

House Bill 261 (COMMITTEE SUBSTITUTE)

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 applicability; to provide for related matters; to repeal conflicting  
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**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) and adding a new subsection to read  
13 as follows:

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

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

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

27 paragraph (2) of subsection (a) of this Code section and the ends of justice and the welfare  
28 of society are served by granting such petition."  
29 "(g) This Code section shall apply to any sentence entered on or after March 18, 1968."

30

**SECTION 2.**

31 All laws and parts of laws in conflict with this Act are repealed.