

REFERENCE TITLE: **DUI; alternative treatment**

State of Arizona
House of Representatives
Fifty-seventh Legislature
Second Regular Session
2026

HB 2573

Introduced by
Representative Martinez

AN ACT

**AMENDING SECTIONS 28-1381, 28-1382, 28-1383, 28-1401, 28-3304 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 28-1381, Arizona Revised Statutes, is amended to
3 read:

4 28-1381. Driving or actual physical control while under the
5 influence; trial by jury; presumptions; admissible
6 evidence; sentencing; time limitation; violation;
7 classification; definition

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
10 circumstances:

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

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

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

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

25 5. While operating a vehicle for hire as defined in section 28-9501
26 or while providing transportation network services as defined in section
27 28-9551 as a transportation network company driver as defined in section
28 28-9551 if the person has an alcohol concentration of 0.04 or more.

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

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

34 D. A person using a drug as prescribed by a medical practitioner
35 who is licensed pursuant to title 32 and who is authorized to prescribe
36 the drug is not guilty of violating subsection A, paragraph 3 of this
37 section.

38 E. In any prosecution for a violation of this section, the state
39 shall allege, for the purpose of classification and sentencing pursuant to
40 this section, all prior convictions of violating this section, section
41 28-1382 or section 28-1383 occurring within the past thirty-six months,
42 unless there is an insufficient legal or factual basis to do so.

43 F. At the arraignment, the court shall inform the defendant that
44 the defendant may request a trial by jury and that the request, if made,
45 shall be granted.

1 G. In a trial, action or proceeding for a violation of this section
2 or section 28-1383 other than a trial, action or proceeding involving a
3 person who is driving or in actual physical control of a commercial motor
4 vehicle or a vehicle for hire as defined in section 28-9501 or involving a
5 person who is providing transportation network services as defined in
6 section 28-9551 as a transportation network company driver as defined in
7 section 28-9551, the defendant's alcohol concentration within two hours of
8 the time of driving or being in actual physical control as shown by
9 analysis of the defendant's blood, breath or other bodily substance gives
10 rise to the following presumptions:

11 1. If there was at that time 0.05 or less alcohol concentration in
12 the defendant's blood, breath or other bodily substance, it may be
13 presumed that the defendant was not under the influence of intoxicating
14 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
18 defendant was or was not under the influence of intoxicating liquor, but
19 that fact may be considered with other competent evidence in determining
20 the guilt or innocence of the defendant.

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

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

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

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

32 2. Shall pay a fine of not less than \$250.

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

34 4. Shall pay an additional assessment of \$500 to be deposited by
35 the state treasurer in the prison construction and operations fund
36 established by section 41-1651. This assessment is not subject to any
37 surcharge. If the conviction occurred in the superior court or a justice
38 court, the court shall transmit the assessed monies to the county
39 treasurer. If the conviction occurred in a municipal court, the court
40 shall transmit the assessed monies to the city treasurer. The city or
41 county treasurer shall transmit the monies received to the state
42 treasurer.

1 5. Shall pay an additional assessment of \$500 to be deposited by
2 the state treasurer in the public safety equipment fund established by
3 section 41-1723. This assessment is not subject to any surcharge. If the
4 conviction occurred in the superior court or a justice court, the court
5 shall transmit the assessed monies to the county treasurer. If the
6 conviction occurred in a municipal court, the court shall transmit the
7 assessed monies to the city treasurer. The city or county treasurer shall
8 transmit the monies received to the state treasurer.

9 6. If the violation involved intoxicating liquor, shall be required
10 by the department, on report of the conviction, to equip any motor vehicle
11 the person operates with a certified ignition interlock device pursuant to
12 section 28-3319. In addition, the court may order the person to equip any
13 motor vehicle the person operates with a certified ignition interlock
14 device for more than twelve months beginning on the date the person
15 successfully completes the alcohol or other drug screening, education,
16 evidence-based psychotherapy or treatment program requirements of this
17 title and the person is otherwise eligible to reinstate the person's
18 driver license or driving privilege. The person who operates a motor
19 vehicle with a certified ignition interlock device under this paragraph
20 shall comply with article 5 of this chapter.

21 7. Shall be required by the department to attend and successfully
22 complete an approved traffic survival school course.

23 8. At the person's option, may be ordered by the court to
24 participate in a religious program that is approved by the court. The
25 person's participation in a religious program must be voluntary, and the
26 purpose of the religious program may not include any effort to coerce the
27 person to adopt or change any religious affiliation or beliefs.

28 J. Notwithstanding subsection I, paragraph 1 of this section, at
29 the time of sentencing the judge may suspend all but one day of the
30 sentence if the person completes a court ordered alcohol or other drug
31 screening, education, evidence-based psychotherapy or treatment program.
32 If the person fails to complete the court ordered alcohol or other drug
33 screening, education, evidence-based psychotherapy or treatment program
34 and has not been placed on probation, the court shall issue an order to
35 show cause to the defendant as to why the remaining jail sentence should
36 not be served.

37 K. If within a period of eighty-four months a person is convicted
38 of a second violation of this section or is convicted of a violation of
39 this section and has previously been convicted of a violation of section
40 28-1382 or 28-1383 or an act in another jurisdiction that if committed in
41 this state would be a violation of this section or section 28-1382 or
42 28-1383, the person:

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

5 2. Shall pay a fine of not less than \$500.

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

8 4. Shall have the person's driving privilege revoked for one year.
9 The court shall report the conviction to the department. On receipt of
10 the report, the department shall revoke the person's driving privilege
11 and, if the violation involved intoxicating liquor, shall require the
12 person to equip any motor vehicle the person operates with a certified
13 ignition interlock device pursuant to section 28-3319. In addition, the
14 court may order the person to equip any motor vehicle the person operates
15 with a certified ignition interlock device for more than twelve months
16 beginning on the date the person successfully completes the alcohol or
17 other drug screening, education, evidence-based psychotherapy or treatment
18 program requirements of this title and the person is otherwise eligible to
19 reinstate the person's driver license or driving privilege. The person
20 who operates a motor vehicle with a certified ignition interlock device
21 under this paragraph shall comply with article 5 of this chapter.

22 5. Shall pay an additional assessment of \$1,250 to be deposited by
23 the state treasurer in the prison construction and operations fund
24 established by section 41-1651. 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
27 treasurer. If the conviction occurred in a municipal court, the court
28 shall transmit the assessed monies to the city treasurer. The city or
29 county treasurer shall transmit the monies received to the state
30 treasurer.

31 6. Shall pay an additional assessment of \$1,250 to be deposited by
32 the state treasurer in the public safety equipment fund established by
33 section 41-1723. This assessment is not subject to any surcharge. If the
34 conviction occurred in the superior court or a justice court, the court
35 shall transmit the assessed monies to the county treasurer. If the
36 conviction occurred in a municipal court, the court shall transmit the
37 assessed monies to the city treasurer. The city or county treasurer shall
38 transmit the monies received to the state treasurer.

39 7. Shall be required by the department to attend and successfully
40 complete an approved traffic survival school course.

41 L. Notwithstanding subsection K, paragraph 1 of this section, at
42 the time of sentencing, the judge may suspend all but thirty days of the
43 sentence if the person completes a court ordered alcohol or other drug
44 screening, education, evidence-based psychotherapy or treatment program.
45 If the person fails to complete the court ordered alcohol or other drug

1 screening, education, evidence-based psychotherapy or treatment program
2 and has not been placed on probation, the court shall issue an order to
3 show cause as to why the remaining jail sentence should not be served.

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

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

11 O. ~~After completing forty-five days of the revocation period~~
12 ~~prescribed by subsection K of this section,~~ A person whose driving
13 privilege is revoked for a violation of this section and who is sentenced
14 pursuant to subsection K of this section is eligible for a special
15 ignition interlock restricted driver license pursuant to section 28-1401.

16 P. The court may order a person who is convicted of a violation of
17 this section that does not involve intoxicating liquor to equip any motor
18 vehicle the person operates with a certified ignition interlock device
19 pursuant to section 28-3319. On receipt of the report of conviction and
20 certified ignition interlock device requirement, the department shall
21 require the person to equip any motor vehicle the person operates with a
22 certified ignition interlock device pursuant to section 28-3319. In
23 addition, the court may order the person to equip any motor vehicle the
24 person operates with a certified ignition interlock device for more than
25 twelve months beginning on the date the person successfully completes the
26 alcohol or other drug screening, education, evidence-based psychotherapy
27 or treatment program requirements of this title and the person is
28 otherwise eligible to reinstate the person's driver license or driving
29 privilege. The person who operates a motor vehicle with a certified
30 ignition interlock device under this subsection shall comply with article
31 5 of this chapter.

32 Q. A prosecution for a violation of this section involving a
33 collision that resulted in serious physical injury or death as identified
34 in a written accident report completed pursuant to section 28-667 must be
35 commenced within two years after actual discovery of the offense by the
36 state or the political subdivision having jurisdiction or discovery by the
37 state or the political subdivision that should have occurred with the
38 exercise of reasonable diligence, whichever first occurs.

39 R. For the purposes of this section, "evidence-based psychotherapy"
40 means psychotherapy services that are offered by a psychologist who is
41 licensed pursuant to title 32, chapter 19.1 and who integrates the best
42 available scientific research with clinical expertise based on the context
43 of the patient's characteristics, culture and preferences.

1 Sec. 2. Section 28-1382, Arizona Revised Statutes, is amended to
2 read:

3 28-1382. Driving or actual physical control while under the
4 extreme influence of intoxicating liquor; trial by
5 jury; sentencing; time limitation; violation;
6 classification

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

- 13 1. 0.15 or more but less than 0.20.
- 14 2. 0.20 or more.

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

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

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

22 1. Shall be sentenced to serve not less than thirty ~~consecutive~~
23 days in jail and is not eligible for probation or suspension of execution
24 of sentence unless the entire sentence is served if the person is
25 convicted of a violation of subsection A, paragraph 1 of this section. A
26 person who is convicted of a violation of subsection A, paragraph 2 of
27 this section shall be sentenced to serve not less than forty-five
28 consecutive days in jail and is not eligible for probation or suspension
29 of execution of sentence unless the entire sentence is served.

30 2. Shall pay a fine of not less than \$250, except that a person who
31 is convicted of a violation of subsection A, paragraph 2 of this section
32 shall pay a fine of not less than \$500. The fine prescribed in this
33 paragraph and any assessments, restitution and incarceration costs shall
34 be paid before the assessment prescribed in paragraph 3 of this
35 subsection.

36 3. Shall pay an additional assessment of \$250. If the conviction
37 occurred in the superior court or a justice court, the court shall
38 transmit the monies received pursuant to this paragraph to the county
39 treasurer. If the conviction occurred in a municipal court, the court
40 shall transmit the monies received pursuant to this paragraph to the city
41 treasurer. The city or county treasurer shall transmit the monies
42 received to the state treasurer. The state treasurer shall deposit the
43 monies received in the driving under the influence abatement fund
44 established by section 28-1304.

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

1 5. Shall be required by the department, on receipt of the report of
2 conviction, to equip any motor vehicle the person operates with a
3 certified ignition interlock device pursuant to section 28-3319. In
4 addition, the court may order the person to equip any motor vehicle the
5 person operates with a certified ignition interlock device for more than
6 twelve months beginning on the date the person successfully completes the
7 alcohol or other drug screening, education or treatment program
8 requirements of this title and the person is otherwise eligible to
9 reinstate the person's driver license or driving privilege. The person
10 who operates a motor vehicle with a certified ignition interlock device
11 under this paragraph shall comply with article 5 of this chapter.

12 6. Shall pay an additional assessment of \$1,000 to be deposited by
13 the state treasurer in the prison construction and operations fund
14 established by section 41-1651. This assessment is not subject to any
15 surcharge. If the conviction occurred in the superior court or a justice
16 court, the court shall transmit the assessed monies to the county
17 treasurer. If the conviction occurred in a municipal court, the court
18 shall transmit the assessed monies to the city treasurer. The city or
19 county treasurer shall transmit the monies received to the state
20 treasurer.

21 7. Shall pay an additional assessment of \$1,000 to be deposited by
22 the state treasurer in the public safety equipment fund established by
23 section 41-1723. This assessment is not subject to any surcharge. If the
24 conviction occurred in the superior court or a justice court, the court
25 shall transmit the assessed monies to the county treasurer. If the
26 conviction occurred in a municipal court, the court shall transmit the
27 assessed monies to the city treasurer. The city or county treasurer shall
28 transmit the monies received to the state treasurer.

29 8. Shall be required by the department to attend and successfully
30 complete an approved traffic survival school course.

31 E. If within a period of eighty-four months a person is convicted
32 of a second violation of this section or is convicted of a violation of
33 this section and has previously been convicted of a violation of section
34 28-1381 or 28-1383 or an act in another jurisdiction that if committed in
35 this state would be a violation of this section or section 28-1381 or
36 28-1383, the person:

37 1. Shall be sentenced to serve not less than one hundred twenty
38 days in jail, ~~sixty days of which shall be served consecutively,~~ and is
39 not eligible for probation or suspension of execution of sentence unless
40 the entire sentence has been served if the person is convicted of a
41 violation of subsection A, paragraph 1 of this section. A person who is
42 convicted of a violation of subsection A, paragraph 2 of this section
43 shall be sentenced to serve not less than one hundred eighty days in
44 jail, ~~ninety of which shall be served consecutively,~~ and is not eligible

1 for probation or suspension of execution of sentence unless the entire
2 sentence has been served.

3 2. Shall pay a fine of not less than \$500, except that a person who
4 is convicted of a violation of subsection A, paragraph 2 of this section
5 shall pay a fine of not less than \$1,000. The fine prescribed in this
6 paragraph and any assessments, restitution and incarceration costs shall
7 be paid before the assessment prescribed in paragraph 3 of this
8 subsection.

9 3. Shall pay an additional assessment of \$250. If the conviction
10 occurred in the superior court or a justice court, the court shall
11 transmit the monies received pursuant to this paragraph to the county
12 treasurer. If the conviction occurred in a municipal court, the court
13 shall transmit the monies received pursuant to this paragraph to the city
14 treasurer. The city or county treasurer shall transmit the monies
15 received to the state treasurer. The state treasurer shall deposit the
16 monies received in the driving under the influence abatement fund
17 established by section 28-1304.

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

20 5. Shall have the person's driving privilege revoked for at least
21 one year. The court shall report the conviction to the department. On
22 receipt of the report, the department shall revoke the person's driving
23 privilege and shall require the person to equip any motor vehicle the
24 person operates with a certified ignition interlock device pursuant to
25 section 28-3319. In addition, the court may order the person to equip any
26 motor vehicle the person operates with a certified ignition interlock
27 device for more than twelve months beginning on the date the person
28 successfully completes the alcohol or other drug screening, education or
29 treatment program requirements of this title and the person is otherwise
30 eligible to reinstate the person's driver license or driving privilege.
31 The person who operates a motor vehicle with a certified ignition
32 interlock device under this paragraph shall comply with article 5 of this
33 chapter.

34 6. Shall pay an additional assessment of \$1,250 to be deposited by
35 the state treasurer in the prison construction and operations fund
36 established by section 41-1651. This assessment is not subject to any
37 surcharge. If the conviction occurred in the superior court or a justice
38 court, the court shall transmit the assessed monies to the county
39 treasurer. If the conviction occurred in a municipal court, the court
40 shall transmit the assessed monies to the city treasurer. The city or
41 county treasurer shall transmit the monies received to the state
42 treasurer.

43 7. Shall pay an additional assessment of \$1,250 to be deposited by
44 the state treasurer in the public safety equipment fund established by
45 section 41-1723. This assessment is not subject to any surcharge. If the

1 conviction occurred in the superior court or a justice court, the court
2 shall transmit the assessed monies to the county treasurer. If the
3 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 8. Shall be required by the department to attend and successfully
7 complete an approved traffic survival school course.

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

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

15 H. ~~After completing forty-five days of the revocation period~~
16 ~~prescribed by subsection E of this section,~~ A person whose driving
17 privilege is revoked for a violation of this section and who is sentenced
18 pursuant to subsection E of this section is eligible for a special
19 ignition interlock restricted driver license pursuant to section 28-1401.

20 I. Notwithstanding subsection D, paragraph 1 of this section, at
21 the time of sentencing if the person is convicted of a violation of
22 subsection A, paragraph 1 of this section, the judge may suspend all but
23 nine days of the sentence if the person equips any motor vehicle the
24 person operates with a certified ignition interlock device for a period of
25 twelve months. If the person is convicted of a violation of subsection A,
26 paragraph 2 of this section, the judge may suspend all but fourteen days
27 of the sentence if the person equips any motor vehicle the person operates
28 with a certified ignition interlock device for a period of twelve months.
29 If the person fails to comply with article 5 of this chapter and has not
30 been placed on probation, the court shall issue an order to show cause as
31 to why the remaining jail sentence should not be served.

32 J. A prosecution for a violation of this section involving a
33 collision that resulted in serious physical injury or death as identified
34 in a written accident report completed pursuant to section 28-667 must be
35 commenced within two years after actual discovery of the offense by the
36 state or the political subdivision having jurisdiction or discovery by the
37 state or the political subdivision that should have occurred with the
38 exercise of reasonable diligence, whichever first occurs.

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

1 Sec. 3. Section 28-1383, Arizona Revised Statutes, is amended to
2 read:

3 28-1383. Aggravated driving or actual physical control while
4 under the influence; county jail program; annual
5 report; violation; classification; definitions

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

9 1. Commits a violation of section 28-1381, section 28-1382 or this
10 section while the person's driver license or privilege to drive is
11 suspended, canceled, revoked or refused or while a restriction is placed
12 on the person's driver license or privilege to drive as a result of
13 violating section 28-1381 or 28-1382 or under section 28-1385.

14 2. Within a period of eighty-four months commits a third or
15 subsequent violation of section 28-1381, section 28-1382 or this section
16 or is convicted of a violation of section 28-1381, section 28-1382 or this
17 section and has previously been convicted of any combination of
18 convictions of section 28-1381, section 28-1382 or this section or acts in
19 another jurisdiction that if committed in this state would be a violation
20 of section 28-1381, section 28-1382 or this section.

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

23 (a) Section 28-1381.

24 (b) Section 28-1382.

25 4. While the person is ordered by the court or required pursuant to
26 section 28-3319 by the department to equip any motor vehicle the person
27 operates with a certified ignition interlock device, commits a violation
28 of section 28-1381, section 28-1382 or this section.

29 5. Commits a violation of section 28-1381, section 28-1382 or this
30 section while driving the wrong way on a highway.

31 B. The dates of the commission of the offenses are the determining
32 factor in applying the eighty-four month provision provided in subsection
33 A, paragraph 2 of this section regardless of the sequence in which the
34 offenses were committed. For the purposes of this section, a third or
35 subsequent violation for which a conviction occurs does not include a
36 conviction for an offense arising out of the same series of acts. The
37 time that a probationer is found to be on absconder status or the time
38 that a person is incarcerated in any state, federal, county or city jail
39 or correctional facility is excluded when determining the eighty-four
40 month period provided in subsection A, paragraph 2 and subsection E of
41 this section.

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

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

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

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

16 3. Subsection A, paragraph 5 of this section.

17 E. A person who is convicted under subsection A, paragraph 2 of
18 this section and who within an eighty-four month period has been convicted
19 of three or more prior violations of section 28-1381, section 28-1382 or
20 this section, or any combination of those sections, or acts in another
21 jurisdiction that if committed in this state would be a violation of
22 section 28-1381, section 28-1382 or this section is not eligible for
23 probation, pardon, commutation or suspension of sentence or release on any
24 other basis until the person has served not less than eight months in
25 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
34 treatment from an approved facility. If the person fails to comply with
35 this subsection and is placed on probation, in addition to the provisions
36 of section 13-901 the court may order that the person be incarcerated as a
37 term 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
40 of 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
43 of not more than two years.

1 I. The time that a person spends in custody pursuant to subsection
2 H of this section shall not be counted towards the sentence imposed if the
3 person's probation is revoked and the person is sentenced to prison after
4 revocation of probation.

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

6 1. Shall report the conviction to the department. On receipt of
7 the report, the department shall revoke the driving privilege of the
8 person. The department shall not issue the person a new driver license
9 within one year of the date of the conviction and, if the violation
10 involved intoxicating liquor, shall require the person to equip any motor
11 vehicle the person operates with a certified ignition interlock device
12 pursuant to section 28-3319. In addition, the court may order the person
13 to equip any motor vehicle the person operates with a certified ignition
14 interlock device for more than twenty-four months beginning on the date
15 the person successfully completes the alcohol or other drug screening,
16 education or treatment program requirements of this title and the person
17 is otherwise eligible to reinstate the person's driver license or driving
18 privilege. The person who operates a motor vehicle with a certified
19 ignition interlock device under this paragraph shall comply with article 5
20 of this chapter.

21 2. In addition to any other penalty prescribed by law, shall order
22 the person to pay an additional assessment of \$250. If the conviction
23 occurred in the superior court or a justice court, the court shall
24 transmit the monies received pursuant to this paragraph to the county
25 treasurer. If the conviction occurred in a municipal court, the court
26 shall transmit the monies received pursuant to this paragraph to the city
27 treasurer. The city or county treasurer shall transmit the monies
28 received to the state treasurer. The state treasurer shall deposit the
29 monies received in the driving under the influence abatement fund
30 established by section 28-1304. Any fine imposed for a violation of this
31 section and any assessments, restitution and incarceration costs shall be
32 paid before the assessment prescribed in this paragraph.

33 3. Shall order the person to pay a fine of not less than \$750.

34 4. In addition to any other penalty prescribed by law, shall order
35 the person to pay an additional assessment of \$1,500 to be deposited by
36 the state treasurer in the prison construction and operations fund
37 established by section 41-1651. This assessment is not subject to any
38 surcharge. If the conviction occurred in the superior court or a justice
39 court, the court shall transmit the assessed monies to the county
40 treasurer. If the conviction occurred in a municipal court, the court
41 shall transmit the assessed monies to the city treasurer. The city or
42 county treasurer shall transmit the monies received to the state
43 treasurer.

1 5. In addition to any other penalty prescribed by law, shall order
2 the person to pay an additional assessment of \$1,500 to be deposited by
3 the state treasurer in the public safety equipment fund established by
4 section 41-1723. This assessment is not subject to any surcharge. If the
5 conviction occurred in the superior court or a justice court, the court
6 shall transmit the assessed monies to the county treasurer. If the
7 conviction occurred in a municipal court, the court shall transmit the
8 assessed monies to the city treasurer. The city or county treasurer shall
9 transmit the monies received to the state treasurer.

10 K. On conviction for a violation of this section the defendant
11 shall be required by the department to attend and successfully complete an
12 approved traffic survival school course.

13 L. After completing the period of suspension required by section
14 28-1385, a person whose driving privilege is revoked for a violation of
15 subsection A, paragraph 3 of this section may apply to the department for
16 a special ignition interlock restricted driver license pursuant to section
17 28-1401.

18 M. The court may order a person who is convicted of a violation of
19 this section that does not involve intoxicating liquor to equip any motor
20 vehicle the person operates with a certified ignition interlock device
21 pursuant to section 28-3319. On receipt of the report of conviction and
22 certified ignition interlock device requirement, the department shall
23 require the person to equip any motor vehicle the person operates with a
24 certified ignition interlock device pursuant to section 28-3319. In
25 addition, the court may order the person to equip any motor vehicle the
26 person operates with a certified ignition interlock device for more than
27 twelve months beginning on the date the person successfully completes the
28 alcohol or other drug screening, education or treatment program
29 requirements of this title and the person is otherwise eligible to
30 reinstate the person's driver license or driving privilege. The person
31 who operates a motor vehicle with a certified ignition interlock device
32 under this subsection shall comply with article 5 of this chapter.

33 N. The sheriff of a county with a population of less than five
34 hundred thousand persons may establish an aggravated driving under the
35 influence jail program. If the sheriff establishes an aggravated driving
36 under the influence jail program, the program may not be implemented until
37 the state department of corrections enters into an agreement with the
38 county board of supervisors pursuant to section 31-234 to facilitate the
39 program. Notwithstanding subsections D and E of this section, if the
40 violation occurs in a county that has established and implemented an
41 aggravated driving under the influence jail program or in a county that is
42 contiguous to a county that has established and implemented an aggravated
43 driving under the influence jail program and the person is placed on
44 probation, the mandatory term of incarceration that the person would
45 otherwise serve in prison may be served in the jail of the county that

1 established and implemented the program. A person who is incarcerated in
2 a county jail pursuant to this subsection is not eligible for any release,
3 work detail or monitoring program that the person would not otherwise be
4 eligible for if incarcerated in prison. A county sheriff who establishes
5 an aggravated driving under the influence jail program pursuant to this
6 subsection shall submit an annual report to the Arizona criminal justice
7 commission that contains the data that the Arizona statistical analysis
8 center determines is necessary to prepare a recidivism report pursuant to
9 section 41-2405.

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

12 1. Subsection A, paragraph 1, 2, 4 or 5 of this section is a class
13 4 felony.

14 2. Subsection A, paragraph 3 of this section is a class 6 felony.

15 P. NOTWITHSTANDING ANY OTHER LAW, IF A PERSON IS CONVICTED OF A
16 FIRST OFFENSE OF SECTION 28-1383, FOLLOWING THE PERSON'S TIMELY FILING OF
17 AN APPEAL, THE PERSON MAY REQUEST A HEARING IN THE SAME JURISDICTION THAT
18 RENDERED THE SENTENCE TO DETERMINE IF THE DEFENDANT IS ELIGIBLE TO SERVE
19 IN A HOME DETENTION PROGRAM THAT IS DESCRIBED IN SECTION 11-251.15 UNTIL
20 THE APPELLATE COURT HAS RENDERED A FINAL DECISION. HOME DETENTION ORDERED
21 PURSUANT TO THIS SUBSECTION:

22 1. SHALL BE ORDERED AT A HEARING NOT LATER THAN TEN DAYS AFTER THE
23 PERSON'S TIMELY FILING OF AN APPEAL.

24 2. SHALL BE ORDERED BY THE COURT BASED ON THE FOLLOWING FACTORS,
25 WITH THE STATE BEARING THE BURDEN TO PROVE INELIGIBILITY:

26 (a) THE DEFENDANT'S FLIGHT RISK.

27 (b) WHETHER THE DEFENDANT IS A DANGER TO THE PUBLIC.

28 (c) WHETHER THE DEFENDANT IS A DANGER TO SELF.

29 3. DOES NOT SUSPEND THE UNDERLYING SENTENCE. THE DEFENDANT SHALL
30 BE GIVEN ONE DAY CREDIT TOWARD THE UNDERLYING SENTENCE FOR EVERY ONE DAY
31 SERVED OF HOME DETENTION.

32 4. SHALL REQUIRE THE PERSON TO EQUIP EACH MOTOR VEHICLE THAT IS
33 OPERATED BY THE PERSON WITH A CERTIFIED IGNITION INTERLOCK DEVICE PURSUANT
34 TO THIS CHAPTER WITHIN TWENTY DAYS AFTER THE ORDER FOR HOME DETENTION AND
35 MAINTAIN THE CERTIFIED IGNITION INTERLOCK DEVICE FOR THE DURATION OF HOME
36 DETENTION. THE PERIOD OF USE OF THE CERTIFIED IGNITION INTERLOCK DEVICE
37 SHALL COUNT TOWARD ANY CERTIFIED IGNITION INTERLOCK DEVICE REQUIREMENT
38 IMPOSED EITHER JUDICIALLY OR ADMINISTRATIVELY PURSUANT TO THIS CHAPTER.

39 ~~P.~~ Q. For the purposes of this section:

40 1. "Suspension, cancellation, revocation or refusal" means any
41 suspension, cancellation, revocation or refusal.

42 2. "Wrong way" means vehicular movement that is in a direction
43 opposing the legal flow of traffic. Wrong way does not include median
44 crossing or a collision where a motor vehicle comes to a stop facing the
45 wrong way.

1 Sec. 4. Section 28-1401, Arizona Revised Statutes, is amended to
2 read:

3 28-1401. Special ignition interlock restricted driver
4 licenses; application fee

5 A. A person whose class D or class G license has been suspended
6 pursuant to section 28-1385 or suspended or revoked for a first refusal
7 pursuant to section 28-1321, a second violation of section 28-1381 or
8 28-1382, ~~or~~ a first violation of section 28-1383, subsection A, paragraph
9 3 OR REVOKED PURSUANT TO SECTION 28-3304, SUBSECTION A, PARAGRAPH 1 OR 2
10 may apply to the department for a special ignition interlock restricted
11 driver license that allows the person to operate a motor vehicle during
12 the period of suspension or revocation subject to the restrictions of the
13 certified ignition interlock device requirements prescribed in article 5
14 of this chapter if the person's privilege to operate a motor vehicle has
15 been restricted, suspended or revoked and the offense involved only
16 alcohol or, if the person's alcohol concentration is 0.08 or more, a
17 combination of drugs and alcohol pursuant to any of the following:

18 1. Section 28-1321, if the person meets the criteria of section
19 28-1321, subsection P.

20 2. Section 28-1381, if the person meets the criteria of section
21 28-1381, subsection O and the person presents evidence that is
22 satisfactory to the director and that shows that the person has completed
23 the requirements prescribed in section 28-1387, subsection B.

24 3. Section 28-1382, if the person meets the criteria of section
25 28-1382, subsection H and the person presents evidence that is
26 satisfactory to the director and that shows that the person has completed
27 the requirements prescribed in section 28-1387, subsection B.

28 4. Section 28-1383, if the person meets the criteria of section
29 28-1383, subsection L and the person presents evidence that is
30 satisfactory to the director and that shows that the person has completed
31 the requirements prescribed in section 28-1387, subsection B.

32 5. Section 28-1385, if the person meets the criteria of section
33 28-1385, subsection I.

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

37 C. The department shall issue a special ignition interlock
38 restricted driver license during the period of a court-ordered restriction
39 pursuant to sections 28-3320 and 28-3322 subject to the certified ignition
40 interlock requirements prescribed in article 5 of this chapter.

41 D. If the department issues a special ignition interlock restricted
42 driver license, the department shall not delete a suspension or revocation
43 from its records.

1 Sec. 5. Section 28-3304, Arizona Revised Statutes, is amended to
2 read:

3 28-3304. Mandatory revocation of license; definition

4 A. In addition to the grounds for mandatory revocation provided for
5 in chapters 3, 4 and 5 of this title, the department shall immediately
6 revoke the license of a driver on receipt of a record of the driver's
7 conviction of any of the following offenses if the conviction is final:

8 1. A homicide or aggravated assault resulting from the operation of
9 a motor vehicle.

10 2. A felony in the commission of which a motor vehicle is used.

11 3. Theft of a motor vehicle pursuant to section 13-1802.

12 4. Unlawful use of means of transportation pursuant to section
13 13-1803.

14 5. Theft of means of transportation pursuant to section 13-1814.

15 6. Drive by shooting pursuant to section 13-1209.

16 7. Failure to stop and render aid as required under the laws of
17 this state if a motor vehicle accident results in the death or personal
18 injury of another.

19 8. Perjury or the making of a false affidavit or statement under
20 oath to the department under this chapter or under any other law relating
21 to the ownership or operation of a motor vehicle.

22 9. Conviction or forfeiture of bail not vacated on a second charge
23 of violating section 28-1381 or 28-1382 within eighty-four months.

24 10. Conviction or forfeiture of bail not vacated on a third or
25 subsequent charge of violating section 28-1381, 28-1382 or 28-1383 within
26 eighty-four months.

27 11. Conviction or forfeiture of bail not vacated on a charge of
28 violating section 28-1381 or 28-1382 and the driver has been convicted
29 within a period of eighty-four months of an offense in another
30 jurisdiction that if committed in this state would be a violation of
31 section 28-1381 or 28-1382.

32 B. In determining the starting date for the eighty-four month
33 period prescribed in subsection A, paragraphs 9, 10 and 11 of this
34 section, the department shall use the date of the commission of the
35 offense.

36 C. A PERSON WHOSE DRIVING PRIVILEGE IS REVOKED PURSUANT TO
37 SUBSECTION A, PARAGRAPH 1 OR 2 OF THIS SECTION IS ELIGIBLE FOR A SPECIAL
38 IGNITION INTERLOCK RESTRICTED DRIVER LICENSE PURSUANT TO SECTION 28-1401
39 IF THE CONVICTION IS A CLASS 4, 5 OR 6 FELONY AND THE OFFENSE IS AN
40 ALCOHOL-RELATED OFFENSE.

41 D. For the purposes of this section, "conviction" means a final
42 adjudication or judgment, including an order of a juvenile court finding
43 that a juvenile violated any provision of this title or committed a
44 delinquent act that if committed by an adult would constitute a criminal
45 offense.

1 Sec. 6. Section 28-3319, Arizona Revised Statutes, is amended to
2 read:

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

7 A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383,
8 28-3320 or 28-3322, the license of a driver or the driving privilege of a
9 nonresident is suspended or revoked, the department shall not terminate
10 the suspension or revocation or issue a special ignition interlock
11 restricted driver license, if applicable, pursuant to chapter 4, article
12 3.1 of this title until the person provides proof of financial
13 responsibility pursuant to chapter 9, article 3 of this title.

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

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

24 1. Terminate the suspension or issue a special ignition interlock
25 restricted driver license, if applicable, pursuant to chapter 4, article
26 3.1 of this title until the person or licensed treatment facility provides
27 proof that the person has completed or is participating satisfactorily in
28 alcohol or other drug screening, education, **EVIDENCE-BASED PSYCHOTHERAPY**
29 or treatment.

30 2. Issue a new license or a special ignition interlock restricted
31 driver license, if applicable, pursuant to chapter 4, article 3.1 of this
32 title to operate a motor vehicle after the revocation until the person or
33 licensed treatment facility provides proof that the person has completed
34 **OR IS SATISFACTORILY PARTICIPATING IN** the court-ordered program.

35 D. Except as provided in subsection E of this section, on receipt
36 of a report of conviction from a court for a violation that involved
37 intoxicating liquor or that specifically requires the installation of a
38 certified ignition interlock device, the department shall require any
39 motor vehicle the convicted person operates to be equipped with a
40 functioning certified ignition interlock device and the convicted person
41 to meet the requirements prescribed in section 28-1461 as follows:

42 1. For twelve months if:

43 (a) Except as provided in subsection ~~H~~ H of this section, the
44 person is convicted of a violation of section 28-1381, section 28-1382,

1 subsection A, paragraph 1 or section 28-1383, subsection A, paragraph 3,
2 subdivision (a).

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

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

11 3. For twenty-four months if:

12 (a) The person is convicted of a violation of section 28-1382,
13 subsection A, paragraph 2 and the department determines that within a
14 period of eighty-four months the person has a prior conviction of a
15 violation of section 28-1381, 28-1382 or 28-1383 or an act in another
16 jurisdiction that if committed in this state would be a violation of
17 section 28-1381, 28-1382 or 28-1383.

18 (b) The person is convicted of a violation of section 28-1383,
19 subsection A, paragraph 1, 2, 4 or 5 or paragraph 3, subdivision (b).

20 E. If a person is required to equip a motor vehicle with a
21 certified ignition interlock device pursuant to subsection D of this
22 section and the person has a medical condition that prevents the person
23 from using the certified ignition interlock device during the entire time
24 period required by subsection D of this section, the department OF
25 TRANSPORTATION shall require monthly alcohol and drug screening instead of
26 the certified ignition interlock device for the time period prescribed by
27 subsection D of this section. The department OF TRANSPORTATION shall
28 require evidence of the medical condition that is satisfactory to the
29 department OF TRANSPORTATION and in a manner prescribed by the department
30 OF TRANSPORTATION from an authorized physician as defined in section
31 28-2409 or an authorized physician assistant as defined in section
32 28-2409. The alcohol or drug screening shall be provided by a facility
33 approved by the department of health services, the United States
34 department of veterans affairs, a substance abuse counselor as defined in
35 section 28-3005 or a probation department.

36 F. The requirement prescribed in subsection D of this section
37 begins on the date the person successfully completes the alcohol or other
38 drug screening, education, EVIDENCE-BASED PSYCHOTHERAPY or treatment
39 program requirements of this title and the person is otherwise eligible to
40 reinstate the person's driver license or driving privilege. If the person
41 is issued a special ignition interlock restricted driver license for the
42 violations giving rise to the requirements prescribed in subsection D of
43 this section or pursuant to section 28-1321, subsection P or section
44 28-1385, subsection J, the person shall be credited for the amount of time
45 that a certified ignition interlock device is installed on the person's

1 motor vehicle after the department authorizes the installation of the
2 certified ignition interlock device on that person's motor vehicle.

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

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

11 1. The person is sentenced pursuant to section 28-1381,
12 subsection I.

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

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

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

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

24 6. All necessary compliance information has been provided to the
25 department by the ignition interlock device provider, the alcohol
26 screening program and the alcohol education program.

27 I. The deferment pursuant to subsection H of this section is
28 permanent, unless the person is arrested for a violation of section
29 28-1381, 28-1382 or 28-1383 that occurs during the period of the
30 deferment. If the person is arrested as described in this subsection, the
31 department shall revoke the deferment and require the person to complete
32 the remainder of the time period prescribed in subsection D, paragraph 1,
33 subdivision (a) of this section.

34 J. Notwithstanding any other law, the department shall reduce the
35 length of time that a person is required to have a functioning certified
36 ignition interlock device installed in a motor vehicle pursuant to
37 subsection D of this section by the length of time that the person is
38 incarcerated in a jail or prison facility for a violation of section
39 28-1381 or 28-1383 that did not involve intoxicating liquor.

40 K. For the purposes of this section: ~~;~~

41 1. "Certified ignition interlock device" has the same meaning
42 prescribed in section 28-1301.

43 2. "EVIDENCE-BASED PSYCHOTHERAPY" HAS THE SAME MEANING PRESCRIBED
44 IN SECTION 28-1381.