§ 507-c. Performance of duty disability retirement; New York city department of correction. a. Any member in the uniformed personnel in institutions under the jurisdiction of the New York city department of correction, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as a natural and proximate result of, an act of any incarcerated individual or any person confined in an institution under the jurisdiction of the department of correction or the department of health, or by any person who has been committed to such institution by any court shall be paid a performance of duty disability retirement allowance equal to three-quarters of final average salary, subject to the provisions of section 13-176 of the administrative code of the city of New York, provided, however, that the provisions of this section shall not apply to a member of the uniformed force of the New York city department of correction who is a New York city uniformed correction/sanitation revised plan member.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who contracts HIV (where there may have been an exposure to a bodily fluid of an incarcerated individual or a person described in subdivision a of this section as a natural and proximate result of an act of any incarcerated individual or person described in subdivision a of this section that may have involved transmission of a specified transmissible disease from an incarcerated individual or such person described in such subdivision a to the retirement system member), tuberculosis or hepatitis will be presumed to have contracted such disease in the performance or discharge of his or her duties, and will be presumed to be disabled from the performance of his or her duties, unless the contrary be proved by competent evidence.

c. 1. (a) Notwithstanding any provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of this chapter, it shall be presumptive evidence that it

was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence unless the contrary be proved by competent evidence.

(b) The head of the retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

2. (a) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement, a performance of duty disability retirement, or was separated from service with a vested right to deferred payability of a retirement allowance and subsequent to such retirement or separation which is determined by the head of the retirement system to have been a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the head of the retirement system, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired or vested had the condition been known and fully developed at the time of the member's retirement or separation from service with vested rights, unless the contrary is proved by competent evidence.

(b) The head of the retirement system shall consider a reclassification of the member's retirement or vesting as an accidental disability retirement effective as of the date of such reclassification.

(c) Such member's retirement option shall not be changed as a result of such reclassification.

(d) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the head of the retirement system according to procedures developed by the head of the retirement system.

(e) The head of the retirement system is hereby authorized to

promulgate rules and regulations to implement the provisions of this paragraph.

d. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree or vestee who: (1) has met the criteria of subdivision c of this section and retired on a service or disability retirement, would have met the criteria if not already retired on an accidental disability, or was separated from service with a vested right to deferred payability of a retirement allowance; and (2) has not been retired for more than thirty-five years; and (3) dies from a qualifying World Trade center condition, as defined in section two of this chapter, that is determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree or vestee shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's or vestee's part. Such retiree's or vestee's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit as provided by section five hundred nine of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree or vestee shall be deemed to have died on the date of such retiree's or vestee's retirement or separation from service with vested rights. Upon the retiree's or vestee's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article requesting conversion of such retiree's service, vested right or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, or vested right to such benefit, including any post-retirement death benefits, since the retiree's or vestee's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to,

post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), or that will be eligible under the vested right the accidental death benefit payments to the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

e. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision c of this section; (2) dies in active service or after separating from service with a vested right to deferred payability of a retirement allowance, but prior to the payability of that retirement allowance; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, that is determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article.