

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) and email to 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: 23 JAN 2025

Check all that apply:

Bill Number: SB 25

Original Correction Amendment Substitute **Sponsor:**

C. Brantley, G Ramos, J Jones, and L Terrazas

Short

Enhancing the Basic Sentence of Selling or Trafficking Fentanyl to an Adult or Minor

Title:**Agency Name****and Code**

790 – Department of Public Safety

Number:**Person Writing**

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SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	N/A	N/A

(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	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Identical to 2024SS SB14
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Amends the Criminal Sentencing Act (Sec. 31-18-15) to provide a sentence enhancement of three years, in addition to the basic sentence for fentanyl sale or trafficking, when a separate finding of fact by court or jury shows the fentanyl level amounted to one kilogram or more. Applies to prosecutions under Criminal Code Secs. 30-31-20 (trafficking controlled substances) or 30-31-21 (distribution to a minor).

FISCAL IMPLICATIONS

No fiscal impact to DPS.

SIGNIFICANT ISSUES

No significant issues to DPS.

PERFORMANCE IMPLICATIONS

Enhancing New Mexico's law to impose a longer sentence for trafficking or selling fentanyl could bring several benefits, depending on the approach. Here are a few potential advantages:

1. **Deterrence:** A longer sentence may act as a stronger deterrent for individuals considering engaging in fentanyl trafficking. Knowing that they face a significant prison sentence could discourage people from getting involved in the distribution or sale of the drug.
2. **Public Safety:** Fentanyl is highly potent, and even small amounts can lead to overdose deaths. Strengthening laws to target traffickers more harshly could reduce the availability of fentanyl on the streets and, in turn, potentially reduce overdose deaths and other public health consequences associated with the drug.
3. **Preventing Wider Distribution:** Lengthy sentences for traffickers may help dismantle the fentanyl distribution networks. If traffickers are incarcerated for longer periods, it could disrupt the supply chain and hinder the ability of larger drug cartels or networks to operate.
4. **Public Health Impact:** By targeting the people who are responsible for bringing fentanyl into communities, laws like these could have an indirect positive impact on public health. With reduced access to fentanyl, fewer people may become addicted or overdose, leading to fewer long-term health problems and a decrease in the strain on healthcare systems.
5. **Message of Zero Tolerance:** Strengthening laws may signal to both drug traffickers and the general public that fentanyl trafficking is taken extremely seriously. This could reinforce the state's commitment to combating the opioid crisis and show a firm stance on drug-related offenses that endanger public well-being.

DPS supports enhancing the penalties for the sale or trafficking of Fentanyl. Drug selling and trafficking, especially of fentanyl, is a central driver of New Mexico's behavioral health and criminal justice issues. According to an 8/24/23 Legislative Finance Committee report, New Mexico's drug-overdose death rate ranked sixth in the nation in 2021. That was not a new trend as New Mexico's ranking as one of the states with the highest per-capita overdoses has endured for decades. Additional tools are needed to combat this issue which continues to adversely affect communities around the state.

The state's overdose-death rate increased 68% between 2019 and 2021. While New Mexico has rightly invested heavily in behavioral health treatment programs to address the demand-side of the problem, those programs will do little to address the sale and trafficking of drugs in our communities. Drug dealers and traffickers are responsible for hundreds of overdose deaths in New Mexico every year. This bill would target the supply of drugs in our communities by providing penalties that are commensurate with the destruction and misery drug traffickers impose on those suffering from substance use disorder and their families.

NMSA 1978, Section 30-31-20 (trafficking controlled substances) and NMSA 1978, 30-31-21 (distribution to a minor) would need to be amended to make reference to the enhanced penalties provided pursuant to this statutory amendment.

ADMINISTRATIVE IMPLICATIONS

No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No conflict, duplication, companionship or relationship to DPS.

TECHNICAL ISSUES

No technical issues to DPS.

OTHER SUBSTANTIVE ISSUES

No other substantive issues to DPS.

ALTERNATIVES

Not applicable as no impact to DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo will remain.

AMENDMENTS

None at this time.