

4616

2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. ONORATO, HASSELL-THOMPSON, C. JOHNSON, KLEIN, PARKER, SAMPSON, SAVINO, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law and the executive law, in relation to payment of salary, wages, medical and hospital expenses of police officers exposed in the performance of duties to a significant risk of infection with the human immunodeficiency virus

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 207-c of the general municipal law is amended by
2 adding a new subdivision 7 to read as follows:
3 7. A. AS USED IN THIS SUBDIVISION:
4 (1) "HIV INFECTION" MEANS INFECTION WITH THE HUMAN IMMUNODEFICIENCY
5 VIRUS OR ANY OTHER RELATED VIRUS IDENTIFIED AS A PROBABLE CAUSATIVE
6 AGENT OF ACQUIRED IMMUNE DEFICIENCY SYNDROME.
7 (2) "HIV RELATED ILLNESS" MEANS ANY ILLNESS THAT MAY RESULT FROM OR
8 MAY BE ASSOCIATED WITH HIV INFECTION.
9 (3) "POLICE OFFICER" SHALL HAVE THE SAME MEANING AS PROVIDED IN SUBDI-
10 VISION ONE OF THIS SECTION; PROVIDED, HOWEVER, THAT SUCH TERM SHALL ALSO
11 INCLUDE ANY POLICE OFFICER OR PEACE OFFICER OF ANY POLITICAL SUBDIVISION
12 OF THE STATE, OR ANY DETECTIVE-INVESTIGATOR EMPLOYED IN THE OFFICE OF A
13 DISTRICT ATTORNEY OF A COUNTY CONTAINED WITHIN SUCH A CITY.
14 (4) "PUBLIC HEALTH OFFICER" MEANS THE STATE OR LOCAL HEALTH OFFICER
15 HAVING JURISDICTION, PURSUANT TO THE PUBLIC HEALTH LAW, OVER THE POLI-
16 TICAL SUBDIVISION EMPLOYING A POLICE OFFICER.
17 B. NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL OR LOCAL LAW
18 OR ADMINISTRATIVE CODE TO THE CONTRARY, THE EXPOSURE OF A POLICE OFFICER
19 TO A SIGNIFICANT RISK OF INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS
20 IN THE PERFORMANCE OF HIS OR HER DUTIES SHALL BE PRESUMPTIVE EVIDENCE
21 THAT ANY HIV RELATED ILLNESS CONTRACTED BY SUCH OFFICER AFTER SUCH EXPO-

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 SURE WAS INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY, UNLESS THE
2 CONTRARY BE PROVED BY COMPETENT EVIDENCE.

3 C. ANY POLICE OFFICER WHO CONTRACTS AN HIV RELATED ILLNESS IN THE
4 PERFORMANCE OF HIS OR HER DUTIES SHALL BE PAID BY THE POLITICAL SUBDIVI-
5 SION BY WHICH HE OR SHE IS EMPLOYED THE FULL AMOUNT OF HIS OR HER REGU-
6 LAR SALARY AND WAGES UNTIL HIS OR HER DISABILITY ARISING THEREFROM HAS
7 CEASED, AND, IN ADDITION, SUCH POLITICAL SUBDIVISION SHALL BE LIABLE FOR
8 ALL MEDICAL TREATMENT AND HOSPITAL CARE NECESSITATED BY REASON OF SUCH
9 ILLNESS.

10 D. UPON THE REQUEST OF A POLICE OFFICER WHO HAS BEEN EXPOSED TO THE
11 BLOOD OR OTHER BODY FLUIDS OF ANOTHER PERSON, OR OF THE POLITICAL SUBDI-
12 VISION EMPLOYING SUCH A POLICE OFFICER, THE PUBLIC HEALTH OFFICER SHALL
13 DETERMINE WHETHER OR NOT THE CIRCUMSTANCES OF EXPOSURE INDICATE THAT A
14 SIGNIFICANT RISK HAS BEEN CREATED, IN ACCORDANCE WITH REGULATIONS
15 PROMULGATED BY THE COMMISSIONER OF HEALTH TO IDENTIFY SUCH CIRCUMSTANCES
16 PURSUANT TO SECTION TWENTY-SEVEN HUNDRED EIGHTY-SIX OF THE PUBLIC HEALTH
17 LAW. IF THE CIRCUMSTANCES SO INDICATE, THE PUBLIC HEALTH OFFICER SHALL
18 DETERMINE WHETHER SUCH BLOOD OR OTHER BODY FLUID CONTAINS HIV OR ANY
19 ANTIBODY OR ANTIGEN THERETO, IN THE FOLLOWING MANNER:

20 (1) IF THE IDENTITY OF THE PERSON TO WHOSE BLOOD OR BODY FLUIDS THE
21 POLICE OFFICER WAS EXPOSED IS KNOWN, THE PUBLIC HEALTH OFFICER SHALL
22 SEEK DISCLOSURE OF CONFIDENTIAL HIV RELATED INFORMATION CONCERNING SUCH
23 PERSON FROM SUCH PERSON, A PERSON AUTHORIZED BY LAW TO CONSENT TO HEALTH
24 CARE FOR SUCH PERSON, OR ANY OTHER PERSON LAWFULLY IN POSSESSION OF
25 CONFIDENTIAL HIV RELATED INFORMATION CONCERNING SUCH PERSON.

26 (2) IF, AFTER DILIGENT EFFORTS, THE PUBLIC HEALTH OFFICER CANNOT
27 DETERMINE THE IDENTITY OF THE PERSON TO WHOSE BLOOD OR BODY FLUIDS THE
28 POLICE OFFICER WAS EXPOSED, OR SUCH PERSON, IF KNOWN, CANNOT BE LOCATED,
29 OR IF SUCH PERSON IS DECEASED, THE PUBLIC HEALTH OFFICER MAY ORDER AN
30 HIV RELATED TEST ON ANY BLOOD OR BODY FLUIDS OF SUCH PERSON, OR ANY ITEM
31 CONTAMINATED WITH SUCH BLOOD OR BODY FLUIDS, IN HIS OR HER POSSESSION.

32 (3) IF THE PERSON TO WHOSE BLOOD OR BODY FLUIDS THE POLICE OFFICER WAS
33 EXPOSED HAS NOT PREVIOUSLY BEEN THE SUBJECT OF AN HIV RELATED TEST, THE
34 PUBLIC HEALTH OFFICER SHALL REQUEST THAT SUCH PERSON CONSENT TO SUCH A
35 TEST PURSUANT TO SECTION TWENTY-SEVEN HUNDRED EIGHTY-ONE OF THE PUBLIC
36 HEALTH LAW. IF SUCH PERSON REFUSES TO CONSENT TO SUCH A TEST, THE
37 PUBLIC HEALTH OFFICER MAY ORDER SUCH PERSON TO SUBMIT TO AN HIV RELATED
38 TEST. VIOLATION OF SUCH AN ORDER BY A PUBLIC HEALTH OFFICER PURSUANT TO
39 THIS SUBDIVISION SHALL BE PUNISHABLE AS PROVIDED IN THE PUBLIC HEALTH
40 LAW.

41 E. THE PUBLIC HEALTH OFFICER SHALL DISCLOSE ANY CONFIDENTIAL HIV
42 RELATED INFORMATION RECEIVED, AND ANY RESULTS OF HIV RELATED TESTS
43 PERFORMED PURSUANT TO THIS SECTION, ONLY TO THE EXTENT THAT SUCH DISCLO-
44 SURE IS NECESSARY TO FULFILL THE PURPOSES OF THIS SECTION. ANY SUCH
45 DISCLOSURE SHALL BE GOVERNED BY ALL OF THE PROVISIONS OF ARTICLE TWEN-
46 TY-SEVEN-F OF THE PUBLIC HEALTH LAW FOR THE COMMUNICATION OF THE RESULTS
47 OF HIV RELATED TESTS, AND FOR THE PROTECTION OF THE CONFIDENTIALITY OF
48 SUCH INFORMATION.

49 S 2. The executive law is amended by adding a new section 169-a to
50 read as follows:

51 S 169-A. POLICE OFFICERS EXPOSED TO HIV. A. AS USED IN THIS SECTION:

52 (1) "HIV INFECTION" MEANS INFECTION WITH THE HUMAN IMMUNODEFICIENCY
53 VIRUS OR ANY OTHER RELATED VIRUS IDENTIFIED AS A PROBABLE CAUSATIVE
54 AGENT OF ACQUIRED IMMUNE DEFICIENCY SYNDROME.

55 (2) "HIV RELATED ILLNESS" MEANS ANY ILLNESS THAT MAY RESULT FROM OR
56 MAY BE ASSOCIATED WITH HIV INFECTION.

1 (3) "POLICE OFFICER" MEANS ANY POLICE OFFICER OR PEACE OFFICER
2 EMPLOYED BY THE STATE.

3 (4) "PUBLIC HEALTH OFFICER" MEANS THE STATE OR LOCAL HEALTH OFFICER
4 HAVING JURISDICTION, PURSUANT TO THE PUBLIC HEALTH LAW, OVER THE AGENCY
5 EMPLOYING A POLICE OFFICER.

6 B. NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL OR LOCAL LAW
7 OR ADMINISTRATIVE CODE TO THE CONTRARY, THE EXPOSURE OF A POLICE OFFICER
8 TO A SIGNIFICANT RISK OF INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS
9 IN THE PERFORMANCE OF HIS OR HER DUTIES SHALL BE PRESUMPTIVE EVIDENCE
10 THAT ANY HIV RELATED ILLNESS CONTRACTED BY SUCH OFFICER AFTER SUCH EXPO-
11 SURE WAS INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY, UNLESS THE
12 CONTRARY BE PROVED BY COMPETENT EVIDENCE.

13 C. ANY POLICE OFFICER WHO CONTRACTS AN HIV RELATED ILLNESS IN THE
14 PERFORMANCE OF HIS OR HER DUTIES SHALL BE PAID BY THE STATE THE FULL
15 AMOUNT OF HIS OR HER REGULAR SALARY AND WAGES UNTIL HIS OR HER DISABILI-
16 TY ARISING THEREFROM HAS CEASED, AND, IN ADDITION, THE STATE SHALL BE
17 LIABLE FOR ALL MEDICAL TREATMENT AND HOSPITAL CARE NECESSITATED BY
18 REASON OF SUCH ILLNESS.

19 D. UPON THE REQUEST OF A POLICE OFFICER WHO HAS BEEN EXPOSED TO THE
20 BLOOD OR OTHER BODY FLUIDS OF ANOTHER PERSON, OR OF THE STATE, THE
21 PUBLIC HEALTH OFFICER SHALL DETERMINE WHETHER OR NOT THE CIRCUMSTANCES
22 OF EXPOSURE INDICATE THAT A SIGNIFICANT RISK HAS BEEN CREATED, IN
23 ACCORDANCE WITH REGULATIONS PROMULGATED BY THE COMMISSIONER OF HEALTH TO
24 IDENTIFY SUCH CIRCUMSTANCES PURSUANT TO SECTION TWENTY-SEVEN HUNDRED
25 EIGHTY-SIX OF THE PUBLIC HEALTH LAW. IF THE CIRCUMSTANCES SO INDICATE,
26 THE PUBLIC HEALTH OFFICER SHALL DETERMINE WHETHER SUCH BLOOD OR OTHER
27 BODY FLUID CONTAINS HIV OR ANY ANTIBODY OR ANTIGEN THERETO, IN THE
28 FOLLOWING MANNER:

29 (1) IF THE IDENTITY OF THE PERSON TO WHOSE BLOOD OR BODY FLUIDS THE
30 POLICE OFFICER WAS EXPOSED IS KNOWN, THE PUBLIC HEALTH OFFICER SHALL
31 SEEK DISCLOSURE OF CONFIDENTIAL HIV RELATED INFORMATION CONCERNING SUCH
32 PERSON FROM SUCH PERSON, A PERSON AUTHORIZED BY LAW TO CONSENT TO HEALTH
33 CARE FOR SUCH PERSON, OR ANY OTHER PERSON LAWFULLY IN POSSESSION OF
34 CONFIDENTIAL HIV RELATED INFORMATION CONCERNING SUCH PERSON.

35 (2) IF, AFTER DILIGENT EFFORTS, THE PUBLIC HEALTH OFFICER CANNOT
36 DETERMINE THE IDENTITY OF THE PERSON TO WHOSE BLOOD OR BODY FLUIDS THE
37 POLICE OFFICER WAS EXPOSED, OR SUCH PERSON, IF KNOWN, CANNOT BE LOCATED,
38 OR IF SUCH PERSON IS DECEASED, THE PUBLIC HEALTH OFFICER MAY ORDER AN
39 HIV RELATED TEST ON ANY BLOOD OR BODY FLUIDS OF SUCH PERSON, OR ANY ITEM
40 CONTAMINATED WITH SUCH BLOOD OR BODY FLUIDS, IN HIS OR HER POSSESSION.

41 (3) IF THE PERSON TO WHOSE BLOOD OR BODY FLUIDS THE POLICE OFFICER WAS
42 EXPOSED HAS NOT PREVIOUSLY BEEN THE SUBJECT OF AN HIV RELATED TEST, THE
43 PUBLIC HEALTH OFFICER SHALL REQUEST THAT SUCH PERSON CONSENT TO SUCH A
44 TEST PURSUANT TO SECTION TWENTY-SEVEN HUNDRED EIGHTY-ONE OF THE PUBLIC
45 HEALTH LAW. IF SUCH PERSON REFUSES TO CONSENT TO SUCH A TEST, THE
46 PUBLIC HEALTH OFFICER MAY ORDER SUCH PERSON TO SUBMIT TO AN HIV RELATED
47 TEST. VIOLATION OF SUCH AN ORDER BY A PUBLIC HEALTH OFFICER PURSUANT TO
48 THIS SUBDIVISION SHALL BE PUNISHABLE AS PROVIDED IN THE PUBLIC HEALTH
49 LAW.

50 E. THE PUBLIC HEALTH OFFICER SHALL DISCLOSE ANY CONFIDENTIAL HIV
51 RELATED INFORMATION RECEIVED, AND ANY RESULTS OF HIV RELATED TESTS
52 PERFORMED PURSUANT TO THIS SECTION, ONLY TO THE EXTENT THAT SUCH DISCLO-
53 SURE IS NECESSARY TO FULFILL THE PURPOSES OF THIS SECTION. ANY SUCH
54 DISCLOSURE SHALL BE GOVERNED BY ALL OF THE PROVISIONS OF ARTICLE TWEN-
55 TY-SEVEN-F OF THE PUBLIC HEALTH LAW FOR THE COMMUNICATION OF THE RESULTS

1 OF HIV RELATED TESTS, AND FOR THE PROTECTION OF THE CONFIDENTIALITY OF
2 SUCH INFORMATION.
3 S 3. This act shall take effect on the sixtieth day after it shall
4 have become a law.