



## 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

- FASD is a range of brain conditions caused by prenatal alcohol exposure. FASD is invisible in more than 90% of cases. [8] (Andrews 2011) Although a common form of developmental disability, the capacity to diagnose FASD is still limited. [9] (Clarren, Lutke 2011)
- Drinking alcohol during pregnancy can seriously harm an unborn baby. Each year in Canada, it is estimated that nine babies in every 1,000 are born with Fetal Alcohol Spectrum Disorder (FASD). The birth defects and developmental disabilities that result from FASD are preventable by avoiding alcohol during pregnancy. [10](Health Canada 2006)
- Research suggests that the rate of FASD among the inmate population may be 28 times higher than in the general population [11](MacPherson 2011) and that youth with FASD are 19 times more likely to be confined in a young offender's facility than their non-affected peers. [12](Popova, Lange, Bekmuradov et al 2011)
- Given the annual cost of approximately \$3 billion for adult correctional services [13] (Landry & Sinha, 2008) and a conservative FASD prevalence of 23.3% for youth offender populations [14] (Fast, Conry, & Looock, 1999), a low-end estimate of costs of FASD for the Canadian justice system is roughly \$700 million annually. [15](23.3 % of CA \$3 billion; Thanh et al., 2011)



**FASD can be devastating to families and has been estimated to cost the Canadian economy \$6.2 billion annually** [16] (Thanh, Jonsson, Dennett, & Jacobs, 2011)

*[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*

## 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 FASD Peterborough. To receive our sources and more information, visit our website at: [www.fasd-peterborough.ca](http://www.fasd-peterborough.ca)**

[1-4, 7] Streissguth, Bookstein, Barr et al 2004

[5] Burd, 2001

[6] A Streissguth, 1998

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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.



**The average age children with an  
FASD begin having trouble with the  
law** [17] (Novick Brown, Wartnik, Connor & Adler, 2010)

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

### 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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