

WA PAID FAMILY AND MEDICAL LEAVE & JOB PROTECTION

Final Legislative Report

ESSB 5187, Section 225 (22)

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EVANS SCHOOL
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Executive Summary

This final report describes the research design, activities, and results for a study of the Washington Paid Family and Medical Leave program (WA Paid Leave) and job protection. The study was conducted by researchers at the University of Washington, Daniel J. Evans School of Public Policy & Governance between July 1, 2023 – November 30, 2024, under contract with the Washington Employment Security Department (ESD). A preliminary report was submitted on December 1, 2023.

“Job protection” (legally, the right to reinstatement or restoration) is a legal guarantee that an employee can return to the same job, or an equivalent one, after taking leave. Under WA Paid Leave (RCW 50A.35.010), these protections exist for workers who work for an employer with 50 or more employees in the state, and have worked for that employer for 12 months or longer and at least 1,250 hours in the year before the first day of leave.

Washington State fiscal appropriations bill ESSB 5187 for 2023-2025 allocated funds for a study of WA Paid Leave and job protection (legislative text shown in Appendix A), stating that the study needed to examine the rates at which paid leave benefits are used by persons who qualify for job protection, worker perspectives on the effects of job protection on the use of paid leave benefits, and employment outcomes and other impacts for persons using paid leave benefits. In consultation with ESD and the PFML Advisory Committee, the UW research team designed a study to answer these 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?

We conducted a literature and legal review, statistical analysis of three types of program data provided by ESD, and thematic analysis of original qualitative data from workers.

Key Findings

WA Paid Leave offers a unique but restricted source of legal job protection.

WA Paid Leave is the only law in the state that offers job-protected paid leave for longer leave durations and bonding with new children. However, WA Paid Leave restricts job protection more than most paid family and medical leave programs in other states. We estimate that 53% of workers with an eligible employment history for WA Paid Leave qualify for job protection, with much lower rates for workers with low earnings and in

some industries. Among workers who have used WA Paid Leave, job protection rates are around 60% and do not vary substantially by gender or race/ethnicity.

Job protection is associated with substantial increases in leave take-up and modest increases in employment after leave.¹

Among workers who have an eligible employment history for WA Paid Leave, 1.8% of those who we estimate are job protected will take-up leave in each quarter, compared to 1.1% of those who are not job protected (a 64% increase). Being eligible for job protection is associated with a 3.3-percentage point (5%) increase in being employed in the quarter after leave and, if employed, a 5.3-percentage point (6%) increase in the likelihood of being employed with the same employer. The positive association between job protection and employment after leave was largest for the lowest-earning workers.

Workers understand job protection generally, but few spoke to their employers about the specifics.

In interviews and focus groups with workers in the state, most understood the concept of protected leave but did not know sufficient details about protected leave through WA Paid Leave to advocate for their rights. The source of protection was often confused with employee benefits or the federal Family and Medical Leave Act. Few workers discussed with their employer whether their job would be held, and few referenced the specific firm size, job tenure, and work hours requirements of job protection.

Fear of job loss was primarily related to general employment security and not always relevant to the decision to take leave.

Few workers we spoke to described fear of job loss as a major factor in their decision to take leave. For some, the health situation was so urgent that leave was necessary and unavoidable even if it put their employment at risk. Others felt secure because of their longstanding employment, the prior actions of the employer, or their sense of value as an employee. Taking leave was nonetheless stressful and workers worried about not meeting performance expectations, letting down or burdening coworkers, and experiencing financial hardship. The few that expressed fear about losing a job while on leave were in more precarious employment situations, perceived themselves as easily replaceable, or faced extreme economic vulnerability. In the focus group with agricultural workers, most workers found it hard to imagine ever feeling secure enough to take leave for health or caregiving.

¹ The statistical associations in this report should not be interpreted as causal effects. While they suggest a positive relationship between job protection, take-up, and employment, they could also relate to unobserved differences in the characteristics of workers or jobs.

Recommendations

Based on this study's findings, we offer three recommendations for the design and operation of the WA Paid Leave program.

Recommendation 1. Simplify and expand the eligibility requirements for job protection under WA Paid Leave to improve equitable access and take up.

Washington Paid Leave uses firm size and job tenure/hours requirements to restrict eligibility to job protection, while most states select one of those and make it less restrictive. Broader eligibility for job protection would have multiple benefits for workers, employers, and the program: It would offer greater security to more workers, simplify the rules to make them easier to understand and implement for employers, and increase the likelihood that workers will use the WA Paid Leave program when they need it.

Recommendation 2. Communicate more to employers and workers about job protection as a distinct component of WA Paid Leave.

ESD and advocates could also do more to highlight the legal protection offered by WA Paid Leave as a distinct element of the program and separate from FMLA. For example, neither the mandatory poster nor the optional paystub insert provided by ESD to employers has any information about job protection under WA Paid Leave. We recommend adding brief text to both to clarify who has job protection while using the program. With added authority and resources, ESD and community-based advocates could develop more materials that highlight the legal protection offered by WA Paid Leave.

Recommendation 3. Consider giving ESD the authority and resources to collect and review data from employers on post-leave employment.

Currently, the burden of identifying and reporting violations of the right to reinstatement under WA Paid Leave falls entirely on workers and their legal advocates. Evidence from other labor regulations (e.g., minimum wages) suggests this type of passive enforcement produces inequitable outcomes. The legislature could provide ESD with the authority and resources they would need to collect data on post-leave employment as a starting point toward targeted active enforcement.

Background

Washington State fiscal appropriations bill ESSB 5187 for 2023-2025 allocated funds for a study of job protection under the Washington Paid Family and Medical Leave program (WA Paid Leave) conducted by researchers at the University of Washington’s Daniel J. Evans School of Public Policy & Governance (UW Evans School). The research team submitted a preliminary report on December 1, 2023. This is the final report to the governor and appropriate policy and fiscal committees of the legislature required by the authorizing bill.

What is Protected Leave?

Washington law incorporates the common law principle of “at-will employment,” in which employers and employees can end an employment arrangement at any time for any reason.² 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 (Washington State Department of Labor & Industries, n.d.; National Conference of State Legislatures 2008). The right to reinstatement is also often a feature of collective bargaining agreements and civil service laws.

Definition

Protected Leave

Time off from work to address personal or family issues in which the employee is guaranteed the right to come back to the same job or an equivalent one.

This report focuses on statutory sources of job protection in Washington State related to *exercising the right to take leave from work for family or medical reasons*. We define “protected leave” as time off from work to address personal or family issues in which the employee is guaranteed the right to come back to the same job or an equivalent one. WA Paid Leave offers job protection to some but not all program users. Workers are eligible for job protection while using the program if they:

- work for an employer with 50 or more employees in Washington State, 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).³

² *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.”).

³ 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).

In addition to Washington, twelve other states now have paid leave insurance programs (in place or planned). Some offer job protection through the federal Family and Medical Leave Act (FMLA), or a state extension of FMLA; others, like Washington, offer it directly through the paid leave program (see Figure 1). Across these states, Washington has the most restrictive eligibility rules, particularly for job protection during family leave. For example, in Washington, workers in firms of less than 50 employees do not have access to job protection for paid leave.⁴ Most states with job protection offered through a paid leave program cover workers in all firms. Even states that use the FMLA to provide job protection include firms much smaller than 50 for family leave. In addition, while Washington uses both tenure and hours requirements, like the FMLA, most states offering job protection through their paid leave program only use tenure and set a much lower bar (e.g., 90-180 days).

In Washington, WA Paid Leave is one of eight separate laws (six state and two federal) that offer job protection in the case of some types of leave (paid or unpaid) from work (Washington State Department of Labor & Industries, n.d.; see Appendix Figure C1). In addition to WA Paid Leave, the state mandates paid sick leave accrual for all workers, including those working part-time and for smaller employers. Sick leave, paired with the Washington Family Care Act, offers job-protected paid leave for both own medical and family care reasons, at least for short periods.⁵ Notably, in Washington, job-protected paid leave for longer medical and family care leaves and for bonding with a new child is only available through WA Paid Leave.

Employers can offer informal (not legally mandated) job protection to retain a worker that would be difficult to replace or to promote work-life balance as a cultural norm. We found no evidence of the prevalence or nature of informal job protection, but studies of employer attitudes find that employers increasingly acknowledge the necessity and value of promoting work-life balance and see offering workers flexibility as a key factor for retention and productivity (Hoch 2013; The Council of Economic Advisors 2014).

⁴ 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 of the workplace.

⁵ There are several key distinctions between sick leave and paid family and medical leave: 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. 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).

FIGURE 1. JOB PROTECTION OFFERED THROUGH STATE PAID LEAVE PROGRAMS

State Program	Firm Sizes Covered	Job Tenure Required
Provided through FMLA/State FMLA Extension		
California	5+ family & pregnancy; 50+ all other types	12 mos. + 1,250 hours
Connecticut	1+	3 months
New Jersey	30+ family leave; 50+ all other types	12 mos. + 1,000 hours
New York Medical	50+	12 mos. + 1,250 hours
Rhode Island Medical	50+	12 mos. + 1,250 hours
Provided through State Paid Leave Program		
Colorado	All	180 days
Delaware	All	None
Maine	All	180 days
Minnesota	All	90 days
Massachusetts	All	None
Maryland	All	None
New York Family	All	None
Oregon	All	90 days
Rhode Island Family	All	None
Washington	50+	12 mos. + 1,250 hours
<i>Sources: A Better Balance, n.d.; National Partnership for Women and Children 2024</i>		

What Do We Know about Protected Leave from Prior Research?

Job quitting and job loss are documented outcomes for many workers with unmet medical or caregiving leave needs. 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). Among workers whose spouses have health shocks, access to paid leave reduces the likelihood that the worker will leave their job by 7-percentage points (Coile, Rossin-Slater, and Su 2022).

We know of no studies of protected leave in the context of state paid family and medical leave insurance programs. However, research on the FMLA offers 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 mothers with young children, but no net effect on employment and earnings.

Prior studies suggest that workers earning low wages and single-parent families have lower rates of job protection under FMLA due to the firm size, tenure, and hours eligibility requirements (Brown et al. 2020). Other workers that might be disproportionately excluded from job protection include less educated and Latinx workers, who are more likely to work in small firms compared to other workers (Headd 2000), and white women and workers of color who experience greater employment and hours instability than other workers (Schneider and Harknett 2019). 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 et al. 2019; Appelbaum and Milkman 2011).

An important question is whether job protection is an affirmative right that states have the authority to enforce. At both the state and federal levels, labor regulations and other worker rights have reactive enforcement structures, which depend on worker complaints (Weil and Pyles 2006; Weil 2011). Recent reforms have led to more active auditing of employer practices in a few industries and locales (Alexander and Prasad 2014; Weil 2005; Fine and Gordon 2010). For the most part, however, violations are investigated only when a worker has the knowledge, resources, and capacity to make a complaint. In cases related to the right-to-reinstatement under FMLA, courts have found for employers, placing the burden on the worker to prove that leave was the reason for dismissal and incorporating employer intent as a consideration (Hickox, 2002; Williamson, 2019).

Overview of this Study

ESSB 5187, Section 225(22) required that Washington Employment Security Department (ESD) contract with the UW Evans School 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.” (See full legislative text in Appendix A.) The study needed to examine the rates at which paid leave benefits are used by people who qualify for job protection, worker perspectives on the effects of job protection on the use of paid leave benefits, and employment outcomes and other impacts for people using paid leave benefits. We translated the requirements of the legislation into three research questions:

- RQ1. 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?
- RQ2. Does job protection status relate to a) rates of take-up of WA Paid Leave and b) employment stability after leave-taking?

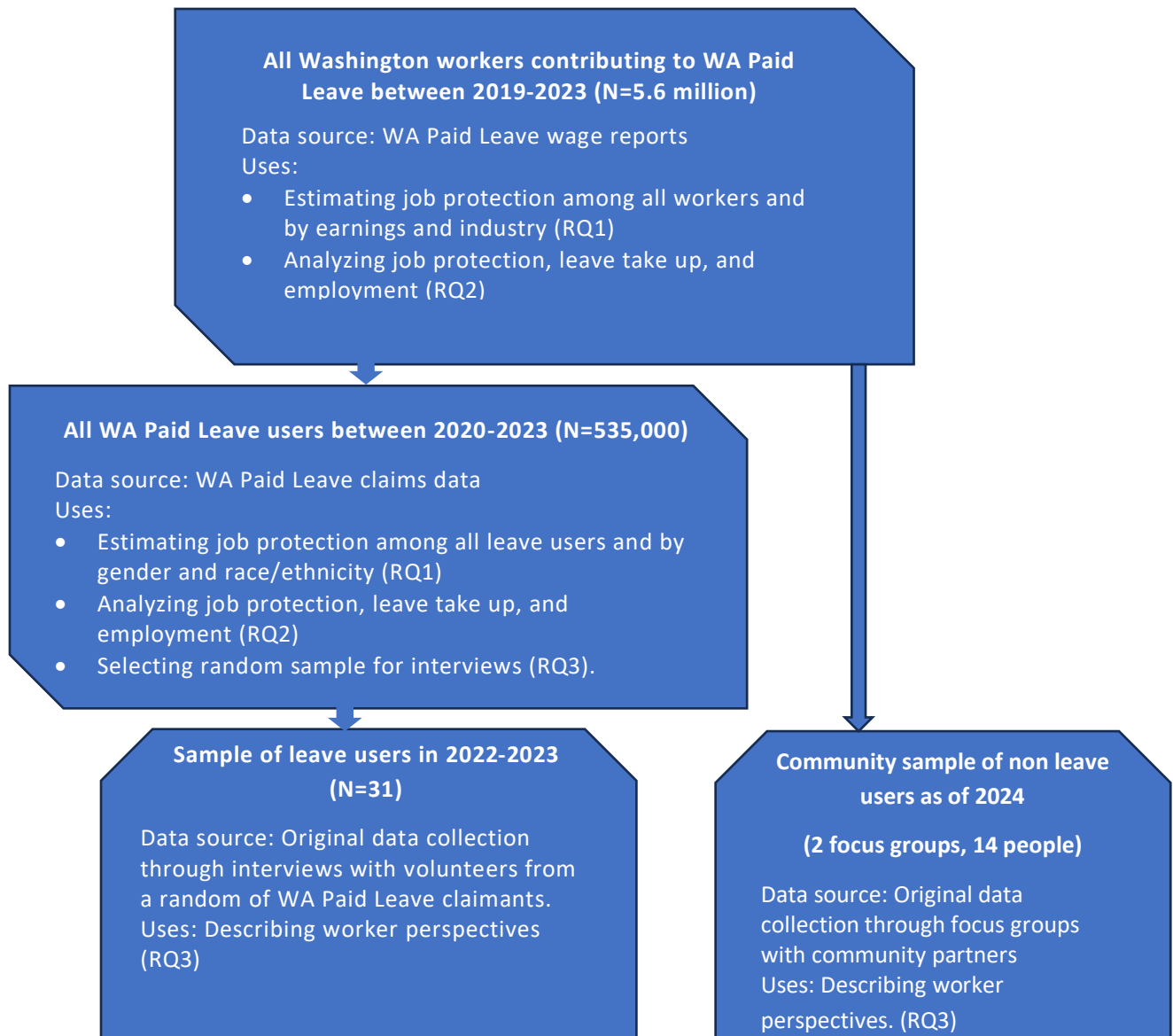
RQ3. How do workers perceive the value and importance of job protection when making decisions about leave-taking?

To answer these questions, we conducted the following research activities: **Literature and legal review** to identify prior studies of protected leave and to complete a policy landscape review of the laws in Washington State that provide job protection related to leave from work. **Program data analysis** to estimate job protection rates and the associations between job protection, take-up, and employment. Under a data sharing agreement with ESD, we analyzed two complementary sources of Paid Leave data: wage reports submitted quarterly by employers on all covered Washington workers and claims data from WA Paid Leave recipients. In some analyses, we also used Unemployment Insurance claims data provided by ESD. These analyses used descriptive statistics and regression estimates using either all workers covered by WA Paid Leave between 2019-2023 or all leave users between 2020-2023 (see Figure 1). We examined sub-groups by total quarterly earnings quintiles and industry from the wage reports. Using the claims data, we examined sub-groups by self-reported gender and race/ethnicity. **Original data collection** from workers to understand their perspectives on paid leave and job protection. We conducted interviews with 31 workers in Washington who had used the WA Paid Leave program and facilitated two focus groups with workers who had not used the program in Yakima and Pierce Counties.

Figure 2 shows the populations, samples, and data used in the study. Appendix B describes the research methods in detail. All research activities were planned in consultation with ESD staff and approved by the UW Institutional Review Board. The research team consulted with the Paid Family and Medical Leave Advisory Committee⁶ in three briefings on the initial design, midpoint update, and final results. We shared the workplan with the committee, took questions, and received feedback at the August 2023 meeting. The written workplan was shared by ESD in September, and the employer representatives on the committee then submitted a written memo outlining concerns and questions. The research team sent a written response and joined the Advisory Committee meeting in October to address remaining questions and concerns. The research team attended the January 2024 meeting to discuss the preliminary report and our plans for collecting worker data. Several advisory committee members were instrumental in connecting us to community organizations as partners for focus groups. We have a briefing with the Advisory Committee on the findings of this report scheduled for December 18, 2024.

⁶ <https://paidleave.wa.gov/advisory-committee/>

FIGURE 2. STUDY POPULATIONS, SAMPLES, AND DATA



Results

Who has Access to Protected Leave?

Using the WA Paid Leave quarterly wage reports filed by employers with ESD, we estimated job protection rates among employment-eligible workers, overall and by wage and industry. (See inset “Study Measures” for definition of employment eligible and job protected.) As shown in Figure 3, 74% of all workers covered by the program are employment-eligible to receive benefits. Of those, we estimate that just over half would be job protected if they took leave.

FIGURE 3. ESTIMATED RATES OF EMPLOYMENT ELIGIBILITY AND JOB PROTECTION, BY YEAR

Year	Employment Eligible for Paid Leave Benefits	Eligible for Job Protection (among Employment-eligible)
2020	74.2%	50.5%
2021	73.0%	55.5%
2022	74.1%	53.2%
2023	76.1%	53.5%
All Years	74.4%	53.1%

Source: WA Paid Leave Wage Reports Data, 2019-2023

Notes: Actual eligibility for WA Paid Leave depends on employment eligibility and a qualifying event. We do not have data on qualifying events. Eligibility was determined at the quarter level; workers were deemed eligible in a year if they were eligible in any quarter in that year.

Study Measures

Employment eligible

Washington workers who have paid premiums to WA Paid Leave and have 820 or more hours of work in four prior quarters.

Job protected

Employment-eligible workers who meet the firm size, tenure, and hours requirements for job protection under the WA Paid Leave program.

Protected leave is more available to higher-earning workers (using total quarterly earnings). Figure 4 shows a steep positive gradient between earnings and job protection. Just 16% of workers in the lowest earnings quintile would qualify for job protection while on leave, compared to 70% in the highest earnings quintile. When we compared the mean employer size, job tenure, and hours for the low and high earnings groups, it appears that all three contribute to the large differences in estimated job protection, but job tenure and work hours are the most important factors (analysis not shown).

Job protection rates for eligible workers also vary by industry, from a low of 25% in food and accommodation services to over 76% in the utilities industry (Figure 5). Other

FIGURE 4. ESTIMATED JOB PROTECTION RATES, BY EARNINGS QUINTILE

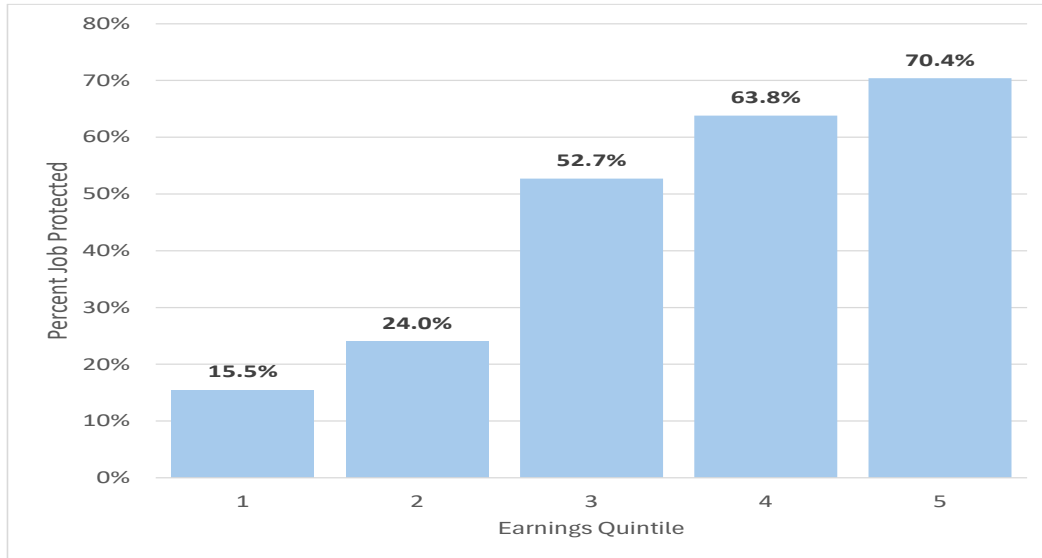
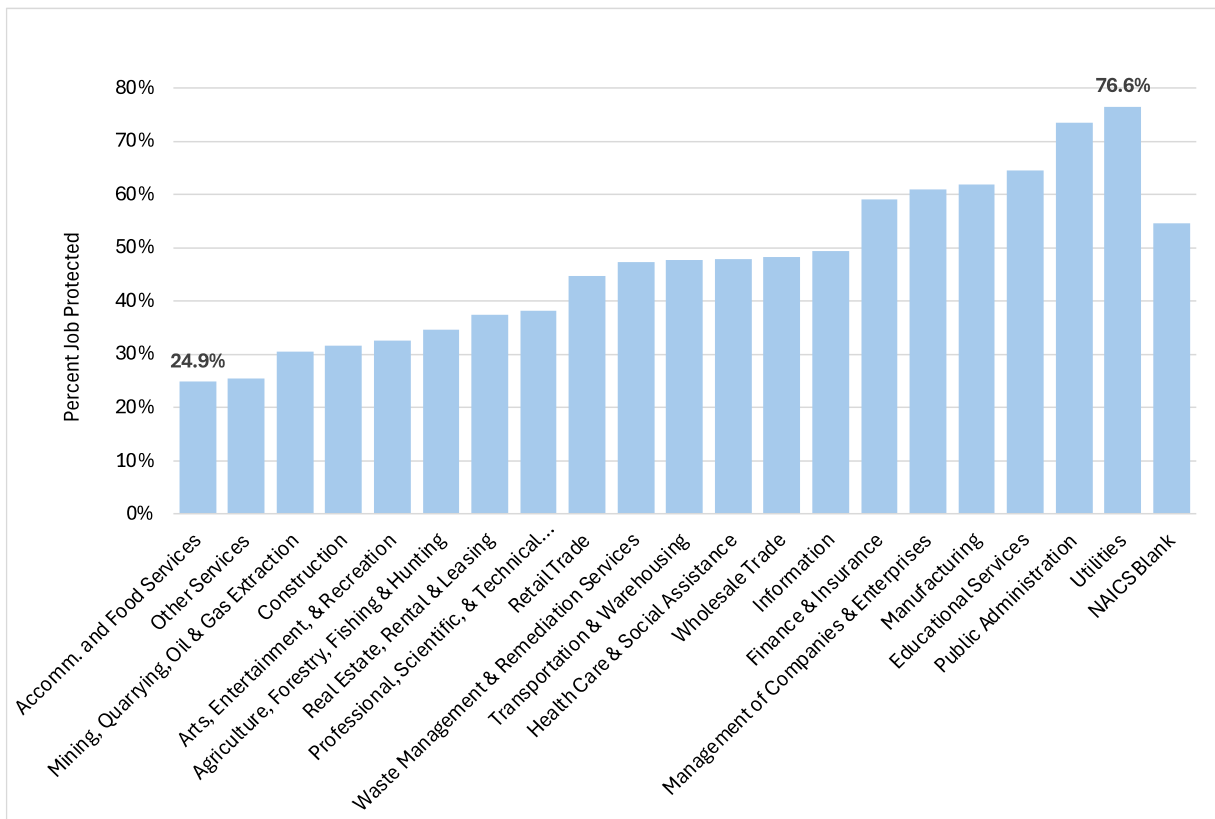


FIGURE 5. ESTIMATED JOB PROTECTION RATES, BY INDUSTRY



Source: WA Paid Leave Wage Reports Data, 2019-2023

industries with lower estimated job protection rates are other services (26%), natural resources extraction (31%), arts and entertainment (32%), and construction (32%).

It is not possible to estimate job protection rates by race/ethnicity and gender for all workers covered by WA Paid Leave because the wage report data do not include these characteristics. However, we estimated job protection rates among *leave users* by these characteristics using the claims data. Job protection rates among leave users are slightly higher than job protection rates among workers who are employment-eligible for leave (61 compared to 53%; shown in Figure 6). Notably, estimated job protection rates among leave users are consistent across gender and racial/ethnic groups. The only groups with noticeably lower job protection rates are those workers who identify as nonbinary gender and American Indian or Alaska Native. This finding does not mean that job protection rates among eligible workers do not vary by gender or race/ethnicity, because those who take-up leave are different in a variety of ways from those who do not. Nonetheless, our finding is consistent with the latest study of FMLA eligibility, which also found no gender or race differences (Brown et al. 2020).

FIGURE 6. ESTIMATED JOB PROTECTION RATES AMONG LEAVE USERS, BY GENDER & RACE/ETHNICITY

	Job Protection among Leave Users
<i>All WA Paid Leave Users</i>	61.0%
Gender	
Female	60.7%
Male	61.4%
Nonbinary	53.5%
Race/Ethnicity	
American Indian or Alaska Native	56.3%
Black or African American	59.9%
East Asian or East Asian American	65.9%
Native Hawaiian or Other Pacific Islander	61.5%
Hispanic or Latinx	59.9%
Middle Eastern or Arab American	63.0%
South Asian or South Asian American	69.9%
Southeast Asian or Southeast Asian American	67.6%
Other	62.0%
White Only	60.0%
Prefer Not to Say	63.6%

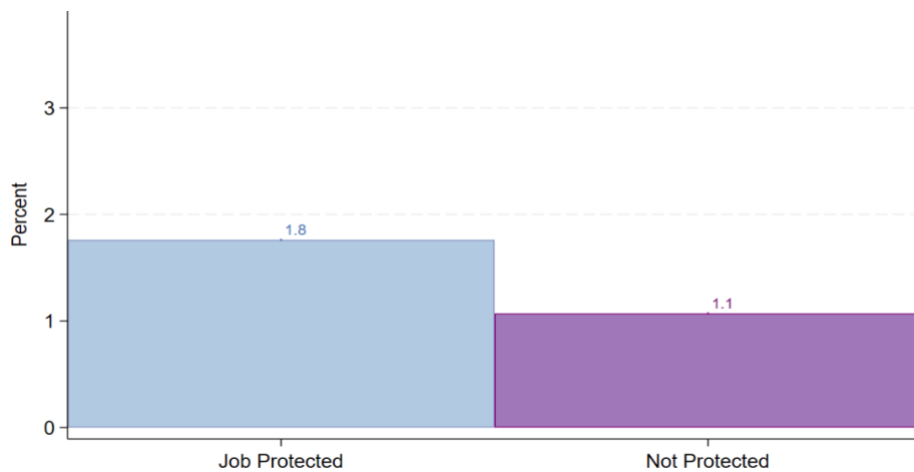
Source: WA Paid Leave Claims Data, 2019-2023

Notes: Other than "white only," race/ethnicity categories are not mutually exclusive.

Does Job Protection Relate to Take-up of WA Paid Leave?

Next, we examined whether being job-protected in a quarter was associated with a worker applying for and receiving WA Paid Leave benefits in that same quarter. Overall, quarterly take-up rates are low—less than 2% of workers who are employment-eligible take up the benefits in a quarter. In Figure 7, we show that being eligible for protected leave is associated with a statistically significant 0.7 percentage point (64%) increase in the likelihood of using the program among all eligible workers. This is a small absolute difference, but it is a substantial *relative* increase because the take-up rate is low.

FIGURE 7. TAKE-UP RATES IN WA PAID LEAVE, BY JOB PROTECTION



Source: WA Paid Leave Wage Reports and Claims Data, 2019-2023

Notes: The difference between groups is statistically significant at the $p < .05$ level.

Models adjusted for prior earnings and hours worked, quarter-year, and industry.

In Figure 8, we show that the difference between the job-protected and not job-protected groups in take-up rates is larger for workers in the middle of the earning distribution than lower and higher-earning workers. For workers in the middle three quintiles, job protection is associated with a 0.6, 0.8, and 0.7 percentage point increase in leave take-up rates (60-67% increase), respectively. At the low and high ends of the wage

FIGURE 8. TAKE-UP RATES IN WA PAID LEAVE, BY JOB PROTECTION & EARNINGS

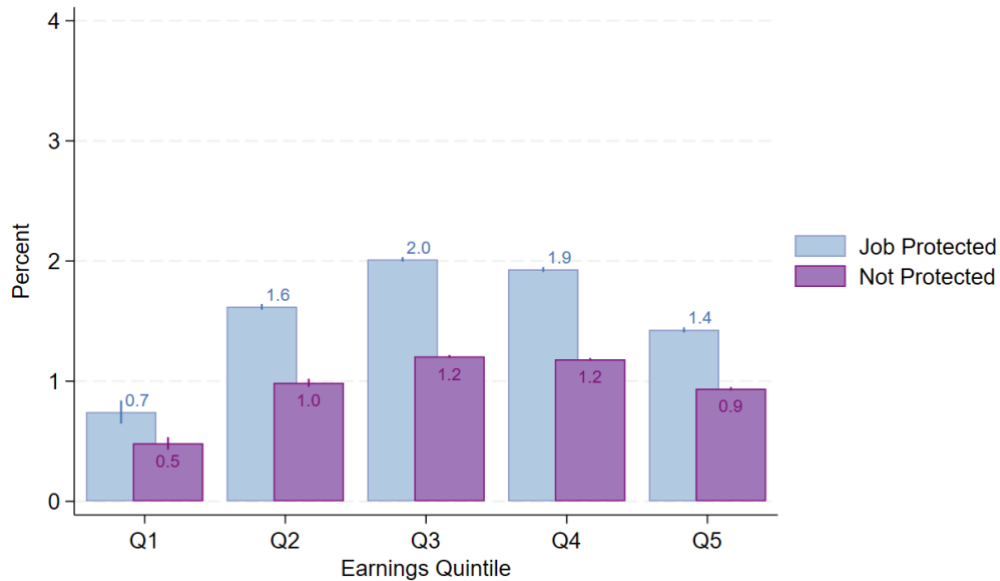
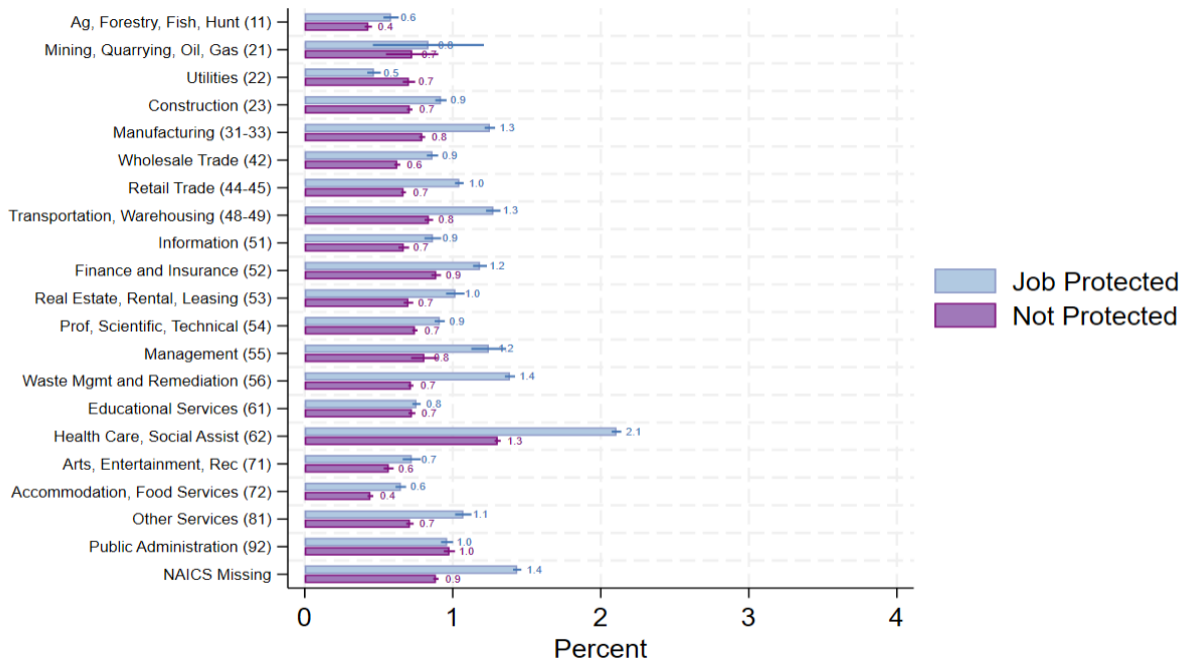


FIGURE 9. TAKE-UP RATES IN WA PAID LEAVE, BY JOB PROTECTION & INDUSTRY



Source: WA Paid Leave Wage Reports and Claims Data, 2019-2023

Notes: Thin lines show 95% confidence intervals for the estimates. If two bars have overlapping confidence intervals (e.g., Mining), the difference between them is not statistically significant. Large confidence intervals are the result of smaller sample sizes. Models adjusted for prior earnings and hours worked, quarter-year, and industry.

distribution, there is still a positive association between job protection and take-up, but it is smaller.⁷

The relationship between job protection and take-up also varies by industry (Figure 9), with larger than average positive effects of job protection on leave take-up in the manufacturing, transportation & warehousing, waste management & remediation, and health care and social assistance industries. Notably, some industries—including waste management and transportation/warehousing—have job protection rates under 50 percent (see Figure 5) and a larger than positive association between job protection and take-up.

Does Job Protection Relate to Employment after Leave?

We next examined the likelihood that a leave user was employed in the quarter after leave ended and, if they were, whether they worked for *the same employer*. Figure 10 displays the difference in post-leave employment rates by job protection status. Note that both groups are likely to be employed in the quarter after leave, but job protection is associated with a 3.3 percentage point (5%) increase in employment rates. This should be interpreted as a small difference, both in absolute and relative terms, in the likelihood of returning to work after leave.

The positive association between job protection and employment in the quarter after leave is larger for the lowest earning workers—5.8 percentage points (9%)—compared to other workers (Figure 11). In a few industries—including utilities, information, finance and insurance, management, educational services, other services, and public administration—the job-protected and not protected groups had essentially the same likelihood of being employed in the quarter after leave (Appendix Figure C-2). We found no differences in the association between job protection and employment status after leave by gender or race/ethnicity (Appendix Figures C-3, C-4).

⁷ A possible explanation, which we cannot explore with these data, is that legal job protection might be less valuable when work is either extremely precarious (at the low end of the earning distribution) or stable (at the high end). Another possibility for low-earning workers is that they are less likely than other workers to have employer-provided options for leave (e.g., PTO) and are willing to take up WA Paid Leave with or without job protection when they feel it is necessary.

FIGURE 10. EMPLOYMENT RATES IN THE QUARTER AFTER LEAVE, BY JOB PROTECTION

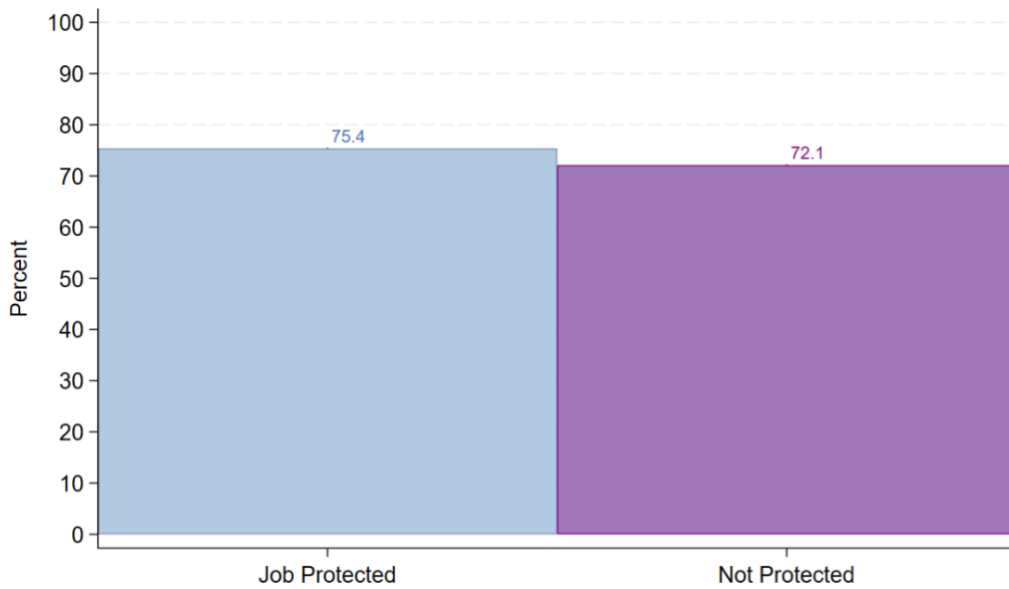
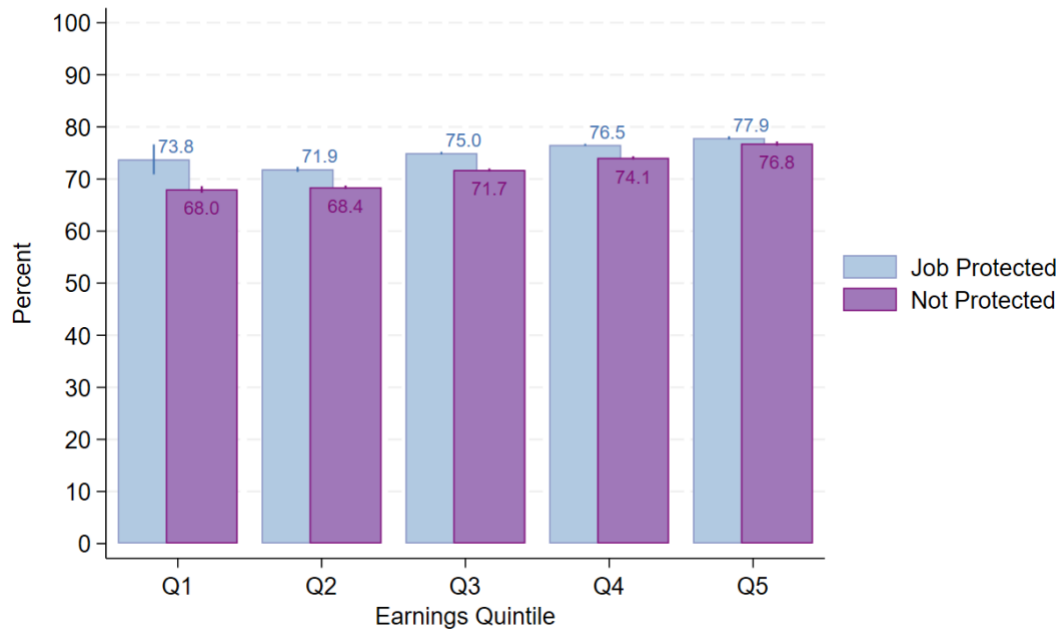


FIGURE 11. EMPLOYMENT RATES IN THE QUARTER AFTER LEAVE, BY JOB PROTECTION & EARNINGS

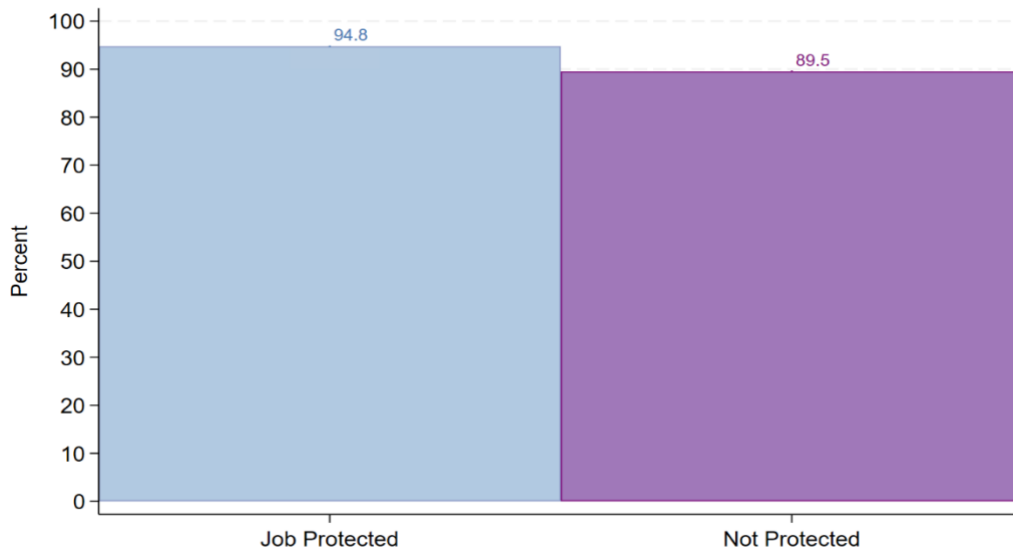


Source: WA Paid Leave Wage Reports and Claims Data, 2019-2023

Notes: The difference between groups is statistically significant at the $p < .05$ level. Models adjusted for prior earnings and hours worked, quarter-year, and industry.

Figure 12 shows the same type of analysis but predicting whether a worker who is employed in the quarter after leave will work for the same employer. Of those who return to employment after leave, 95% of those with job protection return to the same employer in the quarter after leave, compared to 90% among the not protected. Estimated job protection is associated with a 5.3 percentage point (6%) increase in the likelihood of returning to the same employer. This is a small difference, in absolute and relative terms.

FIGURE 12. RATES OF EMPLOYMENT WITH THE SAME EMPLOYER (IF EMPLOYED), BY JOB PROTECTION

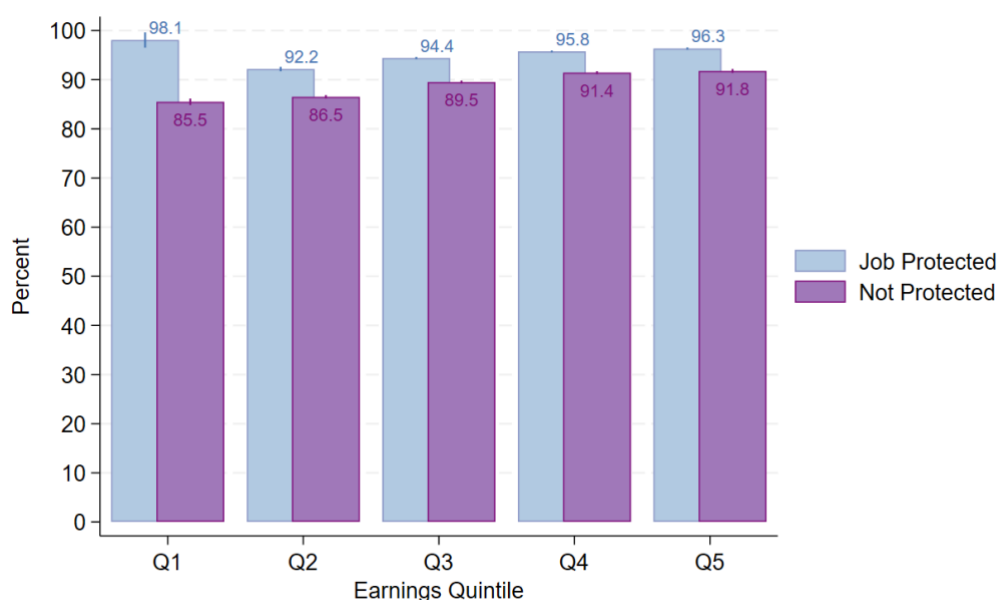


Source: WA Paid Leave Wage Reports and Claims Data, 2019-2023

Notes: Thin lines show 95% confidence intervals for the estimates. If two bars have overlapping confidence intervals, the difference between them is not statistically significant. All differences shown here are statistically significant at the $p < .05$ level. Models adjusted for prior earnings and hours worked, quarter-year, and industry.

The differences between job protection groups on returning to the same employer is largest for the lowest-earning workers (Figure 13). Among the lowest-earning workers, job protection increases the likelihood of returning to the same employer by 12.6 percentage points, from 85.5 to 98.1% (a 15% increase). Job protection is associated with a higher likelihood of returning to the same employer for the other wage quintiles, but the effect is smaller, four to six-percentage points.

FIGURE 13. RATES OF EMPLOYMENT WITH THE SAME EMPLOYER (IF EMPLOYED), BY JOB PROTECTION & EARNINGS



Source: WA Paid Leave Wage Reports and Claims Data, 2019-2023

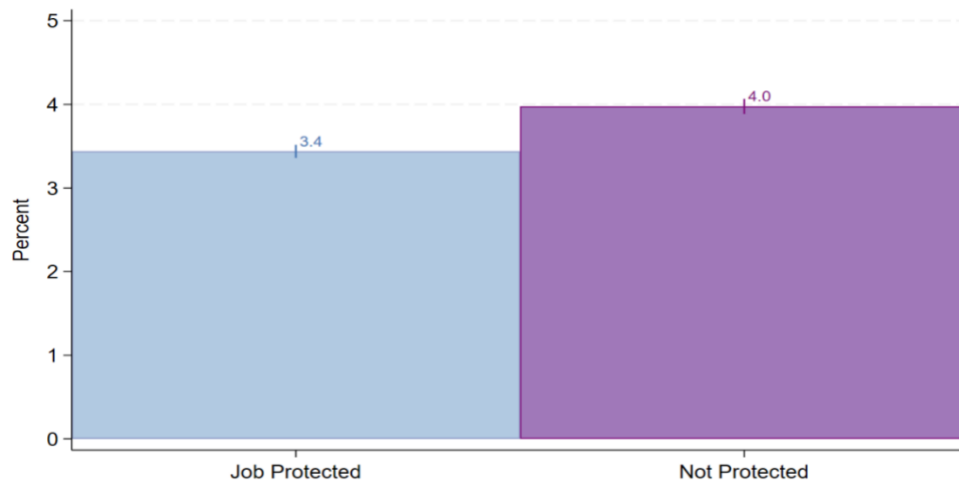
Notes: Thin lines show 95% confidence intervals for the estimates. If two bars have overlapping confidence intervals, the difference between them is not statistically significant. All differences shown here are statistically significant at the $p < .05$ level. Models adjusted for prior earnings and hours worked, quarter-year, and industry.

The positive relationship between job protection and employment with the same employer was true for workers in all industries, with only small differences in the size of the effect across industries (Appendix Figure C-5). The one exception is that agriculture, forestry, fishing, and hunting workers are 34 percentage points more likely to return to the same employer after leave if they have job protection; that is a change of more than 50 percent. We also examined whether job protection related to returning to the same employer after leave by gender and race/ethnicity but found no major differences. Some groups have a lower likelihood of returning to the same employer than others. Still, job

protection was positively associated (4-6 percentage points) with returning to the same employer (Appendix Figures C-6, C-7).

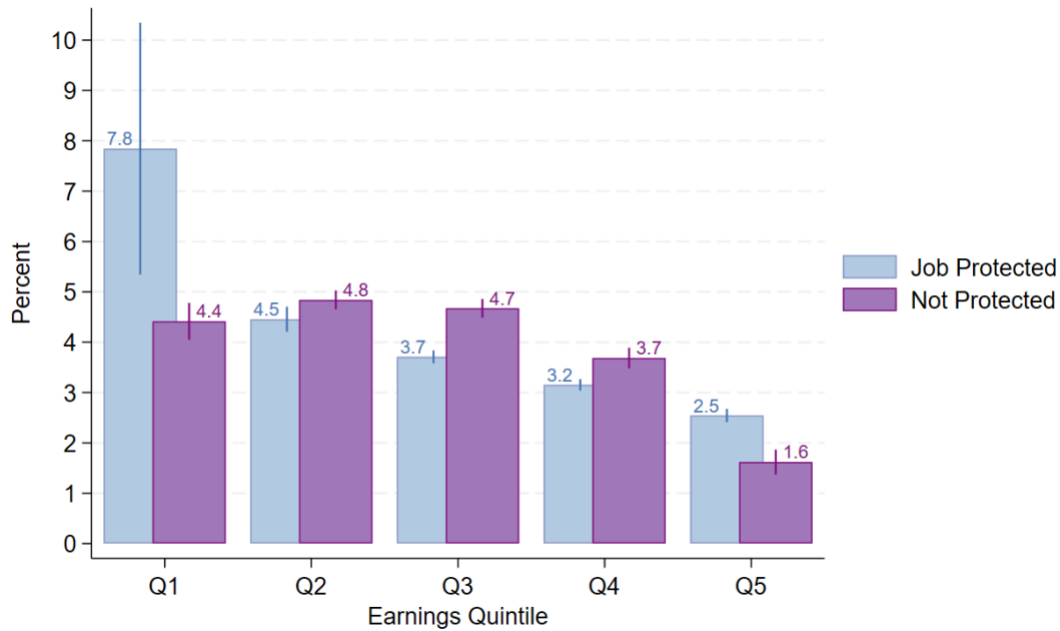
Finally, members of the PFML Advisory Committee suggested that we look at Unemployment Insurance receipt as an outcome. The receipt of UI is not a measure of employment, because most unemployed workers do not apply for or receive UI, but it is important to know whether the protected leave offered through WA Paid Leave is related to the use of other safety net programs.⁸ In models identical to those above, we predicted the likelihood of receiving UI in the quarter after leave as a function of job protection. In the full sample, job-protected leave users are less likely to receive UI than not job protected leave users by 0.6 percentage points (18%; Figure 14). We get a puzzling result when we divide the sample by earnings quintiles (Figure 15): The lowest and highest earning quintiles show the reverse association to what we see in the full sample. For those groups, job protection eligibility for PFML is associated with an increase in the likelihood of UI receipt after leave. The results of the analysis of UI receipt for other subgroups are shown in Appendix C, Figures C8-10 but they mostly show statistically insignificant differences.

FIGURE 14. UNEMPLOYMENT INSURANCE RECEIPT RATES, BY JOB PROTECTION



⁸ Note that UI and PFML do not have perfectly overlapping eligibility requirements. UI requires fewer hours in a year to qualify (680 versus 820) but does not cover many professions that PFML does (<https://media.esd.wa.gov/esdwa/Default/ESDWAGOV/employer-Taxes/ESD-exempt-professions-chart.pdf>).

FIGURE 15. UNEMPLOYMENT INSURANCE RECEIPT RATES, BY JOB PROTECTION & EARNINGS



Source: WA Paid Leave Wage Reports and Claims Data, 2019-2023

Notes: Thin lines show 95% confidence intervals for the estimates. The difference shown here is statistically significant at the $p < .05$ level. Models adjusted for prior earnings and hours worked, quarter-year, and industry.

The statistical associations in this report should not be interpreted as causal effects. While they suggest a modest positive relationship between job protection, take-up, and employment following leave, they could also relate to unobserved differences in the characteristics of workers or jobs. For example, we could not adjust our models for worker education or age. Higher-educated and older workers might be more likely to qualify for job protection and more likely to take leave or return to the same employer. This would mean our estimates would be biased upwards because they capture both the effects of job protection and the effects of education and age.

What Are Worker Perspectives on Job Protection?

A key goal of this study was to gain workers’ perspectives on paid leave and job protection. To achieve this, we conducted interviews with 31 WA Paid Leave recipients and two focus groups with a total of 14 workers who had not yet participated in the program.⁹ The interview sample was initially chosen randomly from the program’s claims data, with an intentional split between those who we estimated were job protected and not. The respondents to the survey were volunteers who choose to respond to an email. The focus group participants were also volunteers from the community, recruited by community partners. (The details of how we sampled and recruited workers for interviews and focus groups are in Appendix B.)

Figure 16 summarizes the demographic characteristics of the interview and focus group samples combined. The sample was diverse in terms of income and gender. About half of the interviewees identified as White/European-American, and 27 percent as Hispanic/Latinx. For this report, we combined all other racial/ethnic identities to avoid showing counts under five. The participants in interviews and focus groups lived in eleven urban and rural counties on both sides of the Cascade Mountains.

Among the interviewees who had taken leave, about 47% had taken leave for their medical care, 43% for bonding with a new child, and 10% for caregiving (not shown in a figure). Consistent with our findings from the program data, most people we interviewed returned to work and the same employer after taking leave. Among job-

FIGURE 16. INTERVIEW AND FOCUS GROUP SAMPLE CHARACTERISTICS

Characteristic	Number (Percentage)
Annual Household Income	
Less than \$50,000	10 (22%)
\$50,000-99,000	15 (33%)
\$100,000-\$199,000	14 (31%)
\$200,000 or higher	6 (13%)
Gender	
Female	28 (62%)
Male	17 (38%)
Non-binary	0 (0%)
Race/ethnicity	
White/European-American	23 (51%)
Hispanic/Latinx	12 (27%)
Other	10 (22%)
Prefer not to answer	1 (3%)
N	45

Source: UW Study of Paid Leave and Job Protection, Demographic Survey Collected before Interviews and Focus Groups, 2024
 Notes: Race/ethnicity categories were collapsed when less than 5 observations.

⁹ Qualitative methods, such as interviews and focus groups, are conventional aspects of the evaluation of government programs and are particularly well-suited to revealing individual experiences and perspectives(Centers for Disease Control, 2018a, 2018b).

protected and not job-protected interview subjects, about one-third did not return to the same employer after taking leave due to being laid off, quitting, or transitioning to long-term disability programs. For those who returned, most reported no problems with the transition back, and quite a few commented on how supportive their employers and colleagues were in helping them return to work.

Below, we summarize the qualitative findings on workers' understanding of job protection, their expressed fears about taking leave, and the extent to which job protection mattered to their decision to take leave. All names are pseudonyms.

Worker understandings of job protection

Most workers who participated in the study had a general understanding of the legal concept of job protection but also reported confusion and misunderstanding of the details related to job protection under WA Paid Leave. A common point of misunderstanding is the belief that job protection while receiving WA Paid Leave benefits comes from the FMLA. For example, Princella asked about job protection while on leave to care for her son and was told "you have up to 12 weeks of FMLA and while you're on FMLA your job is protected." It makes sense that employers and workers might confuse FMLA and WA Paid Leave since workers typically take them concurrently.¹⁰ Technically, if workers take the two concurrently, they will likely have legal job protection from both. Another source of confusion could be that the eligibility requirements for job protection for WA Paid Leave are nearly identical to FMLA's, except FMLA calculates firm size in a smaller geographic area. Still, it is hard to imagine a case in which a worker receives WA Paid Leave Benefits and has job protection only from FMLA.

Other workers we talked with confused job protection with the WA Paid Leave benefits. These are distinct features of the program with different eligibility requirements, but that may not be clear to eligible workers. A small number of workers we spoke with knew specifics about eligibility for job protection under WA Paid Leave. For instance, Anna had taken leave at her previous job and knew that she was job-protected then because she'd been working for the employer for over a year. When we spoke to her, she was preparing to take bonding leave in a new job. She said:

And my due date is exactly when I come to my one year mark for this job. So this time, I'm nervous, 'cause I don't know if I'm gonna qualify or what if I go into

¹⁰ [RCW 50A.15.110](#) advises that leave under title 50A RCW and leave under FMLA must be taken concurrently, unless expressly permitted by the employer.

preterm labor and if my job's not protected where I am at... So this time, I'm a little more worried.

Aaron who works in a trade and takes caregiving leave intermittently knew about the employer size requirement for job protection but thought that job protection also related to the amount of time taken:

And I, I guess, if there's more than 50 [employees], they're required to hold your job open and take you back. I haven't really since looked into it...Personally, I just thought, you know, taken a day here, a couple days here would not be risking my job. But when I did take four to five weeks off, I thought there would be a possibility that they didn't have to take me back...

Most workers in the study described both supervisors and coworkers being supportive about taking leave when it was needed, but very few discussed job protection with their supervisor or a human resources staff person before or during leave. Ines said “No, they never mentioned anything about [my job] not being held...The only thing they said is that to let them know if I wasn’t going to be ready to return.” Albert was working in software when he took leave. When the interviewer asked if he had a conversation with a supervisor before taking leave about whether his job would be held for him, he said “[n]ot specifically. That was the assumption, but we didn't talk about anything specific to that.” Later in the interview, he said he thought that the FMLA might offer that protection, but he was not certain.

Regardless of the workers’ understanding of the legal specifics of job protection, many reported doubts about whether it could actually protect them from job loss or retaliation at work. When Ariana took leave during pregnancy, she had some background in the law and described the tension with the general concept of at-will employment poignantly:

Well, I do know that it is illegal, you know, to retaliate and and have a woman lose her job for having a baby or taking that time off with her baby and things like that. And I totally get that. But the conflict of interest is that Washington state is at will employment, right, we have at will employment law here. So it makes it really, really easy for somebody to still find a loophole and fire you for some other offense or something like they don't really even have to give a reason...

John voiced the same knowledge with more frustration after he was laid off following leave:

Well, I just thought that it was more of a state policy, that it's illegal for them to fire you for being on paternity leave or maternity leave. But you know, once it

happened, and I looked into it, it was like, that's just not the case at all. I mean, the only way that they can actually be like liable for false termination or whatever that is, would be if there was proof that they fired you because you weren't there to work.

Skepticism about the meaning of job protection was particularly prominent in the focus groups with workers who had not yet used WA Paid Leave. One focus group consisted of agricultural workers, and the other of workers in the construction industry. In both cases, many workers were working for small firms and would not have protected leave, but they also experienced employment generally as less secure and more contingent. In the case of the agricultural workers, the focus group participants described general precarity in employment and the sense of being easily replaced. For the construction industry, there is less precarity because unions offer security and a path to re-employment when jobs ended, but the jobs are time-limited and the amount of work available fluctuates seasonally and in economic cycles. The workers felt that walking away from a contract was not something worth contemplating unless there was no other option. After a focus group participant mentioned that construction was “different,” the facilitator asked the group to elaborate:

Speaker 1: [I]n my eyes, the construction industry is its own industry. We are like gypsies. We chase the work. When the work's there, it's there. When the work's not there, it's not there, there's nothing you can do about it. So to stop in the middle of a project, to take paid family medical leave, the majority of people, if they have to take it, they're going to take it, and they're just going to suck it up and wait to try to find a job [after].

Speaker 2: I feel most construction workers will find a way around to have somebody come in and help with the situation while they go to work, because they still need that paycheck, and they still need that medical and they still need that retirement. That's what I did, like back in the day when I was having kids, we actually probably, we actually brought my mother-in-law, my family, my wife from [foreign country] to help us take care of family... because I couldn't take the time off, it just wasn't possible.

Facilitator: When you say you couldn't take the time off, do you mean that you couldn't afford to lose the income, or that you knew if you took the time off, there'd be other consequences.

Speaker 2: Both.

Speaker 3: It's kind of both. Usually, it's a loss of income is obviously the main one. But like, he's saying...you know the job may not be there...But in construction, you work yourself a job. So while the law says your position is safe, if there's no work, then there's no work, there's no position.

Fears while taking leave

Job loss was not a prominent fear or consideration for most of the workers in the study when deciding to take leave. For quite a few, the situation was urgent, and the worker felt that they had to take leave even if they risked losing their job:

I didn't have a choice. But what was I supposed to do? If they had told me? Look, we're gonna let you go? If you go on leave? Or whatever I would have said, well, I mean, there's nothing I can do. I have no support system, and I have a child and I have a responsibility to this. And I would have just had to suck it up and leave and take care of my family and then go look for another job.

I didn't have a choice...I had to have some emergency surgery. So it was like an emergency situation.

I just focused on I knew this is what I need to do right now. And that said, I just didn't there wasn't any pros and cons. I just, it's something that must happen.

Another group expressed a sense of security while on leave because they had been in the job a long time, they knew their value as a worker, or they trusted their employer's loyalty to them. When Marco took leave for emergency surgery, he said, "I was a little worried about [losing my job]. But I'm a really good employee. And...I've been there almost seven years." Sofia said it did not even cross her mind that she would lose her job while on medical leave because she had worked in the job for 20 years, but no one discussed job protection with her explicitly. She started out taking PFML and then transitioned to a short-term disability program. After 10 months of being out, her employment was terminated. When Kayla went on parental bonding leave, she felt secure knowing her value to the company: "I was highly recruited by the supervisor. And so...she was more worried about me coming back than me having a job to come back to."

There were some workers who were fearful of losing their jobs while on leave. They described the general precarity of their work situations:

Listen, [interviewer name], I'll be quite candid with you. I mean, I worry about my losing my job every day...No, I mean, every day, I think, okay, maybe this is the day I walked in, I opened my laptop and I get this meeting invite. And it's to tell me that

I'm no longer needed. You know, so I, [taking leave] wasn't any worse than that. Let's put it that way.

I was afraid I wouldn't have a job when I came back, you know, and that they would find someone else to replace me..

The agricultural workers in our focus group could not even imagine being able to take a week off without losing their jobs. They found it difficult to accrue and take sick leave hours and thought it unlikely that they would qualify for FMLA (or PFML) based on work hours at an employer. The focus group facilitator asked what they would do if they had an emergency and needed to take longer leave using FMLA or PFML:

Speaker 1: I couldn't qualify for that. And I don't even have hours, I don't have hours, I don't have qualifications to be able to do FMLA. I couldn't take time. As you say, if there is an emergency and someone is sick, you have to go...And already coming back, but you don't have the job anymore. It's that easy. There is no work. There is no work anymore.

Speaker 2: Yes, I don't know what rule it will be from where you are working, because there are many rules that change. And it takes a long time to apply. In other words, if it is an emergency, well...The time may come when they tell you that you no longer have a job.

Notably, many other fears about taking leave were expressed by the workers in this study. Some worried about financial hardship during leave, others worried about how they would be perceived at work, whether they would miss out on trainings or events that were important for promotion, and whether their health insurance would lapse.

How would that impact the business? How would that impact my performance rating? I think those are the main concerns from the business and then financially. Even though the Washington program pays more than unpaid leave, that's still not as much as I was earning.

I left my team [while on leave]. I had a lot of pride in what we were building. And I knew that we were at kind of a critical point in the project, and I very much wanted to be there and support the team. So, I was very stressed out about not being able to be there for the people that I cared about for and the project that I cared about.

I was worried about, for lack of a better word, retribution after the leave was done. So once I've taken all my hours, I was worried that because during that time, I was on a reduced schedule, which means that I was not giving given a lot of

responsibilities that I would have undertaken, were I to be working full time. I was worried that that's going to continue afterwards.

Even though most leave takers that we interviewed did not report fearing job loss when they took leave, it was common for them to say that knowing that their jobs were protected made it easier to take leave.

It was an easier choice. Like if the protection was not there, that would have been another decision point. But since your protection was there, it was easier to make that decision in terms of Yeah, I need I need this. And I have less risk. So let's go with it.

[Job protection] gives you that comfort of being able to take the time that you need, even if it's like for yourself, medical concerns or not. I think that it's just always a better feeling to know that your job is going to be held for you.

Conclusion and Recommendations

WA Paid Leave offers a unique but restricted source of legal job protection.

WA Paid Leave is only one of many potential formal and informal sources of job security during time off from work, but it is the only formal source that offers Washington workers job protection during longer paid leaves for family and caregiving needs. Many states with paid family and medical leave insurance programs now have near-universal job protection through their programs. In contrast, Washington Paid Leave uses both firm size and job tenure/hours requirements to restrict eligibility for job protection. We estimated that just over half of those who have the employment history to qualify for WA Paid Leave would be eligible for job protection during leave. This rate was much lower for lower-earning workers and those in specific industries, such as accommodations and food services.

Job protection is associated with substantial increases in leave take-up and modest increases in employment after leave.

This study provides the first evidence that having job protection through a leave program may increase the likelihood that a worker will use the program and return to the same employer after doing so. Estimated job protection status was associated with a 65% increase in program use, a 5% increase in being employed in the quarter after leave, and a 6% increase in being employed with the same employer after leave. These findings suggest that job protection can work as intended, reducing the risks for both workers and employers and making leave-taking less disruptive to employment.

Workers understand job protection generally, but few spoke to their employers about the specifics.

Workers that participated in interviews or focus groups understood the concept of legal job protection, but not the specifics that would allow them to advocate for their rights. Job protection is similar to labor regulations like minimum wage and overtime laws, in that workers are given a legal right, and they are responsible for pursuing legal action if they feel that right is violated. Evidence on labor regulations suggests that this passive approach to employer regulations leads to violations, particularly for more vulnerable workers (Weil 2018; Kim 2021). Consistent with that concern, some workers in this study suspected that it would be hard to prove even if the right to reinstatement was violated.

Fear of job loss was primarily related to general employment security and not always relevant to the decision to take leave.

While this study was designed to understand workers' conceptions of legal job protection, the concept of job security during leave-taking is much broader for workers. Their sense of job security and ability to take leave when needed related to their relationship with supervisors and coworkers, their sense of their own value to the employer, and the nature of turnover and job security in their industry. Job loss was not the primary fear or worry for most leave takers we interviewed, sometimes because the medical situation was so urgent as to make leave necessary and sometimes because the worker felt their standing in the job offered them security. In focus groups with agricultural and construction workers who had not used WA Paid Leave we heard more fear of job loss and skepticism that legal job protection would help them.

Based on the findings from this study, we make three recommendations:

Recommendation 1. Simplify and expand the eligibility requirements for job protection under WA Paid Leave to improve equitable access and take up.

Lack of knowledge or confusion about the source and scope of this legal right could make it difficult for workers to know if their rights are violated and to advocate for themselves. This is particularly important since worker reports are the primary way that an employer's violation of the law would be discovered. Setting simpler and broader eligibility requirements for job protection that align with other states' paid leave programs could make the law easier to understand and implement for employers, reduce the inequities in current job protection rates, and increase the likelihood that workers will use the WA Paid Leave program when they need it.

More restrictive eligibility for job protection creates inequitable access in multiple ways: First, the workers who are not eligible for job protection are often more vulnerable economically (e.g., have lower earnings). Second, the complexity of the requirements make it more difficult for employers and workers to know who has job protection and increases the chances that workers' rights will be violated, intentionally or accidentally.

The fact that the WA Paid Leave job protection requirements are nearly identical to FMLA creates added confusion. Our interviews suggest that both workers and employers are attributing the job protection available in the state to FMLA, despite the fact that these are separate programs that can sometimes be used consecutively by workers. Finally, our analysis of job protection and leave use suggests that being in a position with legal job protection increases the likelihood that a worker will use paid leave when they need it. That means that broader job protection would serve the program's goals and intents. Notably, some industries, including waste management and transportation/warehousing, have job protection rates under 50 percent and a larger than positive association between job protection and take-up. These industries offer an opportunity to improve equitable take-up by expanding job protection.

Recommendation 2. Communicate more to employers and workers about job protection as a distinct component of WA Paid Leave.

Currently, neither the mandatory poster nor the optional paystub insert provided by ESD to employers includes information about job protection under WA Paid Leave. We recommend adding brief text to both clarifying who has job protection while using the program. With added authority and resources, ESD and community-based advocates could develop more materials to highlight the legal protection offered by WA Paid Leave as a distinct element of the program, such as text on the right-to-reinstatement that employers would see each time they submit wage reports and a 1-page handout for workers in multiple languages that summarizes the requirements for job protection and the steps they can take if they feel their rights have been violated. Given the importance of job protection to leave use, we would recommend making communication about this aspect of the program a priority moving forward.

Recommendation 3. Consider giving a ESD the authority and resources to collect and review data from employers on post-leave employment.

The job protection part of WA Paid Leave operates very similarly to state and federal labor regulations in that it is a requirement placed on employers with little infrastructure or authority for active enforcement. The burden of identifying and reporting violations falls almost entirely on workers. In Washington, ESD makes an "unlawful acts complaint form" available in paper online and asks workers to send it by mail to the office if they feel their rights were violated. We do not have data on the number of complaints made or investigations completed, but there are some well-documented concerns about equity related to passive enforcement of labor regulations (Kim and Allmang 2021; Weil 2018). ESD currently has authority to audit employers for compliance with quarterly wage reporting processes, although a recent report by the Joint Legislative Audit & Review Committee notes that has not fully implemented this aspect of operations (Freeman,

Meysonnat, and Karas 2024). We recommend that the legislature consider providing ESD with the authority and resources they would need to collect data on reinstatement and develop a process of targeted auditing. At minimum, the burden of protecting this right could be shifted slightly by requiring employers to provide information on quarterly reports about workers returning from leave. In cases where workers do not return to the same employer after leave, the burden could be put on the employer to provide a reason.¹¹ The collection of the data itself might create more accountability for employers around knowing the rules of job protection. In addition, the data could be used to flag employers with high rates of employees not returning after leave, which could trigger some basic auditing of employer practices.

¹¹ Workers in Washington can request a written reason for dismissal (WAC 296-126-050) but employers are not obligated to document one unless the worker makes a request in 10 days.

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.

Appendix B. Study Research Methods

At the start of this project, the UW research team gave a workplan to ESD for review and comment. Once ESD had approved the workplan, we received approval from the UW Institutional Review Board for all research activities with human subjects. We signed a data sharing agreement with ESD and created a secure environment for the WA Paid Leave program data at the UW Data Collaborative. Below is a summary of the methods we used in the literature and legal review, the analysis of program data, and the original data collection with Washington workers.

Literature and legal review

We assessed the sources of job-protected leave in Washington and synthesized the key findings from studies of job protection under the FMLA and other state paid leave programs. We searched for literature in both academic journals, government reports, and summaries from advocacy organizations. In addition, we used Washington Department of Labor & Industries and specific RCW to describe the landscape of programs in Washington providing protected leave. We consulted with Elizabeth Ford, Assistant Professor of Law at Seattle University on the legal review.

Analysis of program data

We analyzed two complementary sources of Paid Leave data provided by ESD:

1. **wage reports** submitted quarterly by employers on all eligible Washington workers, and
2. **claims data** from WA Paid Leave recipients.

Each source has strengths and weaknesses, but together they gave a more complete answer to our research questions.

Wage report data

Wage reports include the entire population of Washington workers who are paying premiums to WA Paid Leave. The wage reports offered us unsurpassed indicators of quarterly employment and earnings, which we used to determine employment eligibility for the program and job protection status. The main weakness of the wage report data is that it includes no specific characteristics of the jobs or workers, other than industry, employer size, work hours, and wages.

FIGURE B-1. UNIQUE WASHINGTON WORKERS IN THE PAID LEAVE WAGE REPORT DATA FOR THE STUDY PERIOD

By Year		By Year-Quarter (cont.)	
2019	3,883,642	2020.4	3,228,360
2020	3,877,310	2021.1	3,179,818
2021	3,976,756	2021.2	3,320,455
2022	4,135,786	2021.3	3,434,293
2023	3,736,862	2021.4	3,419,283
		2022.1	3,362,739
		2022.2	3,487,394
By Year-Quarter		2022.3	3,615,219
2019.1	2,951,817	2022.4	3,516,873
2019.2	3,125,537	2023.1	3,440,109
2019.3	3,351,877	2023.2	3,428,817
2019.4	3,305,045		
2020.1	3,297,956	Total	5,625,489
2020.2	3,206,653		
2020.3	3,245,134		

Source: WA Paid Leave Wage Reports Data, 2019–2023

Notes: Used Masked SSN/ITIN to identify unique individuals

The data we requested from ESD begin with Quarter 1 2019 and continue through Quarter 2 2023.

Over five million unique Washington workers covered by WA Paid Leave were represented in the wage report data for the study period, about three million per year (Figure B1). We excluded workers from the analysis who only worked for one or more employers with “voluntary plans.” Employers in Washington can apply to provide “voluntary plans” instead of paying into the WA Paid Leave program. A voluntary plan must be as or more generous than the state program.¹² About 400 employers had voluntary plans in the time period of our study. The vast majority (90%) offered a combination medical and family leave voluntary

plans. To be included in our analysis, we required that a worker have some employment with a non-voluntary-plan employer in the four quarters prior (excluded 2% of covered workers). In addition, when we measured work hours and employment tenure, we excluded work for voluntary-plan employers.

Using the wage report data, we created worker employment histories and estimated job protection status. For all workers in the wage reports who met the program eligibility requirement of 820 hours in the qualifying period (4 of prior 5 quarters), we assigned job protection indicators in Q1 2020, the first observed quarter in which we have data going back the necessary 4 quarters. Quarterly reports do not precisely identify 12 months of employment for the same employer. For this reason, we considered using 5 quarters of prior data (starting with Q2 2020) as an alternative. The problem with this approach is that using five quarters adds error to the estimates because it requires workers to be consistently employed for longer than the job protection statute requires. For this reason,

¹² <https://esd.wa.gov/paid-family-medical-leave/voluntary>

we used the four quarters prior and acknowledge that some error may be present in our job protection estimates if workers work 12 months that are not covered by the four quarters.

From Q1 2020 through Q2 2023, we assigned an indicator for job-protected (1) or not (0) 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 had multiple employers in a quarter, we considered them job protected if they met the requirements in any job. The size of employer was calculated using a count of workers in Washington for whom the employer submitted wage reports.¹³

FIGURE B-2. WORKERS SUBMITTING CLAIMS, BY YEAR

Claims data

The claims data only include Washington workers who have used the program, but have the advantage of including more demographic information, such as gender and race/ethnicity. We used the claims data to describe job protection by gender and race/ethnicity, and to estimate the associations between job protection and leave take-up and employment after leave.

Figure B-2 shows the count and percentage of these workers who appear in the claims data having successfully applied and been approved for WA Paid Leave and filed at least one weekly claim. In any year after the program began, about 3-5 percent of workers in the wage reports filed a weekly claim with the program in a year.

Year	Employment-Eligible Workers	# First Claim	% First Claim	# Any Approved Claim	% Any Approved Claim
2019	2,127,349	<10	0	<10	0
2020	2,755,673	105,093	3.81	105,095	3.81
2021	2,741,320	111,322	4.06	144,311	5.26
2022	2,881,430	116,347	4.04	169,879	5.9
2023	2,682,698	62,699	2.34	116,963	4.36

Source: WA Paid Leave Claims Data, 2019-2023

Notes: Employment-eligible means that the worker met the requirement of having 820 work hours or more in four of the prior five quarters. We do not know whether they experienced a qualifying event. Used Masked SSN/ITIN to identify unique individuals. 2023 is not complete year.

¹³ This is a close approximation of the determination of business size done by ESD for WA Paid Leave. The size of employer is determined on September 30 of each year by the average employee headcount over the previous four quarters as reflected in the quarterly reports.

For our analysis of paid leave take-up, we used a sample of all leave-eligible workers from 2020-2023. The analytic dataset was at the worker/quarter level and included information on quarterly wages, employer, employment status, industry, paid leave application information, and paid leave claims. For our analysis of the relationship between job protection and post-leave employment stability, we further restricted the sample to workers who took paid leave at any point from 2020 through Quarter 2 2023 and used an analytic dataset at the worker/spell level, with post-leave outcomes assigned to each leave spell.

In our analysis of Unemployment Insurance receipt, we used UI claims data provided by ESD. Leave users were coded as either receiving UI or not in each quarter. Most people who are unemployed do not file for UI (U.S. Bureau of Labor Statistics 2023), so this should be viewed as a measure of take-up of UI not employment status.

Regression models

For the analysis of the association between job protection status and outcomes (e.g., take-up and employment), we estimated ordinary least squares regression models that accounted for observing individual workers multiple times. Our dependent variables were all binary: receiving WA Paid Leave, any employment in the quarter after a leave spell, employed with the same employer the quarter after completing leave, and received UI in the quarter after leave. The independent variable of interest was an indicator for whether a worker was job protected in each quarter. We included controls for earned income, hours worked, and two-digit NAICS sector. In the analysis of post-leave outcomes, we added worker race/ethnicity, age, and gender as controls. All models included quarter fixed effects to adjust for seasonal changes that affect eligibility for job protection and paid leave.

Original data collection from workers

We conducted 31 interviews with workers who had received at least one week of WA Paid Leave between July 2022 and June 2023. To get perspectives from workers who have used the program, we started with the WA Paid Leave claims data and randomly sampled workers to contact for interviews. ESD sent out emails to sampled individuals and those who were interested clicked a link to complete a pre-interview survey. We intentionally sampled so that roughly half the interviewees had job protection (according to our estimates with program data) and half did not. Notably, we had to sample a lot more individuals to get 31 complete interviews than we expected. We proposed to sample 60 to get 30 based on some recent experience collecting data from the same population. Ultimately, we sampled 1060 to get 31. Our team conducted the interviews virtually via

Zoom with audio recording. Participants received a \$30 incentive at the end of the interview. The interview guide (available on request) included questions about 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 asked specifically about the participant's understanding of the job protection rules and whether they discussed job protection with their employer.

In addition, we conducted focus groups with workers in Washington who had yet to receive WA Paid Leave. We planned to conduct three focus groups in Yakima, Lewis, and Whatcom counties. Our choice of these counties was 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. Our approach was first to contact community organizations that interact with workers and find partners who would help us to host and recruit for the focus groups. This process of finding community partners was much more challenging than we expected. We contacted around 15 individuals and organizations by email in Winter and Spring 2024, and received very few responses. We were grateful for connections that members of the Advisory Committee helped us to make in Yakima, Lewis, and Pierce Counties. Ultimately, we were able to partner with the United Way in Lewis County, the Washington State Building and Construction Trade Council in Pierce County and the Washington State Labor Council in Yakima County.

In Lewis County, we scheduled a focus group on July 22, 2024, and advertised it in the community, but no workers signed up to participate. In Yakima County, we hosted a focus group with 7 workers in the agricultural sector on August 22, 2024. In Pierce County, we hosted a focus group with 7 workers in the construction sector on September 17, 2024. We provided \$20 incentives and snacks and refreshments to the participants. The focus group guide (available on request) included questions about what workers do about work when they or someone in their family is sick. The focus group in Yakima was conducted in Spanish. The focus group in Tacoma was conducted in English. At the end of the focus groups, we distributed materials about the WA Paid Leave program.

We audio-recorded all interviews and focus groups using either Zoom or a digital recorder. We used otter.ai plus human editing to transcribe the data. We developed a codebook based on the interview guide and initial feedback from the interviewers about the topics that were emerging (see Figure B-3). The interview and focus group data were coded and analyzed for themes, contrasts, and exceptions in Dedoose software. We use pseudonyms for all interview and focus group participants in the report.

FIGURE B-3. CODES USED FOR INTERVIEW & FOCUS GROUP DATA

Code	Description
After leave	Job situation after taking leave, including any reference to whether employment, job, or job responsibilities have changed, whether employers or coworkers posed barriers or facilitated their return.
facilitatorbarrier_employer	Employers facilitating or making things easier for the R after they took leave through actions or words. Employers posing a barrier or making it difficult for the R after they took leave. Includes retaliation (actual or perceived).
nonnew_work	Not working or working in a different job after leave.
post_job	Returned to same job after leave. Descriptions of return. If relevant, ways in which the job changed.
Condition	Health condition (either physical or mental; own or other) that either is the reason or relates to the reason why R took leave.
Employment	Work context in which R took leave, including type of job, industry, or place of work, time they had worked there, relationships.
coworker_relp	Relationships with coworkers
desc	Type of work, type of employer, length of tenure, responsibilities, hours, other job characteristics.
sup_relp	Relationship with supervisor or other authorities in the workplace
value	How valued/disposable R feels at their workplace and in their job.
Leavetaking	Process of taking leave, interactions with people at work about leave-taking, factors considered, concerns.
approval	Process of announcing/informing/getting approval to take leave. Process can be formal or informal.
factors	Factors at work or in life that were influential in R deciding to take leave.
stressors	Anything stressful about taking leave
support	Supportive behavior by supervisors, coworkers, or others at work in regards to leave taking.
unsupport	Unsupportive behaviors or interactions with supervisor, coworkers, or others at work about leave-taking.
job_protect	Sense that job would be protected (or not), understanding of what that meant, how that mattered to decision to take leave, etc...
definition_jp	What job protection means to R-including its non-legal components.

disc_jp	Conversation with a supervisor or another person at work about whether the job would or would not be held while they were on leave. Also used for lack of any conversation.
effects_jp	Ways that having/not having a sense of job protection (formal or informal) affected their state of mind, decision making, etc...
legal_jp	Reference to legal job protection - through FMLA, Paid Leave, or union or any other source.
security_jp	Not worrying about losing the job or having the change due to reassurances given, sense of value in the workplace, or other reasons.
worry_jp	Worry that R had about losing job or other negative consequences at work if they took leave.
Program	Comments about the WA Paid Leave program generally - including problems, benefits, suggestions for improvement.

Appendix C. Supplemental Figures

FIGURE C-1. SOURCES OF JOB PROTECTED LEAVE IN WASHINGTON STATE

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	X		X	X	X	X	Workers taking paid leave through the 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	X			X			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	X			X	X		Mandate that all employers allow all employees to 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	X	X			X		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

Program/Law	Types of Leave Protected						Who is Covered by Job Protection
	Paid	Unpaid	Bonding	Family care	Medical	Other	
Law Against Discrimination							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		X	X	X	X	X	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	X	X				X	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. (RCW 49.77)</i>
Washington Domestic Violence Leave	X	X				X	All workers taking leave related to domestic violence safety or services. <i>Can use accrued employer-provided leave or request unpaid leave. (RCW 49.76)</i>

Sources: Compiled by UW research team based on RCW, program/policy websites, and other official sources.

FIGURE C-2. EMPLOYMENT RATES AFTER LEAVE, BY JOB PROTECTION & INDUSTRY

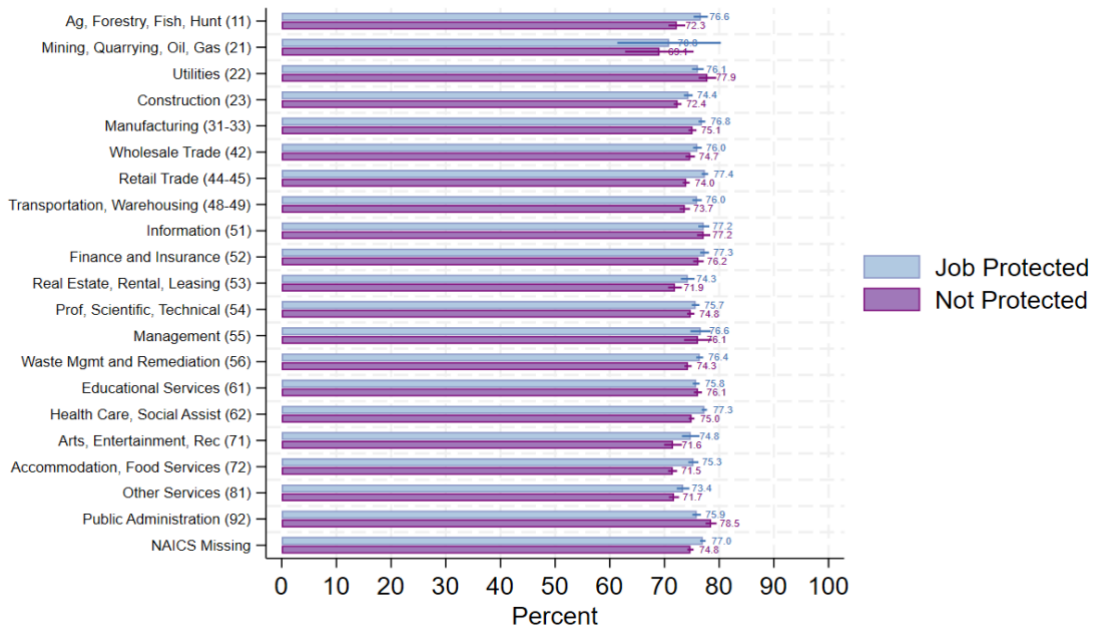
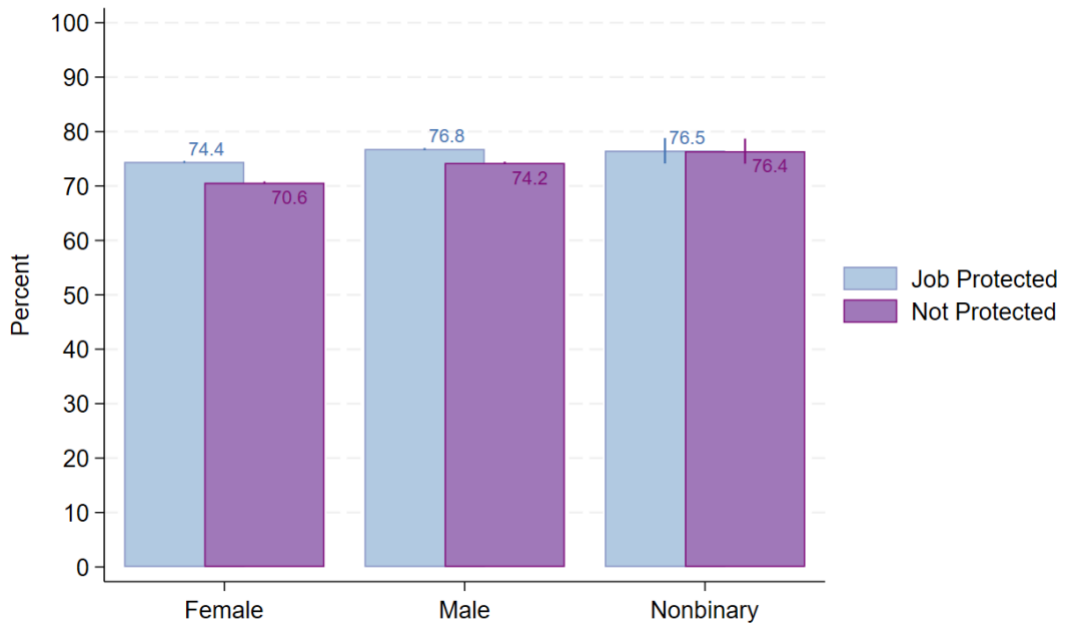


FIGURE C-3. EMPLOYMENT RATES AFTER LEAVE, BY JOB PROTECTION & GENDER



Source: WA Paid Leave Wage Reports and Claims Data, 2019-2023

Notes: Thin lines show 95% confidence intervals for the estimates. If two bars have overlapping confidence intervals, the difference between them is not statistically significant. Models adjusted for prior earnings and hours worked, quarter-year, and industry.

FIGURE C-4. EMPLOYMENT RATES AFTER LEAVE, BY JOB PROTECTION & RACE/ETHNICITY

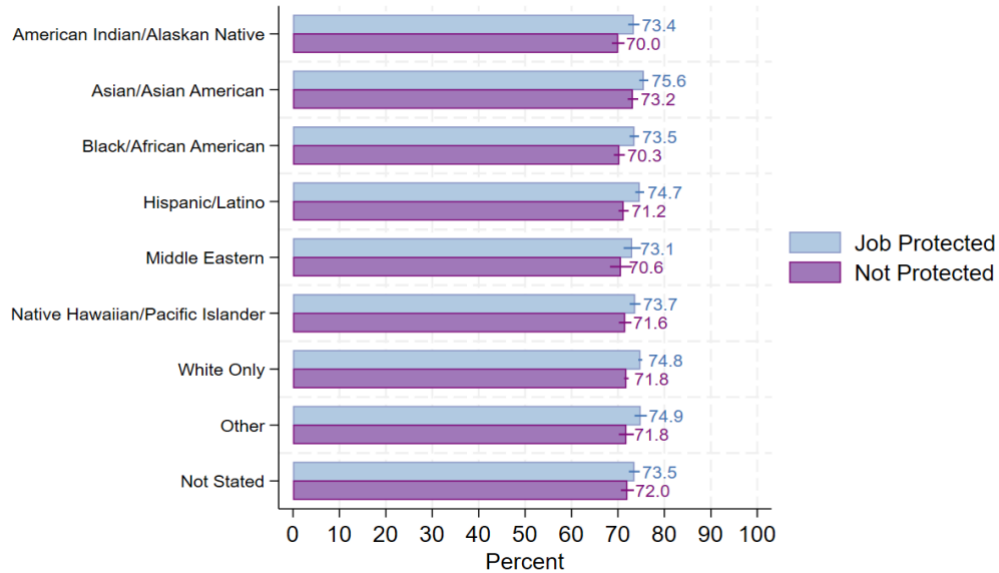
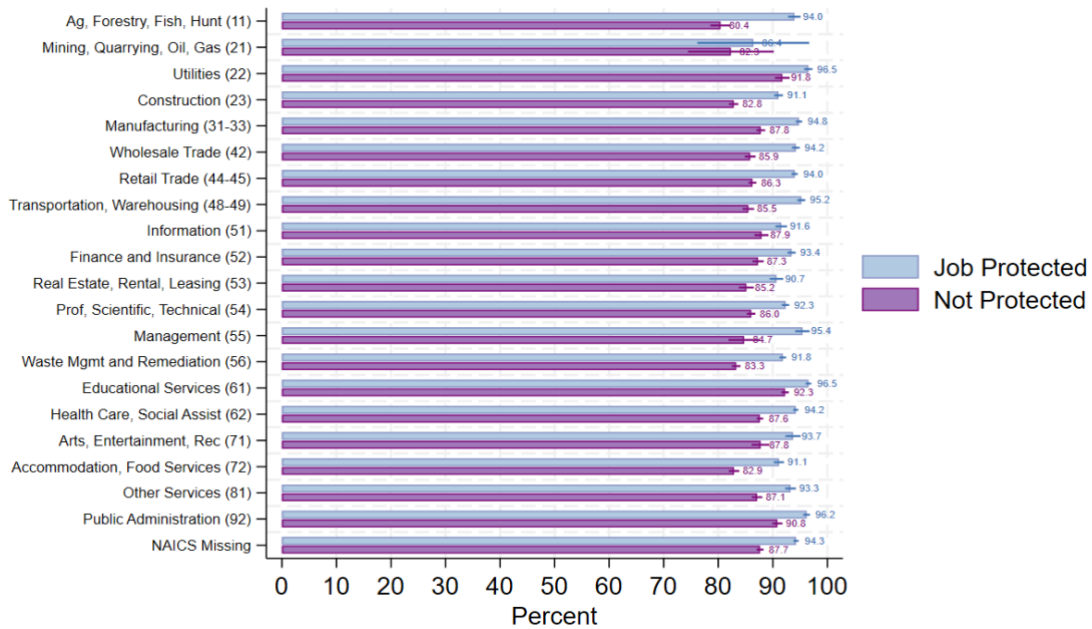


FIGURE C-5. RATES OF RETURNING TO THE SAME EMPLOYER, BY JOB PROTECTION & INDUSTRY



Source: WA Paid Leave Wage Reports and Claims Data, 2019-2023

Notes: Thin lines show 95% confidence intervals for the estimates. If two bars have overlapping confidence intervals, the difference between them is not statistically significant. Models adjusted for prior earnings and hours worked, quarter-year, and industry.

FIGURE C-6. RATES OF RETURNING TO THE SAME EMPLOYER, BY JOB PROTECTION & GENDER

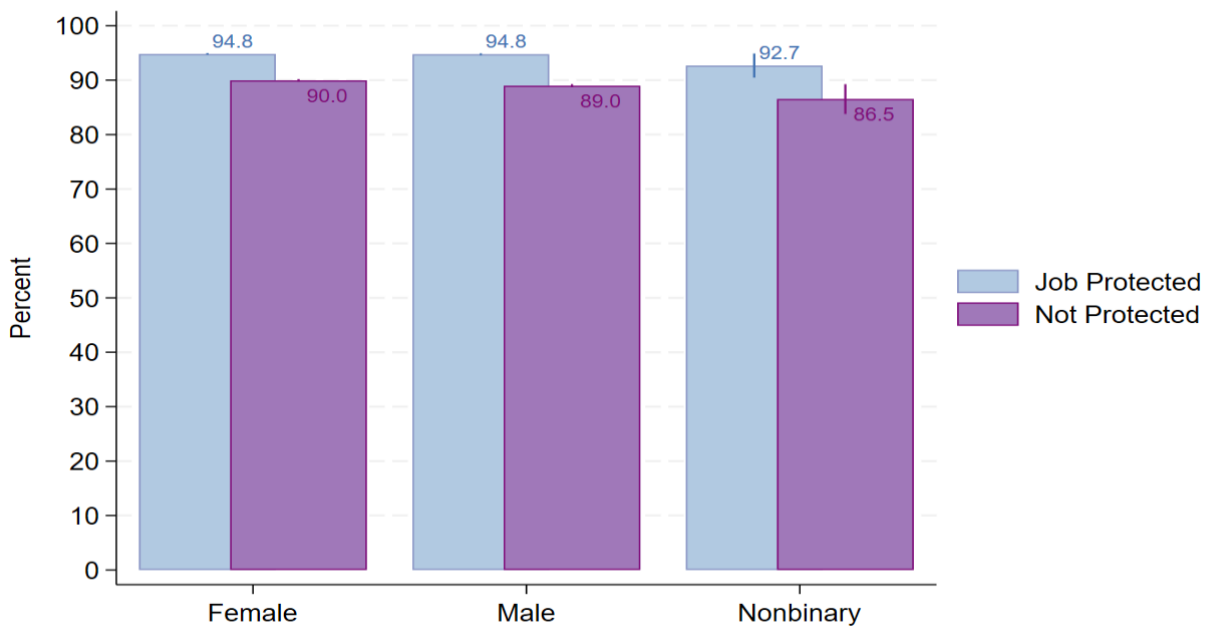
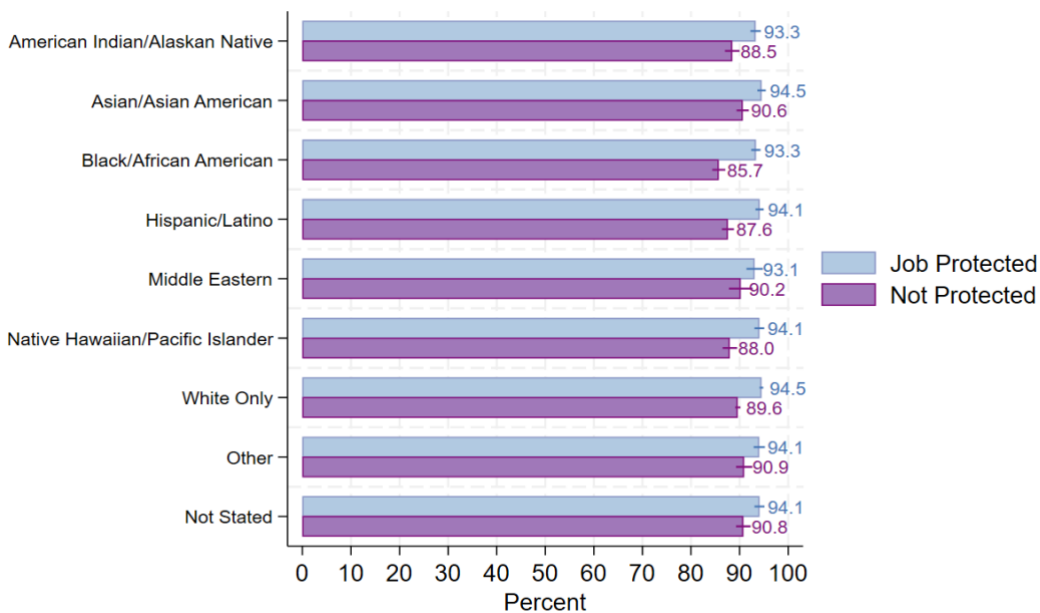


FIGURE C-7. RATES OF RETURNING TO THE SAME EMPLOYER, BY JOB PROTECTION & RACE/ETHNICITY



Source: WA Paid Leave Wage Reports and Claims Data, 2019-2023

Notes: Thin lines show 95% confidence intervals for the estimates. If two bars have overlapping confidence intervals, the difference between them is not statistically significant. Models adjusted for prior earnings and hours worked, quarter-year, and industry.

FIGURE C-8. UNEMPLOYMENT INSURANCE RECEIPT RATES, BY JOB PROTECTION & INDUSTRY

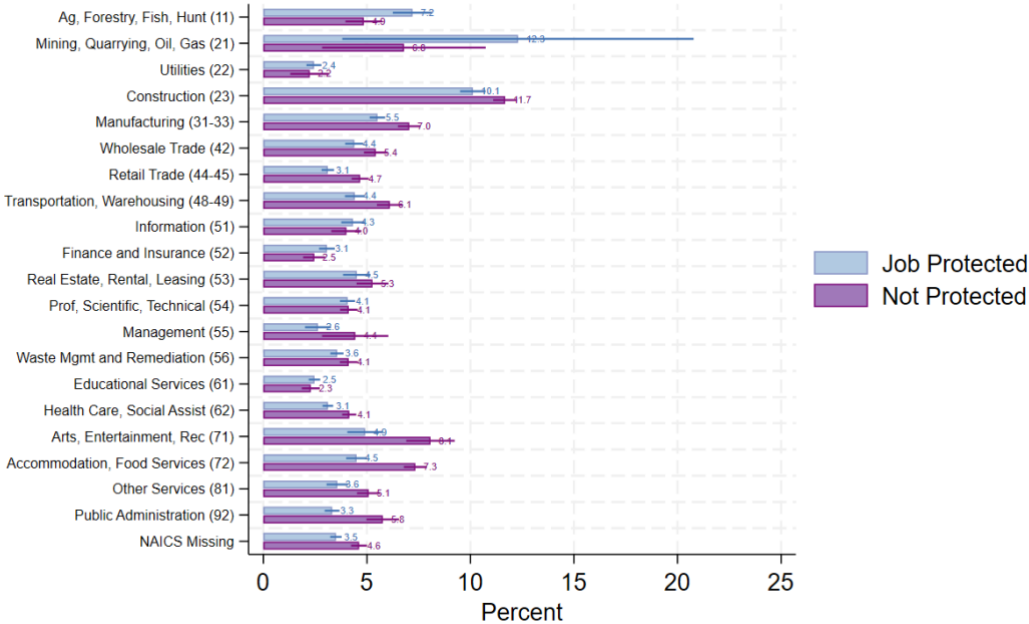
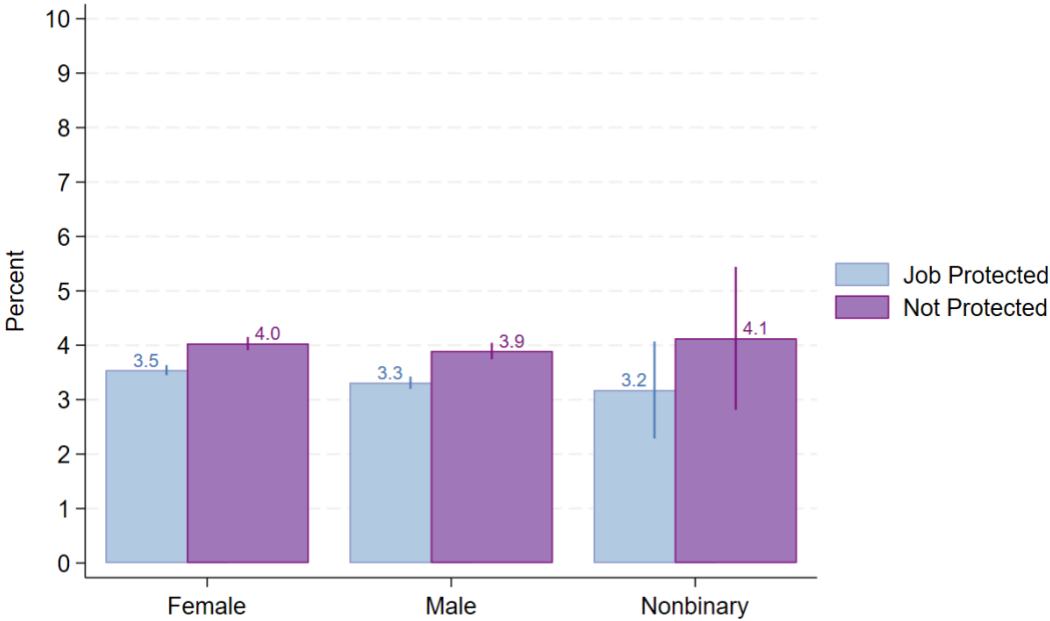
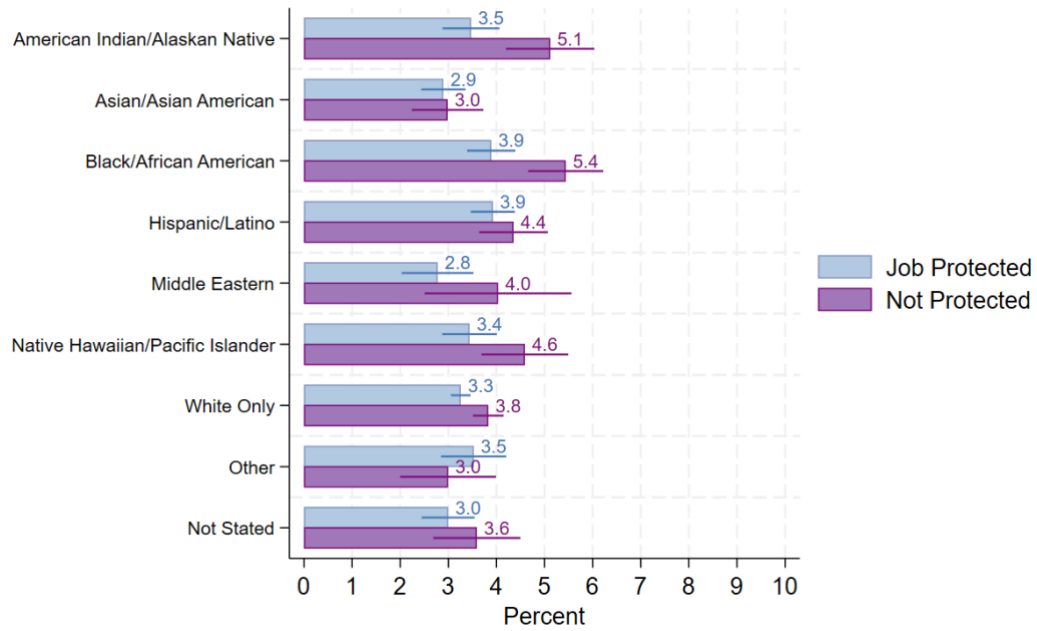


FIGURE C-9. UNEMPLOYMENT INSURANCE RECEIPT RATES, BY JOB PROTECTION & GENDER



Source: WA Paid Leave Wage Reports and Claims Data, 2019-2023
 Notes: Thin lines show 95% confidence intervals for the estimates. If two bars have overlapping confidence intervals, the difference between them is not statistically significant. Models adjusted for prior earnings and hours worked, quarter-year, and industry.

FIGURE C-10. UNEMPLOYMENT INSURANCE RECEIPT RATES, BY JOB PROTECTION & RACE/ETHNICITY



Source: WA Paid Leave Wage Reports and Claims Data, 2019-2023

Notes: Thin lines show 95% confidence intervals for the estimates. If two bars have overlapping confidence intervals, the difference between them is not statistically significant. Models adjusted for prior earnings and hours worked, quarter-year, and industry.

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