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## FISCAL IMPACT REPORT

SPONSOR O'Neill ORIGINAL DATE 02/19/21  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE Harm Reduction Act SB 255  
ANALYST Glenn

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

|              | FY21 | FY22 | FY23 | 3 Year<br>Total Cost | Recurring or<br>Nonrecurring | Fund<br>Affected |
|--------------|------|------|------|----------------------|------------------------------|------------------|
| <b>Total</b> | NFI  | NFI  | NFI  |                      |                              |                  |

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to House Bill 123 and Senate Memorial 3.  
Conflicts with House Bill 12.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Health (DOH)  
Law Offices of the Public Defender (LOPD)  
Administrative Office of the Courts (AOC)  
Administrative Office of the District Attorneys (AODA)  
Office of the Attorney General (NMAG)  
New Mexico Sentencing Commission (NMSC)  
Corrections Department (NMCD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 255 expands the purposes of the Harm Reduction Act to allow intervention in the course of nonintravenous drug use and prevent drug overdoses resulting from the presence of adulterants, including fentanyl. The bill provides that, in addition to sterile hypodermic syringe and needle exchange, the purpose of DOH's harm reduction program includes providing supplies for the safe injection, smoking, and inhalation of controlled substances and requires the program to provide devices for testing the presence of adulterants.

The act's provision of immunity from criminal liability is expanded to include exchange or

possession of items necessary for the safe consumption of controlled substances by injection, smoking, or inhalation in compliance with the harm reduction program section of the act. Section 24-2C-6 NMSA 1978 is amended to comport with these changes to the act.

SB255 amends the Controlled Substances Act's provision prohibiting the possession of drug paraphernalia to make it inapplicable to supplies provided by the harm reduction program.

The effective date of SB255 is July 1, 2021.

## **FISCAL IMPLICATIONS**

LOPD states addressing substance use disorder has the potential to reduce LOPD caseloads by keeping people out of the criminal legal system and reducing recidivism.

AOC believes any additional fiscal impact on the judiciary would be proportional to the implementation and enforcement of this law and commenced prosecutions. 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. There will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes.

## **SIGNIFICANT ISSUES**

LOPD believes SB255 is a logical extension of the DOH harm reduction program's goals of intervention to prevent developing drug use and preventing public health risks from drug use. The program's intervention efforts would extend to other types of drug use, which would help the program benefit those participants struggling with multiple addictions. Additionally, the expansion of the program would promote public health by preventing the kinds of harm that can result from adulterated or dangerous drugs, such as overdoses, poisonings, and other short-term medical crises that can result in long-term injury to and debilitate New Mexicans.

DOH states its hepatitis and harm reduction program is a nationally recognized leader in providing services to individuals who inject substances. The program served over 16 thousand unique participants during FY20. The program's services include a robust overdose prevention education and naloxone distribution program, with over 3,400 reported overdose reversals in FY20. According to data from the federal Centers for Disease Control and Prevention, individuals enrolled in harm reduction services are five times more likely to engage in substance use treatment.<sup>1</sup>

Under current law, DOH's hepatitis and harm reduction program only provides new and sterile items used for injecting substances into the body intravenously. SB255 would allow the program to identify additional supplies that can reduce harm, such as fentanyl test strips, safer smoking equipment, and safer inhalation devices. DOH states this additional authority will allow the program to engage with a wider set of individuals who use substances and refer them to substance use treatment programs, behavioral health services, and other essential medical services, including hepatitis A and B vaccination and curative treatment for hepatitis C.

DOH cites data from the DOH's Epidemiology and Response Division showing that overdose risks

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<sup>1</sup> <https://www.cdc.gov/ssp/syringe-services-programs-factsheet.html>

related to substance use are not restricted to substances that are injected. Most notably, methamphetamine-related overdoses increased 146 percent from 2015 to 2019. The rate of fentanyl-related overdose increased by 680 percent during the same period. In New Mexico, according to the National Center for Health Statistics, the number of overdose deaths involving fentanyl increased 92 percent between June 2019 and June 2020 alone.<sup>2</sup> While an estimated 11.2 percent of the population use substances,<sup>3</sup> individuals who inject are a fraction of the total number of those individuals, with an estimated 0.3 percent injecting in the past year.<sup>4</sup>

DOH states, in addition to expanding the reach of its current harm reduction activities, the bill would allow its harm reduction program to provide sterile supplies for smoking or inhaling controlled substances, which can help prevent or delay injection behaviors and decrease exposure to risks such as endocarditis, wound botulism, and soft tissue infections associated with intravenous drug use. DOH notes providing individuals with new and sterile equipment for inhaling and smoking controlled substances also will help reduce the transmission of respiratory and communicable diseases through the use of shared equipment.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB255 relates to HB123, which provides limited immunity for overdose programs, and SM3, which requests recommendations to reduce the number of fentanyl overdose deaths.

SB255 conflicts with HB12, which also amends Section 30-31-25.1 NMSA 1978.

BG/sb

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<sup>2</sup> <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>

<sup>3</sup> <https://www.cdc.gov/nchs/data/hus/2018/020.pdf>

<sup>4</sup> <https://www.ncbi.nlm.nih.gov/pmc/>