To authorize a national HOPE Program to reduce drug use, crime, and the costs of incarceration.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 2009

Mr. SCHIFF (for himself and Mr. Poe of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To authorize a national HOPE Program to reduce drug use, crime, and the costs of incarceration.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Honest Opportunity Probation with Enforcement (HOPE) Initiative Act of 2009”.

SECTION 2. FINDINGS.

Congress finds the following:

(1) Crime continues to inflict a severe cost on victims and communities across the country.
(2) Criminal apprehension and punishment similarly impose substantial costs on taxpayers, with States spending over $50,000,000,000 on corrections in fiscal year 2008, accounting for 1 in every 15 State general fund dollars.

(3) A substantial amount of crime, and a substantial share of prison occupancy, is directly tied to illicit drug consumption. A relatively small group of chronic drug users consumes the vast majority of cocaine, heroin, and methamphetamine in the United States, and approximately three-quarters of this group pass through the criminal justice system at some point. Consequently, reducing drug consumption in the United States requires effectively addressing the drug habits of supervised offenders.

(4) One in 100 adults is behind bars, and 1 in 31 is under some form of criminal justice supervision, including probation and parole. Of the 7,300,000 individuals in the United States who are under criminal justice supervision, the majority (4,300,000) are serving a term of probation in their communities, in lieu of serving time behind bars.

(5) The failure of individuals serving terms of probation to successfully complete such terms is a major contributor to prison admissions. In 2007,
more than 250,000 such individuals were admitted
to prison. Consequently, controlling drug use by in-
dividuals who are serving a period of probation re-
duces both national drug consumption and crime
rates, and reduces taxpayer burdens.

(6) Innovations in offender supervision prove
that swift, certain, and graduated sanctions for non-
compliance can reduce drug use, new crimes, and
revocation to incarceration.

(7) Hawaii’s Opportunity Probation with En-
forcement (HOPE) initiative, an offender super-
vision program to reduce probation violations by
drug and other high-risk offenders using a struc-
tured sanctions model, has been shown to be highly
successful at reducing drug use, crime, and recidi-

(8) According to an article in the Journal of the
American Medical Association in August of 2009, if
the HOPE initiative was replicated effectively in
multiple jurisdictions, the program might have
broader benefits beyond assisting probationer par-
ticipants at risk for heavy drug use, such as helping
to shrink the market for illegal drugs and the profits
of drug trafficking organizations.
SEC. 3. HOPE INITIATIVE GRANTS.

(a) Program Established.—

(1) In general.—The Attorney General may establish a competitive demonstration grant program to award grants to State, tribal, and local courts to establish probation programs that reduce drug use, crime, and recidivism by requiring swift, predictable, and graduated sanctions for noncompliance with the conditions of probation, as determined by the Attorney General.

(2) Number and selection of grants.—

(A) Number.—The Attorney General shall have the discretion to award not more than 20 grants under this section.

(B) Selection.—The Attorney General shall ensure that such grants are awarded in a manner that promotes the strongest proposals, evaluation designs, and geographic diversity of the demonstration programs under this section.

(b) Application.—To be eligible for a grant under this section, a State, tribal, or local court shall, in addition to any other requirements required by the Attorney General, submit to the Attorney General an application that—

(1) describes the program to be assisted under this section and the need for such program;
(2) describes a long-term strategy and detailed implementation plan for such program, including how the entity plans to pay for the program after the Federal funding is discontinued;

(3) certifies that all government entities affected by the program have been appropriately consulted in the development of the program and that there will be appropriate coordination with all such entities in the implementation of the program;

(4) identifies the key partners that will be included in the program, including the Chief Judge of the court of the relevant jurisdiction and other participating judges in such jurisdiction, State court administrator, probation and parole administrators, jail and prison administrators, prosecutors, public defenders and defense attorneys, and sheriff or police administrators; and

(5) includes an assurance that the applicant will—

(A) collect key process measures, including the number of individuals enrolled in the program, the frequency of drug testing of such individuals, the certainty of sanctions for a violation of the terms of probation, the average period of time from detection of a violation to
issuance of a sanction for such violation, and
sanction severity;

(B) conduct an unbiased comparison of the
outcomes between program participants and
similarly situated probationers not in the pro-
gram, including the positive and negative drug
test rates, probation and substance abuse treat-
ment appearance rates, probation term modi-
fications, revocations, arrests, time spent in jail
or prison, and total correctional costs incurred;
and

(C) partner with an independent program
advisor and evaluator, who will assist the appli-
cant with designing the demonstration program
to be carried out with the grant, identifying the
appropriate comparison group for the compari-
son required under subparagraph (A), and
measuring relevant outcomes for such compari-
son.

(e) Grant Uses.—A grant awarded under this sec-
tion shall be used by the grantee to establish probation
programs that—

(1) identify for enrollment in the program indi-
viduals who are serving a term of probation and who
are at high risk of failing to observe the conditions
of supervision and of being returned to incarceration as a result of such failure;

(2) notify probationers of the rules of the probation demonstration program, and consequences for violating such rules;

(3) monitor probationers for illicit drug use with regular and rapid-result drug screening;

(4) monitor probationers for violations of other rules and probation terms, including failure to pay court-ordered financial obligations such as child support or victim restitution;

(5) respond to violations of such rules with immediate arrest of the violating probationer, and swift and certain modification of the conditions of probation, including imposition of short jail stays (which may gradually become longer with each additional violation and modification);

(6) immediately respond to probationers who have absconded from supervision with service of bench warrants and immediate sanctions;

(7) provide rewards to probationers who comply with such rules;

(8) ensure funding for, and referral to, substance abuse treatment for probationers who repeatedly fail to refrain from illicit drugs use;
(9) establish procedures to terminate program participation by, and initiate revocation to a term of incarceration for, probationers who habitually fail to abide by program rules and pose a threat to public safety; and

(10) include regular coordination meetings for the key partners of the demonstration program, including the partners identified in the grant application in accordance with subsection (b)(4).

(d) DETERMINATION OF PROGRAM SAVINGS.—

(1) GRANTEE SAVINGS AND REINVESTMENT.— Each court receiving a grant under this section shall—

(A) not later than 12 months after an initial grant award under this section, and annually thereafter through the end of the grant period, calculate the amount of cost savings, if any, resulting from the reduced incarceration achieved through such grant program; and

(B) report to the Attorney General—

(i) the amount calculated under subparagraph (A); and

(ii) the portion of such amount, if any, that will be reinvested for expansion of such grant program.
(2) Evaluation, guidance, and recommendations.—The Attorney General shall—

(A) annually evaluate—

(i) the methods used by courts to calculate the cost savings reported under paragraph (1); and

(ii) the use of such savings by the courts to reinvest for expansion of the grant program; and

(B) provide guidance, assistance, and recommendations to such courts relating to the potential reinvestment of such savings for expansion of such grant program.

(e) Evaluation Coordinator.—The Attorney General shall select an entity to serve as the HOPE initiative evaluation coordinator to—

(1) analyze and provide feedback on the measures and outcomes the individual HOPE initiative demonstration programs are required to collect and conduct, respectively, in accordance with subsection (b)(5);

(2) ensure consistent tracking of the progress of the demonstration programs carried out under this section, including such measures and outcomes; and
(3) ensure that the aggregate data from all such demonstration programs is available to each of the programs and the Attorney General.

(f) ANNUAL REPORT.—The Attorney General shall annually report to Congress on the results of the HOPE initiative carried out under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants awarded under this section $25,000,000 for each of fiscal years 2010 through 2014, of which not more than $500,000 shall be available to the Attorney General in each fiscal year for coordination activities necessary to carry out this section.