



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 31 (as enacted)
House Bill 4200 (as enacted)
Sponsor: Senator John Cherry (S.B. 31)
Representative Helena Scott (H.B. 4200)
Senate Committee: Health Policy (S.B. 31)
Committee of the Whole (H.B. 4200)
House Committee: Health Policy

PUBLIC ACT 146 of 2023
PUBLIC ACT 145 of 2023

Date Completed: 10-9-23

RATIONALE

Under Federal law, all children who receive Medicaid coverage are required to test for lead poisoning at the ages of one and two years old.¹ According to testimony before the Senate Committee on Health Policy, this covers fewer than 25% of children in the State. Testimony also indicates that Michigan ranked third highest in the nation for elevated blood lead levels in children in 2021. According to the Michigan Department of Health and Human Services (DHHS), 96,462 Michigan children under six years old underwent a blood lead test in 2021, and 3.5% of those children had elevated blood levels at or above 3.5 micrograms per deciliter, the level at which the Centers for Disease Control and Prevention (CDC) recommends action to be taken. Lead poisoning in children can cause damage to the brain and nervous system, slowed growth and development, learning and behavioral problems, and hearing and speech problems.² Implementing testing for lead poisoning on every child in Michigan will allow parents and doctors to minimize the risk of long-term harm to children not currently covered by Medicaid.

CONTENT

Senate Bill 31 amended the Public Health Code to require a physician treating a minor to test or order a test for lead poisoning at early ages and require the DHHS to promulgate specified rules related to the testing for lead poisoning. The bill specifies that its provisions do not apply to a minor whose parent, guardian, or person in loco parentis objected to testing. Additionally, the DHHS may adjust the ages of testing or eliminate the requirement to test for lead poisoning after collecting and reviewing data on lead poisoning for five years, at which time it will have to submit a report to the Legislature detailing its rationale.

House Bill 4200 amended the Public Health Code to require a child's immunization certificate to include a space indicating whether the minor has been tested for lead poisoning, beginning January 1, 2024.

The bills took effect October 3, 2023.

Senate Bill 31

Beginning January 1, 2024, a physician treating a minor will have to test or order a test for the minor for lead poisoning with the rules promulgated by the DHHS as described below. The physician also will have to make an entry of the testing on the minor's certificate of immunization.

¹ Centers for Medicare & Medicaid Services, Lead Screening, 2023.

² Centers for Disease Control and Prevention, Prevent Children's Exposure to Lead, October 2022.

The DHHS must promulgate rules to implement the bill. The rules must require that a minor residing in the State be tested at the following ages:

- Once at one year old.
- Once at two years old.
- Once at four years old, if the minor is in a geographic area of the State identified to pose a high risk for childhood lead poisoning as determined by the DHHS.
- At least once between two and six years old, if the minor has no prior experience with testing.

In addition, the rules must include the following:

- Factors to identify a minor who is at high risk for lead poisoning, including residing in a home where other minors had been diagnosed with lead poisoning and residing in a home built before 1978.
- A requirement that a minor is tested at intervals determined by the DHHS if a physician determines the minor is at high risk for lead poisoning by applying the factors above, through a parent's attestation, or through the physician's own independent medical judgement.
- Procedures for entering the testing information onto the certificate of immunization, including procedures for entering the information if the testing is performed by a person other than a physician.

The DHHS, by rule, may adjust the age requirements above or eliminate testing requirements if, after collecting and reviewing data on lead poisoning in Michigan for five years, it determines that testing minors at the determined ages is no longer necessary or appropriate to maintain the health and safety of minors in Michigan. If the DHHS uses this power, it will have to submit a report to the Legislature detailing its rationale.

House Bill 4200

Under the Code, a health care provider administering an immunization agent to a child must provide a written certificate of immunization containing certain information to the person accompanying the child or make an entry on an existing certificate and report record of the immunization to the DHHS after obtaining consent to report from the parent, guardian, or person in loco parentis of the child.

Under the bill, beginning January 1, 2024, the certificate also will have to include space to indicate whether the minor has been tested for lead poisoning.

MCL 333.9206 et al. (S.B. 31 & H.B. 4200)

BACKGROUND

According to the CDC, adults can help reduce children's lead exposure by frequently washing children's hands and children's toys that may have come into contact with contaminated paint or soil, and by covering up cracks in paint in houses built before 1978 to reduce contact with lead dust. In addition, other common sources of lead exposure include certain water pipes, candies or traditional home remedies, and aviation gas from piston engine aircrafts.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Preventative care for lead poisoning is more financially prudent. Once the neurological damage caused by lead poisoning is done, it is permanent and irreversible.³ According to testimony before the Senate Committee on Health Policy, a mandate for testing for lead poisoning will lead to fewer children with lead poisoning, resulting in more productive lifelong workers and more wages generated in the long-term. In addition, the State will spend less money on services like special education for kids with learning disabilities stemming from lead-based poisoning. The normal cost of a lead poisoning test is less than \$20. Lead poisoning tests are covered under the Affordable Care Act by five different private insurers. Given that often it is affordable for a lead poisoning test, it will not be harmful to people experiencing poverty to require that children be tested.

Supporting Argument

According to testimony before the Senate Committee on Health Policy, 78% of children who were tested in Michigan had lead present in their blood (not necessarily elevated blood lead levels). This demonstrates a need for further testing in Michigan, as more tests may uncover similar rates of children who have lead present in their blood. Identifying these children with the bill's testing program may prevent further damages to their lifelong wellbeing.

Supporting Argument

Requiring testing for lead poisoning in children will better inform public health guidance. For example, the CDC specifies that children living in homes built before 1978, children in low-income households, and immigrants and refugees coming from countries with less strict regulations on lead exposure, among other populations, are at higher risk for lead poisoning.⁴ The CDC bases this guidance upon testing data. Expanding testing data may help identify more childhood risks for lead poisoning.

Legislative Analyst: Alex Krabill

FISCAL IMPACT

Senate Bill 31 will have a minor negative fiscal impact on the DHHS and no fiscal impact on local units of government. The DHHS will incur costs as a result of increased administrative activities from promulgating rules to implement the required testing for lead poisoning and then reviewing the rules after five years. These costs will be borne by existing DHHS resources.

House Bill 4200 will have a one-time minor negative fiscal impact on the DHHS and no fiscal impact on local units of government. The Department will incur minor administrative costs resulting from the requirement under the bill to update certificates of immunization to provide spaces to indicate whether the minor has been tested for lead poisoning. These costs may be borne by existing appropriations.

Fiscal Analyst: Ellyn Ackerman

³ *Id.*

⁴ Centers for Disease Control and Prevention, Populations at Higher Risk, October 2021.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.