

CHAMBER ACTION

1 The Committee on Public Safety & Crime Prevention recommends the  
2 following:

3  
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to adjudication of guilt; creating s.  
8 775.08435, F.S.; prohibiting the withholding of  
9 adjudication of guilt upon defendants in felony cases in  
10 certain circumstances; providing exceptions; providing for  
11 appellate review in certain circumstances; amending s.  
12 924.07, F.S.; providing for the state's right to appeal  
13 the withholding of adjudication in certain circumstances;  
14 repealing Rule 3.670, Florida Rules of Criminal Procedure,  
15 relating to rendition of judgment, to the extent of  
16 inconsistency with the act; providing for applicability;  
17 providing an effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

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

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23           775.08435 Prohibition on withholding adjudication in  
 24 felony cases.--Notwithstanding the provisions of s. 948.01, the  
 25 court may not withhold adjudication of guilt upon the defendant  
 26 for:

27           (1) Any capital, life, or first degree felony offense.

28           (2)(a) A second degree felony offense unless:

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

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

34           (b) A second degree felony offense if the defendant has a  
 35 prior withholding of adjudication for a felony that did not  
 36 arise from the same transaction as the current felony offense.

37           (3)(a) A third degree felony offense if the defendant has  
 38 a prior withholding of adjudication for a felony offense that  
 39 did not arise from the same transaction as the current felony  
 40 offense unless:

41           1. The state attorney requests in writing that  
 42 adjudication be withheld; or

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

46           (b) A third degree felony offense if the defendant has two  
 47 or more prior withholdings of adjudication for felony offenses  
 48 that did not arise from the same transaction as the current  
 49 felony offense.

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51 This section does not apply to any adjudication or withholding  
52 of adjudication under chapter 985. The withholding of  
53 adjudication in violation of this section is subject to  
54 appellate review under chapter 924.

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

57 924.07 Appeal by state.--

58 (1) The state may appeal from:

59 (m) An order withholding adjudication of guilt in  
60 violation of s. 775.08435.

61 Section 3. Rule 3.670, Florida Rules of Criminal  
62 Procedure, is repealed to the extent that it is inconsistent  
63 with the provisions of this act.

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