

HB 2327 Establishing a Minimum Age of Prosecution

House Judiciary Committee Bill—At the request of the Juvenile Justice Advocates Coalition



Kids are different. Our laws should reflect that.

Children's brains are different from adults' brains—so their thinking, actions, and culpability are different from adults.

Considering the increased scrutiny and criticism of the prosecution of children, Oregon must establish a minimum age of prosecution at 12 years old to protect our children against the harms of juvenile justice involvement, and to allow them to access supportive services and resources.

What Science Says

The lack of maturity of the developing brain is closely tied to children's reduced capacity to control their impulses, withstand peer pressure and think through the long-term consequences of their actions. In fact, we do not reach full maturity until our mid-twenties.¹²

Despite this, children have a greater capacity for rehabilitation and reform than adults. This is due to the ability of their brains to change as they mature and children's responsiveness to the environment, social supports, and resources.

Legal Developments

Science has led the way at the national and state levels to help courts catch up to our developing understanding of child and adolescent brains. As U.S. Supreme Court decisions have struck down life without parole and death penalty sentences for children, states are beginning to address the profound implications of brain science through the evolution of their laws.

Oregon has taken its own steps to incorporate up-to-date understanding of children's brain development into law, but that process is far from complete, not least because **Oregon currently has no established minimum age of prosecution at all.**

The Harm to Oregon's Children

When Oregon subjects children to the court process and puts them in juvenile detention centers, the barriers they face in education and employment worsen, their physical and mental health are harmed, and they are at higher risk of abnormal health development. BIPOC, LGBTQIA+, and low-income children are disproportionately affected.

What Oregon children do need is access to "developmentally appropriate, trauma-informed, supportive health and social services, not inappropriate punishment."³



Between 2017 and 2021, more than 1,000 Oregon children aged 7–11 had some form of contact with the juvenile justice system or were in a situation where they could be arrested, charged, and prosecuted in juvenile court.

- 1 Moffitt, T. E. (1993). *Adolescence-limited and life-course-persistent antisocial behavior: A developmental taxonomy*. *Psychological Review*, 100, 674–701.
- 2 Steinberg, L., & Cauffman, E. (1996). *Maturity of judgment in adolescence: Psychosocial factors in adolescent decision making*. *Law and Human Behavior*, 20, 249–272.
- 3 Granner, B. (2021). *Minimum age of prosecution of 12: What does it mean and why does it matter?* National Commission on Correctional Health Care. Retrieved from <https://www.ncchc.org/minimum-age-of-prosecution-of-12-what-does-it-mean-and-why-does-it-matter/>.

The Solution

Oregon children need access to “developmentally appropriate, trauma-informed, supportive health and social services, not inappropriate punishment.”

We must pass **HB 2327** which would:

1. Establish a minimum age of 12 for prosecution in a juvenile court jurisdiction.
2. Allow county juvenile departments to provide preventative services to individuals under the age of 12. This includes:
 - therapy;
 - trauma-informed services;
 - educational supports; and
 - family navigation resources.
3. Appropriate money to the Youth Development Division to provide preventative services to individuals under the age of 12 for the 2023–2025 biennium.

HB 2327 would bring Oregon in line with 24 other states that have established a minimum age at which youth can be prosecuted.

Oregon must join California, Massachusetts, Utah, Delaware, and New York which have all legislated a minimum prosecution age of 12 years old.

The following child health organizations recently endorsed a statement calling for a minimum prosecution age of at least 12:

- *American Academy of Pediatrics*
- *American Academy of Child & Adolescent Psychiatry*
- *American Council for School Social Work*
- *American Psychological Association*
- *Clinical Social Work Association*
- *National Association of Social Workers*
- *Society for Adolescent Health and Medicine*

Source: Granner, B. (2021). *Minimum age of prosecution of 12: What does it mean and why does it matter?* National Commission on Correctional Health Care. Retrieved from <https://www.ncchc.org/minimum-age-of-prosecution-of-12-what-does-it-mean-and-why-does-it-matter/>

HB 2327 is supported by:



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