

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1836 Session of
1994INTRODUCED BY GREENLEAF, HECKLER, JONES, O'PAKE AND SALVATORE,
SEPTEMBER 16, 1994

AS AMENDED ON SECOND CONSIDERATION, OCTOBER 3, 1994

AN ACT

1 Amending the act of April 14, 1972 (P.L.233, No.64), entitled
2 "An act relating to the manufacture, sale and possession of
3 controlled substances, other drugs, devices and cosmetics;
4 conferring powers on the courts and the secretary and
5 Department of Health, and a newly created Pennsylvania Drug,
6 Device and Cosmetic Board; establishing schedules of
7 controlled substances; providing penalties; requiring
8 registration of persons engaged in the drug trade and for the
9 revocation or suspension of certain licenses and
10 registrations; and repealing an act," further providing for
11 probation without verdict.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 17 of the act of April 14, 1972 (P.L.233,
15 No.64), known as The Controlled Substance, Drug, Device and
16 Cosmetic Act, amended April 16, 1992 (P.L.165, No.30), is
17 amended to read:

18 Section 17. Probation Without Verdict.--Except as provided
19 in clause (1) of this subsection, the court may place a person
20 on probation without verdict if the person pleads nolo
21 contendere or guilty to any nonviolent offense under this act
22 and the person proves he is drug dependent. For the purposes of

1 proving drug dependency, the person must present the testimony
2 of a physician or psychologist trained in the field of drug
3 abuse. The term of probation shall be for a specific time period
4 not to exceed the maximum for the offense upon such reasonable
5 terms and conditions as the court may require. The following
6 shall apply:

7 (1) The following persons shall be ineligible for probation
8 without verdict:

9 (i) Any person who has previously been convicted of an
10 offense under this act or similar act of the United States or
11 any other state.

12 (ii) Any person who has been convicted of a misdemeanor or
13 felony in this Commonwealth or an equivalent crime under the
14 laws of any other state.

15 (iii) Any person who has been placed on Accelerated
16 Rehabilitative Disposition where the person was charged with a
17 violation of this act or the commission of a misdemeanor or
18 felony in this Commonwealth.

19 (iv) Any person who is charged with or has pleaded guilty or
20 nolo contendere to multiple offenses which are based on separate
21 conduct or arise from separate criminal episodes such that those
22 offenses could be tried separately in accordance with 18 Pa.C.S.
23 § 110 (relating to when prosecution barred by former prosecution
24 for different offense).

25 (v) Any person who is a dangerous juvenile offender under 42
26 Pa.C.S. § 6302 (relating to definitions) or who was adjudicated
27 delinquent for conduct which would constitute a violation of
28 clause (30) or (37) of subsection (a) of section 13 of this act.

29 (vi) Any person who **[was]** is charged with violating clause
30 (14), (30) or (37) of subsection (a) of section 13 of this act.

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1 (2) Upon violation of a term or condition of probation, the
2 court may enter a judgment and proceed as in any criminal case,
3 or may continue the probation without verdict.

4 (3) Upon fulfillment of the terms and conditions of
5 probation, the court shall discharge such person and dismiss the
6 proceedings against him. Discharge and dismissal shall be
7 without adjudication of guilt and shall not constitute a
8 conviction for any purpose whatever, including the penalties
9 imposed for second or subsequent convictions: Provided, That
10 probation without verdict shall be available to any person only
11 once: And further provided, That notwithstanding any other
12 provision of this act, the prosecuting attorney or the court,
13 and the council shall keep a list of those persons placed on
14 probation without verdict, which list may only be used to
15 determine the eligibility of persons for probation without
16 verdict and the names on such lists may be used for no other
17 purpose whatsoever.

18 Section 2. This act shall take effect in 60 days.