

LFC Requester:	
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**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:** January 23, 2025 *Check all that apply:*  
**Bill Number:** HB 107 Original  Correction   
 Amendment  Substitute

**Sponsor:** Andrea Reeb **Agency Name and Code Number:** Administrative Office of the District Attorneys 264  
**Short Title:** Trafficking Controlled Substances amendments **Person Writing:** Donald Gallegos  
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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)**

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

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

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

Amends §§30-31-20; 30-31-21; 30-31-22; 31-18-15, NMSA 1978 to provide that if a person traffics narcotics, they will face mandatory time in prison. If a person dies because of a trafficked narcotic, the person who trafficked or distributed the drugs that caused the death will be subject to mandatory prison time upon conviction.

These changes appear to be targeting the dangerousness of fentanyl to users, although other narcotic drugs can also cause death.

**FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

None

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

**SIGNIFICANT ISSUES**

Mandatory incarceration for violations of criminal statutes, even violent ones, have historically been disfavored by many in the legislature. In addition, mandatory time has also been opposed by the criminal defense bar and many judges.

Many prosecutors, members of law enforcement and citizens favor mandatory incarceration in certain situations because of its potential deterrent effect. In this case, it can be argued that if a person is aware that someone may die as a result of their trafficking narcotic drugs, they may be less likely to traffic narcotic drugs, especially fentanyl.

It can also be argued that imposing mandatory penalties on those who traffic fentanyl and other narcotic drugs that are lethal, will keep that person off the streets and away from distributing these drugs that are causing a lot of death and destruction in communities.

Another point of view is that mandatory sentences make it more difficult for parties to reach plea agreements. In this case, implementing a mandatory incarceration time of 9 years for first-time offenders (as compared the current statute for 9 years is the maximum sentence) defendants will have no incentive to reach and agreement, which will increase the number of trials throughout the state. Also, the sentence enhancement for trafficking that results in death is disproportionate to

other sentences in our criminal justice system. The sentence is significantly higher and voluntary manslaughter and is more on par with second-degree homicide. This may be considered lopsided and inconsistent with other penalties.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

Intentionally distributing a narcotic to a minor is punishable as a first-degree felony upon conviction.

Mandatory incarceration may lead to increased trials which will impact the other agencies involved in the criminal justice system. However, it can be argued that the initial increase in trials may level out once trial outcomes are realized.

Imposing mandatory prison times will necessitate more prison space. This writer is not qualified to estimate costs relating to this.

## **ALTERNATIVES**

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

Status Quo.

## **AMENDMENTS**