

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 02/06/2025

Check all that apply:

Bill Number: HB274

Original Correction
Amendment Substitute

Sponsor: Rep. Elaine Sena Cortez; Sen. Jay C. Block; Rep. Rod Montoya; Rep. John Block; Rep. Alan T. Martinez

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing Analysis: Kerin Leche

Short Title: Trafficking Fentanyl as 1st Degree Felony

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: HB274 proposes an amendment to Section 30-31-20 NMSA 1978 Trafficking Controlled Substances, to include the following language in Subsection B, “shall be sentenced pursuant to Section 31-18-15 NMSA 1978 and.” The Bill proposes to add the following language to Section 30-31-20, Subsection B(1): for the first and subsequent offenses when the controlled substance is fentanyl, guilty of a first degree felony for trafficking fentanyl.

Subsection B(2) makes “all other first offenses” a second degree felony.

Subsection B(3) makes “all other” subsequent offenses a first degree felony.

HB274 also proposes to amend Section 31-18-15 NMSA 1978 Sentencing Authority, to add the specific sentence of “life imprisonment” to Subsection A for the specific crime of “first degree felony for trafficking fentanyl.”

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

N/A

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB16 Fentanyl Trafficking Sentences

- Proposes sentencing enhancements for possession of certain amounts of fentanyl pills, capsules, tablets, or powder
- Proposes a sentencing enhancement for recruiting, coordinating, organizing,

supervising, directing, managing, or financing another to commit trafficking fentanyl which shall be in addition to charging conspiracy to commit trafficking.

CONFLICT: HB274 and HB16 conflict because HB274 proposes a life sentence for anyone convicted of trafficking fentanyl which includes possession with intent to distribute any amount of fentanyl. HB16 proposes to enhance sentencing for individuals convicted of trafficking fentanyl but only those whose trafficking convictions are for possession with intent to distribute certain amounts of fentanyl or recruiting someone to commit trafficking fentanyl.

SB25 Penalties for 1 KG Fentanyl

- Proposes a sentencing enhancement for possession of fentanyl that amounts to one kilogram or more.

CONFLICT: HB274 and SB25 conflict because HB274 proposes a life sentence for anyone convicted of trafficking fentanyl which includes possession with intent to distribute any amount of fentanyl. SB25 proposes to enhance sentencing for individuals whose trafficking convictions are for possession with intent to distribute one kilogram or more of fentanyl.

SB95 Fentanyl Dealing with Death as Capital Crime

- Proposes to make distribution of fentanyl resulting in death a capital felony

RELATIONSHIP: HB274 and SB95 are related because HB274 proposes a life sentence for anyone convicted of trafficking fentanyl which includes distribution of fentanyl. Whereas SB95 proposes to make Distribution of Fentanyl Resulting in Death a separate and specific crime and to make sentencing for that crime consistent with a capital felony.

HB136 Fentanyl Exposure as Child Abuse

- Proposes to add the knowing and intentional exposure to “fentanyl” as evidence of abuse of a child

There may be a relationship between HB274 and HB136.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS

Under Section 31-18-15 Subsection E, consider adding a subsection for a fine for the first degree felony for trafficking fentanyl similar to the fines listed for first degree felony resulting in the

death of a child and first degree felony for aggravated criminal sexual penetration.