



TESTIMONY IN SUPPORT OF H.2

Hearing Date: February 19, 2025

To Chair Lalonde and Members of the House Committee on Judiciary,

Human Rights for Kids respectfully submits this testimony for the official record to express our support for H.2 Increasing the Minimum Age for Delinquency Proceedings. Human Rights for Kids is a national non-profit organization dedicated to the promotion and protection of the human rights of children. Our work centers a human rights framework to highlight and better understand the connection between Adverse Childhood Experiences (ACEs) and childhood trauma to justice system involvement and negative life outcomes.

Human Rights for Kids would urge the committee to consider raising the minimum age of delinquency jurisdiction to 12 years old without exception. Vermont law, and this bill in its current form, creates an exception to the minimum age of jurisdiction to charge a child of any age with first-degree murder. Alternatively, another mechanism to consider is establishing a split age of jurisdiction, where no child under the age of 10 years old may be prosecuted in a delinquency proceeding, but allowing the current exception to remain in place for 10 and 11-year-old children.

The establishment of a minimum age of prosecution is a human rights issue and raising the minimum age of prosecution is further affirmation of the ways our laws should recognize that children are fundamentally different than adults and that their brains are not fully developed. Specifically, Article 40 of the UN Convention on the Rights of the Child states that lawmakers must create “a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.”

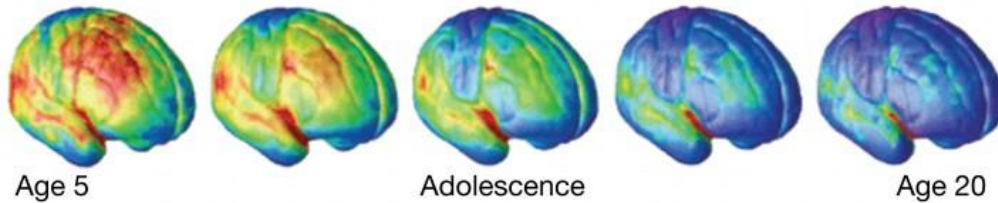
Young children, regardless of the charge, do not have the legal capacity to form criminal intent or the competency to comprehend basic legal principles. This is why Human Rights for Kids supports establishing a minimum age of prosecution without exception.

Juvenile Brain & Behavioral Development Science

Studies of juvenile brain and behavioral development science have shown that children’s brains are not fully developed. This is especially true for children who are under the age of 12. The pre-frontal cortex, which is responsible for temporal organization of behavior, speech, and reasoning continues to develop into early adulthood. As a result, children rely on a more primitive part of the brain known as the amygdala when making decisions. Children’s underdeveloped brains and proclivity for irrational decision-making is why society does not allow children to vote, enter into

contracts, work in certain industries, get married, join the military, or use alcohol or tobacco products. These policies recognize that children are impulsive, immature, and lack solid decision-making abilities. This is especially true for young children under the age of 12 who often lack a basic understanding of the legal process and are too young to be held criminally liable for their actions.

Dynamic mapping of human cortical development

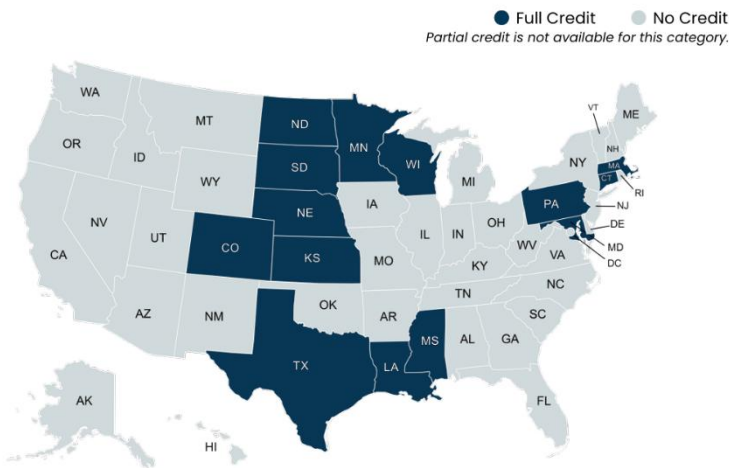


Source: "Dynamic mapping of human cortical development during childhood through early adulthood," Nitin Gogtay et al., Proceedings of the National Academy of Sciences, May 25, 2004; California Institute of Technology.

National Context

Raising the minimum age of jurisdiction without exception would bring Vermont into alignment with a growing contingent of other states who do not allow prosecution for any crime for children under 10 years of age. In 2018, the American Legislative Exchange Council (ALEC) passed a resolution encouraging states to establish a minimum age of at least 10 before a child could be adjudicated delinquent and a wide range of states, including but not limited to Texas, Mississippi, Louisiana, Kansas, Nebraska, Minnesota, Wisconsin, Pennsylvania and Connecticut have all passed minimum age legislation where a child under either 10 or 11 years of age cannot criminal prosecution or be adjudicated delinquent. Additionally, Massachusetts has enacted a minimum age of jurisdiction of 12 years old.

10+ Minimum Court Age



Conclusion

According to data Human Rights for Kids received from the Vermont Judiciary for the years 2000 - 2024, no child under the age of 12 has been charged with the crime of first-degree murder pursuant to 13 V.S.A. § 2301 as it currently exists as an exception to the minimum age of jurisdiction.

Additionally, for children under the age of 12 who may be in need of intervention, there are other more appropriate systems already established which empower a court to order a broad range of services designed to support a child and their family to address any behavioral concerns without criminalizing young children.

It is for the foregoing reasons that Human Rights for Kids respectfully submits this testimony in support of H.2.

Thank you for your time and consideration.

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