

§ 15A-1340.16G. Enhanced sentence if defendant is convicted of a misdemeanor or felony and the defendant was wearing a mask or other clothing or device to conceal or attempt to conceal the defendant's identity.

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

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

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

(d) Subsection (a) of this section does not apply if the evidence of wearing a mask or other clothing or device to conceal or attempt to conceal the person's identity is needed to prove an element of the underlying misdemeanor or felony. (2024-16, s. 2(a).)