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FLOOR DEBATE

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SENATOR AGUILAR:    Yes.    And I would agree with that.

SENATOR CHAMBERS:    Okay.    Thank you.    Members of the Legislature, I really appreciate Senator Foley and Senator Schimek's comments, because they are looking at the language in the green copy of the bill itself. Let me talk about probation, because of something Senator Vrtiska asked. Senator Vrtiska, if I get probation, that is given to me so I don't have to go to jail. And the judge is saying, if I'm good, then, and complete it, I don't have to worry about going to jail on this crime that I committed and was convicted of. If I'm on probation and I disregard it, the hammer or the punishment is that I have to go back before that judge and am sentenced by the judge on the original crime. That's where the jail can come in on probation. What they are doing here is taking something that they don't want to call probation. It's something entirely different, a drug court program sitting over here by itself. Instead of calling it probation, you are told that you've got to plead guilty, out in his part of the world, but that's not the way it is in the other courts. But let's say that's the way it is, for the sake of this bill. You plead guilty, then, rather than being sentenced to jail for your guilty plea, you are allowed to go into this drug court program. Instead of saying, if you fail to comply you come back over here and you're sentenced on the original, they want you to be sentenced to jail, under the drug court, for not complying with those rules. They might say you have to visit your probation officer every other day, and you don't do it, you can go to jail for that. And if you fail again, then you can be sent back over here and sentenced to jail again on the original punish...crime. That is heaping up punishments. The U.S. Supreme Court said the Eighth Amendment to the U.S. Constitution prohibits cruel and unusual punishments. This would be both cruel and unusual, because it's punishment for an act that is not a crime. It's punishment for...

SENATOR CUDABACK:    One minute.

SENATOR CHAMBERS:    ...something you have not even been convicted of. That is cruel. The court said, whenever a person is