

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS75368-LL-95 (2/20)

Short Title: Early Release/Certain Drug Violations. (Public)

Sponsors: Senator Kinnaird.

Referred to:

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 AND TO PROVIDE FOR THE EARLY RELEASE OF CERTAIN
INMATES.

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 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: (i) did not possess a firearm during the commission of the offense;

1 (c) of this section, 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 United States Department of Homeland Security.

4 (f) In determining 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 (1) Whether the inmate's early release would unduly depreciate the
8 seriousness of the inmate's crime or promote disrespect for the law;

9 (2) 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 (3) Whether there is a substantial risk that the inmate would engage in
14 further criminal conduct in the United States."

15 **SECTION 3.** This act becomes effective December 1, 2007.