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LB 43

SENATOR BRASHEAR: Yes, Mr. President.

SENATOR BEUTLER: Senator Brashear, the language I wanted just to review a little bit, because I always forget the background on some of these things, is on page 3, subsection (4).

SENATOR BRASHEAR: Green copy, Senator Beutler?

SENATOR BEUTLER: Green copy, Senator. And it has to do with when this program can be brought into play, and there are really three or four related questions. One of them is the question of whether it can be brought into play for any potential charge. And secondly, I am confused about what the county attorney is actually required to do in order to bring it into play. Does the county attorney have to make a charge of some sort? I mean, the county attorney has to establish, in his own mind, apparently, under this, that there's some charge, but there is no formal charge? Could you kind of go through that process and how that works?

SENATOR BRASHEAR: This is exclusively juvenile court diversion, so the county attorney would have made a decision affirmatively to prosecute as a juvenile and not as an adult.

SENATOR BEUTLER: Okay.

SENATOR BRASHEAR: The program must be in existence in accordance with the conditions precedent, the prerequisites, and then, of course, anybody who fits within the established standards is eligible. But it becomes...that becomes discretionary in terms of the prosecution and the decision by the juvenile court.

SENATOR BEUTLER: Okay. You know, I suppose as we move in different directions on some of these processes and encourage taking care of things outside the court, all of that is good from my perspective. But the question I wanted to ask you is this, and there...seems to me there's a downside to this. We continue to expand the discretion of the county attorney, it seems to me, and when you move from the decision, first of all, whether adult court, then juvenile court, and then whether other