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**Testimony to the House Judiciary Committee  
Neutral Testimony on SB4  
March 16, 2021**

Chairman Patton and Committee Members:

Our associations have opposed bills similar to this in the past when they proposed 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 misdemeanors 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). These amendments were made to HB2027 by the House Corrections and Juvenile Justice Committee on an identical bill. We have attached a copy of the amended HB2027.

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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As Amended by House Committee

Session of 2021

HOUSE BILL No. 2027

By Joint Committee on Corrections and Juvenile Justice Oversight

12-31

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to unlawfully tampering with electronic monitoring equipment;  
3 modifying criminal penalties; amending K.S.A. 2020 Supp. 21-6322  
4 and repealing the existing section.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2020 Supp. 21-6322 is hereby amended to read as  
8 follows: 21-6322. (a) Unlawfully tampering with electronic monitoring  
9 equipment is, knowingly and without authorization, removing, disabling,  
10 altering, tampering with, damaging or destroying any electronic  
11 monitoring equipment used pursuant to court ordered supervision or as a  
12 condition of post-release supervision or parole.

13 (b) Unlawfully tampering with electronic monitoring equipment is a:

14 (1) Severity level—6 8, nonperson felony *in the case of electronic*  
15 *monitoring equipment used pursuant to court-ordered supervision or as a*  
16 *condition of postrelease supervision or parole for any felony or a*  
17 **misdemeanor violation of interference with parental custody as**  
18 **defined in K.S.A. 2020 Supp. 21-5409, and amendments thereto,**  
19 **criminal restraint as defined in K.S.A. 2020 Supp. 21-5411, and**  
20 **amendments thereto, domestic battery as defined in K.S.A. 2020 Supp.**  
21 **21-5414, and amendments thereto, stalking as defined in K.S.A. 2020**  
22 **Supp. 21-5427, and amendments thereto, intimidation of a witness or**  
23 **victim as defined in K.S.A. 2020 Supp. 21-5909, and amendments**  
24 **thereto, or violation of a protective order as defined in K.S.A. 2020**  
25 **Supp. 21-5924, and amendments thereto; and**

26 (2) *class A nonperson misdemeanor in the case of electronic*  
27 *monitoring equipment used pursuant to court-ordered supervision or as a*  
28 *condition of postrelease supervision or parole for any misdemeanor* **not**  
29 **described in subsection (b)(1) or used pursuant to court-ordered**  
30 *supervision in any civil case.*

31 Sec. 2. K.S.A. 2020 Supp. 21-6322 is hereby repealed.

32 Sec. 3. This act shall take effect and be in force from and after its  
33 publication in the statute book.