

SENATE BILL No. 263

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-14-3; IC 16-19-3-10; IC 16-20-1-24.

Synopsis: Religious activities as essential services. Prohibits the state and a political subdivision from imposing restrictions on a religious organization that are more restrictive than the restrictions imposed upon other businesses and organizations that provide essential services to the public. Permits the state or a political subdivision to require a religious organization to comply with a neutral and generally applicable health, safety, or occupancy requirement to the same extent as other organizations, if the requirement is otherwise allowable under Indiana's religious freedom law.

Effective: July 1, 2021.

Koch

January 11, 2021, read first time and referred to Committee on Judiciary.



First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE BILL No. 263

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-14-3-11 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 11. (a) The governor
3 has general direction and control of the agency and is responsible for
4 carrying out this chapter. In the event of disaster or emergency beyond
5 local control, the governor may assume direct operational control over
6 all or any part of the emergency management functions within Indiana.
7 (b) In performing the governor's duties under this chapter, the
8 governor may, **subject to section 12.5 of this chapter**, do the
9 following:
10 (1) Make, amend, and rescind the necessary orders, rules, and
11 regulations to carry out this chapter with due consideration of the
12 plans of the federal government.
13 (2) Cooperate with the President of the United States and the
14 heads of the armed forces, the Federal Emergency Management
15 Agency, and the officers and agencies of other states in matters
16 pertaining to emergency management and disaster preparedness,
17 response, and recovery of the state and nation. In cooperating



1 under this subdivision, the governor may take any measures that
 2 the governor considers proper to carry into effect any request of
 3 the President of the United States and the appropriate federal
 4 officers and agencies for any emergency management action,
 5 including the direction or control of disaster preparations,
 6 including the following:

7 (A) Mobilizing emergency management forces and other tests
 8 and exercises.

9 (B) Providing warnings and signals for drills, actual
 10 emergencies, or disasters.

11 (C) Shutting off water mains, gas mains, and electric power
 12 connections and suspending any other utility service.

13 (D) Conducting civilians and the movement and cessation of
 14 movement of pedestrians and vehicular traffic during, before,
 15 and after drills, actual emergencies, or other disasters.

16 (E) Holding public meetings or gatherings.

17 (F) Evacuating and receiving the civilian population.

18 (3) Take any action and give any direction to state and local law
 19 enforcement officers and agencies as may be reasonable and
 20 necessary for securing compliance with this chapter and with any
 21 orders, rules, and regulations made under this chapter.

22 (4) Employ any measure and give any direction to the state
 23 department of health or local boards of health as is reasonably
 24 necessary for securing compliance with this chapter or with the
 25 findings or recommendations of the state department of health or
 26 local boards of health because of conditions arising from actual
 27 or threatened:

28 (A) national security emergencies; or

29 (B) manmade or natural disasters or emergencies.

30 (5) Use the services and facilities of existing officers, agencies of
 31 the state, and of political subdivisions. All officers and agencies
 32 of the state and of political subdivisions shall cooperate with and
 33 extend services and facilities to the governor as the governor may
 34 request.

35 (6) Establish agencies and offices and appoint executive,
 36 technical, clerical, and other personnel necessary to carry out this
 37 chapter, including the appointment of full-time state and area
 38 directors.

39 SECTION 2. IC 10-14-3-12, AS AMENDED BY P.L.90-2010,
 40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2021]: Sec. 12. (a) The governor shall declare a disaster
 42 emergency by executive order or proclamation if the governor



1 determines that a disaster has occurred or that the occurrence or the
2 threat of a disaster is imminent. The state of disaster emergency
3 continues until the governor:

4 (1) determines that the threat or danger has passed or the disaster
5 has been dealt with to the extent that emergency conditions no
6 longer exist; and

7 (2) terminates the state of disaster emergency by executive order
8 or proclamation.

9 A state of disaster emergency may not continue for longer than thirty
10 (30) days unless the state of disaster emergency is renewed by the
11 governor. The general assembly, by concurrent resolution, may
12 terminate a state of disaster emergency at any time. If the general
13 assembly terminates a state of disaster emergency under this
14 subsection, the governor shall issue an executive order or proclamation
15 ending the state of disaster emergency. All executive orders or
16 proclamations issued under this subsection must indicate the nature of
17 the disaster, the area or areas threatened, and the conditions which have
18 brought the disaster about or that make possible termination of the state
19 of disaster emergency. An executive order or proclamation under this
20 subsection shall be disseminated promptly by means calculated to bring
21 the order's or proclamation's contents to the attention of the general
22 public. Unless the circumstances attendant upon the disaster prevent or
23 impede, an executive order or proclamation shall be promptly filed
24 with the secretary of state and with the clerk of the city or town affected
25 or with the clerk of the circuit court.

26 (b) An executive order or proclamation of a state of disaster
27 emergency:

28 (1) activates the disaster response and recovery aspects of the
29 state, local, and interjurisdictional disaster emergency plans
30 applicable to the affected political subdivision or area; and

31 (2) is authority for:

32 (A) deployment and use of any forces to which the plan or
33 plans apply; and

34 (B) use or distribution of any supplies, equipment, materials,
35 and facilities assembled, stockpiled, or arranged to be made
36 available under this chapter or under any other law relating to
37 disaster emergencies.

38 (c) During the continuance of any state of disaster emergency, the
39 governor is commander-in-chief of the organized and unorganized
40 militia and of all other forces available for emergency duty. To the
41 greatest extent practicable, the governor shall delegate or assign
42 command authority by prior arrangement embodied in appropriate



1 executive orders or regulations. This section does not restrict the
 2 governor's authority to delegate or assign command authority by orders
 3 issued at the time of the disaster emergency.

4 (d) In addition to the governor's other powers, **and subject to**
 5 **section 12.5 of this chapter**, the governor may do the following while
 6 the state of emergency exists:

7 (1) Suspend the provisions of any regulatory statute prescribing
 8 the procedures for conduct of state business, or the orders, rules,
 9 or regulations of any state agency if strict compliance with any of
 10 these provisions would in any way prevent, hinder, or delay
 11 necessary action in coping with the emergency.

12 (2) Use all available resources of the state government and of
 13 each political subdivision of the state reasonably necessary to
 14 cope with the disaster emergency.

15 (3) Transfer the direction, personnel, or functions of state
 16 departments and agencies or units for performing or facilitating
 17 emergency services.

18 (4) Subject to any applicable requirements for compensation
 19 under section 31 of this chapter, commandeer or use any private
 20 property if the governor finds this action necessary to cope with
 21 the disaster emergency.

22 (5) Assist in the evacuation of all or part of the population from
 23 any stricken or threatened area in Indiana if the governor
 24 considers this action necessary for the preservation of life or other
 25 disaster mitigation, response, or recovery.

26 (6) Prescribe routes, modes of transportation, and destinations in
 27 connection with evacuation.

28 (7) Control ingress to and egress from a disaster area, the
 29 movement of persons within the area, and the occupancy of
 30 premises in the area.

31 (8) Suspend or limit the sale, dispensing, or transportation of
 32 alcoholic beverages, explosives, and combustibles.

33 (9) Make provision for the availability and use of temporary
 34 emergency housing.

35 (10) Allow persons who:

36 (A) are registered as volunteer health practitioners by an
 37 approved registration system under IC 10-14-3.5; or

38 (B) hold a license to practice:

39 (i) medicine;

40 (ii) dentistry;

41 (iii) pharmacy;

42 (iv) nursing;



- 1 (v) engineering;
 2 (vi) veterinary medicine;
 3 (vii) mortuary service; and
 4 (viii) similar other professions as may be specified by the
 5 governor;

6 to practice their respective profession in Indiana during the period
 7 of the state of emergency if the state in which a person's license
 8 or registration was issued has a mutual aid compact for
 9 emergency management with Indiana.

10 (11) Give specific authority to allocate drugs, foodstuffs, and
 11 other essential materials and services.

12 SECTION 3. IC 10-14-3-12.5 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2021]: **Sec. 12.5. (a) The following definitions**
 15 **apply throughout this section:**

16 (1) "Disaster emergency" means:

17 (A) a state or local disaster emergency declared under
 18 IC 10-14-3; and

19 (B) an epidemic described in IC 16-19-3-10.

20 (2) "Religious organization" means an organization, a
 21 religious society, a church or other house of worship, a body
 22 of communicants, an educational institution, or a group
 23 organized and operated primarily for religious purposes,
 24 regardless of whether it is integrated or affiliated with a
 25 church or other house of worship. The term includes an
 26 officer, owner, employee, manager, religious leader, clergy, or
 27 minister of an organization described in this subdivision.

28 (3) "Religious service" means a meeting, a gathering, or an
 29 assembly of two (2) or more persons organized by a religious
 30 organization for the purpose of worship, teaching, training,
 31 providing educational services, conducting religious rituals,
 32 or other activities that are considered necessary by the
 33 religious organization for the exercise of religion.

34 (b) Religious organizations provide essential services that are
 35 necessary for the health and welfare of the public during a disaster
 36 emergency. The state and a political subdivision may not impose
 37 restrictions on:

38 (1) the operation of a religious organization; or

39 (2) religious services;

40 that are more restrictive than the restrictions imposed on other
 41 businesses and organizations that provide essential services to the
 42 public.



1 (c) **This section does not prohibit the state or a political**
 2 **subdivision from requiring a religious organization to comply with**
 3 **a generally applicable health, safety, or occupancy requirement**
 4 **that is neutral towards religious organizations and equally**
 5 **applicable to any organization or business that provides essential**
 6 **services. However, the state or political subdivision may not**
 7 **enforce any health, safety, or occupancy requirement that imposes**
 8 **a substantial burden on a religious service unless the state or**
 9 **political subdivision demonstrates that applying the burden to the**
 10 **religious service in this particular instance is essential to further a**
 11 **compelling governmental interest and is the least restrictive means**
 12 **of furthering that compelling governmental interest.**

13 (d) **A person may assert a violation of this section as a claim**
 14 **against the state or a political subdivision in any judicial or**
 15 **administrative proceeding, or as a defense in any judicial or**
 16 **administrative proceeding, without regard to whether the**
 17 **proceeding is brought by or in the name of the state, political**
 18 **subdivision, or any other party.**

19 SECTION 4. IC 10-14-3-29, AS AMENDED BY P.L.172-2014,
 20 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2021]: Sec. 29. (a) A local disaster emergency:

22 (1) may be declared only by the principal executive officer of a
 23 political subdivision; and

24 (2) may not be continued or renewed for more than seven (7) days
 25 except by or with the consent of the governing board of the
 26 political subdivision.

27 Any order or proclamation declaring, continuing, or terminating a local
 28 disaster emergency shall be given prompt and general publicity and
 29 shall be filed promptly in the office of the clerk of the political
 30 subdivision.

31 (b) The effect of a declaration of a local disaster emergency is to:

32 (1) activate the response and recovery aspects of all applicable
 33 local or interjurisdictional disaster emergency plans; and

34 (2) authorize the furnishing of aid and assistance under the plans.

35 (c) An interjurisdictional agency or official may not declare a local
 36 disaster emergency unless expressly authorized by the agreement under
 37 which the agency functions. However, an interjurisdictional disaster
 38 agency shall provide aid and services according to the agreement.

39 (d) If a local disaster emergency is declared under this section, the
 40 political subdivision may not prohibit individuals engaged in
 41 employment necessary to:

42 (1) maintain a safe rail system;



1 (2) restore utility service; or
 2 (3) provide any other emergency public service;
 3 from traveling on the highways within the political subdivision during
 4 the local disaster emergency.

5 (e) If a local disaster emergency is declared under this section, the
 6 political subdivision may not prohibit individuals trained and certified
 7 as first response broadcasters, as set forth in section 22.5 of this
 8 chapter, from traveling on the highways within the political subdivision
 9 during the local disaster emergency.

10 (f) If a local emergency is declared under this section, the political
 11 subdivision may not prohibit individuals trained and certified as first
 12 response communications service providers, as set forth in section 22.6
 13 of this chapter, from traveling on the highways within the political
 14 subdivision during the local disaster emergency.

15 **(g) If a local emergency is declared under this section, the**
 16 **political subdivision must comply with section 12.5 of this chapter.**

17 SECTION 5. IC 10-14-3-29.5, AS ADDED BY P.L.40-2011,
 18 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2021]: Sec. 29.5. (a) If the principal executive officer of a
 20 political subdivision issues a local travel advisory as part of an
 21 emergency declaration under section 29 of this chapter, the principal
 22 executive officer shall designate the travel advisory as falling into one
 23 (1) of the following categories:

24 (1) "Advisory", the lowest level of local travel advisory, means
 25 that routine travel or activities may be restricted in areas because
 26 of a hazardous situation, and individuals should use caution or
 27 avoid those areas.

28 (2) "Watch" means that conditions are threatening to the safety of
 29 the public. During a "watch" local travel advisory, only essential
 30 travel, such as to and from work or in emergency situations, is
 31 recommended, and emergency action plans should be
 32 implemented by businesses, schools, government agencies, and
 33 other organizations.

34 (3) "Warning", the highest level of local travel advisory, means
 35 that travel may be restricted to emergency management workers
 36 only. During a "warning" local travel advisory, individuals are
 37 directed to:

38 (A) refrain from all travel;
 39 (B) comply with necessary emergency measures;
 40 (C) cooperate with public officials and disaster services forces
 41 in executing emergency operations plans; and
 42 (D) obey and comply with the lawful directions of properly



1 identified officers.
 2 Further and more specific restrictions, including parking
 3 restrictions, may be included in a "warning" local travel advisory.
 4 (b) If the emergency management agency director or the principal
 5 executive officer of a political subdivision determines that conditions
 6 within the political subdivision have created the need for travel
 7 advisory restrictions without a local disaster emergency declaration
 8 under section 29 of this chapter, the emergency management agency
 9 director or the principal executive officer may issue an "advisory" or a
 10 "watch" level travel advisory.
 11 (c) A "warning" level travel advisory may be issued only after a
 12 local disaster emergency is declared under section 29 of this chapter.
 13 **(d) An advisory issued under this section is subject to section**
 14 **12.5 of this chapter.**
 15 SECTION 6. IC 16-19-3-10 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 10. (a) The state
 17 department may order schools ~~and churches~~ closed and forbid public
 18 gatherings when considered necessary to prevent and stop epidemics.
 19 **(b) The state department may order a religious organization**
 20 **closed only if the order complies with IC 10-14-3-12.5.**
 21 SECTION 7. IC 16-20-1-24 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 24. (a) Local health
 23 officers may order schools ~~and churches~~ closed and forbid public
 24 gatherings when considered necessary to prevent and stop epidemics.
 25 **(b) A local health officer may order a religious organization**
 26 **closed only if the order complies with IC 10-14-3-12.5.**
 27 ~~(b)~~ (c) An individual who takes action under this section shall
 28 comply with state laws and rules.

