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An Act To Protect Children from Lead Poisoning

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, lead poisoning of the State's children from environmental sources continues to pose a risk to their achieving their maximum developmental and educational potential; and

Whereas, knowledge of the blood lead level of each child prior to entry to kindergarten will allow for diagnosis and treatment of lead poisoning; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §6352, as enacted by PL 1983, c. 661, §8, is amended to read:

§ 6352. Immunization and lead poisoning assessment

To assure a safe and healthful school environment, the Legislature intends that the provisions of this subchapter on immunization shall and lead poisoning assessment apply in the schools of the State.

Sec. 2. 20-A MRSA §6353, sub-§1-A is enacted to read:

1-A. Blood lead level assessment. "Blood lead level assessment" means an assessment mechanism used for recording blood lead levels.

Sec. 3. 20-A MRSA §6353, sub-§1-B is enacted to read:

1-B. Certificate of lead poisoning assessment. "Certificate of lead poisoning assessment" means a written statement from a primary health care provider stating the date that a blood lead level assessment was performed and the results of the assessment.

Sec. 4. 20-A MRSA §6353, sub-§5-A is enacted to read:

5-A. Primary health care provider. "Primary health care provider" means a physician, nurse practitioner, physician assistant or other health care professional authorized under the scope of practice rules applicable to the profession under Title 32 to provide primary health care.

Sec. 5. 20-A MRSA §6355, as amended by PL 2001, c. 326, §2, is further amended to read:

§ 6355. Enrollment in school

A superintendent may not permit any child to be enrolled in or to attend school without a certificate of immunization for each disease or other acceptable evidence of required immunization or immunity against the disease, ~~except as follows:~~ and a certificate of lead poisoning assessment, unless:

1. Written assurance. The parent provides a written assurance the child will be immunized within 90 days by private effort or provides, where applicable, a written consent to the child's immunization by a health officer, physician, nurse or other authorized person in public or private employ; or provides a written assurance the child will be assessed for lead poisoning by a primary health care provider within 90 days;

2. Medical exemption. The parent or the child provides a physician's written statement that immunization against one or more of the diseases or the blood lead level assessment may be medically inadvisable; or

3. Philosophical or religious exemption. The parent states in writing a sincere religious belief that is contrary to the immunization or blood lead level assessment requirement of this subchapter or an opposition to the immunization or blood lead level assessment for philosophical reasons.

Sec. 6. 20-A MRSA §6357, as enacted by PL 1983, c. 661, §8 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

§ 6357. Records; report

1. Record keeping. Each superintendent shall keep uniform records of the blood lead level assessment status and of the immunizations and immunization status of each child based on the certificate of immunization, other acceptable evidence and other available documents. The records ~~shall~~ must be part of the child's permanent education records. These records ~~shall bear~~ are confidential, except that state and local health personnel ~~shall~~ must have access to them in connection with an emergency, as provided by the United States Family Educational Rights and Privacy Act of 1974, Public Law 93-380, United States Code, Title 20, Section 1232g(b) (1) (I) and regulations adopted under that Act.

2. Annual report of immunization and lead poisoning assessment status. By December 15th of each year, each superintendent shall submit to the Director of the ~~Bureau of Health,~~ Maine Center for Disease Control and Prevention within the Department of Health and Human Services; and to the commissioner a summary report of the immunization status and blood lead level assessment status of the children entering school, as prescribed by rule.

Sec. 7. 20-A MRSA §6358, sub-§1, as amended by PL 2001, c. 326, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

1. Rules authorized. The commissioner and the Director of the ~~Bureau of Health,~~ Maine Center for Disease Control and Prevention within the Department of Health and Human Services; shall jointly issue rules necessary for the effective implementation of this subchapter, including, but not limited to, rules specifying the form and content of blood lead level assessment information and status and those diseases for which immunization is required and establishing school record keeping and reporting

requirements or guidelines and procedures for the exclusion of nonimmunized children and children who have not been assessed for lead poisoning from school. Rules adopted pursuant to this subchapter specifying the diseases for which immunization is required are major substantive rules as defined in Title 5, chapter 375, subchapter H-A2-A. Rules regarding blood lead level assessment information and status are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 8. 22 MRSA §1317-D, sub-§3, as enacted by PL 2001, c. 683, §3 and affected by §10, is amended to read:

3. Testing of children covered by MaineCare program. As required by Section 1905(r) (5) of the Social Security Act and the federal Omnibus Budget Reconciliation Act of 1989, the program must require the testing of blood lead levels of all children covered by the MaineCare program at one year of age and 2 years of age annually through and including 5 years of age to the extent allowed by federal law and regulation. The drawing of blood for the testing may be done in the health care provider's office or may be referred to another laboratory.

Sec. 9. 22 MRSA §1317-D, sub-§4, as enacted by PL 2001, c. 683, §3 and affected by §10, is amended to read:

4. Testing of children not tested through the MaineCare program. The program must require the testing of blood lead levels of all children not covered by tested through the MaineCare program under subsection 3 at one year of age and annually through and including 5 years of age unless, in the professional judgment of the provider of primary health care, in conjunction with the use of the lead poisoning risk assessment tool, the child's level of risk does not warrant a blood lead level test. The drawing of blood for the testing may be done in the health care provider's office or may be referred to another laboratory.

Sec. 10. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 20-A, chapter 223, subchapter 2, in the subchapter headnote, the word "immunization" is amended to read "immunization and blood lead level risk assessment" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill expands the lead poisoning assessment and blood level testing program to require annual testing of children under 6 years of age and eliminates the exception that provides discretion to the provider of primary health care. It retains the exception for a parent or guardian who objects on the grounds of sincerely held religious or philosophical beliefs. It requires evidence of blood lead level screening for enrollment in public school in this State. It requires a school superintendent to keep records of blood lead level assessment status and to report to the Commissioner of Education and the Director of the Maine Center for Disease Control and Prevention within the Department of Health and Human Services regarding the blood lead level assessment status of children entering school.