

REFERENCE TITLE: home detention programs; counties; cities

State of Arizona
House of Representatives
Fiftieth Legislature
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2011

HB 2368

Introduced by
Representatives Smith D, Ash, Stevens: Barton, Burges, Montenegro, Seel

AN ACT

AMENDING SECTIONS 9-499.07 AND 11-459, ARIZONA REVISED STATUTES; RELATING TO HOME DETENTION.

(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~~ SHALL establish a prisoner work, community
9 restitution work and home detention program for eligible sentenced prisoners,
10 which shall be treated the same as confinement in jail OR ENTER INTO AN
11 AGREEMENT PURSUANT TO SUBSECTION K OF THIS SECTION TO USE ANOTHER COUNTY'S,
12 CITY'S OR TOWN'S PRISONER WORK, COMMUNITY RESTITUTION WORK AND HOME DETENTION
13 PROGRAM. The presiding judge of the city or town municipal court shall
14 approve the program before its implementation.
15 B. A prisoner is not eligible for a prisoner work, community
16 restitution work and home detention program if any of the following applies:
17 1. The prisoner is found by the city or town to constitute a risk to
18 either himself or other members of the community.
19 2. The prisoner has a past history of violent behavior.
20 3. The sentencing judge states at the time of the sentence that the
21 prisoner may not be eligible for a prisoner work, community restitution work
22 and home detention program.
23 C. For prisoners who are selected for the program, the city or town
24 may require electronic monitoring in the prisoner's home whenever the
25 prisoner is not at the prisoner's regular place of employment or while the
26 prisoner is assigned to a community work task. If electronic monitoring is
27 required, the prisoner shall remain under the control of a home detention
28 device that constantly monitors the prisoner's location in order to determine
29 that the prisoner has not left the prisoner's premises. In all other cases,
30 the city or town shall implement a system of monitoring using telephone
31 contact or other appropriate methods to ~~assure~~ ENSURE compliance with the
32 home detention requirements. The city or town may place appropriate
33 restrictions on prisoners in the program, including testing prisoners for
34 consumption of alcoholic beverages or drugs or prohibiting association with
35 individuals who are determined to be detrimental to the prisoner's successful
36 participation in the program.
37 D. If a prisoner is placed on electronic monitoring pursuant to
38 subsection C of this section, the prisoner shall pay an electronic monitoring
39 fee in an amount ranging from zero to full cost and thirty dollars per month
40 while on electronic monitoring, unless, after determining the inability of
41 the prisoner to pay these fees, the city or town assesses a lesser fee. The
42 city or town shall use the fees collected to offset operational costs of the
43 program.
44 E. Prisoners who are selected for the home detention program shall be
45 employed within the county in which the city or town is located. The city or

1 town shall review the place of employment to determine whether it is
2 appropriate for a home detention prisoner. If the prisoner is terminated
3 from employment or does not come to work, the employer shall notify the city
4 or town. Alternatively, or in addition, a community restitution work
5 assignment may be made by the city or town to a program recommended by the
6 community restitution work committee. If a prisoner is incapable of
7 performing community restitution or being employed, the city or town may
8 exempt the prisoner from these programs.

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

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

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

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

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

27 K. ~~Nothing in this section shall prohibit~~ A city or town ~~from entering~~
28 MAY ENTER into a joint exercise of powers agreement pursuant to section
29 11-952 for a prisoner work, community restitution work and home detention
30 program.

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

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

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

4 1. Subsection B of this section applies in determining eligibility for
5 the program.

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

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

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

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

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

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

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

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

26 5. Any additional eligibility criteria that the city or town may
27 impose.

28 0. If a city or town establishes a home detention program under
29 subsection M of this section, the court, on placing the prisoner in the
30 program, shall require electronic monitoring in the prisoner's home and, if
31 consecutive hours of jail time are ordered, shall require the prisoner to
32 remain at home during the consecutive hours ordered. The detention device
33 shall constantly monitor the prisoner's location to ensure that the prisoner
34 does not leave the premises. Nothing in this subsection shall be deemed to
35 waive the minimum jail confinement requirements under subsection N, paragraph
36 2 of this section.

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

40 1. The prisoner fails to successfully complete a court ordered alcohol
41 or drug screening, counseling, education and treatment program pursuant to
42 subsection N, paragraph 4, subdivision (c) of this section or section
43 28-1381, subsection J or L.

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

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

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

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

11 11-459. Prisoner work, community restitution work and home
12 detention program; eligibility; monitoring;
13 procedures; home detention for persons sentenced for
14 driving under the influence of alcohol or drugs;
15 community restitution work committee; members; duties

16 A. The sheriff ~~may~~ **SHALL** establish a prisoner work, community
17 restitution work and home detention program for eligible sentenced prisoners,
18 which shall be treated the same as confinement in jail and shall fulfill the
19 sheriff's duty to take charge of and keep the county jail and prisoners **OR**
20 **ENTER INTO AN AGREEMENT PURSUANT TO SUBSECTION S OF THIS SECTION TO USE**
21 **ANOTHER COUNTY'S, CITY'S OR TOWN'S PRISONER WORK, COMMUNITY RESTITUTION WORK**
22 **AND HOME DETENTION PROGRAM.**

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

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

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

29 3. The prisoner has been convicted of a serious offense as defined in
30 section 13-706 or has been determined to be a dangerous and repetitive
31 offender.

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

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

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

38 C. If a prisoner is selected for the program, the sheriff may require
39 electronic monitoring in the prisoner's home whenever the prisoner is not at
40 the prisoner's regular place of employment or while the prisoner is assigned
41 to a community work task. If electronic monitoring is required, the prisoner
42 shall remain under the control of a home detention device that constantly
43 monitors the prisoner's location in order to determine that the prisoner has
44 not left the prisoner's premises. In all other cases, the sheriff shall
45 implement a system of monitoring using visitation, telephone contact or other

1 appropriate methods to ~~assure~~ ENSURE compliance with the home detention
2 requirements. The sheriff may place appropriate restrictions on prisoners in
3 the program, including testing prisoners for consumption of alcoholic
4 beverages or drugs or prohibiting association with individuals who are
5 determined to be detrimental to the prisoner's successful participation in
6 the program.

7 D. If a prisoner is placed on electronic monitoring pursuant to
8 subsection C of this section, the prisoner shall pay an electronic monitoring
9 fee in an amount ranging from zero to full cost and thirty dollars per month
10 while on electronic monitoring, unless, after determining the inability of
11 the prisoner to pay these fees, the sheriff assesses a lesser fee. The
12 sheriff shall use the fees collected to offset operational costs of the
13 program.

14 E. Prisoners who are selected for the home detention program shall be
15 employed in the county in which they are incarcerated. The sheriff shall
16 review the place of employment to determine whether it is appropriate for a
17 home detention prisoner. If the prisoner is terminated from employment or
18 does not come to work, the employer shall notify the sheriff's office.
19 Alternatively, or in addition, a community restitution work assignment may be
20 made by the sheriff to a program recommended to the sheriff by the community
21 restitution work committee. If a prisoner is incapable of performing
22 community restitution or being employed, the sheriff may exempt the prisoner
23 from these programs.

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

26 G. The sheriff may allow prisoners to be away from home detention for
27 special purposes, including church attendance, medical appointments or
28 funerals. The standard for review and determination of such leave is the
29 same as that implemented to decide transportation requests for similar
30 purposes made by prisoners who are confined in the county jail.

31 H. Community restitution work shall include public works projects
32 operated and supervised by public agencies of this state or counties, cities
33 or towns on recommendation of the community restitution work committee and
34 approval of the sheriff. The community restitution work committee may also
35 recommend and the sheriff may approve other forms of community restitution
36 work sponsored and supervised by public or private community oriented
37 organizations and agencies.

38 I. The community restitution work committee is established in each
39 county and is composed of two designees of the sheriff, a representative of
40 the county attorney's office selected by the county attorney, a
41 representative of a local police agency selected by the police chief of the
42 largest city in the county and three persons selected by the county board of
43 supervisors from the private sector. A sheriff's designee shall serve as
44 committee chairman and schedule all meetings. The committee shall meet as
45 often as necessary, but no less than once every three months, for the purpose

1 of considering and recommending appropriate community restitution work
2 projects for home detention prisoners. The committee shall make its
3 recommendations to the sheriff. Members are not eligible to receive
4 compensation.

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

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

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

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

27 1. Subsection B of this section applies in determining eligibility
28 for the program.

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

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

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

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

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

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

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

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

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

5 N. If a county sheriff establishes a home detention program under
6 subsection L of this section, the court, on placing the prisoner in the
7 program, shall require electronic monitoring in the prisoner's home and, if
8 consecutive hours of jail time are ordered, shall require the prisoner to
9 remain at home during the consecutive hours ordered. The detention device
10 shall constantly monitor the prisoner's location to ensure that the prisoner
11 does not leave the premises. Nothing in this subsection shall be deemed to
12 waive the minimum jail confinement requirements under subsection M, paragraph
13 2 of this section.

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

17 1. The prisoner fails to successfully complete a court ordered alcohol
18 or drug screening, counseling, education and treatment program pursuant to
19 subsection M, paragraph 4, subdivision (c) of this section or section
20 28-1381, subsection J or L.

21 2. The prisoner leaves the premises during a time that the prisoner is
22 ordered to be on the premises without permission of the court or supervising
23 authority.

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

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

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

31 S. THE SHERIFF MAY ENTER INTO A JOINT EXERCISE OF POWERS AGREEMENT
32 PURSUANT TO SECTION 11-952 FOR A PRISONER WORK, COMMUNITY RESTITUTION WORK
33 AND HOME DETENTION PROGRAM.