

★ KNOW YOUR RIGHTS ★

REPRODUCTIVE HEALTH CARE IN CALIFORNIA JAILS

INFORMATION FROM THE ACLU OF CALIFORNIA

California has some of the strongest laws in the country that guarantee your right to obtain sexual and reproductive health care. Being in jail does not mean you lose those rights, and you have the right to obtain the reproductive health care you need regardless of your gender identity or gender expression.

PREGNANCY TESTS

I think I'm pregnant. Can I get a pregnancy test in jail?

Yes. You have the right to take a pregnancy test in jail. The test should be performed by a licensed health professional or someone trained to perform the test. However, the jail can't force you take a test. You can refuse or request a pregnancy test at any time that you are in jail, including during any initial health examinations or screenings that take place when you first arrive. If you know an outside health provider and want them to determine whether you are pregnant, you have a right to use their services, but you may have to pay.

PREGNANCY OPTIONS

What are my parenting options when I'm in jail?

If you are in jail when your child is born, you have the right to choose the parenting option that is best for you. You can choose a relative or friend to look after the child until you are released, or you can choose to place the child in foster care or for adoption. Before making your decision, you should speak to a lawyer who specializes in family law. If you want more information about your parental rights, contact Legal Services for Prisoners with Children (info@prisonerswithchildren.org; (415) 255-7036).

Can I get an abortion when I'm in jail?

Yes. Abortion is legal in California, and you have the same right to access abortion care while you are in jail as you do on the outside. You have the right to decide to end your pregnancy until around six months after you become pregnant. You also have the right to get an abortion after that time if your doctor determines that your pregnancy puts your health or life at risk. If a medical professional determines you can get an abortion, no one can interfere with your decision to end your pregnancy. The jail can't put any barriers in your way, like requiring you to pay first or requiring a court order to get transportation. If you need an abortion and are having trouble getting one, we can help.

PREGNANCY CARE

Will I get medical care if I continue my pregnancy in jail?

Yes. If you decide to give birth, the jail must make sure that you get the medical care you need while you are pregnant and after you give birth. This includes regular prenatal visits with a doctor and postpartum information and health care to make sure you have a safe and healthy delivery and recovery. Instead of

seeing the jail's doctor, you can get medical care from a health care provider from your community, but you may have to pay. The jail also has to give you information so you understand childbirth and how to take care of a child.

Can I get more food or other things I need to support a healthy pregnancy?

Yes. Since pregnant people need additional nutrition, the jail must provide you with a balanced and nutritious diet, necessary vitamins, and additional safety accommodations such as a lower bunk.

Are there restrictions on how the jail can restrain me when I'm pregnant or giving birth?

Yes. When you are pregnant you may be prone to falls due to changes in your body. The jail cannot "shackle" or restrain you with leg irons, waist chains or handcuffs behind your body throughout your pregnancy, while you are in labor, or in recovery after delivery. While you are pregnant, the jail may – but does not have to – handcuff you in front of your body. When you are in labor, during delivery, or in recovery, jail staff cannot restrain you by your wrists ankles or both unless is necessary for your safety, the safety of the staff or public. And even if you are restrained, if the medical professional (like a doctor or a nurse) taking care of you tells the officer to remove restraints, the officer must remove them.

LACTATION ACCOMMODATIONS

Can I pump milk after my baby is born or to keep up my milk supply?

Yes. The jail must allow you to pump milk to relieve discomfort in your breasts and prevent mastitis, an infection of the milk ducts. If you were breastfeeding your child before you were incarcerated, we believe that the jail must also allow you to keep pumping milk so that your milk supply does not dry up, but the law in this area is not yet completely clear.

Can I get the milk I pump to my baby?

The law is not completely clear, but we believe jails must allow this. Some jails do allow you to pump milk, store it for a brief period of time, and then have a friend or family member come to the jail to pick it up for the baby. But not all jails currently allow milk pick-up. Sometimes special advocacy by groups like the ACLU is needed to convince jails to allow milk pick-up, so contact us if you are having a problem.

BIRTH CONTROL

Can I stay on birth control while I'm in jail?

Yes. If you are on a birth control method prescribed by your doctor, the jail has to let you continue it.

Can I start a new birth control method while I'm in jail?

Yes, if you are close to release. The jail must make birth control services available to you at least 60 days before your release date, and if you request birth control at the time of your release, the jail has to make sure you get it. The jail does not have to give you a new birth control method at other times. However, if you request emergency contraception, either because you experienced sexual assault or because you had unprotected sex right before you were incarcerated, the jail must provide it. The jail must also educate you about what birth control methods are available. It is important to note that, by law, you cannot be sterilized (have your tubes tied) for birth control reasons while you are in jail. Sterilization procedures are available to you if need it for reasons other than birth control.

TESTING AND TREATMENT FOR SEXUALLY TRANSMITTED INFECTIONS

Can I get tested for HIV or STIs in jail?

The law does not require jails to offer HIV and STI testing, but experts recommend that they do so. If testing is provided, it must be voluntary and you must be able to refuse it. Jails should also be providing education about STIs, including how to prevent getting or transmitting STIs, symptoms and treatment.

Does the jail have to give me treatment for HIV or other STIs?

Yes, the jail must provide treatment for serious medical needs. Health experts say that the treatments should be consistent with federal treatment guidelines for people living with HIV and other STIs.

HYGIENE

Does the jail have to give me personal hygiene supplies for my period/menstrual cycle?

Yes. The jail must provide you with personal hygiene materials (like pads or tampons) that you need. Any person who needs the supplies must be allowed to use them, regardless of the person's gender identity or gender expression.

SEXUAL ASSAULT

I was sexually assaulted or sexually harassed. What should I do?

First and foremost, the jail must give you the medical and mental health care you need after you experience sexual assault. This includes any urgent treatment for your injuries, testing and treatment for possible sexually transmitted infections, emergency contraception, and counseling. You should get care not only if the assault occurs while you are in custody but also if you tell jail staff that you experienced sexual assault soon before you were incarcerated.

You can also report the incident and get the problem addressed. The jail has to a duty to prevent sexual assault or harassment. If incidents do occur the jail must take them seriously, protect and support the survivor, and hold the wrongdoers accountable. The jail cannot turn a blind eye to sexual assault. The jail must allow you to report instances of sexual assault or harassment anonymously and to anyone on jail staff that you trust. Jail staff must maintain your confidentiality, and they have a duty to protect you from retaliation by other incarcerated people or other staff if you report sexual assault or harassment.

If you don't feel comfortable reporting to or getting counseling from jail staff, the jail must allow you access to outside service providers who help people who have experienced sexual assault.

Can officers or guards watch me undress or search my body?

You should be able to undress, shower, and use the restroom without an officer of a different gender watching you. Jails also cannot conduct cross-gender strip searches, body cavity searches and pat downs unless there is a true emergency or the search is conducted by a medical practitioner. Jails are never allowed to conduct a search for the sole purpose of determining a person's genital status. Jails are required to train staff to conduct professional and respectful searches of transgender and intersex people; cross-gender search limitations apply but if you are transgender, ideally jails should be giving you an option as to the gender of the person who searches you, depending on what makes you most comfortable.

If you feel that your rights are being violated and you aren't able get the sexual and reproductive health care you need, please contact us.



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