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Senate Bills 753-757 (as introduced 10-2-03)
Sponsor: Senator Martha G. Scott (S.B. 753)
Senator Mark H. Schauer (S.B. 754)
Senator Bev Hammerstrom (S.B. 755)
Senator Bill Hardiman (S.B. 756)
Senator Hansen Clarke (S.B. 757)
Committee: Families and Human Services

Date Completed: 12-1-03

CONTENT

The bills would amend various acts to do the following:

- **Require the Governor to establish the Childhood Lead Poisoning Prevention and Control Commission, which would have to study the public health hazard of lead and make recommendations.**
- **Require the Department of Community Health (DCH) to ensure that, as a condition of participation and funding, all health professionals, facilities, and health maintenance organizations (HMOs) that receive Medicaid payments were in substantial compliance with Federal standards for lead screening for children enrolled in Medicaid.**
- **Require clinical laboratories that perform lead screening tests to report the results to the DCH electronically.**
- **Require the DCH, in cooperation with the Family Independence Agency (FIA) and the Michigan State Housing Development Authority (MSHDA), to establish and maintain a public Lead Safe Housing Registry.**
- **Prescribe a misdemeanor penalty for knowingly renting or leasing to another person a unit with lead-based paint hazards.**

The bills are described in further detail below.

Senate Bill 753

The bill would amend the Lead Abatement Act (Part 54A of the Public Health Code) to require the Governor, within 30 days of the bill's effective date, to establish a Childhood Lead

Poisoning Prevention and Control Commission within the DCH, or designate an existing organization or statewide childhood lead poisoning prevention coalition that could fulfill the requirements of the bill to act as the Commission.

The Commission would have to study the environmental threats of lead poisoning to children's health; review the State's lead poisoning prevention program; evaluate the program's effectiveness, including its ability to satisfy Federal law requirements that 100% of all young children enrolled in Medicaid be screened with a blood lead test; and make recommendations for the program's improvement.

Members appointed to the Commission or the designated organization would have to include, but would not be limited to, at least one representative of each of the following, or its successor organization:

- The Michigan Association of Osteopathic Family Practitioners.
- The Michigan Nurses Association.
- The Michigan Association of Nurse Practitioners.
- The Michigan Association of Health Plans.
- The Michigan Association of Local Public Health.
- Blue Cross and Blue Shield of Michigan.
- The Michigan Health and Hospital Association.
- The Michigan Head Start Association.
- The Michigan Council for Maternal and Child Health.
- Michigan's Children.
- The Michigan League for Human Services.

- Detroit Public Schools.
- MSHDA.
- The Rental Property Owners Association.
- The Michigan Association of General Contractors.
- The Michigan Association of Realtors.
- The Michigan Environmental Council.
- The Michigan Adult Blood Lead Epidemiology and Surveillance Program.
- The Michigan State University Extension Program.
- The Detroit Lead Partnership.
- The Michigan Lead Safe Partnership.
- The Detroit Mayor's Lead Task Force.
- United Parents Against Lead.
- The DCH.
- The Department of Environmental Quality.
- The Department of Education.
- The FIA.
- The DCH Medical Services Administration.
- The Michigan Occupational Safety and Health Administration.
- The DCH Bureau of Laboratories.

Additionally, the Commission would have to include an occupational and environmental medicine specialist; parents or patient advocates of children who had experienced lead poisoning; a local housing authority; a community reinvestment officer; and any other interested organization or association concerned with the prevention, treatment, and control of lead poisoning that the DCH determined necessary. The Commission would be subject to the Open Meetings Act and the Freedom of Information Act.

The Commission would have to conduct at least two public hearings to seek input from the general public and from any other groups or individuals not represented on the Commission. The first hearing would have to be held within 60 days after the Commission's appointment or designation.

The Commission would have to consider all information received from its hearings, review information from other sources, and study the experiences of other states. The Commission would have to develop short- and long-range strategic recommendations for childhood lead poisoning prevention and control in Michigan. The recommendations would have to include, at least, strategies to:

- Enhance public and professional awareness of lead poisoning as a child health

emergency.

- Significantly increase blood lead testing rates for young children.
- Eliminate or manage the sources of lead poisoning, especially focusing on lead-based paint in aged housing.
- Assure State interagency as well as public and private cooperation and communication regarding resolution of this complex environmental and public health problem.

The Commission would have to submit a written report of its findings, including its recommendations, to the Governor and the Legislature by January 30, 2004.

The proposed section establishing the Commission would be repealed 18 months after the bill's effective date.

Senate Bill 754

The bill would amend the Social Welfare Act to require the DCH, beginning January 1, 2006, to ensure that, as a condition of participation and funding, all health professionals, facilities, or HMOs receiving Medicaid payments were in substantial compliance with Federal standards for lead screening for children enrolled in Medicaid.

The bill specifies that the DCH could determine that an HMO that provided lead screening tests to fewer than 80% of its enrolled children who were Medicaid recipients was not in substantial compliance with Federally required standards. The DCH could withhold payment of the costs of screening tests not provided from a payment owed to the HMO. The DCH could contract with other community-based agencies or local health departments to provide lead screening tests to children enrolled in the HMO who were Medicaid recipients.

Senate Bill 755

The bill would amend the Public Health Code to require, beginning October 1, 2005, a clinical laboratory that analyzed a blood sample for lead to report the results to the DCH in a DCH-prescribed electronic format within 30 days after the analysis was completed. The DCH would have to mail notice of the bill's reporting requirements to each licensed clinical laboratory by January 1, 2004.

Senate Bill 756

The bill would amend the Lead Abatement Act to require the DCH, in cooperation with the FIA and the MSHDA, to establish and maintain a public listing, called the Lead Safe Housing Registry, of residential and multifamily dwellings and child-occupied facilities that had been inspected and certified as lead free or lead safe following an abatement to control or eliminate lead-based paint hazards.

The owner of target housing that was offered for rent or lease as a residence would have to register that property with the DCH in a form prescribed by the DCH free of charge. The form would have to include, at a minimum, the following information:

- The name of the building's owner.
- The building's address.
- The date of construction.
- The date and description of any lead-based paint activity, including the name of the certified abatement worker or clearance professional who performed the abatement or conducted the inspection, lead-hazard screen, assessment, or clearance testing and the results of the activity.

The owner of any other residential or multifamily dwelling that was offered for rent or lease as a residence, or the owner of a child-occupied facility could register that property with the DCH, which would have to include that property on the registry. A person who wished to register would have to execute and return the application with payment of the registration fee in an amount to be prescribed by the DCH.

The DCH would have to publish the registry on its website and provide a copy to a person upon request. Within 30 days before the beginning of each school year, the DCH would have to publish the registry in a newspaper with statewide circulation.

(The Act defines "abatement" as a measure or set of measures designed to eliminate lead-based paint hazards permanently; the Act describes activities that abatement includes and others that it does not include. "Child occupied facility" means as a building or portion of a building constructed before 1978 that is visited regularly by a child who is six years old or younger, on at least two different

days within a given week, if each day's visit is at least three hours and the combined weekly visit is at least six hours long, and the combined annual visits are at least 60 hours in length. The term includes, but is not limited to, a day-care center, a preschool, and a kindergarten classroom.

"Target housing" means housing constructed before 1978, except a) housing for the elderly or persons with disabilities, unless one or more children age six or younger reside or are expected to reside in the housing; b) a zero-bedroom dwelling; or c) an unoccupied dwelling unit pending demolition, provided the unit remains unoccupied until demolition.)

Senate Bill 757

The bill would amend the Lead Abatement Act to provide that, effective January 1, 2004, a rental agent, landlord, or owner who rented or leased a rental unit to another person with personal knowledge that at the time of rental or lease the unit contained at least one lead-based paint hazard would be guilty of a misdemeanor punishable by up to 90 days' imprisonment or a maximum fine of \$5,000, or both. Additionally, the rental agent, landlord, or owner would have to be ordered to return all rental payments made for the exposure period.

The bill specifies that a rental agent, landlord, or owner of a rental unit would be presumed to have personal knowledge of lead-based paint hazards if he or she received a copy of a lead inspection, risk assessment, or lead hazard screen from a certified inspector indicating that the unit contained at least one lead-based paint hazard in sufficient quantities so as to cause an elevated blood level (EBL) in a person as described in Section 5456(7). (Under that section, "elevated blood level" means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 ug/dl (micrograms of lead per deciliter of whole blood) for a single venous test, or between 15 and 19 ug/dl in two consecutive tests taken three to four months apart. For children six years old and under, EBL means a confirmed concentration of lead in whole blood of 10 ug/dl.)

("Lead-based paint hazard" means any of the following conditions:

- Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface are equal to or above the dust lead hazard levels identified in rules promulgated under the Act.
- Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component.
- Any chewable lead-based paint surface on which there is evidence of teeth marks.
- Any other deteriorated lead-based paint in or on any residential building or child occupied facility.
- Surface dust in a residential dwelling or child occupied facility that contains lead in a mass-per-area concentration equal to or above the levels established by rule.
- Bare soil on residential real property or property of a child occupied facility that contains lead equal to or above levels established by rule.)

Proposed MCL 333.5474a (S.B. 753)
 Proposed MCL 400.111k (S.B. 754)
 Proposed MCL 333.20531 (S.B. 755)
 Proposed MCL 333.5474a (S.B. 756)
 Proposed MCL 333.5475a (S.B. 757)

Legislative Analyst: Julie Koval

FISCAL IMPACT

Senate Bills 753 through 756

These bills would have an indeterminate, but likely nominal, fiscal impact on State government. The Department of Community Health states that costs associated with implementing Senate Bills 753 (creating the Childhood Lead Poisoning Prevention and Control Commission) and 754 (ensuring substantial compliance with Federal standards for lead screening) could be covered with existing staff and resources. A system for the electronic reporting of blood lead analysis by clinical labs is already in place, so Senate Bill 755 would not result in any additional costs for implementing that system. This bill could potentially result in a small amount of savings for the Department because it would no longer have to process paper reports. (The majority of labs already report electronically; however, a small number still report on paper.) The Department states that costs anticipated for establishing, maintaining, and publishing the

lead safe housing registry proposed by Senate Bill 756 would be covered by the registration fee prescribed in the bill and from the fine prescribed in Senate Bill 757.

Senate Bill 757

The bill would have no fiscal impact on the State and an indeterminate fiscal impact on local units of government.

There are no data to indicate how many offenders would be convicted of the proposed misdemeanor offense. Local units of government would incur the costs of both probation and incarceration, which vary by county. Public libraries would benefit from any additional penal fine revenue raised due to the proposed penalty.

Fiscal Analyst: Dana Patterson
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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.