

AB 478
Crime Victim Leave of Absence
Effective 1/1/04

Existing law prohibits an employer from discharging or discriminating against an employee for taking time off to serve on a jury.

This bill would require that an employer allow an employee who is a victim of a crime, as defined, or certain persons who are related to a crime victim, to be absent from work in order to attend judicial proceedings related to the crime. The employer is prohibited discharging or in any manner discriminating against an employee, in compensation or other terms, conditions, or privileges of employment, (including, but not limited to the loss of seniority or precedence) because the employee is absent from work in order to attend judicial proceedings related to the crime, and would authorize the employee to file a complaint with the Division of Labor Standards Enforcement.

“Persons related to a crime victim” includes: spouse, child, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father, stepfather or registered domestic partner.

Crime victims include persons against who any of the following were committed:

- (A) A violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code.
- (B) A serious felony, as defined in subdivision (c) of Section 1192.7 of the Penal Code.
- (C) A felony provision of law proscribing theft or embezzlement

Before an employee may be absent from work, the employee must give the employer a copy of the notice of each scheduled proceeding that is provided to the victim by the agency responsible for providing notice, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time after the absence, provides the employer with documentation evidencing the judicial proceeding.

An employee who is absent from work pursuant may elect to use the employee's accrued paid vacation time, personal leave time, sick leave time, compensatory time off that is otherwise available to the employee, or unpaid leave time, unless otherwise provided by a collective bargaining agreement, for an absence.

The employer must keep confidential any records regarding the employee's absence from work.

Section 667.5 of the Penal Code includes the following:

- Murder or voluntary manslaughter
- Mayhem
- Rape
- Sodomy by force

- Oral Copulation by force
- Lewd acts on a child under age 14
- Any felony in which the defendant inflicts great bodily injury on another person
- Robbery
- Arson
- Attempted murder
- Kidnapping
- Assault with the intent to commit mayhem, rape, sodomy or oral copulation
- Continuous sexual abuse of a child
- Carjacking
- Extortion
- Threats to victims or witnesses
- Burglary of the first degree

Section 1192.7 of the Penal Code includes the following additional crimes:

- Assault with a deadly weapon on a peace officer
- Exploding a destructive device or any explosive with intent to injure
- Exploding a destructive device or any explosive causing bodily injury
- Exploding a destructive device or any explosive with intent to murder
- Bank robbery
- Any felony in which defendant personally used a dangerous or deadly weapon
- Selling, furnishing, administering, giving or offering to sell, furnish, administer or give to a minor any heroin, cocaine, PCP, etc.
- Grand theft involving a firearm
- Carjacking
- Throwing acid or flammable substances
- Assault with a deadly weapon
- Discharge of a firearm at an inhabited dwelling, vehicle or aircraft
- Shooting from a vehicle
- Terrorist threats
- Conspiracy to commit an offense