

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

Section 2. 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.

Section 3. DATA COLLECTION. --

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

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

C. Each report shall include the following information:

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

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

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

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

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

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

(7) any other information deemed necessary

by the traffic safety bureau to evaluate and improve high speed pursuit policies and procedures.

D. No later than October 1, 2003 and October 1 of each subsequent year, the traffic safety bureau of the state highway and transportation department shall make an annual report to the director of the New Mexico law enforcement academy and all state, county and municipal law enforcement agencies based upon law enforcement agencies' reports regarding high speed pursuits submitted during the previous year. The annual report shall include, at a minimum, the following information:

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

(2) the total number and percentage of high speed pursuits involving accidents, injuries, deaths and property damage and the extent and the severity of the injuries and damages sustained; and

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

E. By December 31, 2002, the traffic safety bureau of the state highway and transportation department shall submit a study of high speed pursuits in New Mexico to

the director of the New Mexico law enforcement academy. The study shall be made by surveying each state, county and municipal law enforcement agency in New Mexico. The study shall include, at a minimum:

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

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

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

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

(5) an enumeration, description and analysis of the high speed pursuit policies of state, county and municipal law enforcement agencies in New Mexico; and

(6) an analysis of the law enforcement training provided to state, county and municipal law enforcement officers in New Mexico regarding high speed pursuits.

#### Section 4. POLICE TRAINING. --

A. No later than December 31, 2003, the New Mexico law enforcement academy board shall develop and incorporate into the basic law enforcement training required

pursuant to the Law Enforcement Training Act a course of instruction of at least sixteen hours concerning the safe initiation and conduct of high speed pursuits.

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

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

- (1) when to initiate a high speed pursuit;
- (2) when to terminate a high speed pursuit;
- (3) evaluating risks due to conditions of the vehicle, driver, roadway, weather and traffic during a high speed pursuit;
- (4) evaluating dangers to uninvolved motorists and bystanders during a high speed pursuit;
- (5) the number of law enforcement units permitted to participate in the high speed pursuit;
- (6) the responsibilities of primary, secondary and supervisory law enforcement units during a high speed pursuit;
- (7) proper communication and coordination procedures when a high speed pursuit enters another law enforcement agency's jurisdiction, including a tribal

jurisdiction;

(8) driving tactics during a high speed pursuit;

(9) communications during a high speed pursuit;

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

(11) supervisory responsibilities during a high speed pursuit;

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

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

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

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

E. In-service law enforcement training, as

required pursuant to Section 29-7-7.1 NMSA 1978, shall include at least eight hours of instruction that conform with the requirements set forth in Subsection C of this section.

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

Section 5. PURSUIT POLICIES. --

A. The chief law enforcement officer of every state, county and municipal law enforcement agency shall establish and enforce a written policy governing the conduct of law enforcement officers employed by the agency who are involved in high speed pursuits. A copy of the written policy shall be submitted to the director of the New Mexico law enforcement academy and the traffic safety bureau of the state highway and transportation department.

B. The policy shall specify, at a minimum:

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

(2) measures other than a high speed pursuit

that may be employed to apprehend a suspect in a fleeing motor vehicle or to impede the movement of the vehicle;

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

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

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

(1) a law enforcement officer may initiate a high speed pursuit to apprehend a suspect who the officer has reasonable grounds to believe poses a clear and immediate threat of death or serious injury to others or who the officer has probable cause to believe poses a clear and immediate threat to the safety of others that is ongoing and that existed prior to the high speed pursuit;

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

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

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

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

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

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

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

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

Section 6. A new section of the Criminal Code is enacted to read:

"AGGRAVATED FLEEING A LAW ENFORCEMENT OFFICER. --

A. Aggravated fleeing a law enforcement officer consists of a person willfully and carelessly driving his vehicle in a manner that endangers the life of another person after being given a visual or audible signal to stop, whether by hand, voice, emergency light, flashing light, siren or

