

105TH CONGRESS  
2D SESSION

# S. 2598

To require proof of screening for lead poisoning and to ensure that children at highest risk are identified and treated.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 9 (legislative day, OCTOBER 2), 1998

Mr. TORRICELLI (for himself and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To require proof of screening for lead poisoning and to ensure that children at highest risk are identified and treated.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Children’s Lead Pre-  
5       vention and Inclusive Treatment Act of 1998” or the  
6       “Children’s Lead PAInT Act”.

7       **SEC. 2. FINDINGS AND PURPOSES.**

8       (a) FINDINGS.—Congress finds that—

1           (1) lead poisoning remains a serious environ-  
2           mental risk, especially to the health of young chil-  
3           dren;

4           (2) childhood lead poisoning can cause reduc-  
5           tions in IQ, attention span, reading, and learning  
6           disabilities, and other growth and behavior problems;

7           (3) children under the age of 6 are at the great-  
8           est risk because of the sensitivity of their developing  
9           brains and nervous systems;

10          (4) poor children and minority children are at  
11          substantially higher risk of lead poisoning;

12          (5) it is estimated that more than 500,000 chil-  
13          dren enrolled in medicaid have harmful levels of lead  
14          in their blood;

15          (6) children enrolled in medicaid represent 60  
16          percent of the 890,000 children in the United States  
17          with elevated blood lead levels;

18          (7) although the Health Care Financing Admin-  
19          istration has required mandatory blood lead  
20          screenings for children enrolled in medicaid who are  
21          not less than 1 nor more than 5 years of age, ap-  
22          proximately two-thirds of children enrolled in medic-  
23          aid have not been screened or treated;

24          (8) the Health Care Financing Administration  
25          mandatory screening policy has not been effective, or

1 sufficient, to properly identify and screen children  
2 enrolled in medicaid who are at risk;

3 (9) uniform lead screening requirements do not  
4 exist for children not enrolled in medicaid; and

5 (10) adequate treatment services are not uni-  
6 formly available for children with elevated blood lead  
7 levels.

8 (b) PURPOSE.—The purpose of this Act is to create  
9 a lead screening safety net that will, through medicaid and  
10 other entitlement programs, ensure that low-income chil-  
11 dren at the highest risk of lead poisoning receive blood  
12 lead screenings and appropriate followup care.

13 **SEC. 3. INCREASED LEAD POISONING SCREENINGS AND**  
14 **TREATMENTS UNDER THE MEDICAID PRO-**  
15 **GRAM.**

16 (a) PENALTY FOR INSUFFICIENT INCREASES IN  
17 LEAD POISONING SCREENINGS.—

18 (1) PERFORMANCE IMPROVEMENT.—Section  
19 1903 of the Social Security Act (42 U.S.C. 1396b)  
20 is amended by adding at the end the following:

21 “(x) PERFORMANCE IMPROVEMENT.—

22 “(1) IN GENERAL.—Notwithstanding section  
23 1905(b), beginning with fiscal year 2000 and for  
24 each fiscal year thereafter, with respect to any State  
25 that fails to meet minimum blood lead screening

1 rates stated in paragraph (2), the Federal medical  
 2 assistance percentage determined under section  
 3 1905(b) for the State for the fiscal year shall be re-  
 4 duced by 1 percentage point, but only with respect  
 5 to—

6 “(A) items and services furnished under a  
 7 State plan under this title during that fiscal  
 8 year;

9 “(B) payments made on a capitation or  
 10 other risk-basis under a State plan under this  
 11 title for coverage occurring during that fiscal  
 12 year; and

13 “(C) payments under a State plan under  
 14 this title that are attributable to DSH allot-  
 15 ments for the State determined under section  
 16 1923(f) for that fiscal year.

17 “(2) MINIMUM BLOOD LEAD SCREENING  
 18 RATES.—The minimum acceptable percentages of 2-  
 19 year-old medicaid-enrolled children who have re-  
 20 ceived at least 1 blood lead screening test are—

21 “(A) 50 percent in fiscal year 2000;

22 “(B) 60 percent in fiscal year 2001;

23 “(C) 70 percent in fiscal year 2002;

24 “(D) 80 percent in fiscal year 2003; and

1           “(E) 90 percent in each fiscal year after  
2           fiscal year 2003.

3           “(3) MODIFICATION OR WAIVER.—The Sec-  
4           retary may modify or waive the application of para-  
5           graph (1) in the case of a State that the Secretary  
6           determines has performed during a fiscal year such  
7           a significant number of lead blood level assessments  
8           that the State reasonably cannot be expected to  
9           achieve the minimum blood lead screening rates es-  
10          tablished by paragraph (2).”.

11          (2) REPORTING REQUIREMENT.—Section  
12          1902(a)(43)(D) of the Social Security Act (42  
13          U.S.C. 1396a(a)(43)(D)) is amended—

14                 (A) in clause (iii), by striking “and” at the  
15                 end;

16                 (B) in clause (iv), by striking the semi-  
17                 colon and inserting “, and”; and

18                 (C) by adding at the end the following:

19                         “(v) the number of children who are  
20                         not more than 2 years of age and enrolled  
21                         in the medicaid program and the number  
22                         and results of lead blood level assessments  
23                         performed by the State, along with demo-  
24                         graphic and identifying information that is  
25                         consistent with the recommendations of the

1                   Centers for Disease Control and Preven-  
2                   tion with respect to lead surveillance;”.

3           (b) MANDATORY SCREENING REQUIREMENTS.—Sec-  
4 tion 1902(a) of the Social Security Act (42 U.S.C.  
5 1396a(a)) is amended—

6           (1) in paragraph (65), by striking the period  
7           and inserting “; and”; and

8           (2) by adding at the end the following:

9           “(66) provide that each contract entered into  
10           between the State and an entity (including a health  
11           insuring organization and a medicaid managed care  
12           organization) that is responsible for the provision  
13           (directly or through arrangements with providers of  
14           services) of medical assistance under the State plan  
15           shall provide for—

16           “(A) compliance with mandatory screening  
17           requirements for lead blood level assessments  
18           (as appropriate for age and risk factors) that  
19           are commensurate with guidelines and man-  
20           dates issued by the Secretary through the Ad-  
21           ministrator of the Health Care Financing Ad-  
22           ministration; and

23           “(B) coverage of appropriate qualified lead  
24           treatment services, as prescribed by the Centers  
25           for Disease Control and Prevention guidelines,

1           for children with elevated levels of lead in their  
2           blood.”.

3           (c) REIMBURSEMENT FOR TREATMENT OF CHIL-  
4 DREN WITH ELEVATED BLOOD LEAD LEVELS.—Section  
5 1905 of the Social Security Act (42 U.S.C. 1396d) is  
6 amended—

7           (1) in subsection (a)—

8                 (A) in paragraph (26), by striking “and”  
9                 at the end;

10                (B) by redesignating paragraph (27) as  
11                paragraph (28); and

12                (C) by inserting after paragraph (26) the  
13                following:

14                “(27) qualified lead treatment services (as de-  
15                fined in subsection (v));” and

16                (2) by adding at the end the following:

17                “(v)(1) The term ‘qualified lead treatment services’  
18                means all appropriate and medically necessary services  
19                that are provided by a qualified provider, as determined  
20                by the State, to treat a child described in paragraph (2),  
21                including—

22                “(A) environmental investigations to determine  
23                the source of a child’s lead exposure, including the  
24                costs of qualified and trained professionals (includ-  
25                ing health professionals and lead professionals cer-

1       tified by the State or the Environmental Protection  
2       Agency) to conduct such investigations and the costs  
3       of laboratory testing of substances suspected of  
4       being significant pathways for lead exposure (such  
5       as lead dust, paint chips, bare soil, and water);

6               “(B) professional case management services to  
7       coordinate access to such services; and

8               “(C) emergency measures to reduce or elimi-  
9       nate lead hazards to a child, if required (as rec-  
10       ommended by the Centers for Disease Control and  
11       Prevention).

12       “(2) For purposes of paragraph (1), a child described  
13       in this paragraph is a child who—

14               “(A) has attained 6 months of age but has not  
15       attained 73 months of age; and

16               “(B) has been identified as having a blood lead  
17       level that equals or exceeds 20 micrograms per deci-  
18       liter (or persistently equals or exceeds 15  
19       micrograms per deciliter).”.

20       (d) EFFECTIVE DATE.—

21               (1) IN GENERAL.—The amendments made by  
22       this section apply on and after October 1, 1998.

23               (2) EXTENSION OF EFFECTIVE DATE FOR  
24       STATE LAW AMENDMENT.—In the case of a State  
25       plan under title XIX of the Social Security Act



1       which the Secretary of Health and Human Services  
 2       determines requires State legislation in order for the  
 3       plan to meet the additional requirements imposed by  
 4       the amendments made by this section, the State  
 5       plan shall not be regarded as failing to comply with  
 6       the requirements of this section solely on the basis  
 7       of its failure to meet these additional requirements  
 8       before the first day of the first calendar quarter be-  
 9       ginning after the close of the first regular session  
 10      of the State legislature that begins after the date  
 11      of the enactment of this Act. For purposes of the  
 12      previous sentence, in the case of a State that has  
 13      a 2-year legislative session, each year of the session  
 14      is considered to be a separate regular session of the  
 15      State legislature.

16 **SEC. 4. LEAD POISONING SCREENING FOR SPECIAL SUP-**  
 17                   **PLEMENTAL NUTRITION PROGRAM FOR**  
 18                   **WOMEN, INFANTS, AND CHILDREN.**

19       Section 17(d) of the Child Nutrition Act of 1966 (42  
 20 U.S.C. 1786(d)) is amended by adding at the end the fol-  
 21 lowing:

22                   “(4) LEAD POISONING SCREENING.—

23                   “(A) IN GENERAL.—Subject to subpara-  
 24                   graph (B), for an infant or child to be eligible  
 25                   to participate in the program under this sec-

1           tion, a member of the family of the infant or  
2           child shall provide proof to the State agency,  
3           not later than 180 days after enrollment of the  
4           infant or child in the program and periodically  
5           thereafter (as determined by the State agency),  
6           that the infant or child has received a blood  
7           lead test for lead poisoning using an assessment  
8           that is appropriate for age and risk factors.

9           “(B) WAIVERS.—A State agency or local  
10          agency may waive the requirement of subpara-  
11          graph (A) with respect to an infant or child if  
12          the State agency or local agency determines  
13          that—

14                 “(i) the area in which the infant or  
15                 child resides does not pose a risk of lead  
16                 poisoning; or

17                 “(ii) the requirement would be con-  
18                 trary to the religious beliefs or moral con-  
19                 victions of the family of the infant or child.

20          “(C) SCREENINGS BY STATE AGENCIES.—

21                 “(i) IN GENERAL.—On the request of  
22                 a member of a family of an infant or child  
23                 who has not been screened for lead poison-  
24                 ing and who seeks to participate in the  
25                 program, at no charge to the family, a

1 State agency shall perform a blood lead  
2 test on the infant or child that is appro-  
3 priate for age and risk factors.

4 “(ii) REIMBURSEMENT.—On the re-  
5 quest of a State agency that screens for  
6 lead poisoning under clause (i) an infant or  
7 child that is receiving medical assistance  
8 under a State plan under title XIX of the  
9 Social Security Act (42 U.S.C. 1396 et  
10 seq.), the Secretary of Health and Human  
11 Services shall reimburse the State agency,  
12 from funds that are made available under  
13 that title, for the cost of the screening (in-  
14 cluding the cost of purchasing portable  
15 blood lead analyzer instruments approved  
16 for sale by the Food and Drug Administra-  
17 tion and providing screening with the use  
18 of such instruments through laboratories  
19 certified under section 353 of the Public  
20 Health Service Act (42 U.S.C. 263a)).”.

21 **SEC. 5. LEAD POISONING SCREENING FOR EARLY HEAD**  
22 **START PROGRAMS.**

23 Section 645A of the Head Start Act (42 U.S.C  
24 9840a) is amended—

1 (1) in subsection (c)(2), by inserting before the  
2 semicolon the following: “, if the families comply  
3 with subsection (i)”;

4 (2) by adding at the end the following:

5 “(i) LEAD POISONING SCREENING.—

6 “(1) IN GENERAL.—Subject to paragraph (2),  
7 for a child to be eligible to participate in a program  
8 described in subsection (a)(1), a member of the fam-  
9 ily of the child shall provide proof to the entity car-  
10 rying out the program, not later than 180 days after  
11 enrollment of the child in the program and periodi-  
12 cally thereafter (as determined by the entity), that  
13 the child has received a blood lead test for lead poi-  
14 soning using an assessment that is appropriate for  
15 age and risk factors.

16 “(2) WAIVERS.—The entity may waive the re-  
17 quirement of paragraph (1) with respect to a child  
18 if the entity determines that—

19 “(A) the area in which the child resides  
20 does not pose a risk of lead poisoning; or

21 “(B) the requirement would be contrary to  
22 the religious beliefs or moral convictions of the  
23 family of the child.

24 “(3) SCREENINGS BY ENTITIES.—

1           “(A) IN GENERAL.—On the request of a  
2 member of a family of a child who has not been  
3 screened for lead poisoning and who seeks to  
4 participate in the program, at no charge to the  
5 family, the entity shall perform a blood lead  
6 test on the child that is appropriate for age and  
7 risk factors.

8           “(B) REIMBURSEMENT.—On the request  
9 of an entity that screens for lead poisoning  
10 under subparagraph (A) a child that is receiv-  
11 ing medical assistance under a State plan under  
12 title XIX of the Social Security Act (42 U.S.C.  
13 1396 et seq.), the Secretary shall reimburse the  
14 entity, from funds that are made available  
15 under that title, for the cost of the screening  
16 (including the cost of purchasing portable blood  
17 lead analyzer instruments approved for sale by  
18 the Food and Drug Administration and provid-  
19 ing screening with the use of such instruments  
20 through laboratories certified under section 353  
21 of the Public Health Service Act (42 U.S.C.  
22 263a)).”

○