*** § 261. Alternatives to incarceration service plans.** 1. As used in this article:

a. "Service plan" or "plan" means a county plan designed to identify and provide eligible programs as determined by either an advisory board established pursuant to this article, or by an existing criminal justice coordinating council, provided, however, the membership of such council includes a majority of those persons set forth in subdivision two of this section, provided that one person shall be the chief administrative officer. The following factors considered, utilized and incorporated in the plan shall include but not be limited to:

(i) an analysis of the jail population to assist in determining incarceration practices and trends, including, if submitting an approved amendment pursuant to section two hundred sixty-six of this article, an analysis of the relationship between alcohol, drugs and crime and the effects of alcohol and substance abuse on the local criminal justice system and jail, probation and alternatives to incarceration populations, consistent with planning guidelines established by the office; the types and nature of alternative programming needed, and appropriate eligibility requirements;

(ii) an analysis of recent overcrowding problems and measures taken by the county to relieve them;

(iii) a summary of existing alternatives programs and/or related services and previous efforts made by the county to develop alternatives to incarceration and if an approved amendment is submitted, pursuant to section two hundred sixty-six of this article, a summary of existing alcohol and substance abuse programs;

(iv) a comprehensive plan for the development of alternatives programs that addresses the specific needs identified in subparagraph (i) of this paragraph and furthers the county's long-range goals in the area of alternatives to incarceration;

(v) specific proposals for the use of state aid available under this chapter, including a description of services to be provided, characteristics of the target populations, steps to be taken to identify eligible participants, the goals and objectives to be accomplished through the proposals;

(vi) a detailed time frame for the implementation and evaluation of

the specific proposals described in subparagraph (v) of this paragraph;

(vii) a summary of those criteria by which the office and the state commission of correction may measure the proposal's impact on jail overcrowding; and

(viii) any other information which the office may request consistent with the purposes of this chapter.

Nothing in this article shall prohibit the development of regional programs by two or more counties.

b. "Eligible programs" means existing programs, enhancement of existing programs or initiation of new programs or, if submitting an approved amendment pursuant to section two hundred sixty-six of this article, eligible alcohol and substance abuse programs as defined in paragraph c of this subdivision which serve to assist the court, public officers or others in identifying and avoiding the inappropriate use of incarceration. Such programs may be administered by either the county or private, community-based organizations and may include, but shall not be limited to: new or enhanced specialized probation services which exceed those probation services otherwise required to be performed in accordance with applicable law, rule or regulation of the division of criminal justice services subject to the provisions of this article; a pre-trial alternative to detention program, including a comprehensive pre-arraignment program which screens all defendants and ensures that the court is fully advised of the availability of alternatives based upon the defendant's suitability and needs prior to its determination regarding the issuance of a securing order, or an effective bail review program; alternatives to post-adjudicatory incarceration programs, including community service, substance abuse or alcohol intervention programs; and management information systems designed to improve the county's ability to identify appropriate persons for alternatives to detention or incarceration, as well as for improved classification of persons within jail. For purposes of this paragraph, community service programs may place persons performing community service at worksites identified by the commissioner of the department of environmental conservation and the commissioner of the office of parks, recreation and historic preservation.

c. "Eligible alcohol and substance abuse programs" means eligible programs which serve to assist the courts, public officers and others in identifying and avoiding inappropriate incarceration by providing services to offenders who have or have had a history of alcohol or substance abuse and who, having been charged with or convicted of a felony are also at risk of incarceration as a pre-trial detainee, a determinate sentenced offender, an indeterminate sentenced offender, a probation violator, or a parole violator. Such services may include, but shall not be limited to programs and services that provide treatment, care or rehabilitative services, either residential or out-patient, to such offenders, or programs and services that provide for the purpose of developing individualized service plans to address such offender's alcohol or substance abuse problem, or programs and services that provide referrals and other linkages to alcohol or substance abuse programs to such offenders.

d. "Inappropriate incarceration" means instances where a person is or is about to be confined or otherwise held in custody prior to trial on a criminal charge, or pursuant to a sentence imposed upon conviction for an offense, or pursuant to any criminal court order of commitment, and where the purposes of such confinement would be adequately served by an alternative to incarceration.

e. "Approved plan" means a plan submitted by the county executive upon approval by the advisory board or council and by the local legislative body, which has been determined by the office to meet the requirements set forth in paragraph a of this subdivision.

f. "Approved amendment" means an amendment submitted by the county executive upon approval by the advisory board or council and by the local legislative body, which has been determined by the division to meet the requirements set forth in section 266 of this article to provide eligible alcohol and substance abuse programs.

g. "Advisory board" means that body established pursuant to this section or a criminal justice coordinating council whose members include

the chief administrative officer and a majority of the members set forth in subdivision two of this section.

h. "County executive" means a county administrator, county manager, county director or county president and in cities with a population of one million or more, the mayor.

i. "Office" means the office of probation and correctional alternatives.

2. Every advisory board established for purposes of this article shall include the following persons or their representatives:

a. County court judge, as appointed by the administrative judge for that county; in cities with a population of one million or more, a supreme court judge, as appointed by the administrative judge for that city;

b. Police court, district court, town court or village court judge, as appointed by the administrative judge of that county; in cities with a population of one million or more, a criminal court judge, as appointed by the administrative judge for that city;

c. The district attorney; in cities with a population of one million or more, the district attorney shall be selected by the district attorneys of the five boroughs to represent their joint views;

d. A representative of each of the agencies providing legal services to those unable to afford counsel in criminal cases, not to exceed two;

e. County legislator or member of the county board of supervisors or, in cities of one million of more, city councilman who chairs a public safety committee, or the committee best designed to deal with this subject, should such a committee exist;

f. County director of probation; in cities with a population of one million or more, the commissioner of the department of probation;

g. Chief administrative officer;

h. A representative of local police agencies, other than the chief administrative officer, selected by the heads of all such agencies to represent their joint views; in cities with a population of one million or more, the police commissioner;

i. Representative of a private organization operating within a county who has experience and involvement in alternatives to incarceration programs or pre-trial service programs, as designated by the county executive;

j. Ex-offender and a crime victim, each designated by the county executive;

k. County executive;

l. The director of community services as defined in section 41.03 of the mental hygiene law; and

m. An individual within a county who provides state certified alcohol and/or substance abuse treatment programs or services.

Prior to any official action by the board, all members shall be designated. The chairperson shall be the county executive or his or her duly designated representative. In cities with a population of one million or more, a single advisory board shall be established.

* NB Repealed September 1, 2027