

fetal alcohol spectrum disorders (FASD) and the criminal justice system

fact sheet



about

Individuals with an FASD are involved with the criminal justice system at an alarming rate. Youth and adults with an FASD have a form of brain damage that may make it difficult for them to stay out of trouble with the law. They do not know how to deal with police, attorneys, judges, social workers, psychiatrists, corrections and probation officers, and others they may encounter.

addressing FASD in the criminal justice system

- In 2012, the American Bar Association passed a resolution urging all attorneys and judges to receive training to help identify and respond effectively to FASD in the criminal justice system.
- FASD is a range of brain conditions caused by prenatal alcohol exposure.
- As many as 7,061 Minnesota babies are born each year with prenatal alcohol exposure.^[8]
- Young people affected by FASD are at increased risk for involvement with the juvenile justice system.

**\$6.0
Billion**

the annual cost to the US of Fetal Alcohol Syndrome alone in direct and indirect costs^[9]

[T]here is hope. We can change how lawyers, clients, police, judges, probation officers, prison guards, and family members work with FAS clients.

—David Boulding, attorney for clients with an FASD

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FASD by the numbers:

- **94%** of individuals with an FASD also have a mental illness.^[1]
- **50%** of adolescents and adults displayed inappropriate sexual behavior.^[2]
- **60%** of people with an FASD have a history of trouble with the law.^[3]
- **50%** of individuals with an FASD have a history of confinement in a jail, prison, residential drug treatment facility, or psychiatric hospital.^[4]
- **73-80%** of children with full-blown FAS are in foster or adoptive placement.^[5]
- FASD is **10-15 times** more prevalent in the foster care system than in the general population.^[6]
- **60%** of adolescents with an FASD experienced significant school disruptions. (e.g. dropped out)^[7]

If you are interested in learning more, or receiving training on FASD, contact MOFAS. To receive our sources and more information, visit our website at: <http://www.mofas.org/?p=13975>

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issues related to FASD and the criminal justice system

- **false confessions:** they are vulnerable to confabulation and making false confessions.
- **competency:** the youth may be unable to understand the charges against them and participate in their own defense.
- **diminished capacity:** they may find it difficult to distinguish right from wrong, understand consequences or form intent.
- **decisions to decline/remand/waive:** youth are likely to be safer in a juvenile facility than an adult prison due to vulnerabilities.
- **sentencing:** attorneys may be successful in presenting FASD as a mitigating factor. Alternative/diversionary sentencing options should also be explored.
- **treatment:** court ordered treatment is sometimes the most appropriate intervention.

12.8

the average age children with an FASD begin having trouble with the law^[10]

“Children with FAS often develop behavior problems that increase their risk of becoming involved with the criminal justice system.”

- NIAAA report

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reasons individuals with an FASD get in trouble with the law

Research shows that individuals with an FASD have specific types of brain damage that may cause them to get involved in criminal activity. Youth with an FASD are especially at high risk of getting into trouble with the law.

- Lack of impulse control and trouble thinking of future consequences of current behavior.
- Difficulty planning, connecting cause and effect, empathizing, taking responsibility, delaying gratification or making good judgments.
- Tendency toward explosive episodes.
- Vulnerability to peer pressure (e.g., may commit a crime to please their friends).

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