

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.

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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.

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13 against a public employee regarding the employee's employment because
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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.

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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.