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**Neutral Testimony to the House Judiciary Committee
Regarding HB2416
February 24, 2021**

Chairman Patton and Committee Members:

Our associations are neutral to the provisions contained in HB2416 as proposed because they are processes that do not directly affect us. However, we have two amendments we would like to propose that are very important to law enforcement and our abilities to respond to emergencies under emergency declarations.

Amendments 1:

The first amendment has to do with the violation provisions in KSA 48-939 which was amended during the 2020 session.

This statute deals with the civil penalty for violations of the act including emergency orders. Prior to COVID the language for the penalty was “a class A misdemeanor.” It now is “a civil penalty in an amount not to exceed \$2,500 per violation.” This new penalty was put into place to eliminate arrests for not wearing a mask and other COVID related emergency order violations. The problem it creates is it applies to every type of emergency declaration.

This civil penalty will not work well for us in other types of emergencies because it is not a crime. And without a crime, law enforcement has no authority to stop a person in a temporary or investigative detention if violating an order. (See [KSA 22-2402](#)) Under the current law, for cases like tornadoes, floods, or civil unrest where curfews are put in place or areas designated as not to be accessed by the public, we have no enforcement mechanism. These violations are tools to prevent looting and unnecessary safety risks. Not even lawful authority to stop a person violating the order.

We request an amendment to KSA 48-939 be added to the bill to say something like:

- (a) (1) Except as provided in subsection (2), a person who intentionally violates any provision of the Kansas emergency management act, any rule and regulation adopted by the adjutant general under the act or any lawful executive order or proclamation issued under authority of the act whether pursuant to a proclamation declaring a state of disaster emergency under K.S.A. 48-924, and amendments thereto, or a declaration of a state of local disaster emergency under K.S.A. 48-932, and amendments thereto, shall be guilty of a class A nonperson misdemeanor.**
- (2) (A) A person who intentionally violates any provision of the Kansas emergency**

management act, any rule and regulation adopted by the adjutant general under the act or any lawful executive order or proclamation issued under authority of the act pursuant to a proclamation declaring a state of public health disaster emergency, may incur a civil penalty in an amount not to exceed \$2,500 per violation.

(B) Violations of this section shall be enforced through an action brought under chapter 60 of the Kansas Statutes Annotated, and amendments thereto, by the attorney general or the county or district attorney in the county in which the violation took place. Civil penalties issued for and recovered by the county or district attorney shall be paid into the general fund of the county where the proceedings were instigated. Each penalty may be assessed in addition to any other penalty provided by law.

This will restore the class A misdemeanor for other than health emergencies and retain the civil violation for health emergencies.

Amendments 2:

We were advised by some of our emergency dispatch centers that they were denied access to PPE during the COVID crisis because they were not defined as "emergency responder" in the emergency management act. "Emergency responder" is defined in KSA 48-949 and does not include dispatchers. Our dispatchers are an integral part of our emergency response and in health emergencies such as COVID are required to work in closed quarters where it is difficult to maintain "social distancing." The use of PPE is critical to the health of our dispatchers and the health of our dispatchers is critical to maintaining the dispatch center staffing needed in an emergency. We request the following definition be made to KSA 48-949 subsection (b).

"Emergency responder" means any person in the public or private sector who: (1) Has special skills, qualifications, training, knowledge and experience which would be beneficial to a participating political subdivision in response to a locally-declared emergency as defined in any applicable law or ordinance or authorized drill or exercises; and (2) is requested or authorized, or both, to respond. An emergency responder may or may not be required to possess a license, certificate, permit or other official recognition for the emergency responder's expertise in a particular field or area of knowledge.

"Emergency responder" may include, but is not limited to, the following: Law enforcement officers, fire fighters, *911 dispatch center personnel*, emergency medical services personnel, physicians, nurses, public health personnel, emergency management personnel, public works personnel and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency.

Your consideration of these amendments to the bill will be appreciated.

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