

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

CHAPTER 341
SENATE BILL 1200

AN ACT

AMENDING SECTIONS 5-395.01 AND 9-499.07, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-251.14; AMENDING SECTIONS 11-445, 11-459, 22-131, 28-1304, 28-1321, 28-1381, 28-1382, 28-1383, 28-1385, 28-1401, 28-1402, 28-1461, 28-1464 AND 28-1465, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-1525; AMENDING SECTIONS 28-2163, 28-3315, 28-3319 AND 31-233, 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 5-395.01, Arizona Revised Statutes, is amended to
3 read:

4 5-395.01. Operating or in actual physical control of a
5 motorized watercraft while under the influence;
6 classification; penalties

7 A. A person who is convicted of a violation of section 5-395 is guilty
8 of a class 1 misdemeanor. The person:

9 1. Shall be sentenced to serve not less than ten consecutive days in
10 jail and is not eligible for probation or suspension of execution of sentence
11 unless the entire sentence is served.

12 2. Shall pay a fine of not less than two hundred fifty dollars.

13 3. May be ordered by a court to perform community restitution.

14 4. Shall pay an additional assessment of five hundred dollars to be
15 deposited by the state treasurer in the prison construction and operations
16 fund established by section 41-1651. This assessment is not subject to any
17 surcharge. If the conviction occurred in the superior court or a justice
18 court, the court shall transmit the assessed monies to the county treasurer.
19 If the conviction occurred in a municipal court, the court shall transmit the
20 assessed monies to the city treasurer. The city or county treasurer shall
21 transmit the monies received to the state treasurer.

22 5. Shall pay an additional assessment of five hundred dollars to be
23 deposited by the state treasurer in the public safety equipment fund
24 established by section 41-1723. This assessment is not subject to any
25 surcharge. If the conviction occurred in the superior court or a justice
26 court, the court shall transmit the assessed monies to the county treasurer.
27 If the conviction occurred in a municipal court, the court shall transmit the
28 assessed monies to the city treasurer. The city or county treasurer shall
29 transmit the monies received to the state treasurer.

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

44 C. Notwithstanding subsection A, paragraph 1 of this section and
45 except as provided in section 5-398.01, the judge may either:

1 1. Suspend any imposed sentence for a first violation of section 5-395
2 if the person completes a court ordered alcohol or other drug screening,
3 education or treatment program. If the person fails to complete the court
4 ordered alcohol or other drug screening, education or treatment program and
5 has not been placed on probation, the court shall issue an order to show
6 cause to the defendant as to why the remaining jail sentence should not be
7 served.

8 2. Suspend all but twenty-four consecutive hours of the sentence if
9 the person completes a court ordered alcohol or other drug screening,
10 education or treatment program and if the court determines the person
11 recklessly endangered another person with a substantial risk of physical
12 injury. If the person fails to complete the court ordered alcohol or other
13 drug screening, education or treatment program and has not been placed on
14 probation, the court shall issue an order to show cause to the defendant as
15 to why the remaining jail sentence should not be served.

16 D. If within a period of eighty-four months a person is convicted of a
17 second violation of section 5-395 or is convicted of a violation of section
18 5-395 and has previously been convicted of an act in another jurisdiction
19 that if committed in this state would be a violation of section 5-395, the
20 person:

21 1. Shall be sentenced to serve not less than ninety days in jail,
22 thirty days of which shall be served consecutively, and is not eligible for
23 probation or suspension of execution of sentence unless the entire sentence
24 has been served.

25 2. Shall pay a fine of not less than five hundred dollars.

26 3. Shall be ordered by the court to perform at least thirty hours of
27 community restitution. If the person fails to complete the community
28 restitution ordered pursuant to this paragraph, the court may order
29 alternative sanctions if the court determines that alternative sanctions are
30 more appropriate.

31 4. Shall pay an additional assessment of one thousand two hundred
32 fifty dollars to be deposited by the state treasurer in the prison
33 construction and operations fund established by section 41-1651. This
34 assessment is not subject to any surcharge. If the conviction occurred in
35 the superior court or a justice court, the court shall transmit the assessed
36 monies to the county treasurer. If the conviction occurred in a municipal
37 court, the court shall transmit the assessed monies to the city treasurer.
38 The city or county treasurer shall transmit the monies received to the state
39 treasurer.

40 5. Shall pay an additional assessment of one thousand two hundred
41 fifty dollars to be deposited by the state treasurer in the public safety
42 equipment fund established by section 41-1723. This assessment is not
43 subject to any surcharge. If the conviction occurred in the superior court
44 or a justice court, the court shall transmit the assessed monies to the
45 county treasurer. If the conviction occurred in a municipal court, the court

1 shall transmit the assessed monies to the city treasurer. The city or county
2 treasurer shall transmit the monies received to the state treasurer.

3 E. Notwithstanding subsection D, paragraph 1 of this section, at the
4 time of sentencing, except if the court determines the person recklessly
5 endangered another person with a substantial risk of physical injury, the
6 judge may suspend all but thirty days of the sentence if the person completes
7 a court ordered alcohol or other drug screening, education or treatment
8 program. If the person fails to complete the court ordered alcohol or other
9 drug screening, education or treatment program and has not been placed on
10 probation, the court shall issue an order to show cause as to why the
11 remaining jail sentence should not be served.

12 F. In applying the eighty-four month provision of subsection D of this
13 section, the dates of the commission of the offense shall be the determining
14 factor irrespective of the sequence in which the offenses were committed.

15 G. A second violation for which a conviction occurs as provided in
16 this section shall not include a conviction for an offense arising out of the
17 same series of acts.

18 H. Any political subdivision processing or utilizing the services of a
19 person ordered to perform community restitution pursuant to this section does
20 not incur any civil liability to the person ordered to perform community
21 restitution as a result of these activities unless the political subdivision
22 or its agent or employee acts with gross negligence.

23 I. After a person who is sentenced pursuant to subsection A of this
24 section has served twenty-four consecutive hours in jail or after a person
25 who is sentenced pursuant to subsection D of this section has served
26 forty-eight consecutive hours in jail and after receiving confirmation that
27 the person is employed or is a student, the court, on pronouncement of any
28 jail sentence under this section, may provide in the sentence that the person
29 may be permitted, if the person is employed or is a student and can continue
30 the person's employment or studies, to continue such employment or studies
31 for not more than twelve hours per day nor more than five days per week, and
32 the remaining day, days or parts of days shall be spent in jail until the
33 sentence is served. The person shall be allowed out of jail only long enough
34 to complete the actual hours of employment or studies and no longer.

35 J. A person who is sentenced pursuant to this section is eligible for
36 a home detention program pursuant to ~~the provisions of~~ section 9-499.07,
37 subsections M through ~~R~~ S or section 11-459, subsections L through ~~Q~~ R.

38 K. The court shall allow the allegation of a prior conviction or other
39 pending charge of a violation of section 5-395 filed twenty or more days
40 before the date the case is actually tried and may allow the allegation of a
41 prior conviction or other pending charge of a violation of section 5-395
42 filed any time before the date the case is actually tried, provided that when
43 the allegation is filed this state must make available to the defendant a
44 copy of any information obtained concerning the prior conviction or other
45 pending charge. Any conviction may be used to enhance another conviction

1 irrespective of the dates on which the offenses occurred within the
2 eighty-four month provision.

3 L. If a person is placed on probation for violating section 5-395, the
4 probation shall be supervised unless the court finds that supervised
5 probation is not necessary or the court does not have supervisory probation
6 services.

7 Sec. 2. Section 9-499.07, Arizona Revised Statutes, is amended to
8 read:

9 9-499.07. Prisoner work, community restitution work and home
10 detention program; eligibility; monitoring;
11 procedures; continuous alcohol monitoring program;
12 home detention for persons sentenced for driving
13 under the influence of alcohol or drugs

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

18 B. A prisoner is not eligible for a prisoner work, community
19 restitution work and home detention program **OR A CONTINUOUS ALCOHOL**
20 **MONITORING PROGRAM** if any of the following applies:

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

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

24 3. 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 **OR A CONTINUOUS ALCOHOL MONITORING PROGRAM**.

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

41 D. If a prisoner is placed on electronic monitoring pursuant to
42 subsection C of this section, the prisoner shall pay ~~an~~ **THE** electronic
43 monitoring fee in an amount ranging from zero to full cost and thirty dollars
44 per month while on electronic monitoring, unless, after determining the
45 inability of the prisoner to pay these fees, the city or town assesses a

1 lesser fee. The city or town shall use the fees collected to offset
2 operational costs of the program.

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

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

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

18 H. Community restitution work shall include public works projects
19 operated and supervised by the city or town or other public agencies of this
20 state or projects sponsored and supervised by public or private community
21 oriented organizations and agencies.

22 I. A city or town implementing a program ~~under this section~~
23 ESTABLISHED PURSUANT TO SUBSECTION A OF THIS SECTION shall appoint a
24 community restitution work committee. The committee shall recommend to the
25 city or town appropriate community restitution work projects for home
26 detention prisoners. Members are not eligible to receive compensation.

27 J. At any time the city or town may terminate a prisoner's
28 participation in the prisoner work, community restitution work and home
29 detention program OR CONTINUOUS ALCOHOL MONITORING PROGRAM and require that
30 the prisoner complete the remaining term of the prisoner's sentence in jail
31 confinement.

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

35 L. If authorized by the court, a person who is sentenced pursuant to
36 section 28-1381 or 28-1382 shall not be placed under home detention in a
37 prisoner work, community restitution work and home detention program OR
38 CONTINUOUS ALCOHOL MONITORING PROGRAM except as provided in subsections M
39 through ~~R~~ S of this section.

40 M. By a majority vote of the full membership of the governing body of
41 the municipality after a public hearing and a finding of necessity, a city or
42 town may establish a home detention program for persons who are sentenced to
43 jail confinement pursuant to section 28-1381 or 28-1382. A prisoner who is
44 placed under the program established pursuant to this subsection shall bear
45 the cost of all testing, monitoring and enrollment in alcohol or substance
46 abuse programs unless, after determining the inability of the prisoner to pay

1 the cost, the court assesses a lesser amount. The city or town shall use the
2 collected monies to offset operational costs of the program.

3 N. A CITY OR TOWN MAY ESTABLISH A CONTINUOUS ALCOHOL MONITORING
4 PROGRAM FOR PERSONS WHO ARE SENTENCED TO JAIL CONFINEMENT PURSUANT TO SECTION
5 28-1381 OR 28-1382, WHICH SHALL BE TREATED THE SAME AS CONFINEMENT IN JAIL.
6 THE PRESIDING JUDGE OF THE CITY OR TOWN MUNICIPAL COURT SHALL APPROVE THE
7 PROGRAM BEFORE ITS IMPLEMENTATION. A PRISONER WHO IS PLACED UNDER A
8 CONTINUOUS ALCOHOL MONITORING PROGRAM ESTABLISHED PURSUANT TO THIS SUBSECTION
9 SHALL BEAR THE COST OF ALL TESTING, MONITORING AND ENROLLMENT IN THE PROGRAM
10 AND PAY THIRTY DOLLARS PER MONTH WHILE IN THE PROGRAM, UNLESS, AFTER
11 DETERMINING THE INABILITY OF THE PRISONER TO PAY THE COST, THE COURT ASSESSES
12 A LESSER AMOUNT. THE CITY OR TOWN SHALL USE THE COLLECTED MONIES TO OFFSET
13 OPERATIONAL COSTS OF THE PROGRAM.

14 ~~N.~~ O. If the city or town establishes a home detention OR CONTINUOUS
15 ALCOHOL MONITORING program under subsection M OR N of this section, a
16 prisoner must meet the following eligibility requirements for the program:

17 1. Subsection B of this section applies in determining eligibility for
18 the program.

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

22 3. Notwithstanding section 28-1387, subsection C, if the prisoner is
23 sentenced under section 28-1381, subsection K or section 28-1382, subsection
24 D or E, the prisoner first serves a minimum of ~~fifteen consecutive days~~
25 TWENTY PER CENT OF THE INITIAL TERM OF INCARCERATION in jail before being
26 placed under home detention OR CONTINUOUS ALCOHOL MONITORING.

27 4. IF PLACED UNDER HOME DETENTION, the prisoner is required to comply
28 with all of the following provisions for the duration of the prisoner's
29 participation in the home 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 city or town may
42 impose.

1 ~~0-~~ P. If a city or town establishes a home detention program under
2 subsection M of this section, the court, on placing the prisoner in the
3 program, shall require electronic monitoring in the prisoner's home and, if
4 consecutive hours of jail time are ordered, shall require the prisoner to
5 remain at home during the consecutive hours ordered. The detention device
6 shall constantly monitor the prisoner's location to ensure that the prisoner
7 does not leave the premises. Nothing in this subsection shall be deemed to
8 waive the minimum jail confinement requirements under subsection ~~N- 0~~,
9 paragraph 2 of this section.

10 ~~P-~~ Q. The court shall terminate a prisoner's participation in the
11 home detention **OR CONTINUOUS ALCOHOL MONITORING** program and require the
12 prisoner to complete the remaining term of the jail sentence by jail
13 confinement if:

14 1. The prisoner fails to successfully complete a court ordered alcohol
15 or drug screening, counseling, education and treatment program pursuant to
16 subsection ~~N- 0~~, paragraph 4, subdivision (c) of this section or section
17 28-1381, subsection J or L.

18 2. **IF PLACED UNDER HOME DETENTION**, the court finds that the prisoner
19 left the premises without permission of the court or supervising authority
20 during a time the prisoner is ordered to be on the premises.

21 ~~0-~~ R. At any other time the court may terminate a prisoner's
22 participation in the home detention **OR CONTINUOUS ALCOHOL MONITORING** program
23 and require the prisoner to complete the remaining term of the jail sentence
24 by jail confinement.

25 ~~R-~~ S. The governing body of the city or town may terminate the
26 program established under subsection M of this section by a majority vote of
27 the full membership of the governing body.

28 Sec. 3. Title 11, chapter 2, article 4, Arizona Revised Statutes, is
29 amended by adding section 11-251.14, to read:

30 11-251.14. Prisoner home detention program; eligibility;
31 monitoring; procedures; continuous alcohol
32 monitoring program; home detention for persons
33 sentenced for driving under the influence of
34 alcohol or drugs

35 A. A COUNTY MAY ESTABLISH A HOME DETENTION PROGRAM FOR ELIGIBLE
36 SENTENCED PRISONERS, WHICH SHALL BE TREATED THE SAME AS CONFINEMENT IN JAIL.
37 THE PRESIDING JUSTICE OF THE PEACE OF THE COUNTY JUSTICE COURT SHALL APPROVE
38 THE PROGRAM BEFORE ITS IMPLEMENTATION.

39 B. A PRISONER IS NOT ELIGIBLE FOR A HOME DETENTION PROGRAM OR A
40 CONTINUOUS ALCOHOL MONITORING PROGRAM IF ANY OF THE FOLLOWING APPLIES:

41 1. THE PRISONER IS FOUND BY THE COURT TO CONSTITUTE A RISK TO EITHER
42 HIMSELF OR OTHER MEMBERS OF THE COMMUNITY.

43 2. THE PRISONER HAS A PAST HISTORY OF VIOLENT BEHAVIOR.

44 3. THE SENTENCING JUDGE STATES AT THE TIME OF THE SENTENCE THAT THE
45 PRISONER MAY NOT BE ELIGIBLE FOR A HOME DETENTION PROGRAM OR A CONTINUOUS
46 ALCOHOL MONITORING PROGRAM.

1 C. FOR PRISONERS WHO ARE SELECTED FOR A PROGRAM ESTABLISHED PURSUANT
2 TO SUBSECTION A OF THIS SECTION, THE COURT MAY REQUIRE ELECTRONIC MONITORING
3 IN THE PRISONER'S HOME WHENEVER THE PRISONER IS NOT AT THE PRISONER'S REGULAR
4 PLACE OF EMPLOYMENT OR WHILE THE PRISONER IS ASSIGNED TO A COMMUNITY WORK
5 TASK. IF ELECTRONIC MONITORING IS REQUIRED, THE PRISONER SHALL REMAIN UNDER
6 THE CONTROL OF A HOME DETENTION DEVICE THAT CONSTANTLY MONITORS THE
7 PRISONER'S LOCATION IN ORDER TO DETERMINE THAT THE PRISONER HAS NOT LEFT THE
8 PRISONER'S PREMISES. IN ALL OTHER CASES, THE COURT SHALL IMPLEMENT A SYSTEM
9 OF MONITORING USING TELEPHONE CONTACT OR OTHER APPROPRIATE METHODS TO ASSURE
10 COMPLIANCE WITH THE HOME DETENTION REQUIREMENTS. THE COURT MAY PLACE
11 APPROPRIATE RESTRICTIONS ON PRISONERS IN THE PROGRAM, INCLUDING TESTING
12 PRISONERS FOR CONSUMPTION OF ALCOHOLIC BEVERAGES OR DRUGS OR PROHIBITING
13 ASSOCIATION WITH INDIVIDUALS WHO ARE DETERMINED TO BE DETRIMENTAL TO THE
14 PRISONER'S SUCCESSFUL PARTICIPATION IN THE PROGRAM.

15 D. IF A PRISONER IS PLACED ON ELECTRONIC MONITORING PURSUANT TO
16 SUBSECTION C OF THIS SECTION, THE PRISONER SHALL PAY THE ELECTRONIC
17 MONITORING FEE IN AN AMOUNT RANGING FROM ZERO TO FULL COST AND THIRTY DOLLARS
18 PER MONTH WHILE ON ELECTRONIC MONITORING, UNLESS, AFTER DETERMINING THE
19 INABILITY OF THE PRISONER TO PAY THESE FEES, THE COURT ASSESSES A LESSER FEE.
20 THE COUNTY SHALL USE THE FEES COLLECTED TO OFFSET OPERATIONAL COSTS OF THE
21 PROGRAM.

22 E. PRISONERS WHO ARE SELECTED FOR THE HOME DETENTION PROGRAM SHALL BE
23 EMPLOYED IN THE COUNTY IN WHICH THEY ARE INCARCERATED. THE COURT SHALL
24 REVIEW THE PLACE OF EMPLOYMENT TO DETERMINE WHETHER IT IS APPROPRIATE FOR A
25 HOME DETENTION PRISONER. IF THE PRISONER IS TERMINATED FROM EMPLOYMENT OR
26 DOES NOT COME TO WORK, THE EMPLOYER SHALL NOTIFY THE COURT.

27 F. THE COURT MAY ALLOW PRISONERS TO BE AWAY FROM HOME DETENTION FOR
28 SPECIAL PURPOSES, INCLUDING CHURCH ATTENDANCE, MEDICAL APPOINTMENTS OR
29 FUNERALS.

30 G. AT ANY TIME THE COURT MAY TERMINATE A PRISONER'S PARTICIPATION IN
31 THE HOME DETENTION PROGRAM OR CONTINUOUS ALCOHOL MONITORING PROGRAM AND
32 REQUIRE THAT THE PRISONER COMPLETE THE REMAINING TERM OF THE PRISONER'S
33 SENTENCE IN JAIL CONFINEMENT.

34 H. IF AUTHORIZED BY THE COURT, A PERSON WHO IS SENTENCED PURSUANT TO
35 SECTION 28-1381 OR 28-1382 SHALL NOT BE PLACED UNDER HOME DETENTION OR A
36 CONTINUOUS ALCOHOL MONITORING PROGRAM EXCEPT AS PROVIDED IN SUBSECTIONS I
37 THROUGH N OF THIS SECTION.

38 I. BY A MAJORITY VOTE OF THE FULL MEMBERSHIP OF THE BOARD OF
39 SUPERVISORS AFTER A PUBLIC HEARING AND A FINDING OF NECESSITY, A COUNTY MAY
40 ESTABLISH A HOME DETENTION PROGRAM FOR PERSONS WHO ARE SENTENCED TO JAIL
41 CONFINEMENT PURSUANT TO SECTION 28-1381 OR 28-1382. A PRISONER WHO IS PLACED
42 UNDER THE PROGRAM ESTABLISHED PURSUANT TO THIS SUBSECTION SHALL BEAR THE COST
43 OF ALL TESTING, MONITORING AND ENROLLMENT IN ALCOHOL OR SUBSTANCE ABUSE
44 PROGRAMS UNLESS, AFTER DETERMINING THE INABILITY OF THE PRISONER TO PAY THE
45 COST, THE COURT ASSESSES A LESSER AMOUNT. THE COUNTY SHALL USE THE COLLECTED
46 MONIES TO OFFSET OPERATIONAL COSTS OF THE PROGRAM.

1 J. A COUNTY MAY ESTABLISH A CONTINUOUS ALCOHOL MONITORING PROGRAM FOR
2 PERSONS WHO ARE SENTENCED TO JAIL CONFINEMENT PURSUANT TO SECTION 28-1381 OR
3 28-1382, WHICH SHALL BE TREATED THE SAME AS CONFINEMENT IN JAIL. THE
4 PRESIDING JUSTICE OF THE PEACE OF THE COUNTY JUSTICE COURT SHALL APPROVE THE
5 PROGRAM BEFORE ITS IMPLEMENTATION. A PRISONER WHO IS PLACED UNDER A
6 CONTINUOUS ALCOHOL MONITORING PROGRAM ESTABLISHED PURSUANT TO THIS SECTION
7 SHALL BEAR THE COST OF ALL TESTING, MONITORING AND ENROLLMENT IN THE PROGRAM
8 AND PAY THIRTY DOLLARS PER MONTH WHILE IN THE PROGRAM, UNLESS, AFTER
9 DETERMINING THE INABILITY OF THE PRISONER TO PAY THE COST, THE COURT ASSESSES
10 A LESSER AMOUNT. THE COUNTY SHALL USE THE COLLECTED MONIES TO OFFSET
11 OPERATIONAL COSTS OF THE PROGRAM.

12 K. IF THE COUNTY ESTABLISHES A HOME DETENTION OR CONTINUOUS ALCOHOL
13 MONITORING PROGRAM UNDER SUBSECTION I OR J OF THIS SECTION, A PRISONER MUST
14 MEET THE FOLLOWING ELIGIBILITY REQUIREMENTS FOR THE PROGRAM:

15 1. SUBSECTION B OF THIS SECTION APPLIES IN DETERMINING ELIGIBILITY FOR
16 THE PROGRAM.

17 2. IF THE PRISONER IS SENTENCED UNDER SECTION 28-1381, SUBSECTION I,
18 THE PRISONER FIRST SERVES A MINIMUM OF ONE DAY IN JAIL.

19 3. NOTWITHSTANDING SECTION 28-1387, SUBSECTION C, IF THE PRISONER IS
20 SENTENCED UNDER SECTION 28-1381, SUBSECTION K OR SECTION 28-1382, SUBSECTION
21 D OR E, THE PRISONER FIRST SERVES A MINIMUM OF TWENTY PER CENT OF THE INITIAL
22 TERM OF INCARCERATION IN JAIL BEFORE BEING PLACED UNDER HOME DETENTION OR
23 CONTINUOUS ALCOHOL MONITORING.

24 4. IF PLACED UNDER HOME DETENTION, THE PRISONER IS REQUIRED TO COMPLY
25 WITH ALL OF THE FOLLOWING PROVISIONS FOR THE DURATION OF THE PRISONER'S
26 PARTICIPATION IN THE HOME DETENTION PROGRAM:

27 (a) ALL OF THE PROVISIONS OF SUBSECTIONS C THROUGH F OF THIS SECTION.

28 (b) TESTING AT LEAST ONCE A DAY FOR THE USE OF ALCOHOLIC BEVERAGES OR
29 DRUGS BY A SCIENTIFIC METHOD THAT IS NOT LIMITED TO URINALYSIS OR A BREATH OR
30 INTOXICATION TEST IN THE PRISONER'S HOME OR AT THE OFFICE OF A PERSON
31 DESIGNATED BY THE COURT TO CONDUCT THESE TESTS.

32 (c) PARTICIPATION IN AN ALCOHOL OR DRUG PROGRAM, OR BOTH. THESE
33 PROGRAMS SHALL BE ACCREDITED BY THE DEPARTMENT OF HEALTH SERVICES OR A COUNTY
34 PROBATION DEPARTMENT.

35 (d) PROHIBITION OF ASSOCIATION WITH ANY INDIVIDUAL DETERMINED TO BE
36 DETRIMENTAL TO THE PRISONER'S SUCCESSFUL PARTICIPATION IN THE PROGRAM.

37 (e) ALL OTHER PROVISIONS OF THE SENTENCE IMPOSED.

38 5. ANY ADDITIONAL ELIGIBILITY CRITERIA THAT THE COURT MAY IMPOSE.

39 L. IF A COUNTY ESTABLISHES A HOME DETENTION PROGRAM UNDER SUBSECTION I
40 OF THIS SECTION, THE COURT, ON PLACING THE PRISONER IN THE PROGRAM, SHALL
41 REQUIRE ELECTRONIC MONITORING IN THE PRISONER'S HOME AND, IF CONSECUTIVE
42 HOURS OF JAIL TIME ARE ORDERED, SHALL REQUIRE THE PRISONER TO REMAIN AT HOME
43 DURING THE CONSECUTIVE HOURS ORDERED. THE DETENTION DEVICE SHALL CONSTANTLY
44 MONITOR THE PRISONER'S LOCATION TO ENSURE THAT THE PRISONER DOES NOT LEAVE
45 THE PREMISES.

1 M. THE COURT SHALL TERMINATE A PRISONER'S PARTICIPATION IN THE HOME
2 DETENTION OR CONTINUOUS ALCOHOL MONITORING PROGRAM AND REQUIRE THE PRISONER
3 TO COMPLETE THE REMAINING TERM OF THE JAIL SENTENCE BY JAIL CONFINEMENT IF:

4 1. THE PRISONER FAILS TO SUCCESSFULLY COMPLETE A COURT ORDERED ALCOHOL
5 OR DRUG SCREENING, COUNSELING, EDUCATION AND TREATMENT PROGRAM PURSUANT TO
6 SUBSECTION K, PARAGRAPH 4, SUBDIVISION (c) OF THIS SECTION OR SECTION
7 28-1381, SUBSECTION J OR L.

8 2. IF PLACED UNDER HOME DETENTION, THE COURT FINDS THAT THE PRISONER
9 LEFT THE PREMISES WITHOUT PERMISSION OF THE COURT OR SUPERVISING AUTHORITY
10 DURING A TIME THE PRISONER IS ORDERED TO BE ON THE PREMISES.

11 N. AT ANY OTHER TIME THE COURT MAY TERMINATE A PRISONER'S
12 PARTICIPATION IN THE HOME DETENTION OR CONTINUOUS ALCOHOL MONITORING PROGRAM
13 AND REQUIRE THE PRISONER TO COMPLETE THE REMAINING TERM OF THE JAIL SENTENCE
14 BY JAIL CONFINEMENT.

15 O. THE COUNTY BOARD OF SUPERVISORS MAY TERMINATE THE PROGRAM
16 ESTABLISHED UNDER SUBSECTION I OF THIS SECTION BY A MAJORITY VOTE OF THE FULL
17 MEMBERSHIP OF THE GOVERNING BODY.

18 Sec. 4. Section 11-445, Arizona Revised Statutes, is amended to read:

19 11-445. Fees chargeable in civil actions by sheriffs,
20 constables and private process servers; authority of
21 private process servers; background investigation;
22 constables' logs

23 A. The sheriff shall receive the following fees in civil actions:

24 1. For serving each true copy of the original summons in a civil suit,
25 sixteen dollars, except that the sheriff shall not charge a fee for service
26 of any document pursuant to section 13-3602 or any injunction against
27 harassment pursuant to section 12-1809 if the court indicates the injunction
28 arises out of a dating relationship.

29 2. For summoning each witness, sixteen dollars.

30 3. For levying and returning each writ of attachment or claim and
31 delivery, forty-eight dollars.

32 4. For taking and approving each bond and returning it to the proper
33 court when necessary, twelve dollars.

34 5. For endorsing the forfeiture of any bond required to be endorsed by
35 him, twelve dollars.

36 6. For levying each execution, twenty-four dollars.

37 7. For returning each execution, sixteen dollars.

38 8. For executing and returning each writ of possession or restitution,
39 forty-eight dollars plus a rate of forty dollars per hour per deputy or
40 constable for the actual time spent in excess of three hours.

41 9. For posting the advertisement for sale under execution, or any
42 order of sale, twelve dollars.

43 10. For posting or serving any notice, process, writ, order, pleading
44 or paper required or permitted by law, not otherwise provided for, sixteen
45 dollars except that posting for a writ of restitution shall not exceed ten
46 dollars.

1 11. For executing a deed to each purchaser of real property under
2 execution or order of sale, twenty-four dollars.

3 12. For executing a bill of sale to each purchaser of real and personal
4 property under an execution or order of sale, when demanded by the purchaser,
5 sixteen dollars.

6 13. For services in designating a homestead or other exempt property,
7 twelve dollars.

8 14. For receiving and paying money on redemption and issuing a
9 certificate of redemption, twenty-four dollars.

10 15. For serving and returning each writ of garnishment and related
11 papers, forty dollars.

12 16. For the preparation, including notarization, of each affidavit of
13 service or other document pertaining to service, eight dollars.

14 17. For every writ served on behalf of a justice of the peace, a fee
15 established by the board of supervisors not to exceed five dollars per writ.
16 Monies collected from the writ fees shall be deposited in the constable
17 ethics standards and training fund established by section 22-138.

18 B. The sheriff shall also collect the appropriate recording fees if
19 applicable and other appropriate disbursements.

20 C. The sheriff may charge:

21 1. Fifty-six dollars plus disbursements for any skip tracing services
22 performed.

23 2. A reasonable fee for executing a civil arrest warrant ordered
24 pursuant to court rule by a judge or justice of the peace. The fee shall
25 only be charged to the party requesting the issuance of the civil arrest
26 warrant.

27 3. A reasonable fee for storing personal property levied on pursuant
28 to title 12, chapter 9.

29 D. For traveling to serve or on each attempt to serve civil process,
30 writs, orders, pleadings or papers, the sheriff shall receive two dollars
31 forty cents for each mile actually and necessarily traveled but, in any
32 event, not to exceed two hundred miles, nor to be less than sixteen dollars.
33 Mileage shall be charged one way only. For service made or attempted at the
34 same time and place, regardless of the number of parties or the number of
35 papers so served or attempted, only one charge for travel fees shall be made
36 for such service or attempted service.

37 E. For collecting money on an execution when it is made by sale, the
38 sheriff and the constable shall receive eight dollars for each one hundred
39 dollars or major portion thereof not to exceed a total of two thousand
40 dollars, but when money is collected by the sheriff without a sale, only
41 one-half of such fee shall be allowed. When satisfaction or partial
42 satisfaction of a judgment is received by the judgment creditor after the
43 sheriff or constable has received an execution on the judgment, the
44 commission is due the sheriff or constable and is established by an affidavit
45 of the judgment creditor filed with the officer. If the affidavit is not
46 lodged with the officer within thirty days of the request, the commission

1 shall be based on the total amount of judgment due as billed by the officer
2 and may be collected as any other debt by that officer.

3 F. The sheriff shall be allowed for all process issued from the
4 supreme court and served by the sheriff the same fees as are allowed the
5 sheriff for similar services on process issued from the superior court.

6 G. The constable shall receive the same fees as the sheriff for
7 performing the same services in civil actions, except that mileage shall be
8 computed from the office of the justice of the peace originating the civil
9 action to the place of service.

10 H. Notwithstanding subsection G of this section, in a county with a
11 population of more than three million persons, if an office of a justice of
12 the peace is located outside of the precinct boundaries, the mileage for a
13 constable shall be calculated pursuant to subsection D of this section,
14 except that the distance between the precinct boundaries and the office of
15 the justice of the peace, as determined by the county and certified by the
16 board of supervisors of that county, shall be subtracted from the mileage
17 calculation. This certified mileage calculation shall be transmitted to the
18 justice courts and the clerks of those courts shall calculate the mileage
19 between the office of the justice of the peace and the location where the
20 civil process, writ, order, pleading or paper was served and reduce the
21 mileage used to calculate the mileage fee according to the certified mileage
22 calculation for that respective jurisdiction.

23 I. Private process servers duly appointed or registered pursuant to
24 rules established by the supreme court may serve all process, writs, orders,
25 pleadings or papers required or permitted by law to be served before, during
26 or independently of a court action, including all such as are required or
27 permitted to be served by a sheriff or constable, except writs or orders
28 requiring the service officer to sell, deliver or take into the officer's
29 custody persons or property, or as may otherwise be limited by rule
30 established by the supreme court. A private process server is an officer of
31 the court. As a condition of registration, the supreme court shall require
32 each private process server applicant to furnish a full set of fingerprints
33 to enable a criminal background investigation to be conducted to determine
34 the suitability of the applicant. The completed applicant fingerprint card
35 shall be submitted with the fee prescribed in section 41-1750 to the
36 department of public safety. The applicant shall bear the cost of obtaining
37 the applicant's criminal history record information. The cost shall not
38 exceed the actual cost of obtaining the applicant's criminal history record
39 information. Applicant criminal history records checks shall be conducted
40 pursuant to section 41-1750 and Public Law 92-544. The department of public
41 safety is authorized to exchange the submitted applicant fingerprint card
42 information with the federal bureau of investigation for a federal criminal
43 records check. A private process server may charge such fees for services as
44 may be agreed on between the process server and the party engaging the
45 process server.

1 J. Constables shall maintain a log of work related activities
2 including a listing of all processes served and the number of processes
3 attempted to be served by case number, the names of the plaintiffs and
4 defendants, the names and addresses of the persons to be served except as
5 otherwise precluded by law, the date of process and the daily mileage.

6 K. The log maintained in subsection J of this section is a public
7 record and shall be made available by the constable at the constable's office
8 during regular office hours. Copies of the log shall be filed monthly with
9 the clerk of the justice court and with the clerk of the board of
10 supervisors.

11 ~~L. If the sheriff or constable serves a warrant issued by a justice or~~
12 ~~superior court judge for failure to pay a fine, the court shall collect a ten~~
13 ~~per cent surcharge on the amount of the fine owed by the defendant and shall~~
14 ~~transmit the monies collected to the county treasurer for deposit in the~~
15 ~~county general fund.~~

16 Sec. 5. Section 11-459, Arizona Revised Statutes, is amended to read:

17 11-459. Prisoner work, community restitution work and home
18 detention program; eligibility; monitoring;
19 procedures; continuous alcohol monitoring program;
20 home detention for persons sentenced for driving
21 under the influence of alcohol or drugs; community
22 restitution work committee; members; duties

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

27 B. A prisoner is not eligible for a prisoner work, community
28 restitution work and home detention program **OR A CONTINUOUS ALCOHOL**
29 **MONITORING PROGRAM** if any of the following applies:

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

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

34 3. The prisoner has been convicted of a serious offense as defined in
35 section 13-706 or has been ~~determined to be~~ **SENTENCED AS** a dangerous ~~and~~
36 **OFFENDER PURSUANT TO SECTION 13-704 OR** repetitive offender **PURSUANT TO**
37 **SECTION 13-703.**

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

39 5. The sentencing judge states at the time of the sentence that the
40 prisoner may not be eligible for a prisoner work, community restitution work
41 and home detention program **OR A CONTINUOUS ALCOHOL MONITORING PROGRAM.**

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

44 C. If a prisoner is selected for ~~the~~ **A program ESTABLISHED PURSUANT TO**
45 **SUBSECTION A OF THIS SECTION**, the sheriff may require electronic monitoring
46 in the prisoner's home whenever the prisoner is not at the prisoner's regular

1 place of employment or while the prisoner is assigned to a community work
2 task. If electronic monitoring is required, the prisoner shall remain under
3 the control of a home detention device that constantly monitors the
4 prisoner's location in order to determine that the prisoner has not left the
5 prisoner's premises. In all other cases, the sheriff shall implement a
6 system of monitoring using visitation, telephone contact or other appropriate
7 methods to assure compliance with the home detention requirements. The
8 sheriff may place appropriate restrictions on prisoners in the program,
9 including testing prisoners for consumption of alcoholic beverages or drugs
10 or prohibiting association with individuals who are determined to be
11 detrimental to the prisoner's successful participation in the program.

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

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

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

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

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

43 I. The community restitution work committee is established in each
44 county and is composed of two designees of the sheriff, a representative of
45 the county attorney's office selected by the county attorney, a
46 representative of a local police agency selected by the police chief of the

1 largest city in the county and three persons selected by the county board of
2 supervisors from the private sector. A sheriff's designee shall serve as
3 committee chairman and schedule all meetings. The committee shall meet as
4 often as necessary, but no less than once every three months, for the purpose
5 of considering and recommending appropriate community restitution work
6 projects for home detention prisoners. The committee shall make its
7 recommendations to the sheriff. Members are not eligible to receive
8 compensation.

9 J. At any time the sheriff may terminate a prisoner's participation in
10 the prisoner work, community restitution work and home detention program OR
11 CONTINUOUS ALCOHOL MONITORING PROGRAM and require that the prisoner complete
12 the remaining term of the prisoner's sentence in jail confinement.

13 K. If authorized by the court, a person who is sentenced pursuant to
14 section 28-1381 or 28-1382 shall not be placed under home detention in a
15 prisoner work, community restitution work and home detention program OR A
16 CONTINUOUS ALCOHOL MONITORING PROGRAM except as provided in subsections L
17 through ~~R~~ R of this section.

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

29 M. A COUNTY SHERIFF MAY ESTABLISH A CONTINUOUS ALCOHOL MONITORING
30 PROGRAM FOR PERSONS WHO ARE SENTENCED TO JAIL CONFINEMENT PURSUANT TO SECTION
31 28-1381 OR 28-1382, WHICH SHALL BE TREATED THE SAME AS CONFINEMENT IN JAIL
32 AND SHALL FULFILL THE SHERIFF'S DUTY TO TAKE CHARGE OF AND KEEP THE COUNTY
33 JAIL AND PRISONERS. A PRISONER WHO IS PLACED UNDER A CONTINUOUS ALCOHOL
34 MONITORING PROGRAM ESTABLISHED PURSUANT TO THIS SUBSECTION SHALL BEAR THE
35 COST OF ALL TESTING, MONITORING AND ENROLLMENT IN THE PROGRAM AND PAY THIRTY
36 DOLLARS PER MONTH WHILE IN THE PROGRAM, UNLESS, AFTER DETERMINING THE
37 INABILITY OF THE PRISONER TO PAY THE COST, THE COURT ASSESSES A LESSER
38 AMOUNT. THE COUNTY SHALL USE THE COLLECTED MONIES TO OFFSET OPERATIONAL
39 COSTS OF THE PROGRAM.

40 ~~M.~~ N. If a county sheriff establishes a home detention OR CONTINUOUS
41 ALCOHOL MONITORING program under subsection L OR M of this section, a
42 prisoner must meet the following eligibility requirements for the program:

43 1. Subsection B of this section applies in determining eligibility for
44 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~~ ONE DAY
3 in jail.

4 3. Notwithstanding section 28-1387, subsection C, if the prisoner is
5 sentenced under section 28-1381, subsection K or section 28-1382, subsection
6 D or E, the prisoner first serves a minimum of ~~fifteen consecutive days~~
7 TWENTY PER CENT OF THE INITIAL TERM OF INCARCERATION in jail before being
8 placed under home detention OR CONTINUOUS ALCOHOL MONITORING.

9 4. IF PLACED UNDER HOME DETENTION, the prisoner is required to comply
10 with all of the following requirements for the duration of the prisoner's
11 participation in the home detention program:

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

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

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

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

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

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

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

33 ~~Q~~ P. The court shall terminate a prisoner's participation in the
34 home detention OR CONTINUOUS ALCOHOL MONITORING program and shall require the
35 prisoner to complete the remaining term of the jail sentence by jail
36 confinement if either:

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

41 2. IF PLACED UNDER HOME DETENTION, the prisoner leaves the premises
42 during a time that the prisoner is ordered to be on the premises without
43 permission of the court or supervising authority.

44 ~~P~~ Q. At any other time the court may terminate a prisoner's
45 participation in the home detention OR CONTINUOUS ALCOHOL MONITORING program

1 and require the prisoner to complete the remaining term of the jail sentence
2 by jail confinement.

3 ~~Q.~~ R. The sheriff may terminate ~~the~~ A program ESTABLISHED PURSUANT TO
4 THIS SECTION at any time.

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

8 Sec. 6. Section 22-131, Arizona Revised Statutes, is amended to read:

9 22-131. Constables; powers and duties

10 A. Constables shall attend the courts of justices of the peace within
11 their precincts when required, and within their counties execute, serve and
12 return all processes, WARRANTS and notices directed or delivered to them by a
13 justice of the peace of the county or by competent authority. In addition to
14 any other provision of law these duties may be enforced by the presiding
15 judge of the superior court in the county, including the use of the power of
16 contempt.

17 B. Constables shall attend the training prescribed in section 22-137.

18 C. Constables, with the consent of and at salaries fixed by the board
19 of supervisors, may appoint deputies who are certified pursuant to section
20 41-1822, subsection A, paragraph 3, stenographers, clerks and assistants
21 necessary to conduct the affairs of their offices. The appointments shall be
22 in writing and filed in the office of the county recorder.

23 D. The provisions of law relating to sheriffs, as far as applicable,
24 shall govern the powers, duties and liabilities of constables.

25 E. A constable who is duly elected or who is appointed by the board of
26 supervisors has the authority of a peace officer only in the performance of
27 the constable's official duties.

28 F. A constable may execute, serve and return processes and notices as
29 prescribed in subsection A of this section within any precinct in another
30 county if that precinct adjoins the precinct in which the constable was
31 elected or appointed.

32 Sec. 7. Section 28-1304, Arizona Revised Statutes, is amended to read:

33 28-1304. Driving under the influence abatement fund

34 A. The driving under the influence abatement fund is established
35 consisting of monies deposited pursuant to section 4-213, subsection J,
36 section 5-396, subsection I, paragraph 2, section 5-397, subsection D,
37 paragraph 3 and subsection F, paragraph 3, section 28-1382, subsection D,
38 paragraph 3 and subsection E, paragraph 3, ~~and~~ section 28-1383, subsection J,
39 paragraph 2 AND SECTION 28-1465.

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

42 C. Twenty-five per cent of the monies deposited in the fund shall be
43 used for grants for innovative programs pursuant to section 28-1303,
44 subsection H, paragraph 2 and seventy per cent of the monies deposited in the
45 fund shall be used for grants to political subdivisions and tribal
46 governments pursuant to section 28-1303, subsection H, paragraph 1.

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

3 1. Administrative purposes of the oversight council on driving or
4 operating under the influence abatement.

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

6 E. Monies in the fund are:

7 1. Continuously appropriated.

8 2. Exempt from the provisions of section 35-190 relating to lapsing of
9 appropriations.

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

14 Sec. 8. Section 28-1321, Arizona Revised Statutes, is amended to read:

15 28-1321. Implied consent; tests; refusal to submit to test;
16 order of suspension; hearing; review; temporary
17 permit; notification of suspension; special ignition
18 interlock restricted driver license

19 A. A person who operates a motor vehicle in this state gives consent,
20 subject to section 4-244, paragraph 34 or section 28-1381, 28-1382 or
21 28-1383, to a test or tests of the person's blood, breath, urine or other
22 bodily substance for the purpose of determining alcohol concentration or drug
23 content if the person is arrested for any offense arising out of acts alleged
24 to have been committed in violation of this chapter or section 4-244,
25 paragraph 34 while the person was driving or in actual physical control of a
26 motor vehicle while under the influence of intoxicating liquor or drugs. The
27 test or tests chosen by the law enforcement agency shall be administered at
28 the direction of a law enforcement officer having reasonable grounds to
29 believe that the person was driving or in actual physical control of a motor
30 vehicle in this state either:

31 1. While under the influence of intoxicating liquor or drugs.

32 2. If the person is under twenty-one years of age, with spirituous
33 liquor in the person's body.

34 B. After an arrest a violator shall be requested to submit to and
35 successfully complete any test or tests prescribed by subsection A of this
36 section, and if the violator refuses the violator shall be informed that the
37 violator's license or permit to drive will be suspended or denied for twelve
38 months, or for two years for a second or subsequent refusal within a period
39 of eighty-four months, unless the violator expressly agrees to submit to and
40 successfully completes the test or tests. A failure to expressly agree to
41 the test or successfully complete the test is deemed a refusal. The violator
42 shall also be informed that:

43 1. If the test results show a blood or breath alcohol concentration of
44 0.08 or more, ~~or~~ if the results show a blood or breath alcohol concentration
45 of 0.04 or more and the violator was driving or in actual physical control of
46 a commercial motor vehicle **OR IF THE RESULTS SHOW THERE IS ANY DRUG DEFINED**

1 IN SECTION 13-3401 OR ITS METABOLITE IN THE PERSON'S BODY AND THE PERSON DOES
2 NOT POSSESS A VALID PRESCRIPTION FOR THE DRUG, the violator's license or
3 permit to drive will be suspended or denied for not less than ninety
4 consecutive days.

5 2. The violator's driving privilege, license, permit, right to apply
6 for a license or permit or nonresident operating privilege may be issued or
7 reinstated following the period of suspension only if the violator completes
8 alcohol or other drug screening.

9 C. A person who is dead, unconscious or otherwise in a condition
10 rendering the person incapable of refusal is deemed not to have withdrawn the
11 consent provided by subsection A of this section and the test or tests may be
12 administered, subject to section 4-244, paragraph 34 or section 28-1381,
13 28-1382 or 28-1383.

14 D. If a person under arrest refuses to submit to the test designated
15 by the law enforcement agency as provided in subsection A of this section:

16 1. The test shall not be given, except as provided in section 28-1388,
17 subsection E or pursuant to a search warrant.

18 2. The law enforcement officer directing the administration of the
19 test shall:

20 (a) File a certified report of the refusal with the department.

21 (b) On behalf of the department, serve an order of suspension on the
22 person that is effective fifteen days after the date the order is served.

23 (c) Require the immediate surrender of any license or permit to drive
24 that is issued by this state and that is in the possession or control of the
25 person.

26 (d) If the license or permit is not surrendered, state the reason why
27 it is not surrendered.

28 (e) If a valid license or permit is surrendered, issue a temporary
29 driving permit that is valid for fifteen days.

30 (f) Forward the certified report of refusal, a copy of the completed
31 notice of suspension, a copy of any completed temporary permit and any driver
32 license or permit taken into possession under this section to the department
33 within five days after the issuance of the notice of suspension.

34 E. The certified report is subject to the penalty for perjury as
35 prescribed by section 28-1561 and shall state all of the following:

36 1. The officer's reasonable grounds to believe that the arrested
37 person was driving or in actual physical control of a motor vehicle in this
38 state either:

39 (a) While under the influence of intoxicating liquor or drugs.

40 (b) If the person is under twenty-one years of age, with spirituous
41 liquor in the person's body.

42 2. The manner in which the person refused to submit to the test or
43 tests.

44 3. That the person was advised of the consequences of refusal.

45 F. On receipt of the certified report of refusal and a copy of the
46 order of suspension and on the effective date stated on the order, the

1 department shall enter the order of suspension on its records unless a
2 written **OR ONLINE** request for a hearing as provided in this section has been
3 filed by the accused person. If the department receives only the certified
4 report of refusal, the department shall notify the person named in the report
5 in writing sent by mail that:

6 1. Fifteen days after the date of issuance of the notice the
7 department will suspend the person's license or permit, driving privilege or
8 nonresident driving privilege.

9 2. The department will provide an opportunity for a hearing if the
10 person requests a hearing in writing **OR ONLINE** and the request is received by
11 the department within fifteen days after the notice is sent.

12 G. The order of suspension issued by a law enforcement officer or the
13 department under this section shall notify the person that:

14 1. The person may submit a written **OR ONLINE** request for a hearing.

15 2. The request for a hearing must be received by the department within
16 fifteen days after the date of the notice or the order of suspension will
17 become final.

18 3. The affected person's license or permit to drive or right to apply
19 for a license or permit or any nonresident operating privilege will be
20 suspended for twelve months from that date or for two years from that date
21 for a second or subsequent refusal within a period of eighty-four months.

22 4. The person's driving privilege, license, permit, right to apply for
23 a license or permit or nonresident operating privilege may be issued or
24 reinstated following the period of suspension only if the person completes
25 alcohol or other drug screening.

26 H. The order for suspension shall:

27 1. Be accompanied by printed forms that are ready to mail to the
28 department, ~~and~~ that may be filled out and signed by the person to indicate
29 the person's desire for a hearing **AND THAT ADVISE THE PERSON THAT THE PERSON**
30 **MAY ALTERNATIVELY SUBMIT AN ONLINE REQUEST FOR A HEARING.**

31 2. Advise the person that unless the person has surrendered any driver
32 license or permit issued by this state the person's hearing request will not
33 be accepted, except that the person may certify pursuant to section 28-3170
34 that the license or permit is lost or destroyed.

35 I. On the receipt of a request for a hearing, the department shall set
36 the hearing within thirty days in the county in which the person named in the
37 report resides unless the law enforcement agency filing the certified report
38 of refusal pursuant to subsection D of this section requests at the time of
39 its filing that the hearing be held in the county where the refusal occurred.

40 J. A timely request for a hearing stays the suspension until a hearing
41 is held, except that the department shall not return any surrendered license
42 or permit to the person but may issue temporary permits to drive that expire
43 no later than when the department has made its final decision. If the person
44 is a resident without a license or permit or has an expired license or
45 permit, the department may allow the person to apply for a restricted license
46 or permit. If the department determines the person is otherwise entitled to

1 the license or permit, the department shall issue and retain a restricted
2 license or permit subject to this section.

3 K. Hearings requested under this section shall be conducted in the
4 same manner and under the same conditions as provided in section 28-3306.
5 For the purposes of this section, the scope of the hearing shall include only
6 the issues of whether:

7 1. A law enforcement officer had reasonable grounds to believe that
8 the person was driving or was in actual physical control of a motor vehicle
9 in this state either:

10 (a) While under the influence of intoxicating liquor or drugs.

11 (b) If the person is under twenty-one years of age, with spirituous
12 liquor in the person's body.

13 2. The person was placed under arrest.

14 3. The person refused to submit to the test.

15 4. The person was informed of the consequences of refusal.

16 L. If the department determines at the hearing to suspend the affected
17 person's privilege to operate a motor vehicle, the suspension provided in
18 this section is effective fifteen days after giving written notice of the
19 suspension, except that the department may issue or extend a temporary
20 license that expires on the effective date of the suspension. If the person
21 is a resident without a license or permit or has an expired license or permit
22 to operate a motor vehicle in this state, the department shall deny to the
23 person the issuance of a license or permit for a period of twelve months
24 after the order of suspension becomes effective or for a period of two years
25 after the order of suspension becomes effective for a second or subsequent
26 refusal within a period of eighty-four months, and may reinstate the person's
27 driving privilege, license, permit, right to apply for a license or permit or
28 nonresident operating privilege following the period of suspension only if
29 the person completes alcohol or other drug screening.

30 M. If the suspension order is sustained after the hearing, a motion
31 for rehearing is not required. Within thirty days after a suspension order
32 is sustained, the affected person may file a petition in the superior court
33 to review the final order of suspension or denial by the department in the
34 same manner provided in section 28-3317. The court shall hear the review of
35 the final order of suspension or denial on an expedited basis.

36 N. If the suspension or determination that there should be a denial of
37 issuance is not sustained, the ruling is not admissible in and has no effect
38 on any administrative, civil or criminal court proceeding.

39 O. If it has been determined under the procedures of this section that
40 a nonresident's privilege to operate a motor vehicle in this state has been
41 suspended, the department shall give information either in writing or by
42 electronic means of the action taken to the motor vehicle administrator of
43 the state of the person's residence and of any state in which the person has
44 a license.

45 P. After completing not less than ninety consecutive days of the
46 period of suspension required by this section and any alcohol or other drug

1 screening that is ordered by the department pursuant to this chapter, a
2 person whose driving privilege is suspended pursuant to this section may
3 apply to the department for a special ignition interlock restricted driver
4 license pursuant to section 28-1401. Unless the certified ignition interlock
5 period is extended by the department pursuant to section 28-1461, a person
6 who is issued a special ignition interlock restricted driver license as
7 provided in this subsection shall maintain a functioning certified ignition
8 interlock device in compliance with this chapter during the remaining period
9 of the suspension prescribed by this section. This subsection does not apply
10 to a person whose driving privilege is suspended for a second or subsequent
11 refusal within a period of eighty-four months ~~or a person who within a period~~
12 ~~of eighty-four months has been convicted of a second or subsequent violation~~
13 ~~of article 3 of this chapter or section 4-244, paragraph 34 or an act in~~
14 ~~another jurisdiction that if committed in this state would be a violation of~~
15 ~~article 3 of this chapter or section 4-244, paragraph 34.~~

16 Sec. 9. Section 28-1381, Arizona Revised Statutes, is amended to read:
17 28-1381. Driving or actual physical control while under the
18 influence; trial by jury; presumptions; admissible
19 evidence; sentencing; classification

20 A. It is unlawful for a person to drive or be in actual physical
21 control of a vehicle in this state under any of the following circumstances:

22 1. While under the influence of intoxicating liquor, any drug, a vapor
23 releasing substance containing a toxic substance or any combination of
24 liquor, drugs or vapor releasing substances if the person is impaired to the
25 slightest degree.

26 2. If the person has an alcohol concentration of 0.08 or more within
27 two hours of driving or being in actual physical control of the vehicle and
28 the alcohol concentration results from alcohol consumed either before or
29 while driving or being in actual physical control of the vehicle.

30 3. While there is any drug defined in section 13-3401 or its
31 metabolite in the person's body.

32 4. If the vehicle is a commercial motor vehicle that requires a person
33 to obtain a commercial driver license as defined in section 28-3001 and the
34 person has an alcohol concentration of 0.04 or more.

35 B. It is not a defense to a charge of a violation of subsection A,
36 paragraph 1 of this section that the person is or has been entitled to use
37 the drug under the laws of this state.

38 C. A person who is convicted of a violation of this section is guilty
39 of a class 1 misdemeanor.

40 D. A person using a drug, as prescribed by a medical practitioner
41 licensed pursuant to title 32, chapter 7, 11, 13 or 17 is not guilty of
42 violating subsection A, paragraph 3 of this section.

43 E. In any prosecution for a violation of this section, the state shall
44 allege, for the purpose of classification and sentencing pursuant to this
45 section, all prior convictions of violating this section, section 28-1382 or

1 section 28-1383 occurring within the past thirty-six months, unless there is
2 an insufficient legal or factual basis to do so.

3 F. At the arraignment, the court shall inform the defendant that IF
4 THE STATE ALLEGES A PRIOR CONVICTION the defendant may request a trial by
5 jury and that the request, if made, shall be granted.

6 G. In a trial, action or proceeding for a violation of this section or
7 section 28-1383 other than a trial, action or proceeding involving driving or
8 being in actual physical control of a commercial vehicle, the defendant's
9 alcohol concentration within two hours of the time of driving or being in
10 actual physical control as shown by analysis of the defendant's blood, breath
11 or other bodily substance gives rise to the following presumptions:

12 1. If there was at that time 0.05 or less alcohol concentration in the
13 defendant's blood, breath or other bodily substance, it may be presumed that
14 the defendant was not under the influence of intoxicating liquor.

15 2. If there was at that time in excess of 0.05 but less than 0.08
16 alcohol concentration in the defendant's blood, breath or other bodily
17 substance, that fact shall not give rise to a presumption that the defendant
18 was or was not under the influence of intoxicating liquor, but that fact may
19 be considered with other competent evidence in determining the guilt or
20 innocence of the defendant.

21 3. If there was at that time 0.08 or more alcohol concentration in the
22 defendant's blood, breath or other bodily substance, it may be presumed that
23 the defendant was under the influence of intoxicating liquor.

24 H. Subsection G of this section does not limit the introduction of any
25 other competent evidence bearing on the question of whether or not the
26 defendant was under the influence of intoxicating liquor.

27 I. A person who is convicted of a violation of this section:

28 1. Shall be sentenced to serve not less than ten consecutive days in
29 jail and is not eligible for probation or suspension of execution of sentence
30 unless the entire sentence is served.

31 2. Shall pay a fine of not less than two hundred fifty dollars.

32 3. May be ordered by a court to perform community restitution.

33 4. Shall pay an additional assessment of five hundred dollars to be
34 deposited by the state treasurer in the prison construction and operations
35 fund established by section 41-1651. This assessment is not subject to any
36 surcharge. If the conviction occurred in the superior court or a justice
37 court, the court shall transmit the assessed monies to the county treasurer.
38 If the conviction occurred in a municipal court, the court shall transmit the
39 assessed monies to the city treasurer. The city or county treasurer shall
40 transmit the monies received to the state treasurer.

41 5. Shall pay an additional assessment of five hundred dollars to be
42 deposited by the state treasurer in the public safety equipment fund
43 established by section 41-1723. This assessment is not subject to any
44 surcharge. If the conviction occurred in the superior court or a justice
45 court, the court shall transmit the assessed monies to the county treasurer.
46 If the conviction occurred in a municipal court, the court shall transmit the

1 assessed monies to the city treasurer. The city or county treasurer shall
2 transmit the monies received to the state treasurer.

3 6. Shall be required by the department, on report of the conviction,
4 to equip any motor vehicle the person operates with a certified ignition
5 interlock device pursuant to section 28-3319. In addition, the court may
6 order the person to equip any motor vehicle the person operates with a
7 certified ignition interlock device for more than twelve months beginning on
8 the date of reinstatement of the person's driving privilege following a
9 suspension or revocation or on the date of the department's receipt of the
10 report of conviction, whichever occurs later. The person who operates a
11 motor vehicle with a certified ignition interlock device under this paragraph
12 shall comply with article 5 of this chapter.

13 J. Notwithstanding subsection I, paragraph 1 of this section, at the
14 time of sentencing the judge may suspend all but ~~twenty-four consecutive~~
15 ~~hours~~ ONE DAY of the sentence if the person completes a court ordered alcohol
16 or other drug screening, education or treatment program. If the person fails
17 to complete the court ordered alcohol or other drug screening, education or
18 treatment program and has not been placed on probation, the court shall issue
19 an order to show cause to the defendant as to why the remaining jail sentence
20 should not be served.

21 K. If within a period of eighty-four months a person is convicted of a
22 second violation of this section or is convicted of a violation of this
23 section and has previously been convicted of a violation of section 28-1382
24 or 28-1383 or an act in another jurisdiction that if committed in this state
25 would be a violation of this section or section 28-1382 or 28-1383, the
26 person:

27 1. Shall be sentenced to serve not less than ninety days in jail,
28 thirty days of which shall be served consecutively, and is not eligible for
29 probation or suspension of execution of sentence unless the entire sentence
30 has been served.

31 2. Shall pay a fine of not less than five hundred dollars.

32 3. Shall be ordered by a court to perform at least thirty hours of
33 community restitution.

34 4. Shall have the person's driving privilege revoked for one year.
35 The court shall report the conviction to the department. On receipt of the
36 report, the department shall revoke the person's driving privilege and shall
37 require the person to equip any motor vehicle the person operates with a
38 certified ignition interlock device pursuant to section 28-3319. In
39 addition, the court may order the person to equip any motor vehicle the
40 person operates with a certified ignition interlock device for more than
41 twelve months beginning on the date of reinstatement of the person's driving
42 privilege following a suspension or revocation or on the date of the
43 department's receipt of the report of conviction, whichever occurs later.
44 The person who operates a motor vehicle with a certified ignition interlock
45 device under this paragraph shall comply with article 5 of this chapter.

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

10 6. Shall pay an additional assessment of one thousand two hundred
11 fifty dollars to be deposited by the state treasurer in the public safety
12 equipment fund established by section 41-1723. This assessment is not
13 subject to any surcharge. If the conviction occurred in the superior court
14 or a justice court, the court shall transmit the assessed monies to the
15 county treasurer. If the conviction occurred in a municipal court, the court
16 shall transmit the assessed monies to the city treasurer. The city or county
17 treasurer shall transmit the monies received to the state treasurer.

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

25 M. In applying the eighty-four month provision of subsection K of this
26 section, the dates of the commission of the offense shall be the determining
27 factor, irrespective of the sequence in which the offenses were committed.

28 N. A second violation for which a conviction occurs as provided in
29 this section shall not include a conviction for an offense arising out of the
30 same series of acts.

31 O. AFTER COMPLETING FORTY-FIVE DAYS OF THE REVOCATION PERIOD
32 PRESCRIBED BY SUBSECTION K OF THIS SECTION, A PERSON WHOSE DRIVING PRIVILEGE
33 IS REVOKED FOR A VIOLATION OF THIS SECTION AND WHO IS SENTENCED PURSUANT TO
34 SUBSECTION K OF THIS SECTION IS ELIGIBLE FOR A SPECIAL IGNITION INTERLOCK
35 RESTRICTED DRIVER LICENSE PURSUANT TO SECTION 28-1401.

36 Sec. 10. Section 28-1382, Arizona Revised Statutes, is amended to
37 read:

38 28-1382. Driving or actual physical control while under the
39 extreme influence of intoxicating liquor; trial by
40 jury; sentencing; classification

41 A. It is unlawful for a person to drive or be in actual physical
42 control of a vehicle in this state if the person has an alcohol concentration
43 as follows within two hours of driving or being in actual physical control of
44 the vehicle and the alcohol concentration results from alcohol consumed
45 either before or while driving or being in actual physical control of the
46 vehicle:

1 1. 0.15 or more but less than 0.20.

2 2. 0.20 or more.

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

6 C. At the arraignment, the court shall inform the defendant that the
7 defendant may request a trial by jury and that the request, if made, shall be
8 granted.

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

10 1. Shall be sentenced to serve not less than thirty consecutive days
11 in jail and is not eligible for probation or suspension of execution of
12 sentence unless the entire sentence is served if the person is convicted of a
13 violation of subsection A, paragraph 1 of this section. A person who is
14 convicted of a violation of subsection A, paragraph 2 of this section shall
15 be sentenced to serve not less than forty-five consecutive days in jail and
16 is not eligible for probation or suspension of execution of sentence unless
17 the entire sentence is served.

18 2. Shall pay a fine of not less than two hundred fifty dollars, except
19 that a person who is convicted of a violation of subsection A, paragraph 2 of
20 this section shall pay a fine of not less than five hundred dollars. The
21 fine prescribed in this paragraph and any assessments, restitution and
22 incarceration costs shall be paid before the assessment prescribed in
23 paragraph 3 of this subsection.

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

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

34 5. Shall be required by the department, on receipt of the report of
35 conviction, to equip any motor vehicle the person operates with a certified
36 ignition interlock device pursuant to section 28-3319. In addition, the
37 court may order the person to equip any motor vehicle the person operates
38 with a certified ignition interlock device for more than twelve months
39 beginning on the date of reinstatement of the person's driving privilege
40 following a suspension or revocation or on the date of the department's
41 receipt of the report of conviction, whichever occurs later. The person who
42 operates a motor vehicle with a certified ignition interlock device under
43 this paragraph shall comply with article 5 of this chapter.

44 6. Shall pay an additional assessment of one thousand dollars to be
45 deposited by the state treasurer in the prison construction and operations
46 fund established by section 41-1651. This assessment is not subject to any

1 surcharge. If the conviction occurred in the superior court or a justice
2 court, the court shall transmit the assessed monies to the county treasurer.
3 If the conviction occurred in a municipal court, the court shall transmit the
4 assessed monies to the city treasurer. The city or county treasurer shall
5 transmit the monies received to the state treasurer.

6 7. Shall pay an additional assessment of one thousand dollars to be
7 deposited by the state treasurer in the public safety equipment fund
8 established by section 41-1723. This assessment is not subject to any
9 surcharge. If the conviction occurred in the superior court or a justice
10 court, the court shall transmit the assessed monies to the county treasurer.
11 If the conviction occurred in a municipal court, the court shall transmit the
12 assessed monies to the city treasurer. The city or county treasurer shall
13 transmit the monies received to the state treasurer.

14 E. If within a period of eighty-four months a person is convicted of a
15 second violation of this section or is convicted of a violation of this
16 section and has previously been convicted of a violation of section 28-1381
17 or 28-1383 or an act in another jurisdiction that if committed in this state
18 would be a violation of this section or section 28-1381 or 28-1383, the
19 person:

20 1. Shall be sentenced to serve not less than one hundred twenty days
21 in jail, sixty days of which shall be served consecutively, and is not
22 eligible for probation or suspension of execution of sentence unless the
23 entire sentence has been served if the person is convicted of a violation of
24 subsection A, paragraph 1 of this section. A person who is convicted of a
25 violation of subsection A, paragraph 2 of this section shall be sentenced to
26 serve not less than one hundred eighty days in jail, ninety of which shall be
27 served consecutively, and is not eligible for probation or suspension of
28 execution of sentence unless the entire sentence has been served.

29 2. Shall pay a fine of not less than five hundred dollars, except that
30 a person who is convicted of a violation of subsection A, paragraph 2 of this
31 section shall pay a fine of not less than one thousand dollars. The fine
32 prescribed in this paragraph and any assessments, restitution and
33 incarceration costs shall be paid before the assessment prescribed in
34 paragraph 3 of this subsection.

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

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

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

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

22 7. Shall pay an additional assessment of one thousand two hundred
23 fifty dollars to be deposited by the state treasurer in the public safety
24 equipment fund established by section 41-1723. This assessment is not
25 subject to any surcharge. If the conviction occurred in the superior court
26 or a justice court, the court shall transmit the assessed monies to the
27 county treasurer. If the conviction occurred in a municipal court, the court
28 shall transmit the assessed monies to the city treasurer. The city or county
29 treasurer shall transmit the monies received to the state treasurer.

30 F. In applying the eighty-four month provision of subsection E of this
31 section, the dates of the commission of the offense shall be the determining
32 factor, irrespective of the sequence in which the offenses were committed.

33 G. A second violation for which a conviction occurs as provided in
34 this section shall not include a conviction for an offense arising out of the
35 same series of acts.

36 H. AFTER COMPLETING FORTY-FIVE DAYS OF THE REVOCATION PERIOD
37 PRESCRIBED BY SUBSECTION E OF THIS SECTION, A PERSON WHOSE DRIVING PRIVILEGE
38 IS REVOKED FOR A VIOLATION OF THIS SECTION AND WHO IS SENTENCED PURSUANT TO
39 SUBSECTION E OF THIS SECTION IS ELIGIBLE FOR A SPECIAL IGNITION INTERLOCK
40 RESTRICTED DRIVER LICENSE PURSUANT TO SECTION 28-1401.

41 I. NOTWITHSTANDING SUBSECTION D, PARAGRAPH 1 OF THIS SECTION, AT THE
42 TIME OF SENTENCING IF THE PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION A,
43 PARAGRAPH 1 OF THIS SECTION, THE JUDGE MAY SUSPEND ALL BUT NINE DAYS OF THE
44 SENTENCE IF THE PERSON EQUIPS ANY MOTOR VEHICLE THE PERSON OPERATES WITH A
45 CERTIFIED IGNITION INTERLOCK DEVICE FOR A PERIOD OF TWELVE MONTHS. IF THE
46 PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH 2 OF THIS

1 SECTION, THE JUDGE MAY SUSPEND ALL BUT FOURTEEN DAYS OF THE SENTENCE IF THE
2 PERSON EQUIPS ANY MOTOR VEHICLE THE PERSON OPERATES WITH A CERTIFIED IGNITION
3 INTERLOCK DEVICE FOR A PERIOD OF TWELVE MONTHS. IF THE PERSON FAILS TO
4 COMPLY WITH ARTICLE 5 OF THIS CHAPTER AND HAS NOT BEEN PLACED ON PROBATION,
5 THE COURT SHALL ISSUE AN ORDER TO SHOW CAUSE AS TO WHY THE REMAINING JAIL
6 SENTENCE SHOULD NOT BE SERVED.

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

9 Sec. 11. Section 28-1383, Arizona Revised Statutes, is amended to
10 read:

11 28-1383. Aggravated driving or actual physical control while
12 under the influence; violation; classification;
13 definition

14 A. A person is guilty of aggravated driving or actual physical control
15 while under the influence of intoxicating liquor or drugs if the person does
16 any of the following:

17 1. Commits a violation of section 28-1381, section 28-1382 or this
18 section while the person's driver license or privilege to drive is suspended,
19 canceled, revoked or refused or while a restriction is placed on the person's
20 driver license or privilege to drive as a result of violating section 28-1381
21 or 28-1382 or under section 28-1385.

22 2. Within a period of eighty-four months commits a third or subsequent
23 violation of section 28-1381, section 28-1382 or this section or is convicted
24 of a violation of section 28-1381, section 28-1382 or this section and has
25 previously been convicted of any combination of convictions of section
26 28-1381, section 28-1382 or this section or acts in another jurisdiction that
27 if committed in this state would be a violation of section 28-1381, section
28 28-1382 or this section.

29 3. While a person under fifteen years of age is in the vehicle,
30 commits a violation of either:

- 31 (a) Section 28-1381.
32 (b) Section 28-1382.

33 4. While the person is ordered by the court or required pursuant to
34 section 28-3319 by the department to equip any motor vehicle the person
35 operates with a certified ignition interlock device, ~~does either of the~~
36 ~~following:~~

37 ~~(a) While under arrest refuses to submit to any test chosen by a law~~
38 ~~enforcement officer pursuant to section 28-1321, subsection A.~~

39 ~~(b)~~ commits a violation of section 28-1381, section 28-1382 or this
40 section.

41 B. The dates of the commission of the offenses are the determining
42 factor in applying the eighty-four month provision provided in subsection A,
43 paragraph 2 of this section regardless of the sequence in which the offenses
44 were committed. For the purposes of this section, a third or subsequent
45 violation for which a conviction occurs does not include a conviction for an
46 offense arising out of the same series of acts. The time that a probationer

1 is found to be on absconder status or the time that a person is incarcerated
2 in any state, federal, county or city jail or correctional facility is
3 excluded when determining the eighty-four month period provided in subsection
4 A, paragraph 2 and subsection E of this section.

5 C. The notice to a person of the suspension, cancellation, revocation
6 or refusal of a driver license or privilege to drive is effective as provided
7 in section 28-3318 or pursuant to the laws of the state issuing the license.

8 D. A person is not eligible for probation, pardon, commutation or
9 suspension of sentence or release on any other basis until the person has
10 served not less than four months in prison if the person is convicted under
11 either of the following:

12 1. Subsection A, paragraph 1 of this section.

13 2. Subsection A, paragraph 2 of this section and within an eighty-four
14 month period has been convicted of two prior violations of section 28-1381,
15 section 28-1382 or this section, or any combination of those sections, or
16 acts in another jurisdiction that if committed in this state would be a
17 violation of section 28-1381, section 28-1382 or this section.

18 E. A person who is convicted under subsection A, paragraph 2 of this
19 section and who within an eighty-four month period has been convicted of
20 three or more prior violations of section 28-1381, section 28-1382 or this
21 section, or any combination of those sections, or acts in another
22 jurisdiction that if committed in this state would be a violation of section
23 28-1381, section 28-1382 or this section is not eligible for probation,
24 pardon, commutation or suspension of sentence or release on any other basis
25 until the person has served not less than eight months in prison.

26 F. A person who is convicted under subsection A, paragraph 3,
27 subdivision (a) of this section shall serve at least the minimum term of
28 incarceration required pursuant to section 28-1381.

29 G. A person who is convicted under subsection A, paragraph 3,
30 subdivision (b) of this section shall serve at least the minimum term of
31 incarceration required pursuant to section 28-1382.

32 H. A person who is convicted of a violation of this section shall
33 attend and complete alcohol or other drug screening, education or treatment
34 from an approved facility. If the person fails to comply with this
35 subsection and is placed on probation, in addition to the provisions of
36 section 13-901 the court may order that the person be incarcerated as a term
37 of probation as follows:

38 1. For a person sentenced pursuant to subsection D of this section,
39 for an individual period of not more than four months and a total period of
40 not more than one year.

41 2. For a person sentenced pursuant to subsection E of this section,
42 for an individual period of not more than eight months and a total period of
43 not more than two years.

44 I. The time that a person spends in custody pursuant to subsection H
45 of this section shall not be counted towards the sentence imposed if the

1 person's probation is revoked and the person is sentenced to prison after
2 revocation of probation.

3 J. On a conviction for a violation of this section, the court:

4 1. Shall report the conviction to the department. On receipt of the
5 report, the department shall revoke the driving privilege of the person. The
6 department shall not issue the person a new driver license within ~~three years~~
7 **ONE YEAR** of the date of the conviction and, ~~for a conviction of a violation~~
8 ~~of subsection A, paragraph 1, 2 or 4 or paragraph 3, subdivision (b) of this~~
9 ~~section,~~ shall require the person to equip any motor vehicle the person
10 operates with a certified ignition interlock device pursuant to section
11 28-3319. In addition, the court may order the person to equip any motor
12 vehicle the person operates with a certified ignition interlock device for
13 more than ~~twelve~~ **TWENTY-FOUR** months beginning on the date of reinstatement of
14 the person's driving privilege following a suspension or revocation or on the
15 date of the department's receipt of the report of conviction, whichever
16 occurs later. The person who operates a motor vehicle with a certified
17 ignition interlock device under this paragraph shall comply with article 5 of
18 this chapter.

19 2. In addition to any other penalty prescribed by law, shall order the
20 person to pay an additional assessment of two hundred fifty dollars. If the
21 conviction occurred in the superior court or a justice court, the court shall
22 transmit the monies received pursuant to this paragraph to the county
23 treasurer. If the conviction occurred in a municipal court, the court shall
24 transmit the monies received pursuant to this paragraph to the city
25 treasurer. The city or county treasurer shall transmit the monies received
26 to the state treasurer. The state treasurer shall deposit the monies
27 received in the driving under the influence abatement fund established by
28 section 28-1304. Any fine imposed for a violation of this section and any
29 assessments, restitution and incarceration costs shall be paid before the
30 assessment prescribed in this paragraph.

31 3. Shall order the person to pay a fine of not less than seven hundred
32 fifty dollars.

33 4. In addition to any other penalty prescribed by law, shall order the
34 person to pay an additional assessment of one thousand five hundred dollars
35 to be deposited by the state treasurer in the prison construction and
36 operations fund established by section 41-1651. This assessment is not
37 subject to any surcharge. If the conviction occurred in the superior court
38 or a justice court, the court shall transmit the assessed monies to the
39 county treasurer. If the conviction occurred in a municipal court, the court
40 shall transmit the assessed monies to the city treasurer. The city or county
41 treasurer shall transmit the monies received to the state treasurer.

42 5. In addition to any other penalty prescribed by law, shall order the
43 person to pay an additional assessment of one thousand five hundred dollars
44 to be deposited by the state treasurer in the public safety equipment fund
45 established by section 41-1723. This assessment is not subject to any
46 surcharge. If the conviction occurred in the superior court or a justice

1 court, the court shall transmit the assessed monies to the county treasurer.
2 If the conviction occurred in a municipal court, the court shall transmit the
3 assessed monies to the city treasurer. The city or county treasurer shall
4 transmit the monies received to the state treasurer.

5 K. After completing the period of suspension required by section
6 28-1385, a person whose driving privilege is revoked for a violation of
7 subsection A, paragraph 3 of this section may apply to the department for a
8 special ignition interlock restricted driver license pursuant to section
9 28-1401.

10 L. Aggravated driving or actual physical control while under the
11 influence of intoxicating liquor or drugs committed under:

12 1. Subsection A, paragraph 1, ~~or 2 or paragraph 4, subdivision (b)~~ of
13 this section is a class 4 felony.

14 2. Subsection A, paragraph 3 ~~or paragraph 4, subdivision (a)~~ of this
15 section is a class 6 felony.

16 M. For the purposes of this section, "suspension, cancellation,
17 revocation or refusal" means any suspension, cancellation, revocation or
18 refusal.

19 Sec. 12. Section 28-1385, Arizona Revised Statutes, is amended to
20 read:

21 28-1385. Administrative license suspension for driving under
22 the influence or for homicide or assault involving a
23 motor vehicle; report; hearing; summary review;
24 ignition interlock device requirement

25 A. A law enforcement officer shall forward to the department a
26 certified report as prescribed in subsection B of this section, subject to
27 the penalty for perjury prescribed by section 28-1561, if both of the
28 following occur:

29 1. The officer arrests a person for a violation of section 4-244,
30 paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or for a
31 violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a
32 motor vehicle.

33 2. The person submits to a blood or breath alcohol test permitted by
34 section 28-1321 or any other law or a sample of blood is obtained pursuant to
35 section 28-1388 and the results are either not available or the results
36 indicate ~~either~~ ANY of the following:

37 (a) 0.08 or more alcohol concentration in the person's blood or
38 breath.

39 (b) 0.04 or more alcohol concentration in the person's blood or breath
40 if the person was driving or in actual physical control of a commercial motor
41 vehicle.

42 (c) ANY DRUG DEFINED IN SECTION 13-3401 OR ITS METABOLITE IS IN THE
43 PERSON'S BODY EXCEPT IF THE PERSON POSSESSES A VALID PRESCRIPTION FOR THE
44 DRUG.

45 B. The officer shall make the certified report required by subsection
46 A of this section on forms supplied or approved by the department. The

1 report shall state information that is relevant to the enforcement action,
2 including:

3 1. Information that adequately identifies the arrested person.

4 2. A statement of the officer's grounds for belief that the person was
5 driving or in actual physical control of a motor vehicle in violation of
6 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section
7 28-1383 or committed a violation of title 13, chapter 11 or section 13-1201
8 or 13-1204 involving a motor vehicle.

9 3. A statement that the person was arrested for a violation of section
10 4-244, paragraph 34, section 28-1381, section 28-1382 or section 28-1383 or
11 for a violation of title 13, chapter 11 or section 13-1201 or 13-1204
12 involving a motor vehicle.

13 4. A report of the results of the blood or breath alcohol test that
14 was administered, if the results are available.

15 C. The officer shall also serve an order of suspension on the person
16 on behalf of the department. The order of suspension:

17 1. Is effective fifteen days after the date it is served.

18 2. Shall require the immediate surrender of any license or permit to
19 drive that is issued by this state and that is in the possession or control
20 of the person.

21 3. Shall contain information concerning the right to a summary review
22 and hearing, including information concerning the hearing as required by
23 section 28-1321, subsections G and H.

24 4. Shall be accompanied by printed forms **THAT ARE** ready to mail to the
25 department that the person may fill out and sign to indicate the person's
26 desire for a hearing **AND THAT ADVISE THE PERSON THAT THE PERSON MAY**
27 **ALTERNATIVELY SUBMIT AN ONLINE REQUEST FOR A HEARING.**

28 5. Shall be entered on the department's records on receipt of the
29 report by the officer and a copy of the order of suspension.

30 6. Shall inform the person that the person's driving privilege,
31 license, permit, right to apply for a license or permit or nonresident
32 operating privilege may be issued or reinstated following the period of
33 suspension only if the person completes alcohol or other drug screening.

34 7. Shall contain information on alcohol or other drug education and
35 treatment programs that are provided by a facility approved by the department
36 of health services.

37 D. If the blood ~~alcohol concentration~~ test result is unavailable at
38 the time the test is administered, the result shall be forwarded to the
39 department before the hearing held pursuant to this section in a form
40 prescribed by the director.

41 E. If the license or permit is not surrendered pursuant to subsection
42 C of this section, the officer shall state the reason for the nonsurrender.
43 If a valid license or permit is surrendered, the officer shall issue a
44 temporary driving permit that is valid for fifteen days. The officer shall
45 forward a copy of the completed order of suspension, a copy of any completed
46 temporary permit and any driver license or permit taken into possession under

1 this section to the department within five days after the issuance of the
2 order of suspension along with the report.

3 F. The department shall suspend the affected person's license or
4 permit to drive or right to apply for a license or permit or any nonresident
5 operating privilege for not less than ninety consecutive days from that date.
6 If the person is otherwise qualified, the department may reinstate the
7 person's driving privilege, license, permit, right to apply for a license or
8 permit or nonresident operating privilege following the period of suspension
9 only if the violator completes alcohol or other drug screening.

10 G. Notwithstanding subsections A through F of this section, the
11 department shall suspend the driving privileges of the person described in
12 subsection A of this section for not less than thirty consecutive days and
13 shall restrict the driving privileges of the person for not less than sixty
14 consecutive additional days to travel between the person's place of
15 employment and residence and during specified periods of time while at
16 employment, to travel between the person's place of residence and the
17 person's secondary or postsecondary school, according to the person's
18 employment or educational schedule, to travel between the person's place of
19 residence and the office of the person's probation officer for scheduled
20 appointments or to travel between the person's place of residence and a
21 screening, education or treatment facility for scheduled appointments if the
22 person:

23 1. Did not cause death or serious physical injury as defined in
24 section 13-105 to another person during the course of conduct out of which
25 the current action arose.

26 2. Has not been convicted of a violation of section 4-244, paragraph
27 34, section 28-1381, section 28-1382 or section 28-1383 within eighty-four
28 months of the date of commission of the acts out of which the current action
29 arose. The dates of commission of the acts are the determining factor in
30 applying the eighty-four month provision.

31 3. Has not had the person's privilege to drive suspended pursuant to
32 this section or section 28-1321 within eighty-four months of the date of
33 commission of the acts out of which the current action arose.

34 4. Provides satisfactory evidence to the department of the person's
35 completion of alcohol or other drug screening that is ordered by the
36 department. If the person does not complete alcohol or other drug screening,
37 the department may impose a ninety day suspension pursuant to this section.

38 H. If the officer does not serve an order of suspension pursuant to
39 subsection C of this section and if the department does not receive the
40 report of the results of the blood or breath alcohol test pursuant to
41 subsection B, paragraph 4 of this section, but subsequently receives the
42 results and the results indicate 0.08 or more alcohol concentration in the
43 person's blood or breath, ~~or~~ a blood or breath alcohol concentration of 0.04
44 or more and the person was driving or in actual physical control of a
45 commercial motor vehicle OR ANY DRUG DEFINED IN SECTION 13-3401 OR ITS
46 METABOLITE IN THE PERSON'S BODY AND THE PERSON DOES NOT POSSESS A VALID

1 **PRESCRIPTION FOR THE DRUG**, the department shall notify the person named in
2 the report in writing sent by mail that fifteen days after the date of
3 issuance of the notice the department will suspend the person's license or
4 permit, driving privilege or nonresident driving privilege. The notice shall
5 also state that the department will provide an opportunity for a hearing and
6 administrative review if the person requests a hearing or review in writing
7 and the request is received by the department within fifteen days after the
8 notice is sent.

9 I. A timely request for a hearing stays the suspension until a hearing
10 is held, except that the department shall not return any surrendered license
11 or permit to the person but may issue temporary permits to drive that expire
12 no later than when the department has made its final decision. If the person
13 is a resident without a license or permit or has an expired license or
14 permit, the department may allow the person to apply for a restricted license
15 or permit. If the department determines the person is otherwise entitled to
16 the restricted license or permit, the department shall issue, but retain, the
17 license or permit, subject to this section. All hearings requested under
18 this section shall be conducted in the same manner and under the same
19 conditions as provided in section 28-3306.

20 J. For the purposes of this section, the scope of the hearing shall
21 include only the following issues:

22 1. Whether the officer had reasonable grounds to believe the person
23 was driving or was in actual physical control of a motor vehicle while under
24 the influence of intoxicating liquor.

25 2. Whether the person was placed under arrest for a violation of
26 section 4-244, paragraph 34, section 28-1381, section 28-1382 or section
27 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or
28 13-1204 involving a motor vehicle.

29 3. Whether a test was taken, the results of which indicated **ANY OF** the
30 **FOLLOWING**:

31 (a) **AN** alcohol concentration in the person's blood or breath at the
32 time the test was administered of either:

33 ~~(a)~~ (i) 0.08 or more.

34 ~~(b)~~ (ii) 0.04 or more if the person was driving or in actual physical
35 control of a commercial motor vehicle.

36 (b) **ANY DRUG DEFINED IN SECTION 13-3401 OR ITS METABOLITE IN THE**
37 **PERSON'S BODY EXCEPT IF THE PERSON POSSESSES A VALID PRESCRIPTION FOR THE**
38 **DRUG.**

39 4. Whether the testing method used was valid and reliable.

40 5. Whether the test results were accurately evaluated.

41 K. The results of the blood or breath alcohol test shall be admitted
42 on establishing the requirements in section 28-1323 or 28-1326.

43 L. If the department determines at the hearing to suspend the affected
44 person's privilege to operate a motor vehicle, the suspension provided in
45 this section is effective fifteen days after giving written notice of the
46 suspension, except that the department may issue or extend a temporary

1 license that expires on the effective date of the suspension. If the person
2 is a resident without a license or permit or has an expired license or permit
3 to operate a motor vehicle in this state, the department shall deny the
4 issuance of a license or permit to the person for not less than ninety
5 consecutive days. The department may reinstate the person's driving
6 privilege, license, permit, right to apply for a license or permit or
7 nonresident operating privilege following the period of suspension only if
8 the violator completes alcohol or other drug screening.

9 M. A person may apply for a summary review of an order issued pursuant
10 to this section instead of a hearing at any time before the effective date of
11 the order. The person shall submit the application in writing to any
12 department driver license examining office together with any written
13 explanation as to why the department should not suspend the driving
14 privilege. The agent of the department receiving the notice shall issue to
15 the person an additional driving permit that expires twenty days from the
16 date the request is received. The department shall review all reports
17 submitted by the officer and any written explanation submitted by the person
18 and shall determine if the order of suspension should be sustained or
19 cancelled. The department shall not hold a hearing, and the review is not
20 subject to title 41, chapter 6. The department shall notify the person of
21 its decision before the temporary driving permit expires.

22 N. If the suspension or determination that there should be a denial of
23 issuance is not sustained after a hearing or review, the ruling is not
24 admissible in and does not have any effect on any civil or criminal court
25 proceeding.

26 O. If it has been determined under the procedures of this section that
27 a nonresident's privilege to operate a motor vehicle in this state has been
28 suspended, the department shall give information either in writing or by
29 electronic means of the action taken to the motor vehicle administrator of
30 the state of the person's residence and of any state in which the person has
31 a license.

32 Sec. 13. Section 28-1401, Arizona Revised Statutes, is amended to
33 read:

34 28-1401. Special ignition interlock restricted driver licenses;
35 application fee

36 A. A person whose class D or class G license has been **SUSPENDED**
37 **PURSUANT TO SECTION 28-1385 OR** suspended or revoked for a first ~~offense of~~
38 **REFUSAL PURSUANT TO** section 28-1321, **A SECOND VIOLATION OF SECTION 28-1381 OR**
39 **28-1382** or **A FIRST VIOLATION OF** section 28-1383, subsection A, paragraph 3,
40 may apply to the department for a special ignition interlock restricted
41 driver license that allows a person to operate a motor vehicle during the
42 period of suspension or revocation subject to the restrictions prescribed in
43 section 28-1402 and the certified ignition interlock device requirements
44 prescribed in article 5 of this chapter if the person's privilege to operate
45 a motor vehicle has been suspended or revoked due to an alcohol related
46 offense pursuant to ~~either~~ **ANY** of the following:

1 1. Section 28-1321, if the person meets the criteria of section
2 28-1321, subsection P.

3 2. SECTION 28-1381, IF THE PERSON MEETS THE CRITERIA OF SECTION
4 28-1381, SUBSECTION O AND THE PERSON PRESENTS EVIDENCE THAT IS SATISFACTORY
5 TO THE DIRECTOR AND THAT SHOWS THAT THE PERSON HAS COMPLETED THE REQUIREMENTS
6 PRESCRIBED IN SECTION 28-1387, SUBSECTION B.

7 3. SECTION 28-1382, IF THE PERSON MEETS THE CRITERIA OF SECTION
8 28-1382, SUBSECTION H AND THE PERSON PRESENTS EVIDENCE THAT IS SATISFACTORY
9 TO THE DIRECTOR AND THAT SHOWS THAT THE PERSON HAS COMPLETED THE REQUIREMENTS
10 PRESCRIBED IN SECTION 28-1387, SUBSECTION B.

11 ~~2-~~ 4. Section 28-1383, if the person meets the criteria of section
12 28-1383, subsection K and the person presents evidence that is satisfactory
13 to the director AND that shows that the person has completed ~~screening and~~
14 ~~treatment~~ THE REQUIREMENTS PRESCRIBED IN SECTION 28-1387, SUBSECTION B.

15 5. SECTION 28-1385, IF THE PERSON MEETS THE CRITERIA OF SECTION
16 28-1385, SUBSECTION G.

17 B. An applicant for a special ignition interlock restricted driver
18 license shall pay an application fee in an amount to be determined by the
19 director.

20 C. The department shall issue a special ignition interlock restricted
21 driver license during the period of a court ordered restriction pursuant to
22 sections 28-3320 and 28-3322 subject to the restrictions prescribed in
23 section 28-1402 and the certified ignition interlock requirements prescribed
24 in article 5 of this chapter.

25 D. If the department issues a special ignition interlock restricted
26 driver license, the department shall not delete a suspension or revocation
27 from its records.

28 E. The granting of a special ignition interlock restricted driver
29 license does not reduce or eliminate the required use of an ignition
30 interlock device pursuant to section 28-3319.

31 F. THE DEPARTMENT SHALL MAKE A NOTATION ON A SPECIAL IGNITION
32 INTERLOCK RESTRICTED DRIVER LICENSE THAT IS ISSUED TO A PERSON WHO IS PLACED
33 IN A CONTINUOUS ALCOHOL MONITORING PROGRAM PURSUANT TO SECTION 28-3319,
34 SUBSECTION I.

35 Sec. 14. Section 28-1402, Arizona Revised Statutes, is amended to
36 read:

37 28-1402. Issuance of special ignition interlock restricted
38 driver license; restrictions

39 A. On application pursuant to section 28-1401, subsection A the
40 department may, and pursuant to section 28-1401, subsection C the department
41 shall, issue a special ignition interlock restricted driver license that only
42 allows a person whose class D or class G license has been ~~SUSPENDED PURSUANT~~
43 ~~TO SECTION 28-1385 OR~~ suspended or revoked for a first ~~offense of~~ REFUSAL
44 ~~PURSUANT TO~~ section 28-1321, A SECOND VIOLATION OF SECTION 28-1381 OR 28-1382
45 or A FIRST VIOLATION OF section 28-1383, subsection A, paragraph 3 to operate

1 a motor vehicle that is equipped with a functioning certified ignition
2 interlock device and only as follows:

3 1. Between the person's place of employment and residence during
4 specified periods of time while at employment.

5 2. Between the person's place of residence, the person's place of
6 employment and the person's secondary or postsecondary school according to
7 the person's employment or educational schedule.

8 3. Between the person's place of residence and a screening, education
9 or treatment facility for scheduled appointments.

10 4. Between the person's place of residence and the office of the
11 person's probation officer for scheduled appointments.

12 5. Between the person's place of residence and the office of a
13 physician or other health care professional.

14 6. Between the person's place of residence and a certified ignition
15 interlock device service facility.

16 B. The department may only issue a special ignition interlock
17 restricted driver license to an applicant who is otherwise qualified by law.

18 C. Except as provided in section 28-1463, if the department suspends,
19 revokes, cancels or otherwise rescinds a person's special ignition interlock
20 restricted license or privilege for any reason, the department shall not
21 issue a new license or reinstate the special ignition interlock restricted
22 driver license during the prescribed period of suspension or revocation or
23 while the person is otherwise ineligible to receive a license.

24 Sec. 15. Section 28-1461, Arizona Revised Statutes, is amended to
25 read:

26 28-1461. Use of certified ignition interlock devices: reporting

27 A. If a person's driving privilege is limited pursuant to section
28 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
29 28-1402:

30 1. The person shall:

31 (a) Pay the costs for installation and maintenance of the certified
32 ignition interlock device.

33 (b) Provide proof to the department of installation of a functioning
34 certified ignition interlock device in each motor vehicle operated by the
35 person.

36 (c) Provide proof of compliance to the department at least once every
37 ninety days during the period the person is ordered to use an ignition
38 interlock device.

39 (d) Provide proof of inspection of the certified ignition interlock
40 device for accurate operation and the results of the inspection to the
41 department at least once every ninety days during the period the person is
42 ordered to use an ignition interlock device.

43 2. The department shall not reinstate the person's driving privilege
44 or issue a special ignition interlock restricted driver license until the
45 person has installed a functioning certified ignition interlock device in

1 each motor vehicle operated by the person and has provided proof of
2 installation to the department.

3 B. While a person maintains a functioning certified ignition interlock
4 device in a vehicle pursuant to this chapter, each time an installer obtains
5 information recorded by a certified ignition interlock device the installer
6 shall electronically provide to the department in a form prescribed by the
7 department the following information:

8 1. Any tampering or circumvention.

9 2. Any failure to provide proof of compliance or inspection of the
10 certified ignition interlock device as prescribed in this section.

11 3. Any attempt to operate the vehicle with an alcohol concentration
12 exceeding the presumptive limit as prescribed in section 28-1381,
13 subsection G, paragraph 3 or, if the person is under twenty-one years of age,
14 any attempt to operate the vehicle with any spirituous liquor in the person's
15 body.

16 C. If the person is under eighteen years of age, the installer shall
17 also provide to the person's parent or legal guardian the information
18 prescribed in subsection B of this section.

19 D. On request, the installer shall provide the information prescribed
20 in subsection B of this section to:

21 1. The department of health services authorized provider.

22 2. The probation department that is providing alcohol or other drug
23 screening, education or treatment to the person.

24 3. The physician, psychologist or substance abuse counselor who is
25 evaluating the person's ability to safely operate a motor vehicle following a
26 revocation of the person's driving privilege as prescribed in section
27 28-3315, subsection D.

28 4. The court.

29 E. The department shall extend an ignition interlock restricted or
30 limited driver license and the certified ignition interlock device period **FOR**
31 **SIX MONTHS** if the department has reasonable grounds to believe that any of
32 the following applies:

33 1. The person tampered with or circumvented the certified ignition
34 interlock device.

35 2. The person attempted to operate the vehicle with an alcohol
36 concentration exceeding the presumptive limit as prescribed in section
37 28-1381, subsection G, paragraph 3 ~~three~~ **TWO** or more times during the period
38 of license restriction or limitation.

39 3. If the person is under twenty-one years of age, the person
40 attempted to operate the vehicle with any spirituous liquor in the person's
41 body during the period of license restriction or limitation.

42 4. The person failed to provide proof of compliance or inspection as
43 prescribed in this section.

44 5. **THE PERSON ATTEMPTS TO OPERATE THE VEHICLE WITH AN ALCOHOL**
45 **CONCENTRATION OF 0.08 OR MORE DURING A SIX MONTH EXTENSION PURSUANT TO THIS**
46 **SUBSECTION.**

1 F. If the special ignition interlock restricted license is extended
2 pursuant to subsection E of this section, the limitations prescribed in
3 sections 28-1381, 28-1382, 28-1383 and 28-3319 do not begin until the
4 restrictive period of the license ends.

5 G. The department shall make a notation on the driving record of a
6 person whose driving privilege is limited pursuant to section 28-1381,
7 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section
8 28-1402 that states that the person shall not operate a motor vehicle unless
9 it is equipped with a certified ignition interlock device.

10 H. Proof of compliance does not include a skipped or missed random
11 sample if the motor vehicle's ignition is off at the time of the skipped or
12 missed sample.

13 Sec. 16. Section 28-1464, Arizona Revised Statutes, is amended to
14 read:

15 28-1464. Ignition interlock devices; violations;
16 classification; definition

17 A. A person whose driving privilege is limited pursuant to section
18 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
19 28-1402 and who is required to operate a motor vehicle owned by the person's
20 employer in the course and scope of the person's employment may operate that
21 motor vehicle without the installation of a certified ignition interlock
22 device if the person notifies the person's employer that the person, in
23 conjunction with the person's sentence or if the person has been issued a
24 special ignition interlock restricted driver license pursuant to section
25 28-1402, has specific requirements in order to operate a motor vehicle and
26 the nature of the requirements and the person has proof of the employer's
27 notification in the person's possession while operating the employer's motor
28 vehicle for normal business. For the purposes of this subsection, a motor
29 vehicle that is partly or entirely owned or controlled by the person whose
30 driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or
31 28-3319 or restricted pursuant to section 28-1402 is not a motor vehicle that
32 is owned by an employer.

33 B. Except in cases of a substantial emergency, a person shall not
34 knowingly rent, lease or lend a motor vehicle to a person whose driving
35 privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319
36 or restricted pursuant to section 28-1402 unless the motor vehicle is
37 equipped with a functioning certified ignition interlock device.

38 C. A person whose driving privilege is limited pursuant to section
39 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
40 28-1402 and who rents, leases or borrows a motor vehicle from another person
41 shall notify the person who rents, leases or lends the motor vehicle to the
42 person that the person has specific requirements for the operation of the
43 motor vehicle and the nature of the requirements.

44 D. During any period when a person whose driving privilege is limited
45 pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319 or restricted
46 pursuant to section 28-1402 is required to operate only a motor vehicle that

1 is equipped with a certified ignition interlock device, the person shall not
2 request or permit any other person to breathe into the ignition interlock
3 device or start a motor vehicle equipped with an ignition interlock device
4 for the purpose of providing the person with an operable motor vehicle.

5 E. A person shall not breathe into an ignition interlock device or
6 start a motor vehicle equipped with an ignition interlock device for the
7 purpose of providing an operable motor vehicle to a person whose driving
8 privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or 28-3319
9 or restricted pursuant to section 28-1402.

10 F. A person whose driving privilege is limited pursuant to section
11 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
12 28-1402 shall not tamper with or circumvent the operation of an ignition
13 interlock device.

14 G. A person who is not a manufacturer's authorized installer or an
15 agent of a manufacturer's authorized installer and who is not a person whose
16 driving privilege is limited pursuant to section 28-1381, 28-1382, 28-1383 or
17 28-3319 or restricted pursuant to section 28-1402 shall not tamper with or
18 circumvent the operation of an ignition interlock device.

19 H. Except as provided in subsection A of this section or in cases of
20 substantial emergency, a person whose driving privilege is limited pursuant
21 to section 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to
22 section 28-1402 shall not operate a motor vehicle without a functioning
23 certified ignition interlock device during the applicable time period.

24 I. If the ignition interlock device is removed from a vehicle by an
25 installer, the installer shall electronically notify the department in a form
26 prescribed by the department that the ignition interlock device has been
27 removed from the vehicle.

28 J. If the person does not provide evidence to the department within
29 seventy-two hours that the person has installed a functioning certified
30 ignition interlock device in each vehicle operated by the person and has
31 provided proof of installation to the department, the department shall
32 suspend the special ignition interlock restricted driver license or privilege
33 as prescribed in section 28-1463.

34 K. A PERSON WHO IS ORDERED BY THE COURT OR REQUIRED BY THE DEPARTMENT
35 PURSUANT TO SECTION 28-3319 TO EQUIP ANY MOTOR VEHICLE THE PERSON OPERATES
36 WITH A CERTIFIED IGNITION INTERLOCK DEVICE SHALL WHILE UNDER ARREST SUBMIT TO
37 ANY TEST CHOSEN BY A LAW ENFORCEMENT OFFICER PURSUANT TO SECTION 28-1321,
38 SUBSECTION A.

39 L. A PERSON SHALL COMPLY WITH THE REQUIREMENTS OF A CONTINUOUS ALCOHOL
40 MONITORING PROGRAM ORDERED PURSUANT TO SECTION 28-3319, SUBSECTION I.

41 ~~K~~ M. A person who violates this section is guilty of a class 1
42 misdemeanor. Additionally, if a person is convicted of violating subsection
43 A, C, D, F or H of this section, the department shall extend the duration of
44 the certified ignition interlock device requirement for not more than one
45 year.

1 Sec. 20. Section 28-3315, Arizona Revised Statutes, is amended to
2 read:

3 28-3315. Period of suspension, revocation or disqualification:
4 unlicensed drivers

5 A. The department shall not suspend, revoke or disqualify a driver
6 license or privilege to drive a motor vehicle on the public highways for more
7 than one year from the date of a conviction or judgment, if any, against a
8 person for which this chapter makes revocation, suspension or
9 disqualification mandatory or from the date the notice is sent pursuant to
10 section 28-3318 if no conviction was involved, except as permitted under
11 subsection E of this section and sections ~~28-1383~~, 28-3312, 28-3319, ~~AND~~
12 28-3320 ~~and 28-3473~~.

13 B. A person whose license or privilege to drive a motor vehicle on the
14 public highways has been revoked may apply for a new license as provided by
15 law after the cause of the revocation is removed or after expiration of the
16 revocation period prescribed by law. After the department investigates an
17 applicant's driving record in this state or another state by examining
18 department records or other sufficient evidence to determine that all
19 withdrawal actions are complete, that the applicant has not committed any
20 traffic violations within twelve months preceding application and that all
21 other statutory requirements are satisfied, the department may issue a new
22 license.

23 C. The department shall not accept an application for reinstatement of
24 a driver license until after the twelve month period prescribed in subsection
25 B of this section has elapsed.

26 D. If the revocation is related to alcohol or other drugs, the person
27 shall provide the department with a current evaluation from a physician
28 licensed pursuant to title 32, chapter 13, 17 or 29, a psychologist licensed
29 pursuant to title 32, chapter 19.1 or a substance abuse counselor as defined
30 in section 28-3005 indicating that, in the opinion of the physician,
31 psychologist or counselor, the condition does not affect or impair the
32 person's ability to safely operate a motor vehicle. For the purposes of
33 reinstating a license or driving privilege pursuant to this article, the
34 department may rely on the opinion of a physician licensed pursuant to title
35 32, chapter 13, 17 or 29, a psychologist licensed pursuant to title 32,
36 chapter 19.1 or a substance abuse counselor as defined in section 28-3005.

37 E. Notwithstanding subsections A and B of this section:

38 1. A person whose license or privilege to drive is revoked pursuant to
39 section ~~28-1383, subsection J or~~ section 28-3304, subsection A, paragraph 1
40 or 12 is not entitled to have the person's license or privilege renewed or
41 restored for three years.

42 2. A person whose license or privilege to drive is revoked pursuant to
43 section 13-1209 is not entitled to have the person's license or privilege
44 renewed or restored for the period of time ordered by the court.

1 3. A person whose license, permit or privilege to drive is revoked
2 pursuant to section 28-661, subsection E is not entitled to have the person's
3 license, permit or privilege renewed or restored for five years.

4 4. A person whose license, permit or privilege to drive is revoked
5 pursuant to section 28-661, subsection F is not entitled to have the person's
6 license, permit or privilege renewed or restored for three years.

7 F. ~~Except as provided in section 28-3473,~~ If an unlicensed driver
8 commits an offense for which a driver license could be suspended, revoked or
9 disqualified, the department shall not accept the unlicensed driver's
10 application for a driver license for a period equal to the period of time
11 that applies to a driver with a license. If the offense is one for which a
12 driver license could be revoked, the department shall not accept the
13 unlicensed driver's application for a driver license unless it investigates
14 the character, habits and driving ability of the person and is satisfied that
15 it is safe to grant the privilege of driving a motor vehicle on the public
16 highways.

17 G. The expiration of a person's license during the period of time it
18 is under suspension, revocation or disqualification does not invalidate or
19 terminate the suspension, revocation or disqualification.

20 H. A person whose license or privilege to drive a motor vehicle on the
21 public highways has been suspended pursuant to section 28-3306, subsection A,
22 paragraph 5 or section 28-3314 may apply for a new license as provided by law
23 after the cause for suspension is removed or after expiration of the
24 suspension period prescribed by law if both of the following conditions are
25 met:

26 1. The department is satisfied, after reviewing the medical condition
27 and driving ability of the person, that it is safe to grant the person the
28 privilege of driving a motor vehicle on the public highways.

29 2. If the person has a medical condition related to alcohol or other
30 drugs, the person provides the department with a current evaluation form from
31 a physician licensed pursuant to title 32, chapter 13, 17 or 29, a
32 psychologist licensed pursuant to title 32, chapter 19.1 or a substance abuse
33 counselor as defined in section 28-3005 indicating that, in the opinion of
34 the physician, psychologist or counselor, the condition does not affect or
35 impair the person's ability to operate a motor vehicle in a safe manner.

36 Sec. 21. Section 28-3319, Arizona Revised Statutes, is amended to
37 read:

38 28-3319. Action after license suspension, revocation or denial
39 for driving under the influence or refusal of test;
40 ignition interlock device requirement; definition

41 A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320
42 or 28-3322, the license of a driver or the driving privilege of a nonresident
43 is suspended or revoked, the department shall not terminate the suspension or
44 revocation or issue a special ignition interlock restricted driver license,
45 if applicable, pursuant to chapter 4, article 3.1 of this title until the

1 person provides proof of financial responsibility pursuant to chapter 9,
2 article 3 of this title.

3 B. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320
4 or 28-3322, an unlicensed resident is denied a license or permit to operate a
5 motor vehicle, the department shall not issue a license or permit until the
6 person provides proof of financial responsibility pursuant to chapter 9,
7 article 3 of this title.

8 C. If a person whose license or driving privilege is suspended or
9 revoked pursuant to section 28-1321, 28-1381, 28-1382, 28-1383 or 28-1385 is
10 ordered, pursuant to section 28-1381, 28-1382, 28-1383 or 28-1385, to attend
11 alcohol or other drug screening, education or treatment, the department shall
12 not either:

13 1. Terminate the suspension or issue a special ignition interlock
14 restricted driver license, if applicable, pursuant to chapter 4, article 3.1
15 of this title until the person provides proof from the treatment facility
16 that the person has completed or is participating satisfactorily in alcohol
17 or other drug screening, education or treatment.

18 2. Issue a new license or a special ignition interlock restricted
19 driver license, if applicable, pursuant to chapter 4, article 3.1 of this
20 title to operate a motor vehicle after the revocation until the person
21 provides proof from the facility that the person has completed the court
22 ordered program.

23 D. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION, on receipt of a
24 report of conviction from a court, the department shall require any motor
25 vehicle the convicted person operates to be equipped with a functioning
26 certified ignition interlock device and the convicted person to meet the
27 requirements prescribed in section 28-1461 as follows:

28 1. For twelve months if:

29 (a) EXCEPT AS PROVIDED IN SUBSECTION H OF THIS SECTION, the person is
30 convicted of a violation of section 28-1381, ~~or~~ section 28-1382,
31 subsection A, paragraph 1 OR SECTION 28-1383, SUBSECTION A, PARAGRAPH 3,
32 SUBDIVISION (a).

33 (b) The department determines that within a period of eighty-four
34 months the person is convicted of a second or subsequent violation of section
35 28-1381 or section 28-1382, subsection A, paragraph 1 with a prior conviction
36 of a violation of section 28-1381, 28-1382 or 28-1383 or an act in another
37 jurisdiction that if committed in this state would be a violation of section
38 28-1381, 28-1382 or 28-1383.

39 2. For eighteen months if the person is convicted of a violation of
40 section 28-1382, subsection A, paragraph 2.

41 3. For twenty-four months if:

42 (a) The person is convicted of a violation of section 28-1382,
43 subsection A, paragraph 2 and the department determines that within a period
44 of eighty-four months the person has a prior conviction of a violation of
45 section 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if

1 committed in this state would be a violation of section 28-1381, 28-1382 or
2 28-1383.

3 (b) The person is convicted of a violation of section 28-1383,
4 SUBSECTION A, PARAGRAPH 1, 2 OR 4 OR PARAGRAPH 3, SUBDIVISION (b).

5 E. The requirement prescribed in subsection D of this section begins
6 on the date of reinstatement of the person's driving privilege following a
7 suspension or revocation or on the date of the department's receipt of the
8 report of conviction, whichever occurs later.

9 F. A person who is required to equip a motor vehicle with a certified
10 ignition interlock device pursuant to this section shall comply with chapter
11 4, article 5 of this title.

12 G. THE DEPARTMENT SHALL REMOVE THE REQUIREMENT THAT THE PERSON
13 MAINTAIN A FUNCTIONING CERTIFIED IGNITION INTERLOCK DEVICE IF THE PERSON IS
14 ONLY CONVICTED OF A VIOLATION OF SECTION 28-1381, SUBSECTION A, PARAGRAPH 3
15 AND COMPLETES ALCOHOL OR OTHER DRUG SCREENING REQUIRED PURSUANT TO SECTION
16 28-1387 AND THE COURT DETERMINES THAT NO ALCOHOL EDUCATION OR TREATMENT IS
17 REQUIRED.

18 H. THE DEPARTMENT SHALL DEFER THE REMAINDER OF THE TIME PERIOD
19 PRESCRIBED IN SUBSECTION D, PARAGRAPH 1, SUBDIVISION (a) OF THIS SECTION
20 COMMENCING WITH THE LATER OF SIX MONTHS FROM THE DATE THE INTERLOCK WAS
21 INSTALLED OR THE COMPLETION OF THE REQUIREMENTS OF THIS SUBSECTION IF ALL OF
22 THE FOLLOWING APPLY:

23 1. THE PERSON IS SENTENCED PURSUANT TO SECTION 28-1381, SUBSECTION I.

24 2. THE PERSON SUCCESSFULLY COMPLETES AN ALCOHOL EDUCATION PROGRAM
25 CONSISTING OF AT LEAST SIXTEEN HOURS PURSUANT TO SECTION 28-1381.

26 3. THE PERSON HAS MAINTAINED A FUNCTIONING IGNITION INTERLOCK DEVICE
27 ON ALL MOTOR VEHICLES THE PERSON OPERATES AND HAS MET THE REQUIREMENTS OF
28 SECTION 28-1461.

29 4. THE PERSON HAS NOT ATTEMPTED TO OPERATE A VEHICLE WITH AN ALCOHOL
30 CONCENTRATION OF 0.08 OR MORE TWO OR MORE TIMES DURING THE PERIOD OF LICENSE
31 RESTRICTION OR LIMITATION.

32 5. AT THE TIME OF THE OFFENSE, THE PERSON WAS NOT INVOLVED IN A MOTOR
33 VEHICLE ACCIDENT THAT RESULTED IN PHYSICAL INJURY OR PROPERTY DAMAGE.

34 6. ALL NECESSARY COMPLIANCE INFORMATION HAS BEEN PROVIDED TO THE
35 DEPARTMENT BY THE IGNITION INTERLOCK DEVICE PROVIDER, THE ALCOHOL SCREENING
36 PROGRAM AND THE ALCOHOL EDUCATION PROGRAM.

37 I. THE DEFERMENT PURSUANT TO SUBSECTION H OF THIS SECTION IS
38 PERMANENT, UNLESS THE PERSON IS ARRESTED FOR A VIOLATION OF SECTION 28-1381,
39 28-1382 OR 28-1383 THAT OCCURS DURING THE PERIOD OF THE DEFERMENT. IF THE
40 PERSON IS ARRESTED AS DESCRIBED IN THIS SUBSECTION, THE DEPARTMENT SHALL
41 REVOKE THE DEFERMENT AND REQUIRE THE PERSON TO COMPLETE THE REMAINDER OF THE
42 TIME PERIOD PRESCRIBED IN SUBSECTION D, PARAGRAPH 1, SUBDIVISION (a) OF THIS
43 SECTION.

44 J. ON A SHOWING OF SUFFICIENT MEDICAL EVIDENCE OR AN EMPLOYMENT
45 REQUIREMENT, THE DEPARTMENT MAY ALLOW A PERSON WHO IS UNABLE TO OPERATE AN
46 IGNITION INTERLOCK DEVICE TO BE PLACED IN A CONTINUOUS ALCOHOL MONITORING

1 PROGRAM INSTEAD OF EQUIPPING ANY MOTOR VEHICLE THE PERSON OPERATES WITH AN
2 IGNITION INTERLOCK DEVICE. THE PERSON SHALL BEAR THE COST OF ALL TESTING,
3 MONITORING AND ENROLLMENT IN THE CONTINUOUS ALCOHOL MONITORING PROGRAM. A
4 PERSON WHO IS PLACED IN A CONTINUOUS ALCOHOL MONITORING PROGRAM PURSUANT TO
5 THIS SUBSECTION SHALL REMAIN IN THE PROGRAM FOR THE SAME AMOUNT OF TIME THE
6 PERSON IS REQUIRED TO MAINTAIN AN IGNITION INTERLOCK DEVICE. DURING THE
7 PERIOD OF CONTINUOUS ALCOHOL MONITORING THE PERSON SHALL BE TESTED AT A
8 MINIMUM ONCE A DAY FOR THE USE OF ALCOHOLIC BEVERAGES BY A SCIENTIFIC METHOD
9 THAT IS CHOSEN BY THE DIRECTOR. IF THE PERSON TESTS POSITIVE FOR ALCOHOL TWO
10 TIMES, THE DEPARTMENT SHALL DISCONTINUE THE CONTINUOUS ALCOHOL MONITORING AND
11 REQUIRE THE PERSON TO INSTALL A CERTIFIED IGNITION INTERLOCK DEVICE AS
12 OTHERWISE PROVIDED BY LAW.

13 ~~G.~~ K. For the purposes of this section, "certified ignition interlock
14 device" has the same meaning prescribed in section 28-1301.

15 Sec. 22. Section 31-233, Arizona Revised Statutes, is amended to read:

16 31-233. Order for removal; purposes; duration; continuous
17 alcohol monitoring program; failure to return;
18 classification

19 A. The director may authorize the temporary removal under custody from
20 prison or any other institution for the detention of adults under the
21 jurisdiction of the department of any inmate for the purpose of employing the
22 inmate in any work directly connected with the administration, management or
23 maintenance of the prison or institution in which the inmate is confined, for
24 purposes of cooperating voluntarily in medical research that cannot be
25 performed at the prison or institution, or for participating in community
26 action activities directed toward delinquency prevention and community
27 betterment programs. The removal shall not be for a period longer than one
28 day.

29 B. Under specific rules established by the director for the selection
30 of inmates, the director may also authorize furlough, temporary removal or
31 temporary release of any inmate for compassionate leave, for the purpose of
32 furnishing to the inmate medical treatment not available at the prison or
33 institution, for purposes preparatory to a return to the community within
34 ninety days of the inmate's release date or for disaster aid, including local
35 mutual aid and state emergencies. When an inmate is temporarily removed or
36 temporarily released for a purpose preparatory to return to the community or
37 for compassionate leave, the director may require the inmate to reimburse the
38 state, in whole or part, for expenses incurred by the state in connection
39 with the inmate's temporary removal or release.

40 C. UNDER SPECIFIC RULES ESTABLISHED BY THE DIRECTOR FOR THE SELECTION
41 OF INMATES, THE DIRECTOR ALSO MAY AUTHORIZE RELEASE UNDER A CONTINUOUS
42 ALCOHOL MONITORING PROGRAM FOR ANY INMATE WHO IS SENTENCED PURSUANT TO
43 SECTION 28-1383, SUBSECTION D OR E AND WHO IS PLACED ON PROBATION. THE
44 DIRECTOR MAY REQUIRE AN INMATE WHO IS RELEASED UNDER A CONTINUOUS ALCOHOL
45 MONITORING PROGRAM TO REIMBURSE THE STATE, IN WHOLE OR PART, FOR EXPENSES
46 INCURRED BY THE STATE IN CONNECTION WITH THE INMATE'S RELEASE.

1 D. AN INMATE WHO IS RELEASED UNDER A CONTINUOUS ALCOHOL MONITORING
2 PROGRAM SHALL MEET THE FOLLOWING PROGRAM ELIGIBILITY REQUIREMENTS:

3 1. SERVE AN INITIAL MINIMUM TERM OF TWENTY PER CENT OF THE INMATE'S
4 TERM OF INCARCERATION.

5 2. MAINTAIN COMPLIANCE DURING THE PERIOD OF MONITORING WITH ALL OF THE
6 FOLLOWING REQUIREMENTS:

7 (a) AT A MINIMUM, ONCE A DAY TESTING FOR THE USE OF ALCOHOLIC
8 BEVERAGES OR DRUGS BY A SCIENTIFIC METHOD THAT IS CHOSEN BY THE DIRECTOR.

9 (b) PARTICIPATION IN AN ALCOHOL OR DRUG PROGRAM, OR BOTH. THESE
10 PROGRAMS SHALL BE ACCREDITED BY THE DEPARTMENT OF HEALTH SERVICES.

11 (c) PROHIBITION OF ASSOCIATION WITH ANY PERSON WHO IS DETERMINED TO BE
12 DETRIMENTAL TO THE INMATE'S SUCCESSFUL PARTICIPATION IN THE PROGRAM.

13 (d) ALL OTHER PROVISIONS OF THE INMATE'S SENTENCE.

14 3. ANY ADDITIONAL ELIGIBILITY CRITERIA THAT THE DIRECTOR MAY IMPOSE.

15 ~~E.~~ E. Except if community supervision is waived pursuant to section
16 13-603, subsection K, the department shall add the amount of time the
17 director approves for the inmate's temporary release to the inmate's term of
18 community supervision imposed by the court pursuant to section 13-603. While
19 the person is on temporary release the person is not on inmate status and is
20 under the jurisdiction of the department until the terms of community
21 supervision are met.

22 ~~F.~~ F. Any inmate who knowingly fails to return from furlough,
23 temporary removal or temporary release granted under this section is guilty
24 of a class 5 felony.

25 Sec. 23. Effective date

26 This act is effective from and after December 31, 2011.

APPROVED BY THE GOVERNOR APRIL 29, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 29, 2011.