

1 HB216
2 126324-1
3 By Representative Poole
4 RFD: Judiciary
5 First Read: 10-MAR-11

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8 SYNOPSIS: This bill would authorize the establishment
9 of Honor and Opportunity Probation with Enforcement
10 programs in each judicial circuit in the State of
11 Alabama and provide for the terms and conditions
12 for operation of the programs.

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14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 To authorize Honor and Opportunity Probation with
19 Enforcement programs in the State of Alabama.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. This act shall be cited as the Honor and
22 Opportunity Probation with Enforcement Act of 2011.

23 Section 2. As used in this act, the following words
24 shall have the following meanings:

25 (1) HOPE. Honor and Opportunity Probation with
26 Enforcement.

1 (2) KEY PROCESS AND OUTCOME MEASURES. These measures
2 include individual and aggregate data on the following:

- 3 a. Individuals enrolled in the program.
- 4 b. The frequency of drug testing.
- 5 c. The number and type of violations and sanctions
6 imposed.
- 7 d. The number of jail stays imposed.
- 8 e. The period of time between detection of a
9 violation and the issuance of a sanction.
- 10 f. The number and cause of revocations.
- 11 g. The number and cause of arrests.
- 12 h. Participants who successfully completed or failed
13 the program or otherwise did not complete the program.
- 14 i. Participants referred to drug treatment.
- 15 j. Participants regularly employed and the type of
16 employment.
- 17 k. The amount of cost savings, if any, resulting
18 from the reduced incarceration achieved through the program.

19 (3) SYSTEM ACTORS. All individuals who are or will
20 be involved in the operation of the HOPE program, including
21 but not limited to:

- 22 a. Probation officers.
- 23 b. The sheriff, jailer, or jail administrator as
24 provided in Section 14-6-1, Code of Alabama 1975.
- 25 c. The district attorney or his or her designee.
- 26 d. The public defender and other members of the
27 criminal defense bar in the circuit.

1 e. The sheriff of each county in the circuit or his
2 or her designee.

3 f. The chief of police of each municipality in the
4 circuit or his or her designee.

5 Section 3. The Legislature makes the following
6 findings:

7 (1) The Legislature recognizes the important role
8 that probation supervision plays in the state's criminal
9 justice system.

10 (2) The majority of offenders convicted of a felony
11 offense in Alabama receive a punishment of probation.

12 (3) In fiscal year 2009, the Alabama Board of
13 Pardons and Paroles supervised over 56,000 probationers.

14 (4) While on probation supervision, offenders are
15 required to comply with a set of conditions, and an officer is
16 assigned to the offender to monitor his or her compliance,
17 supervise the offender's rehabilitation, and report violations
18 to the court for possible sanctions, including revocation.

19 (5) Failure to successfully complete a term of
20 probation contributes to prison admissions in Alabama.

21 (6) In fiscal year 2009, over 2,700 probationers had
22 their supervision revoked, with over 1,200 of them being for
23 technical violations of probation. Over 2,400 offenders were
24 admitted to the Department of Corrections on a revocation in
25 fiscal year 2009.

1 (7) Research in offender supervision proves that
2 swift, certain, and graduated sanctions for noncompliance can
3 reduce drug use, new crimes, and revocation to incarceration.

4 (8) The HOPE initiative is an offender supervision
5 program aimed at reducing probation violations by moderate to
6 high-risk offenders as determined by a recognized risk and
7 needs assessment recommended for use in Alabama, by using
8 clearly articulated sanctions applied in a manner that is
9 certain, swift, consistent, and proportionate.

10 Section 4. The goals of this act are to provide the
11 judicial circuits and local jurisdictions with standards and
12 guidelines with which to initiate a HOPE program. These
13 standards and guidelines are intended to:

14 (1) Enhance public safety by reducing recidivism.

15 (2) Reduce substance abuse.

16 (3) Increase the accountability and personal
17 responsibility of offenders on probation supervision.

18 (4) Help probation officers mete out fair,
19 consistent, and proportionate sanctions.

20 (5) Encourage probation officers and the courts to
21 sanction those probationers in the program for each and every
22 violation.

23 (6) Reduce the costs of incarceration.

24 Section 5. The presiding judge of each judicial
25 circuit, with the consent of the chief probation officers of
26 the circuit, may establish a HOPE program. The structure and
27 operation of each HOPE program may differ and should be based

1 on the specific needs of and resources available to the
2 judicial circuit where the program will operate, but shall be
3 created and operated pursuant to this act and in compliance
4 with the guidelines contained herein.

5 Section 6. A HOPE program established within a
6 judicial circuit in the State of Alabama shall comply with the
7 following standards:

8 (1) In developing, launching, and operating the
9 program, the presiding judge or the judge assigned by the
10 presiding judge to operate the program shall involve and
11 receive a commitment of involvement from all system actors who
12 will participate in the operation of the program. Regular
13 coordination meetings shall be held between the relevant
14 system actors.

15 (2) The program must target individuals who are
16 serving a term of probation and who are at higher risk of
17 failing to observe the conditions of probation and of being
18 returned to incarceration as a result of such failure.

19 (3) The judge overseeing the program shall notify
20 the selected probationers of the rules of the program,
21 consequences of violating such rules, and the sanctions that
22 will be imposed.

23 (4) Regular, random, and rapid-result drug tests
24 shall be a part of any program created.

25 (5) Probationers shall be monitored to ensure that
26 their conditions of probation are being met, including, but
27 not limited to, reporting to the probation officer as

1 scheduled, abstaining from drug use, and paying court-ordered
2 financial obligations such as restitution or child support.

3 (6) The judge and the probation officer shall
4 respond to every violation of the conditions of probation with
5 immediate arrest of the violating probationers, and swift and
6 certain modification of the conditions of probation, including
7 imposition of short periods of confinement. The imposition of
8 short periods of confinement may be graduated to longer
9 periods of confinement with each additional violation and
10 modification.

11 (7) The judge shall immediately respond to a
12 probationer who has removed, absconded, or secreted himself or
13 herself from probation with the issuance of bench warrants and
14 immediate sanctions.

15 (8) The probation officer shall provide incentives
16 to probationers who comply with the rules, including less
17 frequent drug testing and reporting.

18 (9) Referral to substance abuse treatment shall be
19 provided to probationers who repeatedly fail to refrain from
20 the use of illicit drugs.

21 (10) Procedures shall be established to terminate
22 program participation and initiate revocation to a term of
23 incarceration for probationers who habitually fail to abide by
24 the program rules and pose a threat to public safety.

25 Section 7. Any HOPE program established within the
26 State of Alabama shall collect key process and outcome
27 measures and report such measures to the Alabama Sentencing

1 Commission on an ongoing and at least annual basis, as
2 directed by the Alabama Sentencing Commission.

3 Section 8. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.