

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1362

Short Title: Change Law on Drug Trafficking Convictions. (Public)

Sponsors: Representatives Blue; E. Floyd and Lucas.

Referred to: Judiciary II, if favorable, Ways and Means/Broadband Connectivity.

April 9, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAW REGARDING THE SENTENCE THAT MAY BE  
3 IMPOSED ON CERTAIN PERSONS CONVICTED OF A DRUG TRAFFICKING  
4 OFFENSE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 90-95(h)(5) reads as rewritten:

7 "(5) Except as provided in this subdivision, a person being sentenced under this  
8 subsection may not receive a suspended sentence or be placed on probation.  
9 The sentencing judge may reduce the fine, or impose a prison term less than  
10 the applicable minimum prison term provided by this subsection, or suspend  
11 the prison term imposed and place a person on probation ~~when such~~when the  
12 sentencing judge finds that the person meets the criteria set out in either  
13 sub-subdivision a. or b. of this subdivision and enters that finding in the  
14 record:

15 a. The person has, to the best of his~~the~~ person's knowledge, provided  
16 substantial assistance in the identification, arrest, or conviction of  
17 any accomplices, accessories, co-conspirators, or principals if the  
18 sentencing judge enters in the record a finding that the person to be  
19 sentenced has rendered such substantial assistance.~~principals; or~~

20 b. The person has no prior convictions for crimes that produced or  
21 threatened serious bodily harm; has no prior felony convictions for  
22 the manufacture, sale, delivery, or possession of controlled  
23 substances as defined in this Article; and the sentencing judge finds  
24 by a preponderance of the evidence that the person did not possess a  
25 firearm during the commission of the offense."

26 **SECTION 2.** A person convicted under G.S. 90-95(h)(5) prior to the effective date  
27 of this act may petition the sentencing court for a change in the person's sentence. If the  
28 sentencing judge finds that the person meets the criteria set forth in G.S. 90-95(h)(5), as  
29 amended by this act, the judge may make any sentencing change allowed under that  
30 subdivision.

31 **SECTION 3.** This act becomes effective December 1, 2009.

