

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 442

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO THE ATTORNEY GENERAL; AMENDING SECTION 67-1401, IDAHO CODE, TO
PROVIDE FOR A DUTY OF THE ATTORNEY GENERAL REGARDING DEFENSE OF AN IDAHO
LAW; AND DECLARING AN EMERGENCY.

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, title
48, Idaho Code; the Idaho nonprofit hospital sale or conversion act, chap-
ter 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 gover-
nor, secretary of state, treasurer, state controller, and the superinten-
dent of public instruction, when requested, upon any question of law relat-
ing to their respective offices. The attorney general shall keep a record of
all written opinions rendered by the office and such opinions shall be com-
piled annually and made available for public inspection. All costs incurred
in the preparation of said opinions shall be borne by the office of the attor-

1 ney general. A copy of the opinions shall be furnished to the supreme court
2 and to the state 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 upon and purchase, when necessary, in the name of the state,
7 and under the direction of the state controller, any property offered for
8 sale under execution issued upon judgments in favor of or for the use of the
9 state and to enter satisfaction in whole or in part of such judgments as the
10 consideration 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, in 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 (12) To report to the governor the condition of the affairs of the attor-
28 ney general's office and of the reports received from prosecuting attorneys.

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

33 (14) To establish a medicaid fraud control unit pursuant to the provi-
34 sions of section 56-226, Idaho Code, and to exercise concurrent investiga-
35 tive and prosecutorial authority and responsibility with county prosecutors
36 to prosecute persons for the violation of the criminal provisions of chap-
37 ter 2, title 56, Idaho Code, and for criminal offenses that are not defined
38 in said chapter 2, title 56, Idaho Code, but that involve or are directly re-
39 lated to the use of medicaid program funds or services provided through the
40 medicaid program.

41 (15) To seek injunctive and any other appropriate relief as expedi-
42 tiously as possible to preserve the rights and property of the residents
43 of the state of Idaho and to defend as necessary the state of Idaho, its
44 officials, employees, and agents in the event that any law or regulation
45 violating the public policy set forth in the Idaho health freedom act, chap-
46 ter 90, title 39, Idaho Code, is enacted by any government, subdivision, or
47 agency thereof.

48 (16) To establish an internet crimes against children unit pursuant to
49 the provisions of section 67-1410, Idaho Code, and to exercise concurrent
50 investigative and prosecutorial authority and responsibility with county

1 prosecutors to prosecute persons for the violation of the criminal provi-
2 sions of sections 18-1507, 18-1509A, 18-1513 and 18-1515, Idaho Code, which
3 may also encompass criminal offenses that are not defined in said sections
4 but that involve or are directly related to child pornography and sollicita-
5 tion of minors for pornography, prostitution or sex-related offenses.

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

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

19 (19) To support, cooperate and consult with, and seek direction from
20 the president pro tempore of the senate and the speaker of the house of repre-
21 sentatives regarding the defense of Idaho law in any action where the legis-
22 lature or its leaders exercise their rights and powers pursuant to section
23 67-465, Idaho Code. The provisions of this subsection shall apply to any
24 attorney contracted for legal services pursuant to section 67-1409, Idaho
25 Code. The provisions of this subsection shall apply to any pending action as
26 of the effective date of this act.

27 SECTION 2. An emergency existing therefor, which emergency is hereby
28 declared to exist, this act shall be in full force and effect on and after its
29 passage and approval.