

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Senate Bill 255 enacts a new section of the Controlled Substances Act to provide that a person who trafficks fentanyl resulting in death is guilty of first degree murder.

The bill defines trafficking of fentanyl resulting in death as “the intentional and unlawful trafficking or distribution of any amount of fentanyl to another person that results in the death of that person by cause of injecting, inhaling, absorbing or ingesting the fentanyl”.

SB 255 provides that the penalty for first degree murder in cases of trafficking of fentanyl resulting in death shall be a mandatory thirty-year sentence.

The bill also provides that it shall not be a defense that the deceased “purposefully, knowingly, recklessly or negligently injected, inhaled, absorbed or ingested any amount of fentanyl”.

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

In 2021, the New Mexico Sentencing Commission engaged the services of the Robina Institute of Criminal Law and Criminal Justice at the University of Minnesota to analyze the state’s Criminal Code for its strengths and weaknesses. One item of concern for the Robina Institute was that the Criminal Code has a number of special statutes that fall out of the normal penalty structure in the state. SB 255 would add an additional special penalty into the Criminal Code.

The sentence for first degree murder, a capital felony, can be either life imprisonment without the possibility of parole, or life imprisonment with the possibility of parole after 30 years. Other first degree felonies carry a basic sentence of 18 years. SB 255 would create a special penalty of 30 years for first degree murder committed by trafficking fentanyl resulting in death.

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