

IN THE SENATE

SENATE BILL NO. 1079

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO INTERNET CRIMES AGAINST CHILDREN; AMENDING SECTION 67-1401,  
2 IDAHO CODE, TO PROVIDE ADDITIONAL DUTIES OF THE ATTORNEY GENERAL AND  
3 TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 14, TITLE 67, IDAHO  
4 CODE, BY THE ADDITION OF A NEW SECTION 67-1410, IDAHO CODE, TO CREATE THE  
5 INTERNET CRIMES AGAINST CHILDREN UNIT IN THE OFFICE OF THE ATTORNEY GEN-  
6 ERAL AND TO PROVIDE POWERS, DUTIES AND AUTHORITIES OF SUCH UNIT IN THE  
7 OFFICE OF THE ATTORNEY GENERAL; AND AMENDING CHAPTER 14, TITLE 67, IDAHO  
8 CODE, BY THE ADDITION OF A NEW SECTION 67-1411, IDAHO CODE, TO CREATE THE  
9 INTERNET CRIMES AGAINST CHILDREN FUND IN THE STATE TREASURY.  
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11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Section 67-1401, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14 67-1401. DUTIES OF ATTORNEY GENERAL. Except as otherwise provided in  
15 this chapter, it is the duty of the attorney general:

16 (1) To perform all legal services for the state and to represent the  
17 state and all departments, agencies, offices, officers, boards, commis-  
18 sions, institutions and other state entities, in all courts and before all  
19 administrative tribunals or bodies of any nature. Representation shall be  
20 provided to those entities exempted pursuant to the provisions of section  
21 67-1406, Idaho Code. Whenever required to attend upon any court or adminis-  
22 trative tribunal, the attorney general shall be allowed necessary and actual  
23 expenses, all claims for which shall be audited by the state board of exam-  
24 iners.

25 (2) To advise all departments, agencies, offices, officers, boards,  
26 commissions, institutions and other state entities in all matters involving  
27 questions of law.

28 (3) After judgment in any of the causes referred to in ~~the first subdi-~~  
29 ~~vision~~ this chapter, to direct the issuing of such process as may be neces-  
30 sary to carry the same into execution.

31 (4) To account for and pay over to the proper officer all moneys re-  
32 ceived which belong to the state.

33 (5) To supervise nonprofit corporations, corporations, charitable or  
34 benevolent societies, person or persons holding property subject to any pub-  
35 lic or charitable trust and to enforce whenever necessary any noncompliance  
36 or departure from the general purpose of such trust and, in order to accom-  
37 plish such purpose, said nonprofit corporations, corporations, charitable  
38 or benevolent societies, person or persons holding property subject to any  
39 public or charitable trust are subject at all times to examination by the at-  
40 torney general, on behalf of the state, to ascertain the condition of its af-  
41 fairs and to what extent, if at all, said trustee or trustees may have failed  
42 to comply with trusts said trustee or trustees have assumed or may have de-

1 parted from the general purpose for which it was formed. In case of any such  
2 failure or departure, the attorney general shall institute, in the name of  
3 the state, any proceeding necessary to enforce compliance with the terms of  
4 the trust or any departure therefrom.

5 (6) To give an opinion in writing, without fee, to the legislature or  
6 either house thereof, or any senator or representative, and to the gover-  
7 nor, secretary of state, treasurer, state controller, and the superinten-  
8 dent of public instruction, when requested, upon any question of law relat-  
9 ing to their respective offices. The attorney general shall keep a record of  
10 all written opinions rendered by the office and such opinions shall be com-  
11 piled annually and made available for public inspection. All costs incurred  
12 in the preparation of said opinions shall be borne by the office of the attor-  
13 ney general. A copy of the opinions shall be furnished to the supreme court  
14 and to the state librarian.

15 (7) When required by the public service, to repair to any county in the  
16 state and assist the prosecuting attorney thereof in the discharge of du-  
17 ties.

18 (8) To bid upon and purchase, when necessary, in the name of the state,  
19 and under the direction of the state controller, any property offered for  
20 sale under execution issued upon judgments in favor of or for the use of the  
21 state, and to enter satisfaction in whole or in part of such judgments as the  
22 consideration for such purchases.

23 (9) Whenever the property of a judgment debtor in any judgment men-  
24 tioned in ~~the preceding subdivision~~ subsection (8) of this section has been  
25 sold under a prior judgment, or is subject to any judgment, lien, or encum-  
26 brance, taking precedence of the judgment in favor of the state, under the  
27 direction of the state controller, to redeem such property from such prior  
28 judgment, lien, or encumbrance; and all sums of money necessary for such  
29 redemption must, upon the order of the board of examiners, be paid out of any  
30 money appropriated for such purposes.

31 (10) When necessary for the collection or enforcement of any judgment  
32 hereinbefore mentioned, to institute and prosecute, in behalf of the state,  
33 such suits or other proceedings as may be necessary to set aside and annul all  
34 conveyances fraudulently made by such judgment debtors; the cost necessary  
35 to the prosecution must, when allowed by the board of examiners, be paid out  
36 of any appropriations for the prosecution of delinquents.

37 (11) To exercise all the common law power and authority usually apper-  
38 taining to the office and to discharge the other duties prescribed by law.

39 (12) To report to the governor, at the time required by this ~~code~~  
40 section, the condition of the affairs of the attorney general's office and of  
41 the reports received from prosecuting attorneys.

42 (13) To appoint deputy attorneys general and special deputy attorneys  
43 general and other necessary staff to assist in the performance of the du-  
44 ties of the office. Such deputies and staff shall be nonclassified employees  
45 within the meaning of section 67-5302, Idaho Code.

46 (14) To establish a medicaid fraud control unit pursuant to the provi-  
47 sions of section 56-226, Idaho Code, and to exercise concurrent investiga-  
48 tive and prosecutorial authority and responsibility with county prosecutors  
49 to prosecute persons for the violation of the criminal provisions of chap-  
50 ter 2, title 56, Idaho Code, and for criminal offenses that are not defined

1 in said chapter 2, title 56, Idaho Code, but that involve or are directly re-  
 2 lated to the use of medicaid program funds or services provided through the  
 3 medicaid program.

4 (15) To seek injunctive and any other appropriate relief as expedi-  
 5 tiously as possible to preserve the rights and property of the residents of  
 6 the state of Idaho, and to defend as necessary the state of Idaho, its offi-  
 7 cials, employees and agents in the event that any law or regulation violating  
 8 the public policy set forth in the Idaho health freedom act, chapter 90,  
 9 title 39, Idaho Code, is enacted by any government, subdivision or agency  
 10 thereof.

11 (16) To establish an internet crimes against children unit pursuant to  
 12 the provisions of section 67-1410, Idaho Code, and to exercise concurrent  
 13 investigative and prosecutorial authority and responsibility with county  
 14 prosecutors to prosecute persons for the violation of the criminal provi-  
 15 sions of sections 18-1507, 18-1509A, 18-1513 and 18-1515, Idaho Code, which  
 16 may also encompass criminal offenses that are not defined in said sections  
 17 but that involve or are directly related to child pornography and sollicita-  
 18 tion of minors for pornography, prostitution or sex-related offenses.

19 SECTION 2. That Chapter 14, Title 67, Idaho Code, be, and the same is  
 20 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 21 ignated as Section 67-1410, Idaho Code, and to read as follows:

22 67-1410. INTERNET CRIMES AGAINST CHILDREN UNIT. (1) There is hereby  
 23 established in the office of the attorney general the internet crimes  
 24 against children unit (ICAC) that shall have the authority and responsibili-  
 25 ties as set forth in this section.

26 (2) The ICAC shall have the authority and responsibility to conduct a  
 27 statewide program for the investigation and prosecution of violations of all  
 28 applicable Idaho laws that involve or are directly related to child pornog-  
 29 raphy and solicitation of minors for pornography, prostitution or sex-re-  
 30 lated offenses.

31 (3) The ICAC shall be under the exclusive control of the attorney gen-  
 32 eral.

33 (4) The attorney general may request and receive the assistance of, and  
 34 may enter into written agreements with, any prosecutor or law enforcement  
 35 agency as necessary to implement the duties and responsibilities assigned to  
 36 the ICAC under this section. This will include contracting for the assis-  
 37 tance of law enforcement personnel in the investigation of any violation of  
 38 any applicable laws pertaining to child pornography and solicitation of mi-  
 39 nors for pornography, prostitution or sex-related offenses. The attorney  
 40 general may renew, suspend or revoke any ICAC agreement with a law enforce-  
 41 ment agency at any time.

42 (5) The attorney general shall have the authority to designate ICAC  
 43 task force agents. ICAC task force agents shall be commissioned law enforce-  
 44 ment officers employed by law enforcement agencies.

45 (a) The designation of an ICAC task force agent is not an act of employ-  
 46 ment by the office of the attorney general.

47 (b) ICAC task force agents serve solely at the discretion and will of  
 48 the attorney general and designation as an ICAC task force agent is not a  
 49 property right to which due process applies.

1 (6) Designated ICAC task force agents shall have general peace officer  
2 powers and the authority to arrest individuals throughout the state for the  
3 purpose of investigation of internet crimes committed against children.

4 (7) The office of the attorney general shall employ such attorneys, in-  
5 vestigators and other personnel as necessary to carry out the responsibili-  
6 ties of the ICAC as set forth under this section.

7 (8) The attorney general shall have the authority to adopt rules neces-  
8 sary to implement the duties and responsibilities assigned to the ICAC under  
9 this section.

10 SECTION 3. That Chapter 14, Title 67, Idaho Code, be, and the same is  
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
12 ignated as Section 67-1411, Idaho Code, and to read as follows:

13 67-1411. INTERNET CRIMES AGAINST CHILDREN FUND. (1) There is hereby  
14 created in the state treasury the internet crimes against children fund.

15 (2) The fund shall consist of:

16 (a) Funds as may be appropriated by the legislature; and

17 (b) Grants, donations and moneys from other sources.

18 (3) The fund shall be administered by the office of the attorney gen-  
19 eral, and moneys in the fund shall be used to fund the internet crimes against  
20 children unit as established by section 67-1410, Idaho Code. Moneys in the  
21 fund may be allowed to accumulate from year to year and interest earned on the  
22 investment of idle moneys in the fund shall be returned to the fund.

23 (4) Moneys from the fund shall be appropriated by the legislature to the  
24 office of the attorney general and such appropriated moneys shall be used for  
25 carrying out the provisions of this section and section 67-1410, Idaho Code.