



HOUSE BILL 511: North Carolina First Step Act.

2019-2020 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: July 1, 2019
Introduced by: Reps. Grange, Szoka, Goodwin	Prepared by: Shawn Middlebrooks
Analysis of: Second Edition	Staff Attorney

OVERVIEW: *House Bill 511 would:*

- *Allow a sentencing court to deviate from the minimum and maximum sentencing mandates for drug trafficking offenses.*
- *Allow a person sentenced solely for trafficking or conspiracy to commit trafficking to file a Motion for Appropriate Relief (MAR) to have their sentence modified.*
- *Authorize the Department of Information Technology (DIT) and the Administrative Office of the Courts (AOC) to study the collection of criminal justice data.*

CURRENT LAW:

G.S. 90-95(h) provides the mandatory minimum and maximum sentences for drug *trafficking* offenses. Sentences range from a Class H felony to a Class C felony depending on the type and amount the drugs being trafficked. Similarly, fines for drug trafficking sentences range from \$5,000 to \$250,000. The court may reduce the fine, impose a lesser applicable prison term, or suspend the prison term if the court determines that the offender provided *substantial assistance*. Unless the court finds that an offender has provided substantial assistance, the offender must receive the following sentence regardless of prior record level:

- Class C Drug Trafficking: Minimum 225 months; maximum 282 months.
- Class D Drug Trafficking: Minimum 175 months; maximum 222 months.
- Class E Drug Trafficking: Minimum 90 months; maximum 120 months.
- Class F Drug Trafficking: Minimum 70 months; maximum 93 months.
- Class G Drug Trafficking: Minimum 35 months; maximum 51 months.
- Class H Drug Trafficking: Minimum 25 months; maximum 39 months.

BILL ANALYSIS:

Section 1 of House Bill 511 would refer to the bill as "*The North Carolina First Step Act*".

Section 2 of House Bill 511 would add a new subdivision to G.S. 90-95(h) that allows a judge to reduce the fine, impose a lesser prison term, or suspend the prison term, and place the defendant on probation for a conviction of trafficking or conspiracy to commit trafficking if the court finds that the minimum sentence would result in a *substantial injustice* and *is not necessary for the protection of the public*.

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Section 3 of House Bill 511 would require the Administrative Office of the Court to publish on its website the number of sentences modified under G.S. 90-95(h)(5a).

Section 4 of House Bill 511 would:

- Allow a person serving an active sentence solely for a conviction of trafficking, or conspiracy to commit trafficking, to file a Motion for Appropriate Relief (MAR) to have their sentence modified pursuant to G.S. 90-95(h)(5a).
- Clarify that a person sentenced to a reduced prison term for providing *substantial assistance* (G.S. 90-95(h)(5)) is not eligible to file an MAR under this G.S. 90-95(h)(5a).
- Require the MAR to be filed with 36 months of the effective date of the act
- Require the State to respond to the MAR within 60 days of the date of filing.
- Require the court to hold a hearing within 180 days of the date of filing.
- Clarify that a sentence may only be modified if all the requirements of G.S. 90-95(h)(5a) are met.

Section 5 of House Bill 511 would:

- Authorize DIT and AOC to conduct a statewide study to identify the criminal justice data elements collected by jails, courts, and prisons.
- Identify gaps in the accessibility of data for research purposes and for use by judicial official and other stakeholders.
- Study steps to modernize access to criminal justice data.

EFFECTIVE DATE: This act becomes effective December 1, 2019, and, except as otherwise provided in Section 4 of this act, applies to offenses committed on or after that date.