



**children's  
defense fund  
new york**

# **Testimony for the Joint Legislative Public Hearing on the Executive Budget Proposal for Housing**

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## Joint Legislative Public Hearing Testimony on the Executive Budget for Housing

As a co-founder and leader of the statewide Lead Free Kids New York coalition, the Children's Defense Fund – New York (CDF-NY) is grateful to the Senate Finance Committee, the Assembly Ways and Means Committee, and the respective Housing for the opportunity to submit testimony for this Joint Legislative Public Hearing to discuss the Executive Budget for Housing.

CDF-NY is a non-profit child advocacy organization that works statewide to ensure *every* child in New York State has a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start* and a *Moral Start* in life and a successful passage to adulthood with the help of caring families and communities. As the New York office of the Children's Defense Fund (CDF), a national organization with roots in the Civil Rights Movement, we are committed to advancing racial equity and to leveling the playing field for vulnerable New York children, youth and families. We envision a state – and a nation – where children flourish, leaders prioritize their well-being and communities wield the power to ensure they thrive. CDF-NY provides a strong, effective and independent voice for children who cannot vote, lobby, or speak for themselves. We pay particular attention to the needs of children living in poverty, children of color and those with disabilities. CDF-NY strives to improve conditions for children through research, public education, policy development, organizing and advocacy. Our policy priorities are racial justice, health justice, education justice, child welfare, youth justice and economic mobility. To learn more about CDF-NY, please visit [www.cdfny.org](http://www.cdfny.org).

### Children need affordable, safe and healthy housing.

We all know that children thrive when they live in affordable, safe and healthy housing that nurtures their development and fosters well-being. While the factors that contribute to safety and affordability are of significant importance, we know that many other organizations will be speaking to those issues. Accordingly, our testimony on this year's proposed budget will focus on the issue of childhood lead exposure and the need for greater investment from the state to eliminate lead hazards in housing.

This testimony will first describe the threat of childhood lead exposure to our children, the impact on low-income communities and communities of color, the economic consequences of inaction, and specific policy and budgetary solutions. **Our specific recommendations for the budget can be found on Page 5.**

### Childhood lead exposure and poisoning pose sobering threats to the health and wellbeing of the youngest New Yorkers.

Childhood lead poisoning is an urgent – albeit entirely preventable – crisis in New York State, undoubtedly representing one of the greatest public health threats to New York's most vulnerable children and youth. New York has more known cases of children with elevated

blood lead levels than any other state in our nation,<sup>1</sup> with childhood lead exposure rates for many communities across our State and in New York City five to six times higher than those in Flint, Michigan at the peak of its water crisis.<sup>2</sup> New York's older housing stock – our State carries the nation's highest percentage of pre-1960 and pre-1950 housing, as well as the oldest housing inventory among the 50 states – places our residents at a particularly high risk of exposure to lead hazards.<sup>3</sup> There are as many as 5.3 million occupied housing units in New York that may contain lead hazards, and approximately 630,000 of these units are occupied by children under the age of 6.

The COVID-19 pandemic has only worsened the burdens of childhood lead exposure and poisoning, with children spending increased amounts of time in homes where they may be exposed to lead and amidst national declines in well-child visits, where lead tests are typically administered to young children.<sup>4</sup> These effects have only been exacerbated by the fact that many of New York State's county health departments, overwhelmed by COVID, have been forced to redirect already-scarce childhood lead poisoning prevention resources to pandemic response efforts.

The health effects of childhood lead exposure are irreversible and there is no known safe level of lead in children, a fact affirmed by the Centers for Disease Control and Prevention's recent reduction of the blood lead reference value from 5 µg / dL to 3.5 µg / dL.<sup>5</sup> An estimated 28,820 New York children born in 2019 (approximately 12 percent of our State's birth cohort for that year) will have blood lead levels above 2 µg / dL, the lowest level at which the effects of childhood lead exposure are well documented.<sup>6</sup> Even low levels of lead in the blood have been shown to affect children's intelligence quotient (IQ), academic achievement, ability to concentrate, hearing and speech. Studies have demonstrated that a blood lead level increase from just 1 µg / dL to 2 µg / dL is harmful to children and that every 1 µg / dL increase in a child's blood lead level in the range of 0 to 10 µg / dL is associated with an average 1.37-point decrease in their IQ.<sup>7</sup>

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<sup>1</sup> "Blood Lead Levels (µg / DL) among U.S. Children < 72 Months of Age, by State, Year, and Blood Lead Level (BLL) Group", Centers for Disease Control and Prevention, accessed November 10, 2021, <https://www.cdc.gov/nceh/lead/docs/cbls-national-data-table-508.pdf>.

<sup>2</sup> "Special Report: Despite Progress, Lead Hazards Vex New York," *Reuters*, November 14, 2017, <https://www.reuters.com/investigates/special-report/usa-lead-newyork/>.

<sup>3</sup> Katrina Smith Korfmacher, Emily A. Benfer and Matthew Chachère, "Lead Laws and Environmental Justice in New York," *The New York Environmental Lawyer*, Vol. 39, No. 1 (November 22, 2019), <https://ssrn.com/abstract=3492119>.

<sup>4</sup> "More Childhood Lead Poisoning Is a Side Effect of Covid Lockdowns," *The New York Times*, March 11, 2021, <https://www.nytimes.com/2021/03/11/health/virus-lead-poisoning-children.html>.

<sup>5</sup> Ruckart PZ, Jones RL, Courtney JG, et al. Update of the Blood Lead Reference Value — United States, 2021. *MMWR Morb Mortal Wkly Rep* 2021; 70:1509–1512. DOI: <http://dx.doi.org/10.15585/mmwr.mm7043a4>.

<sup>6</sup> "Value of Lead Prevention," Altarum, accessed November 10, 2021, <http://valueofleadprevention.org/calculations.php?state=New+York>.

<sup>7</sup> Richard L. Canfield, Charles R. Henderson, Jr., Deborah A. Cory-Slechta, Christopher Cox, Todd A. Jusko, Bruce P. Lanphear, "Intellectual impairment in children with blood lead concentrations below 10 microg per deciliter," *The New England Journal of Medicine*, 348, no.16 (March 31, 2003), [10.1056/nejmoa022848](https://doi.org/10.1056/nejmoa022848).

Each year, more than 18,000 children in New York are identified to have an elevated blood lead level, a term defined by New York statute to be at or above 5 µg / dL. Such lead exposure can result in serious neurological and physical damage to children, impacting their lifelong health and educational attainment and causing anemia, hypertension, immunotoxicity, renal impairment and toxicity to reproductive organs.<sup>8</sup> Further acute and chronic effects of an elevated blood lead level include loss of appetite, constipation, abdominal colic, behavioral issues, hearing and balance problems, encephalopathy, growth retardation, delayed sexual maturation, increased dental caries, cardiovascular disease and renal disease.<sup>9</sup> Lead exposure is also particularly dangerous for pregnant women. Exposure to lead during pregnancy can result in gestational hypertension, low birth weight and impaired fetal neurological development.

### Childhood lead exposure and poisoning in New York are racial and environmental injustices.

Pervasive racial and socioeconomic disparities exist in New York's burden of childhood lead poisoning, with our State's children of color and low-income children disparately affected by this crisis. New York's children of color and low-income children are most likely to live in high lead-risk housing (pre-1978 housing in poor condition) and to live in low-income households that may lack capacity to reduce lead hazards. In 2005, the New York State Department of Health reported that more than half of New York children identified with blood lead levels over 10 µg / dL lived in just 68 of the over 1600 zip codes in our State, most of which encompassed communities of color in older urban areas.<sup>10</sup> The majority of New York zip codes with the highest proportion of lead poisoning cases are located within Buffalo, a city whose population is mostly comprised of racial minority groups<sup>11</sup> and a city in which children from neighborhoods of color are twelve times as likely as children from predominantly white neighborhoods to test for elevated levels of lead in their blood.<sup>12</sup>

In a study of children from Rochester, after adjusting for environmental exposures, behaviors, socioeconomic status, and dietary intake, Black children were found to be at higher risk of elevated blood lead than their peers of other races. By 24 months of age, Black children's blood lead concentration was approximately 62.6 percent (3.1 µg / dL) higher than

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<sup>8</sup> Cindy Mann, Kinda Serafi, Arielle Taub, "Leveraging CHIP to Protect Low-Income Children from Lead," Manatt Health, January 2017, <https://www.shvs.org/wp-content/uploads/2017/01/SHVS-Manatt-Leveraging-CHIP-to-Protect-Low-Income-Children-from-Lead-January-2017.pdf>.

<sup>9</sup> Kent Bennett, Jennifer Lowry, Nicholas Newman, "Lead Poisoning: What's New About an Old Problem?," *Contemporary Pediatrics*, 32 (April 1, 2015), <https://www.contemporarypediatrics.com/view/lead-poisoning-whats-new-about-old-problem-0>.

<sup>10</sup> Katrina Smith Korfmacher, Emily A. Benfer and Matthew Chachère, "Lead Laws and Environmental Justice in New York," *The New York Environmental Lawyer*, Vol. 39, No. 1 (November 22, 2019), <https://ssrn.com/abstract=3492119>.

<sup>11</sup> "Eliminating Lead Poisoning in New York: A National Survey of Strategies to Protect Children," Columbia Law School Health Justice Advocacy Clinic, October 2019, [https://web.law.columbia.edu/sites/default/files/microsites/clinics/health-advocacy/final\\_lead\\_poisoning\\_prevention\\_best\\_practices\\_report\\_october\\_2019\\_final.pdf](https://web.law.columbia.edu/sites/default/files/microsites/clinics/health-advocacy/final_lead_poisoning_prevention_best_practices_report_october_2019_final.pdf).

<sup>12</sup> "The Racial Equity Dividend: Buffalo's Great Opportunity," University at Buffalo Regional Institute and Make Communities, 2018, <http://racialequitybuffalo.org/files/documents/report/theequitydividendfinaljune2018.pdf>.

white children's blood lead concentration after controlling for these other risk factors.<sup>13</sup> New York's clear distribution of childhood lead poisoning along racial and socioeconomic lines affirms lead poisoning as an issue of racial and environmental justice – and makes the need to act swiftly to prevent it even more of a moral imperative.

### Childhood lead exposure and poisoning are hindering New York's economic viability.

In addition to the dangerous health effects and stark racial and socioeconomic injustices of childhood lead exposure, lead exposure also poses a significant financial burden on our families, our State and our nation. In fact, childhood lead exposure among New York children born in 2019 is projected to cost our State an estimated \$6.4 billion through reduced lifetime productivity, premature mortality and increased spending on health care utilization, education and social assistance.<sup>14</sup> Childhood lead exposure and poisoning also contributes to additional societal costs associated with juvenile and adult incarceration.

Aside from the societal costs of childhood lead poisoning, individual families of lead-exposed children face substantial immediate and long-term costs. Potential costs to families include costs associated with immediate medical intervention, costs associated with treatment of lead-related attention deficit hyperactivity disorder (ADHD) and special education services for lead-poisoned children, and parental work loss due to time taken off to care for a lead-poisoned child. Families are sometimes forced to spend enormous sums on chelation therapy which ultimately may not result in total rehabilitation. Furthermore, New York families whose children are poisoned by lead do not always have the financial luxury of moving out of an unsafe home and into one that is free from lead hazards. Currently, lead-impacted New York families are unable to even file claims to recoup their financial losses because their landlords' insurance policies do not cover lead paint risk exposure.

Improving New York State's lead poisoning prevention policies will help prevent the harmful lifelong impacts of lead poisoning as well as help our taxpayers realize economic gains. In fact, a 2017 nationwide cost-benefit analysis found that eradicating lead paint hazards from older homes of children from low-income families would provide \$3.5 billion in future benefits (approximately \$1.39 per dollar invested), while ensuring that contractors comply with lead-safe renovation, repair and painting practices would provide future benefits of \$4.5 billion (around \$3.10 per dollar spent). Overall, the nationwide potential future benefits of preventing lead exposure for the 2018 birth cohort is projected at up to \$84 billion.<sup>15</sup> The financial burden of childhood lead poisoning to our State and its families must be carefully weighed against the money saved in the short term by underfunding our capacity to address such a tragically long-standing and entirely preventable health crisis.

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<sup>13</sup> Bruce P. Lanphear, Richard Hornung, Mona Ho, Cynthia R. Howard, Shirley Eberly, Karen Knauf, "Environmental Lead Exposure During Early Childhood," 140, no. 1 (2002): 40 – 47, <https://dx.doi.org/10.1067/mpd.2002.120513>.

<sup>14</sup> "Value of Lead Prevention," Altarum, accessed November 10, 2021, <http://valueofleadprevention.org/calculations.php?state=New+York..>

<sup>15</sup> "10 Policies to Prevent and Respond to Childhood Lead Exposure," Health Impact Project, August 2017, [https://www.pewtrusts.org/-/media/assets/2017/08/hip\\_childhood\\_lead\\_poisoning\\_report.pdf](https://www.pewtrusts.org/-/media/assets/2017/08/hip_childhood_lead_poisoning_report.pdf).

### **New York must enact and fund a system of proactive rental inspections.**

Replacing our State’s current patchwork of reactive lead-control policies with proactive statewide policies is critical to closing regional gaps in childhood lead exposure and poisoning. First and foremost, we simply cannot get a handle on the childhood lead poisoning crisis if families don’t know whether or not their home contains lead. This is especially problematic given that New York is home to the most dwellings with lead-based paint in the nation. New York must enact and fund a statewide primary prevention program of proactive inspections of rental properties, building on requirements currently in place in New York City and Rochester.

A proactive rental inspection would require periodic lead inspection by a property owner, a private technician, or public agency staff before a tenant occupies the unit and then on a regular basis thereafter. Such a system would shift the burden of enforcement from reliance on tenant complaints and violations to a more equitable and preventive approach to improve housing quality and safety. Furthermore, it would end the morally bankrupt practice of using vulnerable children as ‘canaries in a coal mine’ – literal testing strips to detect the presence of lead in homes after their health has already been irreversibly damaged.

### **New York must make bold investments in order to truly combat childhood lead poisoning.**

In order to once and for all make childhood lead poisoning a disease of the past, New York must make bold investments in children and families. Accordingly, Lead Free Kids New York recommends that our State allocate \$1 billion in the FY 2022-2023 State Budget for a ‘Lead Poisoning Elimination Project,’ and recommends that those funds be appropriated as follows:

#### **1. \$500 Million for the Lead Repair / Renovation Program | Division of Housing and Community Renewal**

CDF-NY and our partners in the Lead Free Kids New York coalition recommend a \$500 Million appropriation to the New York State Homes and Community Renewal’s (HCR) Division of Housing and Community Renewal. The allocation should be used to find and fix lead hazards in communities with the greatest need by funding:

- The renovation, repair and painting of homes identified with lead that are occupied or rented by low-income owners;
- Mitigation of primary contamination in residences of children and adults with elevated blood lead levels; and
- Increased funding for local workforce development initiatives for lead inspectors, lead risk assessors and certified mitigators to eliminate the major avenues for lead contamination.

These funds could either be allocated to a single fund administered by HCR, or allocated to a special Community Development Financial Institution (CDFI) Fund administered directly by HCR or through agreement with another institution. If the funds were allocated to a CDFI fund, then the funds could be leveraged with additional federal appropriation and contributions from the private sector, including philanthropy.

CDF-NY estimates that this appropriation would allow the state to make at least 15,000 housing units lead safe and lead free.

## 2. \$100 Million for LeadWeb Expansion and Program Oversight | Department of Health

These funds will allow the Department of Health to execute key reporting, oversight, and compliance functions that were found to be performed inadequately in State Comptroller Thomas DiNapoli's August 2019 Audit and Report on the Department of Health's oversight on the Lead Poisoning Prevention Program.<sup>16</sup> The funds will be used to provide support to local health departments by:

- Performing investigations of source contamination and sharing information between regional office staff and local health departments;
- Scheduling and conducting on-site review of local health departments' program implementation;
- Developing and enforcing mandates requiring local health departments to perform follow-up; and
- Increasing the number of full-time employees needed to meet all federal and State follow-up care mandates for children with elevated blood lead levels.

These funds can also improve performance from department regional offices by:

- Revising procedures for reviewing processes and tools used to ensure timely reviews are completed by department regional offices and investigating when data is missing in LeadWeb;
- Performing quarterly follow-up of performance monitoring reports;
- Purchasing necessary resources, field equipment and laboratory capacity;
- Developing tools to support the implementation of expanded Lead Poisoning Prevention Programs across New York State; and
- Providing services to address lead sources and reduce risk.

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<sup>16</sup> "Report 2018-S-12| Department of Health: Lead Poisoning Prevention Program," Office of the New York State Comptroller, August 2019, <https://www.osc.state.ny.us/files/state-agencies/audits/pdf/sqa-2019-18s12.pdf>.

### 3. \$200 Million for Local County Lead Prevention Program | Department of Health

These funds will enable local health departments to create, expand and implement programs to address lead poisoning prevention requirements, provide timely case management, and use all means available to provide follow-up services to children identified as having elevated blood lead levels, such as:

- Pre-screening all local health department LeadWeb records as required, discouraging their use of the New York State Immunization Information System (NYSIIS) for lead reporting and improving and implementing proper internal controls and quality assurance measures to ensure local health department LeadWeb reporting is both accurate and timely;
- Enhancing their case management tracking capability;
- Hiring the number of full-time employees necessary to enforce and comply with mandates requiring local health departments to perform follow-up services to all children identified with elevated blood lead levels; and
- Providing local health departments with the funding necessary to hire the necessary full-time lead inspectors, lead risk assessors and mitigators to eliminate primary source contamination.

### 4. \$60 Million for the Lead / Environmental Threat Elimination Training Program | Department of Labor

This program, administered by the Department of Labor, would create a workforce development fund to train certified New York State lead inspectors, mold inspectors and home inspectors. Additionally, this program will provide for the training of related abatement and mitigation certification. These inspectors and mitigators will work with local health departments to identify source contamination in homes and buildings and provide mitigation services.

### 5. \$100 Million Lead / Environmental Hazard Program | Department of Labor

This program would charge the Department of Labor with providing and developing renovation training, certification, accreditation and work practice standards programs. The Department of Labor would also be responsible for developing clean enforcement mechanisms, including procedures for unannounced compliance inspections and a method for responding to complaints.

## 6. \$40 Million Lead / Environmental Threat Elimination Training Program | State University of New York Community Colleges

This program, administered by the State University of New York Community Colleges, would develop courses to educate and train certified New York State lead inspectors, mold inspectors and home inspectors. These courses will coincide with existing community college building envelope programs, especially in counties with an identified need and lack of professionals. Additionally, this program would provide for the training of related abatement and mitigation certification. These inspectors and mitigators will work with local health departments to identify source contamination in homes and buildings and provide mitigation services.

### New York must also fully leverage CHIP funding as a path forward.

In order to successfully combat the childhood lead poisoning crisis, New York must fully leverage every potential funding stream. A Children’s Health Insurance Program (CHIP) Health Services Initiative (HSI) is a policy tool that would enable New York to triple its current state spending on childhood lead poisoning prevention by drawing down additional federal funding through CHIP for our State and its localities to use on lead poisoning prevention efforts.<sup>17</sup> Lead exposure testing, prevention and abatement initiatives to protect low-income children are authorized uses of HSIs under CHIP authority.<sup>18</sup> In recent years, a number of states have successfully implemented HSIs for precisely this purpose, paving the way for New York to also take action. A New York HSI totaling \$75 million per year could fund a comprehensive lead hazard reduction strategy with components including lead testing and abatement, case management, lead rental certification, workforce development and legal assistance for tenant families whose child has an elevated blood lead level.

## Conclusion

In the wealthiest nation in the world and in a state as affluent as New York, it is a moral failure not to prioritize the health and safety of our most vulnerable children by acting swiftly and decisively to prevent a threat as dangerous as childhood lead poisoning. Thank you for your time and consideration. The Children’s Defense Fund – New York looks forward to working with you to address the crises of child lead exposure and poisoning in our State and to improve the wellbeing of New York’s children, youth and families.

<sup>17</sup> “Leveraging CHIP to Protect Low-Income Children from Lead,” State Health Value Strategies, January 2017, <https://www.shvs.org/wp-content/uploads/2017/01/SHVS-Manatt-Leveraging-CHIP-to-Protect-Low-Income-Children-from-Lead-January-2017.pdf>.

<sup>18</sup> “Frequently Asked Questions (FAQs): Health Services Initiative,” Centers for Medicare & Medicaid Services, January 12, 2017, <https://www.medicare.gov/federal-policy-guidance/downloads/faq11217.pdf>.