

Senate Engrossed House Bill

DUI; alternative treatment

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

HOUSE BILL 2573

AN ACT

AMENDING SECTIONS 28-1381, 28-1382, 28-1383, 28-1387, 28-1461, 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,
16 education, ~~evidence-based psychotherapy~~ or treatment program OR
17 EVIDENCE-BASED PSYCHOTHERAPY requirements of this title and the person is
18 otherwise eligible to reinstate the person's driver license or driving
19 privilege. The person who operates a motor vehicle with a certified
20 ignition interlock device under this paragraph shall comply with article 5
21 of this chapter.

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

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

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

39 K. If within a period of eighty-four months a person is convicted
40 of a second violation of this section or is convicted of a violation of
41 this section and has previously been convicted of a violation of section
42 28-1382 or 28-1383 or an act in another jurisdiction that if committed in
43 this state would be a violation of this section or section 28-1382 or
44 28-1383, the person:

1 1. Shall be sentenced to serve not less than ninety days in jail,
2 thirty days of which shall be served consecutively, and is not eligible
3 for probation or suspension of execution of sentence unless the entire
4 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 **OR EVIDENCE-BASED PSYCHOTHERAPY** requirements of this title and the
19 person is otherwise eligible to reinstate the person's driver license or
20 driving privilege. The person who operates a motor vehicle with a
21 certified ignition interlock device under this paragraph shall comply with
22 article 5 of this chapter.

23 5. Shall pay an additional assessment of \$1,250 to be deposited by
24 the state treasurer in the prison construction and operations fund
25 established by section 41-1651. This assessment is not subject to any
26 surcharge. If the conviction occurred in the superior court or a justice
27 court, the court shall transmit the assessed monies to the county
28 treasurer. If the conviction occurred in a municipal court, the court
29 shall transmit the assessed monies to the city treasurer. The city or
30 county treasurer shall transmit the monies received to the state
31 treasurer.

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

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

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

1 EVIDENCE-BASED PSYCHOTHERAPY. If the person fails to complete the court
2 ordered alcohol or other drug screening, education, ~~evidence-based~~
3 ~~psychotherapy~~ or treatment program OR EVIDENCE-BASED PSYCHOTHERAPY and has
4 not been placed on probation, the court shall issue an order to show cause
5 as to why the remaining jail sentence should not be served.

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

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

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

18 P. 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, ~~evidence-based psychotherapy~~
29 or treatment program OR EVIDENCE-BASED PSYCHOTHERAPY requirements of this
30 title and the person is otherwise eligible to reinstate the person's
31 driver license or driving privilege. The person who operates a motor
32 vehicle with a certified ignition interlock device under this subsection
33 shall comply with article 5 of this chapter.

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

41 R. For the purposes of this section, "evidence-based psychotherapy"
42 means psychotherapy services that are offered by ANY OF THE FOLLOWING AND
43 THAT INTEGRATE THE BEST AVAILABLE SCIENTIFIC RESEARCH WITH CLINICAL
44 EXPERTISE BASED ON THE CONTEXT OF THE PATIENT'S CHARACTERISTICS, CULTURE
45 AND PREFERENCES:

1 1. A psychologist who is licensed pursuant to title 32, chapter
2 19.1 ~~and who integrates the best available scientific research with~~
3 ~~clinical expertise based on the context of the patient's characteristics,~~
4 ~~culture and preferences.~~

5 2. A HEALTH PROFESSIONAL WHO IS LICENSED PURSUANT TO TITLE 32,
6 CHAPTER 33 AND WHO IS AUTHORIZED TO ENGAGE IN THE PRACTICE OF BEHAVIORAL
7 HEALTH.

8 3. A HEALTH PROFESSIONAL WHO IS LICENSED IN THIS STATE PURSUANT TO
9 TITLE 32 AND WHOSE SCOPE OF PRACTICE AUTHORIZES THE HEALTH PROFESSIONAL TO
10 INDEPENDENTLY PROVIDE PSYCHOTHERAPY, INCLUDING:

11 (a) A PSYCHIATRIC NURSE PRACTITIONER WHO IS LICENSED PURSUANT TO
12 TITLE 32, CHAPTER 15.

13 (b) A PSYCHIATRIC PHYSICIAN ASSISTANT WHO IS LICENSED PURSUANT TO
14 TITLE 32, CHAPTER 25.

15 (c) A PSYCHIATRIST WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTERS
16 13 AND 17.

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

19 28-1382. Driving or actual physical control while under the
20 extreme influence of intoxicating liquor; trial by
21 jury; sentencing; time limitation; violation;
22 classification

23 A. It is unlawful for a person to drive or be in actual physical
24 control of a vehicle in this state if the person has an alcohol
25 concentration as follows within two hours of driving or being in actual
26 physical control of the vehicle and the alcohol concentration results from
27 alcohol consumed either before or while driving or being in actual
28 physical control of the vehicle:

- 29 1. 0.15 or more but less than 0.20.
30 2. 0.20 or more.

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

34 C. At the arraignment, the court shall inform the defendant that
35 the defendant may request a trial by jury and that the request, if made,
36 shall be granted.

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

38 1. Shall be sentenced to serve not less than thirty consecutive
39 days in jail and is not eligible for probation or suspension of execution
40 of sentence unless the entire sentence is served if the person is
41 convicted of a violation of subsection A, paragraph 1 of this section.
42 A person who is convicted of a violation of subsection A, paragraph 2 of
43 this section shall be sentenced to serve not less than forty-five
44 consecutive days in jail and is not eligible for probation or suspension
45 of execution of sentence unless the entire sentence is served.

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

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

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

17 5. Shall be required by the department, on receipt of the report of
18 conviction, to equip any motor vehicle the person operates with a
19 certified ignition interlock device pursuant to section 28-3319. In
20 addition, the court may order the person to equip any motor vehicle the
21 person operates with a certified ignition interlock device for more than
22 twelve months beginning on the date the person successfully completes the
23 alcohol or other drug screening, education or treatment program **OR**
24 **EVIDENCE-BASED PSYCHOTHERAPY** requirements of this title and the person is
25 otherwise eligible to reinstate the person's driver license or driving
26 privilege. The person who operates a motor vehicle with a certified
27 ignition interlock device under this paragraph shall comply with article 5
28 of this chapter.

29 6. Shall pay an additional assessment of \$1,000 to be deposited by
30 the state treasurer in the prison construction and operations fund
31 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
34 treasurer. If the conviction occurred in a municipal court, the court
35 shall transmit the assessed monies to the city treasurer. The city or
36 county treasurer shall transmit the monies received to the state
37 treasurer.

38 7. Shall pay an additional assessment of \$1,000 to be deposited by
39 the state treasurer in the public safety equipment fund established by
40 section 41-1723. This assessment is not subject to any surcharge. If the
41 conviction occurred in the superior court or a justice court, the court
42 shall transmit the assessed monies to the county treasurer. If the
43 conviction occurred in a municipal court, the court shall transmit the
44 assessed monies to the city treasurer. The city or county treasurer shall
45 transmit the monies received to the state treasurer.

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

3 E. If within a period of eighty-four months a person is convicted
4 of a second violation of this section or is convicted of a violation of
5 this section and has previously been convicted of a violation of section
6 28-1381 or 28-1383 or an act in another jurisdiction that if committed in
7 this state would be a violation of this section or section 28-1381 or
8 28-1383, the person:

9 1. Shall be sentenced to serve not less than one hundred twenty
10 days in jail, sixty days of which shall be served consecutively, and is
11 not eligible for probation or suspension of execution of sentence unless
12 the entire sentence has been served if the person is convicted of a
13 violation of subsection A, paragraph 1 of this section. A person who is
14 convicted of a violation of subsection A, paragraph 2 of this section
15 shall be sentenced to serve not less than one hundred eighty days in jail,
16 ninety of which shall be served consecutively, and is not eligible for
17 probation or suspension of execution of sentence unless the entire
18 sentence has been served.

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

25 3. Shall pay an additional assessment of \$250. If the conviction
26 occurred in the superior court or a justice court, the court shall
27 transmit the monies received pursuant to this paragraph to the county
28 treasurer. If the conviction occurred in a municipal court, the court
29 shall transmit the monies received pursuant to this paragraph to the city
30 treasurer. The city or county treasurer shall transmit the monies
31 received to the state treasurer. The state treasurer shall deposit the
32 monies received in the driving under the influence abatement fund
33 established by section 28-1304.

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

36 5. Shall have the person's driving privilege revoked for at least
37 one year. The court shall report the conviction to the department. On
38 receipt of the report, the department shall revoke the person's driving
39 privilege and shall require the person to equip any motor vehicle the
40 person operates with a certified ignition interlock device pursuant to
41 section 28-3319. In addition, the court may order the person to equip any
42 motor vehicle the person operates with a certified ignition interlock
43 device for more than twelve months beginning on the date the person
44 successfully completes the alcohol or other drug screening, education or
45 treatment program OR EVIDENCE-BASED PSYCHOTHERAPY requirements of this

1 title and the person is otherwise eligible to reinstate the person's
2 driver license or driving privilege. The person who operates a motor
3 vehicle with a certified ignition interlock device under this paragraph
4 shall comply with article 5 of this chapter.

5 6. Shall pay an additional assessment of \$1,250 to be deposited by
6 the state treasurer in the prison construction and operations fund
7 established by section 41-1651. This assessment is not subject to any
8 surcharge. If the conviction occurred in the superior court or a justice
9 court, the court shall transmit the assessed monies to the county
10 treasurer. If the conviction occurred in a municipal court, the court
11 shall transmit the assessed monies to the city treasurer. The city or
12 county treasurer shall transmit the monies received to the state
13 treasurer.

14 7. Shall pay an additional assessment of \$1,250 to be deposited by
15 the state treasurer in the public safety equipment fund established by
16 section 41-1723. This assessment is not subject to any surcharge. If the
17 conviction occurred in the superior court or a justice court, the court
18 shall transmit the assessed monies to the county treasurer. If the
19 conviction occurred in a municipal court, the court shall transmit the
20 assessed monies to the city treasurer. The city or county treasurer shall
21 transmit the monies received to the state treasurer.

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

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

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

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

36 I. Notwithstanding subsection D, paragraph 1 of this section, at
37 the time of sentencing if the person is convicted of a violation of
38 subsection A, paragraph 1 of this section, the judge may suspend all but
39 nine days of the sentence if the person equips any motor vehicle the
40 person operates with a certified ignition interlock device for a period of
41 twelve months. If the person is convicted of a violation of subsection A,
42 paragraph 2 of this section, the judge may suspend all but fourteen days
43 of the sentence if the person equips any motor vehicle the person operates
44 with a certified ignition interlock device for a period of twelve months.
45 If the person fails to comply with article 5 of this chapter and has not

1 been placed on probation, the court shall issue an order to show cause as
2 to why the remaining jail sentence should not be served.

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

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

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

14 28-1383. Aggravated driving or actual physical control while
15 under the influence; county jail program; annual
16 report; violation; classification; definitions

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

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

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

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

34 (a) Section 28-1381.

35 (b) Section 28-1382.

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

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

42 B. The dates of the commission of the offenses are the determining
43 factor in applying the eighty-four month provision provided in subsection
44 A, paragraph 2 of this section regardless of the sequence in which the
45 offenses were committed. For the purposes of this section, a third or

1 subsequent violation for which a conviction occurs does not include a
2 conviction for an offense arising out of the same series of acts. The
3 time that a probationer is found to be on absconder status or the time
4 that a person is incarcerated in any state, federal, county or city jail
5 or correctional facility is excluded when determining the eighty-four
6 month period provided in subsection A, paragraph 2 and subsection E of
7 this section.

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

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

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

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

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

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

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

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

39 H. A person who is convicted of a violation of this section shall
40 attend and complete alcohol or other drug screening, education or
41 treatment from an approved facility OR RECEIVE EVIDENCE-BASED
42 PSYCHOTHERAPY AS ORDERED BY THE COURT. If the person fails to comply with
43 this subsection and is placed on probation, in addition to the provisions
44 of section 13-901 the court may order that the person be incarcerated as a
45 term of probation as follows:

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

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

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

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

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

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

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

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

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

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

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

17 L. After completing the period of suspension required by section
18 28-1385, a person whose driving privilege is revoked for a violation of
19 subsection A, paragraph 3 of this section may apply to the department for
20 a special ignition interlock restricted driver license pursuant to section
21 28-1401.

22 M. The court may order a person who is convicted of a violation of
23 this section that does not involve intoxicating liquor to equip any motor
24 vehicle the person operates with a certified ignition interlock device
25 pursuant to section 28-3319. On receipt of the report of conviction and
26 certified ignition interlock device requirement, the department shall
27 require the person to equip any motor vehicle the person operates with a
28 certified ignition interlock device pursuant to section 28-3319. In
29 addition, the court may order the person to equip any motor vehicle the
30 person operates with a certified ignition interlock device for more than
31 twelve months beginning on the date the person successfully completes the
32 alcohol or other drug screening, education or treatment program **OR**
33 **EVIDENCE-BASED PSYCHOTHERAPY** requirements of this title and the person is
34 otherwise eligible to reinstate the person's driver license or driving
35 privilege. The person who operates a motor vehicle with a certified
36 ignition interlock device under this subsection shall comply with article
37 5 of this chapter.

38 N. The sheriff of a county with a population of less than five
39 hundred thousand persons may establish an aggravated driving under the
40 influence jail program. If the sheriff establishes an aggravated driving
41 under the influence jail program, the program may not be implemented until
42 the state department of corrections enters into an agreement with the
43 county board of supervisors pursuant to section 31-234 to facilitate the
44 program. Notwithstanding subsections D and E of this section, if the
45 violation occurs in a county that has established and implemented an

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

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

17 1. Subsection A, paragraph 1, 2, 4 or 5 of this section is a class
18 4 felony.

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

20 P. For the purposes of this section:

21 1. "Suspension, cancellation, revocation or refusal" means any
22 suspension, cancellation, revocation or refusal.

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

27 Sec. 4. Section 28-1387, Arizona Revised Statutes, is amended to
28 read:

29 28-1387. Prior convictions; alcohol or other drug screening,
30 education and treatment and evidence-based
31 psychotherapy; license suspension; supervised
32 probation; civil liability; procedures

33 A. The court shall allow the allegation of a prior conviction or
34 any other pending charge of a violation of section 28-1381, 28-1382 or
35 28-1383 or an act in another jurisdiction that if committed in this state
36 would be a violation of section 28-1381, 28-1382 or 28-1383 filed twenty
37 or more days before the date the case is actually tried and may allow the
38 allegation of a prior conviction or any other pending charge of a
39 violation of section 28-1381, 28-1382 or 28-1383 or an act in another
40 jurisdiction that if committed in this state would be a violation of
41 section 28-1381, 28-1382 or 28-1383 filed at any time before the date the
42 case is actually tried if this state makes available to the defendant when
43 the allegation is filed a copy of any information obtained concerning the
44 prior conviction or other pending charge. Any conviction may be used to
45 enhance another conviction irrespective of the dates on which the offenses

1 occurred within the eighty-four month provision. For the purposes of this
2 article, an order of a juvenile court adjudicating a person delinquent is
3 equivalent to a conviction.

4 B. In addition to any other penalties prescribed by law, the judge
5 shall order a person who is convicted of a violation of section 28-1381,
6 28-1382 or 28-1383 to complete alcohol or other drug screening that is
7 provided by a facility approved by the department of health services, the
8 United States department of veterans affairs or a probation department.
9 If a judge determines that the person requires further alcohol or other
10 drug education or treatment OR EVIDENCE-BASED PSYCHOTHERAPY, the person
11 may be required pursuant to court order to obtain alcohol or other drug
12 education or treatment OR EVIDENCE-BASED PSYCHOTHERAPY under the court's
13 supervision from an approved facility OR A HEALTH PROFESSIONAL LICENSED IN
14 THIS STATE WHO PROVIDES EVIDENCE-BASED PSYCHOTHERAPY. The judge may
15 review an education, ~~or~~ treatment OR PSYCHOTHERAPY determination at the
16 request of the state, the defendant or the probation officer or on the
17 judge's initiative. The person shall pay the costs of the screening,
18 education, ~~or~~ treatment OR PSYCHOTHERAPY unless, after considering the
19 person's ability to pay all or part of the costs, the court waives all or
20 part of the costs. If a person is referred to a screening, education or
21 treatment facility OR PSYCHOTHERAPY, the facility OR THE HEALTH
22 PROFESSIONAL shall report to the court whether the person has successfully
23 completed the screening, education or treatment program OR
24 PSYCHOTHERAPY. The court may accept evidence of a person's completion of
25 alcohol or other drug screening pursuant to section 28-1445 as sufficient
26 to meet the requirements of this section or section 28-1381, 28-1382 or
27 28-1383 or may order the person to complete additional alcohol or other
28 drug screening, education or treatment programs OR EVIDENCE-BASED
29 PSYCHOTHERAPY. If a person has previously been ordered to complete an
30 alcohol or other drug screening, education or treatment program OR
31 EVIDENCE-BASED PSYCHOTHERAPY pursuant to this section, the judge shall
32 order the person to complete an alcohol or other drug screening, education
33 or treatment program OR EVIDENCE-BASED PSYCHOTHERAPY unless the court
34 determines that alternative sanctions are more appropriate.

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

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

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

9 E. When the department receives notification that the person meets
10 the criteria provided in section 28-1385, subsection I, the department
11 shall suspend the driving privileges of the person for not less than
12 thirty consecutive days and shall restrict the person's driving privileges
13 as described in section 28-144 for not less than sixty consecutive
14 additional days.

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

19 G. Any political subdivision processing or using the services of a
20 person ordered to perform community restitution pursuant to section
21 28-1381 or 28-1382 does not incur any civil liability to the person
22 ordered to perform community restitution as a result of these activities
23 unless the political subdivision or its agent or employee acts with gross
24 negligence.

25 H. The court may order alternative sanctions to community
26 restitution that is ordered pursuant to section 28-1381, subsection K or
27 section 28-1382, subsection E if the court determines that education,
28 treatment or other alternative sanctions are more appropriate.

29 Sec. 5. Section 28-1461, Arizona Revised Statutes, is amended to
30 read:

31 28-1461. Use of certified ignition interlock devices:
32 reporting

33 A. If a person's driving privilege is limited pursuant to section
34 28-1381, 28-1382, 28-1383 or 28-3319 or restricted pursuant to section
35 28-1402:

36 1. The person shall:

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

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

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

1 (d) Provide proof of calibration of the certified ignition
2 interlock device to the department at least once every ninety days during
3 the period the person is ordered to use an ignition interlock device.

4 2. The department shall not reinstate the person's driving
5 privilege or issue a special ignition interlock restricted driver license
6 until the person has installed a functioning certified ignition interlock
7 device in each motor vehicle operated by the person and has provided proof
8 of installation to the department.

9 B. While a person maintains a functioning certified ignition
10 interlock device in a vehicle pursuant to this chapter, the ignition
11 interlock manufacturer shall electronically provide the following
12 information to the department in the manner and format prescribed by the
13 department in rule, and the department shall reject any information that
14 does not meet these requirements:

15 1. Any tampering or circumvention.

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

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

23 4. Each time that a person fails to properly perform any set of
24 three consecutive rolling retests that occur during a drive cycle.

25 C. If the person is under eighteen years of age, the ignition
26 interlock service provider, if requested by the person's parent or legal
27 guardian, shall provide to the person's parent or legal guardian the
28 information prescribed in subsection B of this section.

29 D. On request, the ignition interlock manufacturer shall provide
30 the information prescribed in subsection B of this section to:

31 1. The department of health services authorized provider.

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

34 3. The physician, psychologist, physician assistant, registered
35 nurse practitioner or addiction counselor who is evaluating the person's
36 ability to safely operate a motor vehicle following a revocation of the
37 person's driving privilege as prescribed in section 28-3315, subsection D.

38 4. The court.

39 5. THE LICENSED HEALTH PROFESSIONAL WHO IS PROVIDING EVIDENCE-BASED
40 PSYCHOTHERAPY TO THE PERSON.

41 E. The department shall extend an ignition interlock restricted or
42 limited driver license and the certified ignition interlock device period
43 for six months if the department has reasonable grounds to believe that
44 any of the following applies:

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

3 2. The person attempted to operate the vehicle with an alcohol
4 concentration exceeding the presumptive limit as prescribed in section
5 28-1381, subsection G, paragraph 3, two or more times during the period of
6 license restriction or limitation.

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

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

12 5. The person attempts to operate the vehicle with an alcohol
13 concentration of 0.08 or more during a six month extension pursuant to
14 this subsection.

15 6. The person fails to properly perform any set of three
16 consecutive rolling retests that occur during a drive cycle.

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

21 G. The department shall make a notation on the driving record of a
22 person whose driving privilege is limited pursuant to section 28-1381,
23 28-1382, 28-1383, 28-1385 or 28-3319 or restricted pursuant to section
24 28-1402 that states that the person shall not operate a motor vehicle
25 unless it is equipped with a certified ignition interlock device. Unless
26 the person is convicted of a second or subsequent violation of section
27 28-1381, 28-1382 or 28-1383, the notation may not include any mark, color
28 change or other notation or indication on the person's physical driver
29 license.

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

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

35 28-3319. Action after license suspension, revocation or
36 denial for driving under the influence or refusal
37 of test; ignition interlock device requirement;
38 definitions

39 A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383,
40 28-3320 or 28-3322, the license of a driver or the driving privilege of a
41 nonresident is suspended or revoked, the department shall not terminate
42 the suspension or revocation or issue a special ignition interlock
43 restricted driver license, if applicable, pursuant to chapter 4, article
44 3.1 of this title until the person provides proof of financial
45 responsibility pursuant to chapter 9, article 3 of this title.

1 B. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383,
2 28-3320 or 28-3322, an unlicensed resident is denied a license or permit
3 to operate a motor vehicle, the department shall not issue a license or
4 permit until the person provides proof of financial responsibility
5 pursuant to chapter 9, article 3 of this title.

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

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

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

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

29 1. For twelve months if:

30 (a) Except as provided in subsection ~~G~~ H of this section, the
31 person is convicted of a violation of section 28-1381, section 28-1382,
32 subsection A, paragraph 1 or section 28-1383, subsection A, paragraph 3,
33 subdivision (a).

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

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

42 3. For twenty-four months if:

43 (a) The person is convicted of a violation of section 28-1382,
44 subsection A, paragraph 2 and the department determines that within a
45 period of eighty-four months the person has a prior conviction of a

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

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

6 E. If a person is required to equip a motor vehicle with a
7 certified ignition interlock device pursuant to subsection D of this
8 section and the person has a medical condition that prevents the person
9 from using the certified ignition interlock device during the entire time
10 period required by subsection D of this section, the department OF
11 TRANSPORTATION shall require monthly alcohol and drug screening instead of
12 the certified ignition interlock device for the time period prescribed by
13 subsection D of this section. The department OF TRANSPORTATION shall
14 require evidence of the medical condition that is satisfactory to the
15 department OF TRANSPORTATION and in a manner prescribed by the department
16 OF TRANSPORTATION from an authorized physician as defined in section
17 28-2409 or an authorized physician assistant as defined in section
18 28-2409. The alcohol or drug screening shall be provided by a facility
19 approved by the department of health services, the United States
20 department of veterans affairs, a substance abuse counselor as defined in
21 section 28-3005 or a probation department.

22 F. The requirement prescribed in subsection D of this section
23 begins on the date the person successfully completes the alcohol or other
24 drug screening, education or treatment program OR EVIDENCE-BASED
25 PSYCHOTHERAPY requirements of this title and the person is otherwise
26 eligible to reinstate the person's driver license or driving
27 privilege. If the person is issued a special ignition interlock
28 restricted driver license for the violations giving rise to the
29 requirements prescribed in subsection D of this section or pursuant to
30 section 28-1321, subsection P or section 28-1385, subsection J, the person
31 shall be credited for the amount of time that a certified ignition
32 interlock device is installed on the person's motor vehicle after the
33 department authorizes the installation of the certified ignition interlock
34 device on that person's motor vehicle.

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

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

43 1. The person is sentenced pursuant to section 28-1381,
44 subsection I.

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

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

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

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

12 6. All necessary compliance information has been provided to the
13 department by the ignition interlock device provider, the alcohol
14 screening program and the alcohol education program.

15 I. The deferment pursuant to subsection H of this section is
16 permanent, unless the person is arrested for a violation of section
17 28-1381, 28-1382 or 28-1383 that occurs during the period of the
18 deferment. If the person is arrested as described in this subsection, the
19 department shall revoke the deferment and require the person to complete
20 the remainder of the time period prescribed in subsection D, paragraph 1,
21 subdivision (a) of this section.

22 J. Notwithstanding any other law, the department shall reduce the
23 length of time that a person is required to have a functioning certified
24 ignition interlock device installed in a motor vehicle pursuant to
25 subsection D of this section by the length of time that the person is
26 incarcerated in a jail or prison facility for a violation of section
27 28-1381 or 28-1383 that did not involve intoxicating liquor.

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

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

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