

**LFC Requester:**

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**  
**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)  
*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 2/6/25 *Check all that apply:*  
**Bill Number:** HB 274 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. Elaine Sena Cortez **Agency Name and Code:** AOC  
**Short Title:** Trafficking Fentanyl as 1<sup>st</sup> Degree Felony **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: Conflicts with HB 107 (also amending Section 30-31-20 NMSA 1978) and HB 107, HB 166 (also amending Section 31-18-15 NMSA 1978).

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: HB 274 amends Section 30-31-20 NMSA 1978 to provide a first degree felony penalty for the first and subsequent offenses of intentionally trafficking fentanyl.

HB 274 also amends Section 31-18-15 NMSA 1978 to provide a basic sentence of life imprisonment for the first degree felony crime of trafficking fentanyl.

#### **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. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

More severe penalties are likely to result in more defendants invoking their right to trials, as well as to jury trials. 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) More severe penalties are likely to result in more defendants invoking their right to trials, as well as to jury trials. 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.
- 2) HB 274 provides a first degree felony penalty for the first offense (and subsequent offenses) of trafficking fentanyl, with a basic sentence of life imprisonment. For all other first offenses of trafficking controlled substances, Section 30-31-20 NMSA 1978 provides a second degree felony penalty (basic sentence of 9 years imprisonment), and a first degree felony penalty for all other subsequent offenses (basic sentence of 18 years imprisonment).
- 3) The National Conference of State Legislatures (NCSL) reports that

During the 2023 legislative session, over 600 bills were introduced related to fentanyl, and at least 103 laws were enacted. Most bills intersect with the criminal justice and public health systems. States introduced bills to change the classification of fentanyl as a controlled substance, and they considered increasing penalties for possession and distribution, drug-induced homicide and drug delivery resulting in death. States also focused on increasing awareness about the risk associated with illicitly manufactured fentanyl and funded training programs for first responders.

*See To Combat Overdose Crisis, States Bring Tough New Laws to Fight Against*

*Fentanyl*, August 2023, <https://www.ncsl.org/state-legislatures-news/details/to-combat-overdose-crisis-states-bring-tough-new-laws-to-fight-against-fentanyl> .

#### **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**

Conflicts with HB 107 (also amending Section 30-31-20 NMSA 1978) and HB 107, HB 166 (also amending Section 31-18-15 NMSA 1978).

#### **TECHNICAL ISSUES**

#### **OTHER SUBSTANTIVE ISSUES**

#### **ALTERNATIVES**

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

#### **AMENDMENTS**