

By: Hunter

H.B. No. 2643

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a program of testing for childhood lead poisoning and  
3 blood lead levels of concern.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 88.001, Health and Safety Code, is  
6 amended by amending Subdivision (12) and adding Subdivision (13) to  
7 read as follows:

8 (12) "Department" means the Department of State Health  
9 Services [~~Board" means the Texas Board of Health~~].

10 (13) "Executive commissioner" means the executive  
11 commissioner of the Health and Human Services Commission.

12 SECTION 2. Section 88.002(d), Health and Safety Code, is  
13 amended to read as follows:

14 (d) The executive commissioner, the commissioner of state  
15 health services, a regional director or other department employee,  
16 a health authority or employee of a public health district, a health  
17 authority or employee of a county or municipal health department,  
18 or a public official of a county or municipality may not be examined  
19 in a civil, criminal, special, or other proceeding as to the  
20 existence or contents of pertinent records of or reports or  
21 information about a child identified, examined, or treated for lead  
22 poisoning or about a child possessing blood lead levels of concern  
23 by the department, a public health district, a local health  
24 department, or a health authority without the consent of the

1 child's parents, managing conservator, guardian, or other person  
2 authorized by law to give consent.

3 SECTION 3. Section 88.0025, Health and Safety Code, is  
4 amended to read as follows:

5 Sec. 88.0025. CHILDHOOD LEAD POISONING PREVENTION. (a)  
6 The executive commissioner [~~board~~] may implement policies and  
7 procedures to promote the elimination of childhood lead poisoning  
8 within the state. Subject to the appropriation of money for these  
9 purposes, the executive commissioner shall [~~The board may~~] adopt  
10 measures to:

11 (1) significantly reduce the incidence of childhood  
12 lead poisoning throughout the state;

13 (2) improve public awareness of lead safety issues and  
14 educate both property owners and tenants about practices that can  
15 reduce the incidence of lead poisoning; and

16 (3) establish a program through the department for  
17 [~~encourage~~] the testing of certain at-risk children younger than  
18 six years of age and certain pregnant women likely to suffer the  
19 consequences of lead poisoning so that prompt diagnosis and  
20 treatment and the prevention of harm are possible.

21 (b) In establishing a program under this section, the  
22 executive commissioner shall, after consultation with recognized  
23 professional medical groups and other appropriate sources, adopt  
24 rules governing:

25 (1) the methods and intervals for screening children  
26 younger than six years of age for lead poisoning and blood lead  
27 levels of concern; and

1           (2) guidelines for medical follow-up with children  
2 found to have blood lead levels of concern.

3           (c) A program developed under this section must prioritize  
4 the testing of the following groups:

5           (1) all children younger than six years of age and  
6 enrolled in Medicaid;

7           (2) children younger than six years of age who exhibit  
8 delayed cognitive development or other symptoms of lead poisoning;

9           (3) children younger than six years of age and  
10 pregnant women who reside in the same household as another child or  
11 pregnant woman with a blood lead level of 10 micrograms per  
12 deciliter of blood or greater; or

13           (4) children younger than six years of age and  
14 pregnant women residing, or who have recently resided in:

15           (A) a building or geographical area in which  
16 significant numbers of cases of lead poisoning or blood lead levels  
17 of concern have been reported;

18           (B) a building, if the building or a residential  
19 unit in the building was the subject of an enforcement action  
20 resulting from lead-based substance hazards within the last three  
21 years; or

22           (C) a building or geographical area in which the  
23 executive commissioner reasonably determines that there is a  
24 significant risk of blood lead levels of concern.

25           (d) Under a program developed under this section, a child  
26 described by Subsection (c)(1) must be tested at 12 and 24 months of  
27 age. A child who has not been previously tested as specified by

1 this subsection must be tested before the child's sixth birthday.

2 (e) If the executive commissioner establishes a program  
3 under Subsection (a)(3), the executive commissioner, with the  
4 assistance of the department, shall submit an annual report to the  
5 governor, the lieutenant governor, and the speaker of the house of  
6 representatives regarding:

7 (1) the percentage of children and women described by  
8 Subsection (c) who have been tested under the program;

9 (2) the extent to which health professionals have  
10 complied with the requirements of this chapter;

11 (3) the effectiveness of the program in identifying  
12 persons with lead poisoning or blood lead levels of concern;

13 (4) the effectiveness of the program in identifying  
14 geographical areas with a high incidence of lead poisoning or blood  
15 lead levels of concern; and

16 (5) any other information the executive commissioner  
17 determines appropriate and relevant.

18 SECTION 4. Section 88.003, Health and Safety Code, is  
19 amended by amending Subsections (b) and (c) and adding Subsection  
20 (d) to read as follows:

21 (b) The executive commissioner ~~board~~ by rule shall ~~may~~  
22 designate:

23 (1) blood lead concentrations in children that must be  
24 reported; and

25 (2) the ages of children for whom the reporting  
26 requirements apply.

27 (c) Subject to the appropriation of money for this purpose,

1 the executive commissioner shall [~~The board may~~] adopt rules that  
2 establish a registry of children with blood lead levels of concern  
3 and lead poisoning.

4 (d) In establishing the registry under Subsection (c), the  
5 executive commissioner shall require the records to be indexed by  
6 address and geographical location in order to determine the  
7 location of areas with a relatively high incidence of lead  
8 poisoning or blood lead levels of concern.

9 SECTION 5. Section 88.004, Health and Safety Code, is  
10 amended by amending Subsections (a), (b), and (c) and adding  
11 Subsection (e) to read as follows:

12 (a) A person required to report childhood blood lead levels  
13 of concern shall report to the department in the manner specified by  
14 rules of the executive commissioner [~~board rule~~]. Except as  
15 provided by this section, a person required by this section to  
16 report must make the report immediately after the person gains  
17 knowledge of the case or suspected case of a child with a blood lead  
18 level of concern.

19 (b) A physician shall report a case or suspected case of  
20 childhood lead poisoning or of a child with a blood lead level of  
21 concern after the physician's first examination of a child for whom  
22 reporting is required by rules of the executive commissioner [~~board~~  
23 ~~rule~~].

24 (c) A person in charge of an independent clinical  
25 laboratory, a hospital or clinic laboratory, or other facility in  
26 which a laboratory examination of a specimen derived from the human  
27 body yields evidence of a child with a blood lead level of concern

1 shall report the findings to the department as required by rules of  
2 the executive commissioner [~~board rule~~].

3 (e) The executive commissioner, with the assistance of the  
4 department, may institute procedures to notify health  
5 professionals of their obligations under this chapter. The  
6 executive commissioner may refer a health professional who fails to  
7 comply with this chapter to the appropriate licensing authority for  
8 discipline or sanctions as authorized by law.

9 SECTION 6. Section 88.005, Health and Safety Code, is  
10 amended to read as follows:

11 Sec. 88.005. REPORTING PROCEDURES. (a) The executive  
12 commissioner [~~board~~] shall prescribe the form and method of  
13 reporting under this chapter, including a report in writing, by  
14 telephone, or by electronic data transmission.

15 (b) The executive commissioner by rule [~~Board rules~~] may  
16 require the reports to contain any information relating to a case  
17 that is necessary for the purposes of this chapter, including:

- 18 (1) the child's name, address, age, sex, and race;  
19 (2) the child's blood lead concentration;  
20 (3) the procedure used to determine the child's blood  
21 lead concentration; and  
22 (4) the name of the attending physician.

23 (c) The executive commissioner may authorize an alternate  
24 routing of information in particular cases if the executive  
25 commissioner determines that the customary reporting procedure  
26 would cause the information to be unduly delayed.

27 SECTION 7. The heading to Chapter 88, Health and Safety

1 Code, is amended to read as follows:

2 CHAPTER 88. [~~REPORTS OF~~] CHILDHOOD LEAD POISONING

3 SECTION 8. This Act takes effect September 1, 2005.