

LFC Requester:	Scott Sanchez
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AGENCY BILL ANALYSIS – 2026 SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov 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: 20 JAN 2026 *Check all that apply:*
Bill Number: HB 72 Original ☒ Correction ☐
Amendment ☐ Substitute ☐

Sponsor: Andrea Reeb **Agency Name and Code**
Short Title: Distribution of a Controlled Substance to a Minor **Number:** 790 – Department of Public Safety
Person Writing Emmanuel T. Gutierrez
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
NFI	NFI	N/A	N/A
NFI	NFI	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
NFI	NFI	NFI	N/A	N/A
NFI	NFI	NFI	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	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:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

House Bill 72 amends New Mexico law to strengthen penalties for adults who distribute controlled substances to minors. The bill makes it illegal for anyone 18 or older to intentionally distribute a controlled substance to a person under 18, unless otherwise authorized by the Controlled Substances Act. For Schedule I–IV substances, a first offense is classified as a second-degree felony and subsequent offenses as first-degree felonies. The bill further escalates penalties by making the distribution of Schedule I or II narcotics, including methamphetamine and its analogs, to a minor a first-degree felony for any offense.

FISCAL IMPLICATIONS

No fiscal impact to DPS.

SIGNIFICANT ISSUES

This bill would significantly increase the severity of felony charges investigated by NMDPS when controlled substances are distributed to minors, particularly involving Schedule I and II drugs. This change could serve as a strong deterrent to traffickers when it comes to targeting youth for distribution of controlled substances. This could assist efforts in keeping drugs out of New Mexico schools and when paired with other prevention efforts have an impact on lowering the youth drug usage rate in the state. More cases would likely qualify as first-degree felonies which might have a minor impact on workload related to those cases, but that would likely be offset by a reduction in dealing with the same offenders repeatedly. DPS believes this bill would be beneficial, as one piece in addressing the overall drug epidemic in the state and the harm it causes our youth. The impacts of that harm are felt far beyond just the youth themselves as it also negatively impacts their families, drives juvenile crime and causes negative economic impacts to the state.

PERFORMANCE IMPLICATIONS

No performance implications for DPS.

ADMINISTRATIVE IMPLICATIONS

No administrative implications for DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

The bill requires a defendant to "intentionally distribute" a controlled substance to a minor but does not specify whether knowledge of the recipient's age (i.e., under age 18) is an element of the offense. New Mexico courts have held that drug-free school zone enhancements require proof of specific knowledge of the zone location, *State v. Wilson*, 2010-NMCA-018. By analogy, defendants charged under the new Subsection C (a first-degree felony) may argue that the state must prove knowledge that the recipient was under 18. The Legislature may wish to clarify whether strict liability as to age applies, particularly given the first-degree felony penalty.

In other words, HB 72 does not specify whether the prosecution must prove the defendant knew the recipient was under 18, which may create a mens rea ambiguity for the enhanced first-degree felony penalties, given New Mexico case law requiring knowledge for similar sentencing enhancements.

OTHER SUBSTANTIVE ISSUES

The bill's penalty structure aligns with existing provisions in § 30-31-22 (distribution generally) and uses terms—"narcotic drug," "distribute," and "controlled substance analog"—already defined in § 30-31-2. Fentanyl and fentanyl analogs, which are driving overdose deaths among minors, would fall within the enhanced Subsection C penalties as Schedule II narcotic drugs.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo will Remain.

AMENDMENTS

None.