



EMERGENCY LEGAL PREPAREDNESS AND RESPONSE
Issue Brief

Summary of Authority and Actions Regarding Public Health Emergencies

Indiana Public Health Code

Indiana’s Public Health Code and Communicable Disease Rules provide an array of actions that state and local health officers can use to respond to a public health emergency. This document is intended to assist health officers and their attorneys by identifying potential actions and linking to the applicable law. Though the details of this document apply only in Indiana, the legal provisions likely have similar counterparts in all other states. Lawyers in other states may have developed, or could develop, comparable summaries for their states.

The legal authority documented below is drawn from Title 16 (Health) of the Indiana Code and applicable regulations. Readers are encouraged to review Articles [19 \(State Health Department\)](#), [20 \(Local Health Departments\)](#)¹, and [41 \(Public Health Measures for the Prevention and Control of Disease\)](#)², as well as the [Communicable Disease Control regulations](#).

AUTHORITY/ACTION	LAW	COMMENTS
1 Order to Abate a Nuisance	Ind. Code § 16-20-1-25	<ul style="list-style-type: none"> Issued by Local Health Officer Requires documentation of conditions that may transmit, generate, or promote disease Abatement order must be in writing, document conditions that may transmit disease, and list the shortest time for abatement Where the recipient fails to obey an abatement order, the attorney for the health jurisdiction issuing the order may seek court enforcement If failure to act constitutes a criminal offense, law enforcement authorities in the impacted jurisdiction shall be notified.
	Ind. Code § 16-19-3-11	<ul style="list-style-type: none"> The state health department may issue an order to condemn or abate conditions that cause disease.
2 Order to Vacate Dwelling Unfit for Habitation	Ind. Code § 16-41-20	<ul style="list-style-type: none"> Issued by Local Health Officer or State Health Officer (after 3 day notice to Local Health Officer) Orders must state at least one reason for the order (see Ind. Code § 16-41-20-1) Orders must allow between 5 and 15 days for persons to vacate the dwelling Order may be revoked if the reason for the order is remedied Order time for compliance may be extended for good reason



		<ul style="list-style-type: none">• Order must be served on both tenants and owners of dwelling• Aggrieved persons may ask for court review of the order within 10 days• Court review is conducted as a civil proceeding and is overseen by the legal entity for the city or town or, in the case of a town without such entity, by the prosecuting attorney• If court review is sought, the court decision is final. If no review is sought within 10 days, the Health Officer's order is final and conclusive.
3	Order to Clean, Repair, or Improve a Dwelling Unfit for Habitation	<p>Ind. Code § 16-41-20-7</p> <p><i>See also</i> Ind. Code § 16-41-20-6</p> <ul style="list-style-type: none">• Issued by Local Health Officer or State Health Officer (after 3 day notice to Local Health Officer)• Orders must state at least one reason for the order (see Ind. Code § 16-41-20-1)• Order may require the dwelling found unfit for habitation, or the dwelling's lot, to be purified, cleansed, disinfected, renewed, altered, repaired, or improved.• Order must be served on both tenants and owners of dwelling• Aggrieved persons may ask for court review of the order within 10 days• Court review is conducted as a civil proceeding and is overseen by the legal entity for the city or town or, in the case of a town without such entity, by the prosecuting attorney• If court review is sought, the court decision is final. If no review is sought within 10 days, the Health Officer's order is final and conclusive.
4	Order for Isolation and Quarantine**	<p>Ind. Code § 16-41-9-1.5(a)-(d)</p> <p><i>See also</i> Ind. Code § 16-19-3-9</p> <ul style="list-style-type: none">• Requested by State Health Officer or Local Health Officer• Used when public health threat from disease is high, but can withstand some passage of time before isolation and quarantine• Petition for order must be verified and contain:<ul style="list-style-type: none">▪ Citation to the legal authority▪ Identification of the communicable disease▪ Description of the infection or exposure▪ Description of symptoms, morbidity, and mortality of the disease▪ Incubation period of the disease▪ Description of the attempt at voluntary compliance• Petition must contain request for relief including:<ul style="list-style-type: none">▪ Request for the court to order isolation or quarantine▪ Thorough description of the requested least restrictive, medically necessary procedures to protect public health▪ Request for court to order the cost of treatment to be covered by the individual▪ Request for court to order the individual to provide information to determine financial ability to pay▪ Request for court order to keep all proceedings and filings confidential (Ind. Code § 16-41-8-1)• Court venue is either 1) circuit or superior court in county of occurrence or 2) circuit or superior court in county adjacent to county of occurrence.• Enforcement can be sought from state or local law enforcement.
5	Emergency Order for Isolation and Quarantine**	<p>Ind. Code § 16-41-9-1.5(e)-(j)</p> <ul style="list-style-type: none">• Requested by State Health Officer or Local Health Officer• Used when the threat to the public's health is high and exposure may occur before notice and opportunity to be heard can be afforded. Prearrangements are made to seek order through electronic means.• Must submit verified petition or submit sworn testimony via:<ul style="list-style-type: none">▪ Recorded, nonadversarial hearing before the judge▪ Orally by phone or radio▪ Via facsimile▪ Through other electronic means as allowed by court• Verified petition or sworn testimony must contain all the same information as above, plus include a description of the facts showing the individual should be detained prior to notice and opportunity to be heard• Court venue is either 1) circuit or superior court in county of occurrence or 2) circuit or superior court in county adjacent to county of occurrence.• Enforcement can be sought from state or local law enforcement.

6	Immediate Order for Isolation and Quarantine**	Ind. Code § 16-41-9-1.5(k)	<ul style="list-style-type: none"> • Issued by State or Local Health Officer • Issued when public health threat is immediate and severe and there are circumstances making it impracticable or impossible to secure a court order in time due to severe risk. May also be used when the number of individuals impacted makes it impracticable to seek a court order before the implementation of the isolation or quarantine. • The immediate order for isolation or quarantine must contain the following facts: <ul style="list-style-type: none"> ▪ Citation to legal authority ▪ Identification of the communicable disease ▪ Description of the infection or exposure ▪ Description of symptoms, morbidity, and mortality of the disease ▪ Incubation period of the disease ▪ Description of the attempt at voluntary compliance • In addition, the order must contain: <ul style="list-style-type: none"> ▪ An order for isolation or quarantine ▪ Thorough description of the requested least restrictive, medically necessary procedures to protect public health ▪ Expiration of the order (72 hours excluding weekends and legal holidays) • The order must be served to the individual via personal service either by the public health authority or local law enforcement • If the order is to a group, it may be served either through personal service via public health authority or local law enforcement OR by posting a copy of the order where it is likely to be seen by the affected individuals • Enforcement can be sought either from state or local law enforcement
7	Renewal of Emergency Court Order or Immediate Agency Order for Isolation or Quarantine**	Ind. Code § 16-41-9-1.5(l)-(m)	<ul style="list-style-type: none"> • Requested by State Health Officer or Local Health Officer • Used when originating emergency order will expire or for court order following an immediate agency order for isolation and quarantine • Petition for order must contain: <ul style="list-style-type: none"> ▪ Citation to legal authority ▪ Description of the previous detainment order ▪ Identification of the communicable disease ▪ Description of the infection or exposure ▪ Description of symptoms, morbidity, and mortality of the disease ▪ Incubation period of the disease ▪ Facts supporting continued detainment ▪ Description of attempts at voluntary compliance • Petition must contain request for relief including: <ul style="list-style-type: none"> ▪ Request for the court to renew or issue an order for isolation or quarantine ▪ Thorough description of the requested least restrictive, medically necessary procedures to protect public health ▪ Request for court to order the cost of treatment to be covered by the individual ▪ Request for court to order the individual to provide information to determine financial ability to pay ▪ Request for court order to keep all proceedings and filings confidential (Ind. Code § 16-41-8-1) • Court venue for a renewal of emergency order is either 1) court issuing the original order or 2) circuit or superior court in county adjacent to county where individual is located. • Court venue for renewal of an immediate order issued by the public health authority is 1) the circuit or superior court in the county where the person is located or 2) circuit or superior court in the county adjacent to where the person is located. • Notice is provided in the same manner as for an immediate order above. • Enforcement can be sought from state or local law enforcement.
8	Schools and Public Gatherings	Ind. Code § 16-41-9-3	<ul style="list-style-type: none"> • A local health officer may exclude a child with a dangerous communicable disease transmissible through normal school contacts from attending school.



		Ind. Code § 16-20-1-24	<ul style="list-style-type: none">• A state or local health department may order closure of schools and churches and may forbid public gatherings if necessary to prevent or stop epidemics.
		Ind. Code § 16-19-3-10	
		Ind. Code § 16-41-9-1.6	
9	Reporting Guidelines for Communicable Diseases for physicians, hospital administrators, and laboratories	Ind. Code § 16-41-2 410 IAC 1-2.5-75 410 IAC 1-2.5-76	<ul style="list-style-type: none">• Licensed physicians, hospital administrators, and directors of medical laboratories are required to report all infectious diseases listed in 410 IAC 1-2.5-75(d) (applicable to physicians and hospital administrators) or 410 IAC 1-2.5-76(d)(applicable to laboratories).• Reports are made to the local health officer of the county in which the patient lives or, absent that information, to the county in which the patient received testing.• Reports by physicians and hospital administrators shall include all items listed in 410 IAC 1-2.5-75(c).• Reports of HIV infections are governed under Ind. Code § 16-41-2-3 and shall be reported directly to the State Department of Health rather than the local health officer.• Failure to report is a Class A infraction under Ind. Code § 16-41-2-8.• Forms for reporting a reportable disease can be found here.
10	Disease Investigation & Intervention Measures	Ind. Code § 16-41-5-1 through 3 Ind. Code § 16-41-9-1 through 9-15 410 IAC 1-2.5-77 410 IAC 1-2.5-79	<ul style="list-style-type: none">• Local health departments are generally responsible for performing epidemiological investigations (including obtaining necessary laboratory and clinical data) and instituting control measures.• A local health officer or the state health commissioner shall ensure that disease-specific communicable disease control procedures are implemented. Specific control measures are provided in 410 IAC 1-2.5-80 through 1-2.5-148.• If specific control measures are not provided by rule, the health officer or commissioner must place appropriate restrictions on the movement of cases, carriers, or their contacts to prevent the spread of disease.• The local health officer or commissioner shall seek the cooperation of cases, carriers, contacts, or suspect cases to implement procedures necessary to protect the public's health, including participating in education or treatment programs, undergoing confirmatory testing, periodically notifying or appearing before the health official, ceasing conduct which threatens the health of others, being monitored, living in a supervised setting, being confined to an appropriate institutional or residential setting, and complying with remedies deemed appropriate by the health officer.
11	Inspection and Investigation Authority	Ind. Code § 16-20-1-21 through 23 Ind. Code § 16-19-3-7 Ind. Code § 16-41-5-1	<ul style="list-style-type: none">• A state or local health department may inspect or investigate any premises to determine compliance with public health laws and to prevent and suppress disease.
12	Enforcement by Court Action	Ind. Code § 16-20-1-26 Ind. Code § 16-19-3-18	<ul style="list-style-type: none">• A local board of health or health officer may seek court enforcement of orders, citations, and administrative notices. A court may issue an injunction or a quarantine or isolation order; suspend or revoke a license; order an inspection, vacation of property, or demolition of a structure; or impose a penalty, among other remedies.• The state health department may seek an injunction to compel compliance with a final order or determination and/or to enforce the state's public health laws.



13	Declaration of Public Health Emergency to Operate a Syringe Exchange Program	Ind. Code § 16-19-4-10 Ind. Code § 16-41-7.5	<ul style="list-style-type: none"> • The Indiana State Health Commissioner is authorized to declare a public health emergency to enable a local health department, municipality, or approved nonprofit organization to operate a syringe exchange program under Ind. Code § 16-41-7.5. • Based on a local health officer's declarations, the executive body of a county or legislative body of a municipality may approve operation of a syringe exchange program.
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** Information for these sections was drawn heavily from [Implementing Isolation and Quarantine: A guidance document provided by the Office of Legal Affairs](#), published by the Indiana State Department of Health in 2014. Sample notices, court orders, petitions, and forms can be found in the guidance document.

SUPPORTERS



Robert Wood Johnson Foundation

The Network for Public Health Law is a national initiative of the Robert Wood Johnson Foundation.

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The Network for Public Health Law provides information and technical assistance on issues related to public health. The legal information and assistance provided in this document does not constitute legal advice or legal representation. For legal advice, please consult specific legal counsel.

April 2020

¹ Note that the Marion County Health and Hospital Corporation is governed by [Ind. Code § 16-22-8 et seq.](#) rather than [Ind. Code § 16-20-1 et seq.](#) See Ind. Code § 16-20-1-1. However, the Marion County public health division “has the powers, functions, and duties of a local health officer.” Ind. Code § 16-22-8-31. Furthermore, the Marion County Health and Hospital Corporation or its board “serve as the exclusive local board of health and local department of health within the county with the powers and duties conferred by law upon local boards of health and local departments of health.” Ind. Code § 16-22-8-34.

² [Indiana Public Law 112-2020](#) (House Enrolled Act No. 1182) amends portions of Article 41 effective July 1, 2020. Although there are many substantive changes included in the law, the sections referenced in this document appear to be amended only with respect to terminology rather than substantive changes.