

# STATE OF NEW YORK

8117

## IN SENATE

March 23, 2020

Introduced by Sens. MARTINEZ, BROOKS -- 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, 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 Assem-  
bly, 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 § 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 or death to any sheriff, under-  
7 sheriff, deputy sheriff or corrections officer of the sheriff's depart-  
8 ment of any county, or any member of a police force of any county, city,  
9 town or village, or of any district, agency, board, body or commission  
10 thereof, or any LIRR police officer as defined in paragraph two of  
11 subdivision a of section three hundred eighty-nine of the retirement and  
12 social security law whose benefits are provided in and pursuant to such  
13 section three hundred eighty-nine, or a detective-investigator or any  
14 other investigator who is a police officer pursuant to the provisions of  
15 the criminal procedure law employed in the office of a district attorney  
16 of any county, or any probation officer of any department, agency or  
17 service maintained by any county or city, or any parole officer as  
18 defined by section ten of the corrections law, where such officer is  
19 exposed or comes into contact with COVID-19 and such member test posi-  
20 tive for COVID-19, shall be presumptive evidence that such disability or  
21 death (1) was caused by the natural and proximate exposure, not caused  
22 by the officer's own negligence and (2) was incurred in the performance  
23 and discharge of duty, unless the contrary be proven by competent  
24 evidence.

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

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

LBD15859-02-0

1     § 92-e. Sick leave for officers and employees with COVID-19. 1.(a)  
2 Notwithstanding any other law, rule or regulation to the contrary, any  
3 sheriff, undersheriff, deputy sheriff or corrections officer of the  
4 sheriff's department of any county or any member of a police force of  
5 any county, city with a population of less than one million, town or  
6 village, or of any district, agency, board, body or commission thereof,  
7 or any LIRR police officer as defined in paragraph two of subdivision a  
8 of section three hundred eighty-nine of the retirement and social secu-  
9 rity law whose benefits are provided in and pursuant to such section  
10 three hundred eighty-nine, or a detective-investigator or any other  
11 investigator who is a police officer pursuant to the provisions of the  
12 criminal procedure law employed in the office of a district attorney of  
13 any county, or probation officers of any department, agency or service  
14 maintained by any county or city, or parole officers as defined by  
15 section ten of the correction law who was exposed or came into contact  
16 with COVID-19 and such officer tests positive for COVID-19, as defined  
17 in section two hundred seven-r of this chapter, shall, after the receipt  
18 of a written request for line of duty sick leave, be granted line of  
19 duty sick leave commencing on the date that such employee was diagnosed  
20 with COVID-19. The officer or employee shall be compensated at his or  
21 her regular rate of pay for those regular work hours during which the  
22 officer or employee is absent from work due to his or her COVID-19. Such  
23 leave shall be provided without loss of an officer or employee's accrued  
24 sick leave.

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

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

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

41     2.(a) Notwithstanding any other law, rule or regulation to the contra-  
42 ry, any sheriff, undersheriff, deputy sheriff or corrections officer of  
43 the sheriff's department of any county or any member of a police force  
44 of any county, city with a population of one million or more, town or  
45 village, or of any district, agency, board, body or commission thereof,  
46 or any LIRR police officer as defined in paragraph two of subdivision a  
47 of section three hundred eighty-nine of the retirement and social secu-  
48 rity law whose benefits are provided in and pursuant to such section  
49 three hundred eighty-nine, or a detective-investigator or any other  
50 investigator who is a police officer pursuant to the provisions of the  
51 criminal procedure law employed in the office of a district attorney of  
52 any county, or probation officers of any department, agency or service  
53 maintained by any county or city, or parole officers as defined by  
54 section ten of the correction law who (i) do not receive benefits simi-  
55 lar to those provided by this section pursuant to a collectively  
56 bargained agreement, section 14-122.1 of the administrative code of the

1 city of New York, section 15-108.1 of the administrative code of the  
2 city of New York, or other statutory provision and who was exposed or  
3 came into contact with COVID-19 and such officer tests positive for  
4 COVID-19, as defined in section two hundred seven-r of this chapter,  
5 shall, after the receipt of a written request for line of duty sick  
6 leave, be granted line of duty sick leave commencing on the date that  
7 such employee was diagnosed with COVID-19. The officer or employee shall  
8 be compensated at his or her regular rate of pay for those regular work  
9 hours during which the officer or employee is absent from work due to  
10 his or her COVID-19. Such leave shall be provided without loss of an  
11 officer or employee's accrued sick leave.

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

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

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

28 3. For purposes of this section, "cost" shall mean the number of days  
29 of sick leave that must be restored to an officer or employee pursuant  
30 to subdivision one or two of this section multiplied by such officer or  
31 employee's wage rate at the time that such sick leave for which  
32 reimbursement is being sought was taken.

33 4. A request, for line of duty sick leave shall be in writing and  
34 include a waiver of the protection afforded to the officer or employee  
35 pursuant to the health insurance portability and accountability act to  
36 allow disclosure of the officers or employee's exposure or contact with  
37 COVID-19 and such police officer's or employee's positive test for  
38 COVID-19 and any medical records concerning such officer's or employee's  
39 notice of exposure or contact with COVID-19 and such police officer's or  
40 employee's positive test for COVID-19 in the possession of the retire-  
41 ment system in which such officer or employee is a member for the  
42 purpose of reviewing, processing and auditing his or her claim for line  
43 of duty sick leave. Such waiver shall be in the form required by the  
44 retirement system of which he or she is a member, along with the appli-  
45 cation for line of duty sick leave, with his or her employer.

46 § 3. This act shall take effect immediately.