

# CRS Report for Congress

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## Indiana Emergency Management and Homeland Security Statutory Authorities Summarized

Keith Bea  
Specialist in American National Government  
Government and Finance Division

L. Cheryl Runyon and Kae M. Warnock  
Consultants  
Government and Finance Division

### Summary

Three Indiana statutes address aspects of terrorism and emergency management: the *Emergency Management and Disaster Law*; a second concerning the State Emergency Management Agency, and a third pertaining to the Emergency Management, Fire and Building Services, and Public Safety Training Foundation. Financial aid is provided through state disaster funds, federal grants or loans, and state emergency management funds. The governor may declare a disaster and delegate command authority. Statutes authorize the establishment of mutual aid agreements and the Emergency Management Assistance Compact.

This report is one of a series that profiles the emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified. Congressional readers may wish to conduct further searches for related provisions using the Internet link presented in the last section of this report. The National Conference of State Legislatures provided primary research assistance in the development of these profiles under contract to the Congressional Research Service (CRS). Summary information on all of the profiles is presented in CRS Report RL32287. This report will be updated as developments warrant.

## Entities with Key Responsibilities

*Governor:* The governor is authorized to provide general direction and control of the state Emergency Management Agency (EMA) and is responsible for carrying out provisions of emergency management and disaster law. The governor may assume direct authority over all or any part of an emergency management function if it is beyond local control. The governor is specifically authorized to: make, amend, rescind regulations; cooperate with the President, FEMA, and other states; mobilize emergency management forces; provide warnings and drills; shut down utilities; hold public meetings; evacuate the civilian population, and make use of state and political subdivisions' agencies as needed (Ind. Code §10-14-3-11). Upon declaring a "disaster emergency" the governor serves as commander-in-chief of the militia and is authorized to: suspend statutes; use state resources; transfer staff; commandeer private property (with compensation); control ingress and egress; limit sale of goods; provide temporary housing; and allocate drugs and food (Ind. Code §10-14-3-12). The governor is authorized to formulate and execute plans and regulations for the control of traffic, and to coordinate the activities of state agencies and political subdivisions (Ind. Code §10-14-3-20).

*Counterterrorism and Security Council:* The lieutenant governor serves as chair of the council; membership includes agency heads, legislative leaders, the chief justice of the state, and local law enforcement officials. U.S. Department of Justice representatives may serve as nonvoting members. The council must: develop a strategy to prevent and respond to terrorism and a counterterrorism plan; review and update the plan; develop counterterrorism law enforcement curriculum; identify affiliated councils in each county; and report findings and recommendations to the governor periodically (Ind. Code §4-3-20-1 *et seq.*).

*Emergency Management Agency:* The agency coordinates emergency plans and all state efforts for preparedness, mitigation and recovery from emergencies and disasters (Ind. Code §10-14-2-4). The agency shall: prepare and maintain a state emergency operations plan, with key provisions for the plan specified; develop and revise local disaster plans; stockpile supplies; prepare executive orders and establish communications system for emergencies; establish training and public information programs; and survey public and private entities for resources, facilities and services (Ind. Code §10-14-3-9).

*Emergency Medical Services Commission:* The commission develops training and certification standards for the administration of antidotes, vaccines and antibiotics to prepare for and respond to a terrorist or military attack (Ind. Code §16-31-2-9(3)).

*Department of Health:* The department must adopt procedures to gather, monitor and tabulate case reports of incidents involving dangerous communicable diseases or unnatural outbreaks of diseases that are known or suspected of being used as weapons. The department notifies EMA and state police and local agencies as soon as a report is received. The department tabulates all reports of communicable diseases, devises methods to restrict and control diseases, and includes information in an annual report. The department must develop the capability to analyze and identify unknown bacterial substances that have been or may be used as a weapon (Ind. Code §§16-41-3-1, 2).

*County Emergency Management Advisory Council:* Each county must maintain an advisory council and emergency management organization, or participate in an interjurisdictional disaster agency. The organization: must maintain a local plan that

identifies local agency responsibilities; may establish command posts during an emergency; make staff, equipment property available for emergency management; and may waive contractual and hiring requirements during a national security emergency. County councils supervise and control emergency management and disaster programs and select directors responsible for emergency management programs. The governor may allow two or more contiguous political subdivisions to join together (Ind. Code §10-14-3-17).

*Indiana Emergency Management, Fire and Building Services and Public Safety Training Foundation:* Membership of the foundation represents state agency heads, statewide representatives, and legislative appointees. The foundation may acquire and donate property to state and local agencies and assist the EMA, the Department of Fire and Building Services, and the Public Safety Institute (see Ind. Code §5-2-10.5) with projects (Ind. Code §§10-15-2-1 *et seq.*, 10-15-3-11).

*State Hazard Mitigation Council:* The council was established to: develop, maintain and implement a state hazard mitigation plan; assist in the development of informational materials to support hazard mitigation efforts by state, local and private entities; identify hazard mitigation projects for federal funding; and promote hazard mitigation practices in the state (Ind. Executive Order 02-16, Ind. Register Vol. 25, 12, 9/01/02, re-promulgated as Executive Order 03-34).

*Emergency Response Commission and local emergency planning committees:* The commission and the committees support the development of emergency planning efforts to provide state government entities, local governments, and the public with information concerning potential chemical hazards. They design and supervise the operation of emergency planning districts in Indiana, prepare or review and update local emergency plans annually, and gather and distribute information needed for effective emergency response planning (Ind. Code §13-25-1-6, § 13-25-2-5).

## Preparedness

See “Entities with Key Responsibilities”— *Emergency Management Agency*

The statute authorizes the creation of mobile support units to support emergency management and disaster organizations in stricken areas (Ind. Code §10-14-3-19).

## Declaration Procedures

The governor is authorized to declare a disaster emergency by executive order or proclamation for a maximum period of 30 days, with renewals authorized if a disaster has occurred, or the threat of a disaster is imminent. The state of disaster emergency continues until the governor finds that the danger has passed or that the conditions no longer exist, and may terminate the emergency by executive order or proclamation. The legislature may terminate a declaration at any time. The executive order declaring a disaster emergency activates the disaster response and recovery aspects of emergency plans (Ind. Code §10-14-3-12).

A local disaster emergency may be declared by the principal executive officer of a political subdivision for a maximum period of seven days; the declaration may be

renewed with the consent of governing board and activates response and recovery parts of the plan. Officials of an interjurisdictional emergency management agency may not declare an emergency (Ind. Code §10-14-3-29).

## **Types of Assistance**

Governor may contribute 25% of the cost of emergency management staff and administrative expenses to political subdivisions (Ind. Code §10-14-3-32).

Within 30 days after the governor declares a disaster, the Board of Public Depository must meet to determine whether low cost loans are needed by disaster victims. If loans are needed, interest rates and terms are established. The state treasurer deposits in any bank in the general area of the disaster an amount of interest-free money equal to the loan amount granted by the bank (Ind. Code §28-2-5).

Within appropriation limits, the governor may contribute not more than 25% of costs and administrative expenses to a political subdivision (Ind. Code §10-14-3-32).

## **Mutual Aid**

EMA must develop a statewide mutual aid program and agreement (Ind. Code §10-14-3-9(g)).

The director of each local emergency management organization may develop mutual aid arrangements with other public and private agencies within state. In emergencies, it is the duty of each local emergency management organization to render assistance. The EMA director may assist the governor in negotiating mutual aid agreements with adjacent states or political subdivisions (Ind. Code §10-14-3-16).

The Interstate Emergency Management and Disaster Compact is codified (Ind. Code §10-14-6-1).

The Emergency Management Assistance Compact is codified (Ind. Code §10-14-5).

## **Funding**

The statute expresses the legislative intent to provide funds to meet disaster emergencies. First recourse must be to regular appropriations, then emergency or contingency funds are used as provided by statute (see Ind. Code §4-12-1-15) (Ind. Code §10-14-3-32).

The state disaster relief fund is intended to help eligible entities pay the costs of damage to public facilities. Funds are appropriated by the General Assembly and administered by EMA. The statute sets out conditions for grants, qualifications, and application requirements (Ind. Code §10-14-4 to 10).

Offers of gifts, grants or loans, places of shelter (including services, equipment, supplies and materials) from the federal government, a person, or a corporation may be accepted on behalf of any political subdivision (Ind. Code §10-14-3-25).

The statute established the emergency management contingency fund with appropriations. Funds are held in reserve and are allocated on the recommendation of the director, with the approval of the governor and the “budget committee” (Ind. Code §10-14-3-28).

The statute established the emergency management fund and the emergency medical services fund to pay for certain agency projects. Fees are obtained from the sale of “safety first” license plates (Ind. Code §9-18-45) and are divided among funds specified in the statute (Ind. Code §10-15-3 *et seq.*).

Each political subdivision may appropriate and expend funds to purchase equipment and supplies for emergency management purposes, including emergency assistance to victims of enemy attack (Ind. Code §10-14-3-17(j)).

The emergency planning and right to know fund is administered by the Department of Revenue. Funds are distributed to local emergency planning committees for preparing and updating emergency response plan, training, equipment, communications equipment and improving state and local communications in support of emergency planning (Ind. Code §6-6-10-7, 8).

The statute established a nuclear response fund to train and equip local responders to respond to terrorism acts (Ind. Code §10-14-8-6).

## **Hazard Mitigation**

See “Entities with Key Responsibilities”—*Department of Health, Emergency Management Agency*

The governor shall direct studies by key state agencies on methods to prevent or reduce harmful consequences of disasters. The governor may make related recommendations to the legislature, local governments and other public and private entities (Ind. Code §10-14-3-30).

## **Continuity of Government Operations**

When an emergency results from an enemy attack or threatened attack and the state cannot conduct government business in Indianapolis, the governor must declare an emergency temporary location(s) for the seat of government within or without state and issue orders for a transition to said location(s). Such location(s) remain the seat of government until the General Assembly establishes new location(s) by law, or the emergency is declared over. When local governments must relocate operations because of enemy attack, the governing body may meet at any location within or without its territorial limits, on the call of the presiding officer or two members of the governing body, which establishes alternate location(s) by ordinance (Ind. Code §4-1-3-1 *et seq.*).

A proposed constitutional amendment, which is subject to voter approval, provides that an individual holding one of the specified offices shall serve as governor if the governor and the lieutenant governor’s offices are vacant. The authority to discharge the governor’s powers and duties ends when the General Assembly fills the office of governor. Also, if either house of the General Assembly is unable to assemble a quorum

of its members due to vacancies, the legislature shall convene no later than 48 hours after a sufficient number of vacancies are filled to provide a quorum (Ind. P.L. 280, Jt. Res. 008, 2003).

## Other

The statute provides for liability immunity and workers compensation benefits for emergency management workers (Ind. Code §10-14-3-15).

Employees of political subdivisions and employees rendering emergency aid have the same powers, duties, rights, privileges and immunities as under normal employment (Ind. Code §10-14-3-18).

During a bioterrorism event, no person shall be compelled to submit to physical examination, medical treatment or immunization if he or she objects based on religious belief (Ind. Code §10-14-3-23).

A person offering real estate without compensation as shelter is not liable for injury or death to a person or loss or damage to the property (Ind. Code §10-14-3-25).

No political activity may be undertaken by the EMA (Ind. Code §10-14-3-26). No person shall be employed in emergency management who advocates a change by force or violence of the U.S. constitutional government, or who has been convicted of a subversive act (Ind. Code § 10-14-3-27).

Persons shall manage their personal property to assist in meeting disaster emergencies. Compensation may be provided for taking or using property (Ind. Code §10-14-3-31)

## Key Terms

**Table 1. Key Emergency Management and Homeland Security Terms Defined in Indiana Statutes, with Citations**

<b>Terms</b>	<b>Citations</b>
Disaster	Ind. Code §10-4-1-3(3)
Eligible entity	Ind. Code §10-4-1-29(a)
Emergency management	Ind. Code §10-4-1-3(1)
Terrorism	Ind. Code §35-41-1-26.5
Weapon of mass destruction	Ind. Code §35-41-1-29

## For Further Research

The citations noted above and other elements of the state code for Indiana may be searched at: [[http://www.in.gov/legislative/ic\\_iac/](http://www.in.gov/legislative/ic_iac/)].