

By Senator Villalobos

38-1323-04

See HB

1 A bill to be entitled
2 An act relating to adjudication of guilt;
3 creating s. 775.08435, F.S.; prohibiting the
4 withholding of adjudication of guilt upon
5 defendants in felony cases in certain
6 circumstances; providing exceptions; repealing
7 Rule 3.670, Florida Rules of Criminal
8 Procedure, relating to rendition of judgment,
9 to the extent of inconsistency with the act;
10 providing for applicability; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 775.08435, Florida Statutes, is
16 created to read:

17 775.08435 Prohibition on withholding adjudication in
18 felony cases.--

19 (1) The court may not withhold adjudication of guilt
20 upon the defendant for any felony offense if the defendant has
21 a prior withhold of adjudication for a felony that did not
22 arise from the same transaction as the current felony offense
23 unless the date of the prior withhold of adjudication was more
24 than 5 years prior to the date of the commission of the
25 current felony offense, the defendant has not been adjudicated
26 guilty of any felony since the prior withhold of adjudication,
27 and:

28 (a) The state attorney requests that adjudication be
29 withheld; or

30 (b) The court gives the state attorney and defense
31 counsel adequate notice of its intention to withhold

1 adjudication of guilt and makes written findings setting forth
2 specific facts supporting its conclusion that failure to
3 withhold adjudication would cause manifest injustice.

4 (2) The court may not withhold adjudication of guilt
5 for any felony if the defendant has two or more prior
6 withholds of adjudication for felony offenses that did not
7 arise from the same transaction as the current felony offense.

8 Section 2. Rule 3.670, Florida Rules of Criminal
9 Procedure, is repealed to the extent that it is inconsistent
10 with the provisions of this act.

11 Section 3. This act shall take effect July 1, 2004,
12 except that the repeal of Rule 3.670, Florida Rules of
13 Criminal Procedure, shall take effect only if this act is
14 passed by an affirmative vote of two-thirds of each house of
15 the Legislature.

16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31