

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

H

D

HOUSE BILL 237  
PROPOSED COMMITTEE SUBSTITUTE H237-PCS40416-SA-4

Short Title: Criminal Law Revisions.

(Public)

Sponsors:

Referred to:

March 2, 2023

1 A BILL TO BE ENTITLED  
2 AN ACT TO CRIMINALIZE MONEY LAUNDERING AND TO ESTABLISH AN  
3 ENHANCED SENTENCE IF A DEFENDANT IS CONVICTED OF AN OFFENSE AND  
4 THE DEFENDANT WAS WEARING A MASK, HOOD, OR OTHER CLOTHING OR  
5 DEVICE TO CONCEAL OR ATTEMPT TO CONCEAL THE DEFENDANT'S  
6 IDENTITY.

7 The General Assembly of North Carolina enacts:

8  
9 **PART I. CRIMINALIZE MONEY LAUNDERING**

10 **SECTION 1.(a)** Article 20 of Chapter 14 of the General Statutes is amended by  
11 adding a new section to read:

12 "**§ 14-118.8. Money laundering.**

13 (a) Definitions. – The following definitions apply in this section:

14 (1) Criminal activity. – An offense that is (i) classified as a felony under the laws  
15 of this State or the United States or (ii) punishable by imprisonment for more  
16 than one year under the laws of another state.

17 (2) Financial institution. – As defined in G.S. 14-119.

18 (3) Funds. – Includes any of the following:

19 a. Coin or paper money of the United States or any other country that is  
20 designated as legal tender and that circulates and is customarily used  
21 and accepted as a medium of exchange in the country of issue.

22 b. United States silver certificates, United States Treasury notes, and  
23 Federal Reserve System notes.

24 c. An official foreign bank note that is customarily used and accepted as  
25 a medium of exchange in a foreign country and a foreign bank draft.

26 d. Currency or its equivalent, including an electronic fund, a personal  
27 check, a bank check, a traveler's check, a money order, a bearer  
28 negotiable instrument, a bearer investment security, a bearer security,  
29 a certificate of stock in a form that allows title to pass on delivery, or  
30 a digital currency.

31 (4) Insurer. – As defined in G.S. 58-1-5.

32 (5) Proceeds. – Funds acquired or derived directly or indirectly from, produced  
33 through, realized through, or used in the commission of any act.

34 (b) Offense. – A person commits the offense of money laundering if the person  
35 knowingly does any of the following:



\* H 2 3 7 - P C S 4 0 4 1 6 - S A - 4 \*

- 1           (1) Acquires or maintains an interest in, conceals, possesses, transfers, or  
2 transports the proceeds of criminal activity.
- 3           (2) Conducts, supervises, or facilitates a transaction involving the proceeds of  
4 criminal activity.
- 5           (3) Invests, expends, or receives, or offers to invest, expend, or receive, the  
6 proceeds of criminal activity or funds that the person believes are the proceeds  
7 of criminal activity.
- 8           (4) Finances or invests, or intends to finance or invest, funds that the person  
9 believes are intended to further the commission of criminal activity.
- 10          (5) Uses, conspires to use, or attempts to use the proceeds of criminal activity to  
11 conduct or attempt to conduct a transaction or make other disposition with the  
12 intent to conceal or disguise the nature, location, source, ownership, or control  
13 of the proceeds of criminal activity.
- 14          (6) Uses the proceeds of criminal activity with the intent to promote, in whole or  
15 in part, the commission of criminal activity.
- 16          (c) Knowledge of Criminal Activity. – Knowledge of the specific nature of the criminal  
17 activity giving rise to the proceeds is not required to establish a culpable mental state under this  
18 section.
- 19          (d) Presumption. – For purposes of this section, a person is presumed to believe that funds  
20 are the proceeds of or are intended to further the commission of criminal activity if a law  
21 enforcement officer or a person acting at the direction of a law enforcement officer represents to  
22 the person that the funds are proceeds of or are intended to further the commission of criminal  
23 activity, as applicable, regardless of whether the law enforcement officer or person acting at the  
24 law enforcement officer's direction discloses the person's status as a law enforcement officer or  
25 that the person is acting at the direction of a law enforcement officer.
- 26          (e) Defense. – It is a defense to prosecution under this section that the person acted with  
27 intent to facilitate the lawful seizure, forfeiture, or disposition of funds or other legitimate law  
28 enforcement purpose pursuant to the laws of this State or the United States.
- 29          (f) Punishment. – In addition to any other civil or criminal penalties provided by law, a  
30 person who commits an offense under subsection (b) of this section shall be punished as follows:
- 31               (1) If the value of the proceeds or funds is less than one hundred thousand dollars  
32 (\$100,000), the person is guilty of a Class H felony.
- 33               (2) If the value of the proceeds or funds is one hundred thousand dollars  
34 (\$100,000) or more, the person is guilty of a Class C felony.
- 35          (g) Forfeiture. – In addition to the punishment set forth in subsection (f) of this section,  
36 all property of every kind used or intended for use in the course of, derived from, maintained by,  
37 or realized through a violation of subsection (b) of this section shall be subject to forfeiture under  
38 the procedure set forth in either G.S. 14-2.3 or G.S. 75D-5.
- 39          (h) Aggregation. – If the proceeds of criminal activity are related to one scheme or  
40 continuing course of conduct, whether from the same or several sources, the conduct may be  
41 considered as one offense and the value of the proceeds aggregated in determining the  
42 classification of the offense under subsection (f) of this section.
- 43          (i) Merger. – Each violation of subsection (b) of this section constitutes a separate  
44 offense and shall not merge with any other offense.
- 45          (j) Conspiracy. – A person who conspires to commit an offense under subsection (b) of  
46 this section shall be punished as provided in subsection (f) of this section, and all other provisions  
47 of this section shall apply to that offense.
- 48          (k) Protection from Liability. – Notwithstanding any provision of law to the contrary, a  
49 financial institution, or an agent of the financial institution, acting in a manner described by  
50 subsection (e) of this section is not liable for civil damages to a person who (i) claims an  
51 ownership interest in funds involved in a violation of subsection (b) of this section or (ii) conducts

1 with the financial institution or insurer a transaction concerning funds involved in a violation of  
2 subsection (b) of this section."

3 **SECTION 1.(b)** G.S. 75D-3(c)(1)c. reads as rewritten:

4 "c. Any conduct involved in a "money laundering" ~~activity;~~  
5 activity, including activity covered by G.S. 14-118.8; and"

6  
7 **PART II. ENHANCED SENTENCE FOR WEARING A MASK WHILE COMMITTING**  
8 **A CRIMINAL OFFENSE**

9 **SECTION 2.** Article 81B of Chapter 15A of the General Statutes is amended by  
10 adding a new section to read:

11 "**§ 15A-1340.16F. Enhanced sentence if defendant is convicted of a misdemeanor or felony**  
12 **and the defendant was wearing a mask, hood, or other clothing or device to**  
13 **conceal or attempt to conceal the defendant's identity.**

14 (a) If a person is convicted of a misdemeanor or felony and it is found as provided in this  
15 section that the person wore a mask, hood, or other clothing or device that concealed or attempted  
16 to conceal the person's identity at the time of the offense, then the person is guilty of a  
17 misdemeanor or felony that is one class higher than the underlying misdemeanor or felony for  
18 which the person was convicted. Notwithstanding any provision of this Article to the contrary,  
19 the court shall impose a sentence of imprisonment for a person convicted of an offense enhanced  
20 under this section if, after enhancement, the class of offense and prior record level permit active  
21 punishment as a sentence disposition.

22 (b) An indictment or information for the offense shall allege in that indictment or  
23 information or in a separate indictment or information the facts that qualify the offense for an  
24 enhancement under this section. One pleading is sufficient for all offenses that are tried at a single  
25 trial.

26 (c) The State shall prove the issues set out in subsection (a) of this section beyond a  
27 reasonable doubt during the same trial in which the defendant is tried for the offense unless the  
28 defendant pleads guilty or no contest to the issues. If the defendant pleads guilty or no contest to  
29 the offense but pleads not guilty to the issues laid out in subsection (a) of this section, then a jury  
30 shall be impaneled to determine the issues.

31 (d) Subsection (a) of this section does not apply if the evidence of wearing a mask, hood,  
32 or other clothing or device to conceal or attempt to conceal the person's identity is needed to  
33 prove an element of the underlying misdemeanor or felony."

34  
35 **PART III. EFFECTIVE DATE**

36 **SECTION 3.** This act becomes effective December 1, 2023, and applies to offenses  
37 committed on or after that date.