§ 607-c. Performance of duty disability benefit. a. Any sheriff, deputy sheriff, undersheriff or correction officer as defined in subdivision a of section sixty-three-b of this chapter, and who are employed in a county which makes an election pursuant to subdivision d of such section sixty-three-b, 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 the natural and proximate result of any act of any incarcerated individual or any person confined in an institution under the jurisdiction of such county, shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter.

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 defined in subdivision a of this section as a natural and proximate result of an act of any incarcerated individual or person described in such subdivision a that may have involved transmission of a specified transmissible disease from an incarcerated individual or 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 each 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 or a performance of duty disability retirement and subsequent to such retirement is determined by the head of the retirement system to have 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 had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

(b) The head of the retirement system shall consider a reclassification of the member's retirement 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 comptroller.

(e) The head of each 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 who: (1) has met the criteria of subdivision c of this section and retired on a service or disability

retirement, or would have met the criteria if not already retired on an accidental disability; 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, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree 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 part. Such retiree's eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree shall be deemed to have died on the date of such retiree's retirement. Upon the retiree'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 six hundred seven of this article requesting conversion of such retiree's service 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, including any post-retirement death benefits, since the retiree'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), 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; and (2) dies in active service from a qualifying World Trade Center condition as defined in section two of this chapter, as 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 six 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 six hundred seven of this article.

f. Any sheriff, deputy sheriff, undersheriff, or correction officer as defined in subdivision a of section sixty-three-b of this chapter, and who are employed in Westchester county, 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 the natural and proximate result of an intentional or reckless act of any civilian visiting, or otherwise present at, an institution under the jurisdiction of such county, shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter.

g. Any sheriff, deputy sheriff, undersheriff, or correction officer as defined in subdivision a of section sixty-three-b of this chapter, and who is employed in Nassau county, 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 the natural and proximate result of an intentional or reckless act of any civilian visiting, or otherwise present at, an institution under the jurisdiction of such county where such injury was sustained and documented after the enactment of this section, shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter. Notwithstanding any other provision of law to the contrary, none of the provisions of this subdivision shall be subject to section twenty-five of this chapter.