



Reprinted
February 2, 2021

SENATE BILL No. 263

DIGEST OF SB 263 (Updated February 1, 2021 2:12 pm - DI 106)

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

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, Brown L, Freeman, Buck,
Young M, Gaskill, Bohacek, Glick,
Zay, Kruse, Sandlin, Houchin**

January 11, 2021, read first time and referred to Committee on Judiciary.
January 28, 2021, reported favorably — Do Pass.
February 1, 2021, read second time, amended, ordered engrossed.

SB 263—LS 7012/DI 106



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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

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

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

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

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

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

(E) Holding public meetings or gatherings.

(F) Evacuating and receiving the civilian population.

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

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

(A) national security emergencies; or

(B) manmade or natural disasters or emergencies.

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

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

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



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

- (1) determines that the threat or danger has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist; and
- (2) terminates the state of disaster emergency by executive order or proclamation.

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

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

- (1) activates the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the affected political subdivision or area; and
- (2) is authority for:
 - (A) deployment and use of any forces to which the plan or plans apply; and
 - (B) use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available under this chapter or under any other law relating to disaster emergencies.

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



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

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

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

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

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

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

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

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

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

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

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

(10) Allow persons who:

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

(B) hold a license to practice:

(i) medicine;

(ii) dentistry;

(iii) pharmacy;

(iv) nursing;



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

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

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

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

- (1) "Disaster emergency" means:

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

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

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

- (3) "Religious service" means a meeting, a gathering, or an assembly of two (2) or more persons organized by a religious organization for the purpose of worship, teaching, training, providing educational services, conducting religious rituals, or other activities undertaken by the religious organization for the exercise of religion.

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

- (1) the operation of a religious organization; or
- (2) religious services;

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



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

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

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

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

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

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

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

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

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

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

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

(1) maintain a safe rail system;



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

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

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

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

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

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

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

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

- (A) refrain from all travel;
- (B) comply with necessary emergency measures;
- (C) cooperate with public officials and disaster services forces
 in executing emergency operations plans; and
- (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.



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 263, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 263 as introduced.)

BROWN L, Chairperson

Committee Vote: Yeas 8, Nays 2

SENATE MOTION

Madam President: I move that Senate Bill 263 be amended to read as follows:

Page 5, line 23, delete "primarily".

Page 5, line 32, delete "that are considered necessary" and insert "**undertaken**".

(Reference is to SB 263 as printed January 29, 2021.)

KOCH

