STATE OF NEW YORK

IN ASSEMBLY

May 4, 2020

Introduced by M. of A. STERN -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, in relation to presumption regarding impairment of health caused by COVID-19 and in relation to sick leave

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general municipal law is amended by adding a new section 207-r to read as follows:

§ 207-r. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, and for the purposes of this chapter, any condition of impairment of health caused by COVID-19, resulting in total or partial disability, death, accidental disability or accidental death to any sheriff, undersheriff, deputy sheriff or corrections officer of the sheriff's department of any county, or any member of a police force of any county, city, town or village, or of any district, agency, board, body or commission thereof, or any LIRR police officer as defined in paragraph two of subdivision a of section three hundred eighty-nine of the retirement and social security law, or any paid officer or member of an organized fire company or fire department of a city, town, village or fire district, or emergency medical technician, advanced emergency medical technician or paramedic, whose benefits are provided in and pursuant to such section three hundred eighty-nine, or a detective-investigator or any other investigator who is a police officer pursuant to the provisions of the criminal procedure law employed in the office of a district attorney of any county, or any probation officer of any department, agency or service maintained by any county or city, or any parole officer as defined by section ten of the correction law, or a peace officer employed by the unified court system or a member of the uniformed correction force of New York city department of correction or of the state or any municipality, or police officer employed by the metropolitan transportation authority, or a police officer employed by the port authority of New York and New Jersey or police officer as defined in subdivision thirty-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [ ] is old law to be omitted.
four of section 1.20 of the criminal procedure law, or members of the
regional state park police, members of the division of law enforcement
in the department of environmental conservation, members holding the
position of forest ranger in the service of the department of environ-
mental conservation, university police officers appointed by the state
university as defined in the retirement and social security law whose
benefits are provided in and pursuant to section three hundred eighty-
three, three hundred eighty-three-a, three hundred eighty-three-b, three
hundred eighty-three-c, or three hundred eighty-three-d of the retire-
ment and social security law, troopers and trooper investigators, or any
supervising fire inspector, fire inspector, fire marshal, or assistant
fire marshal where such officer is exposed or comes into contact with
COVID-19 and such member test positive for COVID-19, shall be presump-
tive evidence that such permanent or partial disability or death (1) was
caused by the natural and proximate exposure, not caused by the individ-
ual's own negligence and (2) was incurred in the performance and
discharge of duty and proximate result of an accident, unless the
contrary be proven by competent evidence. Any individual pursuant to
this section that is taken ill in the performance of his or her duties
so as to necessitate medical or other lawful remedial treatment shall be
paid by the municipality or the Long Island Rail Road Company, the port
authority of New York and New Jersey or the metropolitan transportation
authority by which he or she is employed the full amount of his or her
regular salary or wages from such employer until his or her disability
arising therefrom has ceased, in addition the municipality or the Long
Island Rail Road Company, the port authority of New York and New Jersey
or the metropolitan transportation authority shall be liable for fifty
percent of all medical treatment and hospital care necessitated by such
reason of illness and the state shall be liable for fifty percent.

§ 2. The general municipal law is amended by adding a new section 92-e
to read as follows:

§ 92-e. Sick leave for officers and employees with COVID-19. 1.(a)
Notwithstanding any other law, rule or regulation to the contrary, any
sheriff, undersheriff, deputy sheriff or corrections officer of the
sheriff's department of any county or any member of a police force of
any county, city with a population of less than one million, town or
village, or of any district, agency, board, body or commission thereof,
or, any police officer whose benefits are provided in and pursuant to
section three hundred eighty-three, three hundred eighty-three-a, three
hundred eighty-three-b, three hundred eighty-three-c, or three hundred
eighty-three-d of the retirement and social security law, troopers and
trooper investigators, or any LIRR police officer as defined in para-
graph two of subdivision a of section three hundred eighty-nine of the
retirement and social security law, or any paid officer or member
of an organized fire company or fire department of a city, town,
village or fire district, or emergency medical technician, advanced
emergency medical technician or paramedic, whose benefits are provided
in and pursuant to such section three hundred eighty-nine, or a detec-
tive-investigator or any other investigator who is a police officer
pursuant to the provisions of the criminal procedure law employed in the
office of a district attorney of any county, or probation officers of
any department, agency or service maintained by any county or city, or
parole officers as defined by section ten of the correction law, or a
peace officer employed by the unified court system or a member of the
uniformed correction force of New York city department of correction or
of the state or any municipality, or police officer employed by the
metropolitan transportation authority, or a police officer employed by
the port authority of New York and New Jersey or police officer as
defined in subdivision thirty-four of section 1.20 of the criminal
procedure law, or any supervising fire inspector, fire inspector, fire
marshal, or assistant fire marshal who was exposed or came into contact
with COVID-19 and such individual tests positive for COVID-19, as
defined in section two hundred seven-r of this chapter, shall, after the
receipt of a written request for line of duty sick leave, be granted
line of duty sick leave commencing on the date that such employee was
diagnosed with COVID-19. The individual shall be compensated at his or
her regular rate of pay for those regular work hours during which the
individual is absent from work due to his or her COVID-19. Such leave
shall be provided without loss of an individual's accrued sick leave.

(b) A public employer shall not take any adverse personnel action
against a public employee regarding the employee's employment because
either (i) the employee utilizes, or requests to utilize, sick leave or
any other available leave due to COVID-19, or (ii) the employee utilizes
or requests to utilize line of duty sick leave provided by this section.

(c) For purposes of this section, an "adverse personnel action" means
any discipline, including issuing a notice of discipline, discharge,
suspension, demotion, penalization, or discrimination against an employ-
ee utilizing line of duty sick leave pursuant to paragraph (a) of this
subdivision.

Nothing in this section shall limit an employer's power pursuant to
any other provision of law to discipline an individual by termination,
reduction of salary, or any other appropriate measure; to terminate an
appointee who has not completed his or her probationary term; and to
apply for ordinary or accident disability retirement for an individual.

2. (a) Notwithstanding any other law, rule or regulation to the
contrary, any sheriff, undersheriff, deputy sheriff or corrections offi-
cer of the sheriff's department of any county or any member of a police
force of any county, city with a population of one million or more, town
or village, or of any district, agency, board, body or commission there-
of, any police officer whose benefits are provided in and pursuant to
section three hundred eighty-three, three hundred eighty-three-a, three
hundred eighty-three-b, three hundred eighty-three-c, or three hundred
eighty-three-d of the retirement and social security law, troopers and
trooper investigators, or any LIRR police officer as defined in para-
graph two of subdivision a of section three hundred eighty-nine of the
retirement and social security law, or any paid officer or member
of an organized fire company or fire department of a city, town,
village or fire district, or emergency medical technician, advanced
emergency medical technician or paramedic, whose benefits are provided
in and pursuant to such section three hundred eighty-nine, or a detec-
tive-investigator or any other investigator who is a police officer
pursuant to the provisions of the criminal procedure law employed in the
office of a district attorney of any county, or probation officers of
any department, agency or service maintained by any county or city, or
parole officers as defined by section ten of the correction law who (i)
do not receive benefits similar to those provided by this section pursu-
ant to a collectively bargained agreement, section 14-122.1 of the
administrative code of the city of New York, section 15-108.1 of the
administrative code of the city of New York, or other statutory
provision and who was exposed or came into contact with COVID-19 and
such individual tests positive for COVID-19, as defined in section two
hundred seven-r of this chapter, shall, after the receipt of a written
request for line of duty sick leave, be granted line of duty sick leave
commencing on the date that such employee was diagnosed with COVID-19.
The individual shall be compensated at his or her regular rate of pay
for those regular work hours during which the individual is absent from
work due to his or her COVID-19. Such leave shall be provided without
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3. For purposes of this section, "cost" shall mean the number of days
of sick leave that must be restored to an officer or employee pursuant
to subdivision one or two of this section multiplied by such individ-
ual's wage rate at the time that such sick leave for which reimbursement
is being sought was taken.

4. A request, for line of duty sick leave shall be in writing and
include a waiver of the protection afforded to the individual pursuant
to the health insurance portability and accountability act to allow
disclosure of the individual's exposure or contact with COVID-19 and
such individual's positive test for COVID-19 and any medical records
concerning such individual's employee's notice of exposure or contact
with COVID-19 and such individual's positive test for COVID-19 in the
possession of the retirement system in which such individual is a member
for the purpose of reviewing, processing and auditing his or her claim
for line of duty sick leave. Such waiver shall be in the form required
by the retirement system of which he or she is a member, along with the
application for line of duty sick leave, with his or her employer.

§ 3. The state shall reimburse any public authority or municipal
corporation of less than one million people for the cost of any line of
duty sick leave granted pursuant to this act.

§ 4. This act shall take effect immediately.