

LFC Requester:	Malone, Carlie
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AGENCY BILL ANALYSIS - 2026 REGULAR 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: 1/28/26 *Check all that apply:*
Bill Number: SB 129 Original Correction
 Amendment Substitute

Sponsor: Sen. Heather Berghmans **Agency Name and Code** AOC
Short Title: Adverse Employment Action & Cannabis **Number:** 218
Person Writing Kathleen Sabo
Phone: 505-470-3214 **Email** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
Unknown	Unknown	Unknown	Rec.	General

(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	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 129 amends Section 26-2B-9 NMSA 1978, within the Lynn and Erin Compassionate Use Act and governing employment protections, to provide that nothing in this section gives a state or political subdivision employer the power to control an employee's use of medical cannabis outside the employee's hours of employment as long as the employee remains a qualified patient and unless use is limited by other state law or rules.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and challenges to a state or political subdivision employer's control of an employee's use of medical cannabis outside the employee's hours of employment. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

1) According to the National Conference of State Legislatures (NCSL), most states leave policies relating to medical cannabis use and subsequent disciplinary actions up to individual employers and do not require any special workplace accommodations for medical cannabis patients. See [Cannabis and Employment: Medical and Recreational Policies in the States](#), NCSL, March 6, 2025.

Once more, as states trend toward preventing discrimination against individuals who use medical marijuana, they are still maintaining employer's rights to maintain a drug-free work place. There are a few states working to address the possibility of employees being under the influence of medical cannabis during the course of their employment.

Indiana, for example, introduced a bill in 2019 that would outlaw employment discrimination against medical cannabis patients, but also add certain protections for employers. The bill would allow employers to prohibit medical patients from performing any task while under the influence of cannabis. Prohibition of the performance-specific tasks would not be considered unlawful discrimination even if it resulted in financial harm to the employee. This provision was presumably drafted with the intent of decreasing an employer's liability for the actions of employees under the influence of cannabis and completing certain tasks related to their employment such as driving, operating heavy machinery or tasks related to public health and safety.

Id. See also [State Medical Cannabis Laws](#), NCSL, June 27, 2025 and [State Laws on Off-Duty Marijuana Use](#), NOLO, for a listing of each state's laws.

SB 129 does not address situations where a person's use of medical cannabis outside the employee's hours of employment might affect their job performance.

2) In 2025, the House passed HB 230, which would have further protected medical marijuana patients in the state from being penalized at work for off-duty use of cannabis. Noted the sponsor of the bill, Rep. Reena Szczepanski, “Our first responders are dealing with stress, chronic pain, insomnia, and PTSD,” Szczepanski, who previously worked at the reform organization Drug Policy Alliance, told Marijuana Moment. “Barring them from using medical cannabis on their own time to manage symptoms is incredibly harmful and unnecessary. It’s time to make a change.” See [New Mexico Lawmakers Vote to Strengthen Employment Protections for Medical Marijuana Patients](#), Marijuana Moment, February 17, 2025.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS