LFC Requester: Scott Sanchez
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# **AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

# WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

<u>AgencyAnalysis.nmlegis.gov</u> and email to <u>billanalysis@dfa.nm.gov</u>
(Analysis must be uploaded as a PDF)

Indicate if a	analysis is on an origina	l bill, amendment	t, substitute or a	correction	of a previous bill}			
	Date Prepared:	2025	Check a	ll that apply:				
	Bill Number: SB 95			Original X Correction				
				Amendr	nent Subs	titute		
			Agency N					
			and Code					
Sponsor: Brantley			Number: NM Sentencing Commiss			nmission – 35		
Short Fentanyl Dealing with Death as			<u></u>					
itle:	Capital Crime		<b>Phone:</b> <u>5</u>	one: 505-259-8763 Email kthiel@unm.edu				
	Appropr	`	Recurring		Fund			
FY25		FY26		or Nonrecurring		Affected		
(Parenthesis	() indicate expenditure	decreases)						
		REVENU	E (dollars in	thousa	ands)			
	Estim			Recurri	ing	Fund		
FY25		FY26 I		Y27	Nonrecur	Nonrecurring		
			1					

# ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

Ī		FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	Total						

(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:

SB 95 enacts a new section of the Controlled Substances Act to create the offense of distribution of fentanyl resulting in death. Distribution of fentanyl resulting in death is defined as the intentional and unlawful distribution of any amount of fentanyl or a fentanyl-related substance to another person when the injecting, inhaling, absorbing, or ingesting of that substance results in the death of that person. The bill provides a definition of "fentanyl-related substance".

SB 95 states that it shall not be a defense that the deceased purposefully, knowingly, recklessly or negligently injected, inhaled, absorbed, or ingested the fentanyl or fentanyl-related substance.

The penalty for distribution of fentanyl resulting in death would be a capital felony.

### FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

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

### SIGNIFICANT ISSUES

It is difficult to determine what the effect of passing SB 95 would be on the state's prison population, but its creation of a new capital felony would likely lead to more people being incarcerated by the Corrections Department. Under Section 31-18-14 NMSA 1978, capital felonies carry a basic sentence of life imprisonment or life imprisonment without possibility of release or parole. Section 31-21-10 NMSA 1978 provides that individuals sentenced to life imprisonment become eligible for parole after serving thirty years of their sentence. The average cost to incarcerate someone in the state's prison system is \$155.63/day; this average includes private and public facilities.

### PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

**TECHNICAL ISSUES** 

**OTHER SUBSTANTIVE ISSUES** 

**ALTERNATIVES** 

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