

Department of Legislative Services  
Maryland General Assembly  
2022 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 1110

(Delegate Holmes)

Environment and Transportation

Education, Health, and Environmental Affairs

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**Environment - Lead Poisoning Prevention - Elevated Blood Lead Level**

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This bill alters the application and meaning of “elevated blood level (EBL)” and “reference level” as those definitions apply to specified provisions of law that initiate case management, notification, and lead risk reduction requirements under the State’s lead poisoning prevention laws. The bill also requires the Maryland Department of the Environment (MDE), in consultation with the Maryland Department of Health (MDH), and local health departments (LHDs), and other relevant stakeholders, to study and evaluate the most effect means of incorporating the Centers for Disease Control and Prevention (CDC) Blood Lead Reference Value (BLRV) into the State’s lead poisoning prevention programs, as specified. MDE must report its findings and recommendations to the General Assembly by December 31, 2022. **The bill takes effect July 1, 2022.**

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**Fiscal Summary**

**State Effect:** The bill delays, from FY 2023 to 2024, significant general/special fund expenditures related to case management, as discussed below. Revenues are not anticipated to be materially affected.

**Local Effect:** The bill delays potentially significant costs for locally owned housing entities to comply with the modified risk reduction standard, as discussed below. In addition, to the extent LHDs conduct environmental investigations, any related expenditures are delayed, as discussed below.

**Small Business Effect:** Meaningful.

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## Analysis

**Bill Summary:** Under § 6-801(q) of the Environment Article, the bill redefines “reference level” to mean (1) between July 1, 2020, and December 31, 2023, inclusive, a blood level of 5.0 micrograms per deciliter ( $\mu\text{g}/\text{dL}$ ) and (2) beginning January 1, 2024, a blood lead level of 3.5  $\mu\text{g}/\text{dL}$  *or*, if CDC revises the BLRV after December 31, 2023, the revised BLRV, beginning one year after it is revised by CDC. The definition of reference level under § 6-801(q) is used in specified provisions of law that initiate case management, notification, and lead risk reduction requirements. The bill also specifies that “EBL” means a quantity of lead in blood that is *greater than or equal to* the reference level.

The bill also establishes that the following minimum blood lead levels trigger case management assistance and notification requirements for children with EBLs: (1) between July 1, 2022, and October 27, 2022, inclusive, 5.0  $\mu\text{g}/\text{dL}$ ; (2) between October 28, 2022, and December 31, 2023, inclusive, 3.5  $\mu\text{g}/\text{dL}$ ; and (3) beginning January 1, 2024, the reference level defined in § 6-801(q) of the Environment Article.

Finally, the bill establishes that the following minimum blood lead levels trigger notification requirements for a person at risk under the Reduction of Lead Risk in Housing subtitle: (1) before February 24, 2006, 15.0  $\mu\text{g}/\text{dL}$ ; (2) between February 24, 2006, and September 30, 2019, inclusive, 10  $\mu\text{g}/\text{dL}$ ; (3) between October 1, 2019, and October 27, 2022, inclusive, 5.0  $\mu\text{g}/\text{dL}$ ; (4) between October 28, 2022, and December 31, 2023, inclusive, 3.5  $\mu\text{g}/\text{dL}$ ; and (5) beginning January 1, 2024, the reference level (as defined in § 6-801(q)).

**Current Law:** EBL means (1) a quantity of lead in blood that exceeds the reference level, as specified. Reference level means the blood lead reference level as determined by CDC on or after October 1, 2019, or (2) beginning one year after the date that CDC revises the blood lead reference level until one year after a subsequent revision, the revised blood lead reference level determined by CDC. CDC reduced its BLRV from 5.0  $\mu\text{g}/\text{dL}$  to 3.5  $\mu\text{g}/\text{dL}$  on October 28, 2021.

### *Case Management for Children with Elevated Blood Lead Levels and Related Notifications*

The Secretary of the Environment must assist local governments, if necessary, to provide case management for children with an EBL greater than or equal to the reference level. MDE or an LHD, within 10 business days after receipt of the results of a blood test for lead poisoning indicating that a child younger than age six has an EBL greater than or equal to the reference level, must notify the child’s parents or legal guardian and, if the child does not reside at a property owned by the child’s parent or guardian, the owner of the property where the child resides.

## *Environmental Investigations*

Chapter 341 of 2019 required MDE to adopt regulations for conducting environmental investigations to determine lead hazards for (1) children younger than age six with EBLs greater than or equal to the reference level and (2) pregnant women with EBLs greater than or equal to the reference level. The regulations must (1) be consistent or more stringent than the U.S. Department of Housing and Urban Development's Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing and (2) require an environmental investigation to be completed after receipt by MDE or a county board of health of the results of a blood lead test for children younger than age six or pregnant women with EBLs greater than or equal to the reference level.

The implementing regulations went into effect in July 2020 and are codified under COMAR 26.16.08. The regulations establish standards for environmental investigations performed by an MDE-accredited lead paint risk assessor to identify one or more lead hazards for a child or pregnant woman diagnosed with EBL. The regulations (1) define several related terms; (2) incorporate several related documents by reference; (3) establish protocols for MDE and LHDs to schedule an environmental investigation; (4) establish protocols and technical standards for environmental investigations; and (5) set requirements for environmental investigation reports.

## *Reduction of Lead Risk in Housing Law*

Generally, the Reduction of Lead Risk in Housing law requires owners of affected property (defined as residential rental property built before 1978) to register their properties with MDE, provide educational information to tenants, and satisfy specified lead risk reduction, testing, and inspection requirements, as applicable.

## *Notification of Elevated Blood Lead Level to Person at Risk and Owner of Rental Housing*

Upon receipt of the results of a blood test for lead indicating that "a person at risk" has an EBL greater than or equal to the reference level, MDE or an LHD must notify (1) the person at risk, or in the case of a minor, the parent or guardian of the person at risk, of the results of the test and (2) the owner of the affected property in which the person at risk resides or regularly spends at least 24 hours per week, of the results of the test. The notices must be on the forms prepared by MDE and must contain any information required by MDE.

"A person at risk" is defined as a child younger than age six or a pregnant woman who resides or regularly spends at least 24 hours per week in an affected property.

### *Modified Risk Reduction Standard*

The owner of an affected property must satisfy the modified reduction risk standard within 30 days after receipt of specified written notice that (1) a person at risk who resides on the property has an EBL greater than or equal to the reference level and an environmental investigation has concluded that there is a defect at the affected property or (2) a defect is found in a property in which a person at risk resides. Within 30 days after receipt of written notice, an owner must perform and pass a specified lead dust test and perform specified lead hazard reduction treatments.

A property owner may comply with the modified risk reduction standard by providing for the temporary relocation of tenants to either a lead-free dwelling unit or another dwelling unit that has satisfied the risk reduction standard for an affected property within 30 days after the receipt of a notice of EBL or a notice of defect.

**State Expenditures:** Because CDC reduced its BLRV from 5.0 µg/dL to 3.5 µg/dL on October 28, 2021, the reference level *under current law* is reduced to 3.5 µg/dL, effective one year later (October 28, 2022). When this change goes into effect, there is likely an increase in the number of individuals in the State with an EBL, which triggers case management, notification, and lead risk reduction requirements for MDE.

The bill provides additional time for the State to phase in CDC's lower BLRV into the State's lead poisoning prevention programs. Specifically, the bill delays, until January 1, 2024, the requirement for MDE to conduct environmental investigations for persons at risk with an EBL of greater than or equal to 3.5 µg/dL. Thus, significant general/special fund expenditures for MDE are delayed from fiscal 2023 to 2024. MDE must still (1) assist LHDs with case management for confirmed cases of children with an EBL and (2) notify a person at risk with an EBL (or their parent or guardian) and the owner of the property where the person at risk resides, beginning October 28, 2022. The Department of Legislative Services is unable to provide a specific estimate of the delayed costs under the bill but advises that costs to conduct environmental investigations are significant.

MDE can take the lead on the required study, report to the General Assembly, and update regulations with existing budgeted staff and resources. MDH can consult with MDE to conduct the required study with existing budgeted staff and resources.

**Local Expenditures:** The bill delays, from October 28, 2022, to January 1, 2024, potentially meaningful costs for locally owned housing entities to comply with the modified risk reduction standard from additional persons at risk that are found to have an EBL under the lowered reference level.

To the extent that any LHD is performing environmental investigations, the bill delays (from fiscal 2023 to 2024) expenditures related to an anticipated increase in caseloads from the CDC's reduction of the BLRV, as described above. However, MDE conducts most environmental investigations in the State; accordingly, for most LHDs, the delay in environmental investigations is not anticipated to have a meaningful fiscal or operational impact.

**Small Business Effect:** The bill delays, from October 28, 2022, to January 1, 2024, potentially meaningful costs for small business rental property owners to comply with the modified risk reduction standard from additional persons at risk that are found to have an EBL under the lowered reference level.

On the other hand, the bill also delays a potential increase in the demand for the services of small business contractors engaged in the inspection, abatement, or renovation of properties with lead paint.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Maryland Association of County Health Officers; Baltimore City; Caroline and Prince George's counties; Maryland Department of the Environment; Maryland Department of Health; Department of Housing and Community Development; Centers for Disease Control and Prevention; Department of Legislative Services

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