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**Neutral Testimony to the Senate Judiciary Committee
Regarding SB273
February 24, 2021**

Chairperson Warren and Committee Members:

Our associations are neutral to most of the provisions contained in SB273 as proposed because they are administrative processes that do not directly affect us. We appreciate the effort to restore the provisions of KEMA pre-COVID for non-health related emergencies. We believe that is critical to our response in non-health related emergencies. However, we have one amendment we would like to propose that is very important to law enforcement and our abilities to respond to emergencies under emergency declarations. There also is one provision in SB273 we want to specifically support.

Amendment:

The amendment has to do with the violation provisions in KSA 48-939 which was amended during the 2020 session. These provisions are found in section 11 on page 19 lines 14-30.

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 replacing only page 19 lines 14-30 in 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 under section 1, and amendments thereto, 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.

We support the amendment in Section 12 on page 20 line 10:

We were advised by some of our 911 dispatch centers that they were denied access to PPE during the COVID crisis because they were not defined as an “emergency responder” in the emergency management act. This affected dispatch centers that do not operate as a part of a law enforcement or fire agency. “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 during a health emergency such as COVID 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 support the amendment on page 20 line 10.

Your support of above amendments will be appreciated.

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