

House Bill No. 869

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

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

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

775.08435 Prohibition on withholding adjudication in felony cases.—

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

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

(b) A second degree felony offense unless:

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

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

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

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

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

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

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

prior withholdings of adjudication for a felony that did not arise from the same transaction as the current felony offense.

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

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

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

924.07 Appeal by state.—

(1) The state may appeal from:

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

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

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

Approved by the Governor May 13, 2004.

Filed in Office Secretary of State May 13, 2004.