



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-5467/1
SWB&TJD:amn

2017 SENATE BILL 856

February 28, 2018 - Introduced by Senators JOHNSON, L. TAYLOR, RISSER and LARSON, cosponsored by Representatives C. TAYLOR, BROSTOFF, KOLSTE, YOUNG, BERCEAU, HESSELBEIN, ANDERSON, CROWLEY, SARGENT, SINICKI, ZEPNICK, OHNSTAD, FIELDS, SPREITZER, SUBECK and WACHS. Referred to Committee on Health and Human Services.

1 **AN ACT to renumber** 254.156; **to amend** 254.151 (2) and 254.166 (1); and **to**
2 **create** 254.151 (2m), 254.156 (2) and 254.156 (3) of the statutes; **relating to:**
3 testing for lead in homes of certain children, providing an exemption from
4 emergency rule procedures, and providing an exemption from rule-making
5 procedures.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Health Services to promulgate a rule updating its definition of "lead poisoning or lead exposure" whenever the federal Department of Health and Human Services specifies a standard for the determination of lead poisoning or lead exposure that differs from the standard used by the department.

Under the bill, when DHS is notified that an occupant of a dwelling or premises who is under six years of age has blood lead poisoning or lead exposure, meaning a level of lead in the blood of five or more micrograms per 100 milliliters of blood, DHS must conduct a lead investigation, including testing for lead-based paint hazards and, if there is no other obvious contamination point, water testing. Current law allows DHS to request admission to a dwelling or premises to conduct a lead investigation when the department is notified that an occupant of a dwelling or premises who is under six years of age has blood lead poisoning or lead exposure, and requires DHS to conduct a lead investigation if the level of lead is either 20 or more micrograms per 100 milliliters of blood, as confirmed by one venous blood test, or 15

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or more micrograms per 100 milliliters of blood, as confirmed by two venous blood tests that are performed at least 90 days apart.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 254.151 (2) of the statutes is amended to read:

2 254.151 (2) To fund lead poisoning or lead exposure screening, care
3 coordination and follow-up services, including lead investigations, to children under
4 age 6 who are not covered by a 3rd-party payer.

5 **SECTION 2.** 254.151 (2m) of the statutes is created to read:

6 254.151 (2m) To fund lead investigations under s. 254.166 (1).

7 **SECTION 3.** 254.156 of the statutes is renumbered 254.156 (1).

8 **SECTION 4.** 254.156 (2) of the statutes is created to read:

9 254.156 (2) (a) The department shall submit in proposed form the rule required
10 under sub. (1) to the legislative council staff under s. 227.15 (1) no later than the first
11 day of the 13th month beginning after the federal department of health and human
12 services specifies a standard for the determination of lead poisoning or lead exposure
13 that differs from that specified in s. 254.11 (9).

14 (b) Notwithstanding s. 227.135 (2), the department is not required to present
15 the statement of the scope of the rule required under sub. (1) to the governor for
16 approval.

17 (c) Notwithstanding s. 227.185, the department is not required to present the
18 rule required sub. (1) in final draft form to the governor for approval.

19 (d) Notwithstanding s. 227.137 (2), the department is not required to prepare
20 an economic impact report for the rule required under sub. (1).

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1 (e) Notwithstanding ss. 227.14 (2g) and 227.19 (3) (e), the department is not
2 required to submit the proposed rule required under sub. (1) to the small business
3 regulatory review board and is not required to prepare a final regulatory flexibility
4 analysis for that rule.

5 **SECTION 5.** 254.156 (3) of the statutes is created to read:

6 254.156 (3) Using the procedure under s. 227.24, the department shall
7 promulgate the rule required under sub. (1) for the period before the effective date
8 of the permanent rule submitted under sub. (1), but not to exceed the period
9 authorized under s. 227.24 (1) (c), subject to extension under s. 227.24 (2).
10 Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the department is not required to
11 provide evidence that promulgating a rule under this subsection as an emergency
12 rule is necessary for the preservation of the public peace, health, safety, or welfare
13 and is not required to provide a finding of emergency for a rule promulgated under
14 this subsection. Notwithstanding s. 227.24 (1) (e) 1d. and 1g., the department is not
15 required to prepare a statement of the scope of the rule or to submit the rule in final
16 draft form to the governor for approval. The department shall promulgate the rule
17 under this subsection no later than the first day of the 13th month beginning after
18 the federal department of health and human services specifies a standard for the
19 determination of lead poisoning or lead exposure that differs from that specified in
20 s. 254.11 (9).

21 **SECTION 6.** 254.166 (1) of the statutes is amended to read:

22 254.166 (1) ~~The department may, after~~ After being notified that an occupant
23 of a dwelling or premises who is under 6 years of age has blood lead poisoning or lead
24 exposure, ~~present official credentials to the owner or occupant of the dwelling or~~
25 ~~premises, or to a representative of the owner, and request admission to conduct a lead~~

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1 ~~investigation of the dwelling or premises. If the department is notified that an~~
2 ~~occupant of a dwelling or premises who is a child under 6 years of age has an elevated~~
3 ~~blood lead level, the department shall conduct a lead investigation of the dwelling~~
4 ~~or premises or ensure that a lead investigation of the dwelling or premises is~~
5 ~~conducted, including testing for any lead-based paint hazard and, if there is no other~~
6 ~~obvious contamination point, water testing.~~ The lead investigation shall be
7 conducted during business hours, unless the owner or occupant of the dwelling or
8 premises consents to an investigation during nonbusiness hours or unless the
9 department determines that the dwelling or premises presents an imminent lead
10 hazard. The department shall use reasonable efforts to provide prior notice of the
11 lead investigation to the owner of the dwelling or premises. The department may
12 remove samples or objects necessary for laboratory analysis to determine the
13 presence of a lead hazard in the dwelling or premises. The department shall prepare
14 and file written reports of all lead investigations conducted under this section and
15 shall make the contents of these reports available for inspection by the public, except
16 for medical information, which may be disclosed only to the extent that patient
17 health care records may be disclosed under ss. 146.82 to 146.835. If the owner or
18 occupant refuses admission, the department may seek a warrant to investigate the
19 dwelling or premises. The warrant shall advise the owner or occupant of the scope
20 of the lead investigation.

SECTION 7. Effective date.

(1) This act takes effect on January 1, 2018.

(END)