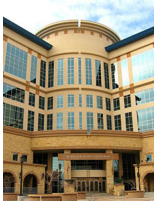


## NM Senators want expedited ruling on ABQ DWI seizure law

Written by By Andy Lyman NM Political Report  
Friday, 22 January 2016 08:34

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Two New Mexico state Senators filed a motion in their ongoing legal battle with the City of Albuquerque regarding the city's practice of seizing cars after DWI arrests but before convictions.

The Institute for Justice filed the motion on behalf of Sens. Lisa Torracco, R-Albuquerque, and Daniel Ivey Soto, D-Albuquerque, and asked district court judge to expedite a ruling based solely on the law.

"It basically says we don't need to do any discovery," Ivey Soto told *NM Political Report* on Jan. 20. "So, we're saying, 'Judge, read the law.'"

The referenced law is one that Gov. Susana Martinez signed in 2015 with the intention of ending the practice of taking personal assets before a conviction. It ended what is known as "civil asset forfeiture" and New Mexico was the first state to pass such a law. The law still allows for police to seize property after a conviction.

Torraco and Ivey-Soto filed the suit in the Second Judicial District Court last November and argued that the City of Albuquerque continued to violate state law by taking vehicles involved in suspected DWI cases.

City Attorney Jessica Hernandez argued that the city's practice of taking cars is based on a nuisance abatement law that aims to curb repeat offenses.

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“My staff and I looked carefully at how the new state law would impact the City’s DWI vehicle forfeiture program,” Hernandez wrote in a statement after the initial suit was filed. “The City’s program is exempt from the New Mexico Forfeiture Act according to the state law’s own terms.”

Hernandez was the general counsel for Martinez when the state law passed both the Senate and House.

Robert Frommer, an attorney with the Institute for Justice, said the state law specifically protects property owners from losing their assets before they are convicted of a crime.

“No one should lose their property without being convicted of a crime, and law enforcement should not profit from taking people’s property,” Frommer said.

The law originated as a bill sponsored by Rep. Zach Cook, R-Ruidoso and backed by former New Mexico Attorney General Hal Stratton. Brad Cates, a former prosecutor, New Mexico lawmaker and one of the people responsible for creating the federal law allowing asset forfeiture also backed the bill and is named as an attorney representing Torracco and Ivey-Soto.