

Prenatal alcohol exposure (or drinking alcohol during pregnancy) can cause fetal alcohol spectrum disorders (FASD). FASD refers to a range of conditions including birth defects, brain injury, and physical, behavioral, and intellectual disabilities.¹ These conditions are lifelong and irreversible. Individuals with an FASD are involved in the criminal justice system at an alarming rate. Youth and adults with an FASD often have a form a brain injury that may make it difficult for them to stay out of trouble with the law.²⁻⁶ They may 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 individuals on the fetal alcohol spectrum.⁸
- 50% of individuals with an FASD have a history of confinement in a jail, prison, chemical health treatment facility, or psychiatric hospital.⁹
- People with an FASD are vulnerable to confabulation and making false confessions.¹⁰
- People with an FASD may be unable to understand the charges against them and participate in their own defense.
- Youth with an FASD are likely to be safer in a juvenile facility than an adult prison due to vulnerabilities.
- Attorneys may be successful in presenting FASD as a mitigating factor. Alternative/diversionary sentencing options should be explored.
- Court-ordered treatment is sometimes the most appropriate intervention.¹¹

Reasons People with an FASD May Get in Trouble with the Law

Research shows that individuals with an FASD have specific types of brain injury that can lead to behaviors that can cause them to get involved in criminal activity. These include:

- Difficulty with impulse control and inability to understand future consequences of current behavior
- Difficulty planning, connecting cause and effect, empathizing, taking responsibility, delaying gratification, and/or making good judgements
- Tendency toward explosive episodes and longer period to calm or regulate themselves
- Vulnerability to peer pressure (e.g., may commit a crime to please their friends)



The average age that children with an FASD begin having trouble with the law is 12.8-years-old.⁷

"There is hope. We can change how

lawyers, clients, police, judges, probation

officers, prison guards, and family

members work with FASD clients."

– David Boulding, attorney for clients with an FASD

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