

## 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:** 1/22/2025

*Check all that apply:*

**Bill Number:** HB136

Original X      Correction       

Amendment             Substitute       

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**Sponsor:** Andrea Reeb

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

**Person Writing Analysis:** Lara C. Sundermann, AAG

**Short Title:** FENTANYL EXPOSURE AS CHILD ABUSE

**Phone:** 505-537-7676

**Email:** legisfir@nmag.gov

**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**

*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: House Bill 136 (HB136) proposes an amendment to Article 6, Crimes Against Children and Dependents, Section 30-6-1, NMSA 1978, Abandonment or Abuse of a Child, subsection (J), relating to prima facie evidence of child abuse. This proposed amendment would add evidence that demonstrates that a child has been knowingly and intentionally exposed to the use of fentanyl, to evidence of a child's having been knowingly and intentionally exposed to the use of methamphetamine, as prima facie evidence of abuse of a child.

The effective date of this bill is July 1, 2025.

**FISCAL IMPLICATIONS**

N/A

**SIGNIFICANT ISSUES**

N/A

**PERFORMANCE IMPLICATIONS**

N/A

**ADMINISTRATIVE IMPLICATIONS**

N/A

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

N/A

## **TECHNICAL ISSUES**

The Sentencing Commission notes, “As written, HB106 does not distinguish between exposure to the illicit use of fentanyl and exposure to the legal use of prescribed fentanyl. It is also unclear what would constitute exposure for the purposes of the statute.”

The phrase “child and abuse and neglect cases to include those cases involving fentanyl” would appear to give the Department of Public Safety the ability to use the appropriation to investigate all cases of child abuse and neglect rather than just those involving fentanyl and methamphetamine.

DOH notes that, “Section 30-6-1 para. I. NMSA 1978 already states that evidence of a child being in a vehicle, building, or other premises where chemicals related to manufacturing of controlled substances is prima facie evidence of abuse. However, in both the current language and the proposed addition to 30-6-1 para. J. only use is specified and there is no distinction made between use of fentanyl or methamphetamine as prescribed (both substances may be prescribed) or illicit use of these substances.”

The word “child” in this section of statute neither explicitly includes nor excludes unborn children; thus, it is unclear whether the exposure of an unborn child to fentanyl would be considered prima facie evidence of child abuse according to this statute

## **OTHER SUBSTANTIVE ISSUES**

N/A

## **ALTERNATIVES**

N/A

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

Status quo.

## **AMENDMENTS**

N/A