

<b>LFC Requester:</b>	Scott Sanchez
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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:** 28 JAN 2025 *Check all that apply:*  
**Bill Number:** SB 95 Original  Correction   
 Amendment  Substitute

**Sponsor:** Crystal Brantley **Agency Name and Code** 790 – Department of Public Safety  
**Short Title:** Fentanyl Distribution Resulting in Death a Capital Felony **Number:** \_\_\_\_\_  
**Person Writing** Emmanuel T. Gutierrez  
**Phone:** 505-917-2952 **Email:** Emmanuel.gutierrez@dps.nm.gov

**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
<b>Total</b>	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act: Identical to 2024SS SB6

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

This bill amends the Controlled Substances Act of the Criminal Code to make any distribution of fentanyl or a fentanyl-related substance resulting in death caused by injection, inhalation, absorption, or ingestion a capital felony punishable by life imprisonment or life imprisonment without possibility of release or parole. This bars any defense based on purposeful, knowing, reckless, or negligent use of the substance by the victim. It also defines the meaning of “fentanyl-related substance” in chemical terms.

#### **FISCAL IMPLICATIONS**

None to DPS,

#### **SIGNIFICANT ISSUES**

None to DPS.

#### **PERFORMANCE IMPLICATIONS**

Fentanyl is highly potent and lethal, even in very small doses. Distributors knowingly engaging in the sale of this substance—especially when mixed with other drugs—are engaging in behavior that poses an extreme risk to life. Treating the crime as a capital felony underscores its seriousness. If someone’s actions in distributing fentanyl result in a death, charging it as a capital felony assigns accountability for the devastating consequences of that act. This approach could target major traffickers, disrupt supply chains, and potentially reduce the availability of fentanyl in communities. By treating fentanyl distribution resulting in death as a capital felony, the justice system emphasizes the gravity of these actions, deters future offenses, and helps address the ongoing fentanyl crisis.

#### **ADMINISTRATIVE IMPLICATIONS**

None to DPS,

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

None to DPS.

#### **TECHNICAL ISSUES**

None to DPS.

#### **OTHER SUBSTANTIVE ISSUES**

None to DPS.

#### **ALTERNATIVES**

None to DPS.

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

Status Quo will remain.

#### **AMENDMENTS**

None to DPS.