

Date of Hearing: September 10, 2025

ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT

Liz Ortega, Chair

AB 406 (Schiavo) – As Amended June 27, 2025

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

**SUMMARY:** Makes technical and conforming amendments to Labor Code and Government Code sections to clarify timelines for enforcement by the Civil Rights Department (CRD) and the Division of Labor Standards Enforcement (DLSE) regarding employee protections for victims of crime and family members of victims of crime related to AB 2499 (Schiavo, Chapter 967, Statutes of 2024). Specifically, **this bill**:

- 1) Recasts and restores specified Labor Code sections that AB 2499 deleted regarding employees' rights to use take time off work for jury duty, judicial proceedings to serve as a witness or answer subpoenas, or to obtain relief related to being a crime victim. Repeals these sections on January 1, 2035.
- 2) Clarifies that pending cases arising from employer violations of the above rights, as specified, occurring on or before December 31, 2024, are still valid and within the jurisdiction of the DLSE. Transfers jurisdiction to the CRD for such cases arising from employer violations on or after January 1, 2025.
- 3) 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. Retains the DLSE's jurisdiction over claims arising from employer violations of these rights on or before December 31, 2025.
- 4) Aligns specified Labor Code sections with the new Government Code section referenced in (3) above to allow crime victims to use paid sick leave for crime-related purposes, as specified.
- 5) Makes conforming changes to correct conflicts between the Government Code and the Labor Code about permitted uses for paid sick leave.
- 6) Makes other technical and clarifying changes.
- 7) Contains an urgency clause.

**EXISTING LAW:**

- 1) Establishes the DLSE within the Department of Industrial Relations (DIR), to enforce, among other things, wage and hour law, anti-retaliation provisions, and employer notice requirements. Labor Code § 79 et seq.

- 2) Establishes the CRD in the Business, Consumer Services, and Housing Agency to, among other things, receive, investigate, conciliate, mediate, and prosecute complaints alleging practices made unlawful under specified state and federal laws prohibiting discrimination and protecting civil rights. Government Code § 12900 et seq.
- 3) Prohibits an employer from 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).
- 4) 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).
- 5) Authorizes an employee to use vacation, personal leave, paid sick leave, or compensatory time off, 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).
- 6) 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).
- 7) 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).
- 8) 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, to file a complaint with the DLSE. Labor Code § 230.2(g).

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

**COMMENTS:** According to the author, “Last year I authored AB 2499 to ensure crime victim survivors and their loved ones had the ability to take protected leave to recover and regain their sense of safety. That measure also permitted both an employee victim and an employee who has a family member who is a victim to use sick leave to obtain victim services. AB 406 includes technical clean up to AB 2499. AB 406 transfers remaining crime related protections from the Labor Commissioner’s jurisdiction to the Civil Rights Department, aligns timelines for this transfer, corrects conflict between Government Code and Labor Code about permitted uses for Paid Sick Leave, and clarifies authority over pending claims.”

Specifically, the author states that cleanup legislation is necessary in that:

- “There is unclear jurisdiction over pending cases where an adverse action took place on or before December 31, 2024.

- Certain crime victim related protections are in Labor Code while others are in Government Code, which makes it more difficult for crime victims to know where to file claims.
- Paid sick leave under Labor Section 230.2 and 230.5 within the new Government Code Section 12945.8(a)(4) are unaligned.
- There are 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.”

The author adds, per HR 39 (Gipson, 2021), that “this bill will help implement job protection measures for crime victims in AB 2499, which will help to promote more equitable solutions for vulnerable workers.”

**Arguments in Support:**

None on file.

**Arguments in Opposition:**

None on file.

**Prior Legislation:**

AB 2499 (Schiavo), Chapter 967, Statutes of 2024, entitled 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 to job protected leave up to 12 weeks to attend to their or their family member's needs and ensure their safety; the law permits 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.

**REGISTERED SUPPORT / OPPOSITION:****Support**

None on file.

**Opposition**

None on file.

**Analysis Prepared by:** Erin Hickey / L. & E. /