

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 107 proposes to amend Section 30-31-20 NMSA 1978, regarding trafficking controlled substances, to include the trafficking of counterfeits of certain controlled substances or substance analogs, and to provide a minimum sentence of nine years for trafficking a controlled substance.

The bill also amends Section 30-31-20 and Section 31-18-15 NMSA 1978 to provide special penalties for the trafficking of controlled substances that result in the death of a human being. The special penalties proposed are as follows:

- For the first offense: a second degree felony with a basic sentence of 18 years, a required minimum term of 12 years, and a fine of up to \$12,500 for trafficking a controlled substance resulting in the death of a human being; and
- For the second and subsequent offenses: a first degree felony with a basic sentence of life imprisonment and a fine of up to \$17,500 for trafficking a controlled substance resulting in the death of a human being.

HB 107 amends Section 30-31-21 NMSA 1978, regarding distribution to a minor, to specify that distribution of certain controlled substances to a minor shall be a first degree felony regardless whether it is a first or subsequent offense.

The bill also amends Section 30-31-22 NMSA 1978, regarding the distribution of controlled or counterfeit substances, to exclude from that section counterfeit substances that were added to Section 30-31-20.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

In 2021, the New Mexico Sentencing Commission engaged the services of the Robina Institute of Criminal Law and Criminal Justice at the University of Minnesota to analyze the state's Criminal Code for its strengths and weaknesses. One item of concern for the Robina Institute was that the Criminal Code has a number of special statutes that fall out of the normal penalty structure in the state. HB 107 would add further special penalties into the Criminal Code.

While it is difficult to determine what the effect of passing HB 107 would be on the state's prison population, it would likely lead to more people being incarcerated by the Corrections Department. For example, HB 107 provides a mandatory minimum of nine years for trafficking a

controlled substance under Section 30-31-20 NMSA 1978. For individuals whose highest charge was trafficking a controlled substance and who were released from New Mexico prisons in Fiscal Year 2024, the median sentence served was 21.5 months, or 1.77 years – over seven years fewer than the minimum proposed in HB 107. The average cost to incarcerate someone in the state’s prison system is \$155.63/day (this average includes private and public facilities).

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS