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FLOOR DEBATE

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offenders, even drug dealers, you cannot sentence a person to jail for a noncriminal offense. Incarceration is a punishment. I don't know what it takes to get that through people's heads. And Senator Stuthman's questions should have shown us that if a person is put out of one of these programs, he or she goes back to the original court and is taken to trial in Douglas County, or sentenced in these other counties, and that is the hammer. We should not put an unconstitutional provision into the law. Thank you, Mr. President.

SPEAKER BROMM: Thank you, Senator Chambers. Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature. Senator Aguilar, I wanted to make a statement about how I think this works, or...from my understanding. Not the pretrial diversion part, but the ones that operate under probation style system. As I understand it, you would essentially do something similar to what they do with all probation. You give a set of conditions, you make a plan and set some conditions. And under this bill, as I understand it, if they broke those conditions, then the judge would have the right to do these things on the top of page 4, under Section 4. Now, here's what I want to try to put together. And I think I'll go to Senator Brashear at this point, and simply ask him, because he had responsibility for LB 46. And you all may recall that LB 46 had to do with probation, and that LB 46 essentially gave the probation officer, acting in conjunction with the chief probation officer, the power, in situations where probation was not...was violated, to assess administrative...and I'm trying to remember how that is, Senator Brashear. But basically, to reset the conditions of probation. And so what I'm trying to get at is, does this bill fit with LB 46? That is, if somebody who is in, quote unquote, drug court, which is really a probation agreement relating to a drug situation, if they violate that probation agreement, does the probation officer get first bite of the apple? Or does that one necessarily have to go back to the judge, who may or may not impose these Section 4 provisions here? How would our new probation officer authority work together with the probation plans that are going to come out of our drug program? Can you, to the extent that you can, elaborate on that?