

WA PAID FAMILY AND MEDICAL LEAVE & JOB PROTECTION

Preliminary Legislative Report

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EVANS SCHOOL
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Executive Summary

Washington State fiscal appropriations bill ESSB 5187 for 2023-2025 allocated funds for the study of the state Paid Family and Medical Leave program (WA Paid Leave) and job protection. This preliminary report describes the research design and project activities between July 1, 2023 – November 30, 2023.

Job protection

What we refer to in this report as “job protection” (legally, the right to reinstatement or restoration), is a guarantee that an employee can come back to the same job, or an equivalent one, after they take leave for reasons related to family or health. Under RCW 50A.35.010, these protections exist for workers using WA Paid Leave if they:

- work for an employer with 50 or more employees, and
- have worked for that employer for 12 months or longer and at least 1,250 hours in the year before the first day they take WA Paid Leave.

The study

We will use WA Paid Leave program data and original data collected from interviews and focus groups with workers in Washington to answer three research questions: (1) What percentage of workers contributing to WA Paid Leave is job-protected by the program, and how do job protection rates differ by wage and industry? (2) Does job protection status relate to a) rates of take-up of WA Paid Leave and b) employment stability after leave-taking? (3) How do workers perceive the value and importance of job protection when making decisions about leave-taking?

Work to date

During Summer and Fall of 2023, the research team accomplished all planned tasks, including receiving approval from the UW IRB; receiving and creating a secure environment for the WA Paid Leave program data provided by the Employment Security Department; and conducting a literature and legal review to provide background for our work. Consistent with the legislative text, we shared a written workplan summarizing the research design with the Paid Family and Medical Leave Advisory Committee and received both verbal and written feedback at their August meeting. The lead investigator also joined the committee’s October meeting to answer remaining questions and concerns. In October, the research team began analyzing the program data.

Preliminary findings

- Job-protected leave for family and health reasons is available to workers in Washington from multiple state and federal sources, including the federal American Disabilities Act and the state Family Care Act. **Yet, no other program or policy offers job-protected paid leave for longer durations and bonding with new children.**
- Studies of job protection offered through the nearly identical federal Family and Medical Leave Act (FMLA) suggest that **WA Paid Leave’s eligibility requirements for job protection likely make job-protected leave less available to women, less-educated workers, and workers of color than other workers.**
- **Preliminary analysis of WA Paid Leave program data indicates that less than 6% of firms are covered by the program’s job protection. About half of workers paying into the program have the job tenure and hours to qualify for job protection while taking leave.**

Introduction

Washington State fiscal appropriations bill ESSB 5187 for 2023-2025 allocated funds for the study of the state Paid Family and Medical Leave program (WA Paid Leave) and job protection by researchers at the University of Washington Daniel J. Evans School of Public Policy & Governance. (Appendix A. provides the legislative text.) This is the preliminary report to the governor and appropriate policy and fiscal committees of the legislature required by the authorizing bill by December 1, 2023. As requested, this report describes the research design and preliminary results.

Washington law incorporates the common law principle of “at-will employment,” in which both employers and employees can end an employment arrangement at any time for any reason. What we refer to in this report as “job protection” (legally, the right to reinstatement or restoration), is an exception to at-will employment, in which the employer cannot end the employment arrangement for reasons of the worker exercising a right or making a claim of discrimination. We refer to “job-protected leave” as the right to take unpaid or paid leave related to family or health with the guarantee of returning to the same job, or an equivalent one.

WA Paid Leave offers job protection to some but not all workers using the program. Employees are eligible for job protection while using the program if they:

- work for an employer with 50 or more employees, and
- have worked for that employer for 12 months or longer and at least 1,250 hours in the year before the first day they take Paid Leave (RCW 50A.35.010, 2019).¹

“JOB-PROTECTED LEAVE”
Employee is guaranteed the right to come back to the same job, or an equivalent one, after they take leave for reasons related to family or health.

This study is designed to estimate what percentage of workers in Washington are eligible for job-protected leave, and how that job protection is related to use of the WA Paid Leave program and employment after leave-taking. In addition, it will collect worker perspectives on the value and importance of job protection.

Research Design

This study will be 18 months, from July 1, 2023, through December 31, 2024. We will answer three research questions:

1. What percentage of workers contributing to WA Paid Leave is “job-protected” by the program, and how do job protection rates differ by wage and industry?
2. Does job protection status relate to a) rates of take-up of WA Paid Leave and b) employment stability after leave-taking?

¹ Employers may deny the right to restoration to an employee if they are “among the highest ten percent of the employees employed by the employer within seventy-five miles of the facility at which the employee is employed,” and it is necessary to prevent economic injury to its operations (RCW 50A.35.010 6(b), 2019).

3. How do workers perceive the value and importance of job protection when making decisions about leave-taking?

The research design includes three components: literature and legal review, analysis of program data, and collecting and analyzing worker perspectives.

Literature and legal review

We will assess the sources of job-protected leave in Washington and synthesize the key findings from studies of job protection under the FMLA and other state paid leave programs.

Analysis of program data

We will create worker employment histories using the Paid Leave wage report data to estimate job protection eligibility. From Q1 2020 through Q4 2022, we will also assign an indicator for whether a worker is *eligible for WA Paid Leave benefits* in each person-quarter observation based on hours worked 4 of the prior 5 (workers need 820 or more hours to be eligible). We will also assign an indicator for *job-protection status* in each person-quarter observation based on the employer's size, the number of quarters with that employer, and the number of quarterly hours worked. For workers who have multiple employers in a quarter, we will consider them job protected if they meet the requirements in any of the jobs. Once we've estimated each worker's eligibility and job protection status in each quarter between Q1 2020 and Q4 2022, we will estimate the proportion of eligible workers who are job protected in each quarter, overall and by wage and industry groups. We will also use descriptive statistics to capture whether job protection among eligible workers changes over time.

Matching these constructed data on job protection to the Paid Leave program claims data, we will analyze whether job protection status is associated with the using WA Paid Leave. To do this, we will estimate regression models predicting any claim filing in a quarter as a function of job protection status in that quarter and a limited set of controls for baseline wage and industry. We will also examine whether job protection is related to employment after leave-taking using the employment histories in the wage reports. We will examine two distinct measures of employment stability: employment in the quarter after taking leave and employment by the same employer in the quarter after taking leave. Another outcome of potential interest is the receipt of Unemployment Insurance benefits. We will consider whether this is possible by matching Paid Leave data to UI data.

Collecting worker perspectives

One of the challenges of understanding the role and importance of job protection is collecting information not only from program users but also from members of the target population who have not used the program. In addition, it is important to include workers without job protection in the study, but those workers are more economically marginalized and may be more difficult for us to recruit due to language barriers, being highly mobile, or having good reason to be suspicious of intrusions from both government and researchers. Our approach to these challenges is to use both focus groups and individual interviews and a purposive sampling approach to identify both program users and non-users. The focus groups will allow us to partner with community organizations to recruit diverse participants, including workers who are less likely to have job protection. The interviews will allow us to speak directly to program users with and without job protection. Both focus groups and interviews are conventional approaches to qualitative data collection, particularly in the context of program evaluation

and when studying topics or populations that are understudied or hard to identify through phone number alone. While not statistical, these methods are scientifically valid for studying individual knowledge, understanding, and subjective experience.

Focus groups

We plan to conduct three focus groups in Yakima, Lewis, and Whatcom counties. Our selection of these counties is based on wanting to include perspectives from both sides of the mountains, from counties that are less populous and economically developed than King and Pierce, and from workers of color, immigrant workers, and workers in diverse industries. We will work with business, worker, and community organizations to recruit participants in the focus groups. Each group will be approximately ten people. We will provide \$20 incentives and snacks and refreshments to the participants. Two members of our research team will conduct the focus groups, one to facilitate and another to take notes and manage administrative processes.

Focus groups collect qualitative data that come not only from individual experiences but from interactions between participants. For this reason, it is best if focus group participants have some common characteristics. We will organize our focus groups around industry, focusing on agricultural workers in Yakima County, service-sector workers in Lewis County, and construction and manufacturing in Whatcom County. We plan to conduct one focus group in Spanish and two in English provided the community organizations agree that would be helpful.

The focus groups will be advertised to workers as being about Balancing Work, Family, and Health. The focus group guide will include 8-10 questions about what participants do when they need time off work to care for themselves or others, how their workplace supports or hinders that type of leave, and how and why they have or have not used WA Paid Leave. We will design the focus group instrument for a one-hour conversation. The focus groups will be audio-recorded and transcribed using otter.ai. At the end of the focus groups, we will distribute a flyer about WA Paid Leave approved by ESD and program stakeholders.

Interviews

We also plan to conduct 30 individual interviews with paid leave users, split between individuals who we estimate were job protected at the time of leave and those who were not. We will identify 60 such individuals during our Phase 2 analysis and ask ESD to send an email inviting them to participate in an interview. The interviews will be designed to be 30 minutes long and conducted via Zoom. We will provide interviewees \$30 to thank them for participating.

The interview guide will include 4-5 questions focused on the participant's experience using leave, particularly how they negotiated the time off from work and how both supervisors and coworkers supported or hindered their leave. We will ask specifically about the participant's understanding of the job protection rules and whether they discussed job protection with their employer. Interviews will be audio recorded and transcribed on otter.ai.

Both focus group and interview text data will be coded in a qualitative analysis software and then analyzed for themes, contrasts, and exceptions. We will use pseudonyms for all study participants.

Preliminary Findings

During summer and fall 2023, we accomplished all planned tasks, including receiving approval from the UW IRB; receiving and creating a secure environment for the Paid Leave program data provided by ESD; and conducting a literature review to provide background for our work. As required by ESSB 5187, we shared a written workplan summarizing the research design with the Paid Family and Medical Leave Advisory Committee² and received both verbal and written feedback at their August meeting. The employer representatives on the Advisory Committee submitted a written memo outlining concerns and questions. The research team sent a written response and joined the Advisory Committee meeting in October meeting to address remaining questions and concerns. In the fall, we also consulted with an employment law expert, Elizabeth Ford, JD, at Seattle University's School of Law. During the report period, we also began analysis of the program data. We received the program data from ESD in September 2023. To date, we have merged the files needed to estimate job protection eligibility and calculated some summary statistics.

Below we summarize the findings from three tasks 1) a landscape analysis of the legal sources of job protection in Washington State; 2) a literature review of the effects of job protection on employment and other outcomes; 3) initial analysis of the program data.

Job-protected leave in Washington

As we use it in this report, “job protection” (legally, the right to reinstatement or restoration), is a guarantee that an employee can come back to the same job, or an equivalent one, after they take leave for reasons related to family or health. Job protection is a statutory exception to the common law principle of at-will employment, which allows both employees and employers to terminate an employment arrangement at any time for any reason.³ Similar statutory exceptions to the at-will doctrine focus on protecting workers who are exercising a protected right or filing a complaint (NCSL, 2008; Washington Department of Labor & Industries, nd).⁴ The right to reinstatement is also frequently a feature of collective bargaining agreements through their layoff and recall protections as well as the prohibition against discharge except for just cause.⁵ Civil service laws often contain similar protections.⁶ In this report, however, we focus on statutory sources of job protection in Washington State related to *exercising the right to take leave from work for family or medical reasons*.

Job-protected leave from WA Paid Leave

Under RCW 50A.35.010, workers have “employment protections” when using WA Paid Leave if they:

- work for an employer with 50 or more employees, and

² <https://paidleave.wa.gov/advisory-committee/>

³ *E.g. Thompson v. St. Regis Paper Co.*, 102 Wash. 2d 219, 223, 685 P.2d 1081 (1984) (“Generally, an employment contract, indefinite as to duration, is terminable at will by either the employee or employer.”).

⁴ *See e.g.* RCW 49.46.100 (prohibiting discharge in retaliation for exercising the right to minimum wage, overtime, or paid sick leave); RCW 49.60.180 (prohibiting discharge on the basis of certain protected characteristics or in retaliation for raising a claim of discrimination); RCW 49.17.160 (prohibiting discharge in retaliation for an employee raising a health and safety complaint.)

⁵ *See Collective Bargaining Negotiations & Contracts Manual*, at §117 and §118 (Bloomberg Law 2022) (collecting sample CBA language).

⁶ *E.g.* RCW 41.06.170.

- have worked for that employer for 12 months or longer and at least 1,250 hours in the year before the first day they take Paid Leave.⁷

These conditions are nearly identical to those for job-protected unpaid leave under the Federal Family and Medical Leave Act (FMLA).⁸ Research has shown that FMLA’s requirements for job-protected unpaid leave disadvantage certain groups of workers. Specifically, requiring a minimum of 1,250 hours disproportionately excludes women; requiring 12 months of job tenure disproportionately excludes Black, Indigenous, and multiracial workers; and covering only employees in firms of 50 or more employees disproportionately excludes less educated and Latinx workers. Consequently, it is estimated that about 36% of workers in the US are ineligible for job-protected unpaid leave through the FMLA (Goodman et al., 2022).

Table 1 shows the job-protected family and medical leave programs by state. Washington is one of eight states that provide job protection directly through a state paid leave program. Of those, Washington is the most restrictive in offering job protection, particularly for family leave, in terms of the employers covered and the job tenure needed to qualify. For example, most states with job protection offered through a paid leave program cover workers in all firms or only exclude small firms for medical leave. The employer size requirement alone excludes a sizable share of Washington workers from the job-protected paid leave. According to the US Census Bureau’s Statistics for US Businesses data, just 6% of all Washington firms and 75% of all Washington jobs would be covered by WA Paid Leave job protection based on firm size. Certain industries have a lower percentage of overall employment in covered firms. For example, just half of all Washington jobs in construction and 56% of all jobs in accommodations and food services is in firms of 50 or more employees (US Census Bureau, 2020).

Job-protected leave from other sources

The Paid Family and Medical Leave Advisory Committee encouraged the research team to consider WA Paid Leave job protection in the broader context of job-protected leave offered through other Washington and federal laws. We conducted a legal review of right to restoration guarantees specific to taking paid or unpaid leave for family or medical reasons. There are eight relevant laws, six state and two federal, that offer job protection in the case of some types of leave from work (Washington State Department of Labor & Industries, 2022). Table 2 summarizes those laws and Figure 1 illustrates which laws cover different types of leaves and different groups of Washington workers.

We have three key findings about job-protected paid leave in Washington from this analysis:

1. **The main source of job-protected paid leave other than WA Paid Leave is the Washington Paid Sick Leave Law, but sick leave is shorter and less “portable” than paid medical leave.** Medical leave to care for one’s own health is the most common type of leave needed and taken in the US and in Washington (Bureau of Labor Statistics, 2019). In addition to WA Paid Leave, the state mandates paid sick leave accrual for all workers, including those working part-time and for

⁷ Employers may deny the right to restoration to an employee if they are “among the highest ten percent of the employees employed by the employer within seventy-five miles of the facility at which the employee is employed,” and it is necessary to prevent economic injury to its operations (RCW 50A.35.010 6(b), 2019).

⁸ The only difference between the job protection eligibility requirements of WA Paid Leave and FMLA is that WA Paid Leave determines employer size using all employees in the state while FMLA determines employer size by summing all employees within 75 miles.

smaller employers. Sick leave paired with the Washington Family Care Act offers job-protected paid leave for both own medical and family care reasons. There are several key distinctions between sick leave and paid leave that are important to note. Sick leave is tied to employment with a specific employer, while WA Paid Leave is “portable” because it covers all employment. Also, WA Paid Leave offers up to 12 weeks of leave, while sick leave accrues at 1 hour per 40 hours of work. Accruing one week of sick leave would take nearly a year working full-time hours for the same employer. Also, accrued sick leave is effectively capped at 40 hours per year because employers are not required to carry over more than 40 hours of sick leave. Due to these differences, research suggests that sick leave is most often used for medical appointments or seasonal illnesses, while medical leave, like that offered by WA Paid Leave, can be used to recover from serious illness or injury (Boyens & Smalligen, 2020).

2. **Job-protected paid leave for bonding with a new child is only available through WA Paid Leave.** This is the second most common type of leave taken (nationally and in Washington), and it has proven benefits to maternal and child health and to maternal employment (Bartel et al., 2023). Yet, given the eligibility requirements, we expect a sizable percentage of workers in Washington will not have legal job protection while taking parental leave.
3. **It is likely that less-educated workers, women, and workers of color have lower rates of job protection during leave (paid and unpaid) than other workers.** Many of these laws, including WA Paid Leave, have eligibility requirements related to size of employer, length of employment, or number of hours worked. Less educated and Latinx workers are more likely to work in small firms compared to other workers (Headd, 2000). Employment and hours instability are more common among women than men and among workers of color than white workers (Schneider & Harknett, 2019).

It is important to note that even without legally mandated right to restoration, employers can voluntarily hold jobs for workers on leave. Theoretically, employers might offer informal job protection because a worker would be difficult to replace or because the employer promotes work-life balance as a cultural norm. We could find no evidence of the prevalence or nature of informal job protection, but studies of employer attitudes toward leave taking and other employee benefits are instructive. Employers have increasingly acknowledged the necessity and value of promoting work-life balance (Rhee et al., 2020; Zuckerman, 2013). Offering workers flexibility is seen as a key factor for retention and productivity (Zuckerman, 2013). Stroman et al. (2017) found that retention was one of the primary reasons employers choose to provide family leave. Also, there is growing evidence of employer support for state paid leave programs (Sakaria and Tosto, 2018; Bartel et al., 2021a; Appelbaum and Milkman, 2011). In New York State, access to public paid leave improved employers' rating of their ease of handling long employee absences (Bartel et al., 2021b). Given the disparities in other types of voluntary employee benefits by wage and hours, however, we might expect that support for paid leave taking and informal job protection would be more likely offered in full-time and high-paid jobs.

Table 1. Job-Protection Provisions in State Family or Medical Leave Programs

State	Sources of Job Protection	Employer Size	Job Tenure Required
		Covered	
Job Protection Provided by Other Laws			
CA	FMLA/California Family Rights Act	50+/5+	12 mos. +1,250 hours
CT	FMLA/ CT FMLA	1+	3 mos
DC	FMLA/D.C. FMLA	20+	12 mos + 1,250 hours
NJ	FMLA/New Jersey Family Leave Act	50+/30+	12 mos + 1,000 hours
Job Protection Provided by Paid Leave Program			
DE	DE paid leave	All	None
CO	CO Family and Medical Leave Insurance Program	All	180 days
MA	MA PFML	All	None
MD	MD paid leave	All	None
NY	Family: NY PFL Medical: FMLA	Family: All Medical: 50+	Family: None Medical: 12 mos + 1,250 hours
OR	Paid Leave OR	All	90 days
RI	Family: RI Temporary Caregivers Insurance Medical: FMLA	Family: All Medical: 50+	Family: None Medical: 12 mos. + 1,250 hours
WA*	WA PFML	50+	12 mos. + 1,250 hours

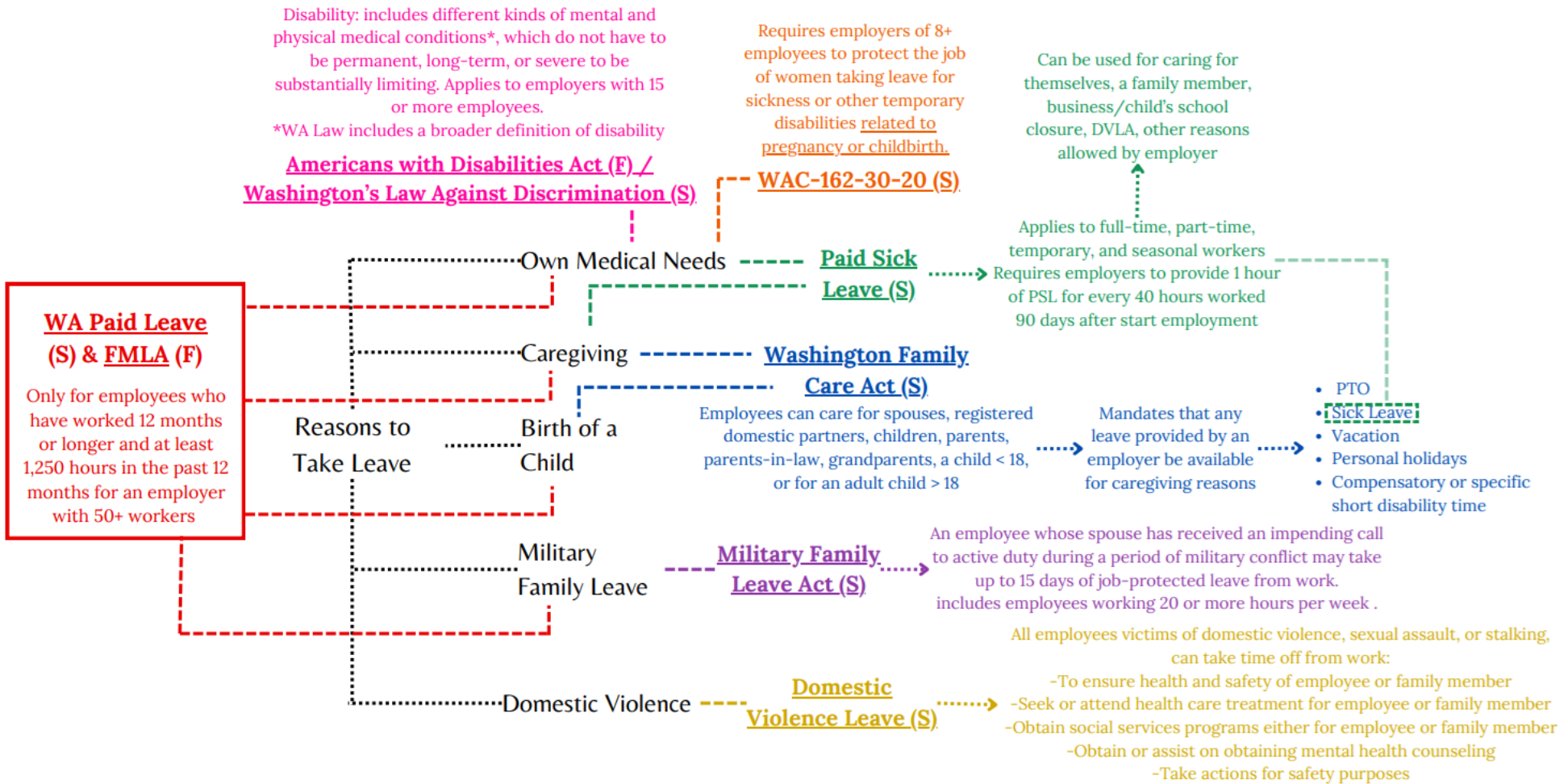
Source: National Partnership for Women and Families (2022). *State Paid Family and Medical Leave Insurance Laws*. Washington DC: NPWF. We conducted validation using individual state program websites.

Notes: FMLA = federal Family and Medical Leave Act; PFML = Paid Family and Medical Leave; PFL = Paid Family Leave. The programs in DE, CO, and MD have not yet begun paying benefits.

Table 2. Laws Offering Job-Protected Family or Medical Leave to Washington Workers

Program/Law	Types of Leave Protected						Who is Covered by Job-Protection
	Paid	Unpaid	Bonding	Family care	Medical	Other	
Washington Paid Family and Medical Leave	✓		✓	✓	✓	✓	Workers taking paid leave through the WA PFML program for medical, bonding, or family care purposes who: a) work for a firm of 50 or more employees; b) have worked for at least 12 months for that employer; and c) have worked at least 1,250 hours in the year before taking leave. Firm size calculated across state. (RCW 50 A)
Washington Family Care Act	✓			✓			All employees in the state who are using <i>accrued employer-provided paid leave</i> , including paid sick leave, vacation, paid time off, personal holidays, compensatory time, and specific short-term disability, to care for a family member. (RCW 49.12.265; WAC 296-130)
Washington Paid Sick Leave Law	✓			✓	✓		All employees must accrue 1 hour of paid sick leave per 40 hours of work. Can be used starting after 90 days of employment. (RCW 49.46; WAC 296-128)
Federal Americans with Disabilities Act & Washington State Law Against Discrimination	✓	✓			✓		Workers at firms of 15+ employees taking leave for a mental or physical health disability. Washington’s law includes a broader definition of disability than the ADA, covering a greater number of impairments and conditions (RCW 49.60.040(11)). Washington law also covers female workers taking leave for a pregnancy or childbirth-related illness or disability working for firms of 8+ employees (WAC 162-30-020). <i>Can use accrued employer-provided vacation or sick leave or unpaid leave.</i>
Federal Family and Medical Leave Act		✓	✓	✓	✓	✓	Workers taking unpaid leave who a) work for a firm of 50 or more employees; b) have worked for at least 12 months for that employer; and c) have worked at least 1,250 hours in the year before taking leave. Firm size calculated within 75 miles.
Washington Military Family Leave Act	✓	✓				✓	Workers working 20 hours+ per week taking leave for a military spouse who has been called to duty during a period of active military conflict. <i>Can use accrued employer-provided vacation or sick leave or unpaid leave.</i> (RCW 49.77)
Washington Domestic Violence Leave	✓	✓				✓	All workers taking leave related to domestic violence safety or services. Can use <i>accrued employer-provided leave or request unpaid leave.</i> (RCW 49.76)

Figure 1. Sources of Job-Protected Family and Medical Leave in Washington State (S=State; F=Federal)



Prior evidence of job protection during leave

There is limited evidence on job protection as a component of leave, but job quitting and job loss are documented outcomes for many workers who have unmet need for medical or caregiving leave. When workers report an “unmet need” for leave, fear of job loss is the second most reported reason after being unable to afford time off (Brown et al., 2020). In 2022, 2.7 million workers not protected under FMLA reported needing leave but not taking it due to fear of losing their jobs (National Partnership for Women & Families, 2023). Recovering from an illness or providing caregiving leads to job loss in one out of every seven workers (Gupta et al., 2018). Employer-provided benefits – such as health insurance and paid sick leave—are associated with an increased likelihood of job retention, overall and for employees facing a serious illness (Hill, 2010; Veenstra et al., 2018). Among workers whose spouses have health shocks, access to paid leave reduces the likelihood that the worker will leave the job by 7 percentage points (Coile et al., 2023).

In the case of job-protected *paid* leave, it is difficult to disentangle the effects of job protection from the effects of wage replacement. In some ways, research on the impacts of the FMLA offers the best insight into the impacts of job protection because the law offers job protection without pay. Using the introduction of the FMLA in 1993 as a natural experiment, Waldfogel (1999) found significant increases in access to leave and leave-taking among workers employed in medium-sized firms, particularly among mothers with young children. She found no net effect of FMLA access on employment and earnings, however (Waldfogel, 1999). Several studies have pointed to limited job protection as a potential cause of low take-up of paid leave benefits, particularly among workers in low-wage jobs (Winston, 2019; Appelbaum and Milkman, 2011).

Preliminary estimates from program data

It took some time to create a secure environment for data use at the UW Data Collaborative (UWDC) that aligns with our commitments in the data sharing agreement between the Evans School and ESD. We are storing the data in a highly secure data “enclave” in which only researchers who have received approval from the lead investigator, signed a non-disclosure agreement with ESD, completed a data security training offered by the CDC, and signed a data use agreement with UWDC can access the data. The files available to research staff have encrypted Social Security Numbers to protect the privacy of individuals in the data. We also set limits on cell sizes, such that no statistic can be reported if the sample is smaller than 10 individuals.

The program data were ready for analysis in early October. So far, we have worked to clean and merge the different datasets that are relevant to this analysis including data on employers, workers, and paid leave recipients. Our analytic sample between 2020-2023 includes about 5 million unique employees. Each year, about 3 million unique employees pay into the program and 110,000 employees file their first weekly claim for paid leave (roughly 3% of workers paying premiums). It is important to note that a small percentage (<0.5%) of wage report and claims records do not have SSN/ITIN because it is not required. Without SSN/ITIN in the broader datafiles, we cannot link wage reports to Paid Leave application and receipt records. There is also not sufficient identifying information (e.g. birthdate or address) to follow workers without SSN/ITINs over time. We dropped these records from our analysis.

Table 3 presents preliminary estimates for the percentage of firms and workers that meet the conditions of WA Paid Leave job protection. For firms, the condition is having 50 or more employees in the state. For workers, the condition is having worked for an employer for 12 months or more and for 1,250 or more hours. The estimates are at the quarter level and weighted by the number of employees in each quarter when averaged across quarters (Q1 2020-Q2 2023). Consistent with the data from the US Census Bureau on page 9, most firms in Washington are not required by WA Paid Leave to restore jobs after a worker takes leave. On average, just 5.7% of all Washington firms employ 50 or more employees. The coverage rates for firms vary substantially by industry, however, from 3 to nearly 30 percent. Comparing worker employment patterns to the tenure and hours requirements for job-protected leave (12 months and 1,250+ hours in a job) suggests that about half of Washington workers would qualify. Importantly, we have yet to estimate the rates of job protection among those eligible for paid leave or to examine job protection rates by worker wage level.

Table 3. Preliminary Estimates of Components of Job Protection Eligibility under WA Paid Leave

Average Quarterly Rates	
Percentage of Washington workers with 12 months tenure and 1,250+ hours in any job	54%
Percentage of Washington firms with 50+ employees	5.7%
<u>By Industry (2-digit NAICS code)</u>	
Accommodation and Food Services	6.7%
Administrative and Support and Waste Management and Remediation Services	6.1%
Agriculture, Forestry, Fishing and Hunting	10.6%
Arts, Entertainment, and Recreation	8.3%
Construction	4.2%
Educational Services	13.2%
Finance and Insurance	4.5%
Health Care and Social Assistance	7.3%
Information	4.7%
Management of Companies and Enterprises	4.7%
Manufacturing	12.7%
Mining, Quarrying, and Oil and Gas Extraction	7.4%
Other Services (except Public Administration)	2.4%
Professional, Scientific, and Technical Services	3.1%
Public Administration	29.2%
Real Estate and Rental and Leasing	3.3%
Retail Trade	5.6%
Transportation and Warehousing	9.6%
Utilities	22.8%
Wholesale Trade	6.9%
Unknown Sector	4.9%

Source: ESD WA Paid Leave wage report data, 2020-2023.

Notes: All figures are weighted averages across calendar quarters in the full study period Q1 2020 – Q2 2023. The average quarterly percentages are weighed by the number of employees in each quarter.

Next Steps

In the coming months, we will continue analyzing program data to predict job protection status for all workers paying into the WA Paid Leave program and for workers who are eligible for the program (based on work hours in four of the prior five quarters). We will use those predicted rates of job protection to examine whether having access to job protection affects the use of paid leave benefits or employment after leave-taking. In addition, we will design and conduct interviews and focus groups with Washington workers to gain their perspectives on job protection as a component of the paid leave program.

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Appendix A. ESSB 5187, Section 225(22)

(22)(a) \$250,000 of the family and medical leave insurance account—state appropriation is provided solely for the department to contract with the University of Washington Evans school of public policy and governance to conduct a study on the impacts of the state family and medical leave program's job protection standards on equitable utilization of paid leave benefits under the program.

(b) The study shall consider the following:

(i) The rates at which paid leave benefits under chapter 50A.15 21RCW are used by persons who qualify for job protection under RCW 2250A.35.010 or the federal family and medical leave act;

(ii) Worker perspectives on the effects of job protection under 24RCW 50A.35.010 and the federal family and medical leave act on the use of paid leave benefits under chapter 50A.15 RCW; and

(iii) Employment outcomes and other impacts for persons using paid leave benefits under chapter 50A.15 RCW.

(c)(i) In conducting the study, the university must collect original data directly from workers about paid leave and job protection, including demographic information such as race, gender, income, geography, primary language, and industry or job sector.

(ii) In developing the study, the university must consult with the advisory committee under RCW 50A.05.030, including three briefings: An overview on the initial research design with an opportunity to provide feedback; a midpoint update; and final results. The university must consult with the committee regarding appropriate methods for collecting and assessing relevant data in order to protect the reliability of the study.

(d) A preliminary report, including the initial research design and available preliminary results must be submitted by December 1, 2023, and a final report by December 1, 2024, to the governor and the appropriate policy and fiscal committees of the legislature, in accordance with RCW 43.01.036.