

# A PARENT'S LEGAL RESPONSIBILITY WHEN YOUR CHILD SETS A FIRE



Developed in Partnership with the 2017  
Oregon Youth Fire Prevention and Intervention Advisory Council  
and  
the Oregon Office of the State Fire Marshal.



## Dear Parents:

Youth set fires continue to be a common occurrence in Oregon. These incidents result in death, injury, and significant property damage. Young people are receiving information and are being influenced at an overwhelming rate. It can be difficult to know how to keep them safe and provide them with the tools they need to make appropriate decisions. Most youths do not fully understand the legal and physical consequences of misusing fire.

Reasons why a young person may participate in this behavior may range from simple curiosity and experimentation to using fire as an outlet for their anger. Teens, especially, are influenced by social media trends or pressure from peers. Regardless of the reason, parents can play an important role in keeping their family safe and preventing their child from misusing fire.

This booklet provides information about the legal and financial consequences of your child misusing fire. Taking steps to prevent the potential life changing consequences a fire can create starts with you.

# WHO IS RESPONSIBLE IF YOUR CHILD SETS A FIRE?

**You are.**

**THERE ARE SEVERAL STATE LAWS THAT DEFINE YOUR RESPONSIBILITY AS A PARENT OR GUARDIAN IF YOUR CHILD UNDER THE AGE OF 18 STARTS A FIRE.**

**Oregon Revised Statute (ORS 30.765) - Liability of parents for tort by child.** Parents of a minor child will be held liable for actual damages to person or property caused either intentionally or recklessly by that child. A parent may be liable for up to \$7,500 in damages.

**Oregon Revised Statute (ORS 163.577) - Failing to supervise a child.** A parent, guardian or other person lawfully charged with the care or custody of a child under fifteen years of age could be charged with failing to supervise a child if the child commits an act that is referred to juvenile court.

According to this law, you could be required to pay up to \$2,500 in restitution to the victim for damages your child caused.

**Oregon Revised Statute (ORS 480.158) - Parents of minor liable for costs incurred in suppressing fires caused by the use of fireworks by minor.** If your child's fire was started by fireworks, you could be liable for up to \$5,000 for costs incurred by a public fire agency to put that fire out.

**Oregon Revised Statute (ORS 477.745) - Parents of minor liable for costs of suppressing fires caused by minor on forestland.** A parent may be liable for up to \$5,000 for one or more acts of a minor child.

**Civil penalties** - In any firesetting situation you could also be held responsible on a civil level for any additional costs/damages to the victims or their insurance companies.

# WHAT OFFENSE(S) COULD MY CHILD BE REFERRED TO THE JUVENILE DEPARTMENT FOR, IF HE OR SHE STARTS A FIRE?

The juvenile court has exclusive jurisdiction over children who have committed acts which, if done by an adult, would constitute violations of the law (ORS 419C.005). If a child starts a fire, there are a number of potential offenses, depending upon the circumstances of a particular case, that may bring a child within the juvenile court's jurisdiction. These offenses include:

**ORS 164.335 - Reckless Burning:** A person commits the offense of reckless burning if the person recklessly damages another person's property by fire or explosion.

**ORS 164.315 - Arson in the Second Degree:** A person commits the crime of arson in the second degree if, by starting a fire or causing an explosion, the person intentionally damages:

- a. Any building of another that is not protected property; or
- b. Any property of another and the damages to the property exceed \$750. Arson in the second degree is a Class C felony.

**ORS 164.325 - Arson in the First Degree:** A person commits arson in the first degree, if by starting a fire or causing an explosion, the person intentionally damages:

- a. Any protected property of another;
- b. Any property where a person is in danger of physical injury or where protected property of another is in danger; or
- c. Any property where the person recklessly causes physical injury to a firefighter or peace officer acting in the line of duty relating to the fire.

**ORS 137.707 - Adult prosecution of 15-, 16- or 17-year-old offenders:** If a juvenile is fifteen, sixteen, or seventeen years of age at the time the offense of arson in the first degree is committed, that juvenile could be prosecuted as an adult in criminal court and could be committed to the justice system, if there is threat of serious physical injury.

**ORS 166.382 - Unlawful possession of a destructive device:** If a person possesses any of the following: bomb, grenade, any rocket propellant having more than one-quarter ounce of charge or any

combination of parts for use in readily converting any device into any destructive device that would be considered a bomb, that person is guilty of a class C felony which is punishable up to five years and \$100,000.

**ORS 166.384 - Unlawful manufacture of a destructive device:** If a person assembles any device described above or any pyrotechnic device containing two or more grains of pyrotechnic charge, that person is guilty of a class C felony which is punishable up to five years and \$100,000.

**ORS 166.480 - Sale or gift of destructive devices to children:** Any person who sells, exchanges, barter or gives to any child under 14 years an explosive article or substance with the purpose of causing an explosion is guilty of a misdemeanor which is punishable by a fine up to \$500.

**ORS 166.025 - Disorderly conduct:** Any person who, with the intent to cause public inconvenience, initiates or circulates a report knowing it to be false concerning an alleged or impending fire or explosion. This is a class B misdemeanor punishable by up to six months or \$1,000.

**ORS 480.070 - Fire bombs prohibited:** No person shall possess a fire bomb. A fire bomb is any breakable container containing a flammable liquid having a wick or similar device. This is a class A misdemeanor which is punishable by one year or \$2,500.

## **WHAT COULD HAPPEN IF MY CHILD IS CHARGED ON A FIRE-RELATED OFFENSE?**

Depending on the situation, your child could face a court proceeding in juvenile or adult court. A police report may be sent to the juvenile department for processing. Each case outcome differs depending on the circumstances. These are general guidelines for how a juvenile department will process a case:

1. **Family Meeting:** The juvenile counselor will set up a meeting with the family and review what has occurred. Potential outcomes of this meeting may include:

- Closing the case
- Referral for mediation or a facilitated dialogue with victim(s)
- Agreement of an informal consequence or Sole Sanction
- Recommendation for a Formal Accountability Agreement (See Step 2)
- Recommendation for Formal Court Process (See Step 3)

At this time the Juvenile Counselor may also recommend that your child participate in a Youth with Fire Screening.

2. **Formal Accountability Agreement (FAA):** This is a contract between the Juvenile Department and the family in return for not going to court. This contract will outline guidelines which must be completed within a set amount of time. This could mean screening and education by the fire department, supervision requirements of the Juvenile Counselor, counseling, community service, work crew, etc.

3. **Formal Process in Court:** If the fire related incident meets the criteria imposed by the juvenile department and the Formal Accountability Agreement was not fulfilled, and/or the youth appears to be of significant risk of re-offense based on a Risk Assessment, the Juvenile Department may send the case to Juvenile Court. The court will decide, based on the facts, what will happen to the individual. Consequences tend to be more severe than what is seen at step two. A Judge could impose a number of outcomes which could include:

- Fines and/or Restitution
- Community Service
- Probation
- Time in a Detention Facility
- Commitment to the Oregon Youth Authority for placement in a residential program
- Placement in a Youth Correctional Facility

**Other considerations:** Your child can be held responsible for restitution past the age of eighteen. If the Formal Probation Order includes a money judgment for any fees or restitution not paid by age eighteen, the money judgment can go on the individual's credit record and remain in effect for seven years (age twenty-five). It may be difficult for them to build credit during those 7 years.

In some cases, your child may be tried and convicted as an adult. If this were to occur, they would face the adult guidelines for jail times and fines. Upon release, the individual's employment options will be limited. Most employers will request a check of records regarding felony convictions.

Even if tried as a juvenile, a youth could be committed to the justice system until age twenty-five.

# WHAT ARE SOME OF THE ISSUES THAT AFFECT YOUTH TEN YEARS AND OLDER WHO SET FIRES?

1. **Peer Pressure:** In most peer situations, youth may be pressured into doing something they know is wrong. Friends and belonging to a group are a high priority to adolescents. Someone who asks or dares a peer to do something they know is wrong or dangerous to them, others or property is not a real friend.
2. **Crisis:** Situations at school, home and with friends can cause unusual stress on youth. Events like divorce, a recent move, or a death can trigger crisis firesetting.
3. **Emotions:** Out-of-control or unidentified feelings such as frustration or anger cloud the decision-making process. Kids who are caught up in the action don't think about the consequences of their decisions.
4. **Thinking errors:** It's a myth that fire can always be controlled. All major fires start out as small fires. Following a firesetting situation, most young people will report that they thought they could control the fire. They usually did not mean to do any damage or hurt anyone.
5. **Lack of empathy:** Youth don't often consider anyone's feelings but their own. They don't understand the consequences of their actions on the feelings of others.

## HOW EASILY CAN THIS HAPPEN?

Chris and his friends are browsing YouTube to pass the time. They come across a video of another youth using an aerosol can and a lighter to create bursts of flame. His friend dares him to try it in his back yard so after stopping by the bathroom to borrow his sister's hair spray, all of the kids head outside.

At first Chris is nervous, but as he experiments more he becomes more confident in this ability to control the reaction of the fire when it meets the spray. This leads to him using more and more spray, creating larger and larger flames, closer and closer to the shrubbery which attaches to the fence that runs between his and the neighbor's property. As he reaches his grand finale, one of the shrubs is hit and quickly bursts into flames. The kids get scared and run from the scene. They didn't call 911. They didn't tell anyone ...

Before the decision was made, Chris had never noticed that the shrub ran beside his home. He never thought about the fact that the nearest fire station was seven miles away. He didn't know the family who lived in the neighboring house had a new baby. Chris never thought about the family losing their home and all their possessions and endangering the life of the baby. All Chris thought about was recreating what he had seen in the video in order to fit in with friends.

Before the decision was made, Chris's parents never discussed and practiced the proper steps in making good decisions. They didn't think their child would ever get in trouble. They didn't know they would suffer financial consequences as well as this feeling of remorse.

### **DON'T DENY THE PROBLEM.**

**TAKE AN ACTIVE PART IN PREVENTING AND REDUCING THE GROWING ARSON PROBLEM. YOU, AS THE PARENT OR A GUARDIAN, ARE A KEY PART OF AN INTERVENTION TEAM. THIS TEAM INCLUDES MEMBERS OF PUBLIC SAFETY AGENCIES, SOCIAL SERVICE AGENCIES, AND JUVENILE JUSTICE.**

**TOGETHER, WE CAN MAKE A DIFFERENCE.**

# WHAT CAN YOU DO?

## There is a solution.

- 1. Teach your children about the power of fire.** Even as adults we tend to think of fire in very controlled situations (wood stove, campfire, candles, etc.) Any fire, once out of control, can become deadly in a matter of seconds. In rural areas, a response from the fire department may take longer. This increases the chance of loss of life or greater property damage.
- 2. Teach your children how to make good decisions.** Remember, there is a greater likelihood that adolescents will make positive decisions when there is family involvement. ***When a youth starts a fire, he made a decision to do it!***

How do you make good decisions?

  - a. Identify the problem.
  - b. Brainstorm solutions.
  - c. Weigh the positives and negatives to these solutions.
  - d. Make a plan with the positive solutions.
  - e. Implement the plan.
  - f. Evaluate—Did it work?
- 3. Teach your children about the big picture.** If they start a fire they could hurt or kill someone. Remember that physical and emotional scars from fire can last forever.
  - a. Even fire victims who escaped without injury will tell you it was their most frightening experience. This emotional trauma can hurt forever.
  - b. The treatment of a burn victim is very painful and long term. Many times the physical scars change their lives forever.
  - c. If they start a fire, they could be breaking the law.
    - What are these laws? (see page 3)
    - What are the consequences? (see page 6)
- 4. Increase supervision.** Parents need to be aware of their children's activities.
- 5. Eliminate your child's access to matches and lighters.** When these materials are commonly available to your child, they are more likely to attempt to use or misuse them. Designate a location in your home where these items are stored and discourage their use by children.

The laws summarized in this booklet are provided for informational purposes only. If you have any questions about these laws or other questions concerning your legal liability or that of your child in the youth fire setting context, please contact your local district attorney.



Oregon State Police

**OFFICE OF STATE FIRE MARSHAL**

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