]** the poisoning of the bloodstream that results  
11 from prolonged exposure to lead or lead-based substances in water,  
12 paint, building materials, or the environment, and which causes  
13 uncorrectable developmental delay and decreased mental  
14 functioning capacity in children, and in severe cases, can lead to a  
15 child's premature death.

16 "Lead screening" means the application of a detection technique  
17 to measure a child's blood lead level and determine the extent of a  
18 child's recent exposure to lead.

19 (cf: P.L.1995, c.328, s.2)

20

21 5. Section 3 of P.L.1995, c.328 (C.26:2-137.4) is amended to  
22 read as follows:

23 3. a. A physician or registered professional nurse, as  
24 appropriate, shall perform lead screening on each **[**of his patients**]**  
25 patient under six years of age to whom **[**he**]** the physician or  
26 registered professional nurse provides health care services , unless  
27 the physician or registered professional nurse has knowledge that  
28 the child has already undergone lead screening in accordance with  
29 the requirements of this act. If the physician **[**or**]** , registered  
30 professional nurse , or **[**his**]** an authorized staff member cannot  
31 perform the required lead screening, the physician or registered  
32 professional nurse may refer the patient, in writing, to another  
33 physician **[**or**]** , registered professional nurse, health care facility ,  
34 or designated agency or program which is able to perform the lead  
35 screening.

36 b. A health care facility that serves children and is licensed  
37 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) **[**which serves  
38 children**]** , and any other agency or program that serves children  
39 and **[**that**]** is designated by the commissioner to perform lead  
40 screening, shall perform lead screening on each child under six  
41 years of age that the facility, agency , or program serves, unless the  
42 facility, agency , or program has knowledge that the child has  
43 already undergone lead screening in accordance with the  
44 requirements of this act. If the health care facility , agency, or  
45 program cannot perform the required lead screening, the **[**health  
46 care**]** facility , agency, or program may refer the patient, in writing,  
47 to another health care facility, physician, registered professional

1 nurse, or other designated agency or program which is able to  
2 perform the lead screening.

3 c. If a physician, registered professional nurse, or health care  
4 facility, agency , or program receives laboratory test results **【that**  
5 **indicate】** indicating that a child has **【lead poisoning】** an elevated  
6 blood lead level, the physician, registered professional nurse, or  
7 health care facility, agency , or program shall notify **【, in writing,】**  
8 the parent or guardian of the child , in writing, about the test  
9 results , and shall additionally provide the parent or guardian with  
10 an explanation , in plain language , of the significance of lead  
11 poisoning. The physician, registered professional nurse, or health  
12 care facility, agency , or program **【also】** shall also take appropriate  
13 measures to ensure that any of the child's siblings or other members  
14 of the household who are under the age of six either are , or have  
15 been , screened for lead exposure.

16 d. A physician, registered professional nurse, or health care  
17 facility, agency , or program shall not be required to conduct lead  
18 screening under this act if the parent or guardian of the child objects  
19 to the testing in writing.

20 e. (1) The department shall specify, by regulation, the  
21 parameters for lead screening required under this act, including the  
22 age of the child when initial screening shall be conducted, the time  
23 intervals between screening, when follow-up testing is required, and  
24 the methods that shall be used to conduct the lead screening.

25 (2) (a) The department shall additionally specify, by regulation,  
26 in accordance with the most recent recommendations of the federal  
27 Centers for Disease Control and Prevention, the elevated blood lead  
28 levels that require responsive action under this act, and the types of  
29 responsive action, including environmental follow-up, notice to the  
30 family, additional screening of family members, the provision of  
31 case management services, and the provision of medical treatment  
32 such as chelation therapy, that shall be undertaken when a screening  
33 test reveals an elevated blood lead level. The levels of responsive  
34 action required by the department pursuant to this paragraph may  
35 vary, consistent with the latest recommendations of the federal  
36 Centers for Disease Control and Prevention, based on the severity  
37 of the elevated blood lead level.

38 (b) Within 30 days after the enactment of P.L. , c. (pending  
39 before the Legislature as this bill), and on a biennial basis  
40 thereafter, the department shall review and appropriately revise its  
41 rules and regulations pertaining to elevated blood lead levels, in  
42 order to ensure that they appropriately reflect, and are consistent  
43 with, the latest guidance from the federal Centers for Disease  
44 Control and Prevention.

45 f. The department shall develop a mechanism, such as  
46 distribution of lead screening record cards or other appropriate  
47 means, by which children who have undergone lead screening can  
48 be identified by physicians, registered professional nurses , and

1 health care facilities, agencies , and programs that perform lead  
2 screening , so as to avoid duplicate lead screening of children.

3 g. The department shall **[conduct]** continuously engage in a  
4 public information campaign to inform the parents of young  
5 children, as well as physicians, registered professional nurses , and  
6 other health care providers , of the lead screening requirements of  
7 this act. At a minimum, the public information campaign shall: (1)  
8 highlight the importance of lead screening, and encourage parents,  
9 especially those who have not yet complied with the lead screening  
10 provisions of this act, to have their children screened for lead  
11 poisoning at regular intervals, in accordance with the age-based  
12 timeframes established by department regulation; and (2) provide  
13 for the widespread dissemination of information to parents and  
14 health care providers on the dangers of lead poisoning, the factors  
15 that contribute to lead poisoning, the recommended ages at which  
16 children should be tested for lead poisoning, and the elevated blood  
17 lead levels that require responsive action under this act. If the  
18 department changes the elevated blood lead levels that require  
19 responsive action under this act, as may be necessary to conform its  
20 regulations to federal guidance, the information disseminated  
21 through the public information campaign shall be appropriately  
22 revised to reflect the new action levels, and shall be reissued to  
23 parents and health care providers, within 30 days after the change is  
24 implemented.

25 h. The department, to the greatest extent possible, shall  
26 coordinate payment for lead screening required pursuant to this act  
27 with the State Medicaid program established pursuant to P.L.1968,  
28 c.413 (C.30:4D-1 et seq.) and other federal children's health  
29 programs , so as to ensure that the State receives the maximum  
30 amount of federal financial participation available for the lead  
31 screening services provided pursuant to this act.

32 (cf: P.L.1995, c.328, s.3)

33

34 6. This act shall take effect immediately.

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36

37

#### STATEMENT

38

39 This bill would amend the State statutes related to childhood lead  
40 poisoning, in order to clarify that the Department of Health (DOH)  
41 regulations regarding elevated blood lead levels and the appropriate  
42 responses thereto, are to be consistent with the most recent  
43 recommendations of the federal Centers for Disease Control and  
44 Prevention (CDC).

45 The CDC previously recommended that responsive action be  
46 taken to address childhood lead poisoning in those cases where a  
47 lead screening test showed an elevated blood lead level of 10  
48 micrograms per deciliter or more – designated as a blood lead “level

1 of concern.” In late 2010, however, the CDC’s Advisory  
2 Committee for Childhood Lead Poisoning Prevention (ACCLPP)  
3 formed a working group to evaluate new approaches and strategies  
4 for defining elevated blood lead levels among children, and to  
5 recommend how best to replace the term “level of concern” in  
6 response to the accumulation of scientific evidence showing the  
7 adverse effects of blood lead levels that are less than 10 micrograms  
8 per deciliter.

9 In its final report, issued in 2012, the working group concluded,  
10 based on existing scientific evidence, that the term “level of  
11 concern” should be eliminated from all future CDC policies,  
12 guidance documents, and other publications, and that the  
13 recommendations as to elevated blood lead levels, which were  
14 based on that “level of concern,” should be updated to reflect  
15 current data showing that there is no safe blood lead level in  
16 children. In particular, the working group recommended that the  
17 CDC adopt a lower benchmark for responsive action – an elevated  
18 blood lead level of only five micrograms per deciliter – which is  
19 based on the 97.5th percentile of children. The working group also  
20 recommended that the CDC take action, every four years, to update  
21 this recommended action level, as appropriate, based on the most  
22 recent data available.

23 Although the CDC has concurred with the conclusions of the  
24 working group, in this regard, and has updated its own agency  
25 recommendations on children’s blood lead levels to incorporate the  
26 recommendations of the working group, the DOH has not similarly  
27 revised its regulations to this effect, and it continues to determine  
28 the necessity for responsive action based on the outdated blood lead  
29 “level of concern” of 10 micrograms per deciliter.

30 This bill, therefore, would revise the current law pertaining to  
31 childhood lead poisoning, in order to reflect the current position of  
32 the CDC on elevated blood lead levels and require the DOH to  
33 make its regulations consistent with that position. The bill would  
34 define the term “elevated blood lead level” to mean a level of lead  
35 in the bloodstream that equals or exceeds five micrograms per  
36 deciliter or other such amount as may be identified in the most  
37 recent CDC recommendations, and that necessitates the undertaking  
38 of responsive action.

39 The bill would expressly require the DOH’s rules and regulations  
40 regarding elevated blood lead levels to be consistent with the  
41 CDC’s recommendations, and it would further require the DOH,  
42 within 30 days after the bill’s date of enactment, and on at least a  
43 biennial basis thereafter, to review and revise these rules and  
44 regulations, in order to ensure that they comport with the latest  
45 CDC guidance on this issue.

46 The bill would further specify that the department’s public  
47 information campaign on lead screening is to: (1) highlight the  
48 importance of lead screening, and encourage parents, especially

1 those who have not yet complied with the screening provisions of  
2 this act, to have their children screened for lead poisoning at regular  
3 intervals, in accordance with the age-based timeframes established  
4 by department regulation; and (2) provide for the widespread  
5 dissemination of information to parents and health care providers on  
6 the dangers of lead poisoning, the factors that contribute to lead  
7 poisoning, the recommended ages at which children should be  
8 tested for lead poisoning, and the elevated blood lead levels that  
9 will necessitate responsive action under this act. If the DOH  
10 changes the elevated blood lead levels that are required for  
11 responsive action, as may be necessary to conform its regulations to  
12 federal guidance, the information disseminated through the public  
13 information campaign would need to be revised and reissued within  
14 30 days thereafter.