

OHIO SENATE
FINANCE — HEALTH AND MEDICAID SUBCOMMITTEE
Darrick Wade Testimony on Amended Sub. HB 49
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Testimony by Danielle Gadowski Littleton, Esq., The Legal Aid Society of Cleveland

Good morning, Chairman Hackett, Vice Chair Tavares, members of the subcommittee and visiting senators. Thank you for this opportunity and to Senator Edna Brown for inviting our comments regarding the importance of Ohio cities maintaining their power to innovate on the issue of lead poisoning prevention.

My name is Danielle Gadowski Littleton, I am an attorney with the Legal Aid Society of Cleveland, a non-profit law firm serving the civil legal needs of low-income clients in Ashtabula, Cuyahoga, Geauga, Lake, and Lorain Counties. Our mission is to secure justice and resolve fundamental problems for those who are low income and vulnerable by providing high quality legal services and working for systemic solutions. Among the civil legal issues that impact the health, safety, and income of our clients, our firm represents clients affected by elevated lead blood levels as tenants and students in need of special education services due to the effects of lead.

Although we serve a diverse population and cover rural and urban areas, the lead problem in Cleveland is unique among our service area. In fact, Cleveland has one of the highest lead-poisoning rates in the country. Although Flint, Michigan's lead-poisoning crisis grabbed national headlines, the lead-poisoning rate in Cleveland is double that in Flint.¹ An April 2016 study by the Case Western Reserve University Center on Urban Poverty and Community Development considered the impact of substandard housing on Cleveland Metropolitan School District (CMSD) found 40% of Cleveland Metropolitan School District kindergartners have tested positive for elevated blood lead levels at some point prior to entering school.² In 2015, 12.21% of the children tested for lead exposure in Cleveland had levels above 5 µg/dl, the current level of concern adopted by the Centers for Disease Control.³ Statewide 2.81% of children tested had levels above 5 µg/dl.⁴ The next highest city is Lakewood at 6.98%.⁵ The distribution of the elevated blood levels suggests that the effect is not evenly distributed evenly among the residents of Cleveland, but instead fall more heavily on our African American and Latino communities.⁶ Finally, it is important to remember these staggering rates of lead

¹ Wines, Michael, *Flint is in the News, but Lead Poisoning Is Even Worse in Cleveland*, N. Y. TIMES, March 3, 2016

² Coulton, Claudia et al., *Briefly Stated: Housing Deterioration Contributes to Elevated Lead Levels and Lower Kindergarten Readiness Scores in Cleveland*, No. 16-02, April 2016

³ City Break Down Table of Elevated Blood Levels for 2015, Ohio Department of Health (2016)

⁴ *Id.*

⁵ *Id.*

⁶ Dissell, Rachel and Brie Zeltner, Race, racism and lead poisoning: Toxic Neglect, CLEVELAND PLAIN DEALER, October 22, 2015

poisoning are based on incomplete screening data. A 2013 report by the Ohio Department of Health found that many census tracts in Cuyahoga County have a predicted elevated blood lead level rate between 30 and 50%.⁷

There is no safe level of lead.⁸ At even low levels lead poisoning can cause psychological effects and is correlated with attention and learning issues.⁹ Our education clients come to the Legal Aid Society of Cleveland with children who are struggling to learn and focus in school seemingly without explanation: a six year old with aggressive tendencies and an inability to repeat what she was being taught was sent to the office on a daily basis; an eight year old who cannot focus on topics he desperately wants to learn and instead stares in the distance all day; a fifteen year old who has completely disengaged from school because no one recognized his IQ was twenty points below the recognized cut off for an intellectual disability. A review of medical records for all of these children showed elevated lead levels between 5 and 36 µg/dl. We were able to secure special education services for each of these children but no educational intervention can reverse the effects of lead poisoning on a child's cognitive development. We can ensure the children are provided accommodations and services, but we cannot reverse the damage done to their potential.

In order to prevent another generation of poisoned children, the Legal Aid Society of Cleveland has put pressure on the Cleveland Department of Health to comply with Ohio law by following up with landlords when children have elevated blood lead levels and their home is confirmed to have lead hazards. We recently filed a mandamus action on behalf of a two year old child against the City of Cleveland asking that the Eighth Circuit Court of Appeals order the City to notify landlords and tenants of lead hazards in compliance with the mandated timelines and timely order the property to be vacated, where appropriate.

However, even full compliance with Ohio law would still use children as lead detectors. Currently, the State of Ohio has a reactive program that requires lead abatement only when a child tests positive for elevated blood lead levels. Ohio law only requires a home to become lead-safe after the child has already become poisoned.

The Legal Aid Society of Cleveland is partnering with many other community organizations and the City of Cleveland City to seek a more proactive approach to prevent children from being poisoned in the first place. Other localities, like Toledo, Ohio and Rochester, New York have innovated approaches to require that homes become lead safe before children are exposed to lead. These approaches have shown that lead poisoning prevention may need to look different in urban cities. For example, the Rochester, New York ordinance specifically mentions inspections for bare soil which is a greater risk in urban cities where industry has mixed lead into the soil across the city. On July 1, 2017, the City of Cleveland plans to launch a healthy homes

⁷ Final Report on Targeted Testing Plan for Childhood Lead Poisoning, Prepared for Ohio Department of Health by The Ohio State University Statistical Consulting Service (April 30, 2013), 48.

⁸ American Academy of Pediatrics, *Policy Statement: Lead Exposure in Children: Prevention, Detection, and Management*, PEDIATRICS Vol. 116, No. 4, October 2005

⁹ *Id.*

inspection plan that would empower Building and Housing inspectors to inspect every rented home for lead hazards, among many other healthy home factors. The Legal Aid Society of Cleveland is working with members of the Cleveland City Council to encourage an even more proactive approach that would ensure children are living in lead-safe homes from the day they move in.

However, the provision of the budget bill that would give the state of Ohio sole authority to regulate lead abatement would halt all the Cleveland community's efforts to address lead in our city. The State's limited program would preempt any local effort to address lead poisoning, even efforts to educate the public on the continuing dangers of lead paint and dust. By specifically disallowing training activities for lead inspectors and contractors, it removes an important job creating opportunity in cities. Allowing the State of Ohio to take complete control of lead abatement and lead paint issues would prevent cities like Toledo and Cleveland from innovating approaches to prevent lead poisoning which continues at a crisis levels in our urban centers.

Regulating housing conditions is an important local issue and municipalities must retain the ability to protect their children by meeting a crisis in our housing stock head on.

Thank you Chairman Hackett again for the opportunity to provide comments on behalf of the Legal Aid Society of Cleveland. I am happy to answer questions and provide follow up if necessary.