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HOUSE BILL 87

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Robert White

AN ACT

RELATING TO LAW ENFORCEMENT; ENACTING THE LAW ENFORCEMENT SAFE PURSUIT ACT; REQUIRING DATA COLLECTION, TRAINING AND POLICY FORMULATION REGARDING HIGH SPEED PURSUITS; CREATING THE CRIME OF AGGRAVATED FLEEING A LAW ENFORCEMENT OFFICER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 5 of this act may be cited as the "Law Enforcement Safe Pursuit Act".

Section 2. [NEW MATERIAL] DEFINITION. -- As used in the Law Enforcement Safe Pursuit Act, "high speed pursuit" means an attempt by a law enforcement officer in an authorized emergency vehicle to apprehend an occupant of a motor vehicle, the driver of which is actively attempting to avoid apprehension by exceeding the speed limit.

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1           Section 3.   [NEW MATERIAL] DATA COLLECTION. --

2           A.   When a high speed pursuit occurs, each law  
3 enforcement officer involved shall submit a written report to  
4 his supervisor detailing his participation in the high speed  
5 pursuit and the factual reasons for initiating or participating  
6 in the high speed pursuit. The law enforcement officer in  
7 charge of the high speed pursuit shall complete a written  
8 report giving a complete account of the high speed pursuit,  
9 including the factual reasons for continuing or terminating the  
10 high speed pursuit.

11           B.   Every state, county and municipal law  
12 enforcement agency shall report to the traffic safety bureau of  
13 the state highway and transportation department, on a form and  
14 in a manner approved by the bureau, information about each high  
15 speed pursuit within thirty days of its occurrence. The  
16 traffic safety bureau shall establish guidelines and a  
17 procedure to ensure consistent data collection from all law  
18 enforcement agencies submitting the reports.

19           C.   Each report shall include the following  
20 information:

21                   (1) the reason for initiating the high speed  
22 pursuit, including the specific offenses that caused a law  
23 enforcement officer to initiate the high speed pursuit;

24                   (2) injuries, deaths and property damage  
25 sustained during, or as a result of, the high speed pursuit;

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1 (3) the identity of law enforcement officers  
2 involved in the high speed pursuit, including supervising  
3 officers;

4 (4) the identity of the suspect being pursued  
5 during the high speed pursuit;

6 (5) the means or methods used to stop the  
7 suspect being pursued during the high speed pursuit;

8 (6) the charges brought against the suspect  
9 following the high speed pursuit; and

10 (7) any other information deemed necessary by  
11 the traffic safety bureau to evaluate and improve high speed  
12 pursuit policies and procedures.

13 D. No later than October 1, 2004 and October 1 of  
14 each subsequent year, the traffic safety bureau of the state  
15 highway and transportation department shall make an annual  
16 report to the director of the New Mexico law enforcement  
17 academy and all state, county and municipal law enforcement  
18 agencies based upon law enforcement agencies' reports regarding  
19 high speed pursuits submitted during the previous year. The  
20 annual report shall include, at a minimum, the following  
21 information:

22 (1) statewide totals or averages of  
23 information collected pursuant to Subsection C of this section;

24 (2) the total number and percentage of high  
25 speed pursuits involving accidents, injuries, deaths and

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1 property damage and the extent and the severity of the injuries  
2 and damages sustained; and

3 (3) the total number and percentage of fleeing  
4 suspects charged with offenses other than those related to the  
5 high speed pursuit, including the number charged with each  
6 offense.

7 E. By December 31, 2003, the traffic safety bureau  
8 of the state highway and transportation department shall submit  
9 a study of high speed pursuits in New Mexico to the director of  
10 the New Mexico law enforcement academy. The study shall be  
11 made by surveying each state, county and municipal law  
12 enforcement agency in New Mexico. The study shall include, at  
13 a minimum:

14 (1) an estimate of the annual number of high  
15 speed pursuits in New Mexico;

16 (2) an estimate of the number and percentage  
17 of high speed pursuits that resulted in accidents, injuries,  
18 deaths and property damage;

19 (3) an analysis of the reasons for initiating  
20 the high speed pursuits;

21 (4) an analysis of factors affecting the  
22 likelihood of accident, injury, death and property damage  
23 resulting from the high speed pursuits;

24 (5) an enumeration, description and analysis  
25 of the high speed pursuit policies of state, county and

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1 municipal law enforcement agencies in New Mexico; and  
2 (6) an analysis of the law enforcement  
3 training provided to state, county and municipal law  
4 enforcement officers in New Mexico regarding high speed  
5 pursuits.

6 Section 4. [NEW MATERIAL] POLICE TRAINING. --

7 A. No later than December 31, 2004, the New Mexico  
8 law enforcement academy board shall develop and incorporate  
9 into the basic law enforcement training required pursuant to  
10 the Law Enforcement Training Act a course of instruction of at  
11 least sixteen hours concerning the safe initiation and conduct  
12 of high speed pursuits.

13 B. The course of instruction shall emphasize the  
14 importance of protecting the public at all times and the need  
15 to balance the known offense and risk posed by a fleeing  
16 suspect against the danger to law enforcement officers and  
17 other people by initiating a high speed pursuit.

18 C. The course of instruction shall include adequate  
19 consideration of each of the following subjects:

- 20 (1) when to initiate a high speed pursuit;  
21 (2) when to terminate a high speed pursuit;  
22 (3) evaluating risks due to conditions of the  
23 vehicle, driver, roadway, weather and traffic during a high  
24 speed pursuit;  
25 (4) evaluating dangers to uninvolved motorists

1 and bystanders during a high speed pursuit;

2 (5) the number of law enforcement units  
3 permitted to participate in the high speed pursuit;

4 (6) the responsibilities of primary, secondary  
5 and supervisory law enforcement units during a high speed  
6 pursuit;

7 (7) proper communication and coordination  
8 procedures when a high speed pursuit enters another law  
9 enforcement agency's jurisdiction, including a tribal  
10 jurisdiction;

11 (8) driving tactics during a high speed  
12 pursuit;

13 (9) communications during a high speed  
14 pursuit;

15 (10) capture of suspects following a high  
16 speed pursuit;

17 (11) supervisory responsibilities during a  
18 high speed pursuit;

19 (12) use of blocking, ramming, boxing and  
20 roadblocks as high speed pursuit tactics;

21 (13) use of alternative methods and  
22 technologies for apprehending suspects during a high speed  
23 pursuit; and

24 (14) preparing a report and evaluation and  
25 analysis of a high speed pursuit after it has concluded.

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1           D. The New Mexico law enforcement academy board  
2 shall develop the program of instruction, learning and  
3 performance objectives and standards for training in  
4 conjunction with appropriate groups and individuals that have  
5 an interest in and expertise regarding high speed pursuits,  
6 including law enforcement agencies, law enforcement academy  
7 instructors, experts on the subject and members of the public.

8           E. In-service law enforcement training, as required  
9 pursuant to Section 29-7-7.1 NMSA 1978, shall include at least  
10 eight hours of instruction that conform with the requirements  
11 set forth in Subsection C of this section.

12           F. Each certified regional law enforcement training  
13 facility shall incorporate into its basic law enforcement  
14 training and in-service law enforcement training a course of  
15 training in the safe initiation and conduct of high speed  
16 pursuits that is comparable to or exceeds the standards of the  
17 course of instruction developed by the New Mexico law  
18 enforcement academy board.

19           Section 5. [NEW MATERIAL] PURSUIT POLICIES. --

20           A. The chief law enforcement officer of every  
21 state, county and municipal law enforcement agency shall  
22 establish and enforce a written policy governing the conduct of  
23 law enforcement officers employed by the agency who are  
24 involved in high speed pursuits. A copy of the written policy  
25 shall be submitted to the director of the New Mexico law

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1 enforcement academy and the traffic safety bureau of the state  
2 highway and transportation department.

3 B. The policy shall specify, at a minimum:

4 (1) the conditions under which a law  
5 enforcement officer may engage in a high speed pursuit and the  
6 conditions when the officer shall terminate a high speed  
7 pursuit;

8 (2) measures other than a high speed pursuit  
9 that may be employed to apprehend a suspect in a fleeing motor  
10 vehicle or to impede the movement of the vehicle;

11 (3) the coordination and responsibility,  
12 including control over the high speed pursuit, of supervisory  
13 personnel and the law enforcement officers engaged in the  
14 pursuit; and

15 (4) the procedures to be followed to notify  
16 and coordinate high speed pursuits with law enforcement  
17 agencies in other jurisdictions, including tribal  
18 jurisdictions.

19 C. The written policy shall, at a minimum, require  
20 that:

21 (1) a law enforcement officer may initiate a  
22 high speed pursuit to apprehend a suspect who the officer has  
23 reasonable grounds to believe poses a clear and immediate  
24 threat of death or serious injury to others or who the officer  
25 has probable cause to believe poses a clear and immediate

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1 threat to the safety of others that is ongoing and that existed  
2 prior to the high speed pursuit;

3 (2) a law enforcement officer shall not  
4 initiate or continue a high speed pursuit when the immediate  
5 danger to the officer and the public created by the high speed  
6 pursuit exceeds the immediate danger to the public if the  
7 occupants of the motor vehicle being pursued remain at large;

8 (3) when deciding whether to initiate or  
9 continue a high speed pursuit, the following factors, at a  
10 minimum, shall be taken into consideration:

11 (a) the seriousness of the offense for  
12 which the high speed pursuit was initiated;

13 (b) whether a suspect poses a clear and  
14 immediate threat of death or serious injury to others;

15 (c) road, weather, environmental and  
16 vehicle conditions;

17 (d) the amount of motor vehicle and  
18 pedestrian traffic; and

19 (e) knowledge of the suspect's identity,  
20 possible destination and previous activities that may make  
21 apprehension at a later time feasible; and

22 (4) no more than two law enforcement vehicles  
23 shall become actively involved in a high speed pursuit, unless  
24 specifically authorized by a supervisor.

25 Section 6. A new section of the Criminal Code is enacted

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1 to read:

2 " [NEW MATERIAL] AGGRAVATED FLEEING A LAW ENFORCEMENT  
3 OFFICER. --

4 A. Aggravated fleeing a law enforcement officer  
5 consists of a person willfully and carelessly driving his  
6 vehicle in a manner that endangers the life of another person  
7 after being given a visual or audible signal to stop, whether  
8 by hand, voice, emergency light, flashing light, siren or other  
9 signal, by a uniformed law enforcement officer in an  
10 appropriately marked law enforcement vehicle in pursuit in  
11 accordance with the provisions of the Law Enforcement Safe  
12 Pursuit Act.

13 B. Whoever commits aggravated fleeing a law  
14 enforcement officer is guilty of a fourth degree felony. "

15 Section 7. EFFECTIVE DATE. --The effective date of the  
16 provisions of this act is July 1, 2003.