



HOUSE BILL 511: North Carolina First Step Act.

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	June 11, 2020
Introduced by:	Rep. Grange	Prepared by:	Shawn Middlebrooks Staff Attorney
Analysis of:	Fifth Edition		

OVERVIEW: *House Bill 511 would do the following:*

- *Allow a sentencing court to deviate from the minimum and maximum sentencing mandates for drug trafficking offenses.*
- *Require the Administrative Office of the Courts to publish an annual report of the number of sentences modified under Section 2 of this act.*
- *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) to study the collection of criminal justice data elements.*

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 would refer to the bill as "*The North Carolina First Step Act*".

Section 2, effective December 1, 2019, and applicable to sentences ordered on or after that date, would add a new subdivision to G.S. 90-95(h) that allows a judge to reduce the fine and sentence the person in accordance with structured sentencing for a conviction of trafficking or conspiracy to commit trafficking if the court enters certain findings on the record.

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House Bill 511

Page 2

Section 3, beginning December 1, 2020, and annually thereafter, 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, effective December 1, 2019, and applicable to sentences ordered on or before November 30, 2019, 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), provided the following conditions are met:

- The MAR was filed within 36 months of the effective date of the act.
- The person filing the MAR has no other felony drug convictions.
- The person filing the MAR was convicted solely for trafficking, or conspiracy to commit trafficking, by possession of a controlled substance.
- The person filing the MAR was convicted for trafficking of a controlled substance that is within the lowest statutory range set for that controlled substance.

Section 5 would authorize the Department of Information Technology, Government Data Analytics Center, to conduct a study to identify criminal justice data elements related to criminal charges in order to: (i) identify gaps in data for use by criminal justice professionals, (ii) identify solutions for improving availability and accessibility of collected data to policymakers, and report findings and recommendations to the Joint Legislative Oversight Committee on IT and the Joint Legislative Oversight Committee on Justice and Public Safety.

EFFECTIVE DATE: Except as otherwise provided, this act is effective when it becomes law.