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attorney or the city prosecutor whether to officially charge, and the judicial branch is not brought into that situation at all. I'm asking, I guess, to enlighten me on why this provision exists in current statute that the sentencing court be privileged to an affidavit of revocation of probation, and also particularly when that court will eventually sit at sentencing.

SENATOR BRASHEAR: Senator Synowiecki, my reference in response would be to Nebraska Revised Statutes, 29-2267, wherein, it's under the section, Probation; revocation; procedure, wherein it's written as follows: The court shall not revoke probation or increase the requirements imposed thereby on the probationer, except after a hearing upon proper notice where the violation of probation is established by clear and convincing evidence. So that the concept is that the court must at all times know and have notice of the action which is being taken by reason of what was its original jurisdiction and its granting of probation.

SENATOR SYNOWIECKI: Do you think that perhaps a sentencing court could be prejudiced upon receiving this affidavit of alleged probation violation? It's only alleged at that point, and as a layman, not an attorney, I would think that the proper channel to determine whether or not formal revocation procedures be undertaken should rest with the county attorney and not necessarily with the court that will ultimately sit in ultimate sentencing. And out of a sense of fairness to the defendant, I guess, I ask this question. And I understand you're talking about the formal hearing. I'm talking about the submission of an affidavit of violation of probation. Why is there a court interplay at that part? Why does it not rest with the county attorney? And, again, this is kind of philosophical.

SENATOR BRASHEAR: And I understand that and I, first of all, I would be foolish to tell you that there is no possibility of prejudice, but that possibility of prejudice, I don't want to be simplistic and act like this is the only possibility of prejudice that could occur in the judicial system, because that would also be silly. We trust courts all the time to exercise discretion with regard to what ought to be considered and what ought not to be considered. So I start from the premise that the court is not going to allow this to prejudice...