



How to Comply with Vermont's New Lead Law: A Workshop for Landlords and Property Managers

DATE: Thursday June 12
 TIME: 9:30 - 11:30
 WHERE: Vermont State House

- Introductory Remarks
by Vermont Attorney General Bill Sorrell
- Legal Requirements of New Lead Law
by Wendy Morgan, Assistant Attorney General
- Resources
by Ron Rupp, Vermont Housing and Conservation Board's
Lead Program
- Landlords' Best Practices
by Stuart Bennett, Director, Vermont Apartment Owners
Association
- The Property Management Company Option
by Linda Usle, Avant Garde Real Estate and Rentals
- Role of Department of Health
by Jenney Samuelson, Coordinator of Vermont's Childhood
Lead Poisoning Prevention Program
- Enforcement
by Robert McDougall, Assistant Attorney General
- Questions & Answers



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**For Landlords and Property Managers:
Legal Requirements of Vermont's New Lead Law - Effective July 1, 2008**
Prepared by Wendy Morgan, Assistant Attorney General

Q1. Why is there a lead law in Vermont?

- There is no safe level of lead. Lead can cause irreversible damage for children and adults, resulting in permanent neurological damage, including decreases in I.Q. scores. In young children, decreases in I.Q. scores are greatest at low levels of lead their blood.
- The primary exposure to lead for Vermont children is lead-based paint in housing built prior to 1978 when lead was banned in residential paint. Vermont has over 56,000 rental housing units built prior to 1978.

Q2. What falls within the law?

The law regulates "lead hazards" which are defined to mean any condition that causes exposure to lead "inside and in the immediate vicinity of pre-1978 housing, including exposure from paint chips, water, dust, soil, or building materials.

Q3. To whom does the lead law apply?

- Safe work practices apply to everyone working in pre-1978 housing and day care centers, whether or not the property is owner-occupied or rented.
- Essential maintenance practices (EMPs) apply to rental property owners and property managers who provide maintenance services unless the contract explicitly states that the property manager will not be responsible for EMPs.
- Hotel and other units rented for transient occupancy do not fall within the law *unless they are rented for more than 30 days.*
- Disclosure requirements apply to real estate agents and sellers of pre-1978 housing.

Q4. Who has to practice safe work practices?

- Everyone working on pre-1978 housing and child care facilities. (EMP classes are free and include information on safe work practices.)

Q5. What are unsafe work practices?

Unsafe work practices are renovation practices that cause lead hazards. Unsafe work practices prohibited by the Vermont lead law include:

- Removing pre-1978 paint by dry scraping, machine sanding, and grinding.
- Failing to mist painted surfaces before disturbing paint or failing to wet paint debris before sweeping.
- Uncontained hydro-blasting, high-pressure washing, abrasive blasting, or sandblasting.
- Using an open flame torch, a heat gun above 1,100 degrees, or methylene chloride chemical strippers.
- Failing to limit access to work areas, failing to enclose interior work with plastic sheathing, or failing to use protective clothing.

Q6. What do landlords and property managers have to do to comply with the lead law?

- Provide tenants with an approved pamphlet about lead poisoning prevention.
- Post an approved notice asking people to report chipping or damaged paint.
- Attend a training program approved by the Vermont Department of Health (VDH) or ensure that anyone who performs EMPs has completed the training program.
- Complete EMPs annually.
- Sign a compliance statement certifying that EMPs have been done and provide a copy to each tenant, liability insurance carrier, and the Department of Health at least once every 365 days.

Q7. What are the EMPs?

EMPs are regular maintenance that reduces the risks of lead exposure from deteriorated lead-based paint. EMPs include:

- Inspecting the property inside and outside annually.
- Identifying areas where paint is in poor condition and promptly fixing it using safe work practices.
- Installing low-cost inserts in all wooden window wells for easier cleaning.
- Removing any visible paint chips on the ground outside the building.
- Taking precautions during remodeling to prevent the spread of lead dust.
- Performing a specialized cleaning in common areas annually and upon change of tenant.

Q8. What happens if landlords or property managers do not do what the law requires?

The Department of Health or the Attorney General's Office can enforce the lead law through an Assurance of Discontinuance, Consent Decree, or court action. These enforcement actions may include civil penalties.

In addition to those actions, starting January 1, 2010, the Department can issue a ticket for failure to file the EMP Compliance Statement by the due date. The tickets will be up to \$400 including:

- \$50 if the compliance statement is filed within 30 days after the due date

Or

- \$ 150 if not filed at all or filed more than 30 days after the due date

Plus

- \$250 unless the owner can demonstrate that the EMPs were in fact completed by the due date.

Q9. How do EMPs affect eviction actions?

A landlord is not liable to a tenant for failure to provide habitable housing with regard to lead if the landlord is currently compliant with EMP requirements or has completed a work plan issued by the Department of Health.

Q10. What happens when property is bought or sold?

For all pre-1978 housing (rental and owner-occupied):

- Prior to executing a purchase and sale agreement and at the time of sale, the seller must provide materials approved by the Department of Health.

For pre-1978 *rental* housing:

- Prior to executing a purchase and sale agreement, the seller must verify that EMPs have been completed and that an EMP Compliance Statement has been filed with the Department.
- At the time of sale, the seller must provide the buyer with information on the Vermont lead law that has been approved by the Department.
- At the time of sale, the seller must also disclose any enforcement agreements or orders that have not been completed. The agreements or orders must be amended to transfer all remaining obligations to the buyer or other transferee.
- The buyer must bring the property into full EMP compliance within 60 days of closing, or within that time, submit a written request for an extension. Failure to comply carries a mandatory civil penalty.

EMP INSPECTION AND STABILIZATION - Interior

Address: 1 Main Street

Inspection Date: 5/15/08

Notice requesting reports of deteriorated paint posted

Preliminary
 Change of tenants
 Annual

Unit number, porch, or common area	Inspection				Repair		Date of Specialized Cleaning		
	Number of children age 6 or under in unit	Number of window well inserts needed	Number of rooms with more than 1 square foot of deteriorated paint	Tenant given lead pamphlet	Date Repaired	Components Repaired	Common Areas	Change of tenants	After all repairs
1	1	7	0	5/15/08	5/29/2008	put in 7 inserts	n/a	n/a	5/29/08
2	0	8	4	9/1/07 5/15/08	5/29-30/08 6/6/08	put in 8 inserts stabilized trim, window casings, repaired lower wall in kitchen	n/a	n/a	5/29, 5/30 6/6/08
3	2	0	0	5/15/08			n/a	n/a	n/a
front entry		2	1		5/30/08 6/6/08	put in 2 inserts stabilized window casing and cleaned	6/6/08		5/30/08 6/6/08
back porch			floor and railing		6/9-12/08	scraped and repainted floor and railings	n/a		6/12/08

Essential Maintenance Practices & the Vermont Lead Law

Lead Poisoning

Lead poisoning is a serious but *preventable* health problem. Lead can cause permanent damage to children including learning disabilities, behavioral problems, decreased intelligence, and other health problems.

Adults also suffer adverse health effects from lead, including increased blood pressure, cardiovascular disease, anemia, impaired renal function, thyroid dysfunction, and cancer.

Lead in Housing

Lead paint and dust from lead paint are the major sources of lead exposure in children. In 1978, lead was banned in house paint. Most homes built before that year contain lead. Children and adults can be exposed to lead during renovation projects or whenever lead paint is improperly sanded, scraped or burned.

Over time, painted surfaces crumble into dust contaminating homes and soil. This dust or soil clings to toys, hands and objects that children normally put into their mouths, exposing them to lead. Children can also be exposed to lead by eating, chewing or sucking on lead-painted objects such as windowsills or furniture.

Lead Law

The Vermont Lead Law was passed in 1996 and updated in 2008 (18 VSA Chapter 38). The law requires that landlords of older buildings and child care facility owners take steps to help prevent children from being exposed to lead. If a residential rental property or child care facility was built before 1978, the owner of the property or the property management company is required to comply with the Vermont Lead Law. They must:

- Provide tenants with an approved pamphlet about lead poisoning prevention
- Post an approved notice asking people to report chipping or damaged paint
- Attend a training program approved by the Department of Health and or ensure that anyone who performs essential maintenance practices on the property has completed the training program
- Complete essential maintenance practices annually
- Sign a compliance statement certifying that essential maintenance practices have been done and provide a copy to their tenants, insurance carrier and the Department of Health at least every 365 days

The lead law prohibits the use of unsafe work practices including removing lead-based paint by burning, using a heat gun, water or sand blasting, dry scraping, power sanding, and chemical stripping. These unsafe work practices increase the risk of lead exposure. The law requires the use of safe work practices including limiting access to work areas, using plastic dust barriers, wearing protective clothing, and misting or wetting painted surfaces or debris before disturbing it.



**DEPARTMENT
OF HEALTH**

108 Cherry Street
PO Box 70
Burlington, VT
05402-0070
healthvermont.gov

Benefits of the Lead Law

Protects children. Simple ongoing maintenance practices will prevent children from being exposed to lead

Protects property owners. Property owners in compliance with the law receive increased liability protection.

Protect workers. The lead law prohibits the use of unsafe work practices which will reduce worker exposure to lead.

Saves money. By reducing children's exposure to lead, property owners may avoid the high cost of abatement that could be required in the case of a lead-poisoned child.

Essential Maintenance Practices

Essential Maintenance Practices, which must be completed annually, include:

- Inspecting the property inside and outside
- Identifying areas where paint is in poor condition and promptly fixing it in a lead-safe way
- Verifying the installation of low-cost inserts in window wells in all wooden windows
- Removing any visible paint chips on the ground outside the building
- Performing a specialized cleaning in common areas
- Taking precautions whenever remodeling to prevent spread of lead dust

Essential Maintenance Practices Class

The essential maintenance practices class is offered around the state by trained instructors. It is four hours long and is usually free. A schedule of classes is online at leadsafevermont.org.

The class helps participants to:

- Comply with the Vermont Lead Law
- Understand the health effects of lead exposure
- Learn ways to protect children from exposure to lead
- Know how to perform Essential Maintenance Practices safely
- Identify work practices that increase the risk of causing lead poisoning

Other Resources

Childhood Lead Poisoning Prevention Program
Vermont Department of Health
800-439-8550
<http://healthvermont.gov>

Lead Hazard Reduction Program
City of Burlington
(802) 865-5323
<http://www.cedoburlington.org>

Lead Hazard Reduction Program
Vermont Housing and Conservation Board
(802) 828-3250 or 800-290-0527
<http://www.leadsafevermont.org>

US Environmental Protection Agency
<http://www.epa.gov/lead>

Lead Poisoning Prevention Resource List

State Information & Resources

www.LeadSafeVermont.org

Comprehensive information for property owners, homeowners, renters, and contractors, with many downloadable resources and direct links to most organizations and web sites listed below.

EMP Training Schedule: [Free EMP Training Sessions](#)

EMP-Certified Businesses: [Essential Maintenance Practice Contractor](#)

Vermont Department of Health

Childhood Lead Poisoning Prevention Program

Asbestos & Lead Regulatory Program

VT Lead Hotline: (800) 439-8550 or (802) 652-0358

Information on screening children for lead, case management for lead poisoned children, licensing of lead professionals, EMP affidavits/compliance statements on file, and information on lead paint and other household hazards.

Click Lead Program and Surveillance click [here](#)

For Lead Abatement Companies and Consultants, click [here](#).

For the Rental Housing Health Code click [here](#).

Office of the Attorney General

Offers information about Vermont laws pertaining to lead in housing, including enforcement, legislative actions, and additional resources. [Vermont Attorney General](#)

Lead Safe

Southeast Vermont outreach and education project at Parks Place Community Resource Center in Bellows Falls.

(802) 463-9927 [Parks Place VT](#)

Vermont Apartment Owners Association, LLC

The Vermont Apartment Owners Association is a state-wide association representing the interests of residential and commercial landlords in Vermont since 1974. (802) 985-2764 or 1-888-LOW-RENT (569-7368) [Vermont Apartment Owners Association](#)

Vermont Lead Safety Project

Non-profit advocacy and resource group.

(802)453-5617

Vermont Tenants, Inc.

Advocacy group with information about Vermont's lead paint laws and tenant rights and responsibilities.

(802) 864-0099 [Vermont Tenants Inc.](#)

Financial Assistance

Vermont Housing & Conservation Board - Lead Hazard Reduction Program

Provides funds and technical assistance to reduce lead-based paint hazards in eligible homes throughout Vermont, excluding Burlington.

(800) 290-0527 or (802) 828-5064 [VHCB Lead Paint Program](#)

Burlington Lead Program

Dedicated to the prevention of childhood lead poisoning in the city of Burlington. Provides funds and technical assistance to reduce lead-based paint hazards in eligible homes in Burlington.

(802) 865LEAD (5323) [Burlington Lead Program](#)

Federal Agencies

Environmental Protection Agency (EPA)

Information on federal lead paint laws, including disclosure in real estate and work practice standards

(800) 424-LEAD [5323] [EPA Lead Hotline - The National Lead Information Center](#)

U.S. Department of Housing and Urban Development (HUD)

Office of Healthy Homes and Lead Control Hazard. Provides grants to communities to address lead hazards.

(202) 755-1785X 7698 [HUD Lead Hazard Control Office](#)

Centers for Disease Control and Prevention (CDC)

CDC's compiled information on lead. [CDC Lead Page](#)

Consumer Product Safety Commission

Consumer product recalls and standards. [U.S. Consumer Product Safety Commission](#)

Occupational Safety and Health Administration (OSHA)

Lead safety standards.

(800) 321 -OSHA (6742) [OSHA Safety and Health Topics: Lead](#)



Vermont Apartment Owners Association, LLC
VAOA Best Management Practices
1-888-LOW-RENT VAOA.COM

- Require applicants to complete a rental application – use due diligence in checking references and information in the application.
- Do not be in a rush to rent the property – take your time.
- Run credit checks on all prospective Tenants (also Public Records check and/or criminal background checks) and www.vtcourtsearch.com.
- Review the lease with your tenants.
- Use a Smoke Detector/Carbon Monoxide Detector/Fire Extinguisher Addendum.
- Use an inspection checklist when a new Tenant moves in – include a walk through of the property and confirmation of working smoke/carbon monoxide detectors. Take photos.
- Do not hand over the keys until the lease is signed and the rent has been paid.
- Provide Tenants with names and phone numbers of Emergency Contacts.
- Keep paper records of interactions with Tenants – including a phone log of all calls from Tenants.
- Use an inspection checklist for every visit to the apartment.
- Obtain a Municipal Certificate of Occupancy/Inspection, if applicable.
- Introduce yourself to municipal authorities – including police.
- Make sure your vendors and sub-contractors are licensed and insured, and do not allow tenants to perform work at the premise.
- Perform routine maintenance and have maintenance contracts (i.e. yearly furnace cleaning and inspection, and snow and ice removal).
- Perform Essential Maintenance Practices (“EMP”) for Lead Paint, if applicable.
- Have a routine presence at the property either personally or thru an agent.
- When purchasing new property review the lease and your expectations with the Tenants.

- Promptly file and serve legal notices and court actions against nonpaying Tenants.
- Always have a set of keys to the building and to all units. Do not let the Tenants change the locks.
- When Tenants vacate, perform a final inspection, take photos if necessary.

Date:

Property Address:



Suggested Inspection Checklist

Tenant Name: _____

Security Deposit Amount: _____

Property Owner: _____

Date Paid: _____

This form is to be filled out in the presence of both the property owner and the tenant while inspecting the apartment. Check OK for each item or describe the problems present.

ITEM	OK	NOT OK	NOTES AND DESCRIPTION OF PROBLEM
KITCHEN			
Clean			
Sink			
Counters			
Light fixtures			
Cabinets			
Range			
Refrigerator			
Outlets			
Walls & Ceiling			
Floor			
Windows			
Doors			
BATHROOM			
Clean			

Vermont Apartment Owners Association, LLC
 P.O. Box 701, 5203 Shelburne Road, Shelburne, VT 05482 • (802) 985-2764 • 1-888-LOW-RENT • (802) 985-2534 fax
 Website: www.vaaqa.com • Email: info@vaaqa.com

Date:

Property Address: NOTES AND DESCRIPTION OF PROBLEM

ITEM	OK	NOT OK	
Toilet			
Sink			
Tub or Shower			
Mirror			
Waterproof floor			
Walls & Ceiling			
Light Fixtures			
Outlets			
Windows or Fan			
Doors			
LIVING ROOM			
Clean			
Walls & Ceiling			
Floor			
Light Fixtures			
Outlets			
Windows			
Doors			
BEDROOMS			
Clean			
Walls & Ceiling			
Floor			
Light Fixtures			

Vermont Apartment Owners Association, LLC
 P.O. Box 701, 5203 Shelburne Road, Shelburne, VT 05482 • (802) 985-2764 • 1-888-LOW-RENT • (802) 985-2534 fax
 Website: www.vaood.com • Email: info@vaood.com

Date:

Property Address:

ITEM	OK	NOT OK	NOTES AND DESCRIPTION OF PROBLEM
Outlets			
Windows			
Doors			
LEAD (Pre 1978 Housing)			
Window well inserts			
Deteriorating Paint : Interior			
Deteriorating Paint: Exterior			
Annually remove Paint Chips on the ground			
Clean interior horizontal surfaces, except ceilings, in common areas accessible to tenants (once a year and at change of tenants). Use a HEPA vacuum.			
Lead Poster in prominent place			
File EMP Compliance Statement after completing EMPs			1) Vermont Department of Health : Done () Date _____ 2) Insurance Carrier : Done () Date _____ 3) Tenant : Done () Date _____
Lead Hazard Printed Materials			Provide to tenants at lease signing. Obtain signed receipt from tenants.
OTHER			
Clean			
Walls & Ceiling			
Floor			
Light Fixtures			

Vermont Apartment Owners Association, LLC
 P.O. Box 701, 5203 Shelburne Road, Shelburne, VT 05482 • (802) 985-2764 • 1-888-LOW-RENT • (802) 985-2534 fax
 Website: www.vaood.com • Email: info@vaood.com

Date:

Property Address:

ITEM	OK	NOT OK	NOTES AND DESCRIPTION OF PROBLEM
Outlets			
Windows & Doors			
MISCELLANEOUS			
Heating system			
Water Pressure			
Entry doors			
Locks			
Smoke & CO Detectors			

I was present at the time of this inspection, and this checklist is accurate.

I was present at the time of this inspection and this checklist is accurate.

Tenant	Date	Property Owner	Date

Vermont Apartment Owners Association, LLC
 P.O. Box 701, 5203 Shelburne Road, Shelburne, VT 05482 • (802) 985-2764 • 1-888-LOW-RENT • (802) 985-2534 fax
 Website: www.vaad.com • Email: info@vaad.com

Avant Garde Real Estate, Inc

6 Cottage Street

Barre, Vermont 05641

802-479-9711

PROPERTY MANAGEMENT AGREEMENT

This Agreement is made and entered into on (STATEMENT DATE) between (OWNER FULL NAME){Owner}, and (COMPANY NAME) (Manager)

Owner hereby employs the services of Manager to manage, operate, control, rent and lease the following described properties:

Street Address	City	State	Zip	□ of Rental Unites
				1

Responsibilities of Manager

Owner hereby appoints Manager as his lawful agent and attorney-in-fact with full authority to do any and all lawful things necessary for the fulfillment of this Agreement, including the following:

1. To collect all rents and late fees as they become due, giving receipts therefore and to render to Owner a monthly accounting of rents received and expenses paid out; and to remit to Owner all income, less any sums paid out.
2. To make or cause to be made all decorating, maintenance, alterations and repairs to the property and to hire and supervise all employees and other labor for the accomplishment of same; Management shall obtain prior approval of Owner on all expenditures over \$200.00 for any one item.
3. To advertise the property and display signs thereon; to rent and lease the property; to sign, renew and cancel rental agreements and leases for the property or any part thereof
4. Tenancy Termination: Sign and serve in Owner's name notices which are required or appropriate; Using due diligence. commence and prosecute actions to evict tenants; Recover possession of the property in Owner's name at Owners expense.
5. Use due diligence in the performance of this Agreement.

Contracts and Services: Management agrees to with reasonable care contract, hire, supervise, and /or discharge firms and persons, including utilities, required for the operation and maintenance of the Property. Management may perform any of Management's duties through attorneys, agents, employees, and independent contractors, and shall not be responsible for their acts, omissions, defaults, negligence, and /or costs of same, except for persons working in Avant Garde Real Estate. Inc.

Compensation of Manager Owner agrees to compensate Manager as follows 10% of gross collections.

Operating Reserve: One months rent will be retained for operating expenses for your property.

Payments: Management will render monthly statements of receipts, expenses and charges for each Property and mail same to Owners on or about the 10th of each month. Make all vendor payments on or about the 10th of each month.

Deposits: Management shall hold such deposits In a trust account at Bank North, current Interest Is .25□, account for and return them to tenants, less rant due, cleaning, and or any repairs In excess of ordinary wear and tear, within 14 days of tenants vacating the property.

Equal Housing Opportunity: The Property Is offered In compliance with federal, state, and local anti-discrimination laws.

List Owners Instructions:

Utilities and Services: Avant Garde Real Estate, Inc. shall duly and punctually pay on behalf of Owner all utilities and services in respect to the said Property as long as sufficient funds are available for your property. Please check off the following items to be paid by Avant Garde Real Estate, Inc.:

- rubbish removal
- fuel
- electric
- cable or satellite
- lawn maintenance
- snow plowing
- salting and/or sanding
- snow removal from walks and steps
- vacant heat checks
- other _____

ESSENTIAL MAINTENANCE PRACTICES for PREVENTION of LEAD EXPOSURE

_____ I consent to have Manager complete Essential Maintenance Practices (EMP) services on said property according to Vermont law and at Owner's expense with prior approval for any expenditure over \$200/per item EMPs include annually performing the maintenance, preparing and filing documentation with the Vermont Department of Health and Owner's liability insurance carrier:

_____ and providing a copy to tenants.

_____ I decline to have Manager complete EMPs and understand I will be solely responsible for staying in compliance with Vermont's lead law, including completing the maintenance, filing the required documentation with the Department of Health and my liability insurance carrier, and providing a copy to tenants.

Term of Agreement

The primary term of this Agreement begins (MANAGEMENT CONTRACT START), and shall expire on (MANAGEMENT CONTRACT END).

Automatic Extension: Unless either party provides written notice of termination to the other party at least 30 days before the Expiration Date, this agreement will automatically be extended on a month to month basis.

This Agreement may also be terminated by mutual agreement of the parties at any time Upon termination Owner shall pay to Manager any fees, commissions and expenses due Manager under terms of this Agreement, which are owing to Manager.

This document represents the entire Agreement between the parties hereto.

IN WITNESS WHEREOF, the parties hereto hereby execute this Agreement on the date first above written

Owner Date

Manager Date

Avant Garde Real Estate, Inc.

6 Cottage Street

Barre, VT 05641

Phone: 802-479-9711

Fax: 802-479-9710

www.avantgarderealestate.com

SAMPLE LETTER TO TENANTS

February 25, 2008

Dear Tenant,

Avant Garde along with your landlord, Mr. Smith is working with the State Of Vermont to get the property where you rent in compliance with the current lead paint laws.

The first step we will be taking is a visual interior inspection of each unit in the building.

We have scheduled your unit to be inspected on Thursday, February 28th at 10 Am. This inspection will be completed by certified EMP workers and will last approximately one hour. They will be inspecting the condition of painted surfaces and identifying areas of concern.

In order to complete this inspection in a timely fashion, we are asking each tenant to move any articles that may obstruct the views of walls, woodwork and windows. They may be taking pictures of problem areas but will make an effort not to include your personal property in these photos.

If we identify any problem areas: we will be making another appointment to complete the necessary work and again we want you to know that the work will be completed by people who have attended a class and have been certified.

If you have any questions or concerns, don't hesitate to call the office. I have also been certified and should be able to answer any concerns that you may have.

Sincerely,

Linda Usle

Rental Manager

linda@avantgarderealestate.com

802-279-4083

Vermont Housing and Conservation Board Lead Program

Policy with respect to providing financial assistance to properties under enforcement action

Where lead hazards in a rental property have been found by the Vermont Department of Health or the Vermont Attorney General to have contributed to a child's elevated blood lead level and enforcement action has been taken against the property owner because of negligence to maintain the property from such hazards, the appropriateness of providing financial assistance shall be determined by the Executive Director in consultation with the Board Chair. When making a decision to provide assistance, the Executive Director shall take into consideration factors such as, but not limited to; the immediate danger presented to children, the severity of the violation, the level of cooperation shown by the property owner, and the history of past violations and enforcement actions regarding the owner. Otherwise eligible properties that are deemed inappropriate for financial assistance because of enforcement issues shall still be eligible for technical assistance to insure the work is done properly and the child is protected.