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AB-406 Employment: unlawful discrimination: victims of violence. (2025-2026)

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Assembly Bill No. 406

CHAPTER 148

An act to amend Section 12945.8 of the Government Code, and to amend Section 246.5 of, to amend and repeal Sections 230.2 and 230.5 of, and to add and repeal Sections 230 and 230.1 of, the Labor Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 01, 2025. Filed with Secretary of State October 01, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

AB 406, Schiavo. Employment: unlawful discrimination: victims of violence.

Existing law, the California Fair Employment and Housing Act, establishes the Civil Rights Department within the Business, Consumer Services, and Housing Agency, under the direction of the Director of Civil Rights, to enforce civil rights laws with respect to housing and employment and to protect and safeguard the right of all persons to obtain and hold employment without discrimination based on specified characteristics or status. Existing law prescribes various functions, duties, and powers of the department, including, among others, to bring prescribed civil actions for violations of specified federal civil rights and antidiscrimination laws.

Prior law, until January 1, 2025, authorized an employee who was discriminated or retaliated against for exercising certain rights to file a complaint with the Division of Labor Standards Enforcement in accordance with specified Labor Code provisions. These employee rights include, among other things, the right to take time off work to serve on a trial or to obtain specified crime-related relief.

Existing law, as of January 1, 2025, transferred the authority to enforce these discrimination provisions from the Division of Labor Standards Enforcement to the Civil Rights Department. Existing law also repealed the above-described Labor Code provisions, and added new enforcement provisions to the California Fair Employment and Housing Act within the Government Code. Among other changes, these provisions refer to a "qualifying act of violence," as defined, instead of crime, or crime or abuse, for purposes of obtaining relief. Existing law further 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 work for any of a number of additional prescribed purposes relating to a qualifying act of violence, as defined. Existing law requires an employee, as a condition of taking time off, to provide the employer with reasonable advance notice, unless not feasible, in accordance with certain procedural requirements.

This bill would reinstate the above-described former Labor Code provisions, to apply only to alleged actions or inactions occurring on or before December 31, 2024.

This bill would also transfer enforcement authority for two additional discrimination provisions relating to attending judicial proceedings from the Division of Labor Standards Enforcement to the Civil Rights Department.

The bill would make other conforming changes.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12945.8 of the Government Code is amended to read:

12945.8. (a) An employer shall not do any of the following:

- (1) Discharge or in any manner discriminate against an employee for taking time off to serve as required by law on an inquest jury or trial jury.
- (2) Discharge or in any manner discriminate or retaliate against an employee, including, but not limited to, an employee who is a victim, for taking time off to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding.
- (3) Discharge or in any manner discriminate or retaliate 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.
- (4) Commencing January 1, 2026, 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 postarrest release decision, plea, sentencing, postconviction release decision, or any proceeding where a right of that person is an issue.

(b) An employer with 25 or more employees shall not discharge or in any manner discriminate or retaliate against an employee who is a victim or who has a family member who is a victim for taking time off from work for any of the following purposes:

- (1) To obtain or attempt to obtain any relief for the family member. 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 family member of the victim.
- (2) To seek, obtain, or assist a family member to seek or obtain, medical attention for or to recover from injuries caused by a qualifying act of violence.
- (3) To seek, obtain, or assist a family member to seek or obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency as a result of a qualifying act of violence.
- (4) To seek, obtain, or assist a family member to seek or obtain psychological counseling or mental health services related to an experience of a qualifying act of violence.
- (5) To participate in safety planning or take other actions to increase safety from future qualifying acts of violence.
- (6) To relocate or engage in the process of securing a new residence due to the qualifying act of violence, including, but not limited to, securing temporary or permanent housing or enrolling children in a new school or childcare.
- (7) To provide care to a family member who is recovering from injuries caused by a qualifying act of violence.
- (8) To seek, obtain, or assist a family member to seek or obtain civil or criminal legal services in relation to the qualifying act of violence.
- (9) To prepare for, participate in, or attend any civil, administrative, or criminal legal proceeding related to the qualifying act of violence.
- (10) To seek, obtain, or provide childcare or care to a care-dependent adult if the childcare or care is necessary to ensure the safety of the child or dependent adult as a result of the qualifying act of violence.

(c) (1) As a condition of taking time off for a purpose set forth in paragraph (1), (3), or (4) of subdivision (a), or subdivision (b), the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

- (2) When 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 a certification to the employer upon request by the employer. Certification shall be sufficient in the form of any of the following:

(A) A police report indicating that the employee or a family member of the employee was a victim.

(B) A court order protecting or separating the employee or a family member of the employee from the perpetrator of the qualifying act of violence, or other evidence from a court or prosecuting attorney that the employee or a family member of the employee has appeared in court.

(C) Documentation from a licensed medical professional, domestic violence counselor, as defined in Section 1037.1 of the Evidence Code, a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, victim advocate, licensed health care provider, or counselor that the employee or a family member of the employee was undergoing treatment or seeking or receiving services directly related to the qualifying act of violence.

(D) Any other form of documentation that reasonably verifies that the qualifying act of violence occurred, including, but not limited to, a written statement signed by the employee, or an individual acting on the employee's behalf, certifying that the absence is for a purpose authorized under this section.

(3) To the extent allowed by law and consistent with subparagraph (D) of paragraph (7) of subdivision (e), the employer shall maintain the confidentiality of any employee requesting leave under paragraph (3) or (4) of subdivision (a), or subdivision (b). Furnishing evidence or providing a certification under this subdivision shall not waive any confidentiality or privilege that may exist between the employee or employee's family member and a third party.

(d) An employer shall not discharge or in any manner discriminate or retaliate against an employee because of the employee's status, or the employee's family member's status, as a victim if the employee provides notice to the employer of the status or the employer has actual knowledge of the status.

(e) (1) An employer shall provide reasonable accommodations for an employee who is a victim or whose family member is a victim of a qualifying act of violence who requests an accommodation for the safety of the employee while at work.

(2) For purposes of this subdivision, reasonable accommodations may include the implementation of safety measures, including a transfer, reassignment, modified schedule, changed work telephone, permission to carry telephone at work, changed work station, installed lock, assistance in documenting domestic violence, sexual assault, stalking, or another qualifying act of violence that occurs in the workplace, an implemented safety procedure, or another adjustment to a job structure, workplace facility, or work requirement in response to domestic violence, sexual assault, stalking, or other qualifying act of violence, or referral to a victim assistance organization.

(3) An employer is not required under this section to provide a reasonable accommodation to an employee who has not disclosed the employee's status, or the employee's family member's status, as a victim.

(4) The employer shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations.

(5) In determining whether the accommodation is reasonable, the employer shall consider an exigent circumstance or danger facing the employee or their family member.

(6) This subdivision does not require the employer to undertake an action that constitutes an undue hardship on the employer's business operations, as defined by Section 12926 of the Government Code. For the purposes of this subdivision, an undue hardship also includes an action that would violate an employer's duty to furnish and maintain a place of employment that is safe and healthful for all employees as required by Section 6400 of the Labor Code.

(7) (A) Upon the request of an employer, an employee requesting a reasonable accommodation pursuant to this subdivision shall provide the employer a written statement signed by the employee or an individual acting on the employee's behalf, certifying that the accommodation is for a purpose authorized under this subdivision.

(B) The employer may also request certification from an employee requesting an accommodation pursuant to this subdivision demonstrating the employee's status, or the employee's family member's status, as a victim. Certification shall be sufficient in the form of any of the categories described in paragraph (2) of subdivision (c).

(C) An employer who requests certification pursuant to subparagraph (B) may request recertification of an employee's status, or an employee's family member's status, as a victim, or ongoing circumstances related to the qualifying act of violence, every six months after the date of the previous certification.

(D) Any verbal or written statement, police or court record, or other documentation provided to an employer identifying an employee or the employee's family member as a victim shall be maintained as confidential by the employer and shall not be disclosed by the employer except as required by federal or state law or as necessary to protect the employee's safety in the workplace. The employee shall be given notice before any authorized disclosure. Furnishing evidence or providing a

certification under this subdivision shall not waive any confidentiality or privilege that may exist between the employee or employee's family member and a third party.

(E) (i) If circumstances change and an employee needs a new accommodation, the employee shall request a new accommodation from the employer.

(ii) Upon receiving the request, the employer shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations.

(F) If an employee no longer needs an accommodation, the employee shall notify the employer that the accommodation is no longer needed.

(8) An employer shall not retaliate against an employee for requesting a reasonable accommodation under this subdivision, regardless of whether the request was granted.

(f) It shall be an unlawful employment practice for an employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under this section.

(g) An employee may 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 purpose specified in subdivision (a) or (b). The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

(h) This section does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the 12 weeks provided under the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2601 et seq.).

(i) An employer may limit the total leave taken pursuant to this section as follows:

(1) An employer may limit total leave time taken pursuant to subdivision (b) to 12 weeks.

(2) If an employee's family member is a victim who is not deceased as a result of a crime, and the employee is not a victim, and the employee takes leave pursuant to paragraph (6) of subdivision (b), the employer may limit the leave taken for that reason to five days.

(3) If any employee's family member is a victim who is not deceased as a result of crime, and the employee is not a victim, the employer may limit the total leave taken pursuant to subdivision (b) to 10 days.

(4) Leave taken by an employee pursuant to this section shall run concurrently with leave taken pursuant to the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2601 et seq.) and the Moore-Brown-Roberti Family Rights Act, commonly referred to as the California Family Rights Act (Sections 12945.2 and 19702.3 of the Government Code), if the employee would have been eligible for that leave.

(j) For purposes of this section:

(1) "Crime" means a crime or public offense as set forth in Section 13951 of the Government Code, and regardless of whether any person is arrested for, prosecuted for, or convicted of, committing the crime.

(2) "Domestic violence" means any of the types of abuse set forth in Section 6211 of the Family Code, as amended.

(3) "Employer" means any of the following:

(A) Any person who directly employs one or more persons to perform services for a wage or salary.

(B) The state, and any political or civil subdivision of the state and cities.

(4) "Family member" means a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, as those terms are defined in Section 12945.2, or designated person. For purposes of this paragraph, "designated person" means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. An employer may limit an employee to one designated person per 12-month period for leave pursuant to this section.

(5) "Qualifying act of violence" means any of the following, regardless of whether anyone is arrested for, prosecuted for, or convicted of committing any crime:

(A) Domestic violence.

(B) Sexual assault.

(C) Stalking.

(D) An act, conduct, or pattern of conduct that includes any of the following:

(i) In which an individual causes bodily injury or death to another individual.

(ii) In which an individual exhibits, draws, brandishes, or uses a firearm, or other dangerous weapon, with respect to another individual.

(iii) In which an individual uses, or makes a reasonably perceived or actual threat to use, force against another individual to cause physical injury or death.

(6) "Sexual assault" means any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent.

(7) "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for that person's safety or the safety of others or suffer substantial emotional distress.

(8) "Victim" means one of the following:

(A) An individual against whom a qualifying act of violence is committed.

(B) For the purposes of paragraph (2) of subdivision (a) only, a person against whom any crime has been committed.

(C) For the purposes of paragraph (4) of subdivision (a) only, either of the following:

(i) A person against whom any of the following crimes are committed:

(I) A violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code.

(II) A serious felony, as defined in subdivision (c) of Section 1192.7 of the Penal Code.

(III) A felony provision of law proscribing theft or embezzlement.

(ii) 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, as defined in subdivision (b) of Section 191.5 of the Penal Code.

(II) Felony child abuse likely to produce great bodily harm or a death, as defined in Section 273a of the Penal Code.

(III) Assault resulting in the death of a child under eight years of age, as defined in Section 273ab of the Penal Code.

(IV) Felony domestic violence, as defined in Section 273.5 of the Penal Code.

(V) Felony physical abuse of an elder or dependent adult, as defined in subdivision (b) of Section 368 of the Penal Code.

(VI) Felony stalking, as defined in Section 646.9 of the Penal Code.

(VII) Solicitation for murder, as defined in subdivision (b) of Section 653f of the Penal Code.

(VIII) A serious felony, as defined in subdivision (c) of Section 1192.7 of the Penal Code.

(IX) Hit-and-run causing death or injury, as defined in Section 20001 of the Vehicle Code.

(X) Felony driving under the influence causing injury, as defined in Section 23153 of the Vehicle Code.

(XI) Sexual assault as set forth in Section 261, 261.5, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 287, 288, 288.5, 289, or 311.4 of, or former Section 288a of, the Penal Code.

(9) "Victim advocate" means an individual, whether paid or serving as a volunteer, who provides services to victims under the auspices or supervision of an agency or organization that has a documented record of providing services to victims, or under the auspices or supervision of a court or a law enforcement or prosecution agency.

(10) "Victim services organization or agency" means an agency or organization that has a documented record of providing services to victims.

(k) (1) An employer shall inform each employee of their rights established under this section in writing. The information shall be provided to new employees upon hire, to all employees annually, at any time upon request, and any time an employee informs an employer that the employee or the employee's family member is a victim. If an employer elects not to use the form developed by the department, as specified in paragraph (2), the notice provided by the employer to the employees shall be substantially similar in content and clarity to that form developed by the department.

(2) The department shall develop a form that an employer may use to comply with the notice requirements in paragraph (1). The form shall be entitled "Survivors of Violence and Family Members of Victims Right to Leave and Accommodations" and shall set forth the rights and duties of employers and employees under this section in clear and concise language. The notice shall also include language that advises employees in clear and concise language that if leave taken under this section is due to an employee's inability to work as a result of a serious health condition, or need to care for a family member with a serious health condition, they may also be eligible for wage replacement under the disability insurance program, the family temporary disability insurance program, or other programs administered by the Employment Development Department. The notice shall also include language that advises employees in clear and concise language that if they are a family member of a deceased victim, they may be eligible for leave under this section and also for bereavement leave under Section 12945.7. The department shall post the form in English, Spanish, Chinese, Vietnamese, Tagalog, Korean, Armenian, Arabic, Farsi, Punjabi, Russian, Japanese, Hindi, Mon-Khmer, Thai, and any other language that is spoken by a "substantial number of non-English-speaking people," as that phrase is defined in Section 7296.2, on the department's internet website to make it available to employers who are required to comply with this section. The department shall create the form and post it in accordance with this paragraph on or before July 1, 2025.

(3) An employer shall not be required to comply with paragraph (1) until the department posts the form on the department's internet website in accordance with paragraph (2).

SEC. 2. Section 230 is added to the Labor Code, to read:

230. (a) An employer shall not discharge or in any manner discriminate against an employee for taking time off to serve as required by law on an inquest jury or trial jury, if the employee, prior to taking the time off, gives reasonable notice to the employer that the employee is required to serve.

(b) An employer shall not discharge or in any manner discriminate or retaliate against an employee, including, but not limited to, an employee who is a victim of a crime, for taking time off to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding.

(c) An employer shall not discharge or in any manner discriminate or retaliate 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.

(d) (1) As a condition of taking time off for a purpose set forth in subdivision (c), the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

(2) When 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 a certification to the employer. Certification shall be sufficient in the form of any of the following:

(A) A police report indicating that the employee was a victim.

(B) A court order protecting or separating the employee from the perpetrator of the crime or abuse, or other evidence from the court or prosecuting attorney that the employee has appeared in court.

(C) Documentation from a licensed medical professional, domestic violence counselor, as defined in Section 1037.1 of the Evidence Code, a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, victim advocate, licensed health care provider, or counselor that the employee was undergoing treatment or receiving services for physical or mental injuries or abuse resulting in victimization from the crime or abuse.

(D) Any other form of documentation that reasonably verifies that the crime or abuse occurred, including, but not limited to, a written statement signed by the employee, or an individual acting on the employee's behalf, certifying that the absence is for a purpose authorized under this section or under Section 230.1.

(3) To the extent allowed by law and consistent with subparagraph (D) of paragraph (7) of subdivision (f), the employer shall maintain the confidentiality of any employee requesting leave under subdivision (c).

(e) An employer shall not discharge or in any manner discriminate or retaliate against an employee because of the employee's status as a victim of crime or abuse, if the employee provides notice to the employer of the status or the employer has actual

knowledge of the status.

(f) (1) An employer shall provide reasonable accommodations for a victim of domestic violence, sexual assault, or stalking, who requests an accommodation for the safety of the victim while at work.

(2) For purposes of this subdivision, reasonable accommodations may include the implementation of safety measures, including a transfer, reassignment, modified schedule, changed work telephone, changed work station, installed lock, assistance in documenting domestic violence, sexual assault, stalking, or other crime that occurs in the workplace, an implemented safety procedure, or another adjustment to a job structure, workplace facility, or work requirement in response to domestic violence, sexual assault, stalking, or other crime, or referral to a victim assistance organization.

(3) An employer is not required to provide a reasonable accommodation to an employee who has not disclosed the employee's status as a victim of domestic violence, sexual assault, or stalking.

(4) The employer shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations.

(5) In determining whether the accommodation is reasonable, the employer shall consider an exigent circumstance or danger facing the employee.

(6) This subdivision does not require the employer to undertake an action that constitutes an undue hardship on the employer's business operations, as defined by Section 12926 of the Government Code. For the purposes of this subdivision, an undue hardship also includes an action that would violate an employer's duty to furnish and maintain a place of employment that is safe and healthful for all employees as required by Section 6400 of the Labor Code.

(7) (A) Upon the request of an employer, an employee requesting a reasonable accommodation pursuant to this subdivision shall provide the employer a written statement signed by the employee or an individual acting on the employee's behalf, certifying that the accommodation is for a purpose authorized under this subdivision.

(B) The employer may also request certification from an employee requesting an accommodation pursuant to this subdivision demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking. Certification shall be sufficient in the form of any of the categories described in paragraph (3) of subdivision (d).

(C) An employer who requests certification pursuant to subparagraph (B) may request recertification of an employee's status as a victim of domestic violence, sexual assault, or stalking, or ongoing circumstances related to the crime or abuse, every six months after the date of the previous certification.

(D) Any verbal or written statement, police or court record, or other documentation provided to an employer identifying an employee as a victim shall be maintained as confidential by the employer and shall not be disclosed by the employer except as required by federal or state law or as necessary to protect the employee's safety in the workplace. The employee shall be given notice before any authorized disclosure.

(E) (i) If circumstances change and an employee needs a new accommodation, the employee shall request a new accommodation from the employer.

(ii) Upon receiving the request, the employer shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations.

(F) If an employee no longer needs an accommodation, the employee shall notify the employer that the accommodation is no longer needed.

(8) An employer shall not retaliate against a victim for requesting a reasonable accommodation, regardless of whether the request was granted.

(g) (1) An 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 their employer because the employee has taken time off for a purpose set forth in subdivision (a) or (b) shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer.

(2) An 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 their employer for reasons prohibited in subdivision (c) or (e), or because the employee has requested or received a reasonable accommodation as set forth in subdivision (f), shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer, as well as appropriate equitable relief.

(3) An employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure or hearing authorized by law is guilty of a misdemeanor.

(h) (1) An 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 their employer because the employee has exercised their rights as set forth in subdivision (a), (b), (c), (e), or (f) may file a complaint with the Division of Labor Standards Enforcement of the Department of Industrial Relations pursuant to Section 98.7.

(2) Notwithstanding any time limitation in Section 98.7, an employee may file a complaint with the division based upon a violation of subdivision (c), (e), or (f) within one year from the date of occurrence of the violation.

(i) An employee may use vacation, personal 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 purpose specified in subdivision (a), (b), or (c). The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

(j) For purposes of this section:

(1) "Crime" means a crime or public offense as set forth in Section 13951 of the Government Code, and regardless of whether any person is arrested for, prosecuted for, or convicted of, committing the crime.

(2) "Domestic violence" means any of the types of abuse set forth in Section 6211 of the Family Code, as amended.

(3) "Immediate family member" means a person who is any of the following:

(A) Regardless of age, a biological, adopted, or foster child, stepchild, or legal ward, a child of a domestic partner, a child to whom the employee stands in loco parentis, or a person to whom the employee stood in loco parentis when the person was a minor.

(B) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or an employee's spouse or domestic partner, or a person who stood in loco parentis when the employee or the employee's spouse or domestic partner was a minor child.

(C) A person to whom the employee is legally married under the laws of any state, or a domestic partner of an employee as registered under the laws of any state or political subdivision.

(D) A biological, foster, or adoptive sibling, a stepsibling, or a half sibling.

(E) Any other individual whose close association with the employee is the equivalent of a family relationship described in subparagraph (A), (B), (C), or (D).

(4) "Sexual assault" means any of the crimes set forth in Section 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 287, 288, 288.5, 289, or 311.4 of, or former Section 288a of, the Penal Code, as amended.

(5) "Stalking" means a crime set forth in Section 646.9 of the Penal Code or Section 1708.7 of the Civil Code.

(6) "Victim" includes any of the following:

(A) A victim of stalking, domestic violence, or sexual assault.

(B) A victim of a crime that caused physical injury or that caused mental injury and a threat of physical injury.

(C) A person whose immediate family member is deceased as the direct result of a crime.

(D) For the purposes of subdivision (b) only, any person against whom any crime has been committed.

(7) "Victim advocate" means an individual, whether paid or serving as a volunteer, who provides services to victims under the auspices or supervision of an agency or organization that has a documented record of providing services to victims, or under the auspices or supervision of a court or a law enforcement or prosecution agency.

(k) This section shall apply only to alleged actions or inactions occurring on or before December 31, 2024.

(l) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

SEC. 3. Section 230.1 is added to the Labor Code, to read:

230.1. (a) In addition to the requirements and prohibitions imposed on employees pursuant to Section 230, an employer with 25 or more employees shall not discharge, or in any manner discriminate or retaliate against, an employee who is a victim, for taking time off from work for any of the following purposes:

(1) To seek medical attention for injuries caused by crime or abuse.

(2) To obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency as a result of the crime or abuse.

(3) To obtain psychological counseling or mental health services related to an experience of crime or abuse.

(4) To participate in safety planning and take other actions to increase safety from future crime or abuse, including temporary or permanent relocation.

(b) (1) As a condition of taking time off for a purpose set forth in subdivision (a), the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

(2) When 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 a certification to the employer. Certification shall be sufficient in the form of any of the categories described in paragraph (2) of subdivision (d) of Section 230.

(3) To the extent allowed by law and consistent with subparagraph (D) of paragraph (7) of subdivision (f) of Section 230, employers shall maintain the confidentiality of any employee requesting leave under subdivision (a).

(c) An 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 their employer because the employee has taken time off for a purpose set forth in subdivision (a) is entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer, as well as appropriate equitable relief. An employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure or hearing authorized by law is guilty of a misdemeanor.

(d) (1) An 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 their employer because the employee has exercised their rights as set forth in subdivision (a) may file a complaint with the Division of Labor Standards Enforcement of the Department of Industrial Relations pursuant to Section 98.7.

(2) Notwithstanding any time limitation in Section 98.7, an employee may file a complaint with the division based upon a violation of subdivision (a) within one year from the date of occurrence of the violation.

(e) An employee may use vacation, personal 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 purpose specified in subdivision (a). The entitlement of any employee under this section shall not be diminished by any term or condition of a collective bargaining agreement.

(f) This section does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2601 et seq.).

(g) For purposes of this section:

(1) "Crime" means a crime or public offense as set forth in Section 13951 of the Government Code, and regardless of whether any person is arrested for, prosecuted for, or convicted of, committing the crime.

(2) "Domestic violence" means any of the types of abuse set forth in Section 6211 of the Family Code, as amended.

(3) "Immediate family member" means a person who is any of the following:

(A) Regardless of age, a biological, adopted, or foster child, stepchild, or legal ward, a child of a domestic partner, a child to whom the employee stands in loco parentis, or a person to whom the employee stood in loco parentis when the person was a minor.

(B) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or an employee's spouse or domestic partner, or a person who stood in loco parentis when the employee or the employee's spouse or domestic partner was a minor child.

(C) A person to whom the employee is legally married under the laws of any state, or a domestic partner of an employee as registered under the laws of any state or political subdivision.

(D) A biological, foster, or adoptive sibling, a stepsibling, or a half sibling.

(E) Any other individual whose close association with the employee is the equivalent of a family relationship described in subparagraph (A), (B), (C), or (D).

(4) "Sexual assault" means any of the crimes set forth in Section 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 287, 288, 288.5, 289, or 311.4 of, or former Section 288a of, the Penal Code, as amended.

(5) "Stalking" means a crime set forth in Section 646.9 of the Penal Code or Section 1708.7 of the Civil Code.

(6) "Victim" includes any of the following:

(A) A victim of stalking, domestic violence, or sexual assault.

(B) A victim of a crime that caused physical injury or that caused mental injury and a threat of physical injury.

(C) A person whose immediate family member is deceased as the direct result of a crime.

(7) "Victim services organization or agency" means an agency or organization that has a documented record of providing services to victims.

(h) (1) Employers shall inform each employee of their rights established under this section and subdivisions (c), (e), and (f) of Section 230 in writing. The information shall be provided to new employees upon hire and to other employees upon request.

(2) The Labor Commissioner shall develop a form that an employer may use to comply with the notice requirements in paragraph (1). The form shall set forth the rights and duties of employers and employees under this section in clear and concise language. The Labor Commissioner shall post the form on the commissioner's internet website to make it available to employers who are required to comply with this section. If an employer elects not to use the form developed by the Labor Commissioner, the notice provided by the employer to the employees shall be substantially similar in content and clarity to the form developed by the Labor Commissioner. The Labor Commissioner shall revise the form and post it in accordance with this paragraph on or before January 1, 2022.

(3) Employers shall not be required to comply with paragraph (1) until the Labor Commissioner posts the form on the commissioner's internet website in accordance with paragraph (2).

(i) This section shall apply only to alleged actions or inactions occurring on or before December 31, 2024.

(j) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

SEC. 4. Section 230.2 of the Labor Code is amended to read:

230.2. (a) As used in this section:

(1) "Immediate family member" means spouse, child, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father, or stepfather.

(2) "Registered domestic partner" means a domestic partner, as defined in Section 297 of the Family Code, and registered pursuant to Part 2 (commencing with Section 298) of Division 2.5 of the Family Code.

(3) "Victim" means a person against whom one of the following crimes has been 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.

(b) An employer, and any agent of an employer, shall allow an employee who is a victim of a crime, an immediate family member of a victim, a registered domestic partner of a victim, or the child of a registered domestic partner of a victim to be absent from work in order to attend judicial proceedings related to that crime.

(c) Before an employee may be absent from work pursuant to subdivision (b), the employee shall 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 from any of the following entities:

- (1) The court or government agency setting the hearing.
- (2) The district attorney or prosecuting attorney's office.
- (3) The victim/witness office that is advocating on behalf of the victim.

(d) An employee who is absent from work pursuant to subdivision (b) 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 pursuant to subdivision (b). The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

(e) An employer shall keep confidential any records regarding the employee's absence from work pursuant to subdivision (b).

(f) An employer may not discharge from employment or in any manner discriminate 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 pursuant to this section.

(g) (1) 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 their employer because the employee has exercised their rights as set forth in subdivision (b) may file a complaint with the Division of Labor Standards Enforcement of the Department of Industrial Relations pursuant to Section 98.7.

(2) Notwithstanding any time limitation in Section 98.7, an employee filing a complaint with the division based upon a violation of subdivision (b) shall have one year from the date of occurrence of the violation to file a complaint.

(h) District attorney and victim/witness offices are encouraged to make information regarding this section available for distribution at their offices.

(i) This section shall apply only to alleged actions or inactions occurring on or before December 31, 2025.

(j) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

SEC. 5. Section 230.5 of the Labor Code is amended to read:

230.5. (a) (1) An employer shall not discharge or in any manner discriminate or retaliate against an employee who is a victim of an offense listed in paragraph (2) for taking time off from work, upon the victim's request, to appear in court to be heard at any proceeding, including any delinquency proceeding, involving a postarrest release decision, plea, sentencing, postconviction release decision, or any proceeding in which a right of the victim is at issue.

(2) The offenses include all of the following:

- (A) Vehicular manslaughter while intoxicated, as defined in subdivision (b) of Section 191.5 of the Penal Code.
- (B) Felony child abuse likely to produce great bodily harm or a death, as defined in Section 273a of the Penal Code.
- (C) Assault resulting in the death of a child under eight years of age, as defined in Section 273ab of the Penal Code.
- (D) Felony domestic violence, as defined in Section 273.5 of the Penal Code.
- (E) Felony physical abuse of an elder or dependent adult, as defined in subdivision (b) of Section 368 of the Penal Code.
- (F) Felony stalking, as defined in Section 646.9 of the Penal Code.
- (G) Solicitation for murder, as defined in subdivision (b) of Section 653f of the Penal Code.
- (H) A serious felony, as defined in subdivision (c) of Section 1192.7 of the Penal Code.
- (I) Hit-and-run causing death or injury, as defined in Section 20001 of the Vehicle Code.
- (J) Felony driving under the influence causing injury, as defined in Section 23153 of the Vehicle Code.
- (K) Sexual assault as set forth in Section 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 287, 288, 288.5, 289, or 311.4 of, or former Section 288a of, the Penal Code.

(b) (1) As a condition of taking time off for a purpose set forth in subdivision (a), the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

(2) When 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 a certification to the employer. Certification shall be sufficient in the form of any of the following:

(A) A police report indicating that the employee was a victim of an offense specified in subdivision (a).

(B) A court order protecting or separating the employee from the perpetrator of an offense specified in subdivision (a), or other evidence from the court or prosecuting attorney that the employee has appeared in court.

(C) Documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an offense specified in subdivision (a).

(3) To the extent allowed by law, the employer shall maintain the confidentiality of any employee requesting leave under subdivision (a).

(c) An 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 their employer because the employee has taken time off for a purpose set forth in subdivision (a) shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure or hearing authorized by law is guilty of a misdemeanor.

(d) (1) An 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 their employer because the employee has exercised their rights as set forth in subdivision (a) may file a complaint with the Division of Labor Standards Enforcement of the Department of Industrial Relations pursuant to Section 98.7.

(2) Notwithstanding any time limitation in Section 98.7, an employee may file a complaint with the division based upon a violation of subdivision (a) within one year from the date of occurrence of the violation.

(e) An employee may use vacation, personal 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 purpose specified in this section. The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

(f) For purposes of this section, "victim" means any person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act. The term "victim" also includes the person's spouse, parent, child, sibling, or guardian.

(g) This section shall apply only to alleged actions or inactions occurring on or before December 31, 2025.

(h) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

SEC. 6. Section 246.5 of the Labor Code is amended to read:

246.5. (a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:

(1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.

(2) (A) For leave taken or requested on or before December 31, 2024, for a purpose described in subdivision (c) of Section 230 or subdivision (a) of Section 230.1.

(B) For leave taken or requested on or after January 1, 2025, for a purpose described in paragraph (1), (2), or (3) of subdivision (a) of, or subdivision (b) of, Section 12945.8 of the Government Code.

(C) For leave taken or requested on or after January 1, 2026, for a purpose described in paragraph (4) of subdivision (a) of Section 12945.8 of the Government Code.

(3) (A) For an employee who is an agricultural employee, as defined in Section 9110, who works outside and who is entitled to paid sick days under this article, to avoid smoke, heat, or flooding conditions created by a local or state emergency, including, but not limited to, when the employee's worksite is closed due to the smoke, heat, or flooding conditions.

(B) For purposes of this paragraph, there are smoke, heat, or flood conditions created by a local or state emergency if the Governor proclaims a state of emergency pursuant to Section 8625 of the Government Code, or a local emergency is proclaimed pursuant to Section 8630 of the Government Code, due to smoke, heat, or flooding conditions that prevent agricultural employees from working.

(b) An employer shall not require as a condition of using paid sick days that the employee search for or find a replacement worker to cover the days during which the employee uses paid sick days.

(c) (1) An employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using accrued sick days, attempting to exercise the right to use accrued sick days, filing a complaint with the department or alleging a violation of this article, cooperating in an investigation or prosecution of an alleged violation of this article, or opposing any policy or practice or act that is prohibited by this article.

(2) There shall be a rebuttable presumption of unlawful retaliation if an employer denies an employee the right to use accrued sick days, discharges, threatens to discharge, demotes, suspends, or in any manner discriminates against an employee within 30 days of any of the following:

(A) The filing of a complaint by the employee with the Labor Commissioner or alleging a violation of this article.

(B) The cooperation of an employee with an investigation or prosecution of an alleged violation of this article.

(C) Opposition by the employee to a policy, practice, or act that is prohibited by this article.

(d) Notwithstanding subdivision (a) of Section 245.5, for purposes of this section, "employee" shall include an employee described in paragraph (1) of subdivision (a) of Section 245.5.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

To ensure efficient implementation by the Labor Commissioner and Civil Rights Department and to provide clarity to workers and victims of crimes, it is necessary that this act take effect immediately.