

Employment Legislation

New Law Provides Leave for Violence Victims

GOV. NEWSOM has signed into law a bill that provides a right to paid time off and other protections for employees who are victims of violence, including threats, assaults, stalking and domestic abuse.

AB 2499 expands the instances when a victim of a “qualifying act of violence” can take time off and provides protections against retaliation for doing so. The new law also requires employers to provide reasonable accommodation to employees who are victims of violence, in a process that’s akin to the Americans with Disabilities Act’s interactive process.

Under current law, employers are barred from discriminating or retaliating against a worker based on their status as a victim of crime or abuse, for taking time off for jury duty or to comply with a subpoena or other court order. As well, firms with 25 or more workers may not discriminate or retaliate against an employee who is a victim of crime or abuse for taking time off:

- To seek medical attention for injuries related to violence,
- To obtain services as a result of the crime or abuse, or
- To participate in actions to increase their safety from possible future crimes or abuse.

New definition of ‘victim’

AB 2499 replaces the term “victim of crime or abuse” in current law with an individual against whom a “qualifying act of violence” (QAV) is committed, which includes:

- Domestic violence,
- Sexual assault,
- Stalking, or
- An act or conduct in which an individual:
 - causes bodily injury or death to another,
 - exhibits or uses a weapon against another, or
 - makes a perceived or actual threat against another.

The law also extends protections to employees who need to take time off if they have a family member who is the victim of a QAV.

It also bars employers with 25 or more employees from discriminating or retaliating against a victim of a QAV or whose family member is a victim, for taking time off to:

- Obtain relief, including restraining orders.
- Obtain medical attention after a QAV.
- Seek assistance from a victim services organization.
- Seek mental health services related to a QAV.
- Recover from QAV-related injuries.

Reasonable accommodation

Under an ADA-like component to the new law, employers are required to engage in an interactive process to determine effective accommodations if an employee:

- Discloses the fact they or a family member are a victim of a QAV, and
- Requests accommodation for safety reasons.

Reasonable accommodations

- Work transfers or reassignments
- Implement safety procedures
- Changed workstation or telephone
- Lock installation
- Temporary time off
- Modified schedule

However, organizations won’t be required to provide accommodation if it would pose an undue hardship to them, including if it would violate their duty to maintain a safe workplace.

Notification and paid time off

The new law allows victims to use paid vacation or sick time during any QAV-related leave they take.

If the leave is granted as an accommodation under the Family and Medical Leave Act, the paid leave must run concurrently. Employers may restrict leave to the following:

- Twelve weeks for an employee who is a victim.
- Ten days if a worker’s family member is a victim.
- Five days if a worker’s family member is a victim and needs help relocating.

The takeaway

The law takes effect Jan. 1, 2025. California employers will be required to provide notice to their employees that informs them of their rights under the law when they are hired and if an employee informs the employer they are a QAV victim.

This is one of those laws that should spur you to seek legal counsel if confronted with a request for time off, and especially if the affected worker requests reasonable accommodation. ❖

