

LEGAL AID AT WORK

RIGHTS AT WORK AFTER MISCARRIAGE, END OF PREGNANCY, OR OTHER REPRODUCTIVE LOSS FOR CALIFORNIA EMPLOYEES

Experiencing a miscarriage, stillbirth, end of pregnancy, or failed adoption or surrogacy can be difficult. Families may have the right to leave, pay, and accommodations to help with recovery. Additionally, a new California law, effective January 2024, requires employers to provide eligible employees job-protected time off when they suffer a reproductive loss, including a failed adoption. Other laws that provide rights related to pregnancy and childbirth also cover the loss or end of a pregnancy. All the legal protections and benefits discussed below are available **regardless of immigration status**.

YOU MAY HAVE THE RIGHT TO:

LEAVE AND PAY WHILE YOU RECOVER FROM A MISCARRIAGE, END OF PREGNANCY, OR OTHER REPRODUCTIVE LOSS

- You may use up to 5 days of **California Paid Sick** Leave to recover. These days can also be used for any medical appointments you may need to attend. You earn one hour of paid sick leave for every 30 hours that you work and can use your Paid Sick Leave after 90 days of employment. Your employer cannot require a medical note. Some cities and counties require employers to let you earn and use more than 5 paid sick days per year.

If your employer has five or more employees and you have been working for your employer for at least 30 days, as of 2024, you can take 5 days of unpaid **Reproductive Loss Leave** for a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction. Your employer cannot require a medical note. You can take this leave within 3 months of the loss and take up to 20 days total of this leave within 12 months, if you have multiple losses.

- If you work for an employer with five or more employees, the **Pregnancy Disability Leave Act** also provides up to four months of job-protected, unpaid leave for health conditions related to pregnancy, including recovery from the physical and/or mental effects of the loss of a pregnancy. Mental health disabilities caused or worsened by the loss of a pregnancy, including depression, anxiety, and posttraumatic stress disorder are also covered under the Pregnancy Disability Leave Act.
 - This leave is available regardless of how long you have worked for your employer, or how many hours you work. Your employer must continue your health benefits during your leave.
 - Your employer may ask for a [note](#) from your healthcare provider certifying your need for leave.
- If you need more leave because you are still disabled, you may be able to take additional leave as a reasonable accommodation under the **Americans with Disabilities Act** or the **Fair Employment and Housing Act**.
- You may also be eligible to receive replacement income while you are disabled and recovering from a loss of pregnancy through **State Disability Insurance (SDI)** from the [Employment Development Department](#). SDI provides 60% or 70% of your weekly wages, depending on income, for a maximum of 52 weeks, after a 1-week waiting period.

WORKPLACE ACCOMMODATIONS AFTER A MISCARRIAGE, STILLBIRTH, OR END OF PREGNANCY.

- If you work for an employer with at least 5 employees, you are entitled to changes to the way you do your job if you need them because of pregnancy-related health conditions, including the loss of a pregnancy, or because of a disability. This may include a change in duties, a modified schedule, or frequent breaks.
 - Changes, or **accommodations**, must be recommended by your healthcare provider, so ask your healthcare provider about reasonable accommodations you may need to address the physical and/or mental effects of your miscarriage or stillbirth.
 - Your employer can require a [note](#) from your healthcare provider certifying that the accommodation is medically advisable due to a condition related to pregnancy, childbirth or a related condition.

FOR PARTNERS OR FAMILY MEMBERS:

PARTNERS MAY ALSO HAVE THE RIGHT TO LEAVE AND PAY AFTER A MISCARRIAGE, END OF PREGNANCY, OR OTHER REPRODUCTIVE LOSS.

Non-pregnant partners can also access leave from work. If your employer has five or more employees and you have been working for your employer for at least 30 days, as of 2024, you can take 5 days of unpaid **Reproductive Loss Leave** without a medical note if you would have become a parent absent a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction. You can take this leave within 3 months of the loss and take up to 20 days total of this leave within 12 months if you have multiple losses. It does not matter whether you are married to or a domestic partner of the person who was pregnant.

- Non-pregnant partners may also have the right to leave and pay for their own health conditions that arise from a loss, including depression, anxiety, or posttraumatic stress disorder.
- Partners may be able to access **California Paid Sick Leave** (see above) or **job-protected unpaid time off** under the **California Family Rights Act**, which provides a maximum of 12 weeks off for an employee's own serious health condition. Your employer can require a [note](#) from your healthcare provider certifying that you need leave for a serious health condition.
 - To qualify for leave under the California Family Rights Act you must have been at your job for a minimum of one year, have worked at least 1250 hours in the past year, and work for an employer with 5 or more employees.
- Partners with disabilities may also be entitled to **leave as a reasonable accommodation** under the Fair Employment and Housing Act, if they work for an employer with at least 5 employees, regardless of tenure or hours.
- Partners who are working less or unable to work due to a disability, may be eligible for partial wage replacement through [State Disability Insurance](#) program from the EDD.

**PARTNERS
OR FAMILY
MEMBERS MAY ALSO
HAVE THE RIGHT
TO TIME OFF TO
CARE FOR A
LOVED ONE.**

- Non-pregnant partners or family members may have the right to time off and pay to care for a loved one who has experienced a pregnancy loss or other reproductive loss.
- Partners or family members may be able to access **California Paid Sick Leave** or job-protected unpaid time under the **California Family Rights Act** (see above for information on how to qualify), which provides up to 12 weeks of leave to care for a family member with a serious health condition, which can include mental health conditions. These laws define family to include a spouse, registered domestic partner, parent, parent-in-law, child, sibling, grandparent, grandchild, or “designated person”, which means a person who is like family to the employee.
- Partners or family members who are caring for a seriously ill loved one may be eligible to receive 8 weeks of partial wage replacement through the **Paid Family Leave** program from the EDD. PFL provides 60% or 70% of your weekly wages, depending on income, for a maximum of 8 weeks. Starting in 2025, it will provide up to 90% of regular income.

DISCRIMINATION AND RETALIATION:

**YOUR
EMPLOYER
IS NOT ALLOWED
TO TREAT YOU WORSE
BECAUSE OF YOUR
PREGNANCY, MISSCARRIAGE,
STILLBIRTH, REPRODUCTIVE
HEALTH DECISION-MAKING, OR
BECAUSE YOU HAVE REQUESTED
LEAVE OR ACCOMMODATIONS,
OR USED OR REQUESTED
ANY OF THESE
PROTECTIONS.**

- Employers are prohibited from retaliating against employees for requesting or using Pregnancy Disability Leave, California Paid Sick Leave, Reproductive Loss Leave, California Family Rights Act leave, or reasonable accommodations. **Prohibited retaliation** and discrimination can include reducing work hours, changing a schedule, or terminating the employee.
- Employers also cannot discriminate based on an employee or applicant’s reproductive health decision-making, which means their decision to use or access a particular drug, device, product, or medical service for reproductive health. It is also unlawful for an employer to require an employee or applicant to disclose information related to their reproductive health decision-making.