

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SENATE BILL 1252

AN ACT

AMENDING SECTIONS 9-499.07, 11-459, 28-1304, 28-1382 AND 28-1387, ARIZONA
REVISED STATUTES; RELATING TO DRIVING UNDER THE INFLUENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-499.07, Arizona Revised Statutes, is amended to
3 read:

4 9-499.07. Prisoner work, community restitution work and home
5 detention program; eligibility; monitoring;
6 procedures; home detention for persons sentenced
7 for driving under the influence of alcohol or drugs

8 A. A city or town may establish a prisoner work, community restitution
9 work and home detention program for eligible sentenced prisoners, which shall
10 be treated the same as confinement in jail. The presiding judge of the city
11 or town municipal court shall approve the program before its implementation.

12 B. A prisoner is not eligible for a prisoner work, community
13 restitution work and home detention program if any of the following applies:

14 1. The prisoner is found by the city or town to constitute a risk to
15 either himself or other members of the community.

16 2. The prisoner has a past history of violent behavior.

17 3. The sentencing judge states at the time of the sentence that the
18 prisoner may not be eligible for a prisoner work, community restitution work
19 and home detention program.

20 C. For prisoners who are selected for the program, the city or town
21 may require electronic monitoring in the prisoner's home whenever the
22 prisoner is not at the prisoner's regular place of employment or while the
23 prisoner is assigned to a community work task. If electronic monitoring is
24 required, the prisoner shall remain under the control of a home detention
25 device that constantly monitors the prisoner's location in order to determine
26 that the prisoner has not left the prisoner's premises. In all other cases,
27 the city or town shall implement a system of monitoring using telephone
28 contact or other appropriate methods to assure compliance with the home
29 detention requirements. The city or town may place appropriate restrictions
30 on prisoners in the program, including testing prisoners for consumption of
31 alcoholic beverages or drugs or prohibiting association with individuals who
32 are determined to be detrimental to the prisoner's successful participation
33 in the program.

34 D. If a prisoner is placed on electronic monitoring pursuant to
35 subsection C of this section, the prisoner shall pay an electronic monitoring
36 fee in an amount ranging from zero to full cost and thirty dollars per month
37 while on electronic monitoring, unless, after determining the inability of
38 the prisoner to pay these fees, the city or town assesses a lesser fee. The
39 fees collected shall be used by the city or town to offset operational costs
40 of the program.

41 E. Prisoners who are selected for the home detention program shall be
42 employed within the county in which the city or town is located. The city or
43 town shall review the place of employment to determine whether it is
44 appropriate for a home detention prisoner. If the prisoner is terminated
45 from employment or does not come to work, the employer shall notify the city

1 or town. Alternatively, or in addition, a community restitution work
2 assignment may be made by the city or town to a program recommended by the
3 community restitution work committee. If a prisoner is incapable of
4 performing community restitution or being employed, the city or town may
5 exempt the prisoner from these programs.

6 F. The city or town may require that a prisoner who is employed during
7 the week also participate in community restitution work programs on weekends.

8 G. The city or town may allow prisoners to be away from home detention
9 for special purposes, including church attendance, medical appointments or
10 funerals.

11 H. Community restitution work shall include public works projects
12 operated and supervised by the city or town or other public agencies of this
13 state or projects sponsored and supervised by public or private community
14 oriented organizations and agencies.

15 I. A city or town implementing a program under this section shall
16 appoint a community restitution work committee. The committee shall
17 recommend to the city or town appropriate community restitution work projects
18 for home detention prisoners. Members are not eligible to receive
19 compensation.

20 J. At any time the city or town may terminate a prisoner's
21 participation in the prisoner work, community restitution work and home
22 detention program and require that the prisoner complete the remaining term
23 of the prisoner's sentence in jail confinement.

24 K. Nothing in this section shall prohibit a city or town from entering
25 into a joint exercise of powers agreement pursuant to section 11-952 for a
26 prisoner work, community restitution work and home detention program.

27 L. If authorized by the court, a person who is sentenced pursuant to
28 section 28-1381 or 28-1382 shall not be placed under home detention in a
29 prisoner work, community restitution work and home detention program except
30 as provided in subsections M through R of this section.

31 M. By a majority vote of the full membership of the governing body of
32 the municipality after a public hearing and a finding of necessity, a city or
33 town may establish a home detention program for persons who are sentenced to
34 jail confinement pursuant to section 28-1381 or 28-1382. A prisoner who is
35 placed under the program established pursuant to this subsection shall bear
36 the cost of all testing, monitoring and enrollment in alcohol or substance
37 abuse programs unless, after determining the inability of the prisoner to pay
38 the cost, the court assesses a lesser amount. The city or town shall use the
39 collected monies to offset operational costs of the program.

40 N. If the city or town establishes a home detention program under
41 subsection M of this section, a prisoner must meet the following eligibility
42 requirements for the program:

43 1. ~~The provisions of~~ Subsection B of this section ~~apply~~ APPLIES in
44 determining eligibility for the program.

1 2. If the prisoner is sentenced under section 28-1381, subsection I,
2 the prisoner first serves a minimum of twenty-four consecutive hours in jail.

3 3. Notwithstanding section 28-1387, subsection C, if the prisoner is
4 sentenced under section 28-1381, subsection K or section 28-1382, subsection
5 D or ~~F~~ E, the prisoner first serves a minimum of fifteen consecutive days in
6 jail before being placed under home detention.

7 4. The prisoner is required to comply with all of the following
8 provisions for the duration of the prisoner's participation in the home
9 detention program:

10 (a) All of the provisions of subsections C through H of this section.

11 (b) Testing at least once a day for the use of alcoholic beverages or
12 drugs by a scientific method that is not limited to urinalysis or a breath or
13 intoxication test in the prisoner's home or at the office of a person
14 designated by the court to conduct these tests.

15 (c) Participation in an alcohol or drug program, or both. These
16 programs shall be accredited by the department of health services or a county
17 probation department.

18 (d) Prohibition of association with any individual determined to be
19 detrimental to the prisoner's successful participation in the program.

20 (e) All other provisions of the sentence imposed.

21 5. Any additional eligibility criteria that the city or town may
22 impose.

23 O. If a city or town establishes a home detention program under
24 subsection M of this section, the court, on placing the prisoner in the
25 program, shall require electronic monitoring in the prisoner's home and, if
26 consecutive hours of jail time are ordered, shall require the prisoner to
27 remain at home during the consecutive hours ordered. The detention device
28 shall constantly monitor the prisoner's location to ensure that the prisoner
29 does not leave the premises. Nothing in this subsection shall be deemed to
30 waive the minimum jail confinement requirements under subsection N, paragraph
31 2 of this section.

32 P. The court shall terminate a prisoner's participation in the home
33 detention program and require the prisoner to complete the remaining term of
34 the jail sentence by jail confinement if:

35 1. The prisoner fails to successfully complete a court ordered alcohol
36 or drug screening, counseling, education and treatment program pursuant to
37 subsection N, paragraph 4, subdivision (c) of this section, section 28-1381,
38 subsection J or L or section 28-1382, subsection ~~E or G~~ F.

39 2. The court finds that the prisoner left the premises without
40 permission of the court or supervising authority during a time the prisoner
41 is ordered to be on the premises.

42 Q. At any other time the court may terminate a prisoner's
43 participation in the home detention program and require the prisoner to
44 complete the remaining term of the jail sentence by jail confinement.

1 R. The governing body of the city or town may terminate the program
2 established under subsection M of this section by a majority vote of the full
3 membership of the governing body.

4 Sec. 2. Section 11-459, Arizona Revised Statutes, is amended to read:

5 11-459. Prisoner work, community restitution work and home
6 detention program; eligibility; monitoring;
7 procedures; home detention for persons sentenced for
8 driving under the influence of alcohol or drugs;
9 community restitution work committee; members; duties

10 A. The sheriff may establish a prisoner work, community restitution
11 work and home detention program for eligible sentenced prisoners, which shall
12 be treated the same as confinement in jail and shall fulfill the sheriff's
13 duty to take charge of and keep the county jail and prisoners.

14 B. A prisoner is not eligible for a prisoner work, community
15 restitution work and home detention program if any of the following applies:

16 1. After independent review and determination of the jail's
17 classification program, the prisoner is found by the sheriff to constitute a
18 risk to either himself or other members of the community.

19 2. The prisoner has a past history of violent behavior.

20 3. The prisoner has been convicted of a serious offense as defined ~~by~~
21 ~~IN~~ section 13-604 or has been determined to be a dangerous and repetitive
22 offender.

23 4. Jail time is being served as a result of a felony conviction.

24 5. The sentencing judge states at the time of the sentence that the
25 prisoner may not be eligible for a prisoner work, community restitution work
26 and home detention program.

27 6. The prisoner is sentenced to a county jail and is being held for
28 another jurisdiction.

29 C. For prisoners who are selected for the program, the sheriff may
30 require electronic monitoring in the prisoner's home whenever the prisoner is
31 not at ~~his~~ THE PRISONER'S regular place of employment or while the prisoner
32 is assigned to a community work task. If electronic monitoring is required,
33 the prisoner shall remain under the control of a home detention device that
34 constantly monitors the prisoner's location in order to determine that the
35 prisoner has not left ~~his~~ THE PRISONER'S premises. In all other cases, the
36 sheriff shall implement a system of monitoring using visitation, telephone
37 contact or other appropriate methods to assure compliance with the home
38 detention requirements. The sheriff may place appropriate restrictions on
39 prisoners in the program, including testing prisoners for consumption of
40 alcoholic beverages or drugs or prohibiting association with individuals who
41 are determined to be detrimental to the prisoner's successful participation
42 in the program.

43 D. If a prisoner is placed on electronic monitoring pursuant to
44 subsection C of this section, the prisoner shall pay an electronic monitoring
45 fee in an amount ranging from zero to full cost and thirty dollars per month

1 while on electronic monitoring, unless, after determining the inability of
2 the prisoner to pay these fees, the sheriff assesses a lesser fee. The fees
3 collected shall be used by the sheriff to offset operational costs of the
4 program.

5 E. Prisoners who are selected for the home detention program shall be
6 employed in the county in which they are incarcerated. The sheriff shall
7 review the place of employment to determine whether it is appropriate for a
8 home detention prisoner. If the prisoner is terminated from employment or
9 does not come to work, the employer shall notify the sheriff's office.
10 Alternatively, or in addition, a community restitution work assignment may be
11 made by the sheriff to a program recommended to the sheriff by the community
12 restitution work committee. If a prisoner is incapable of performing
13 community restitution or being employed, the sheriff may exempt the prisoner
14 from these programs.

15 F. The sheriff may require that a prisoner who is employed during the
16 week also participate in community restitution work programs on weekends.

17 G. The sheriff may allow prisoners to be away from home detention for
18 special purposes, including church attendance, medical appointments or
19 funerals. The standard for review and determination of such leave is the
20 same as that implemented to decide transportation requests for similar
21 purposes made by prisoners confined in the county jail.

22 H. Community restitution work shall include public works projects
23 operated and supervised by public agencies of this state or counties, cities
24 or towns on recommendation of the community restitution work committee and
25 approval of the sheriff. The community restitution work committee may also
26 recommend and the sheriff may approve other forms of community restitution
27 work sponsored and supervised by public or private community oriented
28 organizations and agencies.

29 I. The community restitution work committee is established in each
30 county and is composed of two designees of the sheriff, a representative of
31 the county attorney's office selected by the county attorney, a
32 representative of a local police agency selected by the police chief of the
33 largest city in the county and three persons selected by the county board of
34 supervisors from the private sector. A sheriff's designee shall serve as
35 committee chairman and schedule all meetings. The committee shall meet as
36 often as necessary, but no less than once every three months, for the purpose
37 of considering and recommending appropriate community restitution work
38 projects for home detention prisoners. The committee shall make its
39 recommendations to the sheriff. Members are not eligible to receive
40 compensation.

41 J. At any time the sheriff may terminate a prisoner's participation in
42 the prisoner work, community restitution work and home detention program and
43 require that the prisoner complete the remaining term of the prisoner's
44 sentence in jail confinement.

1 K. If authorized by the court, a person who is sentenced pursuant to
2 section 28-1381 or 28-1382 shall not be placed under home detention in a
3 prisoner work, community restitution work and home detention program except
4 as provided in subsections L through Q of this section.

5 L. By a majority vote of the full membership of the board of
6 supervisors after a public hearing and a finding of necessity a county may
7 authorize the sheriff to establish a home detention program for persons who
8 are sentenced to jail confinement pursuant to section 28-1381 or 28-1382. If
9 the board authorized the establishment of a home detention program, a county
10 sheriff may establish the program. A prisoner who is placed under the
11 program established pursuant to this subsection shall bear the cost of all
12 testing, monitoring and enrollment in alcohol or substance abuse programs
13 unless, after determining the inability of the prisoner to pay the cost, the
14 court assesses a lesser amount. The county shall use the collected monies to
15 offset operational costs of the program.

16 M. If a county sheriff establishes a home detention program under
17 subsection L of this section, a prisoner must meet the following eligibility
18 requirements for the program:

19 1. ~~The provisions of~~ Subsection B of this section ~~apply~~ APPLIES in
20 determining eligibility for the program.

21 2. If the prisoner is sentenced under section 28-1381, subsection I,
22 the prisoner first serves a minimum of twenty-four consecutive hours in jail.

23 3. Notwithstanding section 28-1387, subsection C, if the prisoner is
24 sentenced under section 28-1381, subsection K or section 28-1382, subsection
25 D or ~~F~~ E, the prisoner first serves a minimum of fifteen consecutive days in
26 jail before being placed under home detention.

27 4. The prisoner is required to comply with all of the following
28 requirements for the duration of the prisoner's participation in the home
29 detention program:

30 (a) All of the provisions of subsections C through H of this section.

31 (b) Testing at least once a day for the use of alcoholic beverages or
32 drugs by a scientific method that is not limited to urinalysis or a breath or
33 intoxication test in the prisoner's home or at the office of a person
34 designated by the court to conduct these tests.

35 (c) Participation in an alcohol or drug program, or both. These
36 programs shall be accredited by the department of health services or a county
37 probation department.

38 (d) Prohibition of association with any individual determined to be
39 detrimental to the prisoner's successful participation in the program.

40 (e) All other provisions of the sentence imposed.

41 5. Any additional eligibility criteria that the county may impose.

42 N. If a county sheriff establishes a home detention program under
43 subsection L of this section, the court, on placing the prisoner in the
44 program, shall require electronic monitoring in the prisoner's home and, if
45 consecutive hours of jail time are ordered, shall require the prisoner to

1 remain at home during the consecutive hours ordered. The detention device
2 shall constantly monitor the prisoner's location to ensure that the prisoner
3 does not leave the premises. Nothing in this subsection shall be deemed to
4 waive the minimum jail confinement requirements under subsection M, paragraph
5 2 of this section.

6 O. The court shall terminate a prisoner's participation in the home
7 detention program and shall require the prisoner to complete the remaining
8 term of the jail sentence by jail confinement if either:

9 1. The prisoner fails to successfully complete a court ordered alcohol
10 or drug screening, counseling, education and treatment program pursuant to
11 subsection M, paragraph 4, subdivision (c) of this section, section 28-1381,
12 subsection J or L or section 28-1382, subsection ~~E or G~~ F.

13 2. The prisoner leaves the premises during a time that the prisoner is
14 ordered to be on the premises without permission of the court or supervising
15 authority.

16 P. At any other time the court may terminate a prisoner's
17 participation in the home detention program and require the prisoner to
18 complete the remaining term of the jail sentence by jail confinement.

19 Q. The sheriff may terminate the program at any time.

20 R. A person who is sentenced pursuant to section 28-1383 shall not be
21 placed under home detention in a prisoner work, community restitution work
22 and home detention program.

23 Sec. 3. Section 28-1304, Arizona Revised Statutes, is amended to read:
24 28-1304. Driving under the influence abatement fund

25 A. The driving under the influence abatement fund is established
26 consisting of monies deposited pursuant to section 28-1382, subsection D,
27 paragraph 3 and subsection ~~F~~ E, paragraph 3 and section 28-1383, subsection
28 J, paragraph 2.

29 B. The oversight council on driving or operating under the influence
30 abatement established by section 28-1303 shall administer the fund.

31 C. Twenty-five per cent of the monies deposited in the fund shall be
32 used for grants for innovative programs pursuant to section 28-1303,
33 subsection H, paragraph 2 and seventy per cent of the monies deposited in the
34 fund shall be used for grants to political subdivisions and tribal
35 governments pursuant to section 28-1303, subsection H, paragraph 1.

36 D. Not more than five per cent of the monies deposited in the fund
37 shall be used for both of the following:

38 1. Administrative purposes of the oversight council on driving or
39 operating under the influence abatement.

40 2. Payment of the costs of notification prescribed by section 28-1467.

41 E. Monies in the fund are:

42 1. Continuously appropriated.

43 2. Exempt from the provisions of section 35-190 relating to lapsing of
44 appropriations.

1 F. On notice from the oversight council on driving or operating under
2 the influence abatement, the state treasurer shall invest and divest monies
3 in the fund as provided in section 35-313, and monies earned from investments
4 shall be credited to the fund.

5 Sec. 4. Section 28-1382, Arizona Revised Statutes, is amended to read:
6 28-1382. Driving or actual physical control while under the
7 extreme influence of intoxicating liquor; trial by
8 jury; sentencing; classification

9 A. It is unlawful for a person to drive or be in actual physical
10 control of a vehicle in this state if the person has an alcohol concentration
11 of 0.15 or more within two hours of driving or being in actual physical
12 control of the vehicle and the alcohol concentration results from alcohol
13 consumed either before or while driving or being in actual physical control
14 of the vehicle.

15 B. A person who is convicted of a violation of this section is guilty
16 of driving or being in actual physical control of a vehicle while under the
17 extreme influence of intoxicating liquor.

18 C. At the arraignment, the court shall inform the defendant that the
19 defendant may request a trial by jury and that the request, if made, shall be
20 granted.

21 D. A person who is convicted of a violation of this section:

22 1. Shall be sentenced to serve not less than thirty consecutive days
23 in jail and is not eligible for probation or suspension of execution of
24 sentence unless the entire sentence is served.

25 2. Shall pay a fine of not less than two hundred fifty dollars. The
26 fine prescribed in this paragraph and any assessments, restitution and
27 incarceration costs shall be paid before the assessment prescribed in
28 paragraph 3 of this subsection.

29 3. Shall pay an additional assessment of two hundred fifty dollars. If
30 the conviction occurred in the superior court or a justice court, the court
31 shall transmit the monies received pursuant to this paragraph to the county
32 treasurer. If the conviction occurred in a municipal court, the court shall
33 transmit the monies received pursuant to this paragraph to the city
34 treasurer. The city or county treasurer shall transmit the monies received
35 to the state treasurer. The state treasurer shall deposit the monies
36 received in the driving under the influence abatement fund established by
37 section 28-1304.

38 4. May be ordered by a court to perform community restitution.

39 5. Shall be required by the department, on receipt of the report of
40 conviction, to equip any motor vehicle the person operates with a certified
41 ignition interlock device pursuant to section 28-3319. In addition, the
42 court may order the person to equip any motor vehicle the person operates
43 with a certified ignition interlock device for more than twelve months
44 beginning on the date of reinstatement of the person's driving privilege
45 following a suspension or revocation or on the date of the department's

1 receipt of the report of conviction, whichever occurs later. The person who
2 operates a motor vehicle with a certified ignition interlock device under
3 this paragraph shall comply with article 5 of this chapter.

4 6. Shall pay an additional assessment of one thousand dollars to be
5 deposited by the state treasurer in the prison construction and operations
6 fund established by section 41-1651. This assessment is not subject to any
7 surcharge. If the conviction occurred in the superior court or a justice
8 court, the court shall transmit the assessed monies to the county treasurer.
9 If the conviction occurred in a municipal court, the court shall transmit the
10 assessed monies to the city treasurer. The city or county treasurer shall
11 transmit the monies received to the state treasurer.

12 7. Shall pay an additional assessment of one thousand dollars to be
13 deposited by the state treasurer in the state general fund. This assessment
14 is not subject to any surcharge. If the conviction occurred in the superior
15 court or a justice court, the court shall transmit the assessed monies to the
16 county treasurer. If the conviction occurred in a municipal court, the court
17 shall transmit the assessed monies to the city treasurer. The city or county
18 treasurer shall transmit the monies received to the state treasurer.

19 ~~E. Notwithstanding subsection D, paragraph 1 of this section, at the~~
20 ~~time of sentencing the judge may suspend all but ten days of the sentence if~~
21 ~~the person completes a court ordered alcohol or other drug screening,~~
22 ~~education or treatment program. If the person fails to complete the court~~
23 ~~ordered alcohol or other drug screening, education or treatment program and~~
24 ~~has not been placed on probation, the court shall issue an order to show~~
25 ~~cause to the defendant as to why the remaining jail sentence should not be~~
26 ~~served.~~

27 ~~F.~~ E. If within a period of eighty-four months a person is convicted
28 of a second violation of this section or is convicted of a violation of this
29 section and has previously been convicted of a violation of section 28-1381
30 or 28-1383 or an act in another jurisdiction that if committed in this state
31 would be a violation of this section or section 28-1381 or 28-1383, the
32 person:

33 1. Shall be sentenced to serve not less than one hundred twenty days
34 in jail, sixty days of which shall be served consecutively, and is not
35 eligible for probation or suspension of execution of sentence unless the
36 entire sentence has been served.

37 2. Shall pay a fine of not less than five hundred dollars. The fine
38 prescribed in this paragraph and any assessments, restitution and
39 incarceration costs shall be paid before the assessment prescribed in
40 paragraph 3 of this subsection.

41 3. Shall pay an additional assessment of two hundred fifty dollars.
42 If the conviction occurred in the superior court or a justice court, the
43 court shall transmit the monies received pursuant to this paragraph to the
44 county treasurer. If the conviction occurred in a municipal court, the court
45 shall transmit the monies received pursuant to this paragraph to the city

1 treasurer. The city or county treasurer shall transmit the monies received
2 to the state treasurer. The state treasurer shall deposit the monies
3 received in the driving under the influence abatement fund established by
4 section 28-1304.

5 4. Shall be ordered by a court to perform at least thirty hours of
6 community restitution.

7 5. Shall have the person's driving privilege revoked for at least one
8 year. The court shall report the conviction to the department. On receipt
9 of the report, the department shall revoke the person's driving privilege and
10 shall require the person to equip any motor vehicle the person operates with
11 a certified ignition interlock device pursuant to section 28-3319. In
12 addition, the court may order the person to equip any motor vehicle the
13 person operates with a certified ignition interlock device for more than
14 twelve months beginning on the date of reinstatement of the person's driving
15 privilege following a suspension or revocation or on the date of the
16 department's receipt of the report of conviction, whichever is later. The
17 person who operates a motor vehicle with a certified ignition interlock
18 device under this paragraph shall comply with article 5 of this chapter.

19 6. Shall pay an additional assessment of one thousand two hundred
20 fifty dollars to be deposited by the state treasurer in the prison
21 construction and operations fund established by section 41-1651. This
22 assessment is not subject to any surcharge. If the conviction occurred in
23 the superior court or a justice court, the court shall transmit the assessed
24 monies to the county treasurer. If the conviction occurred in a municipal
25 court, the court shall transmit the assessed monies to the city treasurer.
26 The city or county treasurer shall transmit the monies received to the state
27 treasurer.

28 7. Shall pay an additional assessment of one thousand two hundred
29 fifty dollars to be deposited by the state treasurer in the state general
30 fund. This assessment is not subject to any surcharge. If the conviction
31 occurred in the superior court or a justice court, the court shall transmit
32 the assessed monies to the county treasurer. If the conviction occurred in a
33 municipal court, the court shall transmit the assessed monies to the city
34 treasurer. The city or county treasurer shall transmit the monies received
35 to the state treasurer.

36 ~~G.~~ F. Notwithstanding subsection ~~F.~~ E, paragraph 1 of this section,
37 at the time of sentencing, the judge may suspend all but sixty days of the
38 sentence if the person completes a court ordered alcohol or other drug
39 screening, education or treatment program. If the person fails to complete
40 the court ordered alcohol or other drug screening, education or treatment
41 program and has not been placed on probation, the court shall issue an order
42 to show cause as to why the remaining jail sentence should not be served.

1 ~~H.~~ G. In applying the eighty-four month provision of subsection ~~F~~ E
2 of this section, the dates of the commission of the offense shall be the
3 determining factor, irrespective of the sequence in which the offenses were
4 committed.

5 ~~I.~~ H. A second violation for which a conviction occurs as provided in
6 this section shall not include a conviction for an offense arising out of the
7 same series of acts.

8 ~~J.~~ I. A person who is convicted of a violation of this section is
9 guilty of a class 1 misdemeanor.

10 Sec. 5. Section 28-1387, Arizona Revised Statutes, is amended to read:

11 28-1387. Prior convictions; alcohol or other drug screening,
12 education and treatment; license suspension;
13 supervised probation; civil liability; procedures

14 A. The court shall allow the allegation of a prior conviction or any
15 other pending charge of a violation of section 28-1381, 28-1382 or 28-1383 or
16 an act in another jurisdiction that if committed in this state would be a
17 violation of section 28-1381, 28-1382 or 28-1383 filed twenty or more days
18 before the date the case is actually tried and may allow the allegation of a
19 prior conviction or any other pending charge of a violation of section
20 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if
21 committed in this state would be a violation of section 28-1381, 28-1382 or
22 28-1383 filed at any time before the date the case is actually tried if this
23 state makes available to the defendant when the allegation is filed a copy of
24 any information obtained concerning the prior conviction or other pending
25 charge. Any conviction may be used to enhance another conviction
26 irrespective of the dates on which the offenses occurred within the
27 eighty-four month provision. For the purposes of this article, an order of a
28 juvenile court adjudicating a person delinquent is equivalent to a
29 conviction.

30 B. In addition to any other penalties prescribed by law, the judge
31 shall order a person who is convicted of a violation of section 28-1381 or
32 28-1382 to complete alcohol or other drug screening that is provided by a
33 facility approved by the department of health services or a probation
34 department. If a judge determines that the person requires further alcohol
35 or other drug education or treatment, the person may be required pursuant to
36 court order to obtain alcohol or other drug education or treatment under the
37 court's supervision from an approved facility. The judge may review an
38 education or treatment determination at the request of the state, the
39 defendant or the probation officer or on the judge's initiative. The person
40 shall pay the costs of the screening, education or treatment unless, after
41 considering the person's ability to pay all or part of the costs, the court
42 waives all or part of the costs. If a person is referred to a screening,
43 education or treatment facility, the facility shall report to the court
44 whether the person has successfully completed the screening, education or
45 treatment program.

1 C. After a person who is sentenced pursuant to section 28-1381,
2 subsection I has served twenty-four consecutive hours in jail or after a
3 person who is sentenced pursuant to section 28-1381, subsection K or section
4 28-1382, subsection D or ~~F~~ E has served forty-eight consecutive hours in
5 jail and after the court receives confirmation that the person is employed or
6 is a student, the court may provide in the sentence that the defendant, if
7 the defendant is employed or is a student and can continue the defendant's
8 employment or schooling, may continue the employment or schooling for not
9 more than twelve hours a day nor more than five days a week. The person
10 shall spend the remaining day, days or parts of days in jail until the
11 sentence is served and shall be allowed out of jail only long enough to
12 complete the actual hours of employment or schooling.

13 D. Unless the license of a person convicted under section 28-1381 or
14 28-1382 has been or is suspended pursuant to section 28-1321 or 28-1385, the
15 department on receipt of the abstract of conviction of a violation of section
16 28-1381 or 28-1382 shall suspend the license of the affected person for not
17 less than ninety consecutive days.

18 E. When the department receives notification that the person meets the
19 criteria provided in section 28-1385, subsection F, the department shall
20 suspend the driving privileges of the person for not less than thirty
21 consecutive days and shall restrict the driving privileges of the person for
22 not less than sixty consecutive additional days to travel between any of the
23 following:

24 1. The person's place of employment and residence and during specified
25 periods of time while at employment.

26 2. The person's place of residence and the person's secondary or
27 postsecondary school, according to the person's employment or educational
28 schedule.

29 3. The person's place of residence and a screening, education or
30 treatment facility for scheduled appointments.

31 4. The person's place of residence and the office of the person's
32 probation officer for scheduled appointments.

33 F. If a person is placed on probation for violating section 28-1381 or
34 28-1382, the probation shall be supervised unless the court finds that
35 supervised probation is not necessary or the court does not have supervisory
36 probation services.

37 G. Any political subdivision processing or using the services of a
38 person ordered to perform community restitution pursuant to section 28-1381
39 or 28-1382 does not incur any civil liability to the person ordered to
40 perform community restitution as a result of these activities unless the
41 political subdivision or its agent or employee acts with gross negligence.

42 H. Except for another violation of this article, the state shall not
43 dismiss a charge of violating any provision of this article unless there is
44 an insufficient legal or factual basis to pursue that charge.