

REFERENCE TITLE: **DUI; marijuana; presumptive impairment**

State of Arizona  
House of Representatives  
Fiftieth Legislature  
Second Regular Session  
2012

# **HB 2756**

Introduced by  
Representative Reeve

AN ACT

AMENDING SECTIONS 9-499.07, 11-251.15, 11-459, 28-1381, 28-1387, 28-1401 AND 28-3319, ARIZONA REVISED STATUTES; RELATING TO DRIVING UNDER THE INFLUENCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

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

19 3. The sentencing judge states at the time of the sentence that the  
20 prisoner may not be eligible for a prisoner work, community restitution work  
21 and home detention program or a continuous alcohol monitoring program.

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

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

43 E. Prisoners who are selected for the home detention program shall be  
44 employed within the county in which the city or town is located. The city or  
45 town shall review the place of employment to determine whether it is

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

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

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

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

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

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

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

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

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

44 N. A city or town may establish a continuous alcohol monitoring  
45 program for persons who are sentenced to jail confinement pursuant to section

1 28-1381 or 28-1382, which shall be treated the same as confinement in jail.  
2 The presiding judge of the city or town municipal court shall approve the  
3 program before its implementation. A prisoner who is placed under a  
4 continuous alcohol monitoring program established pursuant to this subsection  
5 shall bear the cost of all testing, monitoring and enrollment in the program  
6 and pay thirty dollars per month while in the program, unless, after  
7 determining the inability of the prisoner to pay the cost, the court assesses  
8 a lesser amount. The city or town shall use the collected monies to offset  
9 operational costs of the program.

10 0. If the city or town establishes a home detention or continuous  
11 alcohol monitoring program under subsection M or N of this section, a  
12 prisoner must meet the following eligibility requirements for the program:

13 1. Subsection B of this section applies in determining eligibility for  
14 the program.

15 2. If the prisoner is sentenced under section 28-1381, subsection ~~I~~  
16 ~~J~~, the prisoner first serves a minimum of one day in jail.

17 3. Notwithstanding section 28-1387, subsection C, if the prisoner is  
18 sentenced under section 28-1381, subsection ~~K~~ L or section 28-1382,  
19 subsection D or E, the prisoner first serves a minimum of twenty per cent of  
20 the initial term of incarceration in jail before being placed under home  
21 detention or continuous alcohol monitoring.

22 4. If placed under home detention, the prisoner is required to comply  
23 with all of the following provisions for the duration of the prisoner's  
24 participation in the home detention program:

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

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

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

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

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

36 5. Any additional eligibility criteria that the city or town may  
37 impose.

38 P. If a city or town establishes a home detention program under  
39 subsection M of this section, the court, on placing the prisoner in the  
40 program, shall require electronic monitoring in the prisoner's home and, if  
41 consecutive hours of jail time are ordered, shall require the prisoner to  
42 remain at home during the consecutive hours ordered. The detention device  
43 shall constantly monitor the prisoner's location to ensure that the prisoner  
44 does not leave the premises. Nothing in this subsection shall be deemed to

1 waive the minimum jail confinement requirements under subsection O, paragraph  
2 2 of this section.

3 Q. The court shall terminate a prisoner's participation in the home  
4 detention or continuous alcohol monitoring program and require the prisoner  
5 to complete the remaining term of the jail sentence by jail confinement if:

6 1. The prisoner fails to successfully complete a court ordered alcohol  
7 or drug screening, counseling, education and treatment program pursuant to  
8 subsection O, paragraph 4, subdivision (c) of this section or section  
9 28-1381, subsection ~~K~~ or ~~M~~.

10 2. If placed under home detention, the court finds that the prisoner  
11 left the premises without permission of the court or supervising authority  
12 during a time the prisoner is ordered to be on the premises.

13 R. At any other time the court may terminate a prisoner's  
14 participation in the home detention or continuous alcohol monitoring program  
15 and require the prisoner to complete the remaining term of the jail sentence  
16 by jail confinement.

17 S. The governing body of the city or town may terminate the program  
18 established under subsection M of this section by a majority vote of the full  
19 membership of the governing body.

20 Sec. 2. Section 11-251.15, Arizona Revised Statutes, is amended to  
21 read:

22 11-251.15. Prisoner home detention program; eligibility;  
23 monitoring; procedures; continuous alcohol  
24 monitoring program; home detention for persons  
25 sentenced for driving under the influence of  
26 alcohol or drugs

27 A. A county may establish a home detention program for eligible  
28 sentenced prisoners, which shall be treated the same as confinement in jail.  
29 The presiding justice of the peace of the county justice court shall approve  
30 the program before its implementation.

31 B. A prisoner is not eligible for a home detention program or a  
32 continuous alcohol monitoring program if any of the following applies:

33 1. The prisoner is found by the court to constitute a risk to either  
34 himself or other members of the community.

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

36 3. The sentencing judge states at the time of the sentence that the  
37 prisoner may not be eligible for a home detention program or a continuous  
38 alcohol monitoring program.

39 C. For prisoners who are selected for a program established pursuant  
40 to subsection A of this section, the court may require electronic monitoring  
41 in the prisoner's home whenever the prisoner is not at the prisoner's regular  
42 place of employment or while the prisoner is assigned to a community work  
43 task. If electronic monitoring is required, the prisoner shall remain under  
44 the control of a home detention device that constantly monitors the  
45 prisoner's location in order to determine that the prisoner has not left the

1 prisoner's premises. In all other cases, the court shall implement a system  
2 of monitoring using telephone contact or other appropriate methods to assure  
3 compliance with the home detention requirements. The court may place  
4 appropriate restrictions on prisoners in the program, including testing  
5 prisoners for consumption of alcoholic beverages or drugs or prohibiting  
6 association with individuals who are determined to be detrimental to the  
7 prisoner's successful participation in the program.

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

15 E. Prisoners who are selected for the home detention program shall be  
16 employed in the county in which they are incarcerated. The court shall  
17 review the place of employment to determine whether it is appropriate for a  
18 home detention prisoner. If the prisoner is terminated from employment or  
19 does not come to work, the employer shall notify the court.

20 F. The court may allow prisoners to be away from home detention for  
21 special purposes, including church attendance, medical appointments or  
22 funerals.

23 G. At any time the court may terminate a prisoner's participation in  
24 the home detention program or continuous alcohol monitoring program and  
25 require that the prisoner complete the remaining term of the prisoner's  
26 sentence in jail confinement.

27 H. If authorized by the court, a person who is sentenced pursuant to  
28 section 28-1381 or 28-1382 shall not be placed under home detention or a  
29 continuous alcohol monitoring program except as provided in subsections I  
30 through N of this section.

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

40 J. A county may establish a continuous alcohol monitoring program for  
41 persons who are sentenced to jail confinement pursuant to section 28-1381 or  
42 28-1382, which shall be treated the same as confinement in jail. The  
43 presiding justice of the peace of the county justice court shall approve the  
44 program before its implementation. A prisoner who is placed under a  
45 continuous alcohol monitoring program established pursuant to this section

1 shall bear the cost of all testing, monitoring and enrollment in the program  
2 and pay thirty dollars per month while in the program, unless, after  
3 determining the inability of the prisoner to pay the cost, the court assesses  
4 a lesser amount. The county shall use the collected monies to offset  
5 operational costs of the program.

6 K. If the county establishes a home detention or continuous alcohol  
7 monitoring program under subsection I or J of this section, a prisoner must  
8 meet the following eligibility requirements for the program:

9 1. Subsection B of this section applies in determining eligibility for  
10 the program.

11 2. If the prisoner is sentenced under section 28-1381, subsection ~~I~~  
12 J, the prisoner first serves a minimum of one day in jail.

13 3. Notwithstanding section 28-1387, subsection C, if the prisoner is  
14 sentenced under section 28-1381, subsection ~~K~~ L or section 28-1382,  
15 subsection D or E, the prisoner first serves a minimum of twenty per cent of  
16 the initial term of incarceration in jail before being placed under home  
17 detention or continuous alcohol monitoring.

18 4. If placed under home detention, the prisoner is required to comply  
19 with all of the following provisions for the duration of the prisoner's  
20 participation in the home detention program:

21 (a) All of the provisions of subsections C through F of this section.

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

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

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

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

32 5. Any additional eligibility criteria that the court may impose.

33 L. If a county establishes a home detention program under subsection I  
34 of this section, the court, on placing the prisoner in the program, shall  
35 require electronic monitoring in the prisoner's home and, if consecutive  
36 hours of jail time are ordered, shall require the prisoner to remain at home  
37 during the consecutive hours ordered. The detention device shall constantly  
38 monitor the prisoner's location to ensure that the prisoner does not leave  
39 the premises.

40 M. The court shall terminate a prisoner's participation in the home  
41 detention or continuous alcohol monitoring program and require the prisoner  
42 to complete the remaining term of the jail sentence by jail confinement if:

43 1. The prisoner fails to successfully complete a court ordered alcohol  
44 or drug screening, counseling, education and treatment program pursuant to

1 subsection K, paragraph 4, subdivision (c) of this section or section  
2 28-1381, subsection ~~J~~ K or ~~L~~ M.

3 2. If placed under home detention, the court finds that the prisoner  
4 left the premises without permission of the court or supervising authority  
5 during a time the prisoner is ordered to be on the premises.

6 N. At any other time the court may terminate a prisoner's  
7 participation in the home detention or continuous alcohol monitoring program  
8 and require the prisoner to complete the remaining term of the jail sentence  
9 by jail confinement.

10 O. The county board of supervisors may terminate the program  
11 established under subsection I of this section by a majority vote of the full  
12 membership of the governing body.

13 Sec. 3. Section 11-459, Arizona Revised Statutes, is amended to read:

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

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

24 B. A prisoner is not eligible for a prisoner work, community  
25 restitution work and home detention program or a continuous alcohol  
26 monitoring program if any of the following applies:

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

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

31 3. The prisoner has been convicted of a serious offense as defined in  
32 section 13-706 or has been sentenced as a dangerous offender pursuant to  
33 section 13-704 or repetitive offender pursuant to section 13-703.

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

35 5. The sentencing judge states at the time of the sentence that the  
36 prisoner may not be eligible for a prisoner work, community restitution work  
37 and home detention program or a continuous alcohol monitoring program.

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

40 C. If a prisoner is selected for a program established pursuant to  
41 subsection A of this section, the sheriff may require electronic monitoring  
42 in the prisoner's home whenever the prisoner is not at the prisoner's regular  
43 place of employment or while the prisoner is assigned to a community work  
44 task. If electronic monitoring is required, the prisoner shall remain under  
45 the control of a home detention device that constantly monitors the

1 prisoner's location in order to determine that the prisoner has not left the  
 2 prisoner's premises. In all other cases, the sheriff shall implement a  
 3 system of monitoring using visitation, telephone contact or other appropriate  
 4 methods to assure compliance with the home detention requirements. The  
 5 sheriff may place appropriate restrictions on prisoners in the program,  
 6 including testing prisoners for consumption of alcoholic beverages or drugs  
 7 or prohibiting association with individuals who are determined to be  
 8 detrimental to the prisoner's successful participation in the program.

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

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

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

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

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

40 I. The community restitution work committee is established in each  
 41 county and is composed of two designees of the sheriff, a representative of  
 42 the county attorney's office selected by the county attorney, a  
 43 representative of a local police agency selected by the police chief of the  
 44 largest city in the county and three persons selected by the county board of  
 45 supervisors from the private sector. A sheriff's designee shall serve as

1 committee chairman and schedule all meetings. The committee shall meet as  
2 often as necessary, but no less than once every three months, for the purpose  
3 of considering and recommending appropriate community restitution work  
4 projects for home detention prisoners. The committee shall make its  
5 recommendations to the sheriff. Members are not eligible to receive  
6 compensation.

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

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

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

27 M. A county sheriff may establish a continuous alcohol monitoring  
28 program for persons who are sentenced to jail confinement pursuant to section  
29 28-1381 or 28-1382, which shall be treated the same as confinement in jail  
30 and shall fulfill the sheriff's duty to take charge of and keep the county  
31 jail and prisoners. A prisoner who is placed under a continuous alcohol  
32 monitoring program established pursuant to this subsection shall bear the  
33 cost of all testing, monitoring and enrollment in the program and pay thirty  
34 dollars per month while in the program, unless, after determining the  
35 inability of the prisoner to pay the cost, the court assesses a lesser  
36 amount. The county shall use the collected monies to offset operational  
37 costs of the program.

38 N. If a county sheriff establishes a home detention or continuous  
39 alcohol monitoring program under subsection L or M of this section, a  
40 prisoner must meet the following eligibility requirements for the program:

41 1. Subsection B of this section applies in determining eligibility for  
42 the program.

43 2. If the prisoner is sentenced under section 28-1381, subsection ~~I~~  
44 J, the prisoner first serves a minimum of one day in jail.

1           3. Notwithstanding section 28-1387, subsection C, if the prisoner is  
2 sentenced under section 28-1381, subsection ~~K~~ L or section 28-1382,  
3 subsection D or E, the prisoner first serves a minimum of twenty per cent of  
4 the initial term of incarceration in jail before being placed under home  
5 detention or continuous alcohol monitoring.

6           4. If placed under home detention, the prisoner is required to comply  
7 with all of the following requirements for the duration of the prisoner's  
8 participation in the home detention program:

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

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

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

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

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

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

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

30           P. The court shall terminate a prisoner's participation in the home  
31 detention or continuous alcohol monitoring program and shall require the  
32 prisoner to complete the remaining term of the jail sentence by jail  
33 confinement if either:

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

38           2. If placed under home detention, the prisoner leaves the premises  
39 during a time that the prisoner is ordered to be on the premises without  
40 permission of the court or supervising authority.

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

1 R. The sheriff may terminate a program established pursuant to this  
2 section at any time.

3  
4 Sec. 4. Section 28-1381, Arizona Revised Statutes, is amended to read:  
5 28-1381. Driving or actual physical control while under the  
6 influence; trial by jury; presumptions; admissible  
7 evidence; sentencing; classification

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

10 1. While under the influence of intoxicating liquor, any drug, a vapor  
11 releasing substance containing a toxic substance or any combination of  
12 liquor, drugs or vapor releasing substances if the person is impaired to the  
13 slightest degree.

14 2. If the person has an alcohol concentration of 0.08 or more within  
15 two hours of driving or being in actual physical control of the vehicle and  
16 the alcohol concentration results from alcohol consumed either before or  
17 while driving or being in actual physical control of the vehicle.

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

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

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

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

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

31 E. In any prosecution for a violation of this section, the state shall  
32 allege, for the purpose of classification and sentencing pursuant to this  
33 section, all prior convictions of violating this section, section 28-1382 or  
34 section 28-1383 occurring within the past thirty-six months, unless there is  
35 an insufficient legal or factual basis to do so.

36 F. At the arraignment, the court shall inform the defendant that if  
37 the state alleges a prior conviction the defendant may request a trial by  
38 jury and that the request, if made, shall be granted.

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

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

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

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

13           H. IN A TRIAL, ACTION OR PROCEEDING FOR A VIOLATION OF THIS SECTION,  
14 IT IS PRESUMED THAT THE DEFENDANT IS UNDER THE INFLUENCE AND IMPAIRED BY  
15 MARIJUANA IF THE DEFENDANT HAS A BLOOD CONCENTRATION OF 2.0 NANOGRAMS PER  
16 MILLILITER OR MORE OF TETRAHYDROCANNABINOL WITHIN TWO HOURS OF THE TIME OF  
17 DRIVING OR BEING IN ACTUAL PHYSICAL CONTROL AS SHOWN BY ANALYSIS OF THE  
18 DEFENDANT'S BLOOD.

19           ~~H.~~ I. ~~Subsection~~ SUBSECTIONS G AND H of this section ~~does~~ DO not  
20 limit the introduction of any other competent evidence bearing on the  
21 question of whether or not the defendant was under the influence of  
22 intoxicating liquor OR TETRAHYDROCANNABINOL.

23           ~~I.~~ J. A person who is convicted of a violation of this section:

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

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

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

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

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

1           6. Shall be required by the department, on report of the conviction,  
 2 to equip any motor vehicle the person operates with a certified ignition  
 3 interlock device pursuant to section 28-3319. In addition, the court may  
 4 order the person to equip any motor vehicle the person operates with a  
 5 certified ignition interlock device for more than twelve months beginning on  
 6 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. The person who operates a  
 9 motor vehicle with a certified ignition interlock device under this paragraph  
 10 shall comply with article 5 of this chapter.

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

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

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

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

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

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

44           5. Shall pay an additional assessment of one thousand two hundred  
 45 fifty dollars to be deposited by the state treasurer in the prison

1 construction and operations fund established by section 41-1651. This  
2 assessment is not subject to any surcharge. If the conviction occurred in  
3 the superior court or a justice court, the court shall transmit the assessed  
4 monies to the county treasurer. If the conviction occurred in a municipal  
5 court, the court shall transmit the assessed monies to the city treasurer.  
6 The city or county treasurer shall transmit the monies received to the state  
7 treasurer.

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

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

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

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

30 ~~O~~. P. After completing forty-five days of the revocation period  
31 prescribed by subsection ~~K~~ L of this section, a person whose driving  
32 privilege is revoked for a violation of this section and who is sentenced  
33 pursuant to subsection ~~K~~ L of this section is eligible for a special  
34 ignition interlock restricted driver license pursuant to section 28-1401.

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

36 28-1387. Prior convictions; alcohol or other drug screening,  
37 education and treatment; license suspension;  
38 supervised probation; civil liability; procedures

39 A. The court shall allow the allegation of a prior conviction or any  
40 other pending charge of a violation of section 28-1381, 28-1382 or 28-1383 or  
41 an act in another jurisdiction that if committed in this state would be a  
42 violation of section 28-1381, 28-1382 or 28-1383 filed twenty or more days  
43 before the date the case is actually tried and may allow the allegation of a  
44 prior conviction or any other pending charge of a violation of section  
45 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 filed at any time before the date the case is actually tried if this  
 3 state makes available to the defendant when the allegation is filed a copy of  
 4 any information obtained concerning the prior conviction or other pending  
 5 charge. Any conviction may be used to enhance another conviction  
 6 irrespective of the dates on which the offenses occurred within the  
 7 eighty-four month provision. For the purposes of this article, an order of a  
 8 juvenile court adjudicating a person delinquent is equivalent to a  
 9 conviction.

10 B. In addition to any other penalties prescribed by law, the judge  
 11 shall order a person who is convicted of a violation of section 28-1381,  
 12 28-1382 or 28-1383 to complete alcohol or other drug screening that is  
 13 provided by a facility approved by the department of health services or a  
 14 probation department. If a judge determines that the person requires further  
 15 alcohol or other drug education or treatment, the person may be required  
 16 pursuant to court order to obtain alcohol or other drug education or  
 17 treatment under the court's supervision from an approved facility. The judge  
 18 may review an education or treatment determination at the request of the  
 19 state, the defendant or the probation officer or on the judge's initiative.  
 20 The person shall pay the costs of the screening, education or treatment  
 21 unless, after considering the person's ability to pay all or part of the  
 22 costs, the court waives all or part of the costs. If a person is referred to  
 23 a screening, education or treatment facility, the facility shall report to  
 24 the court whether the person has successfully completed the screening,  
 25 education or treatment program. The court may accept evidence of a person's  
 26 completion of alcohol or other drug screening pursuant to section 28-1445 as  
 27 sufficient to meet the requirements of this section or section 28-1381,  
 28 28-1382 or 28-1383 or may order the person to complete additional alcohol or  
 29 other drug screening, education or treatment programs. If a person has  
 30 previously been ordered to complete an alcohol or other drug screening,  
 31 education or treatment program pursuant to this section, the judge shall  
 32 order the person to complete an alcohol or other drug screening, education or  
 33 treatment program unless the court determines that alternative sanctions are  
 34 more appropriate.

35 C. After a person who is sentenced pursuant to section 28-1381,  
 36 subsection ~~I~~ J has served twenty-four consecutive hours in jail or after a  
 37 person who is sentenced pursuant to section 28-1381, subsection ~~K~~ L or  
 38 section 28-1382, subsection D or E has served forty-eight consecutive hours  
 39 in jail and after the court receives confirmation that the person is employed  
 40 or is a student, the court shall provide in the sentence that the defendant,  
 41 if the defendant is employed or is a student and can continue the defendant's  
 42 employment or schooling, may continue the employment or schooling for not  
 43 more than twelve hours a day nor more than six days a week, unless the court  
 44 finds good cause to not allow the release and places those findings on the  
 45 record. The person shall spend the remaining day, days or parts of days in

1 jail until the sentence is served and shall be allowed out of jail only long  
2 enough to complete the actual hours of employment or schooling.

3 D. Unless the license of a person convicted under section 28-1381 or  
4 28-1382 has been or is suspended pursuant to section 28-1321 or 28-1385, the  
5 department on receipt of the abstract of conviction of a violation of section  
6 28-1381 or 28-1382 shall suspend the license of the affected person for not  
7 less than ninety consecutive days.

8 E. When the department receives notification that the person meets the  
9 criteria provided in section 28-1385, subsection G, the department shall  
10 suspend the driving privileges of the person for not less than thirty  
11 consecutive days and shall restrict the driving privileges of the person for  
12 not less than sixty consecutive additional days to travel between any of the  
13 following:

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

16 2. The person's place of residence and the person's secondary or  
17 postsecondary school, according to the person's employment or educational  
18 schedule.

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

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

23 F. If a person is placed on probation for violating section 28-1381 or  
24 28-1382, the probation shall be supervised unless the court finds that  
25 supervised probation is not necessary or the court does not have supervisory  
26 probation services.

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

32 H. If a person fails to complete the community restitution ordered  
33 pursuant to section 28-1381, subsection ~~K~~ L or section 28-1382, subsection  
34 E, the court may order alternative sanctions if the court determines that  
35 alternative sanctions are more appropriate.

36 I. Except for another violation of this article, the state shall not  
37 dismiss a charge of violating any provision of this article unless there is  
38 an insufficient legal or factual basis to pursue that charge.

39 Sec. 6. Section 28-1401, Arizona Revised Statutes, is amended to read:  
40 28-1401. Special ignition interlock restricted driver licenses;  
41 application fee

42 A. A person whose class D or class G license has been suspended  
43 pursuant to section 28-1385 or suspended or revoked for a first 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 may apply

1 to the department for a special ignition interlock restricted driver license  
2 that allows a person to operate a motor vehicle during the period of  
3 suspension or revocation subject to the restrictions prescribed in section  
4 28-1402 and the certified ignition interlock device requirements prescribed  
5 in article 5 of this chapter if the person's privilege to operate a motor  
6 vehicle has been suspended or revoked due to an alcohol related offense  
7 pursuant to any of the following:

8 1. Section 28-1321, if the person meets the criteria of section  
9 28-1321, subsection P.

10 2. Section 28-1381, if the person meets the criteria of section  
11 28-1381, subsection ~~Q~~ P and the person presents evidence that is  
12 satisfactory to the director and that shows that the person has completed the  
13 requirements prescribed in section 28-1387, subsection B.

14 3. Section 28-1382, if the person meets the criteria of section  
15 28-1382, subsection H and the person presents evidence that is satisfactory  
16 to the director and that shows that the person has completed the requirements  
17 prescribed in section 28-1387, subsection B.

18 4. Section 28-1383, if the person meets the criteria of section  
19 28-1383, subsection K and the person presents evidence that is satisfactory  
20 to the director and that shows that the person has completed the requirements  
21 prescribed in section 28-1387, subsection B.

22 5. Section 28-1385, if the person meets the criteria of section  
23 28-1385, subsection G.

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

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

32 D. If the department issues a special ignition interlock restricted  
33 driver license, the department shall not delete a suspension or revocation  
34 from its records.

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

38 F. The department shall make a notation on a special ignition  
39 interlock restricted driver license that is issued to a person who is placed  
40 in a continuous alcohol monitoring program pursuant to section 28-3319,  
41 subsection ~~I~~ J.

1 Sec. 7. Section 28-3319, Arizona Revised Statutes, is amended to read:

2 28-3319. Action after license suspension, revocation or denial  
3 for driving under the influence or refusal of test;  
4 ignition interlock device requirement; definition

5 A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320  
6 or 28-3322, the license of a driver or the driving privilege of a nonresident  
7 is suspended or revoked, the department shall not terminate the suspension or  
8 revocation or issue a special ignition interlock restricted driver license,  
9 if applicable, pursuant to chapter 4, article 3.1 of this title until the  
10 person provides proof of financial responsibility pursuant to chapter 9,  
11 article 3 of this title.

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

17 C. If a person whose license or driving privilege is suspended or  
18 revoked pursuant to section 28-1321, 28-1381, 28-1382, 28-1383 or 28-1385 is  
19 ordered, pursuant to section 28-1381, 28-1382, 28-1383 or 28-1385, to attend  
20 alcohol or other drug screening, education or treatment, the department shall  
21 not either:

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

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

32 D. Except as provided in subsection G of this section, on receipt of a  
33 report of conviction from a court, the department shall require any motor  
34 vehicle the convicted person operates to be equipped with a functioning  
35 certified ignition interlock device and the convicted person to meet the  
36 requirements prescribed in section 28-1461 as follows:

37 1. For twelve months if:

38 (a) Except as provided in subsection H of this section, the person is  
39 convicted of a violation of section 28-1381, section 28-1382, subsection A,  
40 paragraph 1 or section 28-1383, subsection A, paragraph 3, subdivision (a).

41 (b) The department determines that within a period of eighty-four  
42 months the person is convicted of a second or subsequent violation of section  
43 28-1381 or section 28-1382, subsection A, paragraph 1 with a prior conviction  
44 of a violation of section 28-1381, 28-1382 or 28-1383 or an act in another

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

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

5 3. For twenty-four months if:

6 (a) The person is convicted of a violation of section 28-1382,  
7 subsection A, paragraph 2 and the department determines that within a period  
8 of eighty-four months the person has a prior conviction of a violation of  
9 section 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if  
10 committed in this state would be a violation of section 28-1381, 28-1382 or  
11 28-1383.

12 (b) The person is convicted of a violation of section 28-1383,  
13 subsection A, paragraph 1, 2 or 4 or paragraph 3, subdivision (b).

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

18 F. A person who is required to equip a motor vehicle with a certified  
19 ignition interlock device pursuant to this section shall comply with chapter  
20 4, article 5 of this title.

21 G. The department shall remove the requirement that the person  
22 maintain a functioning certified ignition interlock device if the person is  
23 only convicted of a violation of section 28-1381, subsection A, paragraph 3  
24 and completes alcohol or other drug screening required pursuant to section  
25 28-1387 and the court determines that no alcohol education or treatment is  
26 required.

27 H. The department shall defer the remainder of the time period  
28 prescribed in subsection D, paragraph 1, subdivision (a) of this section  
29 commencing with the later of six months from the date the interlock was  
30 installed or the completion of the requirements of this subsection if all of  
31 the following apply:

32 1. The person is sentenced pursuant to section 28-1381, subsection  
33 ~~I~~ J.

34 2. The person successfully completes an alcohol education program  
35 consisting of at least sixteen hours pursuant to section 28-1381.

36 3. The person has maintained a functioning ignition interlock device  
37 on all motor vehicles the person operates and has met the requirements of  
38 section 28-1461.

39 4. The person has not attempted to operate a vehicle with an alcohol  
40 concentration of 0.08 or more two or more times during the period of license  
41 restriction or limitation.

42 5. At the time of the offense, the person was not involved in a motor  
43 vehicle accident that resulted in physical injury or property damage.

1           6. All necessary compliance information has been provided to the  
2 department by the ignition interlock device provider, the alcohol screening  
3 program and the alcohol education program.

4           I. The deferment pursuant to subsection H of this section is  
5 permanent, unless the person is arrested for a violation of section 28-1381,  
6 28-1382 or 28-1383 that occurs during the period of the deferment. If the  
7 person is arrested as described in this subsection, the department shall  
8 revoke the deferment and require the person to complete the remainder of the  
9 time period prescribed in subsection D, paragraph 1, subdivision (a) of this  
10 section.

11           J. On a showing of sufficient medical evidence or an employment  
12 requirement, the department may allow a person who is unable to operate an  
13 ignition interlock device to be placed in a continuous alcohol monitoring  
14 program instead of equipping any motor vehicle the person operates with an  
15 ignition interlock device. The person shall bear the cost of all testing,  
16 monitoring and enrollment in the continuous alcohol monitoring program. A  
17 person who is placed in a continuous alcohol monitoring program pursuant to  
18 this subsection shall remain in the program for the same amount of time the  
19 person is required to maintain an ignition interlock device. During the  
20 period of continuous alcohol monitoring the person shall be tested at a  
21 minimum once a day for the use of alcoholic beverages by a scientific method  
22 that is chosen by the director. If the person tests positive for alcohol two  
23 times, the department shall discontinue the continuous alcohol monitoring and  
24 require the person to install a certified ignition interlock device as  
25 otherwise provided by law.

26           K. For the purposes of this section, "certified ignition interlock  
27 device" has the same meaning prescribed in section 28-1301.