

[Second Reprint]

ASSEMBLY, No. 3945

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED APRIL 13, 2020

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Assemblywoman ANNETTE CHAPARRO

District 33 (Hudson)

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SYNOPSIS

Extends eligibility for accidental disability and accidental death benefits to certain PFRS, SPRS, and PERS members who contract COVID-19 and test positive for SARS-CoV-2.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 25, 2020, with amendments.

(Sponsorship Updated As Of: 6/29/2020)

1 AN ACT concerning eligibility for accidental disability and
 2 accidental death benefits for certain members of the Police and
 3 Firemen's Retirement System ¹**[and]**,¹ the Public Employees'
 4 Retirement System ¹, and the State Police Retirement System¹
 5 who contract ¹**[infectious diseases during a public health**
 6 **emergency or state of emergency]** COVID-19¹ ²and test positive
 7 for SARS-CoV-2² and supplementing P.L.1944, c.255
 8 (C.43:16A-1 et seq.) ¹**[and]**,¹ P.L.1954, c.84 (C.43:15A-
 9 1 et seq.) ¹, and P.L.1965, c.89 (C.53:5A-1 et seq.)¹.

10
 11 **BE IT ENACTED** by the Senate and General Assembly of the State
 12 of New Jersey:

13
 14 1. For purposes of paragraph (1) of subsection a. of section 7
 15 P.L.1944, c.255 (C.43:16A-7), permanent and total disability shall
 16 be deemed to have occurred as a direct result of a traumatic event
 17 occurring during and as a result of the performance of regular or
 18 assigned duties if:

19 the member ¹**[contracts an infectious disease]** ²**[contracted]**
 20 contracts² COVID-19¹ ²and tests positive for SARS-CoV-2² during
 21 ²**[the period of]**² ¹**[a]** the¹ public health emergency ¹**[or]** ²**[and]**¹
 22 state of emergency] in the State² declared ¹**[because of that**
 23 **disease]** by the Governor ²**[beginning March 9, 2020 but prior to**
 24 **the termination date of either the public health emergency or the**
 25 **state of emergency, whichever occurs later**¹**]** in Executive Order
 26 No. 103 of 2020 and as extended²;

27 the member is permanently and totally disabled as a result of
 28 ²**[the disease]** COVID-19²; and

29 the member's regular or assigned duties required the member to
 30 interact, and the member so interacted, with the public ¹or to
 31 directly supervise other personnel so interacting with the public¹ on
 32 any date ²**[after the declaration of]** during² the public health
 33 emergency ¹**[or]** ²**[and]**¹ state of emergency and in the State
 34 declared by the Governor in Executive Order No. 103 of 2020 and
 35 as extended and² within ¹**[two weeks]** 14 calendar days¹ prior to
 36 the appearance of symptoms ²consistent with COVID-19² that shall
 37 have been confirmed ¹in writing¹ by a ¹**[physician]** licensed health
 38 care provider¹ ²on a form approved by the board of trustees and
 39 also confirmed by a positive test result for SARS-CoV-2².

40 A member who ²retired during the public health emergency
 41 declared by the Governor in Executive Order No. 103 of 2020 and
 42 as extended, and² has been approved for a retirement allowance

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted May 11, 2020.

²Senate SBA committee amendments adopted June 25, 2020.

1 pursuant to a provision other than this section or section 7 of
 2 P.L.1944, c.255 (C.43:16A-7) prior to the effective date of this act,
 3 P.L. , c. (pending before the Legislature as this bill), may apply
 4 for a retirement allowance pursuant to this section and, if approved,
 5 the prior approval shall be rescinded and the retirement allowance
 6 pursuant to approval under this section shall be made retroactive to
 7 the date of the initial approval of the rescinded retirement
 8 allowance.

9 ²[¹This section shall also apply to a member who was
 10 performing regular or assigned duties but not yet enrolled in the
 11 Police and Firemen's Retirement System who would otherwise be
 12 eligible for an allowance pursuant to this section.]²

13 This section shall not apply to any member who has retired and
 14 subsequently returned to employment pursuant to Executive Order
 15 No. 115 of 2020 or any other executive order similarly permitting a
 16 retired member to return to employment without reenrollment to
 17 assist during ¹[a] the¹ public health emergency ¹[or] and¹ state of
 18 emergency.

19 ²New onset diseases and chronic psychological disease resulting
 20 from prior exposure to, and recovery from, COVID-19 shall not be
 21 deemed a permanent and total disability resulting from COVID-19.²
 22

23 2. For purposes of paragraph (1) of section 10 of P.L.1944,
 24 c.255 (C.43:16A-10), a member whose death is attributable to ¹[an
 25 infectious disease] COVID-19¹, complications therefrom, or the
 26 aggravation or acceleration of a preexisting condition caused
 27 thereby shall be deemed to have occurred as the result of an
 28 accident met in the actual performance of duty at some definite time
 29 and place if:

30 the member contracted ¹[an infectious disease] COVID-19¹
 31 ²and the member's death occurs after receiving a positive test result
 32 for SARS-CoV-2² during ²[the period of]² ¹[a] the¹ public health
 33 emergency ¹[or] ²[and¹ state of emergency] in the State² declared
 34 ¹[because of that disease] by the Governor ²[beginning March 9,
 35 2020 but prior to the termination date of either the public health
 36 emergency or the state of emergency, whichever occurs later¹] in
 37 Executive Order No. 103 of 2020 and as extended²;

38 the member dies as a result of ²[the disease] COVID-19²; and
 39 the member's regular or assigned duties required the member to
 40 interact, and the member so interacted, with the public ¹or to
 41 directly supervise other personnel so interacting with the public¹ on
 42 any date ²[after the declaration of] during² the public health
 43 emergency ¹[or] [and¹ state of emergency and] in the State
 44 declared by the Governor in Executive Order No. 103 of 2020 and
 45 as extended and² within ¹[two weeks] 14 calendar days¹ prior to
 46 the appearance of symptoms ²consistent with COVID-19² that shall

1 have been confirmed ¹in writing¹ by a ¹**【physician】** licensed health
2 care provider¹ ²on a form approved by the board of trustees and also
3 confirmed by a positive test result for SARS-CoV-2².

4 The filing of an accident report with the Police and Firemen’s
5 Retirement System shall not be required for an accidental death
6 benefit allowed pursuant to this section.

7 If a ²member dies during the public health emergency in the
8 State declared by the Governor on Executive Order No. 103 of 2020
9 and as extended and the² benefit has been approved pursuant to a
10 provision other than this section or section 10 of P.L.1944, c.255
11 (C.43:16A-10) prior to the effective date of this act, P.L. , c.
12 (pending before the Legislature as this bill), a beneficiary may
13 apply for a benefit pursuant to this section and, if approved, the
14 prior approval shall be rescinded and the benefit pursuant to
15 approval under this section shall be made retroactive to the date of
16 the initial approval of the rescinded benefit.

17 ²**【¹This section shall also apply to a member who was
18 performing regular or assigned duties but not yet enrolled in the
19 Police and Firemen’s Retirement System when the beneficiary
20 would otherwise be eligible for a benefit pursuant to this section.¹²**

21 This section shall not apply to any member who has retired and
22 subsequently returned to employment pursuant to Executive Order
23 No. 115 of 2020 or any other executive order similarly permitting a
24 retired member to return to employment without reenrollment to
25 assist during ¹**【a】** the¹ public health emergency ¹**【or】** and¹ state of
26 emergency.

27
28 3. As used in this section, “law enforcement officer” includes,
29 but shall not be limited to, sheriff’s officers and corrections
30 officers.

31 For purposes of subsection a. of section 43 of P.L.1954, c.84
32 (C.43:15A-43), permanent and total disability of ¹a¹ member who is
33 a law enforcement officer, firefighter, or emergency medical
34 responder eligible to retire pursuant to that subsection a. shall be
35 deemed to have occurred as a direct result of a traumatic event
36 occurring during and as a result of the performance of regular or
37 assigned duties if:

38 the law enforcement officer, firefighter, or emergency medical
39 responder ¹**【contracts an infectious disease】** ²**【contracted】**
40 contracts² COVID-19¹ ²and tests positive for SARS-CoV-2² during
41 ²**【the period of】**² ¹**【a】** the¹ public health emergency ¹**【or】** ²**【and**¹
42 state of emergency】 in the State² declared ¹**【because of that**
43 disease】 by the Governor ²**【beginning March 9, 2020 but prior to**
44 the termination date of either the public health emergency or the
45 state of emergency, whichever occurs later¹**】** in Executive Order
46 No. 103 of 2020 and as extended²;

1 the law enforcement officer, firefighter, or emergency medical
2 responder is permanently and totally disabled as a result of ²[the
3 disease] COVID-19²; and

4 the law enforcement officer, firefighter, or emergency medical
5 responder's regular or assigned duties required the law enforcement
6 officer, firefighter, or emergency medical responder to interact, and
7 the law enforcement officer, firefighter, or emergency medical
8 responder so interacted, with the public ¹or to directly supervise
9 other personnel so interacting with the public¹ on any date ²[after
10 the declaration of] during² the public health emergency ¹[or]
11 ²[and¹ state of emergency and] in the State declared by the
12 Governor in Executive Order No. 103 of 2020 and as extended and²
13 within ¹[two weeks] 14 calendar days¹ prior to the appearance of
14 symptoms ²consistent with COVID-19² that shall have been
15 confirmed ¹in writing¹ by a ¹[physician] licensed health care
16 provider¹ ²on a form approved by the board of trustees and also
17 confirmed by a positive test result for SARS-CoV-2².

18 A member who is a law enforcement officer, firefighter, or
19 emergency medical responder and who ²retired during the public
20 health emergency in the State declared by the Governor in
21 Executive Order No. 103 of 2020 and as extended and² has been
22 approved for a retirement allowance pursuant to a provision other
23 than this section or section 43 of P.L.1954, c.84 (C.43:15A-43)
24 prior to the effective date of this act, P.L. , c. (pending before
25 the Legislature as this bill), may apply for a retirement allowance
26 pursuant to this section and, if approved, the prior approval shall be
27 rescinded and the retirement allowance pursuant to approval under
28 this section shall be made retroactive to the date of the initial
29 approval of the rescinded retirement allowance.

30 ²¹This section shall also apply to a law enforcement officer,
31 firefighter, or emergency medical responder who was performing
32 regular or assigned duties but not yet enrolled in the Public
33 Employees' Retirement System who would otherwise be eligible for
34 an allowance pursuant to this section.¹²

35 This section shall not apply to any member who has retired and
36 subsequently returned to employment pursuant to Executive Order
37 No. 115 of 2020 or any other executive order similarly permitting a
38 retired member to return to employment without reenrollment to
39 assist during ¹[a] the¹ public health emergency ¹[or] and¹ state of
40 emergency.

41 ²New onset diseases and chronic psychological disease resulting
42 from prior exposure to, and recovery from, COVID-19 shall not be
43 deemed a permanent and total disability resulting from COVID-19.²
44

45 4. As used in this section, "law enforcement officer" includes,
46 but shall not be limited to, sheriff's officers and corrections
47 officers.

1 For purposes of paragraph (1) of subsection a. of section 49 of
2 P.L.1954, c.84 (C.43:15A-49), a member who is a law enforcement
3 officer, firefighter, or emergency medical responder and whose
4 death is attributable to ¹~~an infectious disease~~ COVID-19¹,
5 complications therefrom, or the aggravation or acceleration of a
6 preexisting condition caused thereby shall be deemed to have
7 occurred as the result of an accident met in the actual performance
8 of duty at some definite time and place if:

9 the law enforcement officer, firefighter, or emergency medical
10 responder contracted ¹~~an infectious disease~~ COVID-19¹ ²and the
11 member's death occurs after receiving a positive test result for
12 SARS-CoV-2² during ²~~the period of~~ ¹~~a~~ the¹ public health
13 emergency ¹~~or~~ ²~~and~~ state of emergency² in the State² declared
14 ¹~~because of that disease~~ by the Governor ²~~beginning March 9,~~
15 2020 but prior to the termination date of either the public health
16 emergency or the state of emergency, whichever occurs later¹ in
17 Executive Order No. 103 of 2020 and as extended²;

18 the law enforcement officer, firefighter, or emergency medical
19 responder dies as a result of ²~~the disease~~ COVID-19²; and

20 the law enforcement officer, firefighter, or emergency medical
21 responder's regular or assigned duties required the law enforcement
22 officer, firefighter, or emergency medical responder to interact, and
23 the law enforcement officer, firefighter, or emergency medical
24 responder so interacted, with the public ¹or to directly supervise
25 other personnel so interacting with the public¹ on any date ²~~after~~
26 the declaration of² during² the public health emergency ¹~~or~~
27 ²~~and~~ state of emergency and² in the State declared by the
28 Governor in Executive Order No. 103 of 2020 and as extended and²
29 within ¹~~two weeks~~ 14 calendar days¹ prior to the appearance of
30 symptoms ²consistent with COVID-19² that shall have been
31 confirmed ¹in writing¹ by a ¹~~physician~~ licensed health care
32 provider¹ ²on a form approved by the board of trustees and also
33 confirmed by a positive test result for SARS-CoV-2².

34 The filing of an accident report with the Public Employees'
35 Retirement System shall not be required for an accidental death
36 benefit allowed pursuant to this section.

37 If ²~~an application of a beneficiary~~ a member dies during the
38 public health emergency in the State declared by the Governor in
39 Executive Order No. 103 of 2020 and as extended and the benefit²
40 has been approved pursuant to a provision other than this section or
41 section 49 of P.L.1954, c.84 (C.43:15A-49) prior to the effective
42 date of this act, P.L. , c. (pending before the Legislature as this
43 bill), a beneficiary may apply for a benefit pursuant to this section
44 and, if approved, the prior approval shall be rescinded and the
45 benefit pursuant to approval under this section shall be made
46 retroactive to the date of the rescinded initial approval.

1 ²[¹This section shall also apply to a law enforcement officer,
 2 firefighter, or emergency medical responder who was performing
 3 regular or assigned duties but not yet enrolled in the Public
 4 Employees' Retirement System when the beneficiary would
 5 otherwise be eligible for a benefit pursuant to this section.]¹²

6 This section shall not apply to any member who has retired and
 7 subsequently returned to employment pursuant to Executive Order
 8 No. 115 of 2020 or any other executive order similarly permitting a
 9 retired member to return to employment without reenrollment to
 10 assist during ¹[a] the¹ public health emergency ¹[or] and¹ state of
 11 emergency.

12
 13 ¹5. For purposes of subsection a. of section 10 of P.L.1965,
 14 c.89 (C.53:5A-10), permanent and total disability shall be deemed
 15 to have occurred as a direct result of a traumatic event occurring
 16 during and as a result of the performance of regular or assigned
 17 duties if:

18 the member ²[contracted] contracts² COVID-19 ²and tests
 19 positive for SARS-CoV-2² during ²[the period of]² the public
 20 health emergency ²[and state of emergency] in this State² declared
 21 by the Governor ²[beginning March 9, 2020 but prior to the
 22 termination date of either the public health emergency or the state
 23 of emergency, whichever occurs later] in Executive Order No. 103
 24 of 2020 and as extended²;

25 the member is permanently and totally disabled as a result of
 26 ²[the disease] COVID-19²; and

27 the member's regular or assigned duties required the member to
 28 interact, and the member so interacted, with the public or to directly
 29 supervise other personnel so interacting with the public on any date
 30 ²[after the declaration of] during² the public health emergency
 31 ²[and state of emergency and] in this State declared by the
 32 Governor in Executive Order No. 103 of 2020 and as extended and²
 33 within 14 calendar days prior to the appearance of symptoms
 34 ²consistent with COVID-19² that shall have been confirmed in
 35 writing by a licensed health care provider ²on a form approved by
 36 the board of trustees and also confirmed by a positive test result for
 37 SARS-CoV-2².

38 A member who ²retired during the public health emergency in
 39 the State declared by the Governor in Executive Order No. 103 of
 40 2020 and as extended and² has been approved for a retirement
 41 allowance pursuant to a provision other than this section or section
 42 10 of P.L.1965, c.89 (C.53:5A-10) prior to the effective date of this
 43 act, P.L. , c. (pending before the Legislature as this bill), may
 44 apply for a retirement allowance pursuant to this section and, if
 45 approved, the prior approval shall be rescinded and the retirement
 46 allowance pursuant to approval under this section shall be made

1 retroactive to the date of the initial approval of the rescinded
2 retirement allowance.

3 ²[This section shall also apply to a member who was performing
4 regular or assigned duties but not yet enrolled in the State Police
5 Retirement System who would otherwise be eligible for an
6 allowance pursuant to this section.]²

7 This section shall not apply to any member who has retired and
8 subsequently returned to employment pursuant to Executive Order
9 No. 115 of 2020 or any other executive order similarly permitting a
10 retired member to return to employment without reenrollment
11 during the public health emergency and state of emergency.¹

12 ²New onset diseases and chronic psychological disease resulting
13 from prior exposure to, and recovery from, COVID-19 shall not be
14 deemed a permanent and total disability resulting from COVID-19.²
15

16 ¹6. For purposes of subsection a. of section 14 of P.L.1965, c.89
17 (C.53:5A-14), a member whose death is attributable to COVID-19,
18 complications therefrom, or the aggravation or acceleration of a
19 preexisting condition caused thereby shall be deemed to have
20 occurred as the result of an accident met in the actual performance
21 of duty at some definite time and place if:

22 the member contracted COVID-19² and the member's death
23 occurs after receiving a positive test result for SARS-CoV-2² during
24 the ²[period of]² the public health emergency ²[and state of
25 emergency] in this State² declared by the Governor ²[beginning
26 March 9, 2020 but prior to the termination date of either the public
27 health emergency or the state of emergency, whichever occurs
28 later] in Executive Order No. 103 of 2020 and as extended²;

29 the member dies as a result of ²[the disease] COVID-19²; and
30 the member's regular or assigned duties required the member to
31 interact, and the member so interacted, with the public or to directly
32 supervise other personnel so interacting with the public on any date
33 ²[after the declaration of] during² the public health emergency
34 ²[and state of emergency and] in this State declared by the
35 Governor in Executive Order No. 103 of 2020 and as extended and²
36 within 14 calendar days prior to the appearance of symptoms
37 ²consistent with COVID-19² that shall have been confirmed in
38 writing by a licensed health care provider ²on a form approved by
39 the board of trustees and also confirmed by a positive test result for
40 SARS-CoV-2².

41 The filing of an accident report with the State Police Retirement
42 System shall not be required for an accidental death benefit allowed
43 pursuant to this section.

44 If a ²member dies during the public health emergency in the
45 State declared by the Governor in Executive Order No. 103 of 2020
46 and as extended and the² benefit has been approved pursuant to a

1 provision other than this section or section 14 of P.L.1965, c.89
2 (C.53:5A-14) prior to the effective date of this act, P.L. _____, c.
3 (pending before the Legislature as this bill), a beneficiary may
4 apply for a benefit pursuant to this section and, if approved, the
5 prior approval shall be rescinded and the benefit pursuant to
6 approval under this section shall be made retroactive to the date of
7 the initial approval of the rescinded benefit.

8 ²[This section shall also apply to a member who was performing
9 regular or assigned duties but not yet enrolled in the State Police
10 Retirement System when the beneficiary would otherwise be
11 eligible for a benefit pursuant to this section.]²

12 This section shall not apply to any member who has retired and
13 subsequently returned to employment pursuant to Executive Order
14 No. 115 of 2020 or any other executive order similarly permitting a
15 retired member to return to employment without reenrollment to
16 assist during the public health emergency and state of emergency.¹

17
18 ^{17.} The Division of Pension and Benefits in the Department of
19 the Treasury², and the board of trustees in the case of the Police and
20 Firemen's Retirement System,² shall notify all members of the
21 Police and Firemen's Retirement System, all law enforcement
22 officer, firefighter and emergency medical responder members of
23 the Public Employees' Retirement System, and all members of the
24 State Police Retirement System who are enrolled in those respective
25 retirement systems on the effective date of this act, P.L. _____, c.
26 (pending before the Legislature as this bill), of the provisions of this
27 act. The division², and the board of trustees in the case of the
28 Police and Firemen's Retirement System,² shall also notify all
29 members who retired on or after March 9, 2020 and all beneficiaries
30 of members who died on or after March 9, 2020 of the provisions of
31 this act.

32 The division², and the board of trustees in the case of the Police
33 and Firemen's Retirement System,² shall provide the required
34 notice within 30 days after the effective date of this act.¹

35
36 ^{18.} Notwithstanding any provision of the "Administrative
37 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
38 contrary, the board of trustees for the Police and Firemen's
39 Retirement System, for the Public Employees' Retirement System
40 and for the State Police Retirement System, during the 90-day
41 period following the effective date of this act, P.L. _____, c.
42 (pending before the Legislature as this bill), may adopt, amend, or
43 repeal any rule or regulation on an emergency basis for a period not
44 to exceed 180 days for the purpose of the expeditious and effective
45 implementation of the provisions of this act. Any emergency rule
46 or regulation authorized by this section shall be subject to such
47 terms and conditions as a board of trustees may deem appropriate.

1 Such emergency rules or regulations shall be effective when
2 published by the board on the website of the Department of the
3 Treasury², and on the website of the board of trustees in the case of
4 the Police and Firemen's Retirement System². Notice of any
5 emergency rule or regulation pursuant to this section shall be
6 published in the New Jersey Register not later than 30 days
7 subsequent to the implementation of the emergency rules or
8 regulations.¹

9
10 ¹~~5.~~ 9.¹ This act shall take effect immediately and shall be
11 retroactive to ¹~~January 1, 2020~~ March 9, 2020¹.