GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2007

SENATE DRS75368-LL-95 (2/20)

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(Public)

Short Title:	Early Release/Certain Drug Violations.
Sponsors:	Senator Kinnaird.

Referred to:

1		A BILL TO BE ENTITLED
2	AN ACT TO AMENI	THE LAW REGARDING THE SENTENCE THAT MAY BE
3	IMPOSED ON CE	RTAIN PERSONS CONVICTED OF A DRUG TRAFFICKING
4	OFFENSE AND	TO PROVIDE FOR THE EARLY RELEASE OF CERTAIN
5	INMATES.	
6	The General Assembly	v of North Carolina enacts:
7	SECTION	1. G.S. $90-95(h)(5)$ reads as rewritten:
8	"(5) Exce	pt as provided in this subdivision, a person being sentenced under
9	this s	ubsection may not receive a suspended sentence or be placed on
10	proba	tion. The sentencing judge may reduce the fine, or impose a
11	priso	n term less than the applicable minimum prison term provided by
12	this s	ubsection, or suspend the prison term imposed and place a person
13	on p	robation when such when the sentencing judge finds that the
14	perso	n meets the criteria set out in either sub-subdivision a. or b. of
15	<u>this s</u>	ubdivision and enters that finding in the record:
16	<u>a.</u>	The person has, to the best of his knowledge, provided
17		substantial assistance in the identification, arrest, or conviction
18		of any accomplices, accessories, co-conspirators, or principals
19		if the sentencing judge enters in the record a finding that the
20		person to be sentenced has rendered such substantial
21		assistance.principals; or
22	<u>b.</u>	The person has no prior convictions for crimes that produced or
23		threatened serious bodily harm; has no prior felony convictions
24		for the manufacture, sale, delivery, or possession of controlled
25		substances as defined in this Article; and the sentencing judge
26		finds by a preponderance of the evidence that the person: (i)
27		did not possess a firearm during the commission of the offense;

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(ii) played a minima	I role in the drug scheme that led to the
	out the offense at the direction of another;
	eive substantially less pecuniary gain from
	person who directed the commission of the
offense."	
	e General statutes is amended by adding a
new Article to read:	
"Article	84B.
"Early Release of	
"§ 15A-1370A. Early release of certain inn	
	for a violation of G.S. 90-95 who was
convicted for the offense prior to December	
by the Department of Correction provided the	
	sentencing, satisfied all of the criteria in
G.S. 90-95(h)(5)b.;	
	actions or attempted escapes on his or her
record while incarcerated;	<u></u>
(3) Has served at least one-half	of his or her sentence: and
	emoval against him or her from the United
States Office of Homeland S	÷
	a violation of G.S. 90-95 who has an order
of removal against him or her from the Unite	
shall be eligible for early release by the Depa	
	ished in subdivisions (1) through (3) of
subsection (a) of this section	
	result in the inmate's immediate removal
	the inmate is released from the custody of
the Department of Correction	
*	release an inmate under subsection (b) of
this section only to the United States De	
inmate's release shall be accompanied by a	•
executed in the event of the inmate's re	÷
deportation.	
	release an inmate under subsection (b) of
this section only after it has received w	
Department of Homeland Security that:	
* *	be executed immediately; and
	rly release under subsection (b) of this
	ed from the custody of the United States
	ecurity, other than by deportation, without
*	a reasonable opportunity to arrange for
execution of its warrant for	
	d under subsection (b) of this section is not
deported, the Department of Correction shall	

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1	(c) of this sect	ion, effect the inmate's return to the custody of the Department of
2	Correction, and	reinstate the inmate's original sentence with credit for time served in the
3	custody of the U	Inited States Department of Homeland Security.
4	(f) In det	termining whether to grant early release to an inmate who meets the
5	criteria of either	subsection (a) or (b) of this section, the Department of Correction may
6	consider:	
7	<u>(1)</u>	Whether the inmate's early release would unduly depreciate the
8		seriousness of the inmate's crime or promote disrespect for the law;
9	<u>(2)</u>	Whether the inmate's continued correctional treatment, medical care,
10		or vocational or other training in the institution will substantially
11		enhance the inmate's capacity to lead a law-abiding life if the inmate is
12		released at a later date; and
13	<u>(3)</u>	Whether there is a substantial risk that the inmate would engage in
14		further criminal conduct in the United States."
15	SECT	FION 3. This act becomes effective December 1, 2007.