

House Bill 261

By: Representatives Werkheiser of the 157th and Holcomb of the 81st

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 42-8-66 of the Official Code of Georgia Annotated, relating to
2 petitions for exoneration and discharge as a first offender, hearings, and retroactive grant of
3 first offender status, so as to allow certain individuals sentenced to a term of incarceration
4 between March 18, 1968, and October 31, 1982, to petition the court for a retroactive grant
5 of first offender status if he or she would have otherwise qualified for sentencing pursuant
6 to this article; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 42-8-66 of the Official Code of Georgia Annotated, relating to petitions for
11 exoneration and discharge as a first offender, hearings, and retroactive grant of first offender
12 status, is amended by revising subsections (a) and (d) as follows:

13 "(a)(1) An individual who qualified for sentencing pursuant to this article but who was
14 not informed of his or her eligibility for first offender treatment may, with the consent of
15 the prosecuting attorney, petition the superior court in the county in which he or she was
16 convicted for exoneration of guilt and discharge pursuant to this article.

17 (2) An individual who was sentenced between March 18, 1968, and October 31, 1982,
18 to a period of incarceration not exceeding one year but who would otherwise have
19 qualified for sentencing pursuant to this article may petition the superior court in the
20 county in which he or she was convicted for exoneration of guilt and discharge pursuant
21 to this article.

22 "(d) The court may issue an order retroactively granting first offender treatment and
23 discharge the defendant pursuant to this article if the court finds by a preponderance of the
24 evidence that the defendant was eligible for sentencing under the terms of this article at the
25 time he or she was originally sentenced or that he or she qualifies for sentencing under

26 paragraph (2) of subsection (a) of this Code section and the ends of justice and the welfare
27 of society are served by granting such petition."

28 **SECTION 2.**

29 All laws and parts of laws in conflict with this Act are repealed.