

# CRS Report for Congress

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## **Michigan Emergency Management and Homeland Security Authorities Summarized**

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# Michigan Emergency Management and Homeland Security Authorities Summarized

## Summary

The Emergency Management Act of 1976, as amended, provides for broad emergency management authority and prescribes duties of officials in Michigan. The governor is authorized to declare either a state of disaster or a state of emergency. After a state of disaster or emergency has been declared the governor may exercise numerous powers to protect the health and safety of the people. The department of state police exercises the lead role for emergency management through the emergency management division. State agencies and the judiciary must “cooperate to the fullest possible extent” with the emergency management director during a disaster or emergency. Counties and municipalities, depending on their population, are required or suggested to establish an emergency management office and hire a local director. Public colleges and universities (also depending on enrollment) are required or suggested to establish an emergency management office. The governor may establish emergency volunteers as a special segment of the national guard, and volunteers may provide assistance to the state should other national guard units be called up for national duty. Continuity of government operations provisions have been enacted for state and local offices, as have immunity and property compensation provisions.

This report is one of a series that profiles 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.

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# Michigan Emergency Management and Homeland Security Authorities Summarized

## Entities with Key Responsibilities

*Governor:* The governor is responsible for coping with dangers to the state or the people due to disaster or emergency, and is authorized to issue executive orders, proclamations and directives that he or she may amend or rescind (Mich. Comp. Laws Ann. §30.403). After declaring a disaster or emergency, the governor may suspend statutes, use state and political subdivision resources, transfer state executive department staff, commandeer private property (with compensation), compel evacuation, provide routes and modes of transportation, control ingress and egress, suspend or limit the sale of alcohol, firearms, and explosives, and provide temporary housing (Mich. Comp. Laws Ann. §30.405). The governor is the only civilian authorized to command state military personnel (Mich. Comp. Laws Ann. §32.579(1)).

*Director, Department of State Police:* The director and the department are charged with carrying out the responsibilities of the Michigan Emergency Management Advisory Council (Mich. Comp. Laws Ann §28.702). Department officials must implement the orders and directives of the governor in the event of a disaster or emergency and coordinate all federal, state, county, and municipal disaster prevention, mitigation, relief and recovery operations within the state. At the governor's direction, the department assumes complete command of all disaster relief, mitigation, and recovery forces, except national guard and the state defense force, if necessary for an effective effort. The director must: comply with the Michigan emergency management plan regarding performance of duties; administer state and federal disaster relief funds; mobilize state disaster relief forces; assign general missions to the activated national guard or state defense force to assist disaster relief; receive, screen, and investigate requests for assistance from county and municipal entities; make recommendations to the governor; and plan for and use volunteer groups. In addition, the director is authorized to relieve donors of voluntary or private assistance from liability while providing assistance (Mich. Comp. Laws Ann. §30.407 (1, 3-6)).

*Emergency Management Division:* The division, established within the Department of State Police, coordinates emergency management activities of county, municipal, state and federal governments. Division officials must prepare and maintain a state emergency management plan that addresses mitigation, preparedness, response and recovery; receives state and federal emergency management and disaster related grants-in-aid; and administers and apportions grants according to guidelines. Other authorities include the promulgation of rules regarding training and professional development; setting standards and requirements

for local and interjurisdictional emergency management programs; reviewing operations plans; establishing standards and requirements for training programs and exercises; surveying industries, resources and facilities; preparing executive orders for the governor to address emergencies and disasters; providing emergency operations centers for the coordination of emergency response and disaster recovery; cooperating with federal, other public, and private agencies to implement programs for disaster, mitigation, preparedness, response and recovery; and proposing and administering mutual aid compacts and agreements (Mich. Comp. Laws Ann. §30.407 (a)).

*Emergency management coordinator:* The directors of state departments or their designated representatives serve as emergency management coordinators for their departments and as liaison between the departments and the emergency management division. Each department must prepare and update its emergency management plan. During an emergency or disaster, each department, including the judicial branch, must cooperate fully with the emergency management agency to prevent, mitigate, respond and recover from the disaster or emergency (Mich. Comp. Laws Ann. §30.408).

*County board of commissioners:* Each board must appoint an emergency management coordinator or chair to serve in that role who must coordinate emergency management in the county, including mitigation, preparedness, response and recovery (Mich. Comp. Laws Ann. §30.409(1)). Counties or municipalities are authorized to: appropriate and expend funds; make contracts; obtain and distribute equipment, materials and supplies; provide for the health and safety of people and property; direct and control multi-agency responses; appoint employees and remove auxiliary police, fire and rescue teams; appoint a local emergency management advisory council; and assign and make available employees, property, and equipment if the governor declares a disaster. In case of foreign attack, the statute authorizes the waiver of formalities for performing public work (Mich. Comp. Laws Ann. §30.410 (1)(c-i)).

*Municipality:* A unit of local government must or may (depending on the population) appoint an emergency management coordinator to coordinate emergency management, disaster preparedness and recovery assistance activities (Mich. Comp. Laws Ann. §30.401(2-4)).

*Public college or university:* A public college or university must or may (depending on the enrollment) appoint an emergency management coordinator to coordinate emergency management, disaster preparedness and recovery assistance activities (Mich. Comp. Laws Ann. §30.409(5)).

## **Preparedness**

See “Entities with Key Responsibilities.”

A county or municipality emergency management coordinator may direct and coordinate the development of emergency operations plans that, among other matters, address public information sharing (local broadcasters must be consulted). The plans must include local courts (Mich. Comp. Laws Ann. §30.410(1)(a)).

If a disaster is beyond local abilities, but the governor has not declared an emergency, the emergency management coordinator must contact the district coordinator. The district coordinator assesses the scope of the disaster, recommends action, and notifies the emergency management director, who notifies the governor. If the director determines action is needed, he or she is authorized to provide temporary assistance. The director advises the governor on the magnitude of the disaster or emergency, and the governor is authorized to take action to mitigate the local disaster (Mich. Comp. Laws Ann. §30.414).

When the president calls up the national guard in time of national emergency, the governor is authorized to activate units known as the Michigan emergency volunteers to provide emergency assistance to the state. Volunteers provide aid to civil authorities and their missions. The department of military affairs must report annually to the legislature about volunteers and training, screening standards, fitness requirements and the coordination of volunteers with law enforcement and disaster relief agencies. Volunteers may not be equipped with weapons unless they are protecting public property and have received training on the weapons (Mich. Comp. Laws Ann. §32.651).

The state defense force, augmented by the unorganized militia, is authorized to protect the state during a disaster, invasion, insurrection, or other emergency when the national guard is in U.S. military service (Mich. Comp. Laws Ann. §32.655).

The Department of Natural Resources may call any able bodied male 18 years or older to assist in emergencies, who, unless he or she is an inmate, must be paid minimum wage (Mich. Comp. Laws Ann. §324.51508).

## **Declaration Procedures**

The governor, by executive order or proclamation, shall declare a state of disaster (or emergency) if one has occurred, or if the threat exists. A state of disaster (or emergency) continues until the threat or danger has passed, the disaster (or emergency) has been dealt with and the disaster (or emergency) conditions no longer exist, or until the state of disaster (or emergency) has been in effect for 28 days. After 28 days the governor must issue an executive order declaring the state of disaster (or emergency) terminated, unless the governor requests an extension for a specific number of days and both houses of the legislature approve a joint resolution (Mich. Comp. Laws Ann. §30.403 (3, 4)).

The governor may, by executive order, declare a “heightened state of alert” related to a terrorism threat and exercise authority to protect the state and its resources, prevent or respond to acts of terrorism, and aid in apprehension of terrorists. The governor shall not suspend or limit alcohol sales. Within seven days of declaring a heightened state of alert, the governor shall notify the majority and minority leaders of the Senate and the speaker and minority leader of the House. The governor is authorized to exercise powers (described under “Entities with Key Responsibilities,” above) until the state of heightened alert is no longer in effect. A heightened state of alert lasts until the threat has passed and conditions no longer exist, or for a maximum period of 60 days. The governor must terminate the

declaration after 60 days unless the legislature approves a joint resolution for an extension comprising a specific number of days (Mich. Comp. Laws Ann. §30.421).

With the governor's concurrence, the director of the Department of State Police may amend a proclamation or executive order about a disaster, emergency, or heightened state of alert, in order to add counties or municipalities to the declaration or to terminate orders and restrictions (Mich. Comp. Laws Ann. §30.407 (2)).

The executive order must list the nature of the disaster, area(s) threatened, conditions causing the disaster (or emergency), and conditions permitting the termination of the disaster (or emergency). The executive order is to be disseminated to the public and filed with the emergency management division of the Department of State Police and the Secretary of State, unless the disaster prevents prompt filing (Mich. Comp. Laws Ann. §30.403(3)). A declaration of a state of disaster or emergency authorizes the deployment and use of forces under the Michigan emergency management plan and the use and distribution of supplies, equipment, materials, and facilities. The governor may seek and accept assistance from the federal government (Mich. Comp. Laws Ann. §30.404(1),(2)).

The chief executive official of a county or a municipality may declare a local state of emergency if the occurrence or threat of severe damage, injury, or loss of life and property from natural or manmade causes exist; the official may also issue directives about travel restrictions on local roads. Such a declaration shall not be continued or renewed for more than seven days except with the consent of the local governing body. The declaration must be filed with the Emergency Management Division of the Department of State Police (Mich. Comp. Laws Ann. §30.410(b)).

If a disaster or emergency is beyond the control of local agencies, the chief executive officer of a county or municipality may request the governor to declare a state of emergency. A county or municipality may issue emergency rules that last until the emergency is terminated (Mich. Comp. Laws Ann. §30.412).

The chief executive of a county cannot request state aid for a disaster solely within the confines of a municipality unless requested by the chief executive of the municipality, as specified in the statute (Mich. Comp. Laws Ann. §30.414).

## **Types of Assistance**

The Department of Administration may receive and warehouse federal surplus property (equipment and material) that the state can use for civil defense purposes in educational institutions, hospitals, and non-profit facilities (Mich. Comp. Laws Ann. §18.252).

The governor may accept a gift, grant, and loan and establish a fund for the purchase of civil defense equipment. Funds are deposited with the state treasurer, and fall under the responsibility of the director of civil defense (Mich. Comp. Laws Ann. §30.309).

The governor may apply for, accept and disburse federal grants if the President declares a major disaster or an emergency (Mich. Comp. Laws Ann. §30.416).

The “Proud to be an American” fund is supported by receipts from the sale of specified license plates. The State Treasurer disburses funds monthly on an equal basis to the American Red Cross and the Salvation Army for disaster preparedness and relief in the United States. Organizations provide annual reports to the Treasury Department on the expenditure of funds (Mich. Comp. Laws Ann. §257.217n).

## **Mutual Aid**

The *Interstate Emergency Management Assistance Compact* is codified (Mich. Comp. Laws Ann. §§3.991, 3.1001).

The state or a political subdivision may enter into a mutual aid agreement with a law enforcement agency of a physically adjacent state (Mich. Comp. Laws Ann. §3.732).

The governor, with the approval of the state Administrative Board, may enter into a compact or reciprocal aid agreement with another state, the federal government, or neighboring provinces of a foreign country. Such compacts are limited to exchanging or furnishing the following items or resources: food, clothing, medicine, supplies, engineering services, emergency housing, police services, national guard, health services, personnel, equipment, facilities and costs and expenses. The legislature must approve funds for implementation (Mich. Comp. Laws Ann. §30.404 (3)).

Municipalities and counties may enter into mutual aid agreements with other counties, municipalities, public agencies, tribal nations, and private sector agencies. Agreements are limited to the exchange of personnel and equipment, and the agreement must be consistent with the state emergency management plan (Mich. Comp. Laws Ann. §30.410 (2)).

An emergency management coordinator is authorized to assist with the development and negotiation of a mutual aid agreement (Mich. Comp. Laws Ann. §30.410 (3)).

The governor may enter into an agreement with the governors of other states to allow Michigan military forces to provide mutual assistance during a disaster. Reciprocity exists for immunity for national guard members from another state (Mich. Comp. Laws Ann. §32.559).

## **Funding**

The director of the Department of State Police is authorized to administer the disaster contingency fund. The legislature must appropriate sufficient money to maintain the funding within specified levels of \$750,000 maximum, \$30,000 minimum. The fund is to be used to pay staff overtime and travel. Deposits from federal reimbursements are to be made into the fund. The fund is to be used to pay the state match for presidentially declared disaster and federal grants (Mich. Comp. Laws Ann. §30.418).



The disaster contingency fund is to be used to provide assistance to counties and municipalities when federal assistance is not available. A county or municipality must show that local funding is exhausted and that a local emergency management program exists. Funds are to be used only to provide reimbursements for public damage and losses. A disaster assessment team of the emergency management division must approve claims (Mich. Comp. Laws Ann. §30.419).

The adjutant general is authorized to accept funds from sources other than state and federal governments for emergency volunteers, but legislative appropriations are required to spend funds. The funds are held in a special account in the Department of Military Affairs (Mich. Comp. Laws Ann. §32.651 (4)).

A court may order a person convicted of a crime to reimburse a state or local government for expenses incurred for emergency response (Mich. Comp. Laws Ann. §769.1f).

## **Hazard Mitigation**

See “Entities with Key Responsibilities.”

Upon determination by the Department of Natural Resources, a person shall not occupy land for any purpose other than agriculture in a floodplain (Mich. Comp. Laws Ann. §324.3108).

The statute sets out dam safety and inspection provisions, including a requirement that a dam owner or agency advise the department of natural resources and affected public authorities and safety agencies of a sudden flood that may affect dam safety. Dam owners must prepare an emergency action plan for high and significant hazard dams, which must be consistent with the state emergency preparedness plan (Mich. Comp. Laws Ann. §§324.31520-31523).

## **Continuity of Government Operations**

The legislature may provide by law for prompt and temporary succession to the powers and duties of various public offices to insure the continuity of government in periods of emergency resulting from state disasters caused by enemy attack on the United States. Elections shall be called as soon as possible to fill vacancies in elective offices (Mich. Const. Art. IV §39).

The *Emergency Interim Executive Succession Act* is codified (Mich. Comp. Laws Ann. §31.1 *et seq.*) In particular, in the event of a disaster, the governor, secretary of state, deputy, or emergency interim successor determines whether an officer or deputy is unavailable, and informs the next available interim successor of the need to exercise powers and discharge duties of the office (Mich. Comp. Laws Ann. §31.10).

## Other

Terms exempt from disclosure in public record include a public body's security measures (plans, codes, passwords, and procedures) that relate to ongoing security (Mich. Comp. Laws Ann. §15.243(u)).

Immunity and compensation provisions for disaster relief forces are codified (Mich. Comp. Laws Ann. §30.411).

A person licensed to practice medicine in another state or for the federal government and who renders services during state of disaster at the request of a state or county official is an authorized disaster relief worker and is not liable for injuries. Willful acts are not covered (Mich. Comp. Laws Ann. §30.411 (4)). Also, the statute provides medical procedures that licensed professionals may undertake during a state of disaster (Mich. Comp. Laws Ann. §30.411 (5)).

The statute provides immunity for a real estate owner who provides shelter during a disaster (Mich. Comp. Laws Ann. §30.411 (6)). The real estate owner must provide notice of hidden dangers or safety hazards that could result in death, injury, or loss of property (Mich. Comp. Laws Ann. §30.411 (7)).

All persons are required to conduct themselves and manage property to assist and not detract from the state's ability to cope with a disaster or emergency. Property compensation is paid only if property is taken or used on the order of a governor or director. A record of all property taken is to be transmitted to the governor. Compensation is not provided for: firebreaks (destroying or damaging timber) or the release of water from impoundments to reduce flood threats (Mich. Comp. Laws Ann. §30.406).

The statute established general limitations on the authority that can be undertaken under the Emergency Management Act. The statute cannot be construed to interfere with a labor dispute, or the sharing of news, or affect jurisdiction of law enforcement or firefighters, among others (Mich. Comp. Laws Ann. §30.417).

If the United States is at war or the President, Congress, the governor, or the legislature has declared an emergency, state military forces at the direction of the governor may continue the pursuit of saboteurs, insurrectionists, and enemy forces beyond the border of the state. Anyone captured is to be surrendered to the military or police forces in the state where they are taken (Mich. Comp. Laws Ann. §32.563).

Another state's military force in pursuit of insurrectionists, enemies, or saboteurs may continue their pursuit in Michigan. Any person captured in the state is to be surrendered to state military or police (Mich. Comp. Laws Ann. §32.567).

If the commanding officer of the state military is responding to terrorism or providing disaster relief, he or she has immunity for actions taken, as do members of the militia (Mich. Comp. Laws Ann. §32.579).

## Key Terms

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

<b>Terms</b>	<b>Citations</b>
Act of terrorism	Mich. Comp. Laws Ann. §§30.421 (4)(a), 750.543b(a)
Disaster	Mich. Comp. Laws Ann. §§30.402(e), 31.2 (b),
Disaster relief forces	Mich. Comp. Laws Ann. §30.402(f)
District coordinator	Mich. Comp. Laws Ann. §30.402(g)
Emergency	Mich. Comp. Laws Ann. §30. 402(h)
Emergency interim successor	Mich. Comp. Laws Ann. §§31.2 (e), 31.102 (e)
Emergency management coordinator	Mich. Comp. Laws Ann. §30.402(i)
Enemy attack	Mich. Comp. Laws Ann. §§31.2(c)
Local state of emergency	Mich. Comp. Laws Ann. §30.402(j)
Michigan emergency management plan	Mich. Comp. Laws Ann. §30.402(k)
State of disaster	Mich. Comp. Laws Ann. §30.402(p)
State of emergency	Mich. Comp. Laws Ann. §30.402(q)
Terrorist	Mich. Comp. Laws Ann. §750.543b(g)
Terrorist organization	Mich. Comp. Laws Ann. §30.421(4)(b)

## For Further Research

The citations noted above and other elements of the state code for Michigan may be searched at: [<http://www.mileg.org/mileg.asp?page=MCLBasicSearch>].