



Trends in Laws Governing the Behavior of Late Adolescents up to Age 21 Since *Roper*

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Abstract

This paper provides a summary of federal and state laws, including statutes, regulations, and constitutional provisions, that restrict the privileges and abilities of late adolescents up to age 21. In several areas, governments have raised the minimum legal age for certain privileges or licenses from 18 to 21, or instituted new age restrictions with a minimum age of 21. The paper concludes that, since the *Roper* decision in 2005, the federal and state governments have maintained and enacted laws demonstrating a societal consensus that people under 21 need to be protected from their own high-risk behavior; that the public at large needs to be protected from the immaturity and impulsivity of those under age 21; and that those under 21 are considered minors who must be supervised by adults in several legal contexts.

Keywords Death penalty · *Roper* · Adolescence · Law and neuroscience

When the Supreme Court ruled that the Eighth and Fourteenth Amendments forbid capital punishment for those under 18 years old at the time of their offense, it partially based its decision on the national consensus about differences in laws restricting the behavior of those over and under age 18. To support this point, the court included three appendices of laws that demonstrated “almost every State prohibits those under 18 years of age from voting, serving on juries, or marrying without parental consent” (*Roper v. Simmons*, 2005, pp. 551, 569). The court found that every state had a minimum age of 18 to vote, 46 had a minimum age of 18 to serve on a jury, and 46 had a minimum age of 18 to marry without parental consent (*Id.* at 1202–04). The court ultimately drew a bright line rule, deciding that those who were under the age of 18 when they committed a crime could not be subject to capital punishment. A detailed analysis of the additional reasons for their decision is given in several other articles in this issue.

In the years since *Roper*, new and amended laws have increasingly reflected the country’s recognition of the

differences in the development between those under and over 21. There are over 3000 laws across the USA that limit a person’s privileges or abilities based on not achieving the age of 21. The following addresses trends in federal and state laws that restrict an individual’s privileges or abilities based on minimum ages between 18 and 21. There are several areas where the accepted minimum age for privileges and licensing has risen since 2005. These are separated below into various topics, categorized as “consensus trends,” “emerging trends,” and “nascent trends.” Most starkly, since the *Roper* decision, the national age to purchase tobacco products, or recreational marijuana in any state where it is legal, is uniformly 21. Since *Roper*, Congress has also raised the age at which one is deemed responsible to have a credit card without a cosigner to 21. Forty-one states now agree that 21 is the dividing line for defining a “minor” in statutory trust arrangements. Forty-one states also guarantee public education through high school to late adolescents through least at their 20th birthday, thirty of those states setting the line at 21. States have also recognized that 21-year-olds lack the responsibility for certain dangerous jobs, with 41 states barring people under 21 from conducting fireworks displays and 32 barring people under 21 from blasting or other jobs using explosives. There are also several emerging trends, including national age requirements to serve as a police officer, private investigator, and other professions, requiring licensing. Even the Federal judicial system, which is served by the office of the U.S. Marshal, refuses employment

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as a marshal to those under age 21. Finally, other developments show that legislators have used neuroscience about late adolescent brain development as the basis for an age minimum for motorcycle helmet law, that the age for who is considered a “juvenile” in the criminal justice system has been rising since 2005, and also that legislatures have *resisted* attempts to lower ages for state legislative office.

These laws serve multiple purposes. Many of them are designed to protect persons under 21 from engaging in behavior known to be detrimental to their future development, such as the use of alcohol and other drugs, creating unsurmountable debt from credit card spending, or engaging in high-risk behaviors without adequate forethought. Others are designed to protect them from predation by unscrupulous marketers and to extend other protections to them such as allowing them to be in foster care up to age 21 and the right to receive a free appropriate public education. Most, however, seem to be designed to protect the general public from their immature judgment, rashness, and impulsivity, e. g., laws restricting gun purchases, not allowing them to drive commercial vehicles across state lines, and be a weapon-carrying public safety officer, yet, to date, their judgment has been deemed sufficient to allow them to be put to death as a punishment for the exercise of these same judgmental flaws.

Sources of Law

There are three primary sources of law examined to measure the trends in age restrictions cited below: constitutions, statutes, and regulations. The US government, and each of the 50 states, has its own constitution that acts as a foundational document, describing the jurisdiction’s system of government and guaranteeing certain fundamental rights. Statutes are laws enacted by a legislative body, such as the United States Congress or analogous state bodies (Black’s Law Dictionary). Regulations are rules with legal force created by an administrative agency (*Id.*) Agencies are created by statute, conferring upon an agency the ability to make rules within certain areas.

While the United States Constitution leaves many powers to the states, there are areas where federal law necessarily controls states’ abilities to make law. For one prominent example, states cannot violate the fundamental rights guaranteed by the Constitution (U.S. Const. amend. XIV, § 1). Most relevant to the laws discussed below is the federal government’s ability to create laws regarding interstate commerce, giving federal law final say over business that crosses state lines, from commercial trucking to the purchase of firearms (U.S. Const. Art. I, § 8, cl. 3).

The laws presented throughout this article were identified first through searches on the Westlaw legal database. Legislatures or agencies change age provisions in laws in three ways: changing the specific age requirement, such as raising a minimum from 18 to 21; instituting a specific age

requirement where there previously was none; or instituting a new law with an age requirement. Changes in laws between 2005 and now were verified by the amending legislation on Westlaw and through individual states’ public legislative web sites. In the case of state and federal regulations, any changes were identified by comparing the current version of the regulation with its 2005 equivalent, either in exact citation or in subject matter, through Westlaw.

Consensus Trends

Substances

Congress raised the national drinking age from 18 to 21 years in 1984 (National Drinking Age Minimum Act, 23 U.S.C. § 158). Since the time of *Roper*, two other major recreational substances subject to government restriction, tobacco and marijuana, have also had their age minimums increased. In 2019, after several years of individual states raising the minimum age to purchase tobacco to 21, Congress mandated that age minimum across the entire country. Further, in every state to legalize recreational marijuana, which first happened in Colorado and Washington in 2012, the minimum age to purchase and use the drug is 21.

Tobacco

On December 20, 2019, President Trump signed a federal spending bill that included a provision raising the age to purchase tobacco products nationally from 18 to 21 (Consolidated Appropriations Act, 2020, H.R. 1158, 116th Congress, Dec. 20, 2019). This federal legislative action followed a 4-year trend of state legislatures raising the age required to purchase tobacco, almost uniformly to 21. In total, 22 states raised the age to purchase tobacco above 18, and 19 of those states raised the age to 21.

Before the 2019 federal legislation, 19 states and the District of Columbia had raised the age of tobacco purchase to 21. The first state to raise its age requirement to 21 was Hawaii in 2015 (2015 Hawaii Laws Act 122 (SB 1030)). California and the District of Columbia followed in 2016 (2016 Cal Legis Serv 2nd Ex Sess Ch 8 (SB 7), 2016 District of Columbia Laws 21-191 (Act 21-545)). Maine, New Jersey, and Oregon followed suit in 2017 (2017 Me Legis Serv Ch 308 (SP 391) (LD 1170) (2017 NJ Sess Law Serv Ch 118 (SENATE 359)), 2017 Oregon Laws Ch 701 (SB 754)). In 2018, Massachusetts also raised the age to 21 (2018 Mass Legis Serv Ch 157 (HB 4486)).

In 2019, an additional 13 states followed the trend in raising the age to 21: Arkansas (2019 Arkansas Laws Act 580 (HB 1565)), Connecticut (2019 Conn Legis Serv PA 19-13 (HB 7200)), Delaware (2019 Delaware Laws Ch 10 (SB 25)),

Illinois (2019 Ill Legis Serv PA 101-2 (HB 345)), Maryland (2019 Maryland Laws Ch 396 (HB 1169)), New York (2019 NY SB S2833), Ohio (Appropriations, Fiscal Year State Budget—2020–2021, 2019 Ohio Laws File 10 (Am. Sub. H.B. 166)), Pennsylvania (2019 Pa. Legis. Serv. Act 2019-111 (S.B. 473)), Texas (2019 Tx SB 21), Utah (2019 Utah Laws Ch 232 (HB 324)), Vermont (2019 Vermont Laws No 27 (S 86)), Virginia (2019 Virginia Laws Ch 90 (HB 2748)), and Washington (2019 Wash Legis Serv Ch 15 (HB 1074)).

Prior to 2019, an additional three states set a minimum age of 19 to purchase tobacco products: Alabama and Alaska set that minimum prior to 2005 (Ala Code §§ 28-11-2, 13A-12-3, Alaska Stat § 11.76.105). Nebraska raised the age to 19 in 2019 (2019 Nebraska Laws LB 149). A few states had previous restrictions on people under 21 being involved in activities related to tobacco. Nevada prohibited smoking in indoor places that admit patrons under 21 (2006 Nev Ballot Question No 5). Maine required those who sell cigarettes be over 21 (Me Stat tit 22, § 1555-B). Oregon required patrons be 21 to enter a smoke shop or cigar bar (2011 Oregon Laws Ch 601 (HB 2726), 2008 OAR 333-015-0030).

Marijuana

After the November 2020 elections, 15 states now have legalized recreational use of marijuana. All states to legalize recreational marijuana have instituted a minimum age for purchase and use of 21 years.

Eleven states and District of Columbia legalized recreational marijuana before 2020.

The first states to do so were Washington (WA Initiative 502, 2012) and Colorado (C.R.S.A. Const. Art. 18, § 16) in 2012. In 2014, Alaska followed (2014 Alaska Laws Initiative Meas 2 (Bal Meas 2)). Oregon voters passed their recreational marijuana legalization ballot measure in 2015 (2015 Oregon Laws Ch 1 (BM 91)). In 2016, California and Nevada also legalized recreational marijuana through ballot measure, and the Massachusetts legislature passed a law legalizing personal use of marijuana (2016 Cal Legis Serv Prop 64; Regulation 2016 initiative petition, Nevada Ballot Question No 2, § 2, eff. Jan. 1, 2017; 2016 Mass. Legis. Serv. Ch. 334 (H.B. 3932)). In 2018, Michigan legalized recreational marijuana for those over 21 through a ballot initiative, while Maine and Vermont legalized through their legislature (2018 MI Initiated Law 1, 2018 Me Legis Serv Ch 409 (HP 1199) (LD 1719)), 2018 Vermont Laws No 86 (H 511)). In 2019, the Illinois legislature also passed a law requiring legalization for those over 21 (2019 Illinois HB 1438). The residents of Washington, D.C., voted for legalization in 2014 (Initiative 71 (2014)).

The consensus that legal recreational marijuana should only be available to those 21 or older held in 2020, as four more states passed legalization laws. Those states were Arizona (Proposition 207 (2020)), Montana (Initiative 190 (2020)),

New Jersey (Public Question 1 (2020)), and South Dakota (Constitutional Amendment A (2020)).

Other Drugs

Only Oregon has passed statewide legislation legalizing another drug. In 2020, Oregon voters also passed Measure 109, which legalized therapeutic use of the Schedule I drug psilocybin and “allows a client who is at least 21 years of age to purchase, possess, consume, and experience the effects of psilocybin at a licensed psilocybin service center during a psilocybin administration session with a licensed psilocybin service facilitator” (Explanatory Statement, 2020 Oregon Voter’s Guide). One of the arguments in favor, filed by retired Clackamas County Sheriff’s Office Sergeant Paul J. Steigleder II, pointed out the protections written into the measure included “minors under the age of 21 will not be eligible for this therapy” (Arguments in Favor of Ballot Measure 109, 2020 Oregon Voter’s Guide).

Commercial Transportation

Under federal law, and since before 2005, a person must be at least 21 years old to drive a commercial vehicle in interstate commerce (49 CFR §§ 391.11, 390.3(f), 391.2). Any person operating a commercial vehicle across states lines must be at least 21.

Due to the federal regulation, any state permitting a person under 21 to drive a commercial vehicle can only do so within the state’s boundaries. In 2019, the Alabama legislature instituted one of the only recent laws to lower an age from 21 by enacting a statute allowing those between ages 18 and 21 to operate a commercial vehicle within the state (Ala. Code 1975 § 32-6-49.40). That law is explicitly premised on economic need, stating “that current economic conditions are such that the number of individuals willing and qualified to operate commercial vehicles is insufficient in relation to the volume of freight available” (*Id.*).

Credit Cards

In another example of the broad implications of federal law, in 2009, Congress passed a law barring anyone under 21 to obtain a credit card without a cosigner (15 USC §§ 1637(c)(8) & (p), added through Pub L 111-24, § 3, 123 Stat 1734 (2009)). Practically, because credit card companies necessarily operate across state lines, this federal age restriction on obtaining a credit card affected any late adolescent in the county. Following the passage of this statute, the Illinois legislature followed suit, altering its statute allowing issuance of a credit card without a cosigner, guarantor, or joint applicant, raising the age from 18 to 21 in 2010 (815 Ill Comp Stat § 140/7.2, amended by PA 96-1193, § 10).

Foster Care

In 2008, the federal statutory scheme that pays grant money to states for child welfare services expanded the definition of a foster age “child” to include those up to age 21, at states’ discretion (42 USC § 675(8)(B)(iii), Pub L 110-351, 122 Stat 3949 (2008)). Several states have expanded the age of a “child” to 21 for foster care or other social services since 2005. Maine increased the statutory age to qualify as a “child” in children’s shelters and residential care facilities from 18 to 21 in 2007 (Me Stat tit 22, §8101, 2007 Me Legis Serv Ch 324 (HP 1254)). In 2014, Wisconsin also raised the age at which a person is considered a “child” for certain child welfare services (Wis Stat § 48.57, 2013-2014 Wisc Legis Serv Act 334 (2013 SB 451)). Florida raised the age defining a “child” for the purpose of certain adoption assistance payments from 18 to 21 in 2018 (Fla Stat § 409.166, 2018 Fla Sess Law Serv Ch 2018-103 (CSCSHB 1079)).

States have demonstrated a broad recognition that someone under 21 lacks qualification to act as a foster parent, and thirty-four states explicitly require a person to be 21 to act as a foster parent. The states requiring a foster parent be 21 are Alaska (7 Alaska Admin Code 50.200), Arizona (Ariz Admin Code § R21-6-403), Arkansas (Arkansas DHS Pub-22), Florida (Fla Admin Code Ann r 65C-13.030), Idaho (Idaho Admin Code r 16.06.02.402), Illinois (89 Ill Admin Code 402.12), Indiana (465 Ind Admin Code 2-1.5-3), Iowa (Iowa Admin Code r 441-113.12(237)), Kansas (Kan Admin Regs 30-47-3), Kentucky (922 Ky Admin Regs 1:310), Louisiana (La Admin Code tit 67, Pt V, § 7315), Maine (10-148 Me Code R Ch. 16, § 9), Maryland (Md Code Regs 07.02.25.04), Minnesota (Minn R 2960.3060), Mississippi (Miss DHS DFCS Regs § F.II.A), Missouri (13 Mo Code Regs 35-60.030), Nevada (Nev Admin Code 424.260), New Hampshire (NH Code R He-C 6446.04), New York (18 NY Comp Codes R & Regs 443.2), North Carolina (10A NC Admin Code 70E.1104), North Dakota (ND Admin Code § 75-03-14-01), Ohio (Ohio Admin Code 5101:2107-02), Oklahoma (Okla Admin Code 340:110-5-58), Oregon (OAR 411-346-0150), Pennsylvania (55 Penn Cons Stat § 3700.62), Rhode Island (214 RI Code R 10-00-1.17), South Carolina (SC Code Ann Regs 114-550), Texas (26 Tex Admin Code § 749.2403), Utah (Utah Admin Code R501-12), Vermont (Vt Admin Code 12-3-501:20), Virginia (22 Va Admin Code 40-141-30), Washington (Wash Admin Code 110-148-1365), West Virginia (WV Code R § 78-2-13), and Wyoming (Wyo Code R 049.0029.5 § 7, Wyo Code R 049.0029.6 § 7).

Of those thirty-four, five states have raised the age or adopted the age qualification since 2005. Iowa’s regulation raised the age for foster parent eligibility from 18 to 21 between 2005 and 2019. Delaware adopted the minimum age requirement of 21 in 2013 (9 Del Admin Code 201-39.0). Indiana, Louisiana, and Texas did not have regulations about foster parent age qualifications in 2005.

A further four states have similar qualifications related to foster care. Colorado requires a person be 21 to be a “foster home provider” (12 Colo Code Regs 2509-8:7.708.7). Connecticut specifies an age minimum of 21 to be a nonrelative foster parent (Conn Gen Stat § 17a-114). South Dakota requires a person be 21 to qualify as a “family foster care provider” (SD Admin R 67:42:05:06). Wisconsin requires a person be 21 to operate a foster home (Wis. Adm. Code § DCF 56.05).

In addition, Nebraska requires a foster parent be 19 years old (474 Neb Admin Code Ch. 6, § 003.25C).

This recognition that a person should be at least 21 to be responsible to care for other people has also emerged in other fields. For example, several states have instituted a minimum age of 21 to serve as manager of nursing homes or assisted living facilities: Florida (Fla Admin Code r 59A-36.010), Idaho (Idaho Code § 54-1605), Ohio (Oh St 4751.20), Louisiana (La Admin Code tit 46, Pt XLIX, § 503), Maryland (Md Code Ann, Health Occ § 9-302), Massachusetts (Mass Gen Laws ch 19D § 15), Missouri (Mo Rev Stat § 344.030), New York (NY Pub Health Law § 2896-c), Oklahoma (Okla. Admin Code 490:10-1-2.1), Nebraska (Neb Rev Stat § 38-2423), Utah (Utah Admin Code R432-270), and Wyoming (Wyo Code R 048.0003.12 § 6, manager of assisted living facility).

Of those, Maryland raised the age from 18 to 21 in 2008 (2008 Maryland Laws Ch 84 (HB 697), amending). This bill was passed with the sole “purpose of altering the minimum age for licensure as a nursing home administrator” (*Id.*). Ohio and Nebraska also instituted their age requirements for a provisional nursing home administration license after 2005 (2005 Neb Rev Stat § 71-4707, 2005 Okl. Admin Code 490:10-1-2.1).

Uniform Transfer to Minors

The Uniform Transfer to Minors Act is a “statutory form of trust or guardianship” that allows a custodian to manage property for the benefit of a minor (Peterson, 1995). When the minor reaches the statutorily defined age, property remaining in the custodianship is then distributed to the minor. This model legislation was created in 1983 as a revised version of a previous statute governing gifts to minors. Currently, 41 states have adopted this statutory scheme to define a “minor” as under age 21. Two of those states have done so since 2005. At this time, only one state, South Carolina, does not have a Uniform Transfer to Minors statute.

The following states have adopted the statute to define “adult” as having attained age 21 and “minor” as under 21: Alabama (Ala Code § 35-5A-2), Arizona (Ariz Rev Stat Ann § 14-7651), Arkansas (Ark Code Ann § 9-26-201), Colorado (Colo Rev Stat § 11-50-121), Connecticut (Conn Gen Stat § 45a-557a), Delaware (Del Code Ann tit 12 § 4501), Florida

(Fla Stat § 710.102), Georgia (Ga Code Ann § 44-5-111), Hawaii (Haw Rev Stat § 553A-1), Idaho (Idaho Code § 68-801), Illinois (760 Ill Comp Stat § 20/2), Indiana (Ind Code § 30-2-8.5-1), Iowa (Iowa Code Ann § 565B.1), Kansas (Kan Stat Ann § 38-1702), Maryland (Md Code Ann, Est and Trusts § 13-301), Massachusetts (Mass Gen Laws ch 201A § 1), Minnesota (Minn Stat § 527.21), Mississippi (Miss Code Ann § 91-20-3), Missouri (Mo Rev Stat § 404.007), Montana (Mont Code Ann § 72-26-502), Nebraska (Neb Rev Stat § 43-2702), New Hampshire (NH Rev Stat Ann § 463-A:1), New Jersey (NJ Stat Ann § 46:38A-2), New Mexico (NM Stat Ann § 46-7-12), New York (NY Est Power & Trusts § 7-6.1), North Carolina (NC Gen Stat § 33A-1), North Dakota (ND Cent Code § 47-24.1-01), Ohio (Ohio Rev Code Ann § 5814.01), Oklahoma (Okla Stat tit 58 § 1202), Oregon (ORS 126.805), Pennsylvania (20 Penn Cons Stat § 5301), Rhode Island (RI Gen Laws § 18-7-2), South Carolina (SC Code Ann § 63-5-510), Tennessee (Tenn Code Ann § 35-7-102), Texas (Tex Prop Code Ann § 141.002), Utah (Utah Code Ann § 75-5a-102), Vermont (Vt Stat Ann tit 14 § 3211), Washington (Wash Rev Code § 11.114.010), West Virginia (W Va Code § 36-7-1), Wisconsin (Wis Stat § 54.854(1)), and Wyoming (Wyo Stat Ann § 34-13-114).

Vermont enacted its statute in 2015, raising the age defining a “minor” for such transfer arrangements from 18 to 21 (2015 Vermont Laws No 7 (H 23)). Ohio added its statute in 2006 (2006 Ohio Laws File 128 (Sub HB 416)).

Guaranteed Public Education

Federal law, the Individuals with Disabilities Education Act (IDEA) specifically, guarantees a free appropriate public education to all handicapped persons through the age of 21 (20 U.S.C. § 1412(a)(1)(A)). At the state level, 30 states guarantee free public education to all students through completion of high school until age 21, with an additional two providing that guarantee beyond 21, and nine providing education up to age 20.

The thirty states that guarantee a free public education through high school up to age 21 are Alabama (Ala Const Ar. XIV, § 256), Arizona (Az Const Art 11, § 6), Arkansas (Ar Const Art 14, § 1), California (Cal Educ Code § 46300.1), Colorado (Colo Rev Stat § 22-1-102), Connecticut (Conn Gen Stat § 10-186), Idaho (Idaho Code § 33-201), Illinois (105 Ill Comp Stat § 5/26-2), Iowa (Iowa Code Ann § 282.1), Kentucky (Ky Rev Stat Ann § 158.100), Louisiana (La Stat Ann § 17:221.3), Maryland (Md Code, Educ § 7-101), Massachusetts (Mass Gen Laws ch 71B § 1, defining “school age child” as ages 3 through 21), Minnesota (Minn Stat § 120A.20), Mississippi (Miss Code Ann § 37-45-1), Missouri (Mo Rev Stat § 160.051), Nebraska (Neb Const Art VII, § 1), New Hampshire (NH Rev Stat Ann § 189:1-a), New Mexico (NM Stat Ann § 22-8-2), New York (NY Educ § 3202), North

Carolina (NC Gen Stat § 115C-1), North Dakota (ND Cent Code § 15.1-06-01), Ohio (Ohio Rev Code Ann § 3313.64), Oklahoma (Okla Stat tit 70 § 1-114), Oregon (ORS 339.115), Pennsylvania (24 Penn Cons Stat § 13-1301), South Carolina (SC Code Ann § 59-63-20), South Dakota (SD Codified Laws § 13-28-5), Washington (Wash Rev Code Ann § 28a.225.160), West Virginia (W Va Code § 18-5-15), and Wyoming (Wyo Stat Ann § 21-4-301).

Two states guarantee public education for a longer time. In 2007, Texas raised the age for guaranteed education from 21 to 26 years old (Tex Educ Code Ann § 25.001, 2007 Tex Sess Law Serv Ch 850 (HB 1137)), and Indiana has guaranteed education through age 22 since before 2005 (Ind Code § 20-21-1-6).

A further nine states guarantee public education through age 20. Those states are Alaska (Alaska Stat § 14.03.070), Delaware (Del Code Ann tit. 14 § 202), Georgia (Ga Code Ann § 20-2-150), Hawaii (Haw Rev Stat § 302A-1134), Maine (Me Stat tit 20, § 5201), Michigan (Mich Comp Laws § 388.1606), New Jersey (NJ Stat Ann § 18A:38-1), Virginia (Va Code Ann § 22.1-1), and Wisconsin (Wis Const Art. X, § 3). Of those, Hawaii raised the age guarantee from 18 in 2010 (2010 Hawaii Laws Act 163 (HB 2077)). The statute previously provided that no one over the age of 18 would be admitted to tenth grade; it now provides that no one over the age of 20 on the first day of the school year is eligible to attend public school.

Of the remaining states, Montana guarantees education through age 19 (Mont Code Ann § 20-5-101), and Kansas, Florida, and Tennessee have no age-based guarantee of free public education.

Fireworks Displays

Forty-one states require a person be at least 21 years old to operate a fireworks display, with four states raising the minimum age from 18 to 21 since 2005, and an additional seven states instituting the age requirement for the first time in the same period. Many states have established these age limits through adoption of the International Fire Code (IFC), a set of international industry standards for fire prevention and fire protection systems (Int'l Fire Code, <https://codes.iccsafe.org/content/IFC2018>), or through adoption of model codes from the National Fire Prevention Association (NFPA), an American organization that also provides model codes for fire safety (NFPA, <https://www.nfpa.org/Codes-and-Standards>).

The 41 states with a minimum age of 21 to conduct fireworks displays are Alabama (Ala Code § 8-17-231), Alaska (13 Alaska Admin Code 50.025, adopting IFC 5601), Arizona (Ariz Admin Code § R4-36-310, adopting IFC 5601), Arkansas (Ark Code Ann § 20-22-707), California (Cal Health & Safety Code § 12517), Colorado (8 Colo Code

Regs 1507-101:3, adopting NFPA 1123), Delaware (1 Del Admin Code 704-2-5.0), Florida (Fla Stat § 791.012 (NFPA 1123)), Georgia (Ga Comp R & Regs 120-3-22-.07, adopting NFPA 1123), Hawaii (Haw Code R § 12-58-1), Idaho (Idaho Admin Code r 18.01.50.041 (IFC 5601.4)), Illinois (225 Ill Comp Stat § 227/35), Indiana (675 Ind Admin Code 22-2.2-26), Kansas (Kan Stat Ann § 31-503), Louisiana (La Stat Ann § 51:655), Maine (Me Stat tit 8, § 231), Maryland (Md Code Regs 29.06.01.09, adopting NFPA 1123)), Massachusetts (527 Mass Code Regs 1.05, adopting NFPA 1123)), Michigan (Mich Comp Laws § 28.466, adopting NFPA 1123)), Minnesota (Minn Stat § 624.22), Mississippi (Miss Code Ann § 45-13-11, adopting NFPA 1123)), Missouri (11 Mo Code Regs 40-3.010), Nevada (Nev Admin Code § 477.636), New Hampshire (NH Rev Stat Ann § 160-B:6), New Jersey (N.J Admin Code 5:70-3.2, adopting IFC 5601.4)), New Mexico (NM Admin Code 10.25.5, adopting IFC 5601.4)), New York (NY Penal Code § 405.10), North Carolina (NC Gen Stat § 58-82A-10), North Dakota (ND Admin Code 10-07-01-04, adopting NFPA 1123)), Ohio (Ohio Rev Code Ann § 3743.50), Oklahoma (68 Okla Stat tit 68 § 1636), Oregon (OAR 837-012-0780), Pennsylvania (72 Penn Cons Stat § 9402), Rhode Island (450- RI Code R - 00-00-7.1), South Carolina (SC Code Ann Regs 71-8300.2, adopting NFA 1123)), South Dakota (SD Codified Laws § 34-37-13, adopting NFPA 1123)), Tennessee (Tenn Code Ann § 68-104-208), Utah (Utah Admin Code R710-2-8), Virginia (13 Va Admin Code 5-51-150, adopting IFC 5601.4)), Washington (Wash Admin Code § 212-17-220), and West Virginia (W Va Code R § 103-4-4, adopting NFPA 1123)).

Of the above, Pennsylvania's legislature raised the age from 18 to 21 in 2017 (2017 Pa Legis Serv Act 2017-43 (HB 542)). Alabama, Michigan, and Utah also raised their age requirements from 18 to 21, comparing the current law to its 2005 equivalents (2005 Ala Code § 8-17-211, 2005 Mich Comp Laws 750.243b, 2005 Utah Admin Code R710-2). The Arizona regulation did not exist in 2005. Kansas had no statute on the subject in 2005, enacting its requirements in 2007 (2007 Kansas Laws Ch 83 (HB 2475)). North Carolina had no age requirement in 2005, adding it in 2010 (2010 North Carolina Laws SL 2010-22 (SB 992)). Washington had no age requirement in 2005 (2005 Wash Admin Code § 212-17-220). Oklahoma also added an age requirement since 2005 (2005 Okla Stat Ann tit 68 § 1629). Rhode Island did not have a regulation governing the activity in 2005. Tennessee enacted its statute for the first time in 2006 (2006 Tennessee Laws Pub Ch 839 (SB 2627)).

States without a 21-year age requirement have not changed their laws since 2005. Connecticut has no age requirement but requires 3 years of experience (Conn Agencies Regs § 29-357-6b). Iowa, Kentucky, Montana, Vermont, Wisconsin, and Wyoming have no age requirement (Iowa Code Ann § 727.2, Ky Rev Stat Ann § 227.710, Mont Code Ann § 50-37-

107, Vt Stat Ann tit 20 § 3132, Wis Stat § 167.10, Wyo Stat Ann § 35-10-203). Nebraska has an age requirement of 18 (157 Neb Admin Code § 3-003).

Blasting

“Blasting” is the use of explosives in mining and other professionals that require breaking rocks (Office of Surface Mining Reclamation and Enforcement, <https://www.osmre.gov/resources/blasting.shtm>). Thirty-two states require a person conducting blasting activity or using explosives be at least 21, with two states raising their age requirements since 2005 and four instituting the age minimum for the first time. Five states require a blaster or explosives user be at least 18, and thirteen have no age requirement. Where a state did not have a regulatory scheme explicitly on blasting activity, its statutory or regulatory requirements for licenses to possess explosives have been substituted.

The states with a minimum age of 21 for a person to engage in blasting or otherwise possess explosives are Alabama (Ala Code § 8-17-243), California (Cal Code Regs tit 8, § 5238), Colorado (7 Colo Code Regs 1101-9:3-3), Connecticut (Conn Agencies Regs § 29-349-205), Delaware (Del Code Ann tit 16 § 7107), Georgia (Ga Comp R & Regs 120-3-10-.05), Hawaii (Haw Code R § 12-58-1 (certificate of fitness for explosives)), Idaho (through adoption of International Fire Code 5601.4, Idaho State Fire Marshall, <https://doi.idaho.gov/sfm/Prevention/Statutes>), Illinois (62 Ill Admin Code 200.98), Indiana (675 Ind Admin Code 26-2-2), Iowa (Iowa Admin Code r 661-235.5(5)), Kansas (Kan Admin Regs 22-4-5), Kentucky (Ky Rev Stat Ann § 351.315), Maryland (Md Code Regs 26.20.22.08), Massachusetts (527 Mass Code Regs 1.05, requirements for certificate of competency for explosives)), Missouri (Mo Rev Stat § 319.306), Nebraska (Neb Rev Stat § 28-1229), Nevada (Nev Admin Code 477.300, Nevada Blaster Registration Form available at <http://fire.nv.gov/uploadedFiles/firenv.gov/content/bureaus/FPL/CertificateofRegistrationApplication-Blasters01282016.pdf>), New Hampshire (NH Code R Saf-C 1604.03), New Jersey (NJ Admin Code 12:190-3.6, permit to use explosives)), New York (12 NY Comp Codes R 61-4.4), Oregon (ORS 480.225, certificate of possession of explosives)), Pennsylvania (25 Penn Cons Stat § 210.14), Rhode Island (RI Gen Laws § 23-28.28-5, permit to possess explosives)), South Dakota (License application available at <https://dps.sd.gov/application/files/3315/0159/9737/Application-For-Permit-To-Purchase-Use-Transport-Sell-Or-Manufacture-Explosives.pdf>), Tennessee (Tenn Code Ann § 68-105-106(c)), Texas (16 Tex Admin Code § 12.702), Utah (Utah Admin Code R645-105), Virginia (Virginia Fire Prevention Code 5601.4, amended by 13 VAC 5-51-150)), Washington (Wash Admin Code § 70.74.360, license to manufacture or

possess explosives)), West Virginia (WV Code R § 199-1-4), and Wisconsin (Wis Adm Code § SPS 305.20(2)).

Of the above, Nevada raised its age from 18 to 21, based on a comparison of its current blaster application form and the regulation as it existed in 2005 (2005 Nev Admin Code 477.300). Idaho had no age requirement in 2005 (2005 Idaho Admin Code r 17.08.03.010). Illinois had no age requirement before adding it in 2013 (37 Ill Reg 14090, effective August 26, 2013). Iowa raised its age requirement to apply for a license from 20 to 21: the 2005 Indiana regulation on blasting certification was Ind Admin Code 27-40.82(207), which incorporated by reference 30 CFR § 955.11. Under that regulation, a blaster could apply at 20 and get the certification after reaching 21. Under the current Indiana regulation, an applicant must be 21. West Virginia had no age requirement in 2005 (2005 WV Code R § 199-1-4). Kansas had no regulation or equivalent regulation in 2005.

Five states have a minimum age of 18: Alaska (8 Alaska Admin Code 61.1020), Minnesota (Minn Stat § 299F.77 (explosives license)), Montana (Mont Code Ann § 37-72-301), and Vermont (Vt Stat Ann tit 20 § 3072). Arizona requires a blaster be 18, but that minimum increases to 21 when the blasting is conducted in Pima County (Ariz Admin Code R11-1-271; Ariz Admin Code PCC 8.60.040).

The states with no age minimum to conduct blasting activity are Arkansas (Ark Admin Code 014.06.2-850.15), Florida (Fla Stat § 552.091), Louisiana (La Admin Code tit 43, Pt XV, § 5353), Maine (Me Stat tit 25, § 2473), Michigan (Mich Admin Code R 408.42705), Mississippi (Miss Code Ann § 45-13-101, sale of explosives), New Mexico (NM Code R 19.8.33.3303), North Carolina (13 NC Admin Code 7F.0704), North Dakota (ND Admin Code 69-05.2-31-03), Ohio (Ohio Admin Code 1501:13-9-10), Oklahoma (Okla Admin Code 460:20-65-6), South Carolina (SC Code Ann Regs 71-8302.4), and Wyoming (Wyo Stat Ann § 30-2-501). While Wyoming did not add an age requirement for licensing since 2005, it did add a requirement that the blaster have 2 years of experience and be supervised by a 23-year-old (2009 Wyoming Laws Ch 137 (SF 101)). Ohio also requires 2 years of experience (Ohio Admin Code 1501:13-9-10), and New Mexico requires 1 year (NM Code R 19.8.33.3303).

Emerging Trends

Law Enforcement

At the federal level, federal law enforcement agencies have required their agents be over the age of 21 since before 2005. Agents of the Federal Bureau of Investigation (FBI) must be at least 23 years old, and agents of the Drug Enforcement Administration (DEA), Secret Service, United States Marshals Service, and Bureau of Alcohol, Tobacco, and

Firearms (ATF) must all be at least 21 years old (Special Agents, <https://www.fbijobs.gov/career-paths/special-agents>, Special Agent FAQs, <https://www.dea.gov/special-agent-faqs#heading-0>; Qualifications, Secret Service Careers, <https://careers.secretservice.gov/special-agent/qualifications>; U.S. Marshals Service, Qualifications, <https://www.usmarshals.gov/careers/qualifications.html>; Becoming a Special Agent, <https://www.atf.gov/careers/becoming-special-agent>). Each of these ages is determined by the head of the agency (5 USC § 3307(d)).

States contain multiple law enforcement agencies. Thirty-four states require their state troopers or equivalent statewide police officers be at least 21, with one state instituting that age requirement by statute since 2005. An additional six states require state troopers be at least 20 years old, one has a requirement of 19.5 years, and one 19 years. Only four states require a minimum age of 18 years for state troopers, and two states have no age requirement.

In addition, states can implement statutory qualifications for municipal or other law enforcement officers. Some states have created Police Officer Standard and Training (POST) or other administrative bodies who create the standards for qualified police officers throughout the state.

State Police

Thirty-three states require state police to be at least 21 years old, with one state instituting that age since 2005. An additional six states have a minimum age of 20, one 19.5, and one requires a trooper be at least 19.

The states that require their state police forces be at least 21 years old are Alabama (State of Alabama Personnel Department, ALEA Trooper, Trainee, available at https://www.personnel.alabama.gov/Documents/Announcements/103514_A.pdf), Alaska (13 Alaska Admin Code 85.010), Arizona (Ariz Admin Code § R13-4-105), Colorado (Colo Rev Stat § 24-33.5-209), Connecticut (Connecticut State Dept of Emergency Services and Public Protection, Qualifications, available at <https://portal.ct.gov/DESPP/Division-of-State-Police/Recruitment-and-Selections/Qualifications>), Delaware (Delaware State Police, Qualifications, available at <https://dsp.delaware.gov/recruiting-qualifications/>), Georgia (Georgia Dept of Public Safety, Georgia State Patrol–Trooper, available at <https://dps.georgia.gov/georgia-state-patrol-trooper>), Idaho (Idaho Admin Code r 11.11.01.053), Indiana (Indiana State Police, Eligibility and Requirements, available at <https://www.in.gov/isp/2877.htm>), Kansas (Kan Stat Ann § 74-2113), Kentucky (502 Ky Admin Regs 45:035), Massachusetts (Mass.gov, Eligibility to become a State Trooper, available at <https://www.mass.gov/service-details/eligibility-to-become-a-state-trooper>), Michigan (Mich Comp Laws § 28.4), Mississippi (Miss Code Ann § 45-3-9), Missouri (Mo Rev Stat § 43.

060), Nebraska (Job Opportunities, <https://www.governmentjobs.com/careers/nebraska?keywords=trooper>), Nevada (Nevada Dept of Public Safety, Criteria, available at <https://dps.nv.gov/hr/All/employment/Criteria/>), New Hampshire (NH Rev Stat Ann § 106-B:20), New Jersey (New Jersey State Police, Minimum Qualifications / Disqualifiers, available at <https://www.njsp.org/recruiting/minimum-qualifications.shtml>), New Mexico (New Mexico State Police, Qualifications, available at <https://www.nmsp.com/index.php/recruiting/qualifications-and-selection-process>), New York (NY Exec Law § 215), North Carolina (NC Gen Stat § 20-185), Ohio (Ohio Rev Code Ann § 5503.01), Oklahoma (Oklahoma Highway Patrol, Recruiting, available at <http://www.ohptroopers.com/recruiting.html>), Oregon (Oregon State Police, Become an OSP Trooper, available at <https://www.oregon.gov/osp/jobs/pages/Become-a-trooper.aspx>), Pennsylvania (71 Penn Cons Stat § 1193), South Carolina (South Carolina Dept of Public Safety, Highway Patrol Careers, available at <https://scdps.sc.gov/careers/sctrooper>), South Dakota (South Dakota Dept of Public Safety, Highway Patrol Requirements, available at <https://dps.sd.gov/safety-enforcement/highway-patrol/careers/requirements>), Tennessee (Tennessee Dept of Safety & Homeland Security, Qualifications, available at <https://www.tn.gov/safety/tnhp/trpschool/trpqualifications.html>), Texas (Texas Dept of Public Safety, Age and Basic Requirements for Trooper, available at <https://www.dps.texas.gov/trainingAcademy/recruiting/requirements/ageBasic.htm>), Utah (Utah Dept of Public Safety—Highway Patrol, Minimum Qualifications, available at <https://highwaypatrol.utah.gov/join-uhp-becoming-a-trooper/minimum-qualifications-uhp/>), Virginia (Virginia State Police, Employment—Recruitment—Duties of a Trooper, available at https://www.vsp.virginia.gov/Employment_Trooper_Recruitment_Ad.shtml), West Virginia (W Va Code § 5-2-7), and Wyoming (Wyoming Highway Patrol, Requirements, available at <http://www.whp.dot.state.wy.us/home/trooper%2D%2Dcareersrecruiting/requirements.html>).

Of those, North Carolina instituted the age requirement in 2013, having previously not had any statutory age requirement (2013 North Carolina Laws SL 2013-289 (HB 362)).

The six states who require state police be at least 20 years old are California (California Highway Patrol, Minimum Requirements—Officer, available at <https://www.chp.ca.gov/chp-careers/officer/why-become-a-chp-officer/minimum-requirements-officer>), Illinois (Illinois State Police Merit Board, Pre-Employment Requirements, available at <https://www.illinoistrooper.com/recruitment/pre-employment-requirements/>), Louisiana (Louisiana State Police, Become a Trooper, available at <http://www.lsp.org/recruit.html>), Maine (Maine State Police, Requirements, available at <https://www.maine.gov/dps/msp/join/requirements>), Maryland (Maryland State Police, State Trooper Minimum Qualifications,

available at <https://mdsp.maryland.gov/Careers/Pages/QualificationsTrooper.aspx>), and Vermont (Vermont State Police, Eligibility and Basic Requirements, available at <https://vsp.vermont.gov/employment/requirements>).

Washington requires state police be at least 19.5 years old (Washington State Patrol, Be a Trooper, available at <http://www.wsp.wa.gov/be-a-trooper/>), while Florida has an age minimum of 19 (Florida Highway State Patrol, Requirements, available at <https://beatrooper.com/requirements/>).

The states with a minimum age of 18 for state police are Iowa (Iowa Dept of Public Safety, State Peace Officer Job Opportunities, available at http://www.dps.state.ia.us/jobs/MinimumQualifications_T.shtml), Montana (Mont Admin R 23.13.201), Rhode Island (Rhode Island State Police, Minimum Qualifications, available at <http://risp.ri.gov/academy/qualifications.php>), and Wisconsin (State of Wisconsin Department of Transportation, State Patrol Trooper/Inspector Jobs, available at <https://wisconsin.dot.gov/Pages/about-wisdot/careers/patrol/default.aspx>). Further, Minnesota and North Dakota have no age requirement (Minn R 6700.0700, North Dakota State Highway Patrol, Qualifications and Requirements, available at <https://nd.gov/ndhp/careers/qualifications-and-requirements>).

Although Hawaii has no statewide police department, the Hawaii Police Department, which covers the main island of the chain, requires officers to be 21 at the time they begin service (Police Officers, Hawaii Police Department, <https://www.hawaiipolice.com/recruitment/police-officers>).

Municipal Police or Other Peace Officers

States have generally instituted slightly lower age requirements for municipal police or other statutorily defined “peace officers” than for state police. A majority of states require their police officers be 19 or over, with 24 of those requiring a minimum age of 21, including one state that raised the age from 19 to 21 since 2005.

The twenty-four states that require peace officers or other police be at least 21 years old are Alaska (13 AAC 85.010), Arkansas (Ark Code Ann § 14-51-301), Connecticut (Conn Agencies Regs 7-294e-16), Delaware (1 Del. Admin. Code 801-3.0), Idaho (IDAPA 11.11.01.54), Illinois (20 Ill Comp Stat § 2610/9), Indiana (Ind Code § 36-8-3.5-12), Kansas (K.S.A. 74-5605), Kentucky (KRS § 95.951), Louisiana (La Stat Ann § 11:3520), Maine (Me Stat tit 25, § 2804-G), Maryland (COMAR 12.04.01.04), Massachusetts (Mass Gen Laws ch 31 § 58), Missouri (Mo Rev Stat § 84.570), Nebraska (Neb Rev Stat § 81-1410), Nevada (NAC 289.110), New Jersey (NJ Stat Ann § 40A:14-127), Ohio (Ohio Rev Code Ann § 124.41), Oklahoma (Okla Stat tit 11 § 50-112), Oregon (ORS 181A.395), South Carolina (Code 1976 § 25-9-530, Code 1976 § 59-116-40), South Dakota (SD Admin R

2:01:02:01, 2:01:10:02, 2:01:15:01), Texas (Tex Occ Code Ann § 1701.309), and Utah (U.C.A. 1953 § 53-6-203). Washington, D.C., also requires its police officers be 21 or older (DC Mun Regs Tit 6-B § 873).

Of those, Massachusetts raised the age to be a police officer to 21 from 19 in 2016, marking the point when half of the states require a police officer be at least that age (2016 Mass Legis Serv Ch 218 (HB 4565)).

Two states require a local police officer be at least 20 years old: New York (NY Civ Serv § 58) and North Carolina (12 NCAC 9B.0101). Two states require a police officer be at least 19 years old: Alabama (Ala. Code 1975 § 36-21-46) and Florida (F.S.A. § 943.13).

The fourteen states that allow a person to become a police officer at 18 are Arizona (AAC R13-4-202), California (Cal. Gov. Code § 1031), Georgia (Ga. Code Ann., § 35-8-8), Iowa (Iowa Division of Public Safety, Minimum Qualifications, <https://dps.iowa.gov/divisions/administrative-services/dps-careers/minimum-quals>), Michigan (Michigan Commission on Law Enforcement Standards, <https://www.michigan.gov/mcoles/0,4607,7-229-41624-150169-,00.html>), Montana (MCA 7-32-303), New Hampshire (NH Police Standards and Training Council, <https://www.pstc.nh.gov/faq/index.htm#fitnessstest>), New Mexico (N. M. S. A. 1978, § 29-7-6), Pennsylvania (16 P.S. § 4510), Tennessee (T. C. A. § 38-8-106), Vermont (Vt. Admin. Code 6-1-1:16), Virginia (VA Code Ann. § 15.2-1705), West Virginia (W. Va. Code, § 8-14-12), Wisconsin (Wis. Adm. Code § LES 2.01), and Wyoming (W.S.1977 § 9-1-704).

In 2020, a California legislator introduced a bill that would make the minimum age for a person to be a police officer 25, unless that person had a bachelor's or advanced degree (2020, CA AB 89). The bill is explicitly based on the legislature's previous recognition of neurological research on the brain development of late adolescents and the "understanding that cognitive brain development continues well beyond age 18 and into early adulthood" (*Id.*). The bill applies that scientific understanding to law enforcement officers, who are "required to make split-second decisions to protect the health and safety of the public and address dangerous situations," concluding that "[a] young adult with a still developing brain may struggle during events that require quick decision making and judgments" (*Id.*).

States with no specific age requirement or governing law include Hawaii, North Dakota, Minnesota (Minn Rules 6700.0700), and Rhode Island. Washington provides no specified age for officers, prescribing only that the person meet the age requirement of the position applied for (West's RCWA 41.12.070). Colorado also prescribes no minimum age, although the state's Peace Officer Standards and Training site notes that the minimum age for officer positions is "usually" 21 (<https://www.colorado.gov/pacific/post/hiring-requirements>).

Private Investigators

Five states will not allow a person to be licensed as a private investigator unless they are at least 25. Seventeen states require a private investigator be at least 21, seventeen states require a private investigator be at least 18, and three states have no age requirement. A final four states have no licensing system for private investigators. Since 2005, one state lowered the age qualification from 21 to 18, two states raised the minimum age from 18 to 21, and two more instituting a 21-year age requirement for the first time. Thus, the overall trend in requirements for private investigator licensing across the states is in favor of an at least 21 age requirement.

The states that require a private investigator to be at least 25 years old are Connecticut (Conn Gen Stat § 29-154a), Maryland (Md Code Ann, Bus Occ & Prof § 13-302), Michigan (Mich Comp Laws § 338.826), New Jersey (NJ Stat Ann § 45:19-12), New York (NY Gen Bus Law § 74), and Pennsylvania (22 Penn Cons Stat § 16).

The states with a minimum age of 21 are Alabama (Ala Code §§ 34-25B-12, 34-25B-27), Arizona (Ariz Rev Stat Ann § 32-2422), Colorado (Colo Rev Stat § 12-58.5-106), Delaware (Del Code Ann tit. 24 § 1316), Illinois (225 Ill Comp Stat § 447/15-10), Indiana (Ind Code § 25-30-1-8), Kansas (Kan Stat Ann § 75-7b04), Kentucky (Ky Rev Stat Ann § 329A.035), Maine (Me Stat tit 32, § 8105), Missouri (Mo Rev Stat § 324.1116), Montana (Mont Code Ann § 37-60-303(3)), Nebraska (Neb Rev Stat § 71-3205), Nevada (Nev Rev Stat § 648.110), New Mexico (NM Stat Ann § 61-27B-7), South Carolina (SC Code Ann § 40-18-70), Tennessee (Tenn Code Ann § 62-26-207), and Utah (Utah Code Ann § 53-9-108).

Of those states, Maine raised the age from 18 to 21 in 2011 (2011 Me Legis Serv Ch 366 (HP 1148) (LD 1563)), and New Mexico raised the age from 18 to 21 in 2007 (2007 New Mexico Laws Ch 115 (SB 621)). Alabama instituted an age of 21 in 2013, having no previous age requirement (2013 Alabama Laws Act 2013-306 (SB 172)). Colorado also instituted an age requirement in 2014 where it previously had none (2014 Colo Legis Serv Ch 389 (SB 14-133)).

The states that require a licensed private investigator be at least 18 are Arkansas (Ark Code Ann § 17-40-306), California (Cal Bus & Prof Code § 7526), Florida (Fla Stat § 493.6106), Georgia (Ga Code Ann § 43-38-6), Hawaii (Haw Rev Stat § 463-6), Iowa (Iowa Code Ann § 80A.4), Louisiana (La Stat Ann § 37:3507), Minnesota (Minn Stat § 326.3382), New Hampshire (NH Rev Stat Ann § 106-F:5), North Carolina (NC Gen Stat § 74C-8), North Dakota (ND Admin Code 93-02-01.1-01), Oregon (ORS 703.415), Texas (Tex Occ Code Ann § 1702.113), Vermont (Vt Stat Ann tit 26, § 3173), Virginia (6 Va Admin Code 20-174-40), West Virginia (W Va Code § 30-18-2), and Wisconsin (Wis Stat § 440.26). Oklahoma and Washington require a licensed investigator be

18 years old, but 21 if armed (Okla Stat tit 59, § 1750.5, Wash Rev Code § 18.165.030; 18.165.040).

Of the states with a current minimum age of 18, Arkansas is the only to have lowered its age requirement from 21 to 18 since 2005 (2015 Arkansas Laws Act 393 (SB 164)).

Since at least 2005, Massachusetts, Ohio, and Rhode Island have had no age requirement to be licensed as a private investigator (Mass Gen Laws ch 147 § 24, Ohio Rev Code Ann § 4749.03, RI Gen Laws § 5-5-3). Alaska, Idaho, Mississippi, South Dakota, and Wyoming have no licensing scheme for private investigators.

Firefighters

Like municipal police, requirements to serve as a firefighter are not always codified and are often left to the local municipality. However, seven states have instituted laws requiring firefighters be at least 21, two raising the age since 2005: Arkansas (Ark Code Ann § 14-51-301), Ohio (OH 709.012), Illinois (65 Ill Comp Stat § 5/10-2.1-6.3), Indiana (Ind Code § 36-8-3.5-12), Massachusetts (Mass Gen Laws ch 31 § 58), New Jersey (NJ Stat Ann § 40A:14-12), and Kentucky (§ 95.762). Two states raised the age to become a firefighter since 2005. Illinois increased the minimum age to be a firefighter from 18 to 21 in 2011 (2011 Ill Legis Serv PA 97-251 (HB 1576)). Massachusetts raised the age to be a firefighter from 19 to 21 in 2016 (2016 Mass Legis Serv Ch 218 (HB 4565)).

Firearms

At the federal level, 18 U.S.C. § 822(b) (1) makes it illegal for a licensed importer, manufacturer, dealer, or collector of firearms to sell any ammunition or firearm, excepting shotguns or rifles, to any person under 21. Likewise, federal law requires a person be 21 to obtain a license to import, manufacture, or deal in firearms or ammunition (18 U.S.C. § 923).

This federal limitation on sales does not extend to possession of those firearms by someone under 21. Eleven states have required someone to be 21 to possess a handgun, at least five of them restricting the ownership of any firearm. California makes it illegal for someone under 21 to possess a handgun (Cal Penal Code § 27505). Connecticut also requires someone be 21 to possess any firearm (Conn Gen Stat § 29-36f). Hawaii requires anyone be 21 to purchase and possess firearms (Haw Rev Stat § 134-2). Illinois requires a person be 21 to qualify for a Firearm Owner's Identification Card (430 Ill Comp Stat § 65/4). Iowa also requires a person be 21 to possess a handgun (Iowa Code Ann § 724.22, Iowa Code Ann § 724.15). Maryland requires a person be 21 to apply to own a firearm (Md Code Ann, Pub Safety § 5-118). New Jersey has a minimum age of 21 to possess a handgun (NJ Stat Ann § 2C:58-6.1). New York has a minimum age of 21 to possess a firearm (NY Penal Code § 400.00). Oklahoma and Texas require a person be 21 to have handgun license, covering

concealed or unconcealed pistols (Okla Stat tit 21 § 1290.9, Tex Gov't Code Ann § 411.172). Wyoming also requires a person be 21 to possess a handgun (Wyo Stat Ann § 6-8-104).

Two states increased the age to purchase firearms in recent years. In 2018, Vermont instituted a law against selling firearms to anyone under 21 (2018 Vermont Laws No 94 (S 55)). The state had previously outlawed selling a firearm to a person under age 16 (2016 Vt Stat Ann tit 13 § 4007). In 2019, a Washington state ballot initiative raised the age to purchase an "assault rifle" to 21 (Wash Rev Code § 9.41.240, 2019 Wash Legis Serv Ch 3 (IM 1639)). The statute previously only regulated possession of pistols and allows a person between the ages of 18 and 21 to possess a pistol only on his or her property, place of abode, or place of business. Additionally, in 2008, Iowa raised the minimum age to obtain a nonprofessional permit to carry weapons from 18 to 21 (2010 Ia Legis Serv Ch 1178 (SF 2379)). Maryland also instituted stricter gun rules since 2005, including a requirement that one be 21 to inherit a firearm (Md Code Regs 29.03.01.10).

Every state allows the concealed carry of firearms in some form. Thirty of them require a person be 21 in order to carry a concealed firearm, with two of those states instituting the requirement since 2005. Those states are Alaska (Alaska Stat § 18.65.705), Arizona (Ariz Rev Stat Ann § 13-3112), Arkansas (Ark Code Ann § 5-73-309), Colorado (Colo Rev Stat § 18-12-213), Florida (Fla Stat § 790.06), Georgia (Ga Code Ann § 16-11-129), Hawaii (Haw Rev Stat § 134-9), Idaho (Idaho Code § 18-3302), Kansas (Kan Stat Ann § 21-6302), Kentucky (Ky Rev Stat Ann § 237.110), Maine (Me Stat tit 25, § 2001-A), Massachusetts (Mass Gen Laws ch 140 § 131(d)(iv)), Michigan (Mich Comp Laws Ann § 28.425b), Minnesota (Minn Stat § 624.714), Mississippi (Miss Code Ann § 45-9-101), Nebraska (Neb Rev Stat § 69-2433), Nevada (Nev Rev Stat § 202.3657), New Mexico (NM Stat Ann § 29-19-4), North Carolina (NC Gen Stat § 14-415.12), North Dakota (ND Cent Code § 62.1-04-03), Ohio (Ohio Code Ann § 2923.125), Oregon (ORS 166.291), Pennsylvania (18 Penn Cons Stat § 6109(b)), Rhode Island (RI Gen Laws § 11-47-11), South Carolina (SC Code Ann § 23-31-215), Tennessee (Tenn Code Ann § 39-17-1351), Virginia (Va Code Ann § 18.2-308.02), Washington (Wash Rev Code §§ 9.41.070, 9.41.073), West Virginia (W Va Code § 61-7-4, W Va Code § 61-7-7), and Wisconsin (Wis Stat § 175.60(a)(3)).

North Dakota added its age minimum of 21 for concealed carry in 2009, having previously had no age requirement (2009 North Dakota Laws Ch 605 (SB 2415)). Likewise, before 2015, Maine did not have an age requirement for carrying a concealed weapon (2015 Me Legis Serv Ch 327 (SP 245) (LD 652)).

Professional Licensing

States vary in their approaches to professional licensing and the associated age requirements for different jobs. In some

fields, age requirements appear redundant. Several states require a person to be 21 to obtain a license as an architect, but given the amount of postgraduate education necessary to become an architect, it would be difficult to achieve before the age of 21 (e.g., Ark Code Ann § 17-15-304, Okla Admin Code 55:10-5-4.1, RI Gen Laws § 5-1-8). Similarly, various states have instituted a minimum age of 21 to practice various types of medicine. For example, Louisiana created a provisional psychologist license in 2014 (La Stat Ann § 37:2356.2, 2014 La Sess Law Serv Act 137 (SB 157)). Other states already had psychology licenses on the books (e.g., Miss Code Ann § 73-31-13, Mo Rev Stat § 337.020, NJ Stat Ann § 45:14B-14, Ohio Rev Code Ann § 4732.10).

Some trends occur within states. New York raised the age to become a licensed physical therapist from 18 to 21 in 2006 (NY Educ Law § 6734, 2006 Sess Law News of NY Ch 298 (S 3169-C)). This brings the license in line with other New York statutes that already required medical professionals be at least 21, such as podiatrists, pharmacists, optometrists, and many others (NY Educ Law § 7004, NY Educ Law § 6805, NY Educ Law § 7104).

Some professions are so specialized that a narrow trend can be determined. One example is “housemoving,” a service for physically lifting and moving entire homes. Only three states have housemoving licensure statutes: North Carolina raised the age to become a professional “housemover” from 18 to 21 in 2008 (NC Gen Stat § 20-358, 2008 North Carolina Laws SL 2008-89 (SB 236)); Missouri has required housemovers be 18 since before 2005 (V.A.M.S. 324.706); and South Carolina has a licensure requirement but does not specify any qualifications via statute (Code 1976 § 56-27-20).

Polygraph Examiners as Example of Professional Licensing

The variety of state qualifications to be a polygraph examiner demonstrates the different ways age requirements can be codified. Other than listing a specific age, such qualifications may be functionally extant through educational requirements. Maine requires a person to have a college degree or at least 5 years of experience, including 3 years of full-time experience, to be licensed as a polygraph examiner (32 M.R.S.A. § 7382). Those licensing qualifications were introduced in 2013 (2013 Me. Legis. Serv. Ch. 316 (S.P. 480) (L.D. 1373)). Illinois has similar requirements (225 ILCS 430/11).

Nine states have set a minimum age of 21 to be a polygraph examiner, one having raised the age from 18 since 2005: Alabama (Ala.Code 1975 § 34-25-21), Arkansas (Ark Code Ann § 17-39-202), Mississippi (Miss Code Ann § 73-29-13), Tennessee (Tenn Code Ann § 62-27-107), West Virginia (W Va Code § 21-5-5c), North Dakota (NDCC, 43-31-07), Oklahoma (59 Okl.St. Ann. § 1458), South Carolina (Code 1976 § 40-53-70), and West Virginia (W. Va. Code, § 21-5-

5c). Of those, North Dakota raised its age from 18 to 21 in 2011 (2011 North Dakota Laws Ch. 323 (S.B. 2164)).

Nebraska requires a minimum age of 19 for polygraph examiners (Neb.Rev.St. § 81-1916). Five states require a polygraph examiner be 18: Kentucky (KRS § 329.030), Michigan (M.C.L.A. 338.1710), New Mexico (N. M. S. A. 1978, § 61-27B-13), and Oregon (O.R.S. § 703.090). Virginia has a minimum of 18 by regulation (18 VAC 120-30-40). Louisiana requires a polygraph examiner be a high school graduate (LSA-R.S. 37:2838)).

A further three states have no specific age qualification. South Dakota has no age qualification, only requiring that a person complete a 6-week course and be of “good moral character” (SDCL § 36-30-3). Texas, Vermont, and Nevada have similar qualifications (V.T.C.A., Occupations Code § 1703.203, 26 V.S.A. § 2904, N.R.S. 648.183).

Other Professional Licensing Examples

There have been scattered trends in states increasing age requirements for licensing in various professions. For example, in 2013, Arkansas raised the age to obtain a license as an electrologist from 18 to 21, but appears to be the only state to have done so (Ark Code Ann § 17-26-315, 2013 Arkansas Laws Act 1216 (HB 1808)).

As another example, states have raised or instituted an age requirement of 21 for direct licensed midwives in recent years. Arizona currently has an age requirement of 21, after raising the age from 18 to apply for licensure in 2013 (19 AAR 1805, effective July 1, 2013 (Supp. 13-2)). Indiana instituted a minimum age requirement for being a midwife at 21, having previously had no stated age requirement (Ind Code § 25-23.4-3-1, compared with 2005 IC 25-23-1-13.1). Other states continue to have an age minimum of 21 prior to 2005, including Florida (West’s F.S.A. § 467.003), Louisiana (La Admin Code tit 46, Pt XLV, § 2307), Montana (Montana Reg 37-27-201), Maryland (MD Code, Health Occ § 8-6C-13), New York (NY Educ Law § 6955), and Washington (Wash Rev Code § 18.50.040).

Nascent Trends

Motorcycle Helmets

Recent trends illustrate the ways that legislatures can make use of the neuroscience regarding late adolescents. Nine states require motorcycle riders under 21 to wear a helmet. Those states are Arkansas (Ark Code Ann § 27-20-104), Florida (Flat Stat § 316.211), Kentucky (Ky Rev Stat Ann § 189.285), Michigan (Mich Comp Laws § 257.658), Pennsylvania (75 Penn Cons Stat § 3525), Rhode Island (Required to wear motorcycle helmet if under 21), South

Carolina (SC Code Ann § 56-5-3660), Texas (Tex Transp Code Ann § 661.003), and Utah (Utah Code Ann § 41-6a-1505). Missouri also requires riders under 26 to wear a helmet (V.A.M.S. 302.020). It added this age requirement in 2020, changing what was previously a universal helmet requirement (2020 Mo. Legis. Serv. H.B. 1963). In addition to the statutes listed here, 18 states require motorcycle riders to wear helmets at all times (Governor's Highway Safety Association, *Motorcyclists*, available at <https://www.ghsa.org/state-laws/issues/motorcyclists>).

At least one of the nine states has used neuroscience to judge the age at which a person is mature enough to decide whether to wear a motorcycle helmet. The Utah legislature raised the age at which it is mandatory for motorcycle riders to wear a helmet from 18 to 21 in 2017 (2017 Utah Laws Ch 369 (SB 159)). The bill's only purpose was to raise the age to 21, and the legislators presented extensive testimony about the neuroscientific rationale for increasing the age (Utah Senate, Vote on SB 159 (Feb. 21, 2017); Utah House of Representatives, Vote on SB 159 (March 8, 2017)).

Michigan changed its age requirement for choosing not to wear a helmet to 21 in 2012 (2012 Mich Legis Serv PA 98 (SB 291)). The statute previously required all motorcycle riders to wear helmets, regardless of age.

Criminal Laws and Juvenile Justice

In addition to developments in minimum age requirements governing those age 21, the years since *Roper* have seen states raise the age at which juveniles remain within the juvenile criminal court system. In 2019, North Carolina became one of the last states to expand juvenile court jurisdiction to those up to their 18th birthday, up from 16 (Michael Gordon, *On Monday, North Carolina becomes last state to prosecute fewer kids as adults*, Charlotte Observer (Nov. 28, 2019), at <https://www.charlotteobserver.com/news/local/article237826124.html>) (2017 North Carolina Laws S.L. 2017-57 (S.B. 257)). Forty-seven states now keep youth in the juvenile system through age 17 (Teigen, *Juvenile Age of Jurisdiction and Transfer to Adult Court Laws*, National Conference of State Legislatures, <https://www.ncsl.org/research/civil-and-criminal-justice/juvenile-age-of-jurisdiction-and-transfer-to-adult-court-laws.aspx> (July 1, 2020)).

More recent legislation is expanding the legal definition of juveniles even further. In 2018, the Vermont legislature passed a law that gradually expands the jurisdiction of the juvenile court system to include those up to age 20 (2018 Vermont Laws No. 201 (S. 234), modifying VT ST T. 33 § 5203). The Massachusetts legislature is studying similar legislation, which would expand the state's definition of "age of criminal majority" incrementally, eventually retaining late

adolescents in the juvenile system through their twenty-first birthday (Mass SB 825 (2019)).

In some cases, states have amended juvenile criminal laws based on neuroscience about late adolescent brain development. Between 2013 and 2017, the California legislature on three occasions increased the age at which young offenders are entitled to parole hearings for a specified list of crimes, from 18 to 23 to 25, making these changes "in light of scientific evidence that 'certain areas of the brain, particularly those affecting judgment and decision-making, do not develop until the early-to-mid-20s'" (*People v. Montelongo*, 2020 p. 13); (2013 Cal. Legis. Serv. Ch. 312 (S.B. 260)); (2015 Cal. Legis. Serv. Ch. 471 (S.B. 261)); 2017 Cal. Legis. Serv. Ch. 684 (S.B. 394)). In 2019, Oregon abolished life without parole sentences for those under 18 at the time of their crime, among other reforms to its juvenile justice system, largely on the basis of contemporary neuroscientific understanding (2019 Oregon Laws Ch. 634 (S.B. 1008)).

States have also instituted various laws that recognize 21 as the dividing line between "youth" and adults in the criminal system. For example, in New York, the law requires that male inmates under 21 be kept in separate correctional facilities from those over 21 (NY Correct Law § 71), and Connecticut places the maximum age for confinement to a youth institution at 21 (Conn Gen Stat § 18-73). Since 2005, some states have amended criminal laws to recognize a dividing line in responsibility between those over and under 21. In Georgia, legislators inserted provisions to give those who commit identity fraud a lesser sentence if they are under 21 (2007 Georgia Laws Act 241 (SB 236)). Illinois enacted a law allowing parole review of prisoners who were under 21 at the time of the commission of their offense (2018 Ill Legis Serv PA 100-1182 (HB 531)). In 2013, Mississippi passed laws that provide different penalties for certain homicide offenses when the perpetrator is under 21 (2013 Miss Laws Ch 379 (SB 2255), and in 2006, for those who commit sex offenses while under 21 (Miss Code Ann § 45-33-47). Between 2012 and 2017, Utah passed several laws providing lesser punishment for offenders under 21 who commit certain sexual offenses (2012 Utah Laws Ch 145 (HB 17), 2016 Utah Laws Ch 372 (HB 179), 2017 Utah Laws Ch 290 (HB 222)).

Political Office

While the ages required to serve in each state's legislature have remained static since 2005, the majority of states require a legislator to be 21 or above, and legislatures have resisted attempts to lower the age requirements in recent years. Each state has two chambers in its legislature, with its own senate and either house of representatives or other named body, excepting Nebraska, which has a unicameral legislature. In 32 of the 50 states, one must be at least 21 years old, or even older, to serve in either legislature. An additional two states allow a

representative to be 18 but require an older age to serve in the senate. The remaining 15 states have a minimum age of 18 to serve in either chamber of the legislature, and Vermont has no age requirement (VT Const. CH II, § 13, 18). These age requirements have not changed since 2005, despite attempts in at least two states by a state legislator to reduce the age to qualify for office, and both attempts failed.

The 32 states that set a baseline for legislators to be 21 or even older are Alabama, which requires a senator be 25 and a representative 21 (Ala Const, Art IV § 47); Alaska, requiring a senator be 25 and a representative 21 (AK Const. Art. 2, § 2); Arizona, requiring both senators and representatives to be 25 (A.R.S. Const. Art. 4 Pt. 2 § 2); Arkansas, requiring a senator be 25 and a representative 21 (AR Const. Art. 5, § 4); Colorado, requiring both senators and representative be 25 (C.R.S.A. Const. Art. 5, § 4); Delaware, requiring a senator be 27 and a representative 24 (Del.C. Ann. Const., Art. 2, § 3); Florida, requiring both senators and representatives be 21 (West's F.S.A. Const. Art. 3 § 15); Georgia, requiring a senator be 25 and a representative 21 (GA Const Art. 3, § 2, ¶ III); Illinois, requiring both senators and representatives be 21 (ILCS Const. Art. 4, § 2); Indiana, requiring a senator be 25 and a representative 21 (IN Const. Art. 4, § 7); Iowa, requiring a senator be 25 and a representative 21 (I.C.A. Const. Art. 3, § 4, 5); Kentucky requiring a senator be 30 and a representative 24 (KY Const § 32); Maine, requiring a senator be 25 and a representative 21 (M.R.S.A. Const. Art. 4, Pt. 1, § 4, Pt. 2, § 6); Maryland, requiring a senator be 25 and a delegate 21 (MD Constitution, Art. 3, § 9); Michigan, requiring both senators and representatives be 21 (M.C.L.A. Const. Art. 4, § 7); Minnesota, requiring both senators and representatives be 21 (<https://www.sos.state.mn.us/election-administration-campaigns/become-a-candidate/candidate-qualifications/>); Mississippi, requiring senators be 25 and representatives 21 (MS Const. Art. 4, § 41, 42); Missouri, requiring senators be 30 and representatives be 24 (V.A.M. S. Const. Art. 3, § 4, 6); Nebraska, requiring senators in its unicameral legislature be 21 (Ne.Rev.St. CONST. Art. III, § 8); Nevada, requiring both senators and members of its assembly be 21 (NRS 218A.200); New Jersey, requiring senators be 30 and members of the general assembly be 24 (N.J.S.A. Const. Art. 4, § 1, ¶ 2); New Mexico, requiring senators be 25 and representatives be 21 (NM Const. Art. 4, § 3); Oklahoma, requiring senators be 25 and representatives be 21 (OK Const. Art. 5, § 17); Oregon, requiring both senators and representatives be 21 (OR CONST Art. IV, § 8); Pennsylvania, requiring a senator be 25 and a representative 21 (PA Const. Art. 2, § 5); South Carolina, requiring senators be 25 and representatives 21 (S.C. CONST Art. III, § 7); South Dakota, requiring both senators and representatives be 21 (SD Const. Art. 3, § 3); Tennessee, requiring senators be 30 and representative be 21 (TN Const. Art. 2, § 9, 10); Texas, requiring senators be 26 and

representatives be 21 (Vernon's Ann. Texas Const. Art. 3, § 6, 7); Utah, requiring both senators and representatives be 25 (U.C.A. 1953, Const. Art. 6, § 5); Virginia, requiring members of either legislative house be at least 21 (VA Const. Art. 4, § 4); and Wyoming, requiring a senator be 25 years old and a representative 21 (Const. Art. 3, § 2).

In 2019, an Indiana representative attempted to lower the age to 18 for both chambers. The bill did not make it out of committee (Indiana House Resolution 1, 2020). Likewise, in Nebraska, a legislator introduced a bill to lower the age minimum for legislators to 18 in 2017, but the bill did not become law (2017 Neb LR18CA).

The two states that require a representative to be at least 18 and a senator to be several years older are New Hampshire, which requires a senator be 30 (N.H. Const. Pt. 2, Art. 29) and a representative be 18 (N.H. Const. Pt. 2, Art. 14), and North Carolina, which requires a senator be at least 25 (N.C.G.S.A. Art. II, § 6) and a representative at least 18 (N.C.G.S.A. Art. II, § 7).

The 15 states with a minimum age requirement of 18 for both houses of the legislature are California (Cal. Const. Art. 4, § 2), Connecticut (Senator, 18) (C.G.S.A. Const. Art. 3, § 3, 4), Hawaii (HI Const. Art. 3, § 6), Idaho (ID Const. Art. III, § 6), Kansas (K.S.A. Const. Art. 2, § 4), Louisiana (LSA-Const. Art. 3, § 4), Massachusetts (MA. Const. Pt. 2, C. 1, § 2, Art. 5,), Montana (<https://leg.mt.gov/content/About-the-Legislature/2019guide-montana-legislature.pdf>), New York (New York Secretary of State, <https://www.elections.ny.gov/RunningOffice.html>), North Dakota (NDCC Const. Art. 4, § 5), Ohio (OH Const. Art. II, § 2), Rhode Island (Rhode Island Department of State, <https://vote.sos.ri.gov/Candidates/AreYouEligible>), Washington (West's RCWA Const. Art. 2, § 7), West Virginia (WV Const. Art. 6, § 13), and Wisconsin (W.S.A. Const. Art. 4, § 6).

At the federal level, the required age to serve as the President of the USA is 35 (US Const, Art II, § 1). A United States Senator must be at least 30 (US Const, Art I, § 3), and a United States Representative must be at least 25 (US Const, Art I, § 2). These age requirements have remained the same since the ratification of the Constitution.

Conclusion

Since the *Roper* decision in 2005, the federal and state governments have maintained and enacted laws demonstrating a societal consensus that people under 21 need to be protected from their own high-risk behavior; that the public at large needs to be protected from the immaturity and impulsivity of those under age 21; and that those under 21 are in certain contexts considered minors who must be supervised by adults. Thus, persons under 21 are now uniformly prohibited from engaging in high-risk behavior or activities otherwise known

to be detrimental to their future development, such as the use of alcohol, tobacco, and other drugs, and having their own credit card, which aims to prevent them from going into serious debt from immature spending.

Lawmakers have also demonstrated a broad understanding that people under 21 lack maturity to hold occupations where their impulsivity or lack of foresight could pose a danger to others, such as working in law enforcement and investigation, operating a commercial vehicle across state lines, or operating explosives or fireworks displays, in the great majority of states.

Other laws also provide protections to those under 21 that generally recognize that they are still developing. Most states allow them to be considered “minors” who do not manage their own property, allow them to be in foster care up to age 21, and provide them the right to receive a free appropriate public education.

Finally, there is evidence from the juvenile criminal system, and examples like Utah’s passage of its motorcycle

helmet law, that state legislatures are taking the neuroscience behind adolescent brain development seriously. Lawmakers recognize that those under 21 lack maturity, are still developing, and must be protected from their own high-risk behavior. That recognition should extend to prohibiting those under 21 at the time of their crime from being subject to the death penalty.

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