

H.477 Employment protections for crime victims

Madam Speaker:

May I speak to the underlying bill, as well as the amendment? You can follow along with the bill as it is printed on page 271 of today's calendar.;

Madam Speaker, we, as legislators, have spent many, many years making sure that crime victims be treated with respect, from the time a crime has been committed against them until they have had their time in court. We have incorporated into law a Victims Bill of Rights. We have listened to crime victims, advocates, judges and others ask us to make sure we treat crime victims with respect and to make sure they are given every opportunity to recover — physically and psychologically — and to find justice.

And in 2018, we addressed a flaw in our statutes that penalized crime victims by not providing protected leave from their place of employment when they had to go to court, or in other situations where they had to deal with the judicial system.

Act 184 created a protected status by prohibiting employment discrimination against individuals because they were a crime victim. The bill also permitted individuals to take leave in relation to either a criminal proceeding in which they were identified as the victim of the crime or a proceeding in which they were seeking a relief order against stalking, sexual abuse, abuse, neglect, or exploitation.

This past fall, I received a call from a member of Legislative Counsel informing me that we did not quite get the bill right. The definition of employee for purposes of the leave statute uses the same definition of crime victim as the anti-discrimination law. What this did was to apply the law only individuals who **have already been** determined to be victims of a crime are entitled to leave to attend either:

- a later criminal proceeding in which they are identified as the victim of a crime; or
- a proceeding in which they were seeking a relief order against stalking, sexual abuse, abuse, neglect, or exploitation.

The important distinction here is that the determination of being victims of a crime relies on the crime having been adjudicated. In other words, prior to adjudication, under the terms of the current law, individuals who we considered to be a "crime victim" are not entitled take leave to attend a criminal proceeding or to seek a relief order for stalking, abuse, neglect, or exploitation. They are actually considered "alleged crime victims" and our statute would not allow for the job protection as we intended.

H.477 corrects the error in the definition and clarifies the leave language so that an alleged crime victim may take leave to attend a criminal proceeding.

This sounds like a technical change, on its face, but it is not.

H.477 clarifies protected class status in employment law for alleged crime victims, and it clarifies their standing in our existing, if inadequate, family leave laws. We expanded the definitions of family members who might qualify for this protected leave to take into account the growing definitions of "family member."

This bill is relatively simple in its construction, but complex in its effects on how alleged crime victims are treated at work at a time when they need understanding and the space to resolve difficult personal issues.

And so, Madam Speaker, to the bill:

Sec. 1. Amends 21 V.S.A. § 472c

The changes in Sec. 1 eliminate the requirement that an individual already be a “crime victim”, updates language to refer to an alleged victim, expands list of family members covered by the law, and updates definitions in concert with those changes.

Specific changes are as follows:

- Amends section title to refer to alleged crime victims and adds reference to relief from stalking and abuse.
- Adds a definition of “alleged victim”
 - Based on the definition of “victim” from the current law
 - Includes family members in instances permitted by existing law plus in instances when an individual suffered physical or emotional injury as a result of a violent crime.
 - Adds an expanded definition of “family member”:
 - Current law defines a family member (in cross reference to 13 V.S.A. § 5301) as a spouse, child, sibling, parent, next of kin, domestic partner, or legal guardian of a victim.
 - New definition adds:
 - foster child, or stepchild;
 - ward who lives with the alleged victim;
 - domestic partner, or civil union partner;
 - grandparent or grandchild;
 - parent-in-law; and
 - an individual for whom the alleged victim stands in loco parentis, or who stood in loco parentis for the alleged victim when the alleged victim was a child
 - Adds definition for domestic partner based on the existing definition in elections law
 - Adds definition for in loco parentis as “day-to-day responsibilities to care for and financially support”
 - Adds definition of “violent crime” to mean “a listed crime” for purposes of the crime victim statute that is used as the basis for other terms in the statute.
 - Deletes requirement that an employee must be a “crime victim” in order to be eligible for leave (the underlying reason for the bill)
 - Changes leave requirement to refer to attending a criminal proceeding in which the employee is the alleged victim.

Sec. 2. The bill takes effect on passage.

Madam speaker, the feedback we received on this bill was uniformly positive. Because the subject matter is familiar to the Judiciary, your House General, Housing and Military Affairs committee shared the text of this bill with them, and received positive feedback from them as well.

As for witnesses, we heard from Legislative Counsel, and an impacted resident of Vermont.

The bill passed GHMA 11-0-0, and we ask for your support.