

HB 0869

2004

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

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

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

15 775.08435 Prohibition on withholding adjudication in
 16 felony cases.--

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

25 (a) The state attorney requests that adjudication be
 26 withheld; or

27 (b) The court gives the state attorney and defense counsel
 28 adequate notice of its intention to withhold adjudication of
 29 guilt and makes written findings setting forth specific facts

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30 supporting its conclusion that failure to withhold adjudication
31 would cause manifest injustice.

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

36 Section 2. Rule 3.670, Florida Rules of Criminal
37 Procedure, is repealed to the extent that it is inconsistent
38 with the provisions of this act.

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