

# STATE OF NEW YORK

5843

2023-2024 Regular Sessions

## IN SENATE

March 20, 2023

Introduced by Sen. SANDERS -- 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 line of duty sick leave for first responders due to a pandemic virus

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 92-e to read as follows:

3 § 92-e. Sick leave for officers and employees due to a pandemic virus.

4 1.(a) Notwithstanding any other law, rule or regulation to the contrary,  
5 any police officer as defined by subdivision thirty-four of section 1.20  
6 of the criminal procedure law, member of an organized fire company or  
7 fire department of a city, town, village or fire district, emergency  
8 medical technician or advanced emergency medical technician as such  
9 terms are defined by section three thousand one of the public health  
10 law, or paramedic who was exposed or came into contact with a pandemic  
11 virus and such individual tests positive for, or displays symptoms of,  
12 such pandemic virus, shall, after submitting to his or her employer a  
13 written request for line of duty sick leave, be granted line of duty  
14 sick leave commencing on the date that such employee was diagnosed with  
15 or began displaying symptoms of the pandemic virus. Such officer or  
16 employee shall be compensated at his or her regular rate of pay for  
17 those regular work hours during which such officer or employee is absent  
18 from work due to his or her diagnosis or symptoms of a pandemic virus.  
19 Such leave shall be provided without loss of an officer or employee's  
20 accrued sick leave.

21 (b) An employer shall not take any adverse personnel action against an  
22 employee regarding such employee's employment because either (i) such  
23 employee utilizes, or requests to utilize, sick leave or any other  
24 available leave due to a pandemic virus, or (ii) such employee utilizes  
25 or requests to utilize line of duty sick leave provided by this section.

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

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1 2. (a) Notwithstanding any other law, rule or regulation to the  
2 contrary, any police officer as defined by subdivision thirty-four of  
3 section 1.20 of the criminal procedure law, member of an organized fire  
4 company or fire department of a city, town, village or fire district,  
5 emergency medical technician or advanced emergency medical technician as  
6 such terms are defined by section three thousand one of the public  
7 health law, or paramedic, who do not receive benefits similar to those  
8 provided by this section pursuant to a collectively bargained agreement,  
9 section 14-122.1 of the administrative code of the city of New York,  
10 section 15-108.1 of the administrative code of the city of New York, or  
11 other statutory provision and who was exposed or came into contact with  
12 a pandemic virus and such individual tests positive for or displays  
13 symptoms of such pandemic virus, shall, after submitting to his or her  
14 employer a written request for line of duty sick leave, be granted line  
15 of duty sick leave commencing on the date that such employee was diag-  
16 nosied with or began displaying symptoms of the pandemic virus. Such  
17 officer or employee shall be compensated at his or her regular rate of  
18 pay for those regular work hours during which such officer or employee  
19 is absent from work due to his or her diagnosis or symptoms of a pandem-  
20 ic virus. Such leave shall be provided without loss of an officer or  
21 employee's accrued sick leave.

22 (b) An employer shall not take any adverse personnel action against an  
23 employee regarding such employee's employment because either (i) such  
24 employee utilizes, or requests to utilize, sick leave or any other  
25 available leave due to a pandemic virus, or (ii) such employee utilizes  
26 or requests to utilize line of duty sick leave provided by this section.

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

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 a pandemic virus and such police officer's or employee's positive test  
38 for such pandemic virus and any medical records concerning such offi-  
39 cer's or employee's notice of exposure or contact with such pandemic  
40 virus and such police officer's or employee's positive test for such  
41 pandemic virus in the possession of the retirement system in which such  
42 officer or employee is a member for the purpose of reviewing, processing  
43 and auditing his or her claim for line of duty sick leave. Such waiver  
44 shall be in the form required by the retirement system of which he or  
45 she is a member, along with the application for line of duty sick leave,  
46 with his or her employer.

47 5. For the purposes of this section, the following terms shall have  
48 the following meanings:

49 (a) "Adverse personnel action" shall mean any discipline, including  
50 issuing a notice of discipline, discharge, suspension, demotion, penali-  
51 zation, or discrimination against an employee utilizing line of duty  
52 sick leave pursuant to paragraph (a) of subdivision one or subdivision  
53 two of this section.

54 (b) "Cost" shall mean the number of days of sick leave that must be  
55 restored to an officer or employee pursuant to subdivision one or two of  
56 this section multiplied by such officer or employee's wage rate at the

1 time that such sick leave for which reimbursement is being sought was  
2 taken.

3 (c) "Pandemic virus" shall mean a virus (i) that is classified as a  
4 pandemic by the World Health Organization; and (ii) which causes the  
5 governor to declare a state declaration of disaster emergency pursuant  
6 to section twenty-eight of the executive law.

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

10 § 3. This act shall take effect immediately.