



State of New Mexico *Office of the Governor*

Governor Bill Richardson Takes Action to Reduce DWI and Punish Offenders

Announces Unprecedented DWI Legislative Package for Upcoming Session

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SANTA FE- Governor Bill Richardson today unveiled his groundbreaking DWI package that will be introduced during the upcoming regular session of the New Mexico Legislature. This comprehensive, unprecedented proposal attacks DWI and alcohol related offenses from many angles, imposing severe penalties for DWI offenders who kill or injure others, and for those who provide alcohol to minors.

Governor Richardson was joined at a State Capitol news conference by a number of family members of DWI victims, as well as several DWI advocates. Here are the Governor's prepared remarks:

"I am here today to take unprecedented action to reduce the devastating human toll taken on New Mexico families by DWI, and other alcohol related offenses, and to say to offenders- probation is over, you will pay the price for your crimes. Today I will outline my DWI package that will be introduced in the legislature. I have two goals for the upcoming session - reduce DWI, and make the guilty pay. Let there be no mistake- if you hurt or kill someone driving drunk, or if you provide alcohol to someone under 21 and that person is killed or injured- the full force of New Mexico law will land on you.

In 2003 the legislature passed my first D-W-I package increasing the penalties for some DWI offenses, enforcement is stronger, and we're beginning to see results. In 2003, DWI arrests were up, and alcohol-related fatalities appear to be down.

- Preliminary numbers indicate in 2003, two hundred people died in alcohol related crashes, down from 221 the year before- a ten percent drop.
- In 2003, State Police made 4,123 DWI arrests- a 26 percent increase from the year before.

Tragically, New Mexicans continue to be injured or killed, and the penalties for many DWI or other alcohol-related offenses remain too lenient. My legislative package sets tough penalties that fit the crimes, and will eliminate loopholes that have allowed some offenders to face minimal, or even no punishment.

DWI Changes

- My package dramatically increases penalties for killing or injuring someone while driving drunk,
- It toughens the penalties for multiple DWI offenders who kill or injure,
- Multiple DWI offenders, and those who drive drunk on a suspended or revoked license, will also forfeit their vehicles. We'll take the weapon out of their hands,
- This package includes a new DWI child endangerment law, creating tougher penalties for those who drive drunk and injure our children, and
- I'm proposing a new law that makes it a separate crime to refuse a blood alcohol or breath alcohol test, closing an important loophole in our DWI laws.

Providing alcohol to someone under 21

Joining us are a number of people who have lost loved ones to DWI or other alcohol related crimes. Their stories are heartbreaking examples of tragedies that could have been prevented. Teresa and Rodney Holguin are here with me today. Two years ago, their 14-year-old daughter Felisha died after drinking alcohol at a slumber party. The adult who provided the alcohol got off with probation- the Judge apologized that the law did not provide harsher punishment. My legislation will change that- and create severe penalties for offenders who provide alcohol to minors who kill or injure themselves or others.

There are many different agencies across the state fighting DWI, using many different funding methods, and in many cases, not taking advantage of opportunities to work together and focus resources.

I am also proposing we create the position of D-W-I Strategic Coordinator, which will be under the department of Public Safety.

- The DWI Strategic Coordinator will supervise the implementation of the action plan created by the Multi-Agency DWI Task Force,
- It will evaluate and coordinate the statewide enforcement efforts of police and prosecutors, and
- Handle other important aspects of DWI prosecution and follow up.

Finally, I am renewing my call to the New Mexico Supreme Court to modify the six-month rule to allow prosecution of DWI offenders, and stop allowing these offenders to walk. I made the call for this a year ago- and nothing has happened. I'll be watching, and if necessary, I'll solve it with legislation.

Bottom line, we're strengthening existing laws, creating tough new laws, and closing loopholes. No more warnings, no more probation- DWI and alcohol related crimes will be prosecuted to the fullest extent of the law.

DWI is not a partisan problem, it's a New Mexico problem. Even one more life lost is too many. We cannot wait."

GOVERNOR RICHARDSON'S DWI PROPOSALS FOR THE 2004 SESSION

SUMMARY OF CHANGES TO VEHICULAR HOMICIDE AND GREAT BODILY INJURY BY VEHICLE LAWS

- **VEHICULAR HOMICIDE:** The penalty for killing *an adult* while driving drunk or recklessly increases from a basic sentence of 6 years (9 max) to a basic of 15 years (20 max) {i.e. from 3rd degree felony resulting in death to a 2nd degree felony resulting in death}
- **VEHICULAR HOMICIDE:** The penalty for killing *an adult* while fleeing in a police chase increases from a basic sentence of 3 years (4 max) to a basic of 15 years (20 max) { i.e. from a 3rd degree felony to a 2nd degree felony resulting in death }
- **GREAT BODILY HARM BY VEHICLE:** The penalty for causing great bodily harm to *an adult* by driving drunk or recklessly increases from a basic sentence of 3 years (4 max) to a basic of 9 years (12 max) {i.e. from a 3rd degree felony to a 2nd degree felony }
- **GREAT BODILY HARM BY VEHICLE:** The penalty for causing great bodily harm to *an adult* while fleeing in a police chase increases from a basic sentence of 3 years to a basic of 9 years (12 max) {i.e. same as above }
- **INJURY BY VEHICLE:** The penalty for causing non life threatening injuries or temporary impairment or disfigurement to *an adult* while driving drunk, recklessly, or while fleeing from police increases from a maximum of 364 days to a basic sentence of 3 years (4years max)* {i.e. from a misdemeanor to a 3rd degree felony }
- **MANDATORY SENTENCES:** Anyone who causes death, GBH, injury to an adult, or child endangerment while driving drunk must receive a mandatory sentence of 2 years for each prior DWI conviction.

**SUMMARY OF NEW UNLAWFUL PROVISION OF ALCOHOL TO PERSON'S
UNDER 21 LAW
(NEW LAW)**

- Currently, providing alcohol to a person under 21 is punished under the general crime of “Contributing to the Delinquency of a Minor”, a 4th degree felony, regardless of the consequences.
- The sentence for violating this proposed statute is determined by *the direct consequences of intoxication* of the minor to whom alcohol is supplied or another minor who also acquires it.
- The penalties differ between an adult and child victim. It is structured to parallel current child abuse penalties.
- E. G. :If you knowingly provide alcohol to a minor (under 21) who becomes intoxicated and as a result:
 1. Kills or causes great bodily harm (GBH) to *themselves or another minor* = 1st degree felony (18 yrs basic, maximum 24yrs, 12yrs mandatory minimum)
 2. Kills *an adult* = 2nd degree Felony Resulting in Death (15 yrs basic, maximum 20 yrs max)
 3. Causes GBH to *an adult* = 2nd degree felony (9yrs basic, maximum of 12 yrs)
 4. Causes non life threatening injuries to a minor = 2nd degree felony (see above)
 5. Causes non life threatening injury to *an adult* = 3rd degree felony (basic of 3yrs, 4yrs maximum)
 6. No Injuries to anyone = 4th degree felony
- The statute will contain medical and religious exemptions for providing alcohol to a minor.

SUMMARY OF NEW DWI CHILD ENDANGERMENT LAW

- This law prohibits anyone from driving drunk with a child in the car or knowingly permitting a child to be transported by anyone else driving drunk
- A drunk driver who transports a child resulting in the death or GBH of that child is guilty of a 1st degree felony (Basic of 18 years, maximum of 24, minimum mandatory of 12yrs; comparable to existing child abuse law)
- It exceeds the current child abuse law by creating a 2nd degree felony level for less than life threatening injuries or temporary disfigurement or impairment. (Basic of 9 years, 12 max)
- If child is not injured, it is a third degree felony (3 years basic, max of 4 years)*

- Anyone convicted of Child Endangerment must serve mandatory 2 years for each prior conviction for DWI.

REFUSAL TO SUBMIT TO CHEMICAL TESTS OF BLOOD OR BREATH

- Under this proposal, a refusal to submit to a chemical test to determine blood or breath alcohol content, will no longer be just an DWI aggravator, but a separate offense, punishable up to 180 days for a 1st offense, up to 364 for 2nd and 3rd subsequent offense, up to 18 months for a 4th and 5th offense, and up to 3yrs for a 6th or subsequent offense.

VEHICLE FORFEITURE

- DWI: After a 2nd DWI conviction, a drunk driver's vehicle will be forfeited. Like any other forfeiture law, the rights of lien holders and innocent parties will be accounted for.
- DRIVING DRUNK ON A REVOKED LICENSE: The vehicle of anyone convicted of driving drunk on a revoked license will be forfeited, regardless of provable prior DWI's.
- Forfeitures proceedings will be filed and prosecuted statewide by attorneys assigned to the new DWI Strategic Coordinator for the Department of Public Safety.

DEPARTMENT OF PUBLIC SAFETY DWI STRATEGIC COORDINATOR

- Supervise the implementation of the Multi-Agency DWI Action plan and the funding for it.
- Evaluate, and coordinate statewide enforcement efforts between police and prosecutors.
- Monitor DWI adjudications and trends in all New Mexico Courts.
- Coordinate "DPS road predator program" with local authorities
- Prosecute vehicle forfeitures of qualifying drunk drivers
- Work with the Behavioral Health Task Force
To increase substance abuse treatment resources
- Assess record keeping systems and other designated duties