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BILL NO. _____
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AN ACT concerning essential employees contracting coronavirus disease 2019 and supplementing Title 34 of the Revised Statutes.

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

PRIME Sponsor _____

CO-Sponsor	District	CO-Sponsor	District

Same as _____ 18/19 Same as _____ 20/21

Suggested allocation: s.1-2: C.34:15-31.11 et seq. to 2020/17

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

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

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

(2) This prima facie presumption may be rebutted by clear and convincing evidence showing that the worker was not exposed to the disease.

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

c. As used in this act:

"Essential employee" means that:

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

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

"Health care facility" means any non-federal institution, building or agency, or portion thereof whether public or private for profit or nonprofit that is used, operated or designed to provide health services, medical or dental treatment or nursing, rehabilitative, or preventive care to any person. Health care facility includes, but is not limited to: an ambulatory surgical facility, home health agency, hospice, hospital, infirmary, intermediate care facility, dialysis center, long-term care facility, medical assistance facility, mental health center, paid and volunteer emergency medical services,

outpatient facility, public health center, rehabilitation facility, residential treatment facility, skilled nursing facility, and adult day care center. Health care facility also includes, but is not limited to, the following related property when used for or in connection with the foregoing: a laboratory, research facility, pharmacy, laundry facility, health personnel training and lodging facility, patient, guest and health personnel food service facility, and the portion of an office or office building used by persons engaged in health care professions or services.

“Health care worker” means an individual who is employed by a health care facility.

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

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

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

STATEMENT

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

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

The bill defines “essential employee” as (1) essential in support of gubernatorial or federally declared statewide emergency response and recovery operations; or (2) an employee in the public or private

sector with duties and responsibilities, the performance of which is essential to the public's health, safety, and welfare.

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

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DRAFT