

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 1045

Short Title: Amend Sentencing/Drug Violations.

(Public)

Sponsors: Senator Kinnaird.

Referred to: Judiciary I.

March 31, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW REGARDING THE SENTENCE THAT MAY BE  
IMPOSED ON CERTAIN PERSONS CONVICTED OF A DRUG TRAFFICKING  
OFFENSE.

The General Assembly of North Carolina enacts:

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

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

- a. The person has, to the best of his ~~the person's~~ knowledge, provided substantial assistance in the identification, arrest, or conviction of any accomplices, accessories, co-conspirators, or principals if the sentencing judge enters in the record a finding that the person to be sentenced has rendered such substantial assistance. ~~principals; or~~
- b. The person has no prior convictions for crimes that produced or threatened serious bodily harm; has no prior felony convictions for the manufacture, sale, delivery, or possession of controlled substances as defined in this Article; and the sentencing judge finds by a preponderance of the evidence that the person did not possess a firearm during the commission of the offense."

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

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



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