

<b>LFC Requester:</b>	<b>Sanchez, Scott</b>
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**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

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**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 1/23/26 *Check all that apply:*  
**Bill Number:** SB 40 Original  Correction   
 Amendment  Substitute

**Sponsor:** Sen. Peter Wirth **Agency Name and Code** AOC  
**Short Title:** Driver Privacy and Safety Act **Number:** 218  
**Title:** \_\_\_\_\_ **Person Writing** Kathleen Sabo  
**Phone:** 505-470-3214 **Email** aoccaj@nmcourts.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	Rec.	General

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: SB 40 enacts the Driver Privacy and Safety Act, prohibiting and allowing the following:

- **Section 3(A):** Prohibiting an automated license plate user from selling, sharing, allowing access to or transfer of automated license plate reader information if the automated license plate reader information may be used for the purpose of: (1) investigating or otherwise assisting in immigration enforcement; (2) investigating or prosecuting activities legal in the state, including protected health care activity; or (3) efforts to identify or impose civil or criminal liability upon a person or an entity based solely on the person's or entity's participation or the Constitution of New Mexico, including assembly, petitioning and speech, except as required by state or federal law.
- **Section 3(B):** Prohibiting an automated license plate reader user in New Mexico that uses automated license plate reader systems from allowing access to automated license plate reader information by an out-of-state third party without first obtaining from that party a written declaration that the party expressly affirms that automated license plate reader information obtained shall not be used in a manner that would constitute a violation of Subsection A.
- **Section 3(C):** Prohibiting an automated license plate reader from selling, sharing, allowing access to, transferring or otherwise making available automated license plate reader information to non-law enforcement officers or agencies.
- **Section 3(D):** Affirms that automated license plate reader information is confidential and not considered a public record for the purposes of the Inspection of Public Records Act.
- **Section 3(E):** Prohibits privately captured automated license plate reader information from being sold, shared, transferred or released without a valid court order.
- **Section 3(F):** Provides that nothing in the Driver Privacy and Safety Act shall define or limit any rights under the Reproductive and Gender-Affirming Health Care Freedom Act or the Reproductive and Gender-Affirming Health Care Protection Act.

The law requires a law enforcement agency that is an automated license plate reader user to report to the Attorney General (AG) quarterly, and for the AG to electronically publish each report received pursuant to this section within one month of receiving the report. The report is to include: (A) number of requests for automate license plate reader information from out-of-state third parties; (B) contents of declarations, including the case numbers, made by out-of-state third parties pursuant to Section 3(B) of the Act; and (C) number of requests that did not include a written declaration pursuant to Section 3(B) of the Act.

Under SB 40, the AG or a District Attorney (DA) is authorized to enforce the provisions of the Driver Privacy and Safety Act. In an action to enforce the Act, the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief. The court may also assess a civil penalty for a violation of the Act in the amount of \$10,000 or actual damages resulting from each violation, whichever is greater.

The law defines “automated license plate reader,” “automated license plate reader information,” “automated license plate reader user,” “law enforcement agency” and “protected health care activity.”

The effective date of the Act is July 1, 2026.

## **FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced civil actions and appeals from the awarding of civil penalties or damages, as well as any constitutional challenges to the law and the seeking of court orders permitting the sale, sharing, transferring or releasing of privately captured automated license plate reader information. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

## **SIGNIFICANT ISSUES**

1) The ACLU of New Mexico has opined about automatic license plate readers as follows:

While this technology has legitimate law enforcement uses and can help solve crimes, sharing this data with out-of-state or federal authorities carries serious risks. It has been used to [track immigrant community members](#), [people seeking abortion care](#), and [activists](#). A recent ACLU-NM public records request showed that New Mexico ALPR cameras have been accessed thousands of times by out-of-state authorities for immigration enforcement, and at least once by Texas authorities to track a woman under criminal investigation for seeking abortion care.

New Mexico should join the growing number of [states and cities](#) that have enacted common-sense limits on how ALRP data can be used and shared.

The Driver Privacy and Safety Act would prohibit data sharing for purposes that violate New Mexico values, while ensuring law enforcement can continue using ALPRs for legitimate investigations. Passing this bill is critical to ensure outside authorities can’t turn our surveillance tools against us to target our families and communities.

[\*The 2026 Legislative Session: Creating a Firewall for Freedom in New Mexico\*](#), ACLU of New Mexico, January 23, 2026.

According to Stateline,

Conservative-led states such as [Arkansas](#), [Idaho](#) and [Montana](#) enacted laws last year designed to protect the personal data collected through license plate readers and other means. They joined at least five left-leaning [states](#) — Illinois, Massachusetts, Minnesota, New York and Washington — that specifically blocked U.S. Immigration and Customs Enforcement from accessing their driver’s license records.

In addition, Democratic-led cities in [Colorado](#), [Illinois](#), [Massachusetts](#), [New York](#), [North Carolina](#), [Texas](#) and [Washington](#) last year terminated their contracts with Flock Safety, the [largest provider](#) of license plate readers in the U.S.

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A new Montana law bars government entities from accessing electronic communications and related material without a warrant. Republican state Sen. Daniel Emrich, the law's author, said "the most important thing that our entire justice system is based on is the principle against unlawful search and seizure" — the right enshrined in the Fourth Amendment to the U.S. Constitution.

"It's tough to find individuals who are constitutionally grounded and understand the necessity of keeping the Fourth Amendment rights intact at all times for all reasons — with minimal or zero exceptions," Emrich said in an interview.

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Emrich, the Montana lawmaker, said everyone should be concerned about protecting constitutional privacy rights, regardless of their political views.

"If the government is obtaining data in violation of constitutional rights, they could be violating a whole slew of individuals' constitutional rights in pursuit of the individuals who may or may not be protected under those same constitutional rights," he said.

[Worried about surveillance, states enact privacy laws and restrict license plate readers](#), Stateline, January 8, 2026.

2) The following pros and cons of automated license plate readers have been noted:

Pros:

- **Efficiency and Automation:** ALPR systems automate the process of license plate recognition, which can significantly enhance efficiency in law enforcement, toll collection, parking management, and other areas.
- **Real-Time Monitoring:** ALPR allows for real-time monitoring and instant notifications, which is crucial in scenarios like identifying stolen vehicles or wanted individuals.
- **Traffic Management:** By analyzing vehicle flow and congestion, ALPR can help in traffic management and planning which can lead to better traffic flow and reduced congestion.
- **Enhanced Safety:** ALPR can contribute to public safety by aiding law enforcement in locating vehicles associated with criminal activities.
- **Revenue Generation:** Toll collection and parking fee management can be streamlined with ALPR, leading to more accurate and efficient revenue collection.
- **Historical Data Analysis:** Collecting and analyzing historical data can be useful for urban planning, studying traffic patterns, or investigating criminal activities.
- **Reduced Manpower:** ALPR reduces the need for manual monitoring and data entry, saving staffing and reducing human error.

Cons:

- **Privacy Concerns:** One of the major concerns with ALPR is the potential invasion of privacy. The ability to track and store movement data of individuals can be misused or mishandled, leading to privacy infringements.

- **Data Security:** The data collected by ALPR systems needs to be securely stored to prevent unauthorized access and misuse.
- **Cost:** The initial investment for ALPR systems can be high, including the cost of cameras, software, and infrastructure.
- **Accuracy Issues:** ALPR systems may have issues with accuracy, especially in challenging conditions such as poor lighting, high speeds, or dirty/obscured license plates.
- **Misuse Potential:** There's potential for misuse by authorities or individuals accessing the data, leading to harassment or other negative outcomes.
- **Maintenance and Upgrades:** Regular maintenance and system upgrades are required to keep ALPR systems functioning optimally, which can incur additional costs and need technical expertise.
- **Public Opposition:** Public opposition to ALPR systems may arise due to privacy concerns or mistrust in how the collected data will be used.

The implications of ALPR systems are broad, and the balance of benefits versus drawbacks may vary depending on specific use cases, implementation practices, and regulatory frameworks governing their use.

[\*Pros and Cons of ALPR\*](#), Senstar. See also, [\*Automated License Plate Readers: Background and Legal Issues\*](#), Congress.gov, 7/21/25.

## **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

## **ADMINISTRATIVE IMPLICATIONS**

See “Fiscal Implications,” above.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**