

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

March 26, 2003 LB 46

for instance, we have a substance abuse violation and there is what they call a dirty UA. Rather than laying all these provisions out in statute, wouldn't it be more efficient if the probation officer sits down with the offender, they draw up an amended order pursuant to current statute, the offender signs the amended order, the probation officer signs the amended order, the order is then sent interoffice...and we're not talking...we're not taking court time in terms of a courtroom setting. The amended order then is sent, pursuant to current statute, sent to the court for their consideration, whereby you have a memorandum in the permanent probation record of the occurrence that happened given to the judge. The judge reviews the amended order, which could be increased AA participation, could be chemical dependency evaluation, all these things that are all laid out in statute, and the judge simply signs the order or directs the probation officer to go to formal revocation hearing. I think that the current practice, via the amended order provision which is already available to the probation officer, is more efficient. Saves incarceration costs. I mean, that would be my simple argument. And that is why I have brought this amended order on behalf of a lot of my former colleagues who have expressed this to me. So I think it makes sense that what is being done now...and is not...this amendment is not to kind of deflect any kind of responsibility or deflect a work load issue for probation officers. It's just that I think, in terms of education of the members of this Legislature, that this is being done now. These administrative sanctions are being done now, without having it all codified into state statute; that as a practical matter, the probation officer meets with the offender after some kind of noncriminal violation or what they call a substance abuse violation, a program is set up, a dialogue occurs, and then the results of that is then forwarded to the court, not in a courtroom setting, but in terms of interoffice mail. And that's being done now throughout probation offices throughout the state. At least, I know for a fact that that's how we dispensed with a lot of these noncriminal or substance abuse violations in my county. That's the way we did it. And I think that makes much more sense than putting all this stuff in statute and exposing probation officers to potential liability for not taking actions, given their new statutory sanction provision. That's why I bring the