

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

March 26, 2003 LB 46

all my time, because I have an important question I want to ask you on that substance abuse violation definition.

SENATOR CUDABACK: Would you respond, Senator Brashear?

SENATOR BRASHEAR: Yes, Mr. President. Thank you. Senator Beutler, I'll try and be succinct here. You're absolutely right. We're dealing with the dichotomy of it being a crime and being an illness. And since it's been imposed as a condition of probation, for instance, at the time of sentencing as it relates to the underlying offense, now we're trying to recognize on a one-on-one basis the complication within this individual's life, and deal with it in the constructive, positive way that would...that will...I can't use the word "cure," but that will help the person maintain their abstinence, rather than reengaging the criminal process, which has already been engaged and has already had a disposition of the individual. So now we're trying to see that when the individual comes through the process at the other end, they've been benefitted in a substantive way that makes a difference, and they're not abusing anymore, or misusing.

SENATOR BEUTLER: Okay. Then let me go directly to some language in the definition. Because with regard to substance abuse, it says, behaviors...and these are the words that bother me...associated with the use of chemical substances. I understand the discretion given in terms of a probationer who is hooked and can't quite get off a drug; that is, is using a drug. But I want to be sure that that language "associated with" couldn't be used by a probation officer, for example, to excuse an offense such as delivering cocaine, or another criminal offense that might be interpreted as associated with the use. In fact, those...that "associated with" bothers me. And I would ask you if there's some reason that we just couldn't say "the use of" as opposed to "associated with". Or are there other things that we should keep in mind here?

SENATOR BRASHEAR: Although in this kind of a setting, Senator Beutler, it may not be evident, there are times when there's a lack of evidence, when we aren't able to meet a legal standard with regard to what's been going on, but there's a suspicion, or