

# **ASSEMBLY, No. 3999**

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# **STATE OF NEW JERSEY**

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## **219th LEGISLATURE**

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INTRODUCED MAY 4, 2020

**Sponsored by:**

**Assemblyman THOMAS P. GIBLIN**  
**District 34 (Essex and Passaic)**  
**Assemblyman JOHN J. BURZICHELLI**  
**District 3 (Cumberland, Gloucester and Salem)**  
**Assemblywoman CAROL A. MURPHY**  
**District 7 (Burlington)**  
**Assemblywoman JOANN DOWNEY**  
**District 11 (Monmouth)**

**Co-Sponsored by:**

**Assemblymen Holley, Benson, Verrelli and Assemblywoman Reynolds-Jackson**

**SYNOPSIS**

Concerns employment benefits and coronavirus disease 2019 infections contracted by essential employees.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 6/22/2020)

1   **AN ACT** concerning essential employees contracting coronavirus  
2   disease 2019 and supplementing Title 34 of the Revised Statutes.

3

4   **BE IT ENACTED** by the *Senate and General Assembly of the State*  
5   *of New Jersey*:

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7       1. a. (1) For the purposes of benefits provided under R.S.34:15-  
8   1 et seq., ordinary and accidental disability retirement, and any other  
9   benefits provided by law to individuals suffering injury or illness  
10   through the course of their employment, and notwithstanding any  
11   other law to the contrary, to the extent an individual is eligible for  
12   those benefits by virtue of the individual's employment, there is a  
13   rebuttable presumption that the contraction of coronavirus disease  
14   2019, or COVID-19, by an essential employee, including but not  
15   limited to, a health care worker or a public safety worker, is work-  
16   related. The presumption shall only apply to an essential employee  
17   who performs functions pertaining to those roles and involving  
18   interactions with the public during the public health emergency  
19   declared by Executive Order 103 of 2020, as extended by subsequent  
20   executive orders.

21       (2) This *prima facie* presumption may be rebutted by a  
22   preponderance of the evidence showing that the worker was not  
23   exposed to the disease.

24       b. The amount of time an essential employee is incapacitated or  
25   unable to perform their duties as a result of contracting coronavirus  
26   disease 2019, or COVID-19, or exposure to the disease or infection  
27   and the required time of hospitalization, time of quarantine or time  
28   of self-quarantine shall be considered as on duty time, and an  
29   essential employee shall not be required to use paid leave or any other  
30   contractual time-off to cover the period of incapacitation or inability  
31   to perform regular duty work. This time of incapacitation or inability  
32   to perform their duties shall be considered as "emergency hazard  
33   health duty."

34       c. As used in this act:

35       "Essential employee" means that:

36       (1) the employee is considered essential in support of  
37   gubernatorial or federally declared statewide emergency response  
38   and recovery operations; or

39       (2) the employee is an employee in the public or private sector  
40   with duties and responsibilities, the performance of which is essential  
41   to the public's health, safety, and welfare.

42       "Health care facility" means any non-federal institution, building  
43   or agency, or portion thereof whether public or private for profit or  
44   nonprofit that is used, operated or designed to provide health  
45   services, medical or dental treatment or nursing, rehabilitative, or  
46   preventive care to any person. Health care facility includes, but is  
47   not limited to: an ambulatory surgical facility, home health agency,  
48   hospice, hospital, infirmary, intermediate care facility, dialysis

1 center, long-term care facility, medical assistance facility, mental  
2 health center, paid and volunteer emergency medical services,  
3 outpatient facility, public health center, rehabilitation facility,  
4 residential treatment facility, skilled nursing facility, and adult day  
5 care center. Health care facility also includes, but is not limited to,  
6 the following related property when used for or in connection with  
7 the foregoing: a laboratory, research facility, pharmacy, laundry  
8 facility, health personnel training and lodging facility, patient, guest  
9 and health personnel food service facility, and the portion of an office  
10 or office building used by persons engaged in health care professions  
11 or services.

12 "Health care worker" means an individual who is employed by a  
13 health care facility.

14 "Public safety worker" includes a member, employee, or officer of  
15 a paid, partially-paid, or volunteer fire or police department, force,  
16 company or district, including the State Police, a Community  
17 Emergency Response Team approved by the New Jersey Office of  
18 Emergency Management, or a correctional facility, or a basic or  
19 advanced medical technician of a first aid or rescue squad, or any  
20 other nurse, basic or advanced medical technician responding to a  
21 catastrophic incident and directly involved and in contact with the  
22 public during such an incident, either as a volunteer, member of a  
23 Community Emergency Response Team or employed or directed by  
24 a health care facility.

25  
26 2. This act is intended to affirm certain rights of essential  
27 employees under the circumstances specified in this act, and shall not  
28 be construed as reducing, limiting or curtailing any rights of any  
29 worker or employee to benefits provided by law.

30  
31 3. This act shall take effect immediately and shall be retroactive  
32 to March 9, 2020.

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35 STATEMENT

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37 This bill creates a presumption that coronavirus disease 2019  
38 infections contracted by essential employees, including but not  
39 limited to, health care workers and public safety workers, are work-  
40 related for the purpose of employment benefits provided for work-  
41 related injuries and illnesses, including but not limited to, workers'  
42 compensation benefits.

43 Additionally, this bill provides that an essential employee's  
44 absence from work due to the employee contracting or being exposed  
45 to coronavirus disease 2019 will be considered on duty time, and an  
46 employer is prohibited from charging the employee any paid leave  
47 for the absence.

1       The bill defines “essential employee” as (1) an employee who is  
2    essential in support of gubernatorial or federally declared statewide  
3    emergency response and recovery operations; or (2) an employee in  
4    the public or private sector with duties and responsibilities, the  
5    performance of which is essential to the public's health, safety, and  
6    welfare.

7       The bill will be retroactive to March 9, 2020, the date of Governor  
8    Murphy's declaration of state of emergency with respect to the  
9    coronavirus disease 2019 pandemic.