

CHAMBER ACTION

1 The Committee on Judiciary recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

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

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

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

24 (1) Notwithstanding the provisions of s. 948.01, the court
 25 may not withhold adjudication of guilt upon the 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 withholding
 31 of adjudication is reasonably justified based on circumstances
 32 or factors in accordance with those set forth in s. 921.0026.

33
 34 Notwithstanding any provision of this section, no adjudication
 35 of guilt shall be withheld for a second degree felony offense if
 36 the defendant has a prior withholding of adjudication for a
 37 felony that did not arise from the same transaction as the
 38 current felony offense.

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

43 1. The state attorney requests in writing that
 44 adjudication be withheld; or

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

48
 49 Notwithstanding any provision of this section, no adjudication
 50 of guilt shall be withheld for a third degree felony offense if
 51 the defendant has two or more prior withholdings of adjudication

52 | for a felony that did not arise from the same transaction as the
 53 | current felony offense.

54 | (2) This section does not apply to any adjudication or
 55 | withholding of adjudication under chapter 985.

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

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

60 | 924.07 Appeal by state.--

61 | (1) The state may appeal from:

62 | (m) An order withholding adjudication of guilt in
 63 | violation of s. 775.08435.

64 | Section 3. Rule 3.670, Florida Rules of Criminal
 65 | Procedure, is repealed to the extent that it is inconsistent
 66 | with the provisions of this act.

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