

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 511
Senate Judiciary Committee Substitute Adopted 6/26/19

Short Title: North Carolina First Step Act.

(Public)

Sponsors:

Referred to:

April 1, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE JUDICIAL DISCRETION IN SENTENCING FOR DRUG
3 TRAFFICKING OFFENSES AND TO AUTHORIZE THE COLLECTION OF CRIMINAL
4 JUSTICE DATA.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. This act shall be known and may be cited as "The North Carolina First
7 Step Act."

8 SECTION 2. G.S. 90-95(h) reads as rewritten:

9 "(h) Notwithstanding any other provision of law, the following provisions apply except as
10 otherwise provided in this Article.

11 ...
12 (5) Except as provided in this ~~subdivision~~, subdivision and subdivision (5a), a
13 person being sentenced under this subsection may not receive a suspended
14 sentence or be placed on probation. The sentencing judge may reduce the fine,
15 or impose a prison term less than the applicable minimum prison term
16 provided by this subsection, or suspend the prison term imposed and place a
17 person on probation when such person has, to the best of ~~his~~ the person's
18 knowledge, provided substantial assistance in the identification, arrest, or
19 conviction of any accomplices, accessories, co-conspirators, or principals if
20 the sentencing judge enters in the record a finding that the person to be
21 sentenced has rendered such substantial assistance.

22 (5a) The judge sentencing a person for a violation of G.S. 90-95(h) or conspiracy
23 to commit a violation under G.S. 90-95(i) may reduce the fine, or impose a
24 prison term less than the applicable minimum prison term provided by this
25 subsection, or suspend the prison term imposed and place a person on
26 probation if the sentencing judge finds and enters in the record substantial and
27 compelling reasons based on the nature of the crime, the history and character
28 of the defendant, and the defendant's chances of rehabilitation, that imposition
29 of the applicable minimum prison term would result in substantial injustice to
30 the defendant and is not necessary for the protection of the public. The
31 sentence modification authorized under this subdivision does not apply to a
32 person the judge determines occupies a position of organizer, a supervisory
33 position, or any other position of management in a continuing criminal
34 enterprise, as that term is defined in G.S. 90-95.1. The sentence modification
35 authorized under this subdivision is in addition to any sentence modification
36 authorized under subdivision (5) of this subsection.



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2 **SECTION 3.** G.S. 90-95 is amended by adding a new subsection to read:

3 "(j) Beginning December 1, 2020, and annually thereafter, the Administrative Office of
4 the Courts shall publish on its Web site a report on the number of sentences modified under
5 G.S. 90-95(h)(5a) in the prior calendar year."

6 **SECTION 4.** Except as otherwise provided in this section, a person serving an active
7 sentence imposed solely for a violation of G.S. 90-95(h) or conspiracy to commit a violation
8 under G.S. 90-95(i) committed before the effective date of this act may file a motion for
9 appropriate relief in accordance with Article 89 of Chapter 15A of the General Statutes for a
10 modification of the person's sentence under the authority granted in G.S. 90-95(h)(5a), as enacted
11 in Section 2 of this act. A person sentenced under G.S. 90-95(h)(5) is ineligible to file a motion
12 for appropriate relief for a sentence modification under this section. Notwithstanding any
13 provision of Article 89 of Chapter 15A of the General Statutes to the contrary, all of the following
14 conditions apply to a motion for appropriate relief filed pursuant to this section:

- 15 (1) A person seeking a sentence modification under this section must file a motion
16 for appropriate relief within 36 months of the effective date of this act.
- 17 (2) The court shall require the State to respond to a motion for appropriate relief
18 filed pursuant to this section within 60 days of the date of the filing and shall
19 hold any hearing deemed necessary by the court within 180 days of the date
20 of the filing.
- 21 (3) The court may only modify a sentence under this section if the court finds the
22 requirements of G.S. 90-95(h)(5a) have been met.

23 **SECTION 5.(a)** The Department of Information Technology, Government Data
24 Analytics Center, and the Administrative Office of the Courts shall conduct a statewide study to
25 identify the criminal justice data elements currently collected and maintained by jails, courts, and
26 prisons. The purpose of the study is (i) to identify gaps in data and accessibility of data for
27 research purposes and for use by judicial officials and other stakeholders and (ii) to identify
28 solutions for improving availability and accessibility of data to inform public policy through an
29 integrated tool or other system. In conducting this study, the Department may seek input from
30 local or regional detention facility administrators, the University of North Carolina at Chapel Hill
31 School of Government, the North Carolina Sentencing and Policy Commission, the North
32 Carolina Sheriffs' Association, organizations concerned with criminal justice data, and any other
33 stakeholders the Departments deem appropriate.

34 **SECTION 5.(b)** The study shall examine at least all of the following issues:

- 35 (1) The data elements currently being collected by each local and regional
36 detention facility with regard to each individual admitted to jail and each
37 facility's operation (e.g., admissions, population, revenue, costs), and the
38 current system for collecting, recording, maintaining, and searching these data
39 elements.
- 40 (2) The data elements currently being collected by the courts with regard to
41 individuals who have been charged with infractions or criminal offenses,
42 including magistrates' records and information from the courtroom clerk such
43 as continuances, appearances, and failures to appear, and the current system
44 for collecting, recording, maintaining, and searching these data elements.
- 45 (3) The data elements needed for policymakers to understand the criminal justice
46 system, including the demographics, reasons for involvement, and outcomes
47 for individuals involved in the system at the county and statewide levels.
- 48 (4) Any gaps in data elements and whether any data elements that are currently
49 collected are inaccessible or made difficult to access or study because of
50 certain aspects of data management and data entry, and specific actions to
51 address those barriers to accessing and using data elements that are currently

- 1 collected such as standardization of data entry, use of unique identifiers, and
- 2 avoiding overwriting of data elements.
- 3 (5) Steps that would be necessary to create a statewide program to collect
- 4 county-level criminal justice data to inform policymakers and other
- 5 stakeholders, including solutions for integrating data from different systems
- 6 including options for integrating data that currently are collected, as well as
- 7 for addressing any data gaps identified, and options for making data elements
- 8 available to judicial officials and other stakeholders, as well as for research
- 9 purposes, in an open electronic format. Any recommendations should
- 10 consider any related privacy or data security issues.
- 11 (6) A review of best practices of other states that collect local-level criminal
- 12 justice data and integrate them with data from the court system and other state
- 13 systems.
- 14 (7) Any other related issues that the Department deems necessary.
- 15 **SECTION 5.(c)** The Department shall report findings and recommendations to the
- 16 Joint Legislative Oversight Committee on Information Technology and the Joint Legislative
- 17 Oversight Committee on Justice and Public Safety no later than March 15, 2020.
- 18 **SECTION 5.(d)** This section is effective when it becomes law.
- 19 **SECTION 6.** Sections 1, 2, 3, and 4 of this act become effective December 1, 2019,
- 20 and except as otherwise provided in Section 4 of this act, apply to offenses committed on or after
- 21 that date. Except as otherwise provided, the remainder of this act is effective when it becomes
- 22 law.