

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 14
ATTORNEY GENERAL

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, commissions, 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 administrative tribunal, the attorney general shall be allowed necessary and actual expenses, all claims for which shall be audited by the state board of examiners.

(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 received which belong to the state.

(5) To enforce the Idaho charitable solicitation act, [chapter 12, title 48](#), Idaho Code; 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 whenever 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, upon 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 preparation of said opinions shall be borne by the office of the attorney general. A copy of the opinions shall be furnished to the supreme court and to the state librarian.

(7) When required by the public service, to repair to any county in the state and assist the prosecuting attorney thereof in the discharge of duties.

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

(9) Whenever the property of a judgment debtor in any judgment mentioned in subsection (8) of this section has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance, taking

precedence of the judgment in favor of the state, under the direction of the state controller, to redeem such property from such prior judgment, lien, or encumbrance; and all sums of money necessary for such redemption must, upon the order of the board of examiners, be paid out of any money appropriated for such purposes.

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

(11) To exercise all the common law power and authority usually appertaining to the office and to discharge the other duties prescribed by law.

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

(13) To appoint deputy attorneys general and special deputy attorneys general and other necessary staff to assist in the performance of the duties of the office. Such deputies and staff shall be nonclassified employees within the meaning of section [67-5302](#), Idaho Code.

(14) To establish a medicaid fraud control unit pursuant to the provisions of section [56-226](#), Idaho Code, and to exercise concurrent investigative and prosecutorial authority and responsibility with county prosecutors to prosecute persons for the violation of the criminal provisions of [chapter 2, title 56](#), Idaho Code, and for criminal offenses that are not defined in said [chapter 2, title 56](#), Idaho Code, but that involve or are directly related to the use of medicaid program funds or services provided through the medicaid program.

(15) To seek injunctive and any other appropriate relief as expeditiously as possible to preserve the rights and property of the residents of the state of Idaho, and to defend as necessary the state of Idaho, its officials, employees and agents in the event that any law or regulation violating the public policy set forth in the Idaho health freedom act, [chapter 90, title 39](#), Idaho Code, is enacted by any government, subdivision or agency thereof.

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

(17) To respond to allegations of violation of state law by elected county officers, to investigate such claims, to issue appropriate findings and to refer such cases for further investigation and prosecution pursuant to section [31-2002](#), Idaho Code.

(18) To establish a sobriety and drug monitoring program to reduce the number of people on Idaho's highways who drive under the influence of alcohol or drugs, reduce the number of repeat offenders for certain offenses in which the abuse of alcohol or drugs was a contributing factor, and increase pretrial and posttrial options for prosecutors and judges in responding to repeat DUI offenders and offenders for certain crimes in which the abuse of

alcohol or drugs was a contributing factor in the commission of the crime, and to adopt such rules and establish such fees as are necessary for the operation of said program, as set forth by law.

[67-1401, added 1885, sec. 3, p. 31; R.S., sec. 250; am. 1901, sec. 1, p. 162; compiled and reen. R.C., sec. 142; reen. C.L., sec. 142; C.S., sec. 178; am. 1923, ch. 110, sec. 1, p. 139; I.C.A., sec. 65-1301; am. 1963, ch. 161, sec. 1, p. 475; am. 1972, ch. 203, sec. 1, p. 561; am. 1976, ch. 366, sec. 1, p. 1202; am. 1986, ch. 6, sec. 1, p. 44; am. 1994, ch. 180, sec. 181, p. 539; am. 1995, ch. 141, sec. 1, p. 599; am. 1998, ch. 245, sec. 1, p. 806; am. 2001, ch. 61, sec. 2, p. 114; am. 2007, ch. 341, sec. 10, p. 1011; am. 2010, ch. 46, sec. 2, p. 85; am. 2013, ch. 245, sec. 1, p. 593; am. 2014, ch. 240, sec. 3, p. 604; am. 2014, ch. 280, sec. 3, p. 708; am. 2015, ch. 244, sec. 45, p. 1031; am. 2020, ch. 321, sec. 2, p. 926.]

67-1402. OFFICIAL BOND. The attorney general must be bonded to the state of Idaho in the time, form and manner prescribed by [chapter 8, title 59](#), Idaho Code.

[(67-1402) R.S., sec. 252; reen. R.C. & C.L., sec. 143; C.S., sec. 179; I.C.A., sec. 65-1302; am. 1971, ch. 136, sec. 43, p. 522.]

67-1405. DUTIES OF THE ATTORNEY GENERAL REGARDING CHILD SEXUAL ABUSE REPORTS. (1) The department of health and welfare, each city police department, each county sheriff and the Idaho state police shall submit to the office of the attorney general a report of each child sexual abuse incident reported to each agency of state or local government. The report shall contain such information as specified by the attorney general. It shall be the duty of the attorney general to the greatest extent possible to use and develop the information required in this section on forms currently in use by each governmental entity, thus avoiding unnecessary paperwork.

(2) It shall be the duty of each county prosecuting attorney to submit to the office of the attorney general a report of each child sexual abuse case handled by the prosecuting attorney. The report required pursuant to this section shall be designed by the attorney general to minimize the paperwork impact on each county prosecutor.

(3) The administrative office of the courts shall submit to the office of the attorney general a report showing the disposition of each child sexual abuse case handled by each of the district courts throughout the state. This reporting requirement may be satisfied by submission of a copy of a judgment made and entered in each case.

(4) The commission of pardons and parole shall submit to the office of the attorney general a report showing the release or discharge of any individual convicted of a crime involving child sexual abuse. Such report shall be designed to minimize the paperwork impact upon the commission.

(5) The office of the attorney general in conjunction with the governor of the state of Idaho shall report, prepare and submit to the legislature a report showing all of the statistical data and information compiled as a result of the reporting requirement contained within this section. This report shall be prepared and submitted no later than January 20 of each year.

[67-1405, added 1989, ch. 382, sec. 2, p. 952; am. 2000, ch. 469, sec. 132, p. 1594; am. 2015, ch. 244, sec. 46, p. 1033.]

67-1406. EMPLOYMENT OF ATTORNEYS RESTRICTED -- EXEMPTIONS. Notwithstanding any other provision of law to the contrary, no department, agency, office, officers, board, commission, institution or other state entity shall be represented by or obtain its legal advice from an attorney at law other than the attorney general except as follows:

(1) The legislative and judicial branches of government and the governor may employ attorneys other than those under the supervision of the attorney general, and such attorneys may appear in any court. However, such entities may, upon request, utilize the attorney general's legal services.

(2) Those state entities within the department of self-governing agencies which are enumerated in sections [67-2601](#)(2)(a), [67-2601](#)(2)(b) and [67-2601](#)(3), Idaho Code, and colleges and universities may employ private counsel to advise them and represent them before courts of the state of Idaho. Such entities may also obtain legal services from the attorney general on such terms as the parties may agree.

(3) Whenever the attorney general determines that it is necessary or appropriate in the public interest, the attorney general may authorize contracts for legal services pursuant to the provisions of section [67-1409](#), Idaho Code.

(4) The provisions of section [67-1401](#), Idaho Code, shall govern the normal relationship between the attorney general and the state entities in the executive branch of state government. However, if after consultation with the attorney general, the governor determines in his sole judgment, which shall not be subject to judicial review, that counsel assigned to represent or give legal advice to any state entity, other than the lieutenant governor, state controller, state treasurer, secretary of state, attorney general, and the superintendent of public instruction, cannot effectively advocate or pursue the policies of the governor, the governor shall request that other counsel be provided by the attorney general, and the attorney general shall provide from within the office of the attorney general or obtain from outside the office of the attorney general, depending upon the request of the governor, qualified counsel acceptable to the governor to represent such state entity.

(5) Any separate counsel employed pursuant to the foregoing exceptions shall be compensated with funds appropriated to such state entity, unless such separate counsel shall have been employed at the request or convenience of the attorney general or because of a conflict in representation by the attorney general.

[67-1406, added 1995, ch. 141, sec. 2, p. 601; am. 2001, ch. 61, sec. 3, p. 116.]

67-1407. FEES ASSESSED FOR SERVICES. In conjunction with the attorney general, the division of financial management shall determine on or before November 1 of each year an amount to be billed to state entities for purposes of carrying out the provisions of this title. Such amount shall be paid by each state entity in the succeeding fiscal year to the indirect cost recovery fund. Before June 30 of each fiscal year, the state controller shall transfer an amount equal to such deposits to the state general fund.

[67-1407, added 2001, ch. 61, sec. 5, p. 116.]

67-1408. BILLING OF STATE ENTITIES FOR LEGAL SERVICES. The attorney general, in rendering assistance to the departments, agencies, offices,

officers, boards, commissions, institutions and other state entities, shall charge for all costs of such assistance as determined pursuant to section [67-1407](#), Idaho Code, including, but not limited to, salaries of attorneys, paralegals, administrative, clerical and other personnel, investigative services, independent contractors, operating expenses and capital outlay expenses of the office of the attorney general. Whenever the attorney general determines that it would be beneficial to physically locate attorneys within an agency, the attorney general and agency may enter into an agreement defining which operating, capital or other expenses will be paid by the attorney general and which expenses will be paid by the agency.

The attorney general shall manage the attorney general's office to provide unified legal services based upon the legal needs of the state. For this purpose the attorney general may, during any fiscal year, assign personnel based upon the legal needs existing regardless of the source of funding therefor.

[67-1408, added 1995, ch. 141, sec. 4, p. 602; am. 2001, ch. 61, sec. 6, p. 117.]

67-1409. CONTRACTS FOR LEGAL SERVICES. (1) The attorney general shall determine which legal services can most efficiently and effectively be provided by the attorney general's staff and which legal services can most efficiently and effectively be provided by contract. The attorney general shall develop application forms and requests for proposals utilizing generally accepted cost containment considerations, for those attorneys desiring to perform contract legal services for the state. Based upon the responses received, the attorney general shall recommend to the state board of examiners which attorneys or firms should be authorized to represent the state. The state board of examiners shall consider the recommendations made by the attorney general and shall determine which attorneys or firms so recommended are authorized to contract to provide legal services for the state, and the type or types of legal services they are authorized to provide. In determining which attorneys shall be authorized for particular types of services, the board of examiners shall select attorneys who, in the board's judgment can best provide quality legal services for the state entities at an acceptable cost. The determinations of the board of examiners shall not be subject to judicial review. Whenever the attorney general determines that an immediate appointment of a special deputy attorney general would be in the best interests of the state of Idaho, the attorney general may enter into an agreement with an attorney or firm to provide legal services for the state.

(2) The performance of all contracts for legal services shall be monitored and supervised by the attorney general or his designee, and any payments pursuant to such contracts must be approved by the attorney general. This provision shall not apply to contracts for legal services entered into by those entities exempted by section [67-1406](#), Idaho Code.

[67-1409, added 1995, ch. 141, sec. 5, p. 603; am. 2001, ch. 61, sec. 7, p. 117.]

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

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

(3) The ICAC shall be under the exclusive control of the attorney general.

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

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

(a) The designation of an ICAC task force agent is not an act of employment by the office of the attorney general.

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

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

(7) The office of the attorney general shall employ such attorneys, investigators and other personnel as necessary to carry out the responsibilities of the ICAC as set forth under this section.

(8) The attorney general shall have the authority to adopt rules necessary to implement the duties and responsibilities assigned to the ICAC under this section.

[67-1410, added 2013, ch. 245, sec. 2, p. 595.]

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

(2) The fund shall consist of:

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

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

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

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

[67-1411, added 2013, ch. 245, sec. 3, p. 596.]

67-1412. DEFINITIONS. As used in sections [67-1412](#) through [67-1416](#), Idaho Code, the following definitions apply:

- (1) "Attorney general" means the Idaho office of the attorney general.
- (2) "Core components" means those elements of a 24/7 program that analysis demonstrates are most likely to account for positive program outcomes.
- (3) "Immediate sanction" means sanctions that are applied within minutes of a noncompliant test event.
- (4) "Jurisdiction" means the county or municipality that chooses to participate in a 24/7 program.
- (5) "Law enforcement agency" means the county sheriff's office or another law enforcement agency designated by the county sheriff's office that is charged with enforcement of a 24/7 program.
- (6) "24/7 sobriety and drug monitoring program" or "24/7 program" means the 24/7 sobriety and drug monitoring program established in section [67-1413](#), Idaho Code, that authorizes a court or agency as a condition of bond, sentence, probation, parole or work permit to:
 - (a) Require an individual to abstain from alcohol or dangerous drugs for a period of time when that individual has been charged, pleads guilty, found guilty, convicted or received a withheld judgment for a crime in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime including, but not limited to, driving under the influence of alcohol or dangerous drugs; and
 - (b) Require the individual to be subject to testing for alcohol and/or dangerous drugs:
 - (i) At least twice a day at a central location where immediate sanctions can be applied;
 - (ii) Where twice a day testing is impractical, by continuous transdermal alcohol monitoring by means of an electronic monitoring device where timely sanctions can be applied; or
 - (iii) By an alternate method with concurrence of the attorney general and consistent with section [67-1413](#), Idaho Code.
- (7) "Testing" means a procedure for determining the presence and level of alcohol or a dangerous drug, as enumerated in [chapter 80, title 18](#), Idaho Code, or as provided as a condition of probation, withheld judgment or parole, in an individual's body fluid including blood, breath, urine, saliva or perspiration and includes any combination of the use of breath testing, drug patch testing, urinalysis testing, saliva testing or continuous or transdermal alcohol monitoring. With the concurrence of the attorney general and consistent with section [67-1413](#), Idaho Code, alternate body fluids can be approved for use.
- (8) "Timely sanction" means a sanction that is applied within a period of time that can be hours or days after the noncompliant test event, but the period of time should be as short as possible and not extend beyond fourteen (14) days.

[67-1412, added 2014, ch. 240, sec. 4, p. 606; am. 2018, ch. 169, sec. 20, p. 370.]

67-1413. SOBRIETY AND DRUG MONITORING PROGRAM CREATED. (1) There is hereby created within the office of the attorney general the sobriety and drug monitoring program.

(2) The core components of the statewide 24/7 program shall include the utilization of a primary testing methodology that facilitates the ability to apply immediate sanctions for noncompliance at an affordable cost. In hardship cases or where a program participant is rewarded with less strin-

gent testing requirements, testing methodologies with timely sanctions for noncompliance may be utilized.

(3) The statewide 24/7 program shall be evidence-based and shall be able to satisfy at least two (2) of the following categories: included in the federal registry of evidence-based programs and practices; reported with positive effects on the primary target outcome in peer review journals; or documented effectiveness supported by other sources of information and the judgment of informed experts.

(4) If a jurisdiction chooses to participate in the 24/7 sobriety and drug monitoring program, the attorney general shall assist in creation and administration of the 24/7 program in the jurisdiction in the manner provided in sections [67-1412](#) through [67-1416](#), Idaho Code. The attorney general shall also assist jurisdictions in which a 24/7 program exists in determining alternatives to incarceration.

(5) (a) If a jurisdiction participates in the 24/7 program, the law enforcement agency may designate an entity to provide the testing services or take any other action required or authorized to be provided by the law enforcement agency pursuant to sections [67-1412](#) through [67-1416](#), Idaho Code, except that the law enforcement agency's designee may not determine whether to participate in the 24/7 sobriety and drug monitoring program.

(b) The law enforcement agency shall establish the testing locations and times for the jurisdiction, but must have at least one (1) testing location and two (2) daily testing times approximately twelve (12) hours apart.

[67-1413, added 2014, ch. 240, sec. 4, p. 606.]

67-1414. RULES -- TESTING FEES. The attorney general shall adopt rules to implement the provisions of sections [67-1412](#) through [67-1416](#), Idaho Code. The rules must:

(1) Provide the nature and manner of testing and the procedures and apparatus to be used for testing;

(2) Establish reasonable participant and testing fees for the program, including the collection of fees to pay the cost of installation, monitoring, calibration and deactivation of any testing device and reimbursement to private or governmental entities providing such services;

(3) Provide the establishment and use of local accounts for the deposit of fees collected and for administration of the 24/7 sobriety and drug monitoring program pursuant to these rules;

(4) Require approval by the attorney general of all contracts entered into between local or state agencies and vendors participating in the 24/7 sobriety and drug monitoring program; and

(5) Require and provide for the approval of a 24/7 sobriety and drug monitoring program data management technology plan that must be used by the attorney general and participating jurisdictions to manage testing, data access, fees and fee payments and any required reports.

[67-1414, added 2014, ch. 240, sec. 4, p. 607.]

67-1415. AUTHORITY OF COURT AND OTHER ENTITIES TO ORDER PARTICIPATION IN SOBRIETY AND DRUG MONITORING PROGRAM. Any court, the commission for pardons and parole, the department of juvenile corrections, the driver's license section of the transportation department, any county probation

department, any juvenile probation department, the department of correction and the department of health and welfare dealing with child protection issues or a law enforcement entity dealing with domestic violence issues may avail itself of the 24/7 program for persons. Any entity utilizing the 24/7 program may condition any sanctions against an individual to be stayed as long as the individual participates in and/or successfully completes the 24/7 sobriety and drug monitoring program.

[67-1415, added 2014, ch. 240, sec. 4, p. 607.]

67-1416. COLLECTION, DISTRIBUTION AND USE OF TESTING FEES. The law enforcement agency of a jurisdiction in which a 24/7 sobriety and drug monitoring program exists shall collect the testing fee required by the rules of the attorney general and deposit the fees into the local 24/7 program account established pursuant to rules of the attorney general. The fee must be distributed according to those rules to the proper jurisdiction for use by the law enforcement agency or the law enforcement agency's designee pursuant to the terms determined by the law enforcement agency in accordance with the provisions of sections [67-1412](#) through [67-1416](#), Idaho Code, and the rules implementing those sections.

[67-1416, added 2014, ch. 240, sec. 4, p. 607.]