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To: New Mexico Public
From: Aaron Mitchell, Esq. | Founder of Mitchell Law Offices, LLC

RE: New Laws and Amendments to the Criminal Code in New Mexico

A. UNLAWFUL POSSESSION OF A WEAPON CONVERSION DEVICE—N.M. Stat. Ann. § 30-7-3.1 (New Law)

What Changed?

New Mexico has created a brand-new felony offense: Unlawful Possession of a Weapon Conversion Device. These are parts that are often called "switches" or "chips" that can convert a standard semiautomatic firearm into a fully automatic weapon. The law makes it a third-degree felony to knowingly possess or transport such a device if it has been obtained unlawfully.

Why It Matters:

Until now, most enforcement of firearm conversion devices was handled under federal law. By adding this statute to the state code, prosecutors in New Mexico can now independently charge individuals for possessing a firearm conversion device, even if the individual never intends to install it on a firearm.

Practical Impact for Clients:

Felony Penalties – A third-degree felony carries a potential sentence of up to three years in prison, along with fines.

Collateral Consequences – Felony convictions can impact gun rights, voting rights, employment opportunities, immigration status, and other aspects of life or legal status.

Low Threshold for Arrest – These devices can be small and easily misidentified. Being found with one, whether or not a firearm is present, may result in arrest and potential criminal charges.

Double Prosecution – An individual can now be charged under both state and federal law, simultaneously, for the same offense.

Defense Considerations:

Cases will likely focus on whether the accused knowingly possessed the device and whether the device was capable of conversion. Technical evidence will likely play a key role in the prosecution of a case under the new law, as will the State's ability to prove "unlawful" acquisition.

B. UNLAWFUL TAKING OF A VEHICLE—N.M. Stat. Ann. § 30-16D-1

The unlawful taking of a vehicle remains a felony; however, this amendment clarifies that consent cannot be implied or carried over from past use. Just because an owner lent a car once does not mean future use is authorized. Additionally, lienholders who repossess vehicles must notify the local police immediately.

Why It Matters?

This closes a defense gap often argued in auto theft cases—that prior use implied consent. It also protects vehicle owners from having their vehicles repeatedly taken without express permission.

Practical Impact for Clients:

Consent Defense Narrowed – Clients can no longer argue that prior use excused later takings.

Repossession Cases – Mistakes by lienholders (failure to notify police) may complicate repossession cases, but it does not erase potential criminal liability for unauthorized takings.

Felony Consequences – Convictions have long-term effects, including incarceration, restitution, and a permanent criminal record.

Defense Considerations:

A legal defense for this allegation will often center on whether express permission was given at the time of the alleged taking. Witness testimony and communication between the owner and the accused will, therefore, often be critical to the defense.

C. PENALTIES FOR RECEIVING OR TRANSFERRING STOLEN VEHICLES—N.M. Stat. Ann. § 30-16D-4.1

What Changed?

New Mexico has created a new statute, Section 30-16D-4.1 NMSA 1978, which establishes a structured penalty system for vehicle-related crimes under Sections 30-16D-1 through 30-16D-4. These sections cover offenses such as unlawful taking of a vehicle, receiving or transferring a stolen vehicle, and related conduct.

The new law sets out a tiered system of penalties:

1. **First offense** – Fourth-degree felony.
2. **Second offense** – Third-degree felony, regardless of what the first offense was.
3. **Third or subsequent offense** – Second-degree felony, regardless of the type of prior offenses.

Additionally, if a defendant violates multiple provisions with a single vehicle, those violations count as a single offense for sentencing purposes.

Why It Matters:

Before this change, penalties for auto-theft-related crimes could vary without clear progression. This new section standardizes punishments and escalates consequences for repeat offenders, signaling the state's intent to crack down on vehicle crime.

By also clarifying that multiple violations involving the same vehicle are treated as a single offense, the law prevents prosecutors from "stacking" charges excessively when the conduct arises from the same incident.

Practical Impact for Clients:

- **First-Time Offenders** – Face a fourth-degree felony, which carries up to 18 months in prison and a felony record.
- **Repeat Offenders** – Face much steeper consequences. A second conviction escalates to a third-degree felony (up to three years in prison), and a third or subsequent conviction is elevated to a second-degree felony (up to nine years in prison).
- **Single-Vehicle Rule** – Clients charged with multiple offenses involving the same vehicle may avoid facing multiple convictions for the same act, though the state will likely still pursue the highest applicable penalty.
- **Collateral Consequences** – As with other felonies, convictions can affect employment, housing, voting rights, and immigration status.

Defense Considerations:

Defense attorneys will need to carefully evaluate:

- **Prior Convictions** – Whether the State can prove prior offenses to justify enhanced penalties.
- **Same Vehicle Rule** – Whether multiple charges should merge into one count under the statute.
- **Knowledge and Consent** – As with other auto theft-related crimes, defenses may focus on whether the client knew the vehicle was stolen or had the owner's permission.

Practical Guidance:

For clients accused of a first-time offense, an early and aggressive defense can help limit exposure and sometimes avoid a felony conviction altogether. For repeat offenders, the stakes are significantly higher under this new law, and strategic negotiations or litigation surrounding prior convictions will be crucial.

At Mitchell Law Offices, we defend clients across New Mexico facing vehicle-related charges. We understand how prosecutors pursue these cases and how to effectively leverage defenses related to consent, knowledge, and statutory protections, such as the single-vehicle rule.

D. BOMB SCARES AND SHOOTING THREATS—N.M. Stat. Ann. § 30-20-16

What Changed?

The law now criminalizes not just false bomb threats, but also shooting threats. Both are classified as fourth-degree felonies. Courts can also order restitution for "economic harm" suffered by victims, such as: lost wages, business shutdown costs, and emergency responses.

Why It Matters:

This reflects a growing concern with school threats and public safety incidents. Even idle or exaggerated threats can result in felony charges.

Practical Impact for Clients:

Felony Charges Without a Weapon – Making a threat alone can be enough for prosecution.

Restitution – Defendants may be ordered to repay schools, businesses, or government agencies for shutdown costs.

Permanent Record – A felony conviction for threats has major collateral consequences, particularly for young defendants.

Defense Considerations:

Defenses of this charge often center on whether the statement was a serious expression of intent or merely a joke, exaggeration, or misinterpretation. Freedom of speech concerns may arise in borderline cases.

E. Fentanyl Trafficking Enhancements - N.M. Stat. Ann. § 31-18-27 (NEW LAW)

What Changed?

Trafficking fentanyl now carries mandatory sentence enhancements depending on the quantity:

100–500 pills or 10–50 grams: +3 years.

More than 500 pills or over 50 grams: +5 years.

Organizing or supervising others: +5 years.

These enhancements are in addition to normal trafficking charges and conspiracy laws.

Why It Matters:

Fentanyl is at the center of New Mexico's overdose crisis. Lawmakers are escalating penalties to deter trafficking, making fentanyl cases among the most serious in the state.

Practical Impact for Clients:

Longer Sentences – Even low-level involvement can dramatically increase exposure.

Quantity Thresholds – Clients caught with pills may face enhanced penalties even if they argue personal use.

Organizational Roles – Anyone accused of "supervising" others risks major sentencing increases.

Defense Considerations:

Challenging the weight and testing of the substance is essential. In addition, one common defense may focus on distinguishing personal possession from trafficking and showing a lack of leadership role.

F. Refusal to Submit to Chemical Tests – N.M. Stat. Ann. § 66-8-111

What Changed?

The 2025 amendment to this statute introduced several notable changes:

- **Section A: Expanded scope** — the language now includes "or misdemeanor" and substitutes "criminal prosecution" for "felony prosecution." This means that compelled testing now applies in misdemeanor cases where a chemical test (blood and/or breath) is refused, not just in felony cases.
- **Section B: Wording modernized** — "the person's nonresident" replaces "his nonresident," and subsection B(3) now states "the person's license has been revoked previously pursuant to" instead of "person has previously had his license revoked pursuant to."
- **Section E: Updated to gender-neutral phrasing** — "license to the person" replaces "license to him."

Why It Matters:

The statute's reach is now broader. By including misdemeanor cases, law enforcement now has expanded authority to seek warrants for chemical testing in misdemeanor DWI allegations where probable cause exists and where the accused had refused to submit to a blood or breath test to measure their blood alcohol level. The compelled blood alcohol level results can then be used in any criminal prosecution tied to impaired driving allegations. The changes also reflect New Mexico's legislative push toward gender-neutral and precise statutory drafting, aligning with modernized legal language.

Practical Impact for Clients:

- Potential Loss of Driving Privileges – Refusal still triggers MVD revocation proceedings, regardless of whether there is a conviction.
- Expanded Warrant Authority – Judges can now authorize compelled blood draws not only for felonies, but also for misdemeanors.
- Collateral Impact – Loss of a license continues to disrupt work, family obligations, and daily responsibilities.
- Modernized Language – While stylistic, the gender-neutral wording signals ongoing statutory updates that may affect future cases.

Defense Considerations:

Defense attorneys should continue to scrutinize whether:

- The officer properly advised the client of the consequences of refusal,
- A valid refusal was obtained, and
- The officer complied with all statutory requirements for testing and reporting.

With the 2025 amendment, defense strategy must now also anticipate:

- Challenging warrants in misdemeanor cases, where compelled blood draws were previously unavailable, and
- Contesting the expanded use of chemical test results in prosecutions that, before the amendment, fell outside the statute's authority.

⚖️ Final Note for Clients:

These legislative updates reflect a growing trend in New Mexico—tougher penalties, fewer defenses, and increased overlap between administrative and criminal law. For anyone accused under these new or amended statutes, early involvement of experienced defense counsel is essential to protect rights and minimize consequences.