

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 2172

H.P. 1546

House of Representatives, January 28, 2008

An Act To Protect Children from Lead Poisoning

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CONNOR of Kennebunk.
Cosponsored by Representative WEBSTER of Freeport, Senator BRANNIGAN of Cumberland and Representatives: ADAMS of Portland, Speaker CUMMINGS of Portland, KOFFMAN of Bar Harbor, PINGREE of North Haven, SILSBY of Augusta, Senator: MARRACHÉ of Kennebec.

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

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

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

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

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

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

15 **§6352. Immunization and lead poisoning assessment**

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

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

20 **1-A. Blood lead level assessment.** "Blood lead level assessment" means an
21 assessment mechanism used for recording blood lead levels.

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

23 **1-B. Certificate of lead poisoning assessment.** "Certificate of lead poisoning
24 assessment" means a written statement from a primary health care provider stating the
25 date that a blood lead level assessment was performed and the results of the assessment.

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

27 **5-A. Primary health care provider.** "Primary health care provider" means a
28 physician, nurse practitioner, physician assistant or other health care professional
29 authorized under the scope of practice rules applicable to the profession under Title 32 to
30 provide primary health care.

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

1 **§6355. Enrollment in school**

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

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

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

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

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

20 **§6357. Records; report**

21 **1. Record keeping.** Each superintendent shall keep uniform records of the blood
22 lead level assessment status and of the immunizations and immunization status of each
23 child based on the certificate of immunization, other acceptable evidence and other
24 available documents. The records ~~shall~~ must be part of the child's permanent education
25 records. These records ~~shall be~~ are confidential, except that state and local health
26 personnel ~~shall~~ must have access to them in connection with an emergency, as provided
27 by the United States Family Educational Rights and Privacy Act of 1974, Public Law 93-
28 380, United States Code, Title 20, Section 1232g(b) (1) (I) and regulations adopted under
29 that Act.

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

36 **Sec. 7. 20-A MRSA §6358, sub-§1,** as amended by PL 2001, c. 326, §3 and PL
37 2003, c. 689, Pt. B, §6, is further amended to read:

38 **1. Rules authorized.** The commissioner and the Director of the ~~Bureau of Health,~~
39 Maine Center for Disease Control and Prevention within the Department of Health and

1 Human Services, shall jointly issue rules necessary for the effective implementation of
2 this subchapter, including, but not limited to, rules specifying the form and content of
3 blood lead level assessment information and status and those diseases for which
4 immunization is required and establishing school record keeping and reporting
5 requirements or guidelines and procedures for the exclusion of nonimmunized children
6 and children who have not been assessed for lead poisoning from school. Rules adopted
7 pursuant to this subchapter specifying the diseases for which immunization is required are
8 major substantive rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A. Rules
9 regarding blood lead level assessment information and status are routine technical rules as
10 defined in Title 5, chapter 375, subchapter 2-A.

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

13 **3. Testing of children covered by MaineCare program.** As required by Section
14 1905(r)(5) of the Social Security Act and the federal Omnibus Budget Reconciliation Act
15 of 1989, the program must require the testing of blood lead levels of all children covered
16 by the MaineCare program at one year of age and ~~2 years of age~~ annually through and
17 including 5 years of age to the extent allowed by federal law and regulation. The drawing
18 of blood for the testing may be done in the health care provider's office or may be
19 referred to another laboratory.

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

22 **4. Testing of children not tested through the MaineCare program.** The program
23 must require the testing of blood lead levels of all children not ~~covered by~~ tested through
24 the MaineCare program under subsection 3 at one year of age and ~~2~~ annually through and
25 including 5 years of age unless, in the professional judgment of the provider of primary
26 health care, in conjunction with the use of the lead poisoning risk assessment tool, the
27 child's level of risk does not warrant a blood lead level test. The drawing of blood for the
28 testing may be done in the health care provider's office or may be referred to another
29 laboratory.

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

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

37

SUMMARY

38 This bill expands the lead poisoning assessment and blood level testing program to
39 require annual testing of children under 6 years of age and eliminates the exception that
40 provides discretion to the provider of primary health care. It retains the exception for a

1 parent or guardian who objects on the grounds of sincerely held religious or philosophical
2 beliefs. It requires evidence of blood lead level screening for enrollment in public school
3 in this State. It requires a school superintendent to keep records of blood lead level
4 assessment status and to report to the Commissioner of Education and the Director of the
5 Maine Center for Disease Control and Prevention within the Department of Health and
6 Human Services regarding the blood lead level assessment status of children entering
7 school.