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**Testimony to the Senate Judiciary Committee
Neutral Testimony on SB4**

January 27, 2021

Chair Warren and Committee Members:

Our associations have opposed bills similar to this in the past when they proposed changing to lower penalties for tampering with a monitoring device. However, we are taking a neutral position in light of the consistency presented with the proposed penalties to the escape statute.

While we understand the concerns with sentencing proportionality, our associations are concerned with people who remove or disable their tracking devices while on pre-trial release, probation, or parole. We believe the people of Kansas have extended these defendants and offenders an opportunity to avoid incarceration based on a trust they will abide by their conditions. When courts require the use of monitoring devices there is a reason behind it based on risk to the public. Those who intentionally disable or remove tracking device are breaking that trust, and most likely for devious reasons. This is especially troubling in cases of stalking and domestic violence where we have seen cases involving those on pre-trial release or probation continue to terrorize and even assault or kill their victims while on release. These concerns are highest with the reduction of penalties from a felony to a misdemeanor for certain crimes.

AMENDMENT CONSIDERATION

If the committee decides to proceed with this proposed reduction in penalties, we ask the committee to consider amending the bill when the monitoring device requirement is based on certain misdemeanor crimes. We propose when the device was required based on any of the following crimes the tampering offense would remain at the felony level: KSA 21-5409 (interfere with parental custody), 21-5411 (criminal restraint), 21-5414 (domestic battery), 21-5427 (stalking), 21-5909 (intimidation of a witness or victim), and 21-5924 (protection orders).

As you consider this bill, we ask you to think of the underlying motivation to damage, disabling or removal of the device and how that balances with concerns for public safety, including the safety of victims and witnesses. We also ask you to recognize that reducing these penalties also places those offenders with prior felony convictions in presumptive probation on the sentencing grid.

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