

76-3-203.7 Increase of sentence for violent felony if body armor used.

- (1) As used in this section:
 - (a) "Body armor" means any material designed or intended to provide bullet penetration resistance or protection from bodily injury caused by a dangerous weapon.
 - (b) "Dangerous weapon" has the same definition as in Section 76-1-601.
 - (c) "Violent felony" has the same definition as in Section 76-3-203.5.
- (2) A person convicted of a violent felony may be sentenced to imprisonment for an indeterminate term, as provided in Section 76-3-203, but if the trier of fact finds beyond a reasonable doubt that the defendant used, carried, or possessed a dangerous weapon and also used or wore body armor, with the intent to facilitate the commission of the violent felony, and the violent felony is:
 - (a) a first degree felony, the court shall sentence the person convicted for a term of not less than six years, and which may be for life;
 - (b) a second degree felony, the court shall sentence the person convicted for a term of not less than two years nor more than 15 years, and the court may sentence the person convicted for a term of not less than two years nor more than 20 years; and
 - (c) a third degree felony, the court shall sentence the person convicted for a term of not less than one year nor more than five years, and the court may sentence the person convicted for a term of not less than one year nor more than 10 years.
- (3) The sentencing enhancement described in this section does not apply if:
 - (a) the offense for which the person is being sentenced is:
 - (i) a grievous sexual offense;
 - (ii) child kidnapping, Section 76-5-301.1;
 - (iii) aggravated kidnapping, Section 76-5-302; or
 - (iv) forcible sexual abuse, Section 76-5-404; and
 - (b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Amended by Chapter 339, 2007 General Session