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MEMORANDUM

To: House Committee on Corrections and Juvenile Justice

From: Office of Revisor of Statutes

Date: January 25, 2024

Subject: Bill Brief on HB 2487

HB 2487 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 one of not more than four persons 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 information requested by law enforcement or emergency medical services, remained at the scene until assistance arrived and cooperated with law enforcement or emergency medical services personnel; or (3) was the person who reasonably appeared to need medical assistance as a result of use of a controlled substance and cooperated with law enforcement and emergency medical services personnel.

Each person who meets the criteria in subsection (a) is immune from criminal prosecution for a violation of possession of a controlled substance or possession of drug paraphernalia 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. This section does not apply to a person seeking medical

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assistance during the execution of an arrest warrant, search warrant or otherwise lawful search. Nothing in the 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.