

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 511  
PROPOSED SENATE COMMITTEE SUBSTITUTE H511-PCS30490-BQ-34

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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1 ...."

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.