

## SENATE BILL No. 286

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-41-39.4; IC 20-34-3-11; IC 32-31-10; IC 35-52-32-1.5.

**Synopsis:** Lead poisoning prevention. Defines "elevated blood lead level" for purposes of the health law and the education law as a blood lead level of at least five micrograms of lead per deciliter of whole blood. Defines "lead poisoning" for purposes of the health law. Provides that the governing body of a school corporation shall require all students who initially enroll in a school of the school corporation to be tested for an elevated blood lead level. Provides that a student may not be allowed to initially enroll unless the student has been tested and documentation of the test, including the test result, is provided to the school corporation. Requires the state department of health to adopt rules establishing requirements for the testing of individuals for an elevated blood lead level, and to amend those rules when necessary to ensure that the rules appropriately reflect and are consistent with the ongoing guidance of the federal Centers for Disease Control and Prevention. Provides that a physician, registered nurse, or health care facility, agency, or program that receives a test result indicating that a child has an elevated blood lead level shall: (1) notify the child's parent or guardian in writing of the test result; (2) provide the parent or guardian with a plain language explanation of the significance of lead poisoning; and (3) take appropriate measures to ensure that any other child under six years of age living in the same household is tested for an elevated blood lead level. Defines "dwelling unit lead hazard" for purposes of the property law as: (1) the presence of lead-based paint on a wall of a

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**Effective:** July 1, 2020.

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## Breaux

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January 9, 2020, read first time and referred to Committee on Environmental Affairs.

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Digest Continued

dwelling unit; (2) the presence of lead-contaminated soil outside a dwelling unit; or (3) the presence of lead in the drinking water system of a dwelling unit. Prohibits renting a dwelling unit to a tenant family that includes a child not more than six years of age if the dwelling unit is subject to a dwelling unit lead hazard. Provides that a landlord who knowingly or intentionally: (1) violates the prohibition; (2) represents to a tenant family that the tenant family may waive the prohibition; (3) misrepresents the age of a member of a tenant family to conceal a violation of the prohibition; or (4) induces a member of a tenant family to misrepresent the age of another member of the tenant family to conceal a violation of the prohibition; commits a Class C misdemeanor.



Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

# SENATE BILL No. 286

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 16-18-2-106.6, AS ADDED BY P.L.57-2009,
- 2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2020]: Sec. 106.6. "Elevated blood lead level" for purposes of
- 4 ~~IC 16-41-39.8~~; means a blood lead level of at least ~~ten (10)~~ **five (5)**
- 5 micrograms of lead per deciliter of whole blood.
- 6 SECTION 2. IC 16-18-2-198.4 IS ADDED TO THE INDIANA
- 7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 8 [EFFECTIVE JULY 1, 2020]: **Sec. 198.4. "Lead poisoning", for**
- 9 **purposes of this chapter, IC 16-41-39.4, and IC 16-46-6-10, means**
- 10 **poisoning of the bloodstream that:**
- 11 **(1) results from prolonged exposure to lead or lead-based**
- 12 **substances in water, paint, building materials, or the**
- 13 **environment;**
- 14 **(2) causes uncorrectable developmental delay and decreased**
- 15 **mental functioning capacity in children; and**
- 16 **(3) in severe cases, can lead to a child's premature death.**



1 SECTION 3. IC 16-41-39.4-1, AS AMENDED BY P.L.135-2005,  
 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2020]: Sec. 1. (a) The state department may adopt rules under  
 4 IC 4-22-2 to implement this chapter.

5 (b) The state department shall adopt rules under IC 4-22-2 for the  
 6 case management of a child with lead poisoning.

7 **(c) The state department shall adopt rules under IC 4-22-2**  
 8 **establishing requirements for the testing of individuals for an**  
 9 **elevated blood lead level under this chapter, including the**  
 10 **following:**

11 **(1) The age at which the initial testing of a child should be**  
 12 **conducted.**

13 **(2) The length of the interval between tests of a child.**

14 **(3) When follow-up testing of a child is required.**

15 **(4) The methods that shall be used to conduct the testing.**

16 **(d) Before August of every even-numbered calendar year**  
 17 **beginning with 2022, the state department shall begin the process**  
 18 **of adopting or amending rules under IC 4-22-2 concerning:**

19 **(1) the testing of blood for the presence of lead under this**  
 20 **chapter; and**

21 **(2) elevated blood lead levels;**

22 **if the adoption or amendment of rules is necessary to ensure that**  
 23 **the rules adopted under this section comply with this chapter and**  
 24 **appropriately reflect and are consistent with the ongoing guidance**  
 25 **of the federal Centers for Disease Control and Prevention.**

26 **(e) Before August 1, 2020, the state department shall begin the**  
 27 **process of adopting or amending rules under IC 4-22-2 concerning:**

28 **(1) the testing of blood for the presence of lead under this**  
 29 **chapter; and**

30 **(2) elevated blood lead levels;**

31 **to ensure that the rules adopted under this section comply with this**  
 32 **chapter and appropriately reflect and are consistent with the**  
 33 **ongoing guidance of the federal Centers for Disease Control and**  
 34 **Prevention. This subsection expires July 1, 2021.**

35 SECTION 4. IC 16-41-39.4-10 IS ADDED TO THE INDIANA  
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 37 [EFFECTIVE JULY 1, 2020]: **Sec. 10. A physician, registered nurse,**  
 38 **or health care facility, agency, or program that receives a test**  
 39 **result indicating that a child has an elevated blood lead level shall:**

40 **(1) notify the child's parent or guardian in writing of the test**  
 41 **result;**

42 **(2) provide the parent or guardian with a plain language**



1 explanation of the significance of lead poisoning; and  
 2 (3) take appropriate measures to ensure that any other child  
 3 under six (6) years of age living in the same household is  
 4 tested for an elevated blood lead level.

5 SECTION 5. IC 16-41-39.4-11 IS ADDED TO THE INDIANA  
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 7 [EFFECTIVE JULY 1, 2020]: **Sec. 11. A physician, registered nurse,  
 8 or health care facility, agency, or program shall not test a child for  
 9 an elevated blood lead level under this chapter if the parent or  
 10 guardian of the child objects to the test in a writing submitted to  
 11 the physician, registered nurse, or health care facility, agency, or  
 12 program.**

13 SECTION 6. IC 20-34-3-11, AS ADDED BY P.L.1-2005,  
 14 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2020]: **Sec. 11. (a) As used in this section, "elevated blood  
 16 lead level" means a blood lead level of at least five (5) micrograms  
 17 of lead per deciliter of whole blood.**

18 ~~(a)~~ **(b)** The governing body of a school corporation:

19 **(1) may; and**

20 **(2) if subsection (f) applies, shall;**

21 require students to be tested for **an elevated blood lead poisoning**  
 22 **level.**

23 ~~(b)~~ **(c)** If a student's parent states in writing that the parent is  
 24 financially unable to pay for a test under this section, the student shall  
 25 be referred to the free clinic or public health facility in the area that  
 26 provides services for indigents.

27 ~~(c)~~ **(d)** The state department of health and the state board shall adopt  
 28 joint rules concerning lead poisoning testing under this section.

29 ~~(d)~~ **(e)** Records of all tests administered under this section shall be  
 30 made and continuously maintained by the state department of health to  
 31 provide information useful in protecting, promoting, and maintaining  
 32 the health of students.

33 **(f) Beginning with students who enroll for a school year  
 34 beginning after June 30, 2020, the governing body of a school  
 35 corporation shall require all students who initially enroll in a  
 36 school of the school corporation, including students entering  
 37 kindergarten, to be tested for an elevated blood lead level. The  
 38 governing body of a school corporation may not allow a student to  
 39 whom this subsection applies to initially enroll in a school of the  
 40 school corporation unless:**

41 **(1) the student has been tested for an elevated blood lead  
 42 level; and**



1           **(2) documentation of:**

2                 **(A) the student's test for an elevated blood lead level; and**

3                 **(B) the result of the student's test;**

4           **are provided to the school corporation.**

5           SECTION 7. IC 32-31-10 IS ADDED TO THE INDIANA CODE  
6 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2020]:

8           **Chapter 10. Dwelling Unit Lead Hazards**

9           **Sec. 1. (a) As used in this chapter, "dwelling unit" means a**  
10 **structure or part of a structure that is used as a home, residence,**  
11 **or sleeping unit.**

12           **(b) The term includes the following:**

13                 **(1) An apartment unit.**

14                 **(2) A boarding house unit.**

15                 **(3) A rooming house unit.**

16                 **(4) A manufactured home (as defined in IC 22-12-1-16) or**  
17 **mobile structure (as defined in IC 22-12-1-17) and the space**  
18 **occupied by the manufactured home or mobile structure.**

19                 **(5) A single or two (2) family dwelling.**

20           **Sec. 2. As used in this chapter, "dwelling unit lead hazard"**  
21 **means any of the following:**

22                 **(1) The presence on a wall or other surface in the dwelling**  
23 **unit of lead-based paint that has not been enclosed,**  
24 **encapsulated, or completely removed as a risk abatement**  
25 **measure.**

26                 **(2) The presence outside the dwelling unit, on the grounds**  
27 **associated with the dwelling unit or the structure containing**  
28 **the dwelling unit, of soil contaminated with lead in an amount**  
29 **exceeding the United States Environmental Protection Agency**  
30 **standards of:**

31                         **(A) four hundred (400) parts per million in an area in**  
32 **which children would tend to play; and**

33                         **(B) one thousand two hundred (1,200) parts per million in**  
34 **any other area.**

35                 **(3) The presence in the drinking water supplied by the water**  
36 **system of the dwelling unit of lead at a level that equals or**  
37 **exceeds the lead action level of fifteen (15) parts per billion**  
38 **established by 40 CFR 141, Subpart I.**

39           **Sec. 3. As used in this chapter, "landlord" means:**

40                 **(1) the owner, lessor, or sublessor of a dwelling unit or the**  
41 **property of which the dwelling unit is a part; or**

42                 **(2) a person authorized to exercise any aspect of the**



1 management of the dwelling unit, including a person who  
2 directly or indirectly:

3 (A) acts as a rental agent; or

4 (B) receives rent or any part of the rent other than as a  
5 bona fide purchaser.

6 **Sec. 4. As used in this chapter, "lead-based paint" means paint  
7 or another surface coating that contains lead:**

8 (1) in an amount equal to or greater than one (1) milligram  
9 per square centimeter; or

10 (2) in the amount of more than one-half percent (0.5%) by  
11 weight.

12 **Sec. 5. As used in this chapter, "tenant family" means two (2) or  
13 more individuals who occupy, or seek to occupy, a rental unit:**

14 (1) for residential purposes;

15 (2) with the landlord's consent; and

16 (3) for consideration.

17 **Sec. 6. (a) A landlord shall not rent a dwelling unit to a tenant  
18 family that includes a child not more than six (6) years of age if the  
19 dwelling unit is subject to any dwelling unit lead hazard.**

20 **(b) A landlord who knowingly or intentionally:**

21 (1) rents a dwelling unit to a tenant family in violation of  
22 subsection (a);

23 (2) represents to a tenant family that the tenant family may  
24 waive the application of this chapter to the rental of a  
25 dwelling unit to the tenant family;

26 (3) misrepresents the age of a member of a tenant family to  
27 conceal a violation of subsection (a); or

28 (4) induces a member of a tenant family to misrepresent the  
29 age of another member of the tenant family to conceal a  
30 violation of subsection (a);

31 **commits a Class C misdemeanor.**

32 **Sec. 7. (a) The application of this chapter to the rental of a  
33 dwelling unit by a tenant family cannot be waived.**

34 **(b) An attempted or purported waiver of the application of this  
35 chapter to the rental of a dwelling unit to a tenant family is void.**

36 **SECTION 8. IC 35-52-32-1.5 IS ADDED TO THE INDIANA  
37 CODE AS A NEW SECTION TO READ AS FOLLOWS  
38 [EFFECTIVE JULY 1, 2020]: Sec. 1.5. IC 32-31-10-6 defines a crime  
39 concerning rental of dwelling units subject to a lead hazard.**

