

LFC Requester:	Ginger Anderson
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.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}

Check all that apply:
Original **Amendment** _____
Correction _____ **Substitute** _____

Date February 7, 2024
Bill No: HB 65

Sponsor: Dixon
Short Title: Sex Offender Legislation and Federal Law

Agency Name and Code NM Sentencing Commission (354)
Number: _____
Person Writing Douglas Carver
Phone: 505-239-8362 **Email** dhmcarver@unm.edu

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	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:

HB 65 amends Section 26-2C-25, concerning personal use of cannabis, (part of the Cannabis Regulation Act). It strikes the language in Subsection A of that section that states that the listed lawful acts “shall not constitute grounds for detention, search or arrest of a person or search of property, and cannabis products that relate to the conduct are not contraband or subject to seizure or forfeiture pursuant to the Controlled Substances Act or the Forfeiture Act.” The bill also strikes Subsection C, which lists items that should not “constitute reasonable articulable suspicion of a crime and [are] not a basis to stop, detain or search a person.” The bill replaces that substantive and detailed list with, “The odor or mere possession of a cannabis product shall not constitute grounds for a law enforcement officer to stop, detain or search a person or to search property absent reasonable suspicion of criminal activity.”

HB 65 contains an Emergency Clause.

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

The changes that HB 65 makes to the personal use of cannabis section of the Cannabis Regulation Act would strip away some of the protections in that statute for people who possess cannabis, making it easier for law enforcement to search or arrest people based on possession of cannabis or cannabis-related items.

How to handle the changing legal landscape and how it pertains to reasonable searches of individuals who come into contact with law enforcement has been much discussed in recent years as more and more jurisdictions have legalized medical cannabis, and/or decriminalized or legalized cannabis. See, for example, the discussion around the issue of odor in Rubinkam, “In era of legal pot, can police still search cars based on odor?”, PBS Newshour (Sept. 2019)

(available at: <https://www.pbs.org/newshour/nation/in-era-of-legal-pot-can-police-still-search-cars-based-on-odor>). See also Williams, “The Implications of Legalized Marijuana on Establishing Probable Cause for a Warrantless Search”, *Saint Louis University Law Journal* (Winter 2022) (available at: <https://scholarship.law.slu.edu/cgi/viewcontent.cgi?article=2289&context=lj>), or O’Connell, “High Time for Change: The Legalization of Marijuana and Its Impact on Warrantless Roadside Motor Vehicle Searches”, *Washington and Lee Law Review On Line* (Oct. 2022) (available at: <https://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=1157&context=wlulr-online>).

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