

CRS Report for Congress

Emergency Management and Homeland Security Statutory Authorities in the States, District of Columbia, and Insular Areas: a Summary

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Summary

Homeland security requires a partnership among all levels of government. As Congress continues to debate federal responsibilities in this new policy arena, Members may wish to assess the reach of state policies. The information presented in this report, along with summaries of statutory authorities presented in the companion reports on each jurisdiction (the fifty states, the District of Columbia, and the insular areas), are intended to help Members evaluate the relationships among federal and state policies. This information might be used to answer questions such as the following:

- What is the range of legislation enacted by the states (including the insular areas and the District of Columbia) regarding the preparation for and management of the consequences of terrorist attacks, natural disasters, or significant accidents?
- If Congress enacts policies that direct action to be taken in certain areas — such as the development of capability standards or response procedures, or placing conditions on federal assistance — what will be the impact in those states that have established policies in these areas?
- What are the policy gaps? What areas might be better addressed through state action? Should the federal government step in if some states have not acted? If so, under what conditions should there be a federal presence?

To a considerable extent, state statutory authorities appear to be relatively uniform. All state statutes provide considerable discretionary authority to the governor in emergency situations. Also, since federal law requires or encourages certain actions, all states have enacted similar laws in some areas, such as the establishment of state and local entities with responsibility for hazardous material or chemical incidents or the acceptance of federal disaster assistance. Some differences exist among the state authorities, such as the types, amount, and conditions under which aid is to be provided to disaster victims. Also, some states have enacted provisions to ensure that nonfederal funds are made available for preparedness or recovery, while others rely upon federal sources, with state funds authorized to meet cost share requirements.

The National Conference of State Legislatures (NCSL), through a contract with the Congressional Research Service (CRS), compiled information in calendar year 2003 that was used to develop profiles of emergency management and homeland security statutes in the 50 states, the District of Columbia, and the insular areas. These profiles are published separately as CRS reports and are listed in the appendix to this report. It is not anticipated that this report will be updated.

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Emergency Management and Homeland Security Statutory Authorities in the States, District of Columbia, and Insular Areas: a Summary

Overview

The Homeland Security Act of 2002 (HSA) and other legislation enacted after the terrorist attacks of September 11, 2001, constituted a major change in federal statutory authorities related to preparation for and response to enemy attacks, natural disasters, and other emergency situations.¹ The HSA elevated the federal role in some domestic security areas that, prior to the attacks, were generally perceived to be the responsibility of state governments. The enhanced federal responsibilities were balanced, however, with the adoption of policies that require or encourage a partnership with state and local governments² and provide that state laws generally are not preempted.³

The Congressional Research Service, through a contract with the National Conference of State Legislatures (NCSL), has compiled information on state

¹ P.L. 107-296, 116 Stat. 2135 et seq.

² See, for example, the following provisions in P.L. 107-296: Section 102(c) requires that the Secretary of Homeland Security coordinate preparedness activities and communications systems with nonfederal entities and distribute warnings and information on threats; Section 201(d) authorizes the Under Secretary for Information Analysis and Infrastructure Protection to analyze and receive information from state and local governments and integrate information to establish priorities for protective measures; Section 232(b) requires that the Office of Science and Technology within the Department of Justice assess law enforcement technology needs of state and local agencies; Section 309(d) authorizes directors of national laboratories to enter into research and development agreements with state or local government entities; Section 313(b) mandates that the Under Secretary for Science and Technology establish a clearinghouse to provide assistance and information on technology for review or use by the states; Section 430 requires that the Office for Domestic Preparedness coordinate and consolidate preparedness and risk management efforts among all levels of government; Section 502 requires that the Under Secretary for Emergency Preparedness and Response build an incident management system; Section 801 established the Office for State and Local Government Coordination to coordinate relationships with state and local governments; Section 882 established the Office of National Capital Region Coordination to integrate governmental planning and response activities in the Washington, D.C. area; Section 891 expresses the sense of Congress that federal, state and local entities should share homeland security information; and, Sections 896 and 897 authorize federal officials to share information on potential attacks.

³ Section 877(b) of P.L. 107-296.

statutory authorities.⁴ This research was conducted to help Members of Congress evaluate how existing law, as well as pending legislation, might correspond to state statutory authorities that address similar missions.

Policymakers and analysts have discussed the need to improve the homeland security partnership.⁵ A knowledge of (or ready access to) state statutory authorities could be an important tool for Congress if the coordinated partnership with the states (and other nonfederal entities) envisioned in the HSA is to be developed.

Throughout calendar year 2003, NCSL staff, working in conjunction with CRS, reviewed state statutory codes to develop profiles of homeland security and emergency management authorities. Statutory provisions were identified by means of a database search of terms applied to the codified statutes available in calendar year 2003.⁶ Also, manual searches of state indexes were employed to supplement the database searches.

The profiles, each issued as a separate CRS report and listed in the appendix to this report, are intended to provide succinct summaries of the more significant emergency management and homeland security statutory provisions. Citations to the sources of statutory information are provided to enable readers to review statutes' texts.

To facilitate comparisons among the states, summaries of statutory provisions have been grouped into the following eleven categories. Each state profile report, listed in **Table 1** of this report, presents information in each of these categories, as does this summary report.

- **Summary:** statements on the more significant or comprehensive provisions;
- **Entities with key responsibilities:** agencies and officials with the most pertinent duties;
- **Preparedness:** duties and authorities that enable citizens and officials to prepare for emergencies;
- **Declaration procedures:** authority and methods used by governors to initiate emergency responses;

⁴ Throughout this report the term "state" is used to refer not only to the 50 states but to the District of Columbia, the commonwealths of Puerto Rico and the Northern Mariana Islands, and the territories of American Samoa, Guam, and the U.S. Virgin Islands.

⁵ A report issued by the Twentieth Century Foundation assessed a grade of "C" to efforts by the Department of Homeland Security to coordinate efforts with state and local governments. See: *The Department of Homeland Security's First Year: A Report Card*, found at: <http://www.tcf.org/Publications/HomelandSecurity/overview.pdf>, visited March 4, 2004.

⁶ Appreciation is extended to the staff of the NCSL and to Thomas P. Carr of the Government and Finance Division of CRS for their assistance with the database searches.

- **Types of assistance:** most significant types of aid authorized to be provided to entities or residents affected by a disaster;
- **Mutual aid:** authorities that enable officials to formally establish cooperative agreements with other jurisdictions to facilitate resource sharing;
- **Funding:** provisions that specify the sources of funding for disaster response or preparation;
- **Hazard mitigation:** policies that direct or allocate resources to prevent disasters or lessen their impact if they cannot be prevented;
- **Continuity of government operations:** provisions that guide the continued operation of government in the event standard procedures cannot be followed;
- **Other:** authorities that do not readily fit into the preceding categories, such as civil service protections, liability, and benefits for employees and volunteers; and
- **Key terms defined:** a table that identifies and cites references to the terms most pertinent to homeland security and emergency management authorities.

In addition to information presented in each of these categories, each profile includes a reference to an Internet address that may be used to search for these statutory provisions on-line.⁷

Limitations and Caveats

This summary and the associated state profiles themselves are based upon database searches completed by CRS and NCSL staff using such terms, and variations as “disaster,” “emergency,” “terrorism,” “attack,” and “contingency,” among others. Different related search terms could yield other results.

The information included in the profiles and used to develop this summary illustrates significant state provisions most pertinent to the congressional debate on homeland security policy. Related or tangential issues such as school violence, agricultural terrorism, militia or national guard authority, and aspects of bioterrorism may be addressed in statutes other than those cited in the profiles. The policy fields of emergency management and homeland security overlap, touch upon other fields, and fit into broad general governance functions. These summaries can, at best, partially highlight the pertinent authorities. General statutory provisions that

⁷ In addition to the citations listed in each report, the following Internet site facilitates reviews of state codes: <http://www.llsdc.org/sourcebook/state-leg.htm#AL>, visited March 4, 2004.

authorize filling vacancies in state offices or set forth the duties of public safety officers are not included in the profiles unless they include references to significant emergency situations.

The material in this report, drawn from the profiles, necessarily represents an abbreviated illustration of pertinent provisions of state statutes. To the extent possible, each profile includes summary clauses or sentences that provide general information on the text. One exception is found in the “Key Terms” sections. The profiles developed for each state do not contain summaries of the text of definitions, largely due to concerns with the size of the profiles, but also because some definitions either made reference to other statutory provisions or repeated the term to be defined. The specific state statute referenced in each profile should be consulted to identify the meaning of each term defined in state statutes.

Summary of Major Findings

Although each state legislature considers and modifies statutory proposals to suit the particular needs of state residents, model or suggested legislative proposals have circulated among the states. As a result, the legislation is similar in certain respects. All states provide authority to the governor to take emergency action, require that certain actions be taken to ease the impact of attacks or other disasters, and define key terms. All states provide for continuity of government and authorize the negotiation or adoption of mutual aid agreements. Differences may still be found, however, as some states have enacted provisions that pertain to specific circumstances or legislative priorities. The remainder of this report provides examples of some distinctive elements of state homeland security and emergency management authorities.

Entities with Key Responsibilities

Governors serve as commanders-in-chief of their state militias and assume special powers upon the declaration of a disaster, emergency, enemy attack, or riot. Although the governors’ powers vary from state to state, emergency powers in all states generally include authorities such as the following: suspend statutory and regulatory provisions that otherwise might hinder response to a disaster; require hospitalization for those injured during a disaster; control ingress and egress into the emergency area; direct the evacuation of residents and prescribe transportation routes; provide temporary shelter; commandeer property (with compensation); control or suspend utility services; and limit or suspend the sale and possession of alcohol, firearms and explosives following a disaster or emergency.

The authority of the governor is circumscribed or limited by many state statutes. Twenty-seven states have established a council or commission of other elected officials and key advisors to provide input and advice to the governor in making policy decisions regarding planning for and reducing the impacts of future disasters.

State emergency management agencies or divisions, led by a director or adjutant general, are the primary staff responsible for mitigation, preparedness, response and recovery from natural disasters and emergencies. Emergency management staff

coordinate with other state agencies and local emergency response departments to plan for and respond to potential disasters and emergencies. Key responsibilities of emergency management staff include writing a state emergency response plan, assisting local governments in writing their plans, administering federal grant funding requests, and coordinating with state, local and federal agencies to provide training, public information, and other emergency response related activities. Some examples of responsibilities include the following:

- Nevada has both a disaster identification team within the division of emergency management to provide technical assistance to local authorities to recover and identify disaster victims and establish a temporary morgue and process and dispose of the victims' remains, as well as a search and rescue board that provides direction to the search and rescue coordinator and formulates policy related to search and rescue.
- The Oklahoma Office of Volunteerism within the Department of Civil Emergency Management encourages emergency management volunteerism.
- In Texas, the coordinator of the division of emergency management also is the state drought manager.

In addition to their emergency management divisions or agencies, some states have established commissions to address specific hazards (earthquakes, forest fires, floods, dam safety, drought) to advise and coordinate disaster preparedness and provide recommendations to reduce future losses and train for response, recovery and reconstruction.

Most states reportedly have created homeland security offices, task forces or by gubernatorial executive order or appointment. This report does not include such entities, but only addresses those statutorily created. Oklahoma created an office of homeland security by statute. In a number of states, the office of emergency management was given the responsibility to monitor and respond to homeland security concerns.

Many states have determined that both terrorism preparedness and emergency management should use existing state resources. A number of statutes provide that the office of emergency management coordinate first responders in almost any emergency. A few states have established a cabinet position that coordinates with the U.S. Department of Homeland Security and provides advice to the governor about key terrorism issues, such as energy and water security. Other coordination efforts between emergency management and homeland security include the following examples:

- In Colorado, the Office of Anti-terrorism Planning and Training is located within the Department of Public Safety.
- In Florida, the legislature requires coordination of counter-terrorism efforts by and through the Department of Law Enforcement, in

conjunction with the Division of Emergency Management. The legislature also created within the Department of Law Enforcement the Domestic Security and Counter-Terrorism Intelligence Center.

- The Oklahoma Office of the Interim Homeland Security Director coordinates state homeland security with federal agencies.
- The state of Utah revised the name of the emergency management office to reflect the assumption of additional duties — the Utah Division of Emergency Services and Homeland Security.

Also, with the advent of the threat of bioterrorism, special advisory committees have been established to manage threats to public health.

- Colorado has a governor's expert emergency epidemic response committee (GEEERC) to assist during a bioterrorism event.
- Tennessee has a Public Health Emergency Advisory Committee that recommends implementation of a comprehensive plan for bioterrorism emergency preparation and response to the governor.
- New Mexico enacted the Public Health Emergency Response Act to provide authority to administrative officials to isolate, quarantine, and respond to public health emergencies.
- A few states (Missouri, New Hampshire, and Oregon) have statutorily created legislative committees to provide legislative oversight of terrorism, bioterrorism and homeland security issues.
- Delaware, Kansas, Kentucky, Louisiana, New Jersey, New York, and Oklahoma have created special legislative committees by rule. The committees provide reports to the entire assembly to keep the legislative body apprised of recent developments.

At the local government level, many state statutes authorize emergency management organizations to exercise police powers during a local emergency. Should a disaster affect the entire state, local organizations are under the direction and control of the state emergency management office. The local director of emergency management is responsible for writing and updating the local emergency response plan, providing training, and seeking assistance from the state emergency management agency.

The accidental or intentional release of hazardous chemicals and substances is treated extensively in state statutes, as required by federal statutes. State and local governments have been required to establish emergency response commissions and local emergency preparedness committees in response to the federal Emergency Planning and Community Right-to-Know Act to prepare for and respond to

hazardous materials releases.⁸ The commissions and committees are responsible for providing training and equipment, managing grants and making annual reports to the legislatures and governors about their activities.

Preparedness

State preparedness authorities require that comprehensive state emergency management plans be developed and maintained. Other preparedness activities authorized by statutes include developing a training program for emergency management staff, establishing a public information program, anticipating the partial or full mobilization of forces in anticipation of an emergency and stockpiling supplies, equipment and facilities for use during a disaster.

Some states authorize mobile support units to assist local governments in providing a rapid response to disasters. States in which nuclear power plants are located have established radiological emergency management programs. Also, preparedness for public health emergencies is reflected in many state statutes, such as the following:

1. In Connecticut, the Secretary of the Office of Policy and Management must plan for children's health needs in bioterrorism preparedness and provide training in safety and security measures for childcare workers and school personnel.
2. Illinois has enacted legislation requiring an emergency evacuation plan for people with disabilities who live in high rises.
3. South Carolina enacted both the Emergency Health Powers Act and the Homeland Security Act to prepare for and respond to bioterrorism or other acts of domestic terrorism.
4. In response to acts of violence at schools, several states, such as Connecticut, Louisiana, Nebraska, New York, and Virginia require the development of school emergency response plans.

Declaration Procedures

A decision by the President to issue a major disaster or emergency declaration first requires action by the governor of an affected state.⁹ All state statutes authorize the governor to declare at least one type, if not a variety of, emergencies that may be referred to as disaster, civil preparedness, enemy attack, public health, or other declarations. The declaration activates state and local emergency response plans, allows the governor and his staff to deploy forces, supplies and equipment, arrange for temporary housing and, if needed, suspend the implementation of statutes that would hinder response and recovery from the emergency. The declaration usually

⁸ The federal statute is P.L. 99-499, 100 Stat. 1613, 42 U.S.C. 11001-11050.

⁹ 42 U.S.C. 5170, 5191.

requires a statement of the type and location of the disaster and the needed assistance.

The majority of the states and the District of Columbia establish a deadline for the termination of the emergency declaration, usually 30 days maximum — although some states allow declarations up to six months — plus renewals if the emergency conditions still exist. The legislature in 27 states has an oversight role and may determine that the emergency has ceased prior to the end of the declaration period. In those states, upon the approval of a legislative concurrent resolution, the governor is required to issue a declaration of termination of the emergency. Some unique or slightly different approaches to the involvement of the legislature include the following:

- The governor of Alaska must deliver a financing plan to legislative leaders along with the proclamation of a disaster emergency. Gubernatorial actions not ratified by law during a legislative session are void. The legislature may terminate a disaster emergency at any time.
- If the governor of Arizona issues a “state of war emergency” proclamation, a special legislative session must be called within 24 hours. Otherwise, emergency powers terminate.
- A joint legislative committee in Connecticut may terminate, within 72 hours, a “state of civil preparedness emergency” issued by the governor.
- The governor of Georgia must call for a special legislative session as a condition of declaring an emergency.
- The General Assembly of North Carolina, in addition to the governor, may issue a disaster declaration.

In some states — for example, Arizona, and the District of Columbia — the declaration process has been expanded to include the threat of illness resulting from bioterrorism. In some cases, the statutes establish the department of public health as the lead coordinator for the public health emergency response.

Some state statutes also specify that local disasters or emergencies also require that principal executive officers of political subdivisions issue a declaration to initiate the response and recovery aspects of the local disaster plan. By statute, local declarations can range from five days (New York) to seven days to 30 days (Utah); some states allow renewals with the approval of the governing body of the political subdivision.

Types of Assistance

States provide a range of assistance during and following an emergency, including the provision of temporary housing (and housing sites), necessities of life, and clearing and removing debris and wreckage. Should it be necessary, both the governor and the governing boards of local governments often are provided with the

authority to abrogate statutes and regulations regarding contracting in order to respond to an emergency and provide the basics of food, shelter and clothing.

- In Ohio, the governor may direct the state housing finance agency to issue housing revenue bonds and notes to assist in funding reconstruction and replacement of housing lost due to a disaster.
- Due to the unusual land ownership provisions in Hawaii, the state housing and community development corporation must construct, manage and operate housing units on public lands set aside by the governor; relocated residents have the option to purchase this temporary housing.

Some states authorize their governors and political subdivisions to apply for federal loans and grant funding. The funding can be provided for individual or family assistance or assistance to local governments to replace other lost revenue sources. Should the local governments be unable to meet the loan repayment schedule, the governors often are given the authority to seek a waiver for the local government from the federal government for repayment of the loan. In addition to accepting federal funds, the governors usually are authorized to accept services, equipment, supplies, materials and other items on behalf of the state and local governments from federal and private sector sources. A number of states require emergency management officials and political subdivisions to use the services, equipment, supplies and facilities of existing departments and offices to the maximum extent possible in responding to a disaster.

Several states assist disaster victims by offering tax assistance, extensions or other financial latitude. In some states, property owners are provided with waivers or reduced assessments if their property has been adversely affected by the natural disaster. Some specific examples of assistance follow:

- In Alaska, the director of the Division of Land may make grants of state land to persons and municipal corporations to replace land rendered unusable by a natural disaster. The granted lands may be put to the same purpose as those rendered unusable.
- California has established a loan guarantee program to help small businesses recover from disasters.
- In Georgia, a taxpayer who receives disaster assistance from state or federal agencies is allowed a \$500 tax credit or the actual amount of the assistance, whichever is less.
- Kansas school districts may donate surplus personal property (furniture, supplies, clothing) to disaster relief programs.
- Mississippi prevents foreclosures on disaster damaged property.
- In Maine, the Natural Disaster Business Assistance program provides financial aid to enterprises that suffered financial hardship

as a direct result of a natural disaster and lack access to federal or other disaster funds.

Mutual Aid

Authorities pertinent to emergency mutual aid encourage or allow agreements to be instituted among political subdivisions and Indian tribal nations within a state, out-of-state with neighboring political subdivisions or other states, or internationally with Canadian provinces.

- The Emergency Management Assistance Compact (EMAC), which has been codified into state statutes, provides a prearranged structure for a state affected by a disaster to request aid from other states. Forty-eight states have agreed to the terms of EMAC, along with the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. California and Hawaii are the two states that do not participate in EMAC.

In addition to EMAC, other interstate mutual aid agreements have been enacted into law by the states. The majority of the states include the power to enter into mutual aid agreements in the emergency management powers of the governor or political subdivisions.

- Several states also belong to or authorize forest fire compacts, including Montana, New York, Wyoming.
- At least three states (Alaska, Arkansas, Kansas) still have civil defense compacts recorded in their states.
- Other states (New Jersey, New York) have mutual aid statutes that provide for mutual aid during an enemy attack in order to protect bridges, tunnels and other major infrastructure components.

Funding

In the majority of the states, the first recourse for disaster funding is to reallocate departmental appropriations to meet emergency needs. Should these reallocated appropriations prove insufficient, the legislature may be called into special session to approve additional appropriations needed to respond to the emergency, or to provide nonfederal funds required to match federal disaster grant funds. Some states require political subdivisions to exhaust local agency funds before seeking state financial assistance.

Most states have established special disaster response and assistance relief funds to alleviate the effects of the disaster or make grants and loans to persons or political subdivisions.

- Arkansas has added the Disaster Relief Income Tax Checkoff on state income tax forms.
- The Florida Emergency Management, Preparedness and Assistance Trust Fund is supported through a surcharge to home and business insurance policies.
- Some states, for example Illinois, Michigan, and South Carolina, sponsor special license plates, in response to the September 11, 2001, terrorist attacks, and earmark funds for emergency management and homeland security activities.

Some state statutes impose limits on the amount that governors may expend to respond or recover from disasters. Some examples follow.

- The governor of Alaska may use up to \$1 million in state funds per year for disaster assistance. Additional funding requires legislative approval.
- Arkansas statutes create specific funds with limits specified for activities such as immediate response, recovery, and hazard mitigation.
- The Natural Disaster Assistance Act for California limits disaster assistance loans to persons and small business to \$200,000.
- The governor of Hawaii cannot expend more than \$1 million for relief efforts after any single major disaster.
- Aerial fire suppression activities in Nebraska are limited to \$10,000 per event without a gubernatorial proclamation that a state of emergency exists.

Hazard Mitigation

The governors and state agencies of several states have been directed to consider actions to reduce the losses likely to result from future disasters, or to prevent the disasters if possible. Hazard mitigation activities ease the consequences of emergencies related to land shifting, subsidence, flooding, fires or other catastrophic occurrences whether they are manmade or natural. Hazard mitigation activities are generally categorized as either structural (the construction or demolition of facilities, or the modification of buildings) or non-structural (land use planning, zoning, modification of building codes, or education).

Most state statutory provisions related to hazard mitigation place requirements on communities or property owners.

- Illinois requires towns and homeowners within floodplains to participate in the federal flood insurance program in order to qualify

for disaster assistance, and authorizes designation of a 100-year floodway in which construction is prohibited.

- Iowa authorizes the construction of levees and dams.
- Maryland requires that counties adopt the state response plan and participate in the federal flood insurance program.
- Oregon requires the relocation of dwellings to mitigate the potential effects of landslides.

Other provisions authorize agency officials and the governor to undertake studies and make recommendations regarding changes in legislation and regulations that address zoning, land use, building codes and construction standards in order to mitigate the impact of potential future emergencies.

- The Alabama statute provides that each county must prepare a comprehensive land use management plan.
- Hawaii has established a coastal zone management program to reduce hazards from tsunamis, subsidence, and other causes.
- State agencies in Pennsylvania must complete hazard mitigation studies to address economic recovery, floodplain management, or fires, among other threats.

A number of states provide authority for the allocation of resources to achieve hazard mitigation goals.

- Public bond sales in California may be used to fund improvements to reduce earthquake losses to unreinforced masonry in multifamily residences.
- Communities in Oklahoma may apply to the state for grants or loans for flood hazard mitigation measures.

Continuity of Government Operations

An important component of a state emergency plan is ensuring that all institutions of government (the office of the governor, the legislature, the judiciary and the political subdivisions) continue to operate following an attack or other catastrophic emergency. In addition to providing for state constitutional offices, continuity of government statutes ensure that the seat of government and the business of government continue by moving to another location, even if that location is outside state boundaries. All states provide for the continuation of service in the event of death or disability. Continuity of government operations more broadly addresses the procedures to be followed when entire agencies, buildings, or elements of state government are threatened or suffer from a disaster.

Most state statutes provide that any legislation or government acts conducted at the new seat of government have the same authority as those undertaken at the regular seat of government. Local seats of government also can be moved to ensure that their governmental functions can continue during an emergency.

- Several states, including Alabama, Arkansas, Idaho, Mississippi, Montana, South Carolina, Utah, and Washington, for example, require that the governor call the legislature into special session (if not already in session) to address emergency situations that threaten government operations.
- In Alabama, Arkansas, Idaho, and South Carolina, for example, the legislature automatically convenes if the governor fails to call the general assembly into session within 90 days.

A number of states place an affirmative duty on legislative interim successors to keep up to date on the matters facing the incumbents.

- Illinois, Kentucky, Virginia, Wisconsin and the Virgin Islands require the state archivist or state library to preserve important public records and to archive the actions taken at the new seat of government.
- Illinois requires local governments to ensure important documents are preserved for use in a new location.
- The Commonwealth of the Northern Marianas Islands requires criminal justice records to be collected and stored for homeland security purposes.

Other

In general, states have enacted provisions that protect from liability property owners whose facilities are used to prepare for or during an emergency situation, to compensate employees and volunteers for the assistance they provide, and to reimburse owners of property used for disaster relief purposes.

Several states have enacted legislation that state and local employees who are certified Red Cross volunteers should be granted leave with pay to assist in responding to emergencies (the amount of leave time varies and some states limit Red Cross volunteers to respond only to in-state disasters).

- A Nebraska state or political subdivision employee who is an emergency communications technician is granted a leave of absence for emergency duty either in-state or in selected other states.
- Some states, for example California and Hawaii authorize the provision of psychological services to first responders and victims in the event of a catastrophic event.

Key Terms

Definitions of terms are critical to the scope of state authorities. Undefined terms such as “emergency” or “attack” may provide considerable latitude to executive officials responsible for preparing for or responding to incidents that might not be seen as such by others. Most states set forth a definition of basic terms, including “emergency,” “disaster,” “attack,” “catastrophe” or combinations of those terms.

- Guam and Wyoming do not include any such terms in their statutes.
- Only one state (Massachusetts) refers to “Act of God.”
- Vermont defines only two terms related to the causes of emergencies, “attack” and, more specifically, “radiological incident.”

Most, but not all states, define specific terms that may be considered in the declaration of an emergency situation.

- The terms “hazardous material” and “natural disaster,” or “resource” or “energy” shortages are set out to identify the particular material or condition that poses a threat to public health and safety if released (California, Florida, Minnesota, North Carolina, Oklahoma, Pennsylvania, Tennessee, Utah, Virginia, the District of Columbia).
- Some states separate “natural” disasters or emergencies from others (Florida, Hawaii, Nevada, Oklahoma, Pennsylvania, Tennessee, Utah, Virginia) and three specifically list floods (Idaho, Oklahoma, Virginia).
- Those that use the term “act of terrorism” or variations on the term include California, Colorado, Hawaii, Illinois, Kansas, Michigan, New Mexico, and Ohio.
- Further specificity of the types of enemy acts are provided in the statutes for Connecticut (“local civil preparedness emergency”), Hawaii (“civil defense emergency period”), Kansas (“state of war emergency”), and Pennsylvania (“war caused disasters”).
- Two states (Alabama and Iowa) have incorporated the term “homeland security” into their statutes.

Based on the inclusion of other terms that relate to terrorist threats or attacks in a number of states (Alabama, Arizona, Colorado, Delaware, Indiana, Louisiana, Minnesota, North Carolina, Ohio, Pennsylvania, South Dakota, and Wisconsin), and the District of Columbia, a number of states have recognized that even if “homeland security” is not referred to as a general policy area, terms particularly pertinent to threats to homeland security must be included in the state codes.

In general, states continue to use the term “emergency management” in their statutes. Of the 56 entities, half (28) include the term and almost all contain related terms that identify individuals or offices with emergency management responsibilities.

Table 1. List of States and Profile Report Numbers

State	Profile report number	State	Profile report number
Alabama	CRS Report RS21777	Montana	CRS Report RL32319
Alaska	CRS Report RL32288	Nebraska	CRS Report RS21789
Arizona	CRS Report RL32289	Nevada	CRS Report RL32320
Arkansas	CRS Report RL32290	New Hampshire	CRS Report RS21790
California	CRS Report RL32291	New Jersey	CRS Report RS21793
Colorado	CRS Report RS21783	New Mexico	CRS Report RS21792
Connecticut	CRS Report RS21801	New York	CRS Report RL32332
Delaware	CRS Report RS21802	North Carolina	CRS Report RS21797
Florida	CRS Report RS21784	North Dakota	CRS Report RS21798
Georgia	CRS Report RS21800	Ohio	CRS Report RS21796
Hawaii	CRS Report RL32299	Oklahoma	CRS Report RL32329
Idaho	CRS Report RS21780	Oregon	CRS Report RL32328
Illinois	CRS Report RL32298	Pennsylvania	CRS Report RL32330
Indiana	CRS Report RS21781	Rhode Island	in process
Iowa	CRS Report RS21782	South Carolina	in process
Kansas	CRS Report RS21788	South Dakota	in process
Kentucky	CRS Report RL32317	Tennessee	in process
Louisiana	in process	Texas	in process
Maine	in process	Utah	in process
Maryland	in process	Vermont	in process
Massachusetts	CRS Report RL32325	Virginia	in process
Michigan	CRS Report RL32326	Washington	in process
Minnesota	CRS Report RL32327	West Virginia	in process
Mississippi	CRS Report RL32316	Wisconsin	in process
Missouri	CRS Report RL32318	Wyoming	in process
American Samoa	CRS Report RS21803	N. Mariana Is.	CRS Report RS21806
District of Col.	CRS Report RS21804	Puerto Rico	in process
Guam	CRS Report RS21805	U.S. Virgin Is.	in process