

3663 Services and the ~~department~~ Department of Driver Services shall issue a new ignition
 3664 interlock device limited driving permit to such person.
 3665 (5) This subsection shall not apply to any person convicted of violating Code Section
 3666 42-8-118."

3667 **SECTION 5-74.**

3668 Said title is further amended by revising Code Section 42-8-61, relating to the defendant
 3669 being informed of the terms of the article at the time a sentence is imposed, as follows:
 3670 "42-8-61.
 3671 When a defendant is represented by an attorney, his or her attorney shall be responsible for
 3672 informing the defendant as to his or her eligibility for sentencing as a first offender. When
 3673 a defendant is pro se, the court shall inquire as to the defendant's interest in entering a plea
 3674 pursuant to the terms of this article. If the defendant expresses a desire to be sentenced as
 3675 a first offender, the court shall ask the prosecuting attorney or probation official if the
 3676 defendant is eligible for sentencing as a first offender. When imposing a sentence, the
 3677 court shall ensure that, if a defendant is sentenced as a first offender, he or she is made
 3678 aware of the consequences of entering a first offender plea pursuant to the terms of this
 3679 article. The defendant shall be informed of the terms of this article at the time of
 3680 imposition of sentence."

3681 **SECTION 5-75.**

3682 Said title is further amended by revising Code Section 42-8-66, relating to applicability, as
 3683 follows:
 3684 "42-8-66.
 3685 ~~The provisions of this article shall not apply to any person who is convicted of a serious~~
 3686 ~~violent felony as defined in subsection (a) of Code Section 17-10-6.1.~~
 3687 (a) An individual who qualified for sentencing pursuant to this article but who was not
 3688 informed of his or her eligibility for first offender treatment may, with the consent of the
 3689 prosecuting attorney, petition the superior court in the county in which he or she was
 3690 convicted for discharge and exoneration pursuant to this article.
 3691 (b) The court shall hold a hearing on the petition if requested by the petitioner or
 3692 prosecuting attorney or desired by the court.
 3693 (c) In considering a petition pursuant to this Code section, the court may consider any:
 3694 (1) Evidence introduced by the petitioner;
 3695 (2) Evidence introduced by the prosecuting attorney; and
 3696 (3) Other relevant evidence.

3697 (d) The court may issue an order retroactively granting first offender treatment and
3698 discharge the defendant pursuant to this article if the court finds by a preponderance of the
3699 evidence that the defendant was eligible for sentencing under the terms of this article at the
3700 time he or she was originally sentenced and the ends of justice and the welfare of society
3701 are served by granting such petition.

3702 (e) The court shall send a copy of any order issued pursuant to this Code section to the
3703 petitioner, the prosecuting attorney, and the Georgia Bureau of Investigation. The Georgia
3704 Bureau of Investigation shall modify its records accordingly.

3705 (f) This Code section shall not apply to a sentence that may be modified pursuant to
3706 subsection (f) of Code Section 17-10-1."

3707 **SECTION 5-76.**

3708 Said title is further amended by revising subsection (a) of Code Section 42-8-114, relating
3709 to specifying provider for ignition interlock device, as follows:

3710 "(a) No judicial officer, ~~probation~~ community supervision officer, law enforcement officer,
3711 or other officer or employee of a court; person who owns, operates, or is employed by a
3712 private company which has contracted to provide private probation services for
3713 misdemeanor cases; or professional bondsman or agent or employee thereof shall specify,
3714 directly or indirectly, a particular provider center which the person may or shall utilize
3715 when use of an ignition interlock device is required. This subsection shall not prohibit any
3716 judicial officer, ~~probation~~ community supervision officer, law enforcement officer, or other
3717 officer or employee of a court; owner, operator, or employee of a private company which
3718 has contracted to provide probation services for misdemeanor cases; or professional
3719 bondsman or agent or employee thereof from furnishing any person, upon request, the
3720 names of certified provider centers."

3721 **SECTION 5-77.**

3722 Said title is further amended by revising Code Section 42-8-116, relating to warning labels
3723 on ignition interlock devices, as follows:

3724 "42-8-116.

3725 The providers certified by the Department of Driver Services shall design and adopt
3726 pursuant to regulations of the such department a warning label which shall be affixed to
3727 each ignition interlock device upon installation. The label shall contain a warning that any
3728 person tampering, circumventing, or otherwise misusing the device is guilty of a
3729 misdemeanor and may be subject to civil liability."