

By the Committee on Crime & Punishment and Representatives
Clemons, Heyman, Crow, Burroughs, Wiles, Crist and Fasano

1 A bill to be entitled
2 An act relating to adjudication of guilt;
3 creating s. 775.0844, F.S.; prohibiting the
4 withholding of adjudication for certain
5 defendants accused of committing a felony or
6 qualified offense; providing exceptions;
7 providing conditions for applicability;
8 providing definitions; repealing Rule 3.670,
9 Florida Rules of Criminal Procedure, relating
10 to rendition of judgment, to the extent of
11 inconsistency with the act; providing an
12 effective date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Section 775.0844, Florida Statutes, is
17 created to read:

18 775.0844 Prohibition on withholding adjudication.--

19 (1) Adjudication of guilt for a person accused of a
20 felony shall not be withheld if the defendant has previously
21 been convicted of, or entered a plea of nolo contendere or
22 guilty to, a felony or a qualified offense, unless the
23 conviction of each prior felony or qualified offense has been
24 set aside or the defendant has received a pardon for each
25 felony or qualified offense for which the conviction has not
26 been set aside. The provisions of this section apply only if:

27 (a) The previous offense was or would have been a
28 violation of the same chapter of Florida Statutes as the
29 current offense;

30 (b) The previous offense did not arise from the same
31 transaction as the current offense; and

1 (c) The previous offense was sentenced separately from
2 the current offense.

3 (2) For the purpose of this section, the term:

4 (a) "Convicted" means that the defendant was
5 determined to be guilty as the result of a plea or trial,
6 regardless of whether adjudication was withheld.

7 (b) "Qualified offense" means any offense,
8 substantially similar in elements and penalties to an offense
9 in this state, which is in violation of a law of any other
10 jurisdiction, whether that of another state, the District of
11 Columbia, the United States or any possession or territory
12 thereof, or any foreign jurisdiction, that was punishable
13 under the law of such jurisdiction at the time of the
14 commission by the defendant by death or imprisonment exceeding
15 1 year.

16 Section 2. Rule 3.670, Florida Rules of Criminal
17 Procedure, is hereby repealed to the extent that it is
18 inconsistent with the provisions of this act.

19 Section 3. This act shall take effect July 1 of the
20 year in which enacted, except that section 2 shall take effect
21 only if this act is passed by an affirmative vote of
22 two-thirds of the membership of each house of the Legislature.
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