

KANSAS OFFICE *of*  
**REVISOR *of* STATUTES**

LEGISLATURE *of* THE STATE *of* KANSAS  
*Legislative Attorneys transforming ideas into legislation.*

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**MEMORANDUM**

To: Senate Committee on Judiciary  
From: Office of Revisor of Statutes  
Date: March 14, 2024  
Subject: Bill Brief for HB 2487

House Bill 2487, As Further Amended by House Committee, provides immunity from prosecution for certain drug crimes when persons seek or provide medical assistance related to the use of a controlled substance.

The bill creates a new section of law that provides that a law enforcement shall not take a person into custody for possession of a controlled substance or possession of drug paraphernalia if the law enforcement officer reasonably believes the person:

- (1) Initiated contact with law enforcement or emergency medical services and requested assistance on the person's own behalf because the person reasonably believes they need medical assistance as a result of the use of a controlled substance and cooperated with law enforcement or emergency medical services personnel;
- (2) was a person who rendered aid to another person who reasonably appeared to need medical assistance as a result of the use of a controlled substance or initiated contact with law enforcement or emergency medical services and requested medical assistance for another person who reasonably appeared to need medical assistance as a result of the use of a controlled substance, provided their name and other relevant information that is necessary to provide medical assistance as requested by law enforcement or emergency medical services, remained at the scene until assistance arrived, and cooperated with emergency medical services personnel and law enforcement officers; or
- (3) was the person who reasonably appeared to need medical assistance as a result of use of a controlled substance and cooperated with emergency medical services personnel and law enforcement officers.

Each person who meets the criteria in subsection (a) is immune from criminal prosecution for a violation of possession of a controlled substance (K.S.A. 21-5706) or possession of drug paraphernalia (K.S.A. 21-5709(b)(2) only) or any similar city ordinance or county resolution unless the quantity of controlled substances found at the scene would be sufficient to create a rebuttable presumption of an intent to distribute controlled substances as described in K.S.A. 21-5705(e). This section does not apply to a person seeking medical assistance during the execution of an arrest warrant, search warrant or otherwise lawful search. Nothing in this section precludes a person who is immune from prosecution from being prosecuted based on evidence obtained from an independent source. A person is not allowed to initiate an action against law enforcement based on an officer's compliance or failure to comply with this section. A law enforcement officer is immune from liability for arresting a person who is later determined to be immune from prosecution under this section unless there is reckless or intentional misconduct.

The House Committee on Corrections and Juvenile Justice amended the bill to provide that a law enforcement officer, in the medical assistance circumstances, shall not take a person into custody for violation of a condition of probation, assignment to a community correctional services program, suspended sentence, parole, conditional release or postrelease supervision and to provide that an arrest warrant shall not be issued for such violation. The House Committee further amended the bill to remove these provisions.

The bill would take effect from and after publication in the statute book, July 1, 2024.