

REFERENCE TITLE: home detention; initial jail term

State of Arizona  
House of Representatives  
Fifty-second Legislature  
First Regular Session  
2015

# HB 2379

Introduced by  
Representative Borrelli

AN ACT

AMENDING SECTIONS 9-499.07, 11-251.15 AND 11-459, ARIZONA REVISED STATUTES;  
RELATING TO HOME DETENTION AND CONTINUOUS ALCOHOL MONITORING PROGRAMS.

(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 court may order the prisoner to pay the  
38 electronic monitoring fee in an amount ranging from zero to full cost and  
39 thirty dollars per month while on electronic monitoring unless, after  
40 determining the inability of the prisoner to pay these fees, the city or town  
41 assesses a lesser fee. The city or town shall use the fees collected to  
42 offset operational costs of the program.

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

1 F. The city or town may allow prisoners to be away from home detention  
2 for special purposes, including church attendance, medical appointments or  
3 funerals.

4 G. Community restitution work shall include public works projects  
5 operated and supervised by the city or town or other public agencies of this  
6 state or projects sponsored and supervised by public or private community  
7 oriented organizations and agencies.

8 H. A city or town implementing a program established pursuant to  
9 subsection A of this section may appoint a community restitution work  
10 committee. The committee shall recommend to the city or town appropriate  
11 community restitution work projects for home detention prisoners. Members  
12 are not eligible to receive compensation.

13 I. At any time the city or town may terminate a prisoner's  
14 participation in the prisoner work, community restitution work and home  
15 detention program or continuous alcohol monitoring program and require that  
16 the prisoner complete the remaining term of the prisoner's sentence in jail  
17 confinement.

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

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

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

35 M. A city or town may establish a continuous alcohol monitoring  
36 program for persons who are sentenced to jail confinement pursuant to section  
37 28-1381 or 28-1382, which shall be treated the same as confinement in jail.  
38 The presiding judge of the city or town municipal court shall approve the  
39 program before its implementation. A prisoner who is placed under a  
40 continuous alcohol monitoring program established pursuant to this subsection  
41 shall bear the cost of all testing, monitoring and enrollment in the program  
42 and pay thirty dollars per month while in the program, unless, after  
43 determining the inability of the prisoner to pay the cost, the court assesses  
44 a lesser amount. The city or town shall use the collected monies to offset  
45 operational costs of the program.

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

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

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

8 3. Notwithstanding section 28-1387, subsection C, if the prisoner is  
9 sentenced under section 28-1381, subsection K or section 28-1382, subsection  
10 D or E, the prisoner first serves a minimum of twenty ~~per-cent~~ PERCENT of the  
11 initial term of incarceration in jail before being placed under home  
12 detention or continuous alcohol monitoring. THE INITIAL TERM OF  
13 INCARCERATION IN JAIL IS THE TERM OF INCARCERATION IN JAIL THAT IS ORDERED BY  
14 THE COURT PURSUANT TO SECTION 28-1381, SUBSECTION K OR SECTION 28-1382,  
15 SUBSECTION D OR E AND IS NOT THE TERM OF INCARCERATION IN JAIL THAT IS THE  
16 RESULT OF THE COURT'S APPLICATION OF SECTION 28-1381, SUBSECTION L OR SECTION  
17 28-1382, SUBSECTION I.

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 G 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 city or town may  
33 impose.

34 O. If a city or town establishes a home detention program under  
35 subsection L of this section, the court, on placing the prisoner in the  
36 program, shall require electronic monitoring in the prisoner's home and, if  
37 consecutive hours of jail time are ordered, shall require the prisoner to  
38 remain at home during the consecutive hours ordered. The detention device  
39 shall constantly monitor the prisoner's location to ensure that the prisoner  
40 does not leave the premises. Nothing in this subsection shall be deemed to  
41 waive the minimum jail confinement requirements under subsection N, paragraph  
42 2 of this section.

43 P. The court may terminate a prisoner's participation in the home  
44 detention or continuous alcohol monitoring program and require the prisoner  
45 to complete the remaining term of the jail sentence by jail confinement if:



1 association with individuals who are determined to be detrimental to the  
2 prisoner's successful participation in the program.

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

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

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

17 G. If authorized by the court, a person who is sentenced pursuant to  
18 section 28-1381 or 28-1382 shall not be placed under home detention or a  
19 continuous alcohol monitoring program except as provided in subsections H  
20 through M of this section.

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

30 I. A county may establish a continuous alcohol monitoring program for  
31 persons who are sentenced to jail confinement pursuant to section 28-1381 or  
32 28-1382, which shall be treated the same as confinement in jail. The  
33 presiding justice of the peace of the county justice court shall approve the  
34 program before its implementation. A prisoner who is placed under a  
35 continuous alcohol monitoring program established pursuant to this section  
36 shall bear the cost of all testing, monitoring and enrollment in the program  
37 and pay thirty dollars per month while in the program, unless, after  
38 determining the inability of the prisoner to pay the cost, the court assesses  
39 a lesser amount. The county shall use the collected monies to offset  
40 operational costs of the program.

41 J. If the county establishes a home detention or continuous alcohol  
42 monitoring program under subsection H or I of this section, a prisoner must  
43 meet the following eligibility requirements for the program:

44 1. Subsection B of this section applies in determining eligibility for  
45 the program.

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

3           3. Notwithstanding section 28-1387, subsection C, if the prisoner is  
4 sentenced under section 28-1381, subsection K or section 28-1382, subsection  
5 D or E, the prisoner first serves a minimum of twenty ~~per-cent~~ PERCENT of the  
6 initial term of incarceration in jail before being placed under home  
7 detention or continuous alcohol monitoring. THE INITIAL TERM OF  
8 INCARCERATION IN JAIL IS THE TERM OF INCARCERATION IN JAIL THAT IS ORDERED BY  
9 THE COURT PURSUANT TO SECTION 28-1381, SUBSECTION K OR SECTION 28-1382,  
10 SUBSECTION D OR E AND IS NOT THE TERM OF INCARCERATION IN JAIL THAT IS THE  
11 RESULT OF THE COURT'S APPLICATION OF SECTION 28-1381, SUBSECTION L OR SECTION  
12 28-1382, SUBSECTION I.

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

16           (a) All of the provisions of subsections C through E of this section.

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

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

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

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

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

28           K. If a county establishes a home detention program under subsection H  
29 of this section, the court, on placing the prisoner in the program, shall  
30 require electronic monitoring in the prisoner's home and, if consecutive  
31 hours of jail time are ordered, shall require the prisoner to remain at home  
32 during the consecutive hours ordered. The detention device shall constantly  
33 monitor the prisoner's location to ensure that the prisoner does not leave  
34 the premises.

35           L. The court may terminate a prisoner's participation in the home  
36 detention or continuous alcohol monitoring program and require the prisoner  
37 to complete the remaining term of the jail sentence by jail confinement if:

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

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

1 M. At any other time the court may terminate a prisoner's  
2 participation in the home detention or continuous alcohol monitoring program  
3 and require the prisoner to complete the remaining term of the jail sentence  
4 by jail confinement.

5 N. The county board of supervisors may terminate the program  
6 established under subsection H of this section by a majority vote of the full  
7 membership of the governing body.

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

9 11-459. 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; community  
14 restitution work committee; members; duties

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

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

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

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

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

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

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

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

35 C. If a prisoner is selected for a program established pursuant to  
36 subsection A of this section, the sheriff may require electronic monitoring  
37 in the prisoner's home whenever the prisoner is not at the prisoner's regular  
38 place of employment or while the prisoner is assigned to a community work  
39 task. If electronic monitoring is required, the prisoner shall remain under  
40 the control of a home detention device that constantly monitors the  
41 prisoner's location in order to determine that the prisoner has not left the  
42 prisoner's premises. In all other cases, the sheriff shall implement a  
43 system of monitoring using visitation, telephone contact or other appropriate  
44 methods to assure compliance with the home detention requirements. The  
45 sheriff may place appropriate restrictions on prisoners in the program,

1 including testing prisoners for consumption of alcoholic beverages or drugs  
2 or prohibiting association with individuals who are determined to be  
3 detrimental to the prisoner's successful participation in the program.

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

11 E. The sheriff may require that a prisoner who is employed during the  
12 week also participate in community restitution work programs on weekends.

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

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

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

37 I. At any time the sheriff may terminate a prisoner's participation in  
38 the prisoner work, community restitution work and home detention program or  
39 continuous alcohol monitoring program and require that the prisoner complete  
40 the remaining term of the prisoner's sentence in jail confinement.

41 J. If authorized by the court, a person who is sentenced pursuant to  
42 section 28-1381 or 28-1382 shall not be placed under home detention in a  
43 prisoner work, community restitution work and home detention program or a  
44 continuous alcohol monitoring program except as provided in subsections K  
45 through Q of this section.

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

12 L. A county sheriff may establish a continuous alcohol monitoring  
13 program for persons who are sentenced to jail confinement pursuant to section  
14 28-1381 or 28-1382, which shall be treated the same as confinement in jail  
15 and shall fulfill the sheriff's duty to take charge of and keep the county  
16 jail and prisoners. A prisoner who is placed under a continuous alcohol  
17 monitoring program established pursuant to this subsection shall bear the  
18 cost of all testing, monitoring and enrollment in the program and pay thirty  
19 dollars per month while in the program, unless, after determining the  
20 inability of the prisoner to pay the cost, the court assesses a lesser  
21 amount. The county shall use the collected monies to offset operational  
22 costs of the program.

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

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

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

30 3. Notwithstanding section 28-1387, subsection C, if the prisoner is  
31 sentenced under section 28-1381, subsection K or section 28-1382, subsection  
32 D or E, the prisoner first serves a minimum of twenty ~~per-cent~~ PERCENT of the  
33 initial term of incarceration in jail before being placed under home  
34 detention or continuous alcohol monitoring. THE INITIAL TERM OF  
35 INCARCERATION IN JAIL IS THE TERM OF INCARCERATION IN JAIL THAT IS ORDERED BY  
36 THE COURT PURSUANT TO SECTION 28-1381, SUBSECTION K OR SECTION 28-1382,  
37 SUBSECTION D OR E AND IS NOT THE TERM OF INCARCERATION IN JAIL THAT IS THE  
38 RESULT OF THE COURT'S APPLICATION OF SECTION 28-1381, SUBSECTION L OR SECTION  
39 28-1382, SUBSECTION I.

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

43 (a) All of the provisions of subsections C through G of this section.

44 (b) Testing at least once a day for the use of alcoholic beverages or  
45 drugs by a scientific method that is not limited to urinalysis or a breath or

1 intoxication test in the prisoner's home or at the office of a person  
2 designated by the court to conduct these tests.

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

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

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

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

10 N. If a county sheriff establishes a home detention program under  
11 subsection K of this section, the court, on placing the prisoner in the  
12 program, shall require electronic monitoring in the prisoner's home and, if  
13 consecutive hours of jail time are ordered, shall require the prisoner to  
14 remain at home during the consecutive hours ordered. The detention device  
15 shall constantly monitor the prisoner's location to ensure that the prisoner  
16 does not leave the premises. Nothing in this subsection shall be deemed to  
17 waive the minimum jail confinement requirements under subsection M, paragraph  
18 2 of this section.

19 O. The court may terminate a prisoner's participation in the home  
20 detention or continuous alcohol monitoring program and require the prisoner  
21 to complete the remaining term of the jail sentence by jail confinement if  
22 either:

23 1. The prisoner fails to successfully complete a court ordered alcohol  
24 or drug screening, counseling, education and treatment program pursuant to  
25 subsection M, paragraph 4, subdivision (c) of this section or section  
26 28-1381, subsection J or L.

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

30 P. At any other time the court may terminate a prisoner's  
31 participation in the home detention or continuous alcohol monitoring program  
32 and require the prisoner to complete the remaining term of the jail sentence  
33 by jail confinement.

34 Q. The sheriff may terminate a program established pursuant to this  
35 section at any time.