Abortion, Pregnancy Loss & Your Rights at Work:
Frequently Asked Questions

Have questions about your legal rights at work related to abortion, miscarriage, or stillbirth? This fact sheet can help.

We understand it doesn’t always feel safe to assert your rights at work, especially when it comes to abortion and pregnancy loss. Even though you have legal rights, your employer may not follow the law and it can be a struggle to figure out how to protect yourself and your job. We hope this information is useful as you think through your options.

This factsheet is not legal advice. Because the laws around abortion are changing quickly and are different in every state, you may want to speak with a lawyer about your individual rights.

For information about your rights at work, contact the Center for WorkLife Law’s free helpline at 415-7038276 or email hotline@worklifelaw.org.

For information about your general legal rights about seeking abortion care, visit If/When/How at https://www.reprolegalhelpline.org/sma-know-your-rights/ or call their legal helpline at 844-868-2812.

Can my employer fire or harass me because I had an abortion or experienced pregnancy loss?

In most circumstances, it is illegal for your employer to fire, harass, or penalize you at work because you experienced a miscarriage or stillbirth, or because you had an abortion, are thinking about having one, or decided against having one. This applies in all states, including states that have abortion bans and restrictions. If your employer has 15 or more employees, taking actions against you may violate the Pregnancy Discrimination Act. It may also violate the Americans with Disabilities Act if your abortion or pregnancy loss is caused by or related to your disability. Even if your employer has fewer than 15 employees, you may still have protections under the laws of the state, city, or county where you work.

Do I have to tell my employer about my abortion or pregnancy loss?

It is your choice whether to tell your boss and coworkers. If your employer has 15 or more employees, it could be illegal for your boss to ask you for details about how your pregnancy ended, and you should never be forced to answer that question. Some states have privacy laws that apply to smaller employers. While it may be illegal to penalize you or harass you because you had a miscarriage, stillbirth, or abortion, some employers will break the law. The risk may be greater in states with limited access to reproductive care. Read on to learn more about what to do if that happens.

If you are requesting time off work, depending on your employer’s policies and the laws that apply, you may be required to provide a doctor’s note explaining why you need leave. Read on to learn what information you are required to provide.
Can I take time off work for abortion or pregnancy loss?

You may have a right to take time off work to receive care related to an abortion, miscarriage, or stillbirth, as well as the time you need to recover or care for yourself afterwards. This includes time off that you may need to access care, such as attending appointments and time to travel out of state. There are several laws that may require your employer give you time off:

**The Family and Medical Leave Act** gives covered employees a right to take up to 12 weeks off work. To determine if you are covered, visit [www.dol.gov/agencies/whd/fact-sheets/28-fmla](http://www.dol.gov/agencies/whd/fact-sheets/28-fmla). If you are covered, your employer cannot fire you, change your pay or job duties, or take any other negative action against you because you took time off for abortion or pregnancy loss, or because you asked to take time off. It may also be illegal for your employer to refuse to give you time off, or to try to convince you to not to take time off for an abortion or pregnancy loss. Your employer is not required by the FMLA to pay you during your time off but must allow you to use any vacation or sick pay you have available. Your employer must continue your health insurance benefits during your leave. If you are not covered by the FMLA, you may have similar rights under the laws of the state where you work.

**The Pregnant Workers Fairness Act** gives employees a right to request and receive “reasonable accommodations” that they need due to pregnancy and related conditions. This may include unpaid time off for abortion medical appointments and recovery, or pregnancy loss and recovery. This law applies nationwide to employers that have 15 or more employees. Your employer must give you the time off that you need, so long as it can do so without a significant difficulty or expense to the employer. Your employer cannot fire, harass, or punish you for asking for time off for abortion or pregnancy loss, or for taking it. If you work for an employer that has fewer than 15 employees, there may be a state law that gives you similar rights.

**The Pregnancy Discrimination Act** may give you a right to time off, especially if other people working for your employer have been allowed to take time off for other health or personal reasons. For example, an employer cannot prohibit you from using your available sick days or other paid or unpaid time off (“PTO”) for abortion or pregnancy loss. Even if your employer does not have a written policy, they may be required to give you time off for your reproductive health needs if they have given people time off for other reasons, like doctors’ appointments, serious health conditions (heart attack, cancer, etc.), or mild sickness like cough and cold. The Pregnancy Discrimination Act applies only to employers with 15 or more employees, but many states have similar laws that cover smaller employers.

**The Americans with Disabilities Act (ADA)** may also give you a right to take time off if your pregnancy termination or loss was due to a covered medical condition (for example, depression, lupus, preeclampsia, renal disease). The ADA applies only to employers with 15 or more employees, but most states have similar laws that cover smaller employers. For your state’s laws, visit [https://www.workplacefairness.org/disability-discrimination-state-law](https://www.workplacefairness.org/disability-discrimination-state-law).

The state, city, or county where you work may require your employer to provide:

- **Paid sick days**: To find out if you have a right to paid sick days, visit [https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-sick-days/currentpaid-sick-days-laws.pdf](https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-sick-days/currentpaid-sick-days-laws.pdf).
- **Family and medical leave**: Some states may have laws that are like the national FMLA (described above), but cover more employees.
- **Paid leave:** Some states provide *paid* leave benefits, like short-term disability, for medical leave related to pregnancy or disability.

- **“Reasonable accommodations” for reasons related to pregnancy, which can include time off needed for abortion and pregnancy loss:** Some states have laws that are like the national Pregnant Workers Fairness Act (described above), but apply to smaller employers. Visit [www.pregnantatwork.org/pregnantemployees](http://www.pregnantatwork.org/pregnantemployees) to learn about the laws where you work.

**Employer policies:** some employers provide time off for health needs, and some employers have short-term disability insurance that provides income during time off for disability or pregnancy-related leave.

*If you need help understanding which of these laws apply to you, contact our free legal helpline.*

### How do I protect my privacy when I ask for time off?

Requesting time off from work for abortion or pregnancy loss can be challenging when you want to keep your reproductive health information private. Every situation is different, and there is not one best way to request time off. However, if you are worried about asking your direct supervisor, you may want to think about asking the Human Resources department instead (if you have one). Human Resources staff are more likely to be familiar with any laws that may require them to keep your medical information confidential, and laws that prohibit discrimination against employees because of abortion, miscarriage, or stillbirth. On the other hand, Human Resources may be more likely than your direct supervisor to ask for medical documentation.

You may want to deliver medical notes and forms in person or by mail (not fax) to Human Resources in an envelope that has your name and “Private, protected medical information. Keep confidential” written on the outside. You may also want to say, in writing if possible: “Please keep this private, protected medical information confidential, and do not share it with my coworkers, supervisor, or anyone else who does not have a legitimate reason to know it. If you need to share it beyond Human Resources for any reason, please contact me first. Please keep this information separate from my general employee records, as may be required by state and federal law. Thank you for protecting my privacy.”

For more, see “Do I have to tell my employer about my abortion or pregnancy loss?” above. Also see “What information am I required to provide to my employer when I ask for time off?” below to understand what medical information your employer can request from your healthcare provider.

### What information am I required to provide to my employer when I ask for time off?

It depends on what laws apply to you and how you make your request. How you approach it also depends on whether you are comfortable sharing information about your pregnancy or abortion with your employer.

Check if you have paid sick days available under state/local law or your employer policy. If you are concerned about protecting your privacy, using sick days may be your best option. This is because under the laws of many states, your employer cannot require you to provide a doctor’s note or to explain why you need to use your sick days. You can ask for time off for a “doctor’s appointment” or “health issue.” It is possible your employer will allow you to take time off without asking for more information.
The Pregnant Workers Fairness Act is a new law that went into effect on June 27, 2023 that applies to employers with 15 or more employees (described above). It gives you the right to take time off for medical appointments related to pregnancy, including pregnancy loss and abortion. To be entitled to take time off under this law, you do not have to tell your employer that you are having an abortion or miscarriage. However, for this law to apply, you must tell your employer that your medical appointment is related to pregnancy. Because the Pregnant Workers Fairness Act is so new, it is still not known if your employer is legally allowed to ask you to get a note from your healthcare provider showing that you were at a medical appointment.

Under other laws, like the Family and Medical Leave Act (FMLA) and the Americans with Disabilities Act (ADA), your employer can deny your leave request if your healthcare provider does not provide information explaining why you need time off work. Your employer may give you a medical certification form to fill out or ask for a note from your healthcare provider to explain your need for leave.

The ADA requires your employer to keep medical forms and notes confidential. This means your employer is not supposed to tell your coworkers or supervisor about your medical information, unless there is a good reason to do so, like telling a Human Resources employee who handles time off requests. Keep in mind there is never a guarantee that they will follow the law and keep your private health information confidential. Additionally, your employer may be allowed to turn over health information when requested by law enforcement authorities as part of a criminal investigation or if required by a court order or subpoena as part of a lawsuit. See “How do I protect my privacy when I ask for time off” above for more information.

Keep in mind that even if your employer asks for health information, doctors and medical staff may not tell your employer about your pregnancy or abortion without your permission. If you are requesting time off and want your healthcare provider to share only certain information, clearly tell them (in writing, if possible) what they can and cannot share with your employer.

For more information about what information your employer must keep confidential, see “Can my employer tell others about my abortion or pregnancy loss?” You or your healthcare provider can also contact the Center for WorkLife Law’s free legal helpline to learn more about what your employer is allowed to request (see below).

Can my employer tell others about my abortion or pregnancy loss?

A law that applies in all states, the Americans with Disabilities Act (ADA), requires employers with 15 or more employees to keep your health information confidential. This applies whether you have a disability or not. In addition, the Family and Medical Leave Act requires your employer to keep confidential the medical information you provide as part of a request for FMLA leave. This means that Human Resources staff is not allowed to tell your coworkers or supervisor that you had an abortion, miscarriage, or stillbirth.

Additionally, your FMLA paperwork must be kept separately from your general personnel file. Some states have additional privacy protections. For a suggestion about how to increase the chances that your medical information will be kept private, see “How do I protect my privacy when I ask for time off?” above.
It is important to keep in mind that employers and Human Resources staff may not always follow the law about when to keep health information private. Additionally, although it would be illegal to share legally-protected confidential health information with your coworkers or supervisor, your employer may be allowed to turn over health information when requested by law enforcement authorities as part of a criminal investigation or if required by a court order or subpoena as part of a lawsuit. See “How do I protect my privacy when I ask for time off?” above for more, including how to ask your employer to keep your medical information confidential.

**What if I need changes at work following miscarriage, stillbirth, or abortion?**

Some employees need changes at work following their pregnancy loss or abortion. For example, you may need to use the bathroom more often, limit how much you can lift, take more breaks, or avoid driving or operating heavy machinery while on medication. You may need changes to help meet mental health needs, like a shifted or flexible schedule, rest breaks, telework, or a redesigned workspace. These changes are called “reasonable accommodations.” If you aren’t able to make the changes on your own, or if your employer is concerned that you aren’t able to do your job as usual, you may need to request a reasonable accommodation.

**The Pregnant Workers Fairness Act** is a national law that applies to employers with 15 or more employees. It requires employers to provide reasonable accommodations for pregnancy and related medical conditions, so long as providing an accommodation is not very expensive or difficult for the employer. This includes accommodations for miscarriage, stillbirth, and abortion. Many states have similar laws that apply to smaller employers. For more, visit [www.pregnantatwork.org/accommodations](http://www.pregnantatwork.org/accommodations).

**Can my family member take time off work for my abortion, miscarriage, or pregnancy loss?**

Your spouse, parent or other family member may have a right to take time off work to accompany you while you seek medical treatment for your abortion, miscarriage, or pregnancy loss, and to care for you afterwards, if they are covered by the FMLA or a state/local law that provides sick days or family and medical leave.

If your family member experiences mental health challenges in the wake of miscarriage, stillbirth, or abortion, they may be eligible for time off to attend to their own health needs under the FMLA, the Americans with Disabilities Act, or state and local laws. Whether your family member can take this time off and how long is different from case to case—contact us for help understanding your rights.

**Do I have the same rights if I work for a religious organization?**

In some circumstances, workplace protections for abortion and pregnancy loss do not apply to religious organizations. Contact the Center for WorkLife Law’s free helpline for more information.

**What can I do if I think my employer is treating me unfairly or has broken the law?**

If you are being harassed or have been treated unfairly because of your pregnancy, miscarriage, stillbirth, or abortion, you may be experiencing illegal discrimination. Or your employer may have broken the law if they tried to prevent you from taking time off that you had a right to take, penalized you for taking time off, or refused to make “reasonable accommodations” that you had a right to receive.
for your abortion or pregnancy loss. Contact the Center for WorkLife Law’s free legal helpline to
discuss your situation.

You may be able to file a complaint yourself or with the help of a lawyer with the Equal Employment
Opportunity Commission (EEOC), the equal opportunity office or labor agency of the state/city where
you work, or the Department of Labor’s Wage and Hour Division. Which office to contact will depend
on your situation. There are often short deadlines for making complaints and filing lawsuits. Contact the
Center for WorkLife Law’s free legal helpline (below) for more information and connections to local
resources.

**How can I get more information about my legal rights?**

For information about your workplace rights, contact the Center for WorkLife Law’s
free legal helpline at 415-703-8276 or email hotline@worklifelaw.org.

For information about your general legal rights about seeking abortion care,
visit If/When/How at https://www.reprolegalhelpline.org/sma-know-your-rights/
or call their legal helpline at 844-868-2812.