

By the Committee on Criminal Justice; and Senator Villalobos

307-2305-04

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; providing
7 for appellate review in certain circumstances;
8 amending s. 924.07, F.S.; providing for the
9 state's right to appeal the withholding of
10 adjudication in certain circumstances;
11 repealing Rule 3.670, Florida Rules of Criminal
12 Procedure, relating to rendition of judgment,
13 to the extent of inconsistency with the act;
14 providing for applicability; providing an
15 effective date.

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

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19 Section 1. Section 775.08435, Florida Statutes, is
20 created to read:

21 775.08435 Prohibition on withholding adjudication in
22 felony cases.--

23 (1) Notwithstanding the provisions of s. 948.01, the
24 court may not withhold adjudication of guilt upon the
25 defendant for:

26 (a) Any capital, life, or first-degree felony offense.

27 (b) A second-degree felony offense unless:

28 1. The state attorney requests in writing that
29 adjudication be withheld; or

30 2. The court makes written findings that the
31 withholding of adjudication is reasonably justified based on

1 circumstances or factors in accordance with those set forth in
2 s. 921.0026.

3
4 Notwithstanding any provision of this section, no adjudication
5 of guilt shall be withheld for a second-degree felony offense
6 if the defendant has a prior withholding of adjudication for a
7 felony that did not arise from the same transaction as the
8 current felony offense.

9 (c) A third-degree felony offense if the defendant has
10 a prior withholding of adjudication for a felony offense that
11 did not arise from the same transaction as the current felony
12 offense unless:

13 1. The state attorney requests in writing that
14 adjudication be withheld; or

15 2. The court makes written findings that the
16 withholding of adjudication is reasonably justified based on
17 circumstances or factors in accordance with those set forth in
18 s. 921.0026.

19
20 Notwithstanding any provision of this section, no adjudication
21 of guilt shall be withheld for a third-degree felony offense
22 if the defendant has two or more prior withholdings of
23 adjudication for a felony that did not arise from the same
24 transaction as the current felony offense.

25 (2) This section does not apply to any adjudication or
26 withholding of adjudication under chapter 985.

27 (3) The withholding of adjudication in violation of
28 this section is subject to appellate review under chapter 924.

29 Section 2. Paragraph (m) is added to subsection (1) of
30 section 924.07, Florida Statutes, to read:

31 924.07 Appeal by state.--

1 (1) The state may appeal from:

2 (m) An order withholding adjudication of guilt in
3 violation of s. 775.08435.

4 Section 3. Rule 3.670, Florida Rules of Criminal
5 Procedure, is repealed to the extent that it is inconsistent
6 with the provisions of this act.

7 Section 4. This act shall take effect July 1, 2004,
8 except that the repeal of Rule 3.670, Florida Rules of
9 Criminal Procedure, shall take effect only if this act is
10 passed by an affirmative vote of two-thirds of each house of
11 the Legislature.

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13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
14 COMMITTEE SUBSTITUTE FOR
15 Senate Bill 2552

- 16 - Prohibits withholding adjudication of guilt for a capital
17 felony, life felony, and first degree felony.
- 18 - Prohibits withholding adjudication of guilt for a second
19 degree felony if the defendant has a prior withhold of
20 adjudication for a felony not arising from the same
21 transaction as the current felony, but if there is no
22 such prior felony, the court can only withhold
23 adjudication if it makes a written finding that
24 withholding adjudication is reasonably justified based on
25 statutorily-specified factors for mitigating a Criminal
26 Punishment Code sentence.
- 27 - Prohibits a withhold for a third degree felony if the
28 defendant has a prior withhold of adjudication for a
29 felony not arising from the same transaction as the
30 current felony, unless the state attorney requests in
31 writing a withhold of adjudication or the court makes a
written finding that a withhold of adjudication is
reasonably justified based on statutorily-specified
mitigating factors.
- Prohibits withholding adjudication of guilt if the
defendant has two or more prior withholds of adjudication
for a felony not arising from the same transaction as the
current felony.
- Provides that the state may appeal from an order
withholding adjudication of guilt that is in violation of
the bill's provisions relating to withholding
adjudication of guilt.