

IN THE SENATE

SENATE BILL NO. 1251

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE ATTORNEY GENERAL; AMENDING SECTION 67-1401, IDAHO CODE, TO
REVISE A PROVISION REGARDING A DUTY OF THE ATTORNEY GENERAL; AND DECLAR-
ING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

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

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

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

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

(3) After judgment in any of the causes referred to in this chapter, to
direct the issuing of such process as may be necessary to carry the same into
execution.

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

(5) To enforce the Idaho charitable solicitation act, chapter 12, ti-
tle 48, Idaho Code, and the Idaho nonprofit hospital sale or conversion act,
chapter 15, title 48, Idaho Code; to supervise charitable organizations, as
such term is defined in section 48-1903(4), Idaho Code; and to enforce when-
ever necessary any noncompliance or departure from the charitable purpose of
such charitable organizations as set forth and provided in chapter 19, title
48, Idaho Code.

(6) To give an opinion in writing, without fee, to the legislature or
either house thereof or any senator or representative and to the governor,
secretary of state, treasurer, state controller, and the superintendent of
public instruction, when requested, on any question of law relating to their
respective offices. The attorney general shall keep a record of all written
opinions rendered by the office and such opinions shall be compiled annually
and made available for public inspection. All costs incurred in the prepara-
tion of said opinions shall be borne by the office of the attorney general. A

1 copy of the opinions shall be furnished to the supreme court and to the state
2 librarian.

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

6 (8) To bid on and purchase, when necessary, in the name of the state and
7 under the direction of the state controller, any property offered for sale
8 under execution issued upon judgments in favor of or for the use of the state
9 and to enter satisfaction in whole or in part of such judgments as the consid-
10 eration for such purchases.

11 (9) Whenever the property of a judgment debtor in any judgment men-
12 tioned in subsection (8) of this section has been sold under a prior judg-
13 ment, or is subject to any judgment, lien, or encumbrance, taking precedence
14 of the judgment in favor of the state, under the direction of the state
15 controller, to redeem such property from such prior judgment, lien, or en-
16 cumbrance; and all sums of money necessary for such redemption must, upon the
17 order of the board of examiners, be paid out of any money appropriated for
18 such purposes.

19 (10) When necessary for the collection or enforcement of any judgment
20 hereinbefore mentioned, to institute and prosecute, on behalf of the state,
21 such suits or other proceedings as may be necessary to set aside and annul all
22 conveyances fraudulently made by such judgment debtors; the cost necessary
23 to the prosecution must, when allowed by the board of examiners, be paid out
24 of any appropriations for the prosecution of delinquents.

25 (11) To exercise all the common law power and authority usually apper-
26 taining to the office and to discharge the other duties prescribed by law.
27 This duty shall be interpreted to include the power to seek declaratory and
28 injunctive relief against any person, as defined in section 30-21-102, Idaho
29 Code, who has violated or is violating an Idaho statute that creates a le-
30 gal duty or prohibition but does not expressly create a civil cause of ac-
31 tion through which the state or its officers may enforce the legal duty or
32 prohibition. The attorney general shall have a cause of action to seek such
33 declaratory and injunctive relief, and any injunction entered shall be suf-
34 ficient to prevent further violations of the statute.

35 (12) To report to the governor the condition of the affairs of the attor-
36 ney general's office and of the reports received from prosecuting attorneys.

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

41 (14) To establish a medicaid fraud control unit pursuant to the provi-
42 sions of section 56-226, Idaho Code, and to exercise concurrent investiga-
43 tive and prosecutorial authority and responsibility with county prosecutors
44 to prosecute persons for the violation of the criminal provisions of chap-
45 ter 2, title 56, Idaho Code, and for criminal offenses that are not defined in
46 chapter 2, title 56, Idaho Code, but that involve or are directly related to
47 the use of medicaid program funds or services provided through the medicaid
48 program.

49 (15) To seek injunctive and any other appropriate relief as expedi-
50 tiously as possible to preserve the rights and property of the residents

1 of the state of Idaho and to defend as necessary the state of Idaho, its
2 officials, employees, and agents in the event that any law or regulation
3 violating the public policy set forth in the Idaho health freedom act, chap-
4 ter 90, title 39, Idaho Code, is enacted by any government, subdivision, or
5 agency thereof.

6 (16) To establish an internet crimes against children unit (ICAC) pur-
7 suant to the provisions of section 67-1410, Idaho Code, and to exercise con-
8 current investigative and prosecutorial authority and responsibility with
9 county prosecutors to prosecute persons for the violation of the criminal
10 provisions of sections 18-1507, 18-1507A, 18-1507C, 18-1509A, 18-1513 and
11 18-1515, Idaho Code.

12 (17) To respond to allegations of any violation of state criminal law by
13 elected county or city officers acting in their official capacity, to inves-
14 tigate such claims, to issue appropriate findings, and to retain such cases
15 for further investigation and prosecution pursuant to sections 31-2002 and
16 50-238, Idaho Code.

17 (18) To establish a sobriety and drug monitoring program to reduce the
18 number of people on Idaho's highways who drive under the influence of alco-
19 hol or drugs, to reduce the number of repeat offenders for certain offenses
20 in which the abuse of alcohol or drugs was a contributing factor, and to in-
21 crease pretrial and posttrial options for prosecutors and judges in respond-
22 ing to repeat DUI offenders and offenders for certain crimes in which the
23 abuse of alcohol or drugs was a contributing factor in the commission of the
24 crime; and to adopt such rules and establish such fees as are necessary for
25 the operation of said program, as set forth by law.

26 SECTION 2. An emergency existing therefor, which emergency is hereby
27 declared to exist, this act shall be in full force and effect on and after
28 July 1, 2026.