

House Bill 261

By: Representatives Werkheiser of the 157<sup>th</sup> and Holcomb of the 81<sup>st</sup>

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29 All laws and parts of laws in conflict with this Act are repealed.