

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS15210-LL-202 (1/16)

Short Title: Amend Sentencing/Drug Violations.

(Public)

Sponsors: Senator Kinnaird.

Referred to:

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.



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