

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 02/02/2026

Check all that apply:

Bill Number: HB 234

Original Correction
Amendment Substitute

Sponsor: Rep. Andrea Reeb and Rep. Mark B. Murphy

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: Definition of Fentanyl

Person Writing Analysis: Chris Forsyth
Phone: 505-645-5980
Email: Fir.request@nmdoj.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY26	FY27	FY28	3 Year	Recurring or	Fund

				Total Cost	Nonrecurring	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

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: HB 234 would amend NMSA 1978, Section 31-18-27, which permits district courts to enhance sentences for trafficking fentanyl. The statute currently provides basic sentences of imprisonment based on the amount of fentanyl a defendant possessed in relation to a crime of trafficking a controlled substance in violation of NMSA 1978, Section 30-31-20. The bill would define fentanyl for the purposes of the sentencing enhancement as "fentanyl and fentanyl-related substances, including analogs and chemically similar substances that are produced illegally, and including para-bromofentanyl, para-fluoroacetyl fentanyl and para-methyl acetyl fentanyl."

The bill would also renumber and re-letter the paragraphs in Section 31-18-27 to be consistent with the change.

FISCAL IMPLICATIONS

None for NMDOJ.

SIGNIFICANT ISSUES

None.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

Currently, the Controlled Substances Act defines fentanyl and its “isomers, esters, ethers, salts and salts of isomers” as Schedule I substances. The definition of fentanyl in HB 234 appears to include substances which are analogues to fentanyl but not necessarily isomers, esters, ethers,

salts, or salts of isomers of fentanyl. Given this mismatch, it is possible that trafficking a fentanyl analogue is not itself illegal but that a conviction for trafficking fentanyl could be enhanced by counting the (technically non-criminal) analogues.

By defining fentanyl to only include substances “that are produced illegally,” HB 234 may increase the burden on prosecutors by requiring them to prove that the fentanyl analogue in question was produced illegally.

ALTERNATIVES

An alternative would be to place the proposed definition of “fentanyl” in 30-31-02 NMSA 1978 where it would apply whenever referenced in the Controlled Substances Act.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.