

## Senate Bill No. 478

### CHAPTER 630

An act to add Section 230.2 to the Labor Code, relating to employment.

[Approved by Governor September 30, 2003. Filed with Secretary of State September 30, 2003.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 478, Dunn. Victims of crime: work absences for judicial proceedings.

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.

This bill would prohibit an employer from 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 pursuant to this bill, and would authorize the employee to file a complaint with the Division of Labor Standards Enforcement.

This bill would encourage district attorneys and victim/witness offices to make information regarding this bill available for distribution at their offices.

*The people of the State of California do enact as follows:*

SECTION 1. Section 230.2 is added to the Labor Code, 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 his or her employer because the employee has exercised his or her 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 his or her complaint.

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

