

HOUSE BILL No. 2487

By Representatives Hoheisel, Alcalá, Probst and Proctor

Proposed Amendments to HB 2487 - remove probation provisions
House Corrections and Juvenile Justice Committee
Prepared by the Office of Revisor of Statutes
February 7, 2024

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to controlled substances; providing immunity from prosecution for
3 certain drug crimes when persons seek or provide medical assistance
4 related to the use of a controlled substance.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) A law enforcement officer shall not take a person into
8 custody based solely on the commission of an offense ~~or violation of a~~
9 ~~condition of probation, assignment to a community correctional~~
10 ~~services program, suspended sentence, parole, conditional release or~~
11 ~~postrelease supervision~~ described in subsection (b) if the law
12 enforcement officer, after making a reasonable determination and
13 considering the facts and surrounding circumstances, reasonably believes
14 that the person:

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15 (1) (A) Initiated contact with a law enforcement officer, law
16 enforcement agency or emergency medical services and requested medical
17 assistance on the person's own behalf because the person reasonably
18 believed they needed medical assistance as a result of the use of a
19 controlled substance; and

20 (B) cooperated with law enforcement officers and emergency medical
21 services personnel in providing such medical assistance;

22 (2) (A) ~~was one of not more than four persons~~ a person who rendered
23 aid to another person who reasonably appeared to need medical assistance
24 as a result of the use of a controlled substance or initiated contact with a
25 law enforcement officer, law enforcement agency or emergency medical
26 services and requested medical assistance for another person who
27 reasonably appeared to need medical assistance as a result of the use of a
28 controlled substance;

29 (B) provided such person's full name and any other relevant
30 information **that is necessary to provide the medical assistance**
31 **described in paragraph (2)(A)** as requested by law enforcement or
32 emergency medical services;

33 (C) remained at the scene with the person who reasonably appeared
34 to need medical assistance until emergency medical services personnel and
35 law enforcement officers arrived; and

36 (D) cooperated with emergency medical services personnel and law

1 enforcement officers in providing such medical assistance; or

2 (3) (A) was the person who reasonably appeared to need medical
3 assistance as a result of the use of a controlled substance as described in
4 subsection (a)(2)(A); and

5 (B) cooperated with emergency medical services personnel and law
6 enforcement officers in providing such medical assistance.

7 (b) (1) Except as provided in paragraph (2), each person who meets
8 the criteria in subsection (a):

9 ~~(A) Is immune from criminal prosecution for a violation of K.S.A.
10 21-5706 or 21-5709(b), and amendments thereto, and any city ordinance
11 or county resolution prohibiting the acts prohibited by K.S.A. 21-5706 or
12 21-5709(b), and amendments thereto; and~~

13 ~~(B) shall not have issued against such person a warrant for arrest
14 for violation of a condition of probation, assignment to a community
15 correctional services program, suspension of sentence, parole,
16 conditional release or postrelease supervision pursuant to K.S.A. 22-
17 3716 or 75-5217, and amendments thereto.~~

18 (2) No person is immune from criminal prosecution ~~or from having
19 an arrest warrant issued against such person~~ as provided in paragraph
20 (1) if the quantity of controlled substances found at the scene of the
21 encounter with law enforcement would be sufficient to create a rebuttable
22 presumption of an intent to distribute as described in K.S.A. 21-5705(e),
23 and amendments thereto.

24 (c) The provisions of this section shall not apply to a person seeking
25 medical assistance during the course of the execution of an arrest warrant
26 or search warrant or a lawful search.

27 (d) Nothing in this section shall be construed to preclude a person
28 who is immune from criminal prosecution pursuant to this section from
29 being prosecuted based on evidence obtained from an independent source.

30 (e) A person shall not be allowed to initiate or maintain an action
31 against a law enforcement officer, or the officer's employer, based on the
32 officer's compliance or failure to comply with this section. Except in cases
33 of reckless or intentional misconduct, a law enforcement officer shall be
34 immune from liability for arresting a person who is later determined to be
35 immune from prosecution pursuant to this section.

36 (f) As used in this section:

37 (1) "Controlled substance" means the same as defined in K.S.A. 21-
38 5701, and amendments thereto; and

39 (2) "law enforcement officer" means the same as defined in K.S.A.
40 21-5111, and amendments thereto.

41 Sec. 2. This act shall take effect and be in force from and after its
42 publication in the statute book.

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