FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED**]**

CONFERENCE COMMITTEE SUBSTITUTE FOR

HOUSE SUBSTITUTE FOR

HOUSE COMMITTEE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 266

91ST GENERAL ASSEMBLY

2001

1155S.10T

AN ACT

To repeal sections 198.531, 199.170, 199.180, 199.200, 701.322, 701.326 and 701.328, RSMo 2000, and to enact in lieu thereof twenty-two new sections relating to the department of health.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 198.531, 199.170, 199.180, 199.200, 701.322, 701.326 and 701.328, RSMo 2000, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 191.714, 191.938, 191.975, 192.729, 196.367, 198.531, 199.170, 199.180, 199.200, 376.1199, 376.1290, 701.322, 701.326, 701.328, 701.340, 701.342, 701.343, 701.344, 701.345, 701.346, 701.348 and 701.349, to read as follows:

191.714. 1. As used in this section, the following terms shall mean:

(1) "Blood-borne pathogens", any pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV);

(2) "Employer", any employer having public employees with occupational exposure to blood or other material potentially containing blood-borne pathogens;

(3) "Frontline health care worker", a nonmanagerial employee responsible for

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

direct patient care with potential occupational exposure to sharps-related injuries;

(4) "Public employee", an employee of the state or local governmental unit, or agency thereof, employed in a health care facility, home health care organization or other facility providing health care related services.

2. The department of health shall, no later than six months from the effective date of this section, adopt a blood-borne pathogen standard governing occupational exposure of public employees to blood and other potentially infectious materials that meets the standard in 29 CFR 1910.1030 and shall include a requirement that the most effective available needleless systems and sharps with engineered sharps injury protection be included as engineering and work practice controls. However, such engineering controls shall not be required if:

(1) None are available in the marketplace; or

(2) An evaluation committee, described in subsection 5 of this section, determines by means of objective product evaluation criteria that use of such devices will jeopardize patient or employee safety with regard to a specific medical procedure.

3. The use of a drug or biologic that is prepackaged with an administration system or used in a prefilled syringe and is approved for commercial distribution or investigational use by the federal Food and Drug Administration shall be exempt from the provisions of this section until June 1, 2004.

4. The sharps injury log maintained pursuant to this section shall include:

(1) The date and time of the exposure incident;

(2) The type and brand of sharp involved in the exposure incident;

(3) A description of the exposure incident to include:

(a) The job classification of the exposed employee;

(b) The department or work area where the exposure incident occurred;

(c) The number of hours worked at the time of the exposure incident;

(d) The procedure that the exposed employee was performing at the time of the incident;

(e) How the incident occurred;

(f) The body part involved in the exposure incident; and

(g) If the sharp had engineered sharps injury protection, whether the protective mechanism was activated, and whether the injury occurred before the protective mechanism was activated, during activation of the mechanism or after activation of the mechanism.

5. An evaluation committee established pursuant to this section shall consist of at least five members but no more than ten members. At least half of the members of the committee shall be frontline health care workers at such facility from a variety of

occupational classifications and departments, including but not limited to nurses, nurse aides, technicians, phlebotomists and physicians, who shall be selected by the facility to advise the employer on the implementation of the requirements of this section. In facilities where there are one or more representatives certified by the state board of mediation to represent frontline healthcare workers at such facility, the facility shall consult with such representatives as to the composition and membership of the committee. All members of the committee shall be trained in the proper method of utilizing product evaluation criteria prior to the commencement of any product evaluation. Committee members shall serve two-year terms, with the initial terms beginning thirty days after the formation of such committee and the subsequent terms beginning every two years thereafter. Vacancies on the committee shall be filled for the remainder of the term by the facility in the same manner as was used to appoint the vacating member. Members may serve consecutive terms. Members shall not be given additional compensation for their duties on such committee.

6. Any reference in 29 CFR 1910.1030 to the assistant secretary shall, for purposes of this section, mean the director of the department of health.

7. Any person may report a suspected violation of this section or 29 CFR 1910.1030 to the department of health. If such report involves a private employer, the department shall notify the federal Occupational Safety and Health Administration of the alleged violation.

8. The department of health shall compile and maintain a list of needleless systems and sharps with engineered sharps injury protection which shall be available to assist employers in complying with the requirements of the blood-borne pathogen standard adopted pursuant to this section. The list may be developed from existing sources of information, including but not limited to the federal Food and Drug Administration, the federal Centers for Disease Control and Prevention, the National Institute of Occupational Safety and Health and the United States Department of Veterans Affairs.

9. By February first of each year, the department of health shall issue an annual report to the governor, state auditor, president pro tem of the senate, speaker of the house of representatives and the technical advisory committee on the quality of patient care and nursing practices on the use of needle safety technology as a means of reducing needlestick injuries. By February fifteenth of each year, such report shall be made available to the public on the department of health's Internet site.

10. Any employer who violates the provisions of this section shall be subject to a reduction in or loss of state funding as a result of such violations.

191.938. 1. There is hereby established an "Automated External Defibrillator

Advisory Committee" within the department of health, subject to appropriations.

2. The committee shall advise the department of health, the office of administration and the general assembly on the advisability of placing automated external defibrillators in public buildings, especially in public buildings owned by the state of Missouri or housing employees of the state of Missouri, with special consideration to state office buildings accessible to the public.

3. The committee shall issue an initial report no later than June 1, 2002, and a final report no later than December 31, 2002, to the department of health, the office of administration and the governor's office. The issues to be addressed in the report shall include, but need not be limited to:

(1) The advisability of placing automated external defibrillators in public buildings and the determination of the criteria as to which public buildings should have automated external defibrillators and how such automated external defibrillators' placement should be accomplished;

(2) Projections of the cost of the purchase, placement and maintenance of any recommended automated external defibrillator placement;

(3) Discussion of the need for, and cost of, training personnel in the use of automated external defibrillators and in cardiopulmonary resuscitation;

(4) The integration of automated external defibrillators with existing emergency service.

4. The committee shall be composed of the following members appointed by the director of the department of health:

(1) A representative of the department of health;

(2) A representative of the division of facilities management in the office of administration;

(3) A representative of the American Red Cross;

(4) A representative of the American Heart Association;

(5) A physician who has experience in the emergency care of patients.

5. The department of health member shall be the chair of the first meeting of the committee. At the first meeting, the committee shall elect a chairperson from its membership. The committee shall meet at the call of the chairperson, but not less than four times a year.

6. The department of health shall provide technical and administrative support services as required by the committee. The office of administration shall provide technical support to the committee in the form of information and research on the number, size, use and occupancy of buildings in which employees of the state of Missouri work.

7. Members of the committee shall receive no compensation for their services as members, but shall be reimbursed for expenses incurred as a result of their duties as members of the committee.

8. The committee shall adopt written bylaws to govern its activities.

9. The automated external defibrillator advisory committee shall terminate on June 1, 2003.

191.975. 1. This section shall be known and may be cited as the "Adoption Awareness Law".

2. To raise public awareness and to educate the public, the department of social services, with the assistance of the department of health, shall be responsible for:

(1) Collecting and distributing resource materials to educate the public about foster care and adoption;

(2) Developing and distributing educational materials, including but not limited to videos, brochures and other media as part of a comprehensive public relations campaign about the positive option of adoption and foster care. The materials shall include, but not be limited to, information about:

(a) The benefits of adoption and foster care;

(b) Adoption and foster care procedures;

(c) Means of financing the cost of adoption and foster care, including but not limited to adoption subsidies, foster care payments and special needs adoption tax credits;

(d) Options for birth parents in choosing adoptive parents;

(e) Protection for and rights of birth parents and adoptive parents prior to and following the adoption;

(f) Location of adoption and foster care agencies;

(g) Information regarding various state health and social service programs for pregnant women and children, including but to limited to medical assistance programs and temporary assistance for needy families (TANF); and

(h) Referrals to appropriate counseling services, including but not be limited to counseling services for parents who are considering retaining custody of their children, placing their children for adoption, or becoming foster or adoptive parents; but excluding any referrals for abortion or to abortion facilities;

(3) Making such educational materials available through state and local public health clinics, public hospitals, family planning clinics, abortion facilities as defined in section 188.015, RSMo, maternity homes as defined in section 135.600, RSMo, child-placing agencies licensed pursuant to sections 210.481 to 210.536, RSMo, attorneys whose practice involves private adoptions, in vitro fertilization clinics and private

physicians for distribution to their patients who request such educational materials. Such materials shall also be available to the public through the department of social services' Internet web site; and

(4) Establishing a toll-free telephone number for information on adoption and foster care.

3. The provisions of this section shall be subject to appropriations.

4. The department of social services shall promulgate rules for the implementation of this section in accordance with chapter 536, RSMo.

192.729. 1. There is hereby established a state systemic lupus erythematosus program in the department of health. Subject to appropriations, the lupus program shall:

(1) Track and monitor the incidents of lupus occurring throughout the state;

(2) Identify medical professionals and providers that are knowledgeable or specialize in the treatment of lupus and related diseases or illnesses; and

(3) Promote lupus research and public awareness through collaborations with academic partners throughout the state and local boards, including the Missouri chapter of the lupus foundation.

2. The department may utilize or expand existing programs such as the office of women's health, the office of minority health and the state arthritis program established in sections 192.700 to 192.727 to meet the requirements of this section.

3. The department may promulgate rules to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

196.367. Effective July 1, 2005, any manufacturer or distributor shall be exempted from the provisions of sections 196.365 to 196.445 if the manufacturer satisfies all applicable Food and Drug Administration regulations.

198.531. 1. The division of aging, in collaboration with qualified Missouri schools and universities, shall establish an aging-in-place pilot program at a maximum of four selected sites throughout the state which will provide a continuum of care for elders who need long-term care. **[**One aging-in-place pilot program shall be at a thirty-five bed facility in a county of the first classification without a charter form of government with a population of at least ninety thousand but not more than one hundred thousand and a county of the first classification with a population of at least forty-two thousand but less than forty-five thousand and a county of the third classification without a township form of government with a population of at least sixteen thousand nine hundred but less than seventeen thousand.**]** For purposes of this section, "qualified Missouri schools and universities" means any Missouri school or university which has a school of nursing,

a graduate nursing program, or any other similar program or specialized expertise in the areas of aging, long-term care or health services for the elderly.

2. The pilot program shall:

(1) Deliver a full range of physical and mental health services to residents in the least restrictive environment of choice to reduce the necessity of relocating such residents to other locations as their health care needs change;

(2) Base licensure on services provided rather than on facility type; and

(3) Be established in selected urban, rural and regional sites throughout the state.

3. The directors of the division of aging and division of medical services shall apply for all federal waivers necessary to provide Medicaid reimbursement for health care services received through the aging-in-place pilot program.

4. The division of aging shall monitor the pilot program and report to the general assembly on the effectiveness of such program, including quality of care, resident satisfaction and cost-effectiveness to include the cost equivalent of unpaid or volunteer labor.

5. Developments authorized by this section shall be exempt from the provisions of sections 197.300 to 197.367, RSMo, and shall be licensed by the division of aging.

199.170. The following terms, as used in sections 199.170 to 199.270, mean:

(1) "Active tuberculosis", tuberculosis disease that is demonstrated to be contagious by clinical, bacteriological, or radiological evidence. Tuberculosis is considered active until cured;

(2) "Cure" or "treatment to cure", the completion of a recommended course of therapy as defined in subdivision (5) of this section and as determined by the attending physician;

(3) "Local board", any legally constituted local city or county board of health or health center board of trustees or the director of health of the city of Kansas City**, the director of the Springfield-Greene County health department, the director of health of St. Louis County** or the commissioner of health of the city of St. Louis, or in the absence of such board, the county commission or the county board of tuberculosis hospital commissioners of any county;

(4) "Potential transmitter", any person who has the diagnosis of pulmonary tuberculosis but has not begun a recommended course of therapy, or who has the diagnosis of pulmonary tuberculosis and has started a recommended course of therapy but has not completed the therapy. This status applies to any individual with tuberculosis, regardless of his or her current bacteriologic status;

(5) "Recommended course of therapy", a regimen of antituberculosis chemotherapy in accordance with medical standards of the American Thoracic Society and the Centers for Disease Control and Prevention.

199.180. **1.** A person found to have tuberculosis shall follow the instructions of the local board, shall obtain the required treatment, and shall minimize the risk of infecting others with tuberculosis.

2. When a person with active tuberculosis, or a person who is a potential transmitter, violates the rules, regulations, instructions, or orders promulgated by the department of health or the local board, and is thereby conducting himself or herself so as to expose other persons to danger of infection, after having been directed by the local board to comply with such rules, regulations, instructions, or orders, the local board may institute proceedings by petition for commitment, returnable to the circuit court of the county in which such person resides, or if the person be a nonresident or has no fixed place of abode, then in the county in which the person is found. Strictness of pleading shall not be required and a general allegation that the public health requires commitment of the person named therein shall be sufficient.

3. If the board determines that a person with active tuberculosis, or a person who is a potential transmitter, poses an immediate threat by conducting himself or herself so as to expose other persons to an immediate danger of infection, the board may file an ex parte petition for emergency temporary commitment pursuant to subsection 5 of section 199.200.

199.200. 1. Upon filing of the petition, the court shall set the matter down for a hearing either during term time or in vacation, which time shall be not less than five days nor more than fifteen days subsequent to filing. A copy of the petition together with summons stating the time and place of hearing shall be served upon the person three days or more prior to the time set for the hearing. Any X-ray picture and report of any written report relating to sputum examinations certified by the department of health **or local board** shall be admissible in evidence without the necessity of the personal testimony of the person or persons making the examination and report.

2. The prosecuting attorney or the city attorney shall act as legal counsel for their respective local boards in this proceeding and such authority is hereby granted. The court shall appoint legal counsel for the individual named in the petition if requested to do so if such individual is unable to employ counsel.

3. All court costs incurred in proceedings under sections 199.170 to 199.270, including examinations required by order of the court but excluding examinations procured by the person named in the petition, shall be borne by the county in which the proceedings are brought.

4. Summons shall be served by the sheriff of the county in which proceedings under sections 199.170 to 199.270 are initiated and return thereof shall be made as in other civil cases.

5. Upon the filing of an ex parte petition for emergency temporary commitment pursuant to subsection 3 of section 199.180, the court shall hear the matter within ninety-six hours of such filing. The local board shall have the authority to detain the individual named in the petition pending the court's ruling on the ex parte petition for emergency temporary commitment. If the petition is granted, the individual named in the petition shall be confined in a facility designated by the curators of the University of Missouri in accordance with section 199.230 until a full hearing pursuant to

subsections 1 to 4 of this section is held.

376.1199. 1. Each health carrier or health benefit plan that offers or issues health benefit plans providing obstetrical/gynecological benefits andpharmaceutical coverage, which are delivered, issued for delivery, continued or renewed in this state on or after January 1, 2002, shall:

(1) Notwithstanding the provisions of subsection 4 of section 354.618, RSMo, provide enrollees with direct access to the services of a participating obstetrician, participating gynecologist or participating obstetrician/gynecologist of her choice within the provider network for covered services. The services covered by this subdivision shall be limited to those services defined by the published recommendations of the accreditation council for graduate medical education for training an obstetrician, gynecologist or obstetrician/gynecologist, including but not limited to diagnosis, treatment and referral for such services. A health carrier shall not impose additional co-payments, coinsurance or deductibles upon any enrollee who seeks or receives health care services pursuant to this subdivision, unless similar additional co-payments, coinsurance or deductibles are imposed for other types of health care services received within the provider network. Nothing in this subsection shall be construed to require a health carrier to perform, induce, pay for, reimburse, guarantee, arrange, provide any resources for or refer a patient for an abortion, as defined in section 188.015, RSMo, other than a spontaneous abortion or to prevent the death of the female upon whom the abortion is performed, or to supersede or conflict with section 376.805; and

(2) Notify enrollees annually of cancer screenings covered by the enrollees' health benefit plan and the current American Cancer Society guidelines for all cancer screenings or notify enrollees at intervals consistent with current American Cancer Society guidelines of cancer screenings which are covered by the enrollees' health benefit plans. The notice shall be delivered by mail unless the enrollee and health carrier have agreed on another method of notification; and

(3) Include coverage for services related to diagnosis, treatment and appropriate management of osteoporosis when such services are provided by a person licensed to practice medicine and surgery in this state, for individuals with a condition or medical history for which bone mass measurement is medically indicated for such individual. In determining whether testing or treatment is medically appropriate, due consideration shall be given to peer reviewed medical literature. A policy, provision, contract, plan or agreement may apply to such services the same deductibles, coinsurance and other limitations as apply to other covered services; and

(4) If the health benefit plan also provides coverage for pharmaceutical benefits,

provide coverage for contraceptives either at no charge or at the same level of deductible, coinsurance or co-payment as any other covered drug. No such deductible, coinsurance or co-payment shall be greater than any drug on the health benefit plan's formulary. As used in this section, "contraceptive" shall include all prescription drugs and devices approved by the federal Food and Drug Administration for use as a contraceptive, but shall exclude all drugs and devices that are intended to induce an abortion, as defined in section 188.015, RSMo, which shall be subject to section 376.805. Nothing in this subdivision shall be construed to exclude coverage for prescription contraceptive drugs or devices ordered by a health care provider with prescriptive authority for reasons other than contraceptive or abortion purposes.

2. For the purposes of this section, "health carrier" and "health benefit plan" shall have the same meaning as defined in section 376.1350.

3. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance.

4. Notwithstanding the provisions of subdivision (4) of subsection 1 of this section to the contrary:

(1) Any health carrier may issue to any person or entity purchasing a health benefit plan, a health benefit plan that excludes coverage for contraceptives if the use or provision of such contraceptives is contrary to the moral, ethical or religious beliefs or tenets of such person or entity;

(2) Upon request of an enrollee who is a member of a group health benefit plan and who states that the use or provision of contraceptives is contrary to his or her moral, ethical or religious beliefs, any health carrier shall issue to or on behalf of such enrollee a policy form that excludes coverage for contraceptives. Any administrative costs to a group health benefit plan associated with such exclusion of coverage not offset by the decreased costs of providing coverage shall be borne by the group policyholder or group plan holder;

(3) Any health carrier which is owned, operated or controlled in substantial part by an entity that is operated pursuant to moral, ethical or religious tenets that are contrary to the use or provision of contraceptives shall be exempt from the provisions of subdivision (4) of subsection 1 of this section.

For purposes of this subsection, if new premiums are charged for a contract, plan or policy, it shall be determined to be a new contract, plan or policy.

5. Except for a health carrier that is exempted from providing coverage for contraceptives pursuant to this section, a health carrier shall allow enrollees in a health benefit plan that excludes coverage for contraceptives pursuant to subsection 4 of this section to purchase a health benefit plan that includes coverage for contraceptives.

6. Any health benefit plan issued pursuant to subsection 1 of this section shall provide clear and conspicuous written notice on the enrollment form or any accompanying materials to the enrollment form and the group health benefit plan contract:

(1) Whether coverage for contraceptives is or is not included;

(2) That an enrollee who is a member of a group health benefit plan with coverage for contraceptives has the right to exclude coverage for contraceptives if such coverage is contrary to his or her moral, ethical or religious beliefs; and

(3) That an enrollee who is a member of a group health benefit plan without coverage for contraceptives has the right to purchase coverage for contraceptives.

7. Health carriers shall not disclose to the person or entity who purchased the health benefit plan the names of enrollees who exclude coverage for contraceptives in the health benefit plan or who purchase a health benefit plan that includes coverage for contraceptives. Health carriers and the person or entity who purchased the health benefit plan shall not discriminate against an enrollee because the enrollee excluded coverage for contraceptives in the health benefit plan or purchased a health benefit plan that includes coverage for contraceptives.

8. The departments of health and insurance may promulgate rules necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

376.1290. 1. Each entity offering individual and group health insurance policies providing coverage on an expense-incurred basis, individual and group service or indemnity type contracts issued by a health services corporation, individual and group service contracts issued by a health maintenance organization, all self-insured group arrangements, to the extent not preempted by federal law, and all managed health care

delivery entities of any type or description that are delivered, issued for delivery, continued or renewed in this state on or after January 1, 2002, shall offer coverage for testing pregnant women for lead poisoning and for all testing for lead poisoning authorized by sections 701.340 to 701.349, RSMo, or by rule of the department of health promulgated pursuant to sections 701.340 to 701.349, RSMo.

2. Health care services required by this section shall not be subject to any greater deductible or co-payment than any other health care service provided by the policy, contract or plan.

3. No entity enumerated in subsection 1 of this section shall reduce or eliminate coverage as a result of the requirements of this section.

4. Nothing in this section shall apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care or other limited benefit health insurance policies.

701.322. Upon request of a physician, health care facility or third-party insurer, the department may provide laboratory services for tests related to contagious or infectious diseases. The department may conduct laboratory testing of blood specimens for lead content on behalf of a physician, hospital, clinic, free clinic, municipality or private organization which cannot secure or provide such services through other sources. The department of health may charge a fee for laboratory services rendered **[**under**]** **pursuant to** this section. **[**Such**]** Fees **for tests related to contagious or infectious diseases** shall be deposited in a separate account in the Missouri public health services fund, created in section 192.900, RSMo, and funds in such account shall be used to provide laboratory testing services by the department. **Fees for laboratory testing of blood specimens for lead content shall be deposited in the childhood lead testing fund created in section 701.345, RSMo.**

701.326. 1. The department of health shall establish and maintain a lead poisoning information reporting system which shall include a record of lead poisoning cases which occur in Missouri along with the information concerning these cases which is deemed necessary and appropriate to conduct comprehensive epidemiologic studies of lead poisoning in this state and to evaluate the appropriateness of lead abatement programs.

2. The director of the department of health shall promulgate rules and regulations specifying the level of lead poisoning which shall be reported and any accompanying information to be reported in each case. Such information may include the patient's name, **full residence** address, **and** diagnosis, **including the blood lead level. Such information may include** pathological findings, the stage of the disease, environmental and known occupational factors, method of treatment and other relevant data from medical histories. Reports of lead poisoning shall be filed with the director of the department of health within a period of time specified by the director. The department shall prescribe the form and manner in which the information shall be

reported.

3. The attending health care professional of any patient with lead poisoning shall provide to the department of health the information required pursuant to this section.

4. When a case of lead poisoning is reported to the director, the director shall inform such local boards of health, public health agencies, and other persons and organizations as the director deems necessary; provided that, the name of any child contracting lead poisoning shall not be included unless the director determines that such inclusion is necessary to protect the health and well-being of the affected individual.

701.328. 1. The department of health shall protect the identity of the patient and physician involved in the reporting required by sections 701.318 to **[**701.330**] 701.349**. Such identity shall not be revealed except that the identity of the patient shall be released only upon written consent of the patient. The identity of the physician shall be released only upon written consent of the physician.

2. The department may release without consent any information obtained pursuant to sections 701.318 to **[**701.330**] 701.349**, including the identities of certain patients or physicians, when the information is necessary for the performance of duties by public employees within, or the legally designated agents of, any state or local agency, department or political subdivision, but only when such employees and agents need to know such information to perform their public duties.

3. The department shall use or publish reports based upon materials reported pursuant to sections 701.318 to **[**701.330**] 701.349** to advance research, education, treatment and lead abatement. **The department shall geographically index the data from lead testing reports to determine the location of areas of high incidence of lead poisoning.** The department shall provide qualified researchers with data from the reported information upon the researcher's compliance with appropriate conditions as provided by rule and upon payment of a fee to cover the cost of processing the data.

701.340. 1. Beginning January 1, 2002, the department of health shall, subject to appropriations, implement a childhood lead testing program which requires every child less than six years of age to be tested for lead poisoning in accordance with the provisions of sections 701.340 to 701.349. In coordination with the department of health, every health care facility serving children less than six years of age, including but not limited to hospitals and clinics licensed pursuant to chapter 197, RSMo, shall take appropriate steps to ensure that their patients receive such lead poisoning testing.

2. The test for lead poisoning shall consist of a blood sample that shall be sent for analysis to a laboratory licensed pursuant to the federal Clinical Lab Improvement Act (CLIA). The department of health shall, by rule, determine the blood test protocol to be used.

3. Nothing in sections 701.340 to 701.349 shall be construed to require a child to undergo lead testing whose parent or guardian objects to the testing in a written statement that states the parent's or guardian's reason for refusing such testing.

701.342. 1. The department of health shall, using factors established by the department, including but not limited to the geographic index from data from testing reports, identify geographic areas in the state that are at high risk for lead poisoning. All children six months of age through six years of age who reside or spend more than ten hours a week in an area identified as high risk by the department shall be tested annually for lead poisoning.

2. Every child six months through six years of age not residing or spending more than ten hours a week in geographic areas identified as high risk by the department shall be assessed annually using a questionnaire to determine whether such child is at high risk for lead poisoning. The department, in collaboration with the department of social services, shall develop the questionnaire, which shall follow the recommendations of the federal Centers for Disease Control and Prevention. The department may modify the questionnaire to broaden the scope of the high-risk category. Local boards or commissions of health may add questions to the questionnaire.

3. Every child deemed to be at high risk for lead poisoning according to the questionnaire developed pursuant to subsection 2 of this section shall be tested using a blood sample.

4. Any child deemed to be at high risk for lead poisoning pursuant to this section who resides in housing currently undergoing renovations may be tested at least once every six months during the renovation and once after the completion of the renovation.

5. Any laboratory providing test results for lead poisoning pursuant to sections 701.340 to 701.349 shall notify the department of the test results of any child tested for lead poisoning as required in section 701.326. Any child who tests positive for lead poisoning shall receive follow-up testing in accordance with rules established by the department. The department shall, by rule, establish the methods and intervals of follow-up testing and treatment for such children.

6. When the department is notified of a case of lead poisoning, the department shall require the testing of all other children less than six years of age, and any other children or persons at risk, as determined by the director, who are residing or have recently resided in the household of the lead poisoned child.

701.343. The department of health shall have the following duties regarding the childhood lead testing program:

(1) By January 1, 2002, the department shall develop an educational mailing to be sent to every physician licensed by and practicing in this state informing such physician of the childhood lead testing program and the responsibilities of physicians pursuant to such program;

(2) The department of health shall, by January 1, 2002, develop guidelines, educational materials and a questionnaire to be used by physicians to determine whether pregnant women are at high risk and should be tested for lead poisoning;

(3) The department shall apply for, take all steps necessary to qualify for and accept any federal funds made available or allotted pursuant to any federal act or program for state lead poisoning prevention programs;

(4) The director of the department of health or the director's designee may, subject to appropriations, contract with a public agency or a university, or collaborate with any agencies, individuals or groups to provide necessary services, develop educational programs, scientific research and organization, and interpret data from lead testing reports;

(5) The department shall promulgate such rules as may be necessary; and

(6) Beginning January 1, 2003, and every January first thereafter, the department of health shall submit a report evaluating the childhood lead testing program as set forth in sections 701.340 to 701.349 to the governor and the following committees of the Missouri legislature: senate appropriations committee, senate public health and welfare committee, house appropriations - health and mental health committee and house public health committee.

701.344. 1. In geographic areas determined to be of high risk for lead poisoning as set forth in section 701.342, every child care facility, as defined in section 210.201, RSMo, and every child care facility affiliated with a school system, a business organization or a nonprofit organization shall, within thirty days of enrolling a child, require the child's parent or guardian to provide evidence of lead poisoning testing in the form of a statement from the health care professional that administered the test or provide a written statement that states the parent's or guardian's reason for refusing such testing. If there is no evidence of testing, the person in charge of the facility shall provide the parent or guardian with information about lead poisoning and locations in the area where the child can be tested. When a parent or guardian cannot obtain such testing, the person in charge of the facility may arrange for the child to be tested by a local health officer with the consent of the child's parent or guardian. At the beginning of each year of enrollment in such facility, the parent or guardian shall provide proof of testing in accordance with the provisions of sections 701.340 to 701.349 and any rules promulgated thereunder.

2. No child shall be denied access to education or child care because of failure to comply with the provisions of sections 701.340 to 701.349.

701.345. 1. There is hereby created in the state treasury the "Childhood Lead Testing Fund". The state treasurer shall deposit to the credit of the fund all moneys which may be appropriated to it by the general assembly and also any gifts, contributions, grants, bequests or other aid received from federal, private or other sources related to lead testing, education and screening. The general assembly may appropriate moneys to the fund for the support of the childhood lead testing program established in sections 701.340 to 701.349. The moneys in the fund shall be used to fund the administration of childhood lead programs, the administration of blood tests to uninsured children, educational materials and analysis of lead blood test reports and case management.

2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund at the end of the biennium.

701.346. The department of health shall promulgate rules to implement the provisions of sections 701.340 to 701.349. No rule or portion of a rule promulgated under the authority of sections 701.340 to 701.349 shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

701.348. Nothing in sections 701.340 to 701.349 shall prohibit a political subdivision of this state or a local board of health from enacting and enforcing ordinances, rules or laws for the prevention, detection and control of lead poisoning which provide the same or more stringent provisions as sections 701.340 to 701.349, or the rules promulgated thereunder.

701.349. If any provisions of sections 701.340 to 701.349, or the application thereof, to any persons or circumstances is held invalid, such validity shall not affect other provisions or applications of sections 701.340 to 701.349 that can be given effect without the invalid provision or application, and to this end the provisions of sections 701.340 to 701.349 are declared to be severable.

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