



# Indiana Under Stay-At-Home Order Due To COVID-19 Outbreak

Insights

3.24.20

Indiana Governor Eric Holcomb issued an Executive Order yesterday requiring all residents – except for those falling within an exception as discussed below – to stay at home for 13 days beginning at 11:59 p.m. on March 24 through 11:59 p.m. on April 6. The Order carves out exceptions for “Essential Activities,” “Essential Businesses and Operations,” “Essential Governmental Functions,” “Essential Infrastructure,” “Essential Travel,” “Healthcare & Public Operations,” and “Human Services Operations.”

## Essential Activities

Individuals are directed to stay at home and leave their residence only for “Essential Activities,” “Essential Governmental Functions,” or to participate in “Essential Businesses and Operations,” as described below. People at high risk of severe illness from COVID-19 and people who are sick are urged to stay in their residence except as necessary to seek medical care.

- To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including, but not limited to, pets), such as, by way of example only and without limitation, obtaining medical supplies or medication, or visiting a health care professional;
- To obtain necessary services or supplies for themselves and their family or household members or persons who are unable or should not leave their home, or to deliver those services or supplies to others, such as, by way of example only and without limitation, groceries and food; household consumer products; supplies they need in order to work from home; automobile supplies (including dealers, parts, supplies, repair and maintenance); products necessary to maintain the safety, sanitation, and/or essential operation of homes or residences;
- To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements (as defined below), such as, by way of example and without limitation, walking; hiking; running; or biking. Use of parks and open outdoor recreation area is permitted. Public playgrounds, however, will be closed and should not be used;
- To perform work providing essential products and services at Essential Businesses and Operations (defined below, which includes Essential Governmental Functions, Healthcare and Public Operations, and Essential Infrastructure) or to otherwise carry out activities specifically permitted or allowed under the Order, including Minimum Basic Operations (as defined below);
- To care for a family member or pet in another household;

- To work for or obtain services through “Healthcare and Public Health Operations” including hospitals; clinics; dentists; pharmacies; pharmaceutical and biotechnology companies; organizations collecting blood, platelets, plasma, and other necessary materials; obstetricians and gynecologists; eye care centers; home healthcare services providers; mental health and substance abuse providers; other healthcare facilities and suppliers and providers of any related and/or ancillary healthcare services; and veterinary care and all healthcare services provided to animals.
- “Healthcare Operations and Public Health Operations” also includes manufacturers, technicians, logistics, and warehouse operators and distributors of medical equipment, personal protective equipment, medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, as well as tissues and paper towel products.
- Fitness and exercise gyms, spas, salons, barber shops, tattoo parlors, and similar facilities are specifically excluded under the Order.
- To work for or obtain services at any “Human Services Operations,” including long-term care facilities, day care centers, day care homes, group day care homes; residential settings and shelters for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness; transitional facilities; home-based settings to provide services to individuals with physical, intellectual, and/or developmental disabilities, seniors, adults, and children; field offices that provide and help to determine eligibility for basic needs including food, cash assistance, medical coverage, child care, vocational services, rehabilitation services; developmental centers; adoption agencies; businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged individuals, individuals with physical, intellectual, and/or developmental disabilities, or otherwise needy individuals.
- Individuals may also leave their homes and residences to provide any services or perform any work necessary to offer, provision, operate, maintain, and repair “Essential Infrastructure,” including, but not limited to, food production, distribution, fulfillment centers, storage facilities, marinas, and sale; construction (including, but not limited to, construction required in response to this public health emergency, hospital construction, construction of long-term care facilities, public works construction, school construction, essential business construction, and housing construction); building management and maintenance; airport operations; operation and maintenance of utilities, including, for example, water, sewer, and gas; electrical (including power generation, distribution, and production of raw materials); distribution centers; oil and biofuel refining; roads, highways, railroads, and public transportation; ports; cybersecurity operations; flood control; solid waste and recycling collection and removal; and internet, video, and telecommunications systems.

## **Essential Government Functions**

All first responders, law enforcement, emergency dispatchers and management personnel, legislators, judges, court personnel, jurors and grand jurors, corrections personnel, hazardous

legislators, judges, court personnel, jurors and grand jurors, corrections personnel, hazardous materials responders, child protection and child welfare personnel, housing and shelter personnel, military, and other governmental employees working for or to support “Essential Business and Operations” are exempt from the Order.

“Essential Government Functions” also includes services provided by the State of Indiana or any municipality, township, county, political subdivision, board, commission or agency of government and needed to ensure the continuing operation of government agencies or to provide for or support the health, safety and welfare of the public, and including contractors performing Essential Governmental Functions. Each governmental body is permitted to determine its Essential Governmental Functions and identify employees and/or contractors to the performance of those functions.

### **Essential Businesses And Operations**

All businesses and operations, except Essential Businesses and Operations, as defined below, are required to cease all activities. Businesses may continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home).

- Healthcare and Public Health Operations, Human Services Operations, Essential Infrastructure and Essential Governmental Functions;
- Workers identified in the S. Department of Homeland Security, Cybersecurity, and Infrastructure Security Agency’s Memorandum of Critical Infrastructure Workers;
- Grocery stores, pharmacies, and similar operations (including their supply chain and administrative support operations);
- Food and beverage manufacturing, production, processing, and cultivation;
- Animal shelters (including, rescue shelters, kennels, and adoption facilities);
- Charitable and social services;
- Religious entities (provided they adhere to CDC’s guidance on social gatherings);
- Media;
- Gas stations and businesses needed for transportation;
- Financial and insurance institutions;
- Hardware and supply stores;
- Critical trades, including, building, construction and service providers who provide services necessary to maintaining the safety, sanitation, and essential operations of residences and other Essential Businesses and Operations;
- Mail, post, shipping, logistics, delivery and pick-up services;
- Educational institutions for purposes of facilitating distance learning;
- Laundry services;

- Restaurants for consumption off-premises;
- Businesses that manufacture and sell supplies to work from home;
- Airlines, taxis and other transportation providers;
- Home-based care and services;
- Residential facilities and shelters;
- Professional services, such as legal, accounting, insurance, and real estate services;
- Manufacture, distribution, and supply chain for critical products and industries;
- Critical labor union functions;
- Hotel and motels; and
- Funeral services.

### **Minimum Basic Operations at a Non-Essential Business**

The Order permits certain Minimum Basic Operations that have otherwise been determined to be non-essential. Generally, Minimum Basic Operations includes the following, provided that employees comply with Social Distancing Requirements, to the extent possible, while carrying out such operations:

- The minimum necessary activities to maintain the value of the business's inventory and facilities, ensure security, process payroll and employee benefits, or for related functions; and
- The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences, place of rest, or elsewhere.

### **Essential Travel**

Individuals may engage in Essential Travel, as long as they comply with all Social Distancing Requirements (as defined below). The phrase "Essential Travel" includes:

- Any travel related to the provision of, or access to, Essential Activities, Essential Governmental Functions, Essential Business Operations, or Minimum Basic Operations;
- Travel to care for the elderly, minors, dependents, persons with disabilities, or other vulnerable persons;
- Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services;
- Travel in order to return to a place of residence from outside the jurisdiction;
- Travel required by law enforcement or court order, including to transport children pursuant to custody agreement;
- Travel required for non-residents to return to their place of residence outside of the State of Indiana.

## **Social Distancing**

At a minimum, Social Distancing includes maintaining at least six-feet social distancing from other individuals, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs and sneezes (into the sleeve or elbow, not hands) regularly cleaning high-touch surfaces, and not shaking hands.

With respect to Essential Businesses and Operations, and businesses engaged in Minimum Basic Operations, they must take proactive measures to ensure compliance, including, when possible:

- Designating with signage, tape or by other means, six-feet of spacing for employees and customers in line to maintain appropriate distance;
- Having hand sanitizer, and sanitizing products, readily available for employees and customers;
- Separate operating hours for the elderly and vulnerable populations; and
- Posting online whether a facility is open and how to best reach the facility and to continue services by phone or remotely.

## **Additional Requirements**

All businesses and employers, whether or not they are deemed to be essential, are ordered to do the following:

- Allow as many employees as possible to work from home;
- Actively encourage sick employees to stay home until they are fever free (without medication) for at least 72 hours and symptoms have improved for at least 72 hours, and at least seven days have passed since symptoms first began. Employers should not require a healthcare providers' note to validate the illness or return to work.
- Ensure sick leave policies are up to date;
- Separate employees who appear to have acute respiratory illness symptoms and send them home immediately;
- Reinforce key messages to all employees (including stay home when sick, use cough, and sneeze etiquette, and practice hand hygiene), and place posters where they will be seen;
- Provide protection supplies such as soap and water, and hand sanitizer, tissues, and no-touch disposal receptacles; and
- Frequently perform enhanced environmental cleaning.

## **Conclusion**

For now, we will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. Make sure you are subscribed to Fisher Phillips' Alert System to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, any attorney in our Louisville office, or any member of our COVID-19 Taskforce. You can also review our

nationwide [Comprehensive and Updated FAQs for Employers on the COVID-19 Coronavirus](#) and our [FP Resource Center For Employers](#), maintained by our Taskforce.

---

*This Legal Alert provides an overview of a specific state law. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.*

Copyright ©2020 Fisher Phillips LLP. All rights reserved.

### ***Related People***



**Megan Reese U'Sellis**

Partner

502.561.3963

Email

### ***Service Focus***

Counseling and Advice

Workplace Safety and Catastrophe Management

### ***Industry Focus***

Hospitality

Retail

### ***Trending***

COVID-19/Vaccine Resource Center