

# Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



## Legal and Social Issues—”Fire is Dire”

### Legal Consequences

Legal consequences are real and will impact juvenile offenders severely. The statutes that are most common are included in this education aid as a means to provide further description and outline key areas of emphasis during this session.



# Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



## Penalties: Student treated as if there were 18 or older

### CHAPTER 775: DEFINITIONS; GENERAL PENALTIES; REGISTRATION OF CRIMINALS

775.082 Penalties; applicability of sentencing structures; mandatory minimum sentences for certain re-offenders previously released from prison.

- (b) For a felony of the first degree, by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment.
- (c) For a felony of the second degree, by a term of imprisonment not exceeding 15 years.
- (d) For a felony of the third degree, by a term of imprisonment not exceeding 5 years.
- (4) A person who has been convicted of a designated misdemeanor may be sentenced as follows:
  - (a) For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year;
  - (b) For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days.
- (5) Any person who has been convicted of a noncriminal violation may not be sentenced to a term of imprisonment nor to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in chapter 316 or by ordinance of any city or county.



# Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



## Arson

### CHAPTER 806

#### ARSON AND CRIMINAL MISCHIEF

806.01 Arson.

806.031 Arson resulting in injury to another; penalty.

806.10 Preventing or obstructing extinguishment of fire.

806.101 False alarms of fires.

806.111 Fire bombs.

806.13 Criminal mischief; penalties; penalty for minor.

806.14 Art works in public buildings; willful damage; unauthorized removal; penalties.

806.01 Arson

(1) Any person who willfully and unlawfully, or while in the commission of any felony, by fire or explosion, damages or causes to be damaged:

(a) Any dwelling, whether occupied or not, or its contents;

(b) Any structure, or contents thereof, where persons are normally present, such as: jails, prisons, or detention centers; hospitals, nursing homes, or other health care facilities; department stores, office buildings, business establishments, churches, or educational institutions during normal hours of occupancy; or other similar structures; or

(c) Any other structure that he or she knew or had reasonable grounds to believe was occupied by a human being, is guilty of arson in the first degree, which constitutes a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who willfully and unlawfully, or while in the commission of any felony, by fire or explosion, damages or causes to be damaged any structure, whether the property of himself or herself or another, under any circumstances not referred to in subsection (1), is guilty of arson in the second degree, which constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.



# Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



## Arson

(3) As used in this chapter, "structure" means any building of any kind, any enclosed area with a roof over it, any real property and appurtenances thereto, any tent or other portable building, and any vehicle, vessel, watercraft, or aircraft.

History.--ss. 1, 2, ch. 15603, 1931; CGL 1936 Supp. 7208(8), (9); ss. 786, 787, ch. 71-136; s. 26, ch. 74-383; s. 18, ch. 75-298; s. 1, ch. 79-108; s. 1, ch. 90-225; s. 1228, ch. 97-102.

806.031 Arson resulting in injury to another; penalty.--

(1) A person who perpetrates any arson that results in any bodily harm to a firefighter or any other person, regardless of intent or lack of intent to cause such harm, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who perpetrates any arson that results in great bodily harm, permanent disability, or permanent disfigurement to a firefighter or any other person, regardless of intent or lack of intent to cause such harm, is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Upon conviction and adjudication of guilt, a person may be sentenced separately, pursuant to s. 775.021(4), for any violation of this section and for any arson committed during the same criminal episode. A conviction for any arson, however, is not necessary for a conviction under this section.

History.--s. 1, ch. 84-23; s. 182, ch. 91-224



# Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



## Intentional or reckless burning of lands

### 590.28 Intentional or reckless burning of lands

(1) Whoever intentionally burns, sets fire to, or causes to be burned or causes any fire to be set to,

Any wild land or vegetative land clearing debris not owned by, or in the lawful possession of, the person setting such fire or burning such as lands or causing such fire to be set or lands to be burned without complying with s.590.125, commits a felony of the third degree, punishable as provided in s.775.082, s.775.083, or s.775.084.

(2) Whoever recklessly burns, sets fire to, or causes to be burned any wild lands, not owned by, or in the lawful possession of, the person setting the fire or burning the lands or causing the fire to be set or lands to be burned, commits a misdemeanor of the second degree, punishable as provided in s.775.082 or s.775.083.



# Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



## Illegal possession of incendiary device

### 590.29 Illegal possession of incendiary device

(1) It is unlawful for a person other than a certified fire or law enforcement instructor to have in his or her possession any incendiary device as defined by subsection (3) with the intent to use such device for the purpose of burning or setting fire to any wild land, if such person is not the owner of, nor, as under a lease, in lawful possession of, the wild land.

(2) The possession of any incendiary device as defined by subsection (3) is prima facie evidence of the intent of the person possessing such device to use such device for the purpose of burning or setting fire to wild land if such person is not the owner of the wild land.

The term “incendiary device” as used in this section is included but not limited to any “slow match” which is any device contrived to accomplish the delayed ignition of a match or matches or other inflammable material by the use of a cigarette, rope, or candle to which such match or matches are attached, or a magnifying glass so focused as to intensify heat on inflammable material and thus cause a fire to start at a subsequent time, and any chemicals or chemically treated paper or material, or other combustible material so arranged or designed as to make possible its use as a delayed firing device.

Anyone who violates this section commits a felony of the third degree, punishable as provided in s.775.082, s.775.083, s.775.084.



# Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



## Civic Liability

### 590.13 Civic Liability

Any person violating any of the provisions of this chapter shall be liable for all damages caused by such violation, which damages shall be recoverable in any court of competent jurisdiction. The civil liability attaches whether or not there is criminal prosecution and conviction.



# Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



## Destructive Device

Destructive Device: 806.111 Fire bombs

(1) Any person who possesses manufactures, transports, or disposes of a fire bomb with intent that such fire bomb be willfully and unlawfully used to damage by fire or explosion any structure or property is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) For the purposes of this section:

(a) "Disposes of" means to give, give away, loan, offer, offer for sale, sell, or transfer.

(b) "Fire bomb" means a container containing flammable or combustible liquid, or any incendiary chemical mixture or compound having a wick or similar device capable of being ignited or other means capable of causing ignition; but no device commercially manufactured primarily for the purpose of illumination, heating, or cooking shall be deemed to be such a fire bomb.

(3) Subsection (1) shall not prohibit the authorized use or possession of any material, substance, or device described therein by a member of the Armed Forces of the United States or by firefighters, police officers, peace officers, or law enforcement officers so authorized by duly constituted authorities.

History.--s. 3, ch. 67-211; s. 797, ch. 71-136; s. 29, ch. 74-383; s. 19, ch. 75-298; s. 238, ch. 77-104; s. 2, ch. 79-108; s. 46, ch. 88-381; s. 1230, ch. 97-102.



# Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



## Tampering with Fire Protection Equipment

### 806.10 Preventing or obstructing extinguishment of fire.

(1) Any person who willfully and maliciously injures, destroys, removes, or in any manner interferes with the use of, any vehicles, tools, equipment, water supplies, hydrants, towers, buildings, communication facilities, or other instruments or facilities used in the detection, reporting, suppression, or extinguishment of fire shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who willfully or unreasonably interferes with, hinders, or assaults, or attempts to interfere with or hinder, any firefighter in the performance of his or her duty shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--s. 9, sub-ch. 4, ch. 1637, 1868; RS 2433; GS 3280; RGS 5113; CGL 7214; s. 1, ch. 69-232; s. 795, ch. 71-136; s. 28, ch. 74-383; s. 19, ch. 75-298; s. 1229, ch. 97-102.



# Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



## False Alarms

### 806.101 False alarms of fires.

Whoever, without reasonable cause, by outcry or the ringing of bells, or otherwise, makes or circulates, or causes to be made or circulated, a false alarm of fire, shall for the first conviction be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A second or subsequent conviction under this section shall constitute a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--s. 13, ch. 1637, 1868; RS 2706; GS 3682; RGS 5626; CGL 7819; s. 934, ch. 71-136; s. 1A, ch. 71-306; s. 65, ch. 74-383.

Note.--Former s. 823.03.



# Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



## Criminal Mischief

### 806.13 Criminal mischief; penalties; penalty for minor.

(1)(a) A person commits the offense of criminal mischief if he or she willfully and maliciously injures or damages by any means any real or personal property belonging to another, including, but not limited to, the placement of graffiti thereon or other acts of vandalism thereto.

(b)1. If the damage to such property is \$200 or less, it is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

2. If the damage to such property is greater than \$200 but less than \$1,000, it is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

3. If the damage is \$1,000 or greater, or if there is interruption or impairment of a business operation or public communication, transportation, supply of water, gas or power, or other public service which costs \$1,000 or more in labor and supplies to restore, it is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. If the person has one or more previous convictions for violating this subsection, the offense under subparagraph 1. or subparagraph 2. for which the person is charged shall be reclassified as a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who willfully and maliciously defaces, injures, or damages by any means any church, synagogue, mosque, or other place of worship, or any religious article contained therein, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the damage to the property is greater than \$200.

(3) Whoever, without the consent of the owner thereof, willfully destroys or substantially damages any public telephone, or telephone cables, wires, fixtures, antennas, amplifiers, or any other apparatus, equipment, or appliances, which destruction or damage renders a public telephone inoperative or which opens the body of a public telephone, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; provided, however, that a conspicuous notice of the provisions of this subsection and the penalties provided is posted on or near the destroyed or damaged instrument and visible to the public at the time of the commission of the offense.



# Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



## Criminal Mischief

### 806.13 Criminal mischief; penalties; penalty for minor.

(4) Any person who willfully and maliciously defaces, injures, or damages by any means a sexually violent predator detention or commitment facility, as defined in part V of chapter 394, or any property contained therein, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the damage to property is greater than \$200.

(5)(a) The amounts of value of damage to property owned by separate persons, if the property was damaged during one scheme or course of conduct, may be aggregated in determining the grade of the offense under this section.

(b) Any person who violates this section may, in addition to any other criminal penalty, be required to pay for the damages caused by such offense.

(6)(a) Any person who violates this section when the violation is related to the placement of graffiti shall, in addition to any other criminal penalty, be required to pay a fine of:

1. Not less than \$250 for a first conviction.
2. Not less than \$500 for a second conviction.
3. Not less than \$1,000 for a third or subsequent conviction.

(b) Any person convicted under this section when the offense is related to the placement of graffiti shall, in addition to any other criminal penalty, be required to perform at least 40 hours of community service and, if possible, perform at least 100 hours of community service that involves the removal of graffiti.

(c) If a minor commits a delinquent act prohibited under paragraph (a), the parent or legal guardian of the minor is liable along with the minor for payment of the fine. The court may decline to order a person to pay a fine under paragraph (a) if the court finds that the person is indigent and does not have the ability to pay the fine or if the court finds that the person does not have the ability to pay the fine whether or not the person is indigent.



# Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



## Criminal Mischief

### 806.13 Criminal mischief; penalties; penalty for minor.

(7) In addition to any other penalty provided by law, if a minor is found to have committed a delinquent act under this section for placing graffiti on any public property or private property, and:

(a) The minor is eligible by reason of age for a driver's license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or withhold issuance of the minor's driver's license or driving privilege for not more than 1 year.

(b) The minor's driver's license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of not more than 1 year.

(c) The minor is ineligible by reason of age for a driver's license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver's license or driving privilege for not more than 1 year after the date on which he or she would otherwise have become eligible.

(8) A minor whose driver's license or driving privilege is revoked, suspended, or withheld under subsection (7) may elect to reduce the period of revocation, suspension, or withholding by performing community service at the rate of 1 day for each hour of community service performed. In addition, if the court determines that due to a family hardship, the minor's driver's license or driving privilege is necessary for employment or medical purposes of the minor or a member of the minor's family, the court shall order the minor to perform community service and reduce the period of revocation, suspension, or withholding at the rate of 1 day for each hour of community service performed. As used in this subsection, the term "community service" means cleaning graffiti from public property.



# Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



## Criminal Mischief

### 806.13 Criminal mischief; penalties; penalty for minor.

(9) Because of the difficulty of confronting the blight of graffiti, it is the intent of the Legislature that municipalities and counties not be preempted by state law from establishing ordinances that prohibit the marking of graffiti or other graffiti-related offenses. Furthermore, as related to graffiti, such municipalities and counties are not preempted by state law from establishing higher penalties than those provided by state law and mandatory penalties when state law provides discretionary penalties. Such higher and mandatory penalties include fines that do not exceed the amount specified in ss. 125.69 and 162.21, community service, restitution, and forfeiture. Upon a finding that a juvenile has violated a graffiti-related ordinance, a court acting under chapter 985 may not provide a disposition of the case which is less severe than any mandatory penalty prescribed by municipal or county ordinance for such violation.

History.--s. 27, ch. 74-383; s. 20, ch. 75-298; s. 1, ch. 82-21; s. 1, ch. 86-281; s. 1, ch. 88-273; s. 183, ch. 91-224; s. 1, ch. 95-164; s. 1231, ch. 97-102; s. 1, ch. 98-93; s. 1, ch. 98-415; s. 5, ch. 2001-244; s. 117, ch. 2002-1; s. 1, ch. 2002-163.



# Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



## Fines and Restitution

### CHAPTER 775

#### DEFINITIONS; GENERAL PENALTIES; REGISTRATION OF CRIMINALS

##### 775.083 Fines.

(1) A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082; when specifically authorized by statute, he or she may be sentenced to pay a fine in lieu of any punishment described in s. 775.082. A person who has been convicted of a noncriminal violation may be sentenced to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed:

- (a) \$15,000, when the conviction is of a life felony.
- (b) \$10,000, when the conviction is of a felony of the first or second degree.
- (c) \$5,000, when the conviction is of a felony of the third degree.
- (d) \$1,000, when the conviction is of a misdemeanor of the first degree.
- (e) \$500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.
- (f) Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.
- (g) Any higher amount specifically authorized by statute.

Fines imposed in this subsection shall be deposited by the clerk of the court in the fine and forfeiture fund established pursuant to s. 142.01. If a defendant is unable to pay a fine, the court may defer payment of the fine to a date certain.



## Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



### Fines and Restitution

(2) In addition to the fines set forth in subsection (1), court costs shall be assessed and collected in each instance a defendant pleads nolo contendere to, or is convicted of, or adjudicated delinquent for, a felony, a misdemeanor, or a criminal traffic offense under state law, or a violation of any municipal or county ordinance if the violation constitutes a misdemeanor under state law. The court costs imposed by this section shall be \$50 for a felony and \$20 for any other offense and shall be deposited by the clerk of the court into an appropriate county account for disbursement for the purposes provided in this subsection. A county shall account for the funds separately from other county funds as crime prevention funds. The county, in consultation with the sheriff, must expend such funds for crime prevention programs in the county, including safe neighborhood programs under ss. 163.501-163.523.

(3) The purpose of this section is to provide uniform penalty authorization for criminal offenses and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.



## Florida Juvenile Fire Safety “Fire Safety Begins with ME” Program Legal Issues—”Fire is Dire”



### **775.089 Restitution.**

(c) The term "victim" as used in this section and in any provision of law relating to restitution means each person who suffers property damage or loss, monetary expense, or physical injury or death as a direct or indirect result of the defendant's offense or criminal episode, and also includes the victim's estate if the victim is deceased, and the victim's next of kin if the victim is deceased as a result of the offense.

(2)(a) When an offense has resulted in bodily injury to a victim, a restitution order entered under subsection (1) shall require that the defendant:

1. Pay the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a recognized method of healing.
2. Pay the cost of necessary physical and occupational therapy and rehabilitation.
3. Reimburse the victim for income lost by the victim as a result of the offense.
4. In the case of an offense which resulted in bodily injury that also resulted in the death of a victim, pay an amount equal to the cost of necessary funeral and related services.

(b) When an offense has not resulted in bodily injury to a victim, a restitution order entered under subsection (1) may require that the defendant reimburse the victim for income lost by the victim as a result of the offense.

