

“Sentencing – Declaring an offender a habitual criminal in terms of Section 286 of the Criminal Procedure Act 51 of 1977 is and remains a drastic sentencing option. Duties of presiding officer stated in determining whether such declaration should ensue.

No statutory requirement exists that a prior warning at a previous hearing must have been given in order for a habitual offender declaration to be made, however a long standing pre-constitutional era practice in this regard exists. The interests of justice and an accused’s rights to a fair trial has elevated the long-standing practice into a peremptory constitutional practice requiring a prior warning at a previous hearing before an accused can, at a subsequent hearing, be declared a habitual offender.”