

# CORRECTIONS IMPACT STATEMENT

SESSION: 18RS

BILL #: SB 240 Introduced

BR #: 1972

DOC ID#: XXXX

**BILL SPONSOR(S):** Sen. W. Schroder **AMENDMENT SPONSOR(S):**

**SUBJECT:** AN ACT relating to kidnapping.

**SUMMARY OF LEGISLATION:** Amend KRS 439.3401 to make kidnapping and attempted kidnapping a violent offense with 50% service time.

This  bill  amendment  committee substitute is expected to:

Have the following Corrections impact  Have no Corrections impact

- |   |   |
|---|---|
| <input type="checkbox"/> Creates new crime(s)                               | <input type="checkbox"/> Repeals existing crime(s)                          |
| <input checked="" type="checkbox"/> Increases penalty for existing crime(s) | <input checked="" type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration                            | <input type="checkbox"/> Decreases incarceration                            |
| <input type="checkbox"/> Reduces inmate/offender services                   | <input type="checkbox"/> Increases inmate/offender services                 |
| <input type="checkbox"/> Increases staff time or positions                  | <input type="checkbox"/> Reduces staff time or positions                    |
| <input type="checkbox"/> Changes elements of offense for existing crime(s)  |   |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) _____    |   |

**STATE IMPACT:** Class A, B & C felonies are based on an average daily prison rate of \$70.12. Most Class D felons are housed in one of 76 full service jails for up to 5 years. DOC's cost to incarcerate a felony inmate in a jail is \$31.45 per day (includes jail per diem, medical & central office costs), not including substance abuse treatment. Projections are based on the daily rate x 365 x number of years.

**Projected Impact:**  NONE  MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

SB 240 amends KRS 439.3401 to specify that all kidnapping and attempted kidnapping convictions are violent offenses with 50% service time.

The bill removes wording for Burglary 1<sup>st</sup> Degree accompanied by the commission or attempted kidnaping. The modification removes the requirement that burglary occur in conjunction with kidnapping.

Kidnapping under KRS 509.040 is currently either a Class A or Class B felony. It is a Class A felony if death or serious physical injury occurs and would already be subject to the violent offender statute and subject to 85% of sentence service before being eligible for parole.

The Class B Kidnapping and Attempted Kidnapping are currently subject to 20% parole eligibility.

Kidnapping of a minor (unless parental kidnapping) would be under KRS 17.500 a sex offender, subject to completion of a sex offender treatment program prior to parole eligibility. A sexual offender who does not complete the sex offender treatment program for any reason shall serve his or her entire sentence without benefit of sentencing credit, parole, or other form of early release.

According to AOC data, in FY2015-17 there were five (5) convictions of Class C Felony Attempted Kidnapping, forty-five (45) convictions of Class B Felony Kidnapping, and eight (8) convictions of Class A Felony Kidnapping (Death or Serious Physical Injury).

Currently there are six (6) offenders incarcerated for convictions of Class A Kidnapping resulting in Death or Serious Physical Injury. These offenders have an average sentence length of 25 years and as a violent offender, must serve 85% of their sentence (21.3 years) prior to parole eligibility. Moving these offenders to a 50% parole eligibility (12.5 years) would reduce the days in custody prior to parole eligibility by 8.7 years, for a savings of \$223,928.22 for each offender. Note: these offenders may be serving on other charges as well.

Currently the Department has two (2) offenders in custody convicted of the Class C level offense of Criminal Attempt to Kidnapping and 100 offenders in custody on Class B Kidnapping.

For offenders currently incarcerated on the Class C level for Criminal Attempt, the average sentence length is 8.5 years. Currently, on average, these offenders would be eligible for parole after 1.7 years of their sentence. If held to 50% parole eligibility, at 4.2 years, it would result in an average of 931 additional days of service of sentence prior to parole eligibility. These Class C offenders

may or may not be eligible for community custody. At a cost of either \$31.34 or \$70.12 per day, this is an increased cost of \$29,146.20 - \$125,462.21 for each offender. Note: these offenders may be serving on other charges.

For offenders currently incarcerated for Class B level Kidnapping, the average sentence length is 16.3 years. Currently these offenders would be eligible for parole at 3.3 years of their sentence. If Class B Kidnapping and Attempted Kidnapping were held to 50% parole eligibility, at 8.2 years, it would result in an average of 1,789 additional days of service of sentence prior to parole eligibility. At a cost of \$70.12 per day, this is \$125,462.21 in increased cost for each offender. For the 100 offenders currently incarcerated on these offenses, this would total \$12,546,221.00. Note: these offenders may be serving on other charges as well.

Overall, the number of offenders convicted for Kidnapping or Attempted Kidnapping are limited. While this legislation would reduce the period of time for parole eligibility for Class A Kidnapping, the additional days of incarceration prior to parole eligibility for Class B Kidnapping and Attempted Kidnapping increases incarceration lengths with a significant impact to incarceration costs.

A Class C Felony sentence is 5 to 10 years.	10 Class C Felons cost KY \$1.3M to \$2.6M
1 Class C Felon costs KY \$127,972 to \$255,944	100 Class C Felons cost KY \$12.8M to \$25.6M
A Class B Felony sentence is 10 to 20 years.	10 Class B Felons cost KY \$2.6M to \$5.1M
1 Class B Felon costs KY \$255,944 to \$511,889	100 Class B Felons cost KY \$25.6M to \$51.2M
A Class A Felony sentence is 20 years or more.	10 Class A Felons cost KY a minimum of \$5.1M
1 Class A Felon costs KY a minimum of \$511,889	100 Class A Felons cost KY a minimum of \$51.2M

**LOCAL IMPACT:** Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until disposition of the case. While the expense varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical that DOC pays jails to house felony offenders.

**Projected Impact:**  NONE  MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

Class C offenders incarcerated on the offense of Criminal Attempt-Kidnapping may or may not be eligible for community custody. To be eligible for community custody, Class C offenders would have to be classified at the lowest custody level with eighteen (18) months or less to expiration or parole eligibility. The increased days in custody if these Class C offenders are held to 50% parole eligibility provides an opportunity for jails in additional revenue through state inmate per diem, however, longer sentences do impact local jail capacity.


Based on the limited number of offenders in custody for Criminal Attempt-Kidnapping, the impact to county jails is not expected to be significant.

**The following offices contributed to this Corrections Impact Statement:**

Dept. of Corrections  Dept. of Kentucky State Police  Administrative Office of the Courts  Parole Board  Other

**NOTE: Consideration should be given to the cumulative impact of all bills that increase the felon population or that impose new obligations on state or local governments. The Department of Corrections and local jails continue to operate over capacity. Without steps to reduce the population, any legislation that increases population or lengthens the term of incarceration will have a significant impact on correctional operations.**

**APPROVED BY:**

  
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Commissioner, Kentucky Department of Corrections

**3/9/2018**  
Date