



Oregon Juvenile Department Directors' Association
Representing Oregon's County Juvenile Departments
www.ojdda.org

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Issue Brief on Minimum Age Prosecution in Oregon – HB 2327

The Oregon Juvenile Department Directors' Association (OJDDA) believes that establishing a minimum age at which a youth can be formally petitioned into juvenile court is a best practice in line with current research on child and adolescent brain development and supports a developmental approach. Almost half the states in the country (24) have established a minimum age at which youth can be prosecuted. In Oregon there are laws which do have some minimum age requirements related to the juvenile justice system:

- **419C.133** establishes that a youth must be at least 12 years old to be placed in a juvenile detention center unless there is a special order from the juvenile court which documents why it is in the best interest of the youth to be placed in a juvenile detention center; Similarly,
- **419C.478** establishes a minimum age in which an adjudicated youth may be committed to the care and custody of the Oregon Youth Authority (OYA) or the Oregon Department of Human Services (ODHS) again with written findings made by the juvenile court why it is in the adjudicated youth's best interest to be placed in the custody of the OYA or DHS.

OJDDA is in support of HB 2327 which establishes a minimum age of 12 for prosecution

The Oregon Juvenile Departments Directors' Association (OJDDA) has long been a leading voice in Oregon for the development of a juvenile system to address delinquent behavior taking into account adolescent brain development and using the developmental approach to support appropriate responses for delinquent behavior. OJDDA members have worked very hard to reduce risks in our communities by using validated risk assessment tools and best practices in community supervision models to assist youth in developing the skills to make better decisions in our communities. Still Oregon's juvenile justice system is continuously trying to diminish the disparities for youth of color within our system. Youth of color are overrepresented in every part of the juvenile system and we would expect the same when it comes to youth under the age of 12 being referred to county juvenile departments for delinquent behavior. Children under the age of 12 do not have the brain development to understand the court process or provide any effective assistance to their attorney in a court process. Data collected by the Juvenile Justice Information System (JJIS) between 2017 and 2021 showed;

- 1,029 children between the ages of 7 and 11 were referred to county juvenile departments. 40 youth aged 10 and 11 were placed on probation.
- 124 youth between the ages of 8 and 11 were placed on formal accountability agreements (FAA).
- 114 children between ages of 8-11 diverted into accountability court or diversion supervision by the juvenile department.
- 270 children between the ages of 8 and 11 had referrals (a referral is equivalent to an arrest by law enforcement) rejected by the DA or juvenile department.

While these numbers are not extremely high over a five-year collection, it is not uncommon for youth under the age of 12 to be referred and/or adjudicated, (adjudicated is when the juvenile court has taken jurisdiction of a youth through the court process).

Oregon would be joining the states of California, Massachusetts, Utah, Delaware and New York who have an established legislated minimum age of 12 years old in order to be prosecuted in a juvenile court. OJDDA believes that the minimum age of 12 is already established in Oregon law as stated above with ORS 419C.133 and 419C.478 and should be adopted as a minimum age for prosecution.

Adjudicating and placing children in juvenile detention centers exacerbates barriers for children related to education and later employment opportunities. It interferes with normal development and increases the risks for abnormal physical and mental health development. Age at first referral is a significant risk factor and has been validated to indicate the younger a child is referred to a county juvenile department the more likely they will stay involved in the juvenile justice system and become a chronic offender.

Oregon's juvenile justice system is being used as a gateway for services

It is a very common phrase to hear from service providers and families across the state of Oregon that "Now that (name of a youth) is 12 years old they can go to detention and be committed to the Oregon Youth Authority." Oregon's children's system is grossly inadequate at meeting the growing mental health and behavioral needs of children in our communities. The best prevention tool for youth entering into the juvenile justice system is to have services in place to meet the needs of the trauma they have experienced in their short lifetime as early as possible. Without the appropriate services in place these children continue down a path of self-destructive behaviors and wind up eventually having behavior reported to law enforcement resulting in a "referral" and pathway into the juvenile justice system.

Additional Support

HB 2327 contains funding through the Youth Development Division for appropriate prevention and intervention services, which includes: individual, group, and family therapy; trauma-informed and developmentally appropriate services not otherwise covered by health insurance, including community-based sex offense specific treatment; assessment to identify treatment needs, educational supports, family navigation and support services, and skill building classes. OJDDA has been meeting regularly with other groups who support and promote juvenile justice issues. These groups include: Oregon Justice Resource Center (OJRC), Youth Rights and Justice (YRJ), American Civil Liberties Union (ACLU), Oregon Criminal Defense Lawyers Association (OCDLA) and the Latino Network. These groups believe minimum age legislation is necessary to match with the known science around adolescent brain

development and a developmental approach. Using best practices in what we know is most effective for children and youth is a responsible approach for the juvenile justice system in response to delinquent behavior.