

LFC Requestor: Self Assigned

**2025 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS**

Section I: General

Chamber: Senate
Number: 25

Category: Bill
Type: Introduced

Date (of THIS analysis): 01/27/2025

Sponsor(s): Crystal Brantley and Gabriel Ramos and Jenifer Jones and Luis M. Terrazas

Short Title: PENALTIES FOR 1 KG FENTANYL

Reviewing Agency:

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
\$0	\$0	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$0	\$0	N/A	N/A	\$0

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$0	\$0	\$0	\$0	N/A	N/A

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: SB95, HB107

Duplicates/Relates to an Appropriation in the General Appropriation Act:

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

Senate Bill 25 (SB25) provides for enhanced sentencing with an addition of three years of incarceration for persons convicted under the Criminal Sentencing Act who were found to have distributed more than one kilogram of fentanyl.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

Senate Bill 25 (SB25) provides for enhanced sentencing with an addition of three years of incarceration for persons convicted under the Criminal Sentencing Act who were found to have distributed more than one kilogram of fentanyl. Substance use can result in overdose death and is associated with other societal problems including crime, violence, homelessness, loss of productivity, and spread of blood-borne disease such as HIV and hepatitis.

Nationally, overdose mortality related to fentanyl increased from 57,834 persons to 71,238 from 2020 to 2021. In New Mexico, there was an 84% increase in mortality from December 2020 to December 2021, with the peak mortality rate occurring in March 2022 (<https://www.nmhealth.org/data/view/substance/2889/>.) However, trends have changed since that time. After years of consistent annual increases of New Mexico's overdose death rates, preliminary data suggests New Mexico is now observing fewer deaths attributed to overdose. New Mexico saw a 22.1% decrease in total overdose deaths and a 32.6% decrease in fentanyl-involved deaths when comparing the first quarter of 2023 to the first quarter of 2024. Emergency department visits for drug-related cases also dropped by 13.2% during this period. These improvements likely stem from multiple factors, including shifts in substance use patterns and changes in the supply of illicit substances, particularly in the availability of fentanyl. (<https://www.nmhealth.org/data/view/substance/2889/>.)

Despite the progress made, overdose mortality remains a significant concern. In 2022 there were 997 reported overdose deaths in 2022 and 948 reported overdose deaths in 2023. Fentanyl was involved in 65% of overdose deaths, methamphetamine in 51%, and 30.7% involved both substances. Polysubstance use continues to be a concern with 65.4% of overdoses involving more than one substance. Most overdose deaths in 2023 were among working age adults (ages 25-64 years old), with 26% occurring among those ages

35-44 years old. Counts that had both a high number of overdose deaths (>20 deaths) and an overdose death rate greater than the statewide age-adjusted rate (46.3 deaths per 100,000 persons) in 2023 include Bernalillo, Santa Fe, Rio Arriba, and San Miguel.

While increased penalties for substance use-related crimes have been widely used at both the federal and state level, there is little current evidence that increased sentencing is effective at decreasing rates of substance use, fentanyl-related overdose mortality, or drug-related criminal activity. ([More Imprisonment Does Not Reduce State Drug Problems | The Pew Charitable Trusts](#)).

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?

Yes No

If yes, describe how.

- Is this proposal related to the NMDOH Strategic Plan? Yes No

Goal 1: We expand equitable access to services for all New Mexicans

Goal 2: We ensure safety in New Mexico healthcare environments

Goal 3: We improve health status for all New Mexicans

Goal 4: We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?

Yes No N/A

- If there is an appropriation, is it included in the LFC Budget Request?

Yes No N/A

- Does this bill have a fiscal impact on NMDOH? Yes No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

SB25 relates to HB107, which proposes to establish a tiered set of penalties for persons who traffic controlled substances analogues, also known as “counterfeit substances,” in the case that use of those substances results in the death of a human being. SB25 also relates to SB95, which would establish distribution of fentanyl that results in a death as a capital offense.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?

Yes No

- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

8. DISPARITIES ISSUES

9. HEALTH IMPACT(S)

10. ALTERNATIVES

None.

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If Senate Bill 25 (SB25) is not enacted, there will not be enhanced sentencing for persons convicted under the Criminal Sentencing Act who were found to have distributed more than one kilogram of fentanyl.

12. AMENDMENTS

None.