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 Assembly, do enact as follows:

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 or 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 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 corrections law, where such officer is exposed or comes into contact with COVID-19 and such member test positive for COVID-19, shall be presumptive evidence that such disability or death (1) was caused by the natural and proximate exposure, not caused by the officer's own negligence and (2) was incurred in the performance and discharge of duty, unless the contrary be proven by competent evidence.

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

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

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§ 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 LIRR police officer as defined in paragraph two of subdivision a of section three hundred eighty-nine of the retirement and social security law 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 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 was exposed or came into contact with COVID-19 and such officer 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 officer or employee shall be compensated at his or her regular rate of pay for those regular work hours during which the officer or employee is absent from work due to his or her COVID-19. Such leave shall be provided without loss of an officer or employee'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 employee 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 officer or employee 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 officer or employee.

2.(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 one million or more, 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 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 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 pursuant 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 officer 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 officer or employee shall be compensated at his or her regular rate of pay for those regular work hours during which the officer or employee is absent from work due to his or her COVID-19. Such leave shall be provided without loss of an officer or employee's accrued sick leave.

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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 officer or employee'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 officer or employee pursuant to the health insurance portability and accountability act to allow disclosure of the officers or employee's exposure or contact with COVID-19 and such police officer's or employee's positive test for COVID-19 and any medical records concerning such officer's or employee's notice of exposure or contact with COVID-19 and such police officer's or employee's positive test for COVID-19 in the possession of the retirement system in which such officer or employee 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. This act shall take effect immediately.