

LFC Requester:

**AGENCY BILL ANALYSIS - 2025 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:** 1/22/25 *Check all that apply:*  
**Bill Number:** HB 107 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. Andrea Reeb **Agency Name and Code:** AOC  
**Short Title:** Penalty for Drug Trafficking & Death **Number:** 218  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	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: HB 107 amends statutory sections within the Controlled Substances Act, Section 30-31-1 NMSA 1978 et. seq., as follows:

**Section 30-31-20 NMSA 1978**, governing trafficking controlled substances: expands the definition of “traffic” to include

- Distribution, sale, barter or giving away of a counterfeit substance of a controlled substance enumerated in Schedule I or II that is a narcotic drug;
- Distribution, sale, barter or giving away of a counterfeit substance of a controlled substance analog of a controlled substance enumerated in Schedule I or II that is a narcotic drug;
- Possession with intent to distribute a counterfeit substance of a controlled substance enumerated in Schedule I or II that is a narcotic drug;
- Possession with intent to distribute a counterfeit substance of a controlled substance analog of a controlled substance enumerated in Schedule I or II that is a narcotic drug.

The HB 107 amendments to Section 30-31-20 provide the following penalties:

- For a first offense not resulting in the death of a human being, a second degree felony for trafficking a controlled substance and sentenced pursuant to Section 31-18-15 NMSA 1978, with a minimum term of imprisonment of nine years.
- For a first offense resulting in the death of a human being, a second degree felony for trafficking a controlled substance resulting in the death of a human being and sentenced pursuant to Section 31-18-15 NMSA 1978, with a minimum term of imprisonment of twelve years.
- For a second and subsequent offense, a first degree felony and sentenced pursuant to Section 31-18-15 NMSA 1978.
- For the second and subsequent offenses, if the offense results in the death of a human being, a first degree felony for trafficking a controlled substance resulting in the death of a human being and sentenced pursuant to Section 31-18-15 NMSA 1978.

**Section 30-31-21 NMSA 1978**, governing distribution to a minor: provides that a person who violates this section with respect to a controlled substance enumerated in Schedule I or II that is a narcotic drug or a controlled substance analog of a controlled substance enumerated in Schedule I or II that is a narcotic drug, methamphetamine, its salts, isomers or salts of isomers as enumerated in Schedule II or a controlled substance analog of methamphetamine, its salts, isomers or salts of isomers is guilty of a first degree felony and shall be sentenced pursuant to Section 31-18-15 NMSA 1978.

**Section 30-31-22 NMSA 1978**, governing controlled or counterfeit substances and prohibiting distribution:

- provides that, except as authorized by the Controlled Substances Act, it is unlawful for a person to intentionally create or deliver, or possess with intent to deliver, a counterfeit substance, and that a person who violates this subsection C with respect to a counterfeit substance enumerated in Schedule I,

II, III or IV, except a counterfeit substance of a controlled substance enumerated in Schedule I or II that is a narcotic drug or a counterfeit substance of a controlled substance analog of a controlled substance enumerated in Schedule I or II that is a narcotic drug, is guilty of a fourth degree felony and shall be sentenced pursuant to Section 31-18-15 NMSA 1978.

- Provides that a person who knowingly violates Subsection A or C of this section while within a drug-free school zone with respect to the intentional creation, delivery or possession with the intent to deliver a counterfeit substance enumerated in Schedule I, II, III or IV, except a counterfeit substance of a controlled substance enumerated in Schedule I or II that is a narcotic drug or a counterfeit substance of a controlled substance analog of a controlled substance enumerated in Schedule I or II that is a narcotic drug, is guilty of a third degree felony and shall be sentence pursuant to Section 31-18-15 NMSA 1978.

HB 107 amends Section 31-18-15 NMSA 1978, governing sentencing for noncapital felonies, to provide the following:

- a penalty of a basic sentence of life imprisonment for a first degree felony for trafficking a controlled substance resulting in the death of a human being, with a discretionary imposition of a fine of up to \$17,500.
- A penalty of a basic sentence of eighteen years imprisonment for a second degree felony for trafficking a controlled substance resulting in the death of a human being, with a discretionary imposition of a fine of up to \$12,500.

### **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 prosecutions, and appeals from convictions.

As penalties become more severe, more defendants may invoke their right to trial and their right to trial by jury. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability, and jury fees. Indigent offenders are entitled to public defender services.

### **SIGNIFICANT ISSUES**

1) As penalties become more severe, more defendants may invoke their right to trial and their right to trial by jury. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability, and jury fees. Indigent offenders are entitled to public defender services.

### **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**