

§ 15A-1340.16E. Enhanced sentence for offenses committed by criminal gang members as a part of criminal gang activity.

(a) Except as otherwise provided in subsection (b) of this section, if a person is convicted of any felony other than a Class A, B1, or B2 felony, and it is found that the offense was committed as part of criminal gang activity as defined in G.S. 14-50.16A(2), then the person shall be sentenced at a felony class level one class higher than the principal felony for which the person was convicted.

(b) If subsection (a) of this section applies and the person is found to be a criminal gang leader or organizer as defined in G.S. 14-50.16A(3), the person shall be sentenced at a felony class level two classes higher than the principal felony for which the person was convicted.

(c) No defendant sentenced pursuant to this section shall be sentenced at a level higher than a Class C felony. Any sentence imposed under this section shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced under this section.

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

(e) The State shall prove the issues set out under subsection (a) or (b) of this section beyond a reasonable doubt. The issues shall be proven and found in the same manner as provided for aggravating factors in G.S. 15A-1340.16(a1), (a2), or (a3) as applicable.

(f) This section shall not apply to any gang offense included under Article 13A of Chapter 14 of the General Statutes. (2017-194, s. 5.)