

EMERGENCY RESPONSE COSTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Brent H. Goodfellow

This act modifies the Utah Code of Criminal Procedure by giving public emergency response agencies a civil cause of action for expenses of an emergency response against an offender whose criminal conduct caused the incident, providing procedures for establishing the claim, and specifying a beginning date for application of these provisions.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

77-18-6.3, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **77-18-6.3** is enacted to read:

77-18-6.3. Liability of person for costs of emergency response relating to criminal conduct.

(1) As used in this section:

(a) "Expense of an emergency response" means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to an incident. These costs include those costs directly arising because of the response to the particular incident. These costs include the costs of providing police, firefighting, rescue, and emergency medical services at the scene of the incident, as well as the salaries of the personnel responding to the incident.

(b) "Public agency" means a political subdivision of the state or an agency of a political subdivision of the state that exists to provide firefighting, law enforcement, ambulance, medical, or other emergency services.

(2) A person is liable for the costs of emergency response to an incident, if:

(a) the incident results in a conviction of the person under:



- 28 (i) Section ~~h [41-4-44] 41-6-44 h~~ ;
29 (ii) Title 76, Utah Criminal Code;
30 (iii) Title 58, Chapter 37, Utah Controlled Substances Act;
31 (iv) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
32 (v) Title 58, Chapter 37b, Imitation Controlled Substances Act;
33 (vi) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
34 (vii) Title 58, Chapter 37d, Clandestine Drug Lab Act;
35 (viii) any other felony offense under state law; or
36 (ix) an ordinance essentially similar to an offense under Subsections (2)(a)(i) through
37 (vi); and
38 (b) the person's conduct that resulted in the conviction also proximately caused the
39 need for the emergency response.
40 (3) When an agency obtains a judgment establishing civil liability under this section for
41 emergency response costs ~~h AND IT h~~ is recorded in the registry of civil judgments, the judgment:
42 (a) constitutes a lien when recorded in the judgment docket;
43 (b) has the same effect and is subject to the same rules as a judgment for money in a
44 civil action; and
45 (c) may be collected by any means authorized by law for the collection of a civil
46 judgment.
47 (4) (a) The emergency response provider is responsible for timely renewal of the
48 judgment under Section 78-22-1.
49 (b) A judgment entered in the small claims court division of any court shall be
50 abstracted and recorded in accordance with Section 78-22-1 in order to qualify as a lien against
51 real property.
52 (5) The liability imposed under this section is in addition to and not in limitation of any
53 other liability that may be imposed.
54 (6) Any testimony, admission, or any other statement made by the defendant in any
55 proceeding brought under this section, or any evidence derived from the testimony, admission,
56 or other statement, may not be admitted or otherwise used in any criminal proceeding arising
57 out of the same incident.
58 (7) (a) It is not the intent of the Legislature that this section:

59 (i) occupy the field of recovery of the expenses of an emergency response by a public
60 agency;

61 (ii) preempt local regulations; ~~h~~ [or] ~~h~~

62 (iii) otherwise limit the remedies available to any public agency to recover the
63 expenses of an emergency response to any incident that does not result in a criminal conviction ~~h~~ ; ~~h~~ OR ~~h~~

63a (iv) ~~h~~ [NOT] ~~h~~ TAKE PRECEDENCE OVER VICTIM RESTITUTION ~~h~~ .

64 (b) It is the intent of the Legislature that the recovery of the expenses of an emergency
65 response under this section supplements and does not supplant any other provision of law
66 relating to the recovery of those expenses.

67 (8) This section applies to offenses committed on and after July 1, 2003.

Legislative Review Note
as of 11-21-02 2:54 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note**Emergency Response Costs***20-Jan-03***Bill Number HB0062***10:27 AM*

State Impact

This bill could have a positive fiscal impact on the political subdivisions of the State and their agencies that provide emergency responses. The amounts collected will vary due to several factors including the violators' abilities to pay, the nature of the emergency and the type of response. Collections for local governments could be in the hundreds of thousands of dollars statewide.

Individual and Business Impact

This bill will impact individuals or groups responsible for causing an emergency as a result of illegal activities. The responsible party will be required to pay for the cost of the emergency response on top of any fees, fines or penalties imposed as a result of a conviction related to the incident causing an emergency response. These costs will vary depending on the size and nature of the incident.

Office of the Legislative Fiscal Analyst

