

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

March 26, 2003      LB 46

SENATOR CUDABACK:      Thank you, Senator Chambers.      Senator Beutler.

SENATOR BEUTLER:      Senator Synowiecki, I'm going to come back around to you again, but I'm going to try to lay out in a little more detail the dimensions of my concern with regard to the authority of probation officers to impose administrative sanctions. We talked a little bit about what administrative sanctions are, but I think it should also be of interest to people to know when the probation officer has the power to impose administrative sanctions, and the bill, as I read it, would indicate that they can do this if they have reasonable cause to believe that a probationer committed or is about to commit a substance abuse violation or a noncriminal violation. And then the bill, being a well-drafted bill, goes back and defines those terms, and a noncriminal violation is what you might expect; that is, those things that do not involve a violation of the law but which are activities or behaviors which create the opportunity for reoffending or diminishing the effectiveness of probation supervision, and which result in a violation of the original condition of probation. So that part is pretty much clear. But the other thing, the other area where they're allowed to use these administrative sanctions, instead of seeking revocation, is where there's a substance abuse violation. That, too, is defined to mean a probationer's activities or behaviors associated with the use of chemical...associated with the use of chemical substances or related treatment services resulting in a violation of the original condition of probation. Now, the probation officer is going to be asked to make some of these determinations and maybe, Senator Synowiecki, I would go back and start with the fundamental question of the interpretation of a substance abuse violation. The probation officer is going to be asked to make a determination...would, first of all, have to make a determination as to whether it's a noncriminal violation or a substance abuse violation. Now is it...would it be your interpretation that a substance abuse violation might, in fact, be a criminal violation of the law? Let me ask you that to start with.

SENATOR CUDABACK:      Would you yield, Senator Synowiecki?