

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

D

HOUSE BILL 237
Committee Substitute Favorable 4/19/23
PROPOSED COMMITTEE SUBSTITUTE H237-PCS30366-SA-23

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 and willingly does any of the following involving proceeds of criminal activity or



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

1 funds that alone or aggregated pursuant to subsection (g) of this section exceed ten thousand
2 dollars (\$10,000):

3 (1) Acquires or maintains an interest in, conceals, possesses, transfers, or
4 transports the proceeds of criminal activity.

5 (2) Conducts, supervises, or facilitates a transaction involving the proceeds of
6 criminal activity.

7 (3) Invests, expends, or receives, or offers to invest, expend, or receive, the
8 proceeds of criminal activity or funds that the person believes are the proceeds
9 of criminal activity.

10 (4) Finances or invests, or intends to finance or invest, funds that the person
11 believes are intended to further the commission of criminal activity.

12 (5) Uses, conspires to use, or attempts to use the proceeds of criminal activity to
13 conduct or attempt to conduct a transaction or make other disposition with the
14 intent to conceal or disguise the nature, location, source, ownership, or control
15 of the proceeds of criminal activity.

16 (6) Uses the proceeds of criminal activity with the intent to promote, in whole or
17 in part, the commission of criminal activity.

18 (c) Knowledge of Criminal Activity. – Knowledge of the nature of the criminal activity
19 giving rise to the proceeds is required to establish a culpable mental state under this section.

20 (d) Defense. – It is a defense to prosecution under this section that the person acted with
21 intent to facilitate the lawful seizure, forfeiture, or disposition of funds or other legitimate law
22 enforcement purpose pursuant to the laws of this State or the United States.

23 (e) Punishment. – In addition to any other civil or criminal penalties provided by law, a
24 person who commits an offense under subsection (b) of this section shall be punished as follows:

25 (1) If the value of the proceeds or funds is less than one hundred thousand dollars
26 (\$100,000), the person is guilty of a Class H felony.

27 (2) If the value of the proceeds or funds is one hundred thousand dollars
28 (\$100,000) or more, the person is guilty of a Class C felony.

29 (f) Forfeiture. – In addition to the punishment set forth in subsection (e) of this section,
30 all property of every kind used or intended for use in the course of, derived from, maintained by,
31 or realized through a violation of subsection (b) of this section shall be subject to forfeiture under
32 the procedure set forth in either G.S. 14-2.3 or G.S. 75D-5.

33 (g) Aggregation. – If the proceeds of criminal activity are related to one scheme or
34 continuing course of conduct, whether from the same or several sources, the conduct may be
35 considered as one offense and the value of the proceeds aggregated in determining the
36 classification of the offense under subsection (e) of this section.

37 (h) Merger. – Each violation of subsection (b) of this section constitutes a separate
38 offense and shall not merge with any other offense.

39 (i) Conspiracy. – A person who conspires to commit an offense under subsection (b) of
40 this section shall be punished as provided in subsection (e) of this section, and all other provisions
41 of this section shall apply to that offense. It shall not be a defense to conspiracy to commit an
42 offense under subsection (b) of this section that the person with whom the defendant is alleged
43 to have conspired was a law enforcement officer or a person acting at the direction of a law
44 enforcement officer that represented to the defendant that the funds are proceeds of or are
45 intended to further the commission of criminal activity.

46 (j) Protection from Liability. – Notwithstanding any provision of law to the contrary, a
47 financial institution, or an agent of the financial institution, acting in a manner described by
48 subsection (d) of this section is not liable for civil damages to a person who (i) claims an
49 ownership interest in funds involved in a violation of subsection (b) of this section or (ii) conducts
50 with the financial institution or insurer a transaction concerning funds involved in a violation of
51 subsection (b) of this section."

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

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

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

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

9 "§ 15A-1340.16F. Enhanced sentence if defendant is convicted of a misdemeanor or felony
10 and the defendant was wearing a mask, hood, or other clothing or device to
11 conceal or attempt to conceal the defendant's identity.

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

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

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

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

33 **PART III. EFFECTIVE DATE**

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