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 **New Mexico Legislative Update 2016**

The following legislation, passed by the 2016 legislature and signed into law by New Mexico Governor Susana Martinez, may be of interest to the Traffic Safety community. To read the complete text of legislation, visit the New Mexico Legislature’s website at: http://www.nmlegis.gov/lcs/billfinder/number.aspx.

Note: May 18, 2016 is the effective date of legislation not carrying an emergency clause or other specified date. Bills with emergency clauses become effective when signed by the Governor.

##### **DWI and Alcohol**

**SB 118 — Increase DWI Penalties**

**Sponsor:** [George K. Munoz](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=SMUNO) and Sarah Maestas Barnes

**Summary**: Increases driving while under the influence penalties.

* Makes it a second-degree felony to be convicted of eight or more DWIs, increasing mandatory sentencing from 2 years to 10 years, with a maximum sentence of 12 years.
* This bill also increases penalties for vehicular homicide while under the influence from a third-degree felony to a second-degree felony, allowing judges to increase sentences from six years to 15 years in prison – two-and-a-half times the current penalty.
* The effective date of this act is July 1, 2016

**SB 147 — Spaceport Liquor License**

 **Sponsor:**[John Arthur Smith](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=SSMIT)

**Summary:** A governmental entity may sell alcoholic beverages directly or through its lessee at a governmental facility if the governing body applies to the director for a governmental license. The governmental entity and its lessee shall be subject to all state laws and regulations governing dispensers.

**SB 193 — Ski Area Alcoholic Beverage Sales**

**Sponsor:**[Mark Moores](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=SMOOR) and [James E. Smith](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HSMIJ)

**Summary:** Allows the sale and consumption of alcoholic beverages at ski areas.

**SB 214 – Workers’ Compensation Benefits and Intoxication**

**Sponsor:**[Jacob Candelaria](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=SCAND)

**Summary:** Allows for reducing workers compensation benefits for those who cause an injury while intoxicated on the job. The bill also specifies that employers cannot file a claim if they were aware of the impairment and did not take action.

##### **Crime Victims**

##### **HB 27 — Family Violence Act Extended Protection (Rachel’s Law)**

**Sponsor:** David Gallegos

**Summary:** Allows the courts to grant permanent restraining orders against persons convicted of sexual penetration to keep them from contacting their victims.

* Also allows courts to grant these orders without requiring the victim to be present in the courtroom. Rachel’s Law is named for Rachel Gonzales whose father was convicted of raping her starting at the age of ten. After he was released from prison, he attempted to contact her through social media.
* The effective date of the provisions of this act is July 1, 2016.

**Senate Memorial 50 — Study Backlog of Sexual Assault Exam Kits**

 **Sponsor:**[Mimi Stewart](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=SSTEW)

**Summary:** This memorial requests that the Secretary of Public Safety and the Director of the Statewide Coalition to End Sexual Violence convene a task force to study and report on the processing of backlogged rape kits.

##### **Law Enforcement**

**HB 72 – Allow Use of Juvenile Disposition and Evidence (Jaydon’s Law)**

**Sponsor:**[Nate Gentry](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HGENN) and [Paul A. Pacheco](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HPACH)

**Summary:** Changes the state’s Criminal Procedure Act to give judges access to an adult’s youth records, which currently is not allowed under state law.

* Allows judges to use information, including juvenile records, when making sentencing and bail decisions. “Jaydon’s Law” is in reference to Jaydon Chavez-Silver, an Albuquerque teenager who was shot and killed at a party last summer.
* HB 72 would not apply to any crimes committed before age 14.

**HB 92 — NM Mounted Patrol Survivors Benefits**

 **Sponsor:**[Bob Wooley](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HWOOL) and [William "Bill" R. Rehm](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HREHM)

**Summary:** Amends the Peace Officers’ Survivors Supplemental Benefits Act to include benefits for NM Mounted Patrol Members’ survivors and Reserve Police Officers’ survivors.

**HB 296 — Convictions in Certain Courts as “Adults”**

 **Sponsor:**[Rod Montoya](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HMONR)

**SB 257 — Convictions in Certain Courts as “Adults”**

**Sponsor:** [Nancy Rodriguez](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=SRODR)

**Summary:** Both bills relate to criminal sentencing; defines “Probationer” for statutes governing a return of a probation violator.

* Amends a section of the Probation and Parole Act to add persons convicted in Magistrate, Metropolitan, or Municipal Courts to the definition of “Adult.”
* Declares an emergency.

**HB 336 – Public Peace, Health, Safety and Welfare Comprehensive Criminal Records Database**

 **Sponsor:**[Nate Gentry](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HGENN) and [Daniel A. Ivey-Soto](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=SIVEY)

**Summary:** Allows the Secretary of Public Safety to create a comprehensive criminal records database.

* Requires the Administrative Office of the Courts (AOC) and others to report court proceedings, adjudications and redeterminations on eligibility of persons to receive or possess a firearm or ammunition or obtain a concealed hand gun permit to the FBI National Instant Criminal Background Check System (NCIS).
* Requires the AOC to report those who have been adjudicated as mentally unstable to the NICS.
* Provides for a right to inspect and correct records.

##### **Public Safety**

**HB 65 — Child Porn Images as Individual Offenses**

**Sponsor:**[Sarah Maestas Barnes](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HMAEB) and [Randal S. Crowder](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HCROW)

* **Summary:** Increases Sentences for Child Pornography Possession, Distribution, and Manufacturing; declares an emergency.
* Increases the penalty for child pornography possession from 18 months to 10 years, and also increases the penalty for distribution of child pornography from 3 years to 11 years and manufacturing of child pornography from 9 years to 12 years. Each of these new penalty thresholds would be increased by 1 year if any victim of the child pornography crime is under 13 years old
* Also creates an exemption from possession of child pornography charges for teenagers between 14 and 17 years old who willingly send explicit images of themselves to one another.

**HB 277** **— Administration of Opioid Antagonists**

**Sponsor:** [Terry H. McMillan](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HMCMI)

**Summary:** Provides for the authorized possession, storage, distribution, prescribing and administration of opioid antagonists; declares an emergency.

* Provides a person immunity from civil and legal criminal liability if they are acting in good faith to prevent a drug overdose.
* Expands access to Naloxone, a prescription medication that can help reverse overdoses from opioids such as heroin, methadone, oxycodone and hydrocodone.

**SB 21 — Brittany Alert for Endangered Persons**

**Sponsor:** Jacob Candelaria

**Summary**: Establishes ‘Brittany Alerts’ in New Mexico. Based on the Amber and Silver Alert systems, this will help notify the public of a missing person with physical or mental disabilities, helping law enforcement to quickly enlist the entire community to help find them.

* The alert was inspired by Brittany Redford-Gonzales, a 25-year-old woman with developmental disabilities who went missing last year.
* The effective date of this act is July 1, 2016.

**SB 113** **—** **Assisted Outpatient Treatment Act**

**Sponsor:**[Mary Kay Papen](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=SPAPE) and [Paul A. Pacheco](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HPACH)

**Summary:** Allows state district judges to order people into mandatory treatment programs after a petition from family members or others and a hearing.

* The patient must be at least 18, with a mental illness diagnosis and history of not following through with treatment.
* Cities and counties have to opt into the program to participate.
* The effective date of this act is July 1, 2016.

**Senate Joint Resolution 1– Denial of Bail for Certain Felonies**

**Sponsor:**[Peter Wirth](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=SWIRT) and [Antonio "Moe" Maestas](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HMAES)

**Summary:** Proposes a Constitutional Amendment to Article 2, Section 13 of the NM Constitution to protect community safety by giving the courts the authority to deny release on bail to dangerous defendants in felony cases while retaining the right to pretrial release for non-dangerous defendants who do not pose a flight risk.

* Overhauls the state’s bail system to keep the most dangerous defendants in jail while allowing poor, nonviolent suspects to be released pending trial.
* The amendment proposed by this resolution must be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.
1. **Transportation**

**HB 99 — Driver’s License Issuance and Federal Real ID**

**Sponsor:** [Paul A. Pacheco](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HPACH) and [Andy Nunez](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HNUNE)

**Summary:** This bill ends the practice of giving driver’s licenses to illegal immigrants and brings the state into compliance with the federal REAL ID Act.

* The bill also provides a permit to illegal immigrants, called a driver’s authorization card that cannot be used for federal identification purposes. Fingerprints and background checks are required for illegal immigrants who wish to obtain a driver’s authorization card (which will not be granted until aliases and criminal bench warrants are resolved). Those who want a driver’s authorization card will need to prove their identity and residency.
* The effective date of this act is July 1, 2016.

**HB 168 — Transportation Network Company Services Act**

**Sponsor:**[Monica Youngblood](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HYOMO)

**Summary:** Clarifies existing regulations to allow ride sharing companies to operate legally in New Mexico.

* Drivers for those companies must be at least 21 years of age, undergo a background check, and be subject to a zero-tolerance drug and alcohol policy.
* Vehicles must be inspected and have certain insurance plans.
* The bill would also make companies like Uber pay an annual $10,000 permit fee to the state’s Public Regulation Commission, which would have the authority to make rules and regulations for companies that connect consumers seeking a ride with a driver willing to provide it.

**HB 206** **—** **Design and Build Procurement for Some Projects**

**Sponsor:**[Cathrynn N. Brown](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HBROW) and [Luciano "Lucky" Varela](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HVARE)

**SB 215** **—** **Design and Build Procurement for Some Projects**

**Sponsor:**[John Arthur Smith](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=SSMIT)

**Summary:** Both bills allow the NMDOT to use design-build procurement – one firm doing both design and construction – for certain large highway infrastructure projects with a maximum allowable construction cost of more than fifty million dollars funded in whole or in part by federal-aid highway funds.

**HB 252 — Remove Federal Conflict in Motor Carrier Law**

**Sponsor:**[Jim R. Trujillo](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HTRUJ) and [Nick L. Salazar](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=HSALA)

**Summary:** HB 252 amends the Motor Carrier Act to comply with federal law and declares an emergency.

* Allow entities funded to provide transportation services under the Older Americans Act of 1965 to solicit donations for services offered as long as the solicitation is not coercive. (Transportation services offered under the Older Americans Act of 1965 are provided free of charge.)
* Other than an entity receiving funding to supplement transportation services through Title III B of the federal Older Americans Act of 1965, no person shall offer or provide a transportation service for hire within the state without first obtaining an appropriate operating authority from the commission.

**SB 171 — Commercial Driver Use of Mobile Devices**

**Sponsor:**[Cliff R. Pirtle](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=SPIRT)

**Summary:** Prohibits commercial drivers from using a hand held mobile device while driving.

* Also disqualifies a person from driving a commercial motor vehicle for life if convicted of using any motor vehicle in the commission of certain felonies.
* And adds a penalty assessment misdemeanor.

**SB 270 — Off Highway Vehicles on Paved Roads**

**Sponsor:**[Steven P. Neville](http://www.nmlegis.gov/lcs/legislator_details.aspx?SPONCODE=SNEVI)

**Summary:** Allows ATV’s to drive on paved roads in some circumstances.

* If authorized by ordinance or resolution of a local authority or the state transportation commission, an ATV may be operated on a paved street or highway owned and controlled by the authorizing entity if: (1) the vehicle has one or more headlights and taillights that comply with the Off-Highway Motor Vehicle Act; (2) the vehicle has brakes, mirrors and mufflers; (3) the operator has a valid driver's license, instruction permit or provisional license and an off-highway motor vehicle safety permit; (4) the operator is insured; and (5) the operator of the vehicle is wearing eye protection and a safety helmet that comply with the Off-Highway Motor Vehicle Act.

**Bills that were not enacted during the 2016 session included:**

* Expansion of the state’s three-strikes law for repeat violent offenders;
* mandatory minimum sentences for serious violent offenses;
* adding law enforcement officers to the state’s hate crimes law;
* penalties for assault on a CYFD worker;
* increased penalties for intentional child abuse;
* increased penalties for abuse of a child 12-18 resulting in death;
* allowing retired police officers to return to work while still collecting pension benefits;
* allowing local governments to impose curfews on minors under the age of 16;
* requiring background checks on gun show buyers;
* increasing from $30 to $50 monthly what the state may underwrite for the use of ignition interlocks by indigent offenders;
* creating a separate fund in the judiciary for court interpreters,
* and legalizing marijuana.