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FLOOR DEBATE

April 14, 2003      LB 46, 454

SPEAKER BROMM:    Senator Brashear.

SENATOR BRASHEAR:    Yes, Mr. Speaker.    Senator Beutler, as best I can, without LB 46 and its materials before me.    LB 46, as we moved it to Final Reading, has a process and a procedure which focuses on the probation officer.    And we added the supervisor's necessary concurrence to any modification.    So you've got an order of probation which the individual is complying with.    If there's a violation, then we've allowed some limited sanctions, like limiting it to 30 days, and those kinds of things, that if the supervisor signs off on, then the probation officer can effect those.    But at no place...these are two separate schemes.    The green copy certainly wasn't drafted with any reference to LB 46.    And there would...if they're to be integrated, they would have to be affirmatively integrated.    They certainly weren't drafted to integrate.

SENATOR BEUTLER:    Okay.    Well, let's just take an example.    Let's say we have a probationer on a drug-related matter, on probation for a drug-related criminal offense.    And of course, LB 46 was oriented in particular towards drug offenses, as you will recall.    Let's say he violates his probation order.    He's gone through the drug program.

SPEAKER BROMM:    One minute.

SENATOR BEUTLER:    But he violates the order.    Now, the first one to get to that violation, I assume, is the probation officer?

SENATOR BRASHEAR:    Under LB 46, yes.

SENATOR BEUTLER:    Okay.    So the probation officer then has the even greater power, I assume, to decide whether to reinstitute the probation program by going through the administrative penalty provision of LB 46, or he can decide not to do that and send it back to the judge to impose these LB 454 penalties.    Which is kind of ironic, because the probation officer, it would seem, has more power than the judge, because he's going to decide whether the judge gets to institute these penalties.

SENATOR BRASHEAR:    Senator Beutler, if I may, no, it's not go