

CHAPTER 120**(SB 26)**

AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 509.040 is amended to read as follows:

- (1) A person is guilty of kidnapping when he unlawfully restrains another person and when his intent is:
 - (a) To hold him for ransom or reward; or
 - (b) To accomplish or to advance the commission of a felony; or
 - (c) To inflict bodily injury or to terrorize the victim or another; or
 - (d) To interfere with the performance of a governmental or political function; or
 - (e) To use him as a shield or hostage; *or*
 - (f) *To deprive the parents or guardian of the custody of a minor, when the person taking the minor is not a person exercising custodial control or supervision of the minor as the term "person exercising custodial control or supervision" is defined in KRS 600.020.*
- (2) Kidnapping is a Class B felony when the victim is released alive and in a safe place prior to trial, except as provided in this section. Kidnapping is a Class A felony when the victim is released alive but the victim has suffered serious physical injury during the kidnapping, or as a result of not being released in a safe place, or as a result of being released in any circumstances which are intended, known or should have been known to cause or lead to serious physical injury. Kidnapping is a capital offense when the victim is not released alive or when the victim is released alive but subsequently dies as a result of:
 - (a) Serious physical injuries suffered during the kidnapping; or
 - (b) Not being released in a safe place; or
 - (c) Being released in any circumstances which are intended, known or should have been known to cause or lead to the victim's death.

Section 2. KRS 439.3401 is amended to read as follows:

- (1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim or serious physical injury to a victim, or rape in the first degree or sodomy in the first degree of the victim, ***burglary in the first degree accompanied by the commission or attempted commission of a felony sexual offense in KRS Chapter 510, burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060, burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040, or robbery in the first degree.*** The court shall designate in its judgment if the victim suffered death or serious physical injury.
- (2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or

imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his sentence is commuted to a life sentence shall not be released on probation or parole until he has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.

- (3) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony who is a violent offender shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.
- (4) A violent offender may not be awarded any credit on his sentence authorized by KRS 197.045(1), except the educational credit. A violent offender may, at the discretion of the commissioner, receive credit on his sentence authorized by KRS 197.045(3). In no event shall a violent offender be given credit on his sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.
- (5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.
- (6) This section shall apply only to those persons who commit offenses after July 15, 1998.
- (7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.
- (8) ***The provisions of subsection (1) of this section extending the definition of "violent offender" to persons convicted of or pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after the effective date of this Act.***

Approved April 1, 2002