

# STATE OF NEW YORK

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10378

## IN ASSEMBLY

May 4, 2020

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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  
2 section 207-r to read as follows:

3       S 207-r. Notwithstanding any provision of this chapter or of any  
4 general, special or local law to the contrary, and for the purposes of  
5 this chapter, any condition of impairment of health caused by COVID-19,  
6 resulting in total or partial disability, death, accidental disability  
7 or accidental death to any sheriff, undersheriff, deputy sheriff or  
8 corrections officer of the sheriff's department of any county, or any  
9 member of a police force of any county, city, town or village, or of any  
10 district, agency, board, body or commission thereof, or any LIRR police  
11 officer as defined in paragraph two of subdivision a of section three  
12 hundred eighty-nine of the retirement and social security law, or any  
13 paid officer or member of an organized fire company or fire  
14 department of a city, town, village or fire district, or emergency  
15 medical technician, advanced emergency medical technician or paramedic,  
16 whose benefits are provided in and pursuant to such section three  
17 hundred eighty-nine, or a detective-investigator or any other investi-  
18 gator who is a police officer pursuant to the provisions of the criminal  
19 procedure law employed in the office of a district attorney of any coun-  
20 ty, or any probation officer of any department, agency or service main-  
21 tained by any county or city, or any parole officer as defined by  
22 section ten of the correction law, or a peace officer employed by the  
23 unified court system or a member of the uniformed correction force of  
24 New York city department of correction or of the state or any munici-  
25 pality, or police officer employed by the metropolitan transportation  
26 authority, or a police officer employed by the port authority of New  
27 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.

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

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

32 § 92-e. Sick leave for officers and employees with COVID-19. 1.(a)  
33 Notwithstanding any other law, rule or regulation to the contrary, any  
34 Sheriff, undersheriff, deputy sheriff or corrections officer of the  
35 Sheriff's department of any county or any member of a police force of  
36 any county, city with a population of less than one million, town or  
37 village, or of any district, agency, board, body or commission thereof,  
38 or, any police officer whose benefits are provided in and pursuant to  
39 section three hundred eighty-three, three hundred eighty-three-a, three  
40 hundred eighty-three-b, three hundred eighty-three-c, or three hundred  
41 eighty-three-d of the retirement and social security law, troopers and  
42 trooper investigators, or any LIRR police officer as defined in para-  
43 graph two of subdivision a of section three hundred eighty-nine of the  
44 retirement and social security law, or any paid officer or member  
45 of an organized fire company or fire department of a city, town,  
46 village or fire district, or emergency medical technician, advanced  
47 emergency medical technician or paramedic, whose benefits are provided  
48 in and pursuant to such section three hundred eighty-nine, or a detec-  
49 tive-investigator or any other investigator who is a police officer  
50 pursuant to the provisions of the criminal procedure law employed in the  
51 office of a district attorney of any county, or probation officers of  
52 any department, agency or service maintained by any county or city, or  
53 parole officers as defined by section ten of the correction law, or a  
54 peace officer employed by the unified court system or a member of the  
55 uniformed correction force of New York city department of correction or  
56 of the state or any municipality, or police officer employed by the

1 metropolitan transportation authority, or a police officer employed by  
2 the port authority of New York and New Jersey or police officer as  
3 defined in subdivision thirty-four of section 1.20 of the criminal  
4 procedure law, or any supervising fire inspector, fire inspector, fire  
5 marshal, or assistant fire marshal who was exposed or came into contact  
6 with COVID-19 and such individual tests positive for COVID-19, as  
7 defined in section two hundred seven-r of this chapter, shall, after the  
8 receipt of a written request for line of duty sick leave, be granted  
9 line of duty sick leave commencing on the date that such employee was  
10 diagnosed with COVID-19. The individual shall be compensated at his or  
11 her regular rate of pay for those regular work hours during which the  
12 individual is absent from work due to his or her COVID-19. Such leave  
13 shall be provided without loss of an individual's accrued sick leave.

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

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

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

29       2. (a) Notwithstanding any other law, rule or regulation to the  
30       contrary, any sheriff, undersheriff, deputy sheriff or corrections offi-  
31       cer of the sheriff's department of any county or any member of a police  
32       force of any county, city with a population of one million or more, town  
33       or village, or of any district, agency, board, body or commission there-  
34       of, any police officer whose benefits are provided in and pursuant to  
35       section three hundred eighty-three, three hundred eighty-three-a, three  
36       hundred eighty-three-b, three hundred eighty-three-c, or three hundred  
37       eighty-three-d of the retirement and social security law, troopers and  
38       trooper investigators, or any LIRR police officer as defined in para-  
39       graph two of subdivision a of section three hundred eighty-nine of the  
40       retirement and social security law, or any paid officer or member  
41       of an organized fire company or fire department of a city, town,  
42       village or fire district, or emergency medical technician, advanced  
43       emergency medical technician or paramedic, whose benefits are provided  
44       in and pursuant to such section three hundred eighty-nine, or a detec-  
45       tive-investigator or any other investigator who is a police officer  
46       pursuant to the provisions of the criminal procedure law employed in the  
47       office of a district attorney of any county, or probation officers of  
48       any department, agency or service maintained by any county or city, or  
49       parole officers as defined by section ten of the correction law who (i)  
50       do not receive benefits similar to those provided by this section pursu-  
51       ant to a collectively bargained agreement, section 14-122.1 of the  
52       administrative code of the city of New York, section 15-108.1 of the  
53       administrative code of the city of New York, or other statutory  
54       provision and who was exposed or came into contact with COVID-19 and  
55       such individual tests positive for COVID-19, as defined in section two  
56       hundred seven-r of this chapter, shall, after the receipt of a written

1 request for line of duty sick leave, be granted line of duty sick leave  
2 commencing on the date that such employee was diagnosed with COVID-19.  
3 The individual shall be compensated at his or her regular rate of pay  
4 for those regular work hours during which the individual is absent from  
5 work due to his or her COVID-19. Such leave shall be provided without  
6 loss of an individual's accrued sick leave.

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

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

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

22     3. For purposes of this section, "cost" shall mean the number of days  
23    of sick leave that must be restored to an officer or employee pursuant  
24    to subdivision one or two of this section multiplied by such individ-  
25    ual's wage rate at the time that such sick leave for which reimbursement  
26    is being sought was taken.

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

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

42     § 4. This act shall take effect immediately.