



New Mexico
Department
of Justice

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**LEGISLATIVE
PRIORITIES
&
SUMMARIES**



PUBLIC SAFETY AND VICTIMS' RIGHTS

Release Pending Appeal

Purpose: Alexis Avila was convicted of First-Degree Child Abuse in 2023 after she threw her baby in a dumpster shortly after the child was born. Avila is in the process of appealing her conviction and has requested the Court to release her from prison until her appeal is resolved.

Legislative Solution: Our legislation would ensure that anyone convicted of a capital, or "serious violent offense", (SVO) shall not be entitled to release pending appeal.

SVOs include: First Degree and Second-Degree Murder, First- and Second-Degree Sexual Assault, First Degree Child Abuse, among others.

Violations of Conditions of Release

Purpose: Attorney General Raúl Torrez has been a consistent champion and advocate for stronger pretrial detention, especially for those charged with murder and other violent crimes. It was AG Torrez who sounded the alarm that pretrial services were not monitoring global positioning systems (GPS), otherwise known as ankle monitors, on the weekends or after hours. While some improvements have been implemented, we now focus our attention on transparency and effectiveness of GPS monitors. Violations of conditions of release should be immediately shared with law enforcement, the courts, prosecutors, defense attorneys and, most importantly, victims.

Legislative Solution: This legislation would require pretrial services to notify the victim, court, prosecutor, and defendant's counsel of any violation of pretrial conditions of release. Additionally, the legislation would clarify that pretrial release and supervision records are subject to the Inspection of Public Records Act.

Those who monitor defendants on GPS devices must:

- Notify the victim, the court, defense attorney and prosecutor if a defendant tampers with or cuts off their ankle monitor.
- Provide violations and data to Law Enforcement to assist with investigations.

Victim Protection in Pretrial Interviews

Purpose: While defendants have a right to cross-examine victims during trial, current practices in New Mexico require victims to participate in pretrial interviews conducted by defense attorneys. These interviews often force victims to endure traumatic questioning without the oversight or protection of a judge. This process can re-victimize individuals by compelling them to repeatedly recount and relive their trauma, creating unnecessary emotional harm as they seek justice.

Legislative Solution: This legislation would amend the Victims of Crime Act, providing new protections for both child and adult victims involved in criminal proceedings. The amendment would impose limitations on pretrial interviews, safeguarding victims' privacy and dignity while reducing pressure and emotional distress.

Remedies for Violations of Victims' Rights

Purpose: New Mexico law establishes the fundamental rights of all of our citizens, including victims of crime but lacks the enforcement mechanism to ensure the protections are upheld. Currently, victims' rights include, but are not limited to, the right to be treated with fairness and with respect, to a timely disposition of their case, to be protected from the accused, to information about case proceedings, conviction, sentencing, imprisonment, escape or release of the accused, to be notified of and to attend all court proceedings, and to make a statement at any sentencing or post-sentencing hearings. The Legislature gave effect to Article 2, Section 24 of the constitution by passing the Victim of Crimes Act (NMSA 1978 Section 31-26-1et. seq.), incorporating and implementing those same rights for victims of crime. However, the Victims of Crime Act fails to provide any legal remedy for victims whose constitutional rights have been violated.

Legislative Solution: This legislation aims to strengthen the rights and protections for victims of crime, improve the notification process, and provide legal remedies for breaches of the Act. By doing so, this would enforce the protections in the Act through civil penalties and civil suits. Additionally, the legislation would mirror similar remedies in the Inspection of Public Records Act (IPRA) and amend the Victims of Crime Act by providing those remedies to victims through three avenues:

- Create civil penalties for violations, enforceable by the Attorney General
- Provide victims with a separate, private right of action
- Provide victims withstanding to assert their rights during criminal proceedings

PROTECTING STUDENTS

Hazing

Purpose: New Mexico remains one of six states in the United States without a law establishing anti-hazing safeguards. In December 2024, Attorney General Raúl Torrez released a report detailing an NMDOJ investigation into hazing and sexual assault incidents within the New Mexico State University (NMSU) men's basketball program during the 2022-2024 seasons. The investigation revealed systemic failures in safeguarding student-athletes and highlighted a pervasive culture of misconduct within the program.

Legislative Solution: This legislation aims to enhance student safety across New Mexico by establishing criminal penalties for hazing and failures to report instances of hazing, providing a civil cause of action for victims of hazing, and imposing new requirements on universities and colleges to implement anti-hazing policies and codes of conduct. By granting statutory authority, this legislation will ensure that individuals, organizations, and institutions can be held responsible for their actions or inactions related to hazing.

Criminal penalties for hazing would include:

- Misdemeanor for harmful conduct in recruitment/affiliation
- Fourth-degree felony for hazing causing severe harm.
- Civil Liability for participants, organizations, and institutions failing to prevent hazing.

Institutions must:

- Include hazing rules in conduct codes
- Provide hazing training annually
- Establish hazing prevention committees

Threats of Mass Violence

Purpose: Threats of mass violence have long posed a challenge nationwide, yet their frequency has sharply increased in New Mexico. The increasing occurrence of bomb scares and shooting threats in schools places a substantial burden on local officials, necessitating extensive investigations and diverting critical law enforcement resources from addressing other pressing criminal activities. These threats not only compromise community safety and strain public resources but also cause severe disruptions to students' education and daily lives. The emotional toll on students and families is profound, often resulting in long lasting socio-emotional impacts that extend far beyond the immediate aftermath of such incidents.

Legislative Solution: The amendment targets Section 30-20-16, "Bomb Scares and Shooting Threats Unlawful," elevating the offense from a misdemeanor to a fourth-degree felony. This would strengthen penalties for individuals who threaten mass shootings. This legislation would increase the criminal penalty for making bomb or shooting threats from a misdemeanor to a fourth-degree felony.

Updating and amending the bomb scares and shooting threats statute include:

- Defining bomb and shooting threats
- Increasing penalty from misdemeanor to fourth degree felony for shooting threats
- Allows the Court to order the offender to pay back wages, salaries or other monetary losses incurred during the threat

Cyberbullying

Purpose: Recent events have highlighted a gap in New Mexico's criminal statute related to hazing and cyber-harassing. As it stands, New Mexico is the only state without any cyber-harassment legislation. Although certain statutes can be used to address some conduct that occurs during hazing and cyber-harassment incidents, none specifically address the conduct that research indicates can cause victims severe physical injury, including death, and years of physical and mental harm.

Legislative Solution: This legislation would establish a new criminal penalty for cyberbullying, prohibiting bullying, either in writing or electronically, that causes substantial harm to a student's physical or mental health, interferes with the student's academic performance or ability to participate in school. In addition to provisioning criminal penalties, this legislation would create a civil right of action for hazing victims who have suffered mental and physical pain and suffering, allowing them to pursue legal action against the individuals, administrators, coaches, employees, and the presiding organization or institution.

Criminal penalties for cyberbullying would include:

- Misdemeanor for minor harm
- 4th Degree Felony for serious psychological harm
- 3rd Degree Felony for great physical harm

This legislation seeks to prohibit communications with students that:

- Instill fear of harm
- Harm mental/physical health
- Interfere with academics or school activities

Higher Education Reform

Purpose: Board of Regents at higher educational institutions statewide have wide latitude to extend employment contracts and enter into separation and other agreements with university administrators. The Board of Regents at WNMU agreed to an exorbitant severance payout of the outgoing university president, potentially in breach of their fiduciary duties to the institution and its students. There is currently no independent oversight of contracts to these administrators to ensure that they are in the best interest of the institution and the taxpayers. Additionally, the process through which to remove regents who breach their fiduciary duties is unclearly defined.

Legislative Solution: As Boards of Regents are created through the New Mexico Constitution, we would seek to amend the constitution to explicitly clarify for current and future boards of their fiduciary duties of loyalty, care and prudent administration to the educational institutions and its members. The constitutional amendment would also vest jurisdiction to remove offending board regents in district courts.

A separate bill would create an express civil cause of action against boards for breaching their fiduciary duties, clarify that standing to enforce these duties rests with the Attorney General and aggrieved private parties, and ensures any legal remedies are in addition to equitable remedies currently available to the courts. A new provision would ensure that a state agency (such as the HED or the Board of Finance under DFA) would review contracts of higher ed administrators that surpass defined thresholds to ensure their appropriateness, based off of criteria that will be developed.

REGULATING TECHNOLOGY

AI Regulation

Purpose: As the use of artificial intelligence (AI) continues to expand, states must be prepared to address its use in generating fake, misleading content. However, due to the nature of the technology and modern mass communication, preventing bad actors from using AI for this purpose is challenging. Many individuals may hide behind anonymous accounts and heavy-handed solutions risk inadvertently infringing upon users' privacy or running afoul of the First Amendment.

Legislative Solution: This legislation establishes consequences, in the form of civil and criminal liability, for those who use AI-generated (synthetic) audio, images, and video to harass, extort, and defame others. Additionally, it establishes a methodology for identifying harmful synthetic content and unmasking malicious actors. With that said, the legislation is carefully crafted to avoid First Amendment concerns by:

- Narrowly targeting content with the greatest potential for harm: synthetic audio, images, and video.
- Requiring platforms to protect identity verification data using the most stringent industry standards, typically used for securing financial and medical data.
- Prohibiting platforms from using or transferring identity verification data for any purpose other than complying with a court order.

Device Based Age Verification

Purpose: In order to adequately protect children and simultaneously preserve the privacy and Constitutional rights of adults consumers, age verification solutions must be properly implemented. Current efforts to enact age verifications laws to prevent minors from accessing adult content poses significant data privacy and security concerns. Device-based technology as a method of age verification is technically feasible and relies on technologies that are already common practice across industries.

Legislative Solution: This legislation would build off current technology to require age verification at the device level, instead of individual applications or website, to better protect children from accessing harmful material. This would include:

- Manufacturers will be required to determine the age of the device user. This will be done when the device is initially activated or through manufacturer updates.
- Providing websites and applications a notification if the user is under 16 years old. If the user is younger than 16, the manufacturer will require parental consent prior to application downloads.

Consumer Data Protection

Purpose: Considering the rapid evolution of technology and the breadth of information collected by these modern tools, the need for robust data security and privacy mechanisms remains paramount. This legislation aims to safeguard privacy and personal data by establishing consumer rights and regulatory obligations for businesses that control or process personal data.

Legislative Solution: This legislation will protect personal data by granting individuals explicit rights to access, correct, delete, and obtain copies of their personal information, as well as opt out of data processing for targeted advertising, data sales, and profiling. Businesses will be required to meet specific thresholds for data control or processing and will be mandated to provide clear and transparent privacy notices detailing their data practices. To ensure accountability, this legislation provisions that businesses engaging in high-risk processing must conduct data protection assessments, while exempting nonprofits, higher education institutions, and entities governed by the Health Insurance Portability and Accountability Act (HIPAA).

PROTECTING CONSUMERS

Updating the Unfair Practices Act

Purpose: The Unfair Practices Act (UPA) empowers the Attorney General to protect consumers in New Mexico and take civil action against businesses engaging in unfair or deceptive trade practices. However, civil penalties for these actions under the UPA have remained unchanged for decades and no longer represent a meaningful consequence or deterrent for bad actors. As such, the amendments proposed aim to modernize and strengthen the UPA in response to evolving consumer protection needs and challenges.

Legislative Solution: This legislation would meaningfully update the Unfair Practices Act (UPA) for the first time since the 1980's by including penalties to \$10,000 for general violations and up to \$25,000 for price gouging. Additionally, the legislation will broaden the scope of "trade" and "commerce" to expand UPA protections and add rights of action in areas of significant consumer concern, such as:

- Real estate transactions
- Landlord-tenant disputes
- Mortgages
- Loan agreements
- Debt collection practices.

Uniform Civil Investigative Demand Procedures and Authority

Purpose: Civil Investigate Demands (CIDs) are one of the most powerful tools that can be used by the Attorney General to investigate civil violations without resorting to filing legal actions or using IPRA to access necessary documents. Under current law, the Attorney General's CID authority is spread across 8 disparate statutes, including the UPA, Antitrust Act, and False Advertising Act. Furthermore, the procedures for issuing CIDs are inconsistent across the various statutes. As Attorney General Raúl Torrez is engaging in more consumer protection cases, civil rights cases, and environmental protection cases the Attorney General's CID authority is not express. In these instances, the Attorney General is forced to pursue an investigation by requesting documents and information from private entities or public bodies and hoping for voluntary compliance, filing an IPRA request, or filing a lawsuit and pursuing discovery.

Legislative Solution: This legislation aims to expand the scope, flexibility, and effectiveness of civil investigative (CID) demands by broadening CID authority to the additional areas of consumer protection, civil rights, and environmental protection, among others. Furthermore, these provisions will consolidate CID processes under a single, uniform legal framework, simplifying demand procedures and enforcement across various types of investigations.

This legislation seeks to standardize and consolidate CID processes into a single, uniform legal framework, simplifying CID procedures and enforcement. Additionally, the legislation would make express the authority to utilize CIDs across the various types of investigations that may be undertaken by our office.