



# Age Discrimination in the Workplace

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# Federal Workplace Discrimination Laws

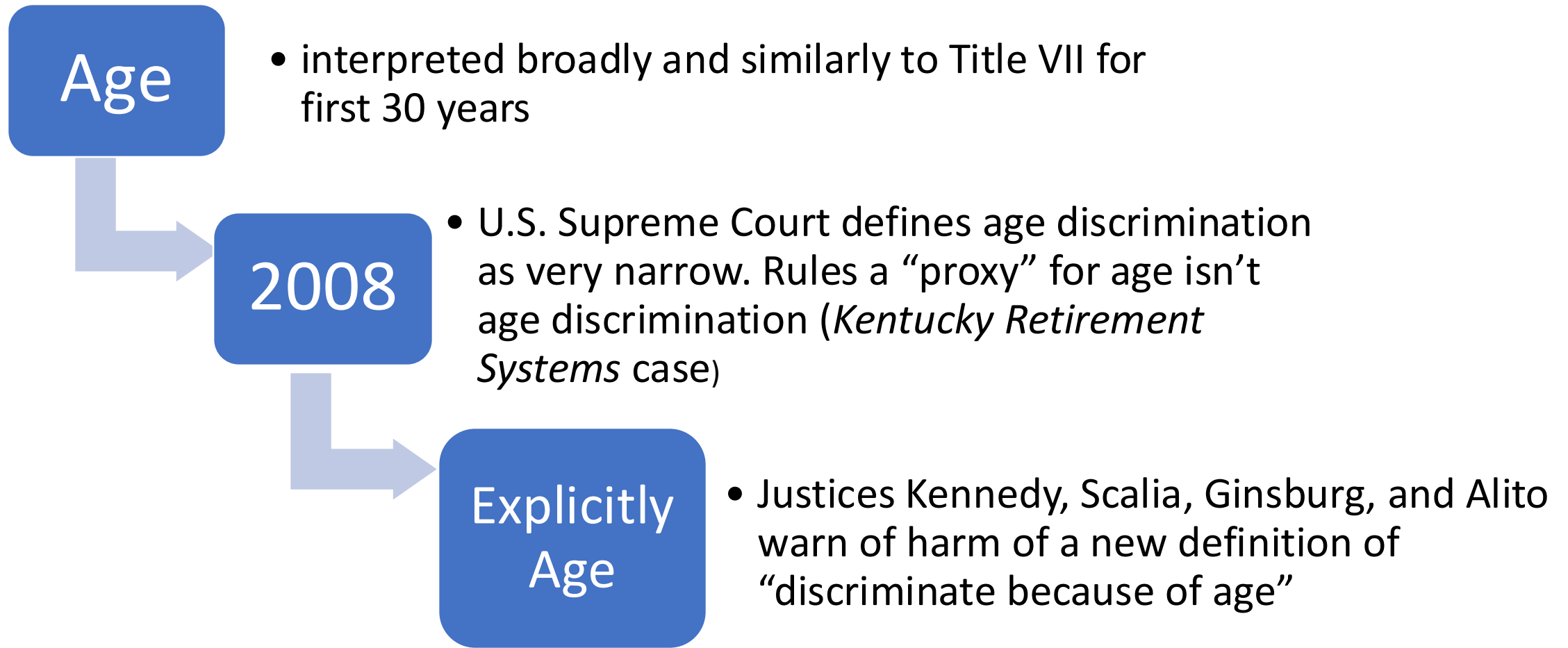
## Title VII of the Civil Rights Act (1964)

- Race, Sex, Religion, National Origin, Color and Creed

## Age Discrimination in Employment Act (ADEA 1967)

- Age

# U.S. Supreme Court Narrowly Defines “Because of Age”



# Courts Rule NOT Age Discrimination

Supervisor said “Why don’t you retire and make everyone happy?”

Court dismissed age discrimination claim

Vice-President’s statements that company “‘is run by white-haired old men waiting to retire,’ and ‘[t]his must change’”; those who lost their jobs replaced by “young college graduates at less money”

Court ruled irrelevant.

Supervisor said:  
“It was purely economical -- they were the two oldest employees here.”

Court ruled supervisor’s comment was “irrelevant” and dismissed age claim.

# Age Discrimination Under Oregon Law

18+

Covers workers age 18 and older (like 4 other states + DC);  
12 states cover all regardless of age

No Definition of  
Because of Age

With no definition, courts rely on  
narrow federal law and reject proxies  
for age as evidence of age bias

# Solution: HB 3187 Updates Definition of “Because of Age”

“Because of age MAY include but is not limited to the following factors when used in association with, in correlation with or as a proxy for age:

(a) Salary,

(b) Length of employment service; or

(c) Retirement or pension eligibility or status.”

➤ HB 3187 tells state courts to take a closer look at the evidence to see if age is really a factor.

# OREGON UPDATED DEFINITIONS OF DISCRIMINATION BASED ON SEX AND RACE

## Updated Definition of Because of Sex

- **“Because of sex”** includes, but is not limited to, because of pregnancy, childbirth and related medical conditions or occurrences. An individual affected by the individual’s pregnancy, childbirth or related medical condition. (659A.029)

## Updated Definition of Because of Race

- **“Race”** includes physical characteristics that are historically associated with race, including but not limited to natural hair, hair texture, hair type and protective hairstyles. (659A.001)

## Bias in the Hiring Process

- ❖ Applications don't ask race or sex, but still ask about age, date of birth and date of graduation
- ❖ Oregon updated its law to ban inquiries into criminal history and salary history



# HB 3187 Banning Age- Related Inquiries in Applications



HB 3187 would bar asking:

- Age or DOB or Graduation dates until after the initial interview
- Includes exception if job has a legal age requirement

States with Age-Related Inquiry Bans – Connecticut, Colorado, California, Delaware, Minnesota and Pennsylvania



Questions