

1 HOUSE BILL 107

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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5 and Gabriel Ramos and Elaine Sena Cortez  
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10 AN ACT

11 RELATING TO CRIME; AMENDING SECTIONS OF THE CONTROLLED  
12 SUBSTANCES ACT; PROVIDING A PENALTY FOR WHEN THE TRAFFICKING OF  
13 CERTAIN CONTROLLED SUBSTANCES, CONTROLLED SUBSTANCE ANALOGS OR  
14 COUNTERFEIT SUBSTANCES RESULTS IN THE DEATH OF A HUMAN BEING;  
15 REVISING PENALTIES; PRESCRIBING FINES.  
16

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

18 SECTION 1. Section 30-31-20 NMSA 1978 (being Laws 1972,  
19 Chapter 84, Section 20, as amended) is amended to read:

20 "30-31-20. TRAFFICKING CONTROLLED SUBSTANCES--  
21 VIOLATION.--

22 A. As used in the Controlled Substances Act,  
23 "traffic" means the:

24 (1) manufacture of a controlled substance  
25 enumerated in Schedules I through V or a controlled substance

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1 analog [~~as defined in Subsection W of Section 30-31-2 NMSA~~  
2 ~~1978~~];

3 (2) distribution, sale, barter or giving away  
4 of:

5 (a) a controlled substance enumerated in  
6 Schedule I or II that is a narcotic drug;

7 (b) a controlled substance analog of a  
8 controlled substance enumerated in Schedule I or II that is a  
9 narcotic drug; [~~or~~]

10 (c) a counterfeit substance of a  
11 controlled substance enumerated in Schedule I or II that is a  
12 narcotic drug;

13 (d) a counterfeit substance of a  
14 controlled substance analog of a controlled substance  
15 enumerated in Schedule I or II that is a narcotic drug; or

16 [~~(e)~~] (e) methamphetamine, its salts,  
17 isomers and salts of isomers; or

18 (3) possession with intent to distribute:

19 (a) a controlled substance enumerated in  
20 Schedule I or II that is a narcotic drug;

21 (b) a controlled substance analog of a  
22 controlled substance enumerated in Schedule I or II that is a  
23 narcotic drug; [~~or~~]

24 (c) a counterfeit substance of a  
25 controlled substance enumerated in Schedule I or II that is a

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1 narcotic drug;

2 (d) a counterfeit substance of a  
3 controlled substance analog of a controlled substance  
4 enumerated in Schedule I or II that is a narcotic drug; or

5 ~~[(e)]~~ (e) methamphetamine, its salts,  
6 isomers and salts of isomers.

7 B. Except as authorized by the Controlled  
8 Substances Act, it is unlawful for a person to intentionally  
9 traffic. A person who violates this subsection is:

10 (1) for the first offense, except as provided  
11 in Paragraph (2) of this subsection, guilty of a second degree  
12 felony for trafficking a controlled substance and shall be  
13 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
14 1978; ~~[and]~~ provided that the person shall serve a minimum term  
15 of imprisonment of nine years;

16 (2) for the first offense resulting in the  
17 death of a human being, guilty of a second degree felony for  
18 trafficking a controlled substance resulting in the death of a  
19 human being and shall be sentenced pursuant to the provisions  
20 of Section 31-18-15 NMSA 1978; provided that the person shall  
21 serve a minimum term of imprisonment of twelve years;

22 ~~[(2)]~~ (3) for the second and subsequent  
23 offenses, except as provided in Paragraph (4) of this  
24 subsection, guilty of a first degree felony and shall be  
25 sentenced pursuant to the provisions of Section 31-18-15 NMSA

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1 1978; and

2 (4) for the second and subsequent offenses, if  
3 the offense results in the death of a human being, guilty of a  
4 first degree felony for trafficking a controlled substance  
5 resulting in the death of a human being and shall be sentenced  
6 pursuant to the provisions of Section 31-18-15 NMSA 1978.

7 C. A person who knowingly violates Subsection B of  
8 this section within a drug-free school zone excluding private  
9 property residentially zoned or used primarily as a residence  
10 is guilty of a first degree felony and shall be sentenced  
11 pursuant to the provisions of Section 31-18-15 NMSA 1978."

12 SECTION 2. Section 30-31-21 NMSA 1978 (being Laws 1972,  
13 Chapter 84, Section 21, as amended) is amended to read:

14 "30-31-21. DISTRIBUTION TO A MINOR.--

15 A. Except as authorized by the Controlled  
16 Substances Act, no person who is eighteen years of age or older  
17 shall intentionally distribute a controlled substance to a  
18 person under the age of eighteen years.

19 B. Except as provided in Subsection C of this  
20 section, any person who violates this section with respect to a  
21 controlled substance enumerated in Schedule I, II, III or IV or  
22 a controlled substance analog of any controlled substance  
23 enumerated in Schedule I, II, III or IV is:

24 (1) for the first offense, guilty of a second  
25 degree felony and shall be sentenced pursuant to the provisions

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1 of Section 31-18-15 NMSA 1978; and

2 (2) for the second and subsequent offenses,  
3 guilty of a first degree felony and shall be sentenced pursuant  
4 to the provisions of Section 31-18-15 NMSA 1978.

5 C. A person who violates this section with respect  
6 to a controlled substance enumerated in Schedule I or II that  
7 is a narcotic drug or a controlled substance analog of a  
8 controlled substance enumerated in Schedule I or II that is a  
9 narcotic drug, methamphetamine, its salts, isomers or salts of  
10 isomers as enumerated in Schedule II or a controlled substance  
11 analog of methamphetamine, its salts, isomers or salts of  
12 isomers is guilty of a first degree felony and shall be  
13 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
14 1978."

15 SECTION 3. Section 30-31-22 NMSA 1978 (being Laws 1972,  
16 Chapter 84, Section 22, as amended) is amended to read:

17 "30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--  
18 DISTRIBUTION PROHIBITED.--

19 A. Except as authorized by the Controlled  
20 Substances Act, it is unlawful for a person to intentionally  
21 distribute or possess with intent to distribute a controlled  
22 substance or a controlled substance analog except a substance  
23 enumerated in Schedule I or II that is a narcotic drug, a  
24 controlled substance analog of a controlled substance  
25 enumerated in Schedule I or II that is a narcotic drug or

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1 methamphetamine, its salts, isomers and salts of isomers. A  
2 person who violates this subsection with respect to:

3 (1) synthetic cannabinoids is:

4 (a) for the first offense, guilty of a  
5 fourth degree felony and shall be sentenced pursuant to the  
6 provisions of Section 31-18-15 NMSA 1978;

7 (b) for the second and subsequent  
8 offenses, guilty of a third degree felony and shall be  
9 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
10 1978;

11 (c) for the first offense, if more than  
12 one hundred pounds is possessed with intent to distribute or  
13 distributed or both, guilty of a third degree felony and shall  
14 be sentenced pursuant to the provisions of Section 31-18-15  
15 NMSA 1978; and

16 (d) for the second and subsequent  
17 offenses, if more than one hundred pounds is possessed with  
18 intent to distribute or distributed or both, guilty of a second  
19 degree felony and shall be sentenced pursuant to the provisions  
20 of Section 31-18-15 NMSA 1978;

21 (2) any other controlled substance enumerated  
22 in Schedule I, II, III or IV or a controlled substance analog  
23 of a controlled substance enumerated in Schedule I, II, III or  
24 IV except a substance enumerated in Schedule I or II that is a  
25 narcotic drug, a controlled substance analog of a controlled

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1 substance enumerated in Schedule I or II that is a narcotic  
2 drug or methamphetamine, its salts, isomers and salts of  
3 isomers, is:

4 (a) for the first offense, guilty of a  
5 third degree felony and shall be sentenced pursuant to the  
6 provisions of Section 31-18-15 NMSA 1978; and

7 (b) for the second and subsequent  
8 offenses, guilty of a second degree felony and shall be  
9 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
10 1978; and

11 (3) a controlled substance enumerated in  
12 Schedule V or a controlled substance analog of a controlled  
13 substance enumerated in Schedule V is guilty of a misdemeanor  
14 and shall be punished by a fine of not less than one hundred  
15 dollars (\$100) or more than five hundred dollars (\$500) or by  
16 imprisonment for a definite term not less than one hundred  
17 eighty days but less than one year, or both.

18 B. It is unlawful for a person to distribute gamma  
19 hydroxybutyric acid or flunitrazepam to another person without  
20 that person's knowledge and with intent to commit a crime  
21 against that person, including criminal sexual penetration.  
22 For the purposes of this subsection, "without that person's  
23 knowledge" means the person is unaware that a substance with  
24 the ability to alter that person's ability to appraise conduct  
25 or to decline participation in or communicate unwillingness to

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1 participate in conduct is being distributed to that person.

2 Any person who violates this subsection is:

3 (1) for the first offense, guilty of a third  
4 degree felony and shall be sentenced pursuant to the provisions  
5 of Section 31-18-15 NMSA 1978; and

6 (2) for the second and subsequent offenses,  
7 guilty of a second degree felony and shall be sentenced  
8 pursuant to the provisions of Section 31-18-15 NMSA 1978.

9 C. Except as authorized by the Controlled  
10 Substances Act, it is unlawful for a person to intentionally  
11 create or deliver, or possess with intent to deliver, a  
12 counterfeit substance. A person who violates this subsection  
13 with respect to:

14 (1) a counterfeit substance enumerated in  
15 Schedule I, II, III or IV, except a counterfeit substance of a  
16 controlled substance enumerated in Schedule I or II that is a  
17 narcotic drug or a counterfeit substance of a controlled  
18 substance analog of a controlled substance enumerated in  
19 Schedule I or II that is a narcotic drug, is guilty of a fourth  
20 degree felony and shall be sentenced pursuant to the provisions  
21 of Section 31-18-15 NMSA 1978; and

22 (2) a counterfeit substance enumerated in  
23 Schedule V is guilty of a petty misdemeanor and shall be  
24 punished by a fine of not more than one hundred dollars (\$100)  
25 or by imprisonment for a definite term not to exceed six

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1 months, or both.

2 D. A person who knowingly violates Subsection A or  
3 C of this section while within a drug-free school zone with  
4 respect to:

5 (1) synthetic cannabinoids is:

6 (a) for the first offense, guilty of a  
7 third degree felony and shall be sentenced pursuant to the  
8 provisions of Section 31-18-15 NMSA 1978;

9 (b) for the second and subsequent  
10 offenses, guilty of a second degree felony and shall be  
11 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
12 1978;

13 (c) for the first offense, if more than  
14 one hundred pounds is possessed with intent to distribute or  
15 distributed or both, guilty of a second degree felony and shall  
16 be sentenced pursuant to the provisions of Section 31-18-15  
17 NMSA 1978; and

18 (d) for the second and subsequent  
19 offenses, if more than one hundred pounds is possessed with  
20 intent to distribute or distributed or both, guilty of a first  
21 degree felony and shall be sentenced pursuant to the provisions  
22 of Section 31-18-15 NMSA 1978;

23 (2) any other controlled substance enumerated  
24 in Schedule I, II, III or IV or a controlled substance analog  
25 of a controlled substance enumerated in Schedule I, II, III or

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1 IV except a substance enumerated in Schedule I or II that is a  
2 narcotic drug, a controlled substance analog of a controlled  
3 substance enumerated in Schedule I or II that is a narcotic  
4 drug or methamphetamine, its salts, isomers and salts of  
5 isomers, is:

6 (a) for the first offense, guilty of a  
7 second degree felony and shall be sentenced pursuant to the  
8 provisions of Section 31-18-15 NMSA 1978; and

9 (b) for the second and subsequent  
10 offenses, guilty of a first degree felony and shall be  
11 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
12 1978;

13 (3) a controlled substance enumerated in  
14 Schedule V or a controlled substance analog of a controlled  
15 substance enumerated in Schedule V is guilty of a fourth degree  
16 felony and shall be sentenced pursuant to the provisions of  
17 Section 31-18-15 NMSA 1978; and

18 (4) the intentional creation, delivery or  
19 possession with the intent to deliver:

20 (a) a counterfeit substance enumerated  
21 in Schedule I, II, III or IV, except a counterfeit substance of  
22 a controlled substance enumerated in Schedule I or II that is a  
23 narcotic drug or a counterfeit substance of a controlled  
24 substance analog of a controlled substance enumerated in  
25 Schedule I or II that is a narcotic drug, is guilty of a third

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1 degree felony and shall be sentenced pursuant to the provisions  
2 of Section 31-18-15 NMSA 1978; and

3 (b) a counterfeit substance enumerated  
4 in Schedule V is guilty of a misdemeanor and shall be punished  
5 by a fine of not less than one hundred dollars (\$100) nor more  
6 than five hundred dollars (\$500) or by imprisonment for a  
7 definite term not less than one hundred eighty days but less  
8 than one year, or both.

9 E. Notwithstanding the provisions of Subsection A  
10 of this section, distribution of a small amount of synthetic  
11 cannabinoids for no remuneration shall be treated as provided  
12 in Paragraph (1) of Subsection B of Section 30-31-23 NMSA  
13 1978."

14 SECTION 4. Section 31-18-15 NMSA 1978 (being Laws 1977,  
15 Chapter 216, Section 4, as amended) is amended to read:

16 "31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--  
17 BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS  
18 DEDUCTIONS.--

19 A. As used in a statute that establishes a  
20 noncapital felony, the following defined felony classifications  
21 and associated basic sentences of imprisonment are as follows:

22 FELONY CLASSIFICATION	BASIC SENTENCE
23 first degree felony	
24 resulting in the death	
25 of a child	life imprisonment

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1 first degree felony for  
2 aggravated criminal sexual  
3 penetration life imprisonment  
4 first degree felony for  
5 trafficking a controlled  
6 substance resulting in  
7 the death of a human being life imprisonment  
8 first degree felony eighteen years imprisonment  
9 second degree felony  
10 resulting in the death of  
11 a human being eighteen years imprisonment  
12 second degree felony for  
13 trafficking a controlled  
14 substance resulting in  
15 the death of a human being eighteen years imprisonment  
16 second degree felony for a  
17 sexual offense against a  
18 child fifteen years imprisonment  
19 second degree felony for  
20 sexual exploitation of  
21 children twelve years imprisonment  
22 second degree felony nine years imprisonment  
23 third degree felony resulting  
24 in the death of a human being six years imprisonment  
25 third degree felony for a

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1 sexual offense against a  
2 child six years imprisonment  
3 third degree felony for sexual  
4 exploitation of children eleven years imprisonment  
5 third degree felony three years imprisonment  
6 fourth degree felony for  
7 sexual exploitation of  
8 children ten years imprisonment  
9 fourth degree felony eighteen months imprisonment.

10 B. The appropriate basic sentence of imprisonment  
11 shall be imposed upon a person convicted and sentenced pursuant  
12 to Subsection A of this section, unless the court alters the  
13 sentence pursuant to the provisions of the Criminal Sentencing  
14 Act.

15 C. A period of parole shall be imposed only for  
16 felony convictions wherein a person is sentenced to  
17 imprisonment of more than one year, unless the parties to a  
18 proceeding agree that a period of parole should be imposed. If  
19 a period of parole is imposed, the court shall include in the  
20 judgment and sentence of each person convicted and sentenced to  
21 imprisonment in a corrections facility designated by the  
22 corrections department authority for a period of parole to be  
23 served in accordance with the provisions of Section 31-21-10  
24 NMSA 1978 after the completion of any actual time of  
25 imprisonment and authority to require, as a condition of

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1 parole, the payment of the costs of parole services and  
2 reimbursement to a law enforcement agency or local crime  
3 stopper program in accordance with the provisions of that  
4 section. If imposed, the period of parole shall be deemed to  
5 be part of the sentence of the convicted person in addition to  
6 the basic sentence imposed pursuant to Subsection A of this  
7 section together with alterations, if any, pursuant to the  
8 provisions of the Criminal Sentencing Act.

9 D. When a court imposes a sentence of imprisonment  
10 pursuant to the provisions of Section 31-18-15.1, 31-18-16 or  
11 31-18-17 NMSA 1978 and suspends or defers the basic sentence of  
12 imprisonment provided pursuant to the provisions of Subsection  
13 A of this section, the period of parole shall be served in  
14 accordance with the provisions of Section 31-21-10 NMSA 1978  
15 for the degree of felony for the basic sentence for which the  
16 inmate was convicted. For the purpose of designating a period  
17 of parole, a court shall not consider that the basic sentence  
18 of imprisonment was suspended or deferred and that the inmate  
19 served a period of imprisonment pursuant to the provisions of  
20 the Criminal Sentencing Act.

21 E. The court may, in addition to the imposition of  
22 a basic sentence of imprisonment, impose a fine not to exceed:

23 (1) for a first degree felony resulting in the  
24 death of a child, seventeen thousand five hundred dollars  
25 (\$17,500);

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1 (2) for a first degree felony for aggravated  
2 criminal sexual penetration, seventeen thousand five hundred  
3 dollars (\$17,500);

4 (3) for a first degree felony for trafficking  
5 a controlled substance resulting in the death of a human being,  
6 seventeen thousand five hundred dollars (\$17,500);

7 [~~3~~] (4) for a first degree felony, fifteen  
8 thousand dollars (\$15,000);

9 [~~4~~] (5) for a second degree felony resulting  
10 in the death of a human being, twelve thousand five hundred  
11 dollars (\$12,500);

12 [~~5~~] (6) for a second degree felony for a  
13 sexual offense against a child, twelve thousand five hundred  
14 dollars (\$12,500);

15 (7) for a second degree felony for trafficking  
16 a controlled substance resulting in the death of a human being,  
17 twelve thousand five hundred dollars (\$12,500);

18 [~~6~~] (8) for a second degree felony for  
19 sexual exploitation of children, five thousand dollars  
20 (\$5,000);

21 [~~7~~] (9) for a second degree felony, ten  
22 thousand dollars (\$10,000);

23 [~~8~~] (10) for a third degree felony resulting  
24 in the death of a human being, five thousand dollars (\$5,000);

25 [~~9~~] (11) for a third degree felony for a

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1 sexual offense against a child, five thousand dollars (\$5,000);  
2 ~~[(10)]~~ (12) for a third degree felony for  
3 sexual exploitation of children, five thousand dollars  
4 (\$5,000);

5 ~~[(11)]~~ (13) for a third or fourth degree  
6 felony, five thousand dollars (\$5,000); or

7 ~~[(12)]~~ (14) for a fourth degree felony for  
8 sexual exploitation of children, five thousand dollars  
9 (\$5,000).

10 F. When the court imposes a sentence of  
11 imprisonment for a felony offense, the court shall indicate  
12 whether or not the offense is a serious violent offense as  
13 defined in Section 33-2-34 NMSA 1978. The court shall inform  
14 an offender that the offender's sentence of imprisonment is  
15 subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37  
16 and 33-2-38 NMSA 1978. If the court fails to inform an  
17 offender that the offender's sentence is subject to those  
18 provisions or if the court provides the offender with erroneous  
19 information regarding those provisions, the failure to inform  
20 or the error shall not provide a basis for a writ of habeas  
21 corpus.

22 G. No later than October 31 of each year, the  
23 New Mexico sentencing commission shall provide a written report  
24 to the secretary of corrections, all New Mexico criminal court  
25 judges, the administrative office of the district attorneys and



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1 the chief public defender. The report shall specify the  
2 average reduction in the sentence of imprisonment for serious  
3 violent offenses and nonviolent offenses, as defined in Section  
4 33-2-34 NMSA 1978, due to meritorious deductions earned by  
5 prisoners during the previous fiscal year pursuant to the  
6 provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38  
7 NMSA 1978. The corrections department shall allow the  
8 commission access to documents used by the department to  
9 determine earned meritorious deductions for prisoners."