

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

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

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

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

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

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

23 (b) A second degree felony offense unless:

24 1. The state attorney requests in writing that
 25 adjudication be withheld; or

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

29
30 Notwithstanding any provision of this section, no adjudication
31 of guilt shall be withheld for a second degree felony offense if
32 the defendant has a prior withholding of adjudication for a
33 felony that did not arise from the same transaction as the
34 current felony offense.

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

39 1. The state attorney requests in writing that
40 adjudication be withheld; or

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

44
45 Notwithstanding any provision of this section, no adjudication
46 of guilt shall be withheld for a third degree felony offense if
47 the defendant has two or more prior withholdings of adjudication
48 for a felony that did not arise from the same transaction as the
49 current felony offense.

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

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

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

56 924.07 Appeal by state.--

57 (1) The state may appeal from:

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

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

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