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**SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT**  
**Senator Lola Smallwood-Cuevas, Chair**  
**2025 - 2026 Regular**

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<b>Bill No:</b>	AB 406	<b>Hearing Date:</b>	July 9, 2025
<b>Author:</b>	Schiavo		
<b>Version:</b>	June 27, 2025		
<b>Urgency:</b>	Yes	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Glenn Miles		

**SUBJECT:** Employment: unlawful discrimination: victims of violence

**KEY ISSUE**

This bill makes technical amendments to Labor and Government code sections related to last year's AB 2499, to clarify the rights of crime victims to use paid time off for specified purposes; designates the Labor Commissioner's Office as the agency that retains jurisdiction of pending cases arising from specified adverse actions against employees on or before December 31, 2024; clarifies the Civil Rights Department (CRD)'s jurisdiction of such cases after that date; and makes conforming changes to the Labor Code and the Government Code to reflect the transfer of responsibilities between the two agencies.

**ANALYSIS**

**Existing law:**

- 1) Establishes the Department of Industrial Relations (DIR) in the Labor and Workforce Development Agency and vests it with various powers and duties to foster, promote, and develop the welfare of the wage earners of California, to improve their working conditions, and to advance their opportunities for profitable employment. (Labor Code §50.5.)
- 2) Establishes within the DIR the Division of Labor Standards Enforcement (DLSE) under the direction of the Labor Commissioner (LC), and empowers the LC with ensuring a just day's pay in every workplace through robust enforcement of labor laws, including the investigation of complaints. (Labor Code §§79-107.)
- 3) Establishes the Civil Rights Department (CRD) in the Business, Consumer Services, and Housing Agency and authorizes it to bring civil actions pursuant to several state and federal laws prohibiting discrimination and protecting civil rights. (Government Code §§12900 et seq.)
- 4) Makes specified discriminatory actions by an employer unlawful employment practices, unless based upon a bona fide occupational qualification, or, except as specified. (Government Code §12940)
- 5) Prohibits an employer from, inter alia, discharging or in any manner discriminating or retaliating against an employee who is a victim for taking time off from work to obtain or attempt to obtain any relief. Relief includes, but is not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or their child. (Government Code § 12945.8 (a))

- 6) Prohibits an employer with 25 or more employees from discharging or in any manner discriminating or retaliating against an employee who is a victim or who has a family member who is a victim for taking time off from work for a number of specified reasons related to obtaining relief. (Government Code §12945.8 (b))
- 7) Allows an employee to use vacation, personal leave, paid sick leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off for a specified purposes arising from being a victim of a crime. (Government Code §12945.8 (g))
- 8) Defines various terms including “Victim” and “Qualifying act of violence”, as specified. (Government Code §12945.8 (j))
- 9) Requires an employer to allow an employee who is a victim of a crime to be absent from work in order to attend judicial proceedings related to that crime. (Labor Code §230.2 (b))
- 10) Prohibits an employer from discharging from employment or in any manner discriminating against an employee because the employee is absent from work for specified purposes arising from being a victim of a crime. (Labor Code §230.2 (f))
- 11) Authorizes any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has exercised his or rights, as specified, may file a complaint with the Division of Labor Standards Enforcement of the Department of Industrial Relations. (Labor Code §230.2 (g))

**This bill:**

- 1) Makes a technical, non-substantive amendment that recasts the requirement that an employee give reasonable notice to an employer when taking time off for jury duty and combines that requirement in another provision requiring reasonable notice for several types of permitted leave.
- 2) Moves to the Government Code from the Labor Code, the mandate that commencing January 1, 2026, an employer may not discharge or in any manner discriminate or retaliate against an employee who is a victim or a family member of a victim for taking time off from work in order to attend judicial proceedings related to that crime, including, but not limited to, any delinquency proceeding, a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding where a right of that person is an issue.
- 3) Clarifies the list of crimes, as specified, for which a victim of crime may take time off to be the following:
  - a. For a person against whom any of the following crimes as defined in specified sections of the Penal Code are committed:
    - i. A violent felony.
    - ii. A serious felony.
    - iii. Felonious theft or embezzlement.

- b. For a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of any of the following crimes or delinquent acts:
  - i. Vehicular manslaughter while intoxicated.
  - ii. Felony child abuse likely to produce great bodily harm or a death.
  - iii. Assault resulting in the death of a child under eight years of age.
  - iv. Felony domestic violence.
  - v. Felony physical abuse of an elder or dependent adult.
  - vi. Felony stalking.
  - vii. Solicitation for murder.
  - viii. A serious felony.
  - ix. Hit-and-run causing death or injury.
  - x. Felony driving under the influence causing injury.
  - xi. Sexual assault.
- 4) Recasts and restores Labor Code §230 and §230.1 that AB 2499 deleted regarding employees' rights to use paid leave, inter alia, for jury duty, judicial proceedings to serve as a witness or answer subpoenas, or to obtain relief from domestic violence. The bill clarifies that pending cases arising from employer violations of these rights, as specified, occurring on or before December 31, 2024, are still valid and within the jurisdiction of the Labor Commissioner. The bill repeals §230 and §230.1 on January 1, 2035.
- 5) Makes a technical amendment to provide that Labor provisions governing employer violations of employee rights under Labor Code §230.2 and §230.5 (regarding employees who are victims of crimes or whose family members are victims of crimes, to use paid leave to attend judicial proceedings related to the crime, as specified,) apply only to alleged actions or inactions occurring on or before December 31, 2025. The bill repeals §230.2 and 230.5 on January 1, 2035.
- 6) Makes a technical amendment to Labor Code §246.5 requiring an employer to provide paid sick days for specified purposes on the oral or written request of an employee's request, to reference the appropriate Labor and Government Code sections for which an employee may take paid leave.
- 7) Contains an urgency clause so that the bill's provisions are effective upon signing by the Governor.

## COMMENTS

### 1. Need for this bill?

According to the author:

“AB 2499 inadvertently left out crime victim survivor protections that should have been transferred from the Labor Code to Government Code. Additionally, AB 2499 did not include timelines for the transfer of enforcement authority over these provisions from the Labor Commissioners Office to the Civil Rights Department.”

### 2. Proponent Arguments

According to the author:

“AB 406 corrects the disjointed timelines and clearly delineates enforcement authority between the Civil Rights Department and the Labor Commissioner’s Office by:

- Reenacting Labor Code Section 230 and 230.1 and adding a repeal date of January 01, 2035, to those sections to make clear LCO retains jurisdiction over pending cases where an adverse action took place on or before December 31, 2024.
- Transferring remaining crime victim related protections from Labor Code Sections 230.2 and 230.5 to Government Code Section 12945.8 and adding a sunset date of December 31, 2025, to Labor Code Section 230.2 and 230.5 to house all crime victim related protections within one agency, the Civil Rights Department, and make it easier for crime victims to know where to file claims.
- Aligning paid sick leave under Labor Section 230.2 and 230.5 within the new Government Code Section 12945.8(a)(4) to allow crime victims to use paid sick leave for crime related purposes protected under Government Code Section 12945.8.
- Correcting conflicts between Government Code and Labor Code about permitted uses for paid sick leave. Government Code Section 12945.8 allows an employee to use paid sick leave for jury duty, crime victims appearing in court to comply with a subpoena, or other court order but corresponding Labor Code Section 246.5(a) (2) does not allow for paid sick leave to be used for these purposes. This allows workers to get relief through the wage claim process for paid sick leave used for these purposes.”

### **3. Opponent Arguments:**

None received.

### **4. Dual Referral:**

The Senate Rules Committee referred this bill to the Senate Labor, Public Employment and Retirement Committee and to the Senate Judiciary Committee.

### **5. Prior Legislation:**

AB 2499 (Schiavo, Chapter 967, Statutes of 2024) provided an employee of an employer with 25 or more employees who is a victim or who has a family member who is a victim of a crime the right to job-protected leave to attend to their or their family member's needs and ensure their safety. Additionally, the act permitted both an employee victim and an employee who has a family member who is a victim to use sick leave for time off to obtain victim services.

AB 1041 (Wicks, Chapter 748, Statutes of 2022) added a “designated person” to the list of individuals for whom an employee may take leave under CFRA and the Healthy Workplaces, Healthy Families Act of 2014 (Paid Sick Days).

AB 1119 (Wicks, 2021) would have expanded the list of protected characteristics under FEHA to include “family responsibilities,” defined to mean the obligations of an employee to

provide direct and ongoing care for a minor child or a care recipient. *AB 1119 was held by the Assembly Appropriations Committee.*

AB 2366 (R. Bonta, 2018) would have extended permitted time off protections to victims of sexual harassment and to the immediate family members providing support to victims of sexual harassment, domestic violence, sexual assault and stalking. *AB 2366 was held by the Assembly Appropriations Committee.*

SB 1383 (Jackson, Chapter 86, Statutes of 2020) expanded the CFRA to provide job-protected leave to additional employees (those working for employers with five or more employees instead of the previous 50 employee threshold) and expanded the list of family members for which an employee can take leave.

### **SUPPORT**

None received.

### **OPPOSITION**

None received.

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