

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 390

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO CITY AND COUNTY OFFICERS; AMENDING SECTION 31-2002, IDAHO CODE,
2 TO REMOVE A PROVISION REGARDING VIOLATIONS OF THE OPEN MEETINGS LAW
3 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 2, TITLE 50, IDAHO
4 CODE, BY THE ADDITION OF A NEW SECTION 50-238, IDAHO CODE, TO AUTHORIZE
5 INVESTIGATIONS AND ACTIONS AGAINST CITY ELECTED OFFICERS BY THE ATTOR-
6 NEY GENERAL AND TO PROVIDE FOR DUTIES OF THE ATTORNEY GENERAL; AMENDING
7 SECTION 67-1401, IDAHO CODE, TO REVISE A PROVISION REGARDING A CERTAIN
8 DUTY OF THE ATTORNEY GENERAL AND TO MAKE TECHNICAL CORRECTIONS; AND
9 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
10

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

12 SECTION 1. That Section 31-2002, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 31-2002. INVESTIGATIONS AND ACTIONS AGAINST COUNTY ELECTED OFFICERS
15 -- DUTIES OF ATTORNEY GENERAL. (1) Notwithstanding any provision of law to
16 the contrary, the attorney general may conduct an investigation of any alle-
17 gation of a violation of state criminal law, against a county officer occu-
18 pying an elective office for violation of state criminal law in his official
19 capacity.

20 (2) Upon completion of the investigation, the attorney general shall:

21 (a) Issue a finding of no further action necessary;

22 (b) Suggest training or other nonjudicial remedies; or

23 (c) Determine that further investigation or prosecution is warranted
24 and retain the matter and act as special prosecutor.

25 (3) In furtherance of the duty to conduct investigations set forth in
26 the provisions of this section, the attorney general shall have the author-
27 ity to issue subpoenas for the production of documents or tangible things
28 that may be relevant to such investigations.

29 ~~(4) The provisions of this section shall not apply to any alleged viola-~~
30 ~~tions of the open meetings law as codified in chapter 2, title 74, Idaho Code.~~

31 ~~(5) (4)~~ (4) For purposes of this section, a county officer occupying an
32 elective office shall be deemed to have performed an act in his "official
33 capacity" when such act takes place while the officer is working or claims
34 to be working on behalf of his employer at his workplace or elsewhere, while
35 the officer is at his workplace whether or not he is working at the time, and
36 when such act involves the use of public property or equipment of any kind or
37 involves the expenditure of public funds.

38 SECTION 2. That Chapter 2, Title 50, Idaho Code, be, and the same is
39 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
40 ignated as Section 50-238, Idaho Code, and to read as follows:

1 50-238. INVESTIGATIONS AND ACTIONS AGAINST CITY ELECTED OFFICERS --
 2 DUTIES OF ATTORNEY GENERAL. (1) Notwithstanding any provision of law to the
 3 contrary, the attorney general may conduct an investigation of any allega-
 4 tion of a violation of state criminal law against a city officer occupying an
 5 elective office for violation of state criminal law in his official capac-
 6 ity.

7 (2) Upon completion of the investigation the attorney general shall:

8 (a) Issue a finding of no further action necessary;

9 (b) Suggest training or other nonjudicial remedies; or

10 (c) Determine that further investigation or prosecution is warranted
 11 and retain the matter and act as special prosecutor.

12 (3) In furtherance of the duty to conduct investigations set forth in
 13 the provisions of this section, the attorney general shall have the author-
 14 ity to issue subpoenas for the production of documents or tangible things
 15 that may be relevant to such investigations.

16 (4) For purposes of this section, a city officer shall be deemed to have
 17 performed an act in his "official capacity" when such act takes place while
 18 the officer is working or claims to be working on behalf of his employer at
 19 his workplace or elsewhere, while the officer is at his workplace whether
 20 or not he is working at the time, and when such act involves the use of pub-
 21 lic property or equipment of any kind or involves the expenditure of public
 22 funds.

23 SECTION 3. That Section 67-1401, Idaho Code, be, and the same is hereby
 24 amended to read as follows:

25 67-1401. DUTIES OF ATTORNEY GENERAL. Except as otherwise provided in
 26 this chapter, it is the duty of the attorney general:

27 (1) To perform all legal services for the state and to represent the
 28 state and all departments, agencies, offices, officers, boards, commis-
 29 sions, institutions and other state entities in all courts and before all
 30 administrative tribunals or bodies of any nature. Representation shall be
 31 provided to those entities exempted pursuant to the provisions of section
 32 67-1406, Idaho Code. Whenever required to attend upon any court or adminis-
 33 trative tribunal, the attorney general shall be allowed necessary and actual
 34 expenses, all claims for which shall be audited by the state board of exam-
 35 iners.

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

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

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

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

1 such charitable organizations as set forth and provided in chapter 19, title
2 48, Idaho Code.

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

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

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

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

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

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

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

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

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

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

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

16 (17) To respond to allegations of any violation of state criminal law
17 by elected county or city officers acting in their official capacity, to in-
18 vestigate such claims, to issue appropriate findings, and to ~~refer~~ retain
19 such cases for further investigation and prosecution pursuant to sections
20 31-2002 and 50-238, Idaho Code.

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

30 SECTION 4. An emergency existing therefor, which emergency is hereby
31 declared to exist, this act shall be in full force and effect on and after
32 July 1, 2024.