



An Update on Job Protection Gaps under the New Jersey Family Leave Act

Rebecca Logue-Conroy MSW PHD

>>> Highlights

- Around 1.7 million workers are not protected when taking family leave because they do not meet one of the three criteria for protection under the New Jersey Family Leave Act (NJFLA).¹
- Twenty-seven percent of New Jersey employees, or more than 1.15 million workers, lack job protections because they do not meet the tenure and hours requirements. These employees either worked for more than one employer in the last year (tenure), they worked for fewer than 1,000 hours, or both, regardless of firm size.
- Nearly 900,000 employees are not protected because they work at firm with fewer than 25 employees, regardless of tenure and hour requirements.²
- If the firm size threshold was reduced to 10 employees, an additional 300,000 workers who already meet the tenure and hour requirements would be protected.
- Those who are not protected are more likely to be younger, female, and/or earn lower incomes.
- Employees working in healthcare support, food preparation, and education instruction & library occupations are more likely to lack job protection.

1 Currently, employees are protected if they meet ALL of the following criteria: **a)** work for an employer with a firm size of 30 or more employees or state or local government of any size; **b)** have worked for the same employer for the last 12 months; and **c)** have worked for more than 1,000 hours in the last year.

2 Our estimates are based on firm sizes of 25 or more because that is what is available in the CPS-ASEC.

>>> Introduction

In 2022, the Center for Women and Work published an analysis of the gaps between those whose job is protected through the NJFLA and those whose job is not protected, even if they qualify for wage replacement through the New Jersey Family Leave Insurance (NJFLI) program.³ Currently, employees' jobs are protected when taking leave for a covered reason if they work for a firm with 30 or more employees or state or local government of any size, have worked at that employer for at least 12 months, and have worked for more than 1,000 hours in the previous year. Employees must meet all three criteria to be protected under NJFLA. In our previous analysis, we estimated the gaps by examining microdata from the Current Population Survey (CPS) Annual Social and Economic Supplement (ASEC), which includes information about employment and demographics of a representative sample of American workers. At that time, we considered those who were not protected to be employees of firms with fewer than 25 employees (the closest cutoff in the CPS to 30) and who worked fewer than 20 hours per week (the closest to having worked 1,000 hours in a year). We did not consider whether an employee had worked for the same employer for the last year.

Since we published that analysis, policy conversations in the New Jersey Legislature have focused on improving job protection solely by reducing the firm size threshold from 30 employees to 5. While that will undoubtedly protect an additional number of workers, the other qualifications for job protection, as described above, remain. It is important to note that there is no publicly available dataset that allows us to estimate the exact levels of all three criteria at once. We are unable to estimate job protection at firm sizes of 30 or 5. However, we are able to estimate the numbers and demographics of those who are left out because they do not meet one or both of the remaining criteria—number of employers and hours worked in the past year. This updated analysis will improve upon our original analysis in order to more clearly understand which New Jersey workers could face job loss when they need to take leave.

This report includes a detailed explanation of the methodology we used to estimate which workers are not covered. This should help to make clear why decisions were made about the analysis given what is available in the CPS-ASEC and what is not.

>>> Methodology

This updated gaps analysis uses data from the CPS-ASEC of 2023. Microdata were downloaded from the Integrated Public Use Microdata Series (IPUMS) site.⁴ This site, hosted at the University of Minnesota, allows researchers to download individual-level data from various census data sources. While the Current Population Survey is fielded monthly, the ASEC is fielded once per year and includes more detailed questions about respondents' sociodemographic information. For the estimates in this report, the sample was narrowed to those who live in New Jersey and to the other characteristics outlined below.

3 Logue-Conroy, R., & Small, S. 2022. NJFLA Coverage Gaps: Who has job protection under NJFLA (and who is left behind)? Center for Women and Work. New Brunswick, NJ: Rutgers University.

4 Flood, S., King, M., Rodgers, R., Ruggles, S., Warren, J.R., Backman, D., Chen, A., Cooper, G., Richards, S., Schouweiler, M., and Westberry, M. 2023. IPUMS CPS: Version 11.0 [dataset]. Minneapolis, MN: IPUMS. <https://doi.org/10.18128/DO30.V11.0>

Currently, employees qualify for NJFLA job protection if they work for an employer with 30 or more employees or state or local government of any size, have worked at least 1,000 hours, and have worked for the same employer for at least 12 months. As of February 2024, there is a bill that has passed in the New Jersey Assembly that reduces the firm size from 30 to 5, but the other two criteria for protection remain. This movement in the legislature prompted us to reconsider our gaps analysis and to examine more closely the two criteria not addressed in the most recent proposed legislation.

There are several variables that allow us to estimate which workers would be excluded from job protection given the three criteria—firm size, number of employers, and hours worked. The CPS-ASEC reports the following firm size categories: under 10; 10 to 24; 25 to 99; 100 to 499; 500 to 999; and 1,000+. Our original report analyzed job protection based on firm sizes of 25 and fewer since that was the closest cut off to the current cutoff of 30. This report includes analysis on firm sizes of 10 or fewer since that is the lowest cut off and that is closest to the proposed new threshold of 5. Below is a more detailed explanation of each variable used in the sample selection:

Class of Worker	Private; state government; local government (self-employed workers, federal government workers, and members of the armed forces are not covered by NJFLA).
Labor Force Status	In the labor force.
Number of employers in the previous 12 months	In the CPS, there is a variable that indicates whether someone had 1, 2, or 3 or more employers over the last year. It indicates job changes over the year, NOT whether someone held multiple jobs at the same time. If someone is coded as 2 or 3, this means that they had at least one employer change and therefore could not have worked for the same employer for the last year. We did not include in the sample those who reported zero employers in the last year.
Number of weeks worked in the last year	We only included those who worked 52 weeks in our calculation of those who would be protected. The number of weeks worked includes paid vacation and sick leave, so this should be an accurate estimate of those who worked for a full year for the same employer.
Hours worked	Hours worked are reported as an employee’s usual hours worked weekly. The binary variable representing whether someone worked more than 1,000 hours is calculated as those who report working more than 20 hours per week in the previous 12 months.
Age	16 or older
Income Categories	Wage and salary income are calculated using the CPS variable incwage, which represents a respondent’s total pre-tax wage and salary income received as an employee. It does not include any other sources of income. The wage information was collapsed into 5 categories representing \$25,000 increments up to \$150,000 or more.
Weights	We use both person weights and replicate weights that allow us to estimate results for the full NJ population from this sample. It is more difficult to use weights when analyzing smaller numbers, so demographic estimates (gender, race/ethnicity/income) are likely to be less accurate than if the full sample were analyzed. We do include these estimates with the 95% confidence interval so that there is a sense of the range of possible estimates. The confidence interval indicates that there is 95% confidence that the true value lies in that range. The CPS-ASEC is representative at the state level, but the confidence intervals may be larger for smaller demographic subsets.

>>> Results

Percent not covered

Our first set of estimates are based on the tenure requirements—worked at least 1,000 hours and worked for the same employer for the last 12 months. We did not include firm size in these initial estimates because we wanted to highlight who is still left out even if the employee threshold is lowered. Our total weighted sample population represents 4,191,745 employees in New Jersey. The variables used to get this sample are explained above in the methodology section. In each of the figures in this results section, this is the sample used for the total.

Figure 1 indicates that in 2023, 27% of this sample was not protected (95% confidence interval (CI): 25% and 30%). Using weights, we estimate that this is around 1,149,121 workers in New Jersey (95% CI: 1,032,283 and 1,273,852).

Figure 2 indicates that 52% of those not covered worked for less than 52 weeks in the previous year, 22% worked for more than one employer in the previous year, around 10% worked at more than one employer and worked for less than a year, around 8% worked too few hours, around 6% worked for fewer than 1,000 hours and for less than a year, around 1% worked for more than one employer and for fewer than 1,000 hours, and the last 1% for all three reasons. This indicates that changing employers or not working for the same employer for a full year are the dominant reasons employees are excluded from job protection, representing 92% of employees not covered. Around 16% of employees not covered worked for fewer than 1,000 hours only, or in combination with one of the other two reasons.

FIGURE 1
Percent Not Protected in Sample

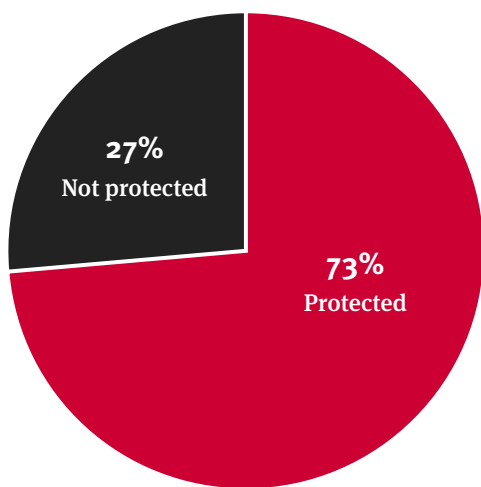
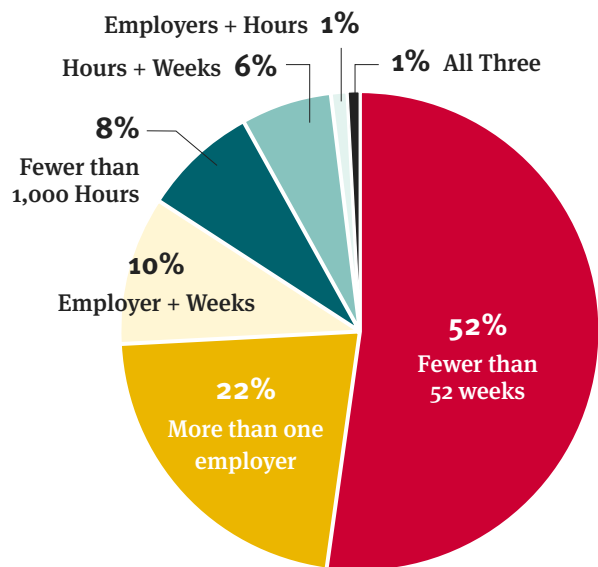


FIGURE 2
Percent of those not protected by reason



Source: CWW Analysis of 2023 CPS-ASEC microdata

Figure 3 shows that while female respondents represent 49% of the total sample, they represent 58% of the sample of unprotected employees.

FIGURE 3
Protection by Gender

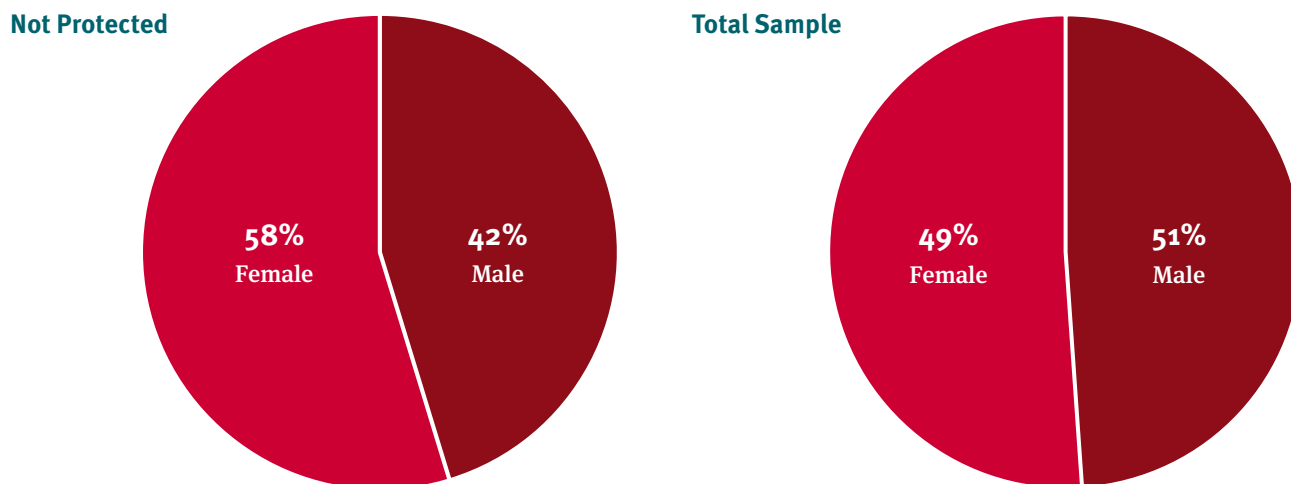
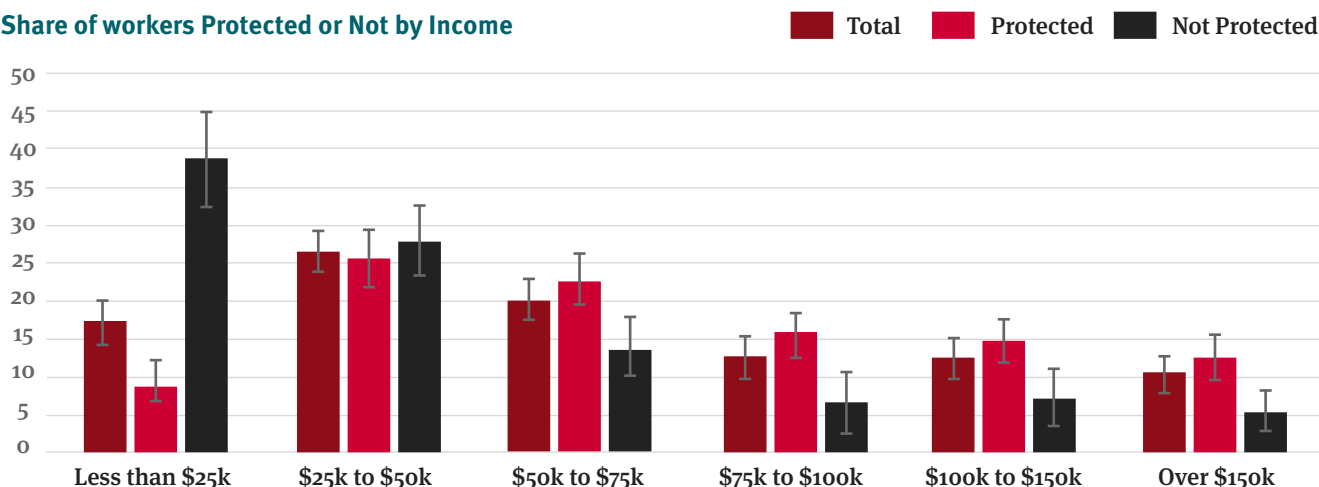


Figure 4 indicates that the lowest paid workers are also the workers most likely to not be covered. This figure also shows the range of possible values for these bars with 95% confidence. For example, 39% of those not protected are in the lowest income category, but this number could be as low as 33% or as high as 45%. This compares to only around 9% of those who are protected falling into that income category (95% CI: 7%–11%). This figure also includes the percentages for the total sample. Around 17% of the total sample is in the lowest income category (95% CI: 14%–20%).

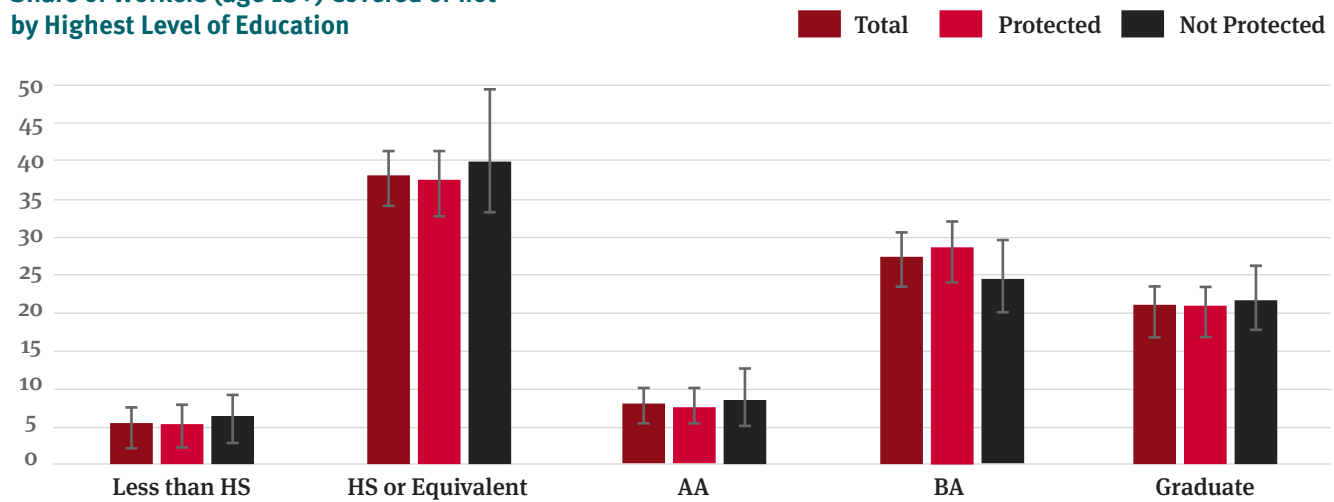
FIGURE 4
Share of workers Protected or Not by Income



Source: CWW Analysis of 2023 CPS-ASEC microdata

Figure 5 indicates that those who are unprotected are less likely to have a BA than those who are protected. They are also slightly more likely to have a HS degree or less than those who are protected. We only considered those who are 18 and older in this graph because those under 18 would almost all fall into the Less than HS category. Excluding younger workers from this graph makes more clear the education differences, rather than the age differences. We do see that among those who are protected, 28.94% (95% CI: 26%–33%) have a BA, while among those who are unprotected, 24.1% (95% CI: 19%–30%) have a BA.

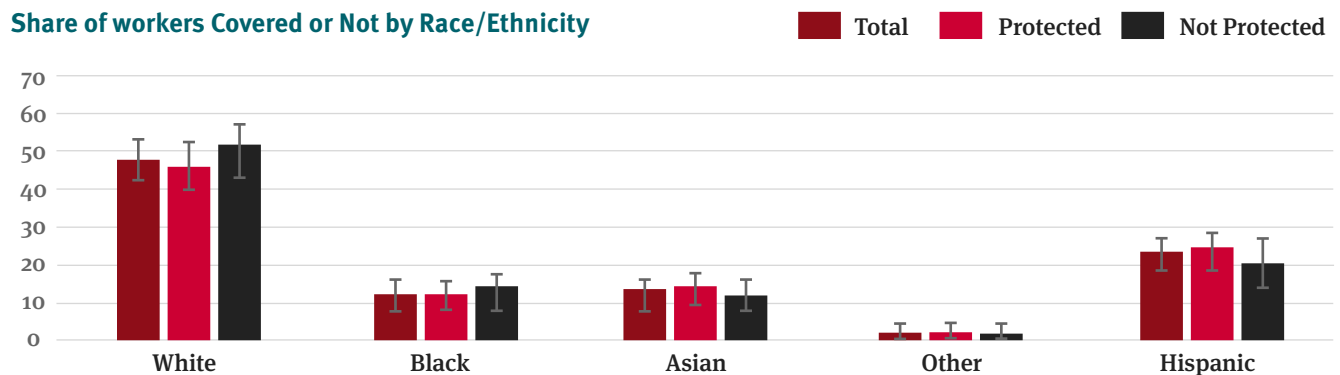
FIGURE 5
Share of Workers (age 18+) Covered or not
by Highest Level of Education



Source: CWW Analysis of 2023 CPS-ASEC microdata

Figure 6 indicates that white employees are less likely to be protected while Asian and Hispanic employees are more likely to be protected. Among unprotected workers, 51.64% are white while 13.62% are Asian and 21.23% are Hispanic. This compares to 48.8% of total workers who are white, 11.72% of total workers who are Asian, and 23.31% of total workers who are Hispanic.

FIGURE 6
Share of workers Covered or Not by Race/Ethnicity



Source: CWW Analysis of 2023 CPS-ASEC microdata

Age is another important factor in whether an employee is protected or not. The mean age of the full sample is 43.35 (95% CI: 42.61–44.09). The mean age of those who are protected is 45.1 (95% CI: 44.22–45.98) while the mean age of those who are not protected is 38.73 (95% CI: 37.18–40.27). This indicates that those who are not protected are more likely to be younger than those who are protected.

>>> Occupation and Industry

Occupation and industry codes in the Census are very specific. Occupation refers to the job that a person performs while industry refers to the type of business where they do this job. In order to make a more accurate estimate, we collapsed similar occupation and industry codes into categories. These categories were taken from the Census website and are therefore standard categories within the Census.⁵ The tables below indicate which occupation and industry categories either have disproportionately low or high percentages of unprotected employees. We conducted a logistic regression analysis to determine which occupations and industries where employees were more likely to be protected or unprotected. Note that in the full sample, around 27% of workers are not protected. The occupations with lowest percentages of unprotected workers are Business & Financial, Buildings & Grounds Cleaning & Maintenance, and Management. The occupations with the highest percentages of unprotected workers are Healthcare Support, Education Instruction & Library, and Food Preparation & Serving Related. The industries with the lowest percentages of unprotected employees are Public Administration, and Finance & Insurance. The industries with the highest percentages of unprotected employees are Educational Services and Accommodation & Food Service. Tables 1 and 2 show the percent unprotected in each of those occupations and industries, with the 95% confidence interval.

TABLE 1 Percent Unprotected by Occupation Category

Occupation Category	Percent Unprotected
Business & Financial Operations	7.17% (95% CI: 3.46%–14.28%)
Building & Grounds Cleaning & Maintenance	14.24% (95% CI: 6.74%–27.59%)
Management	18.08% (95% CI: 12.29%–25.79%)
Healthcare Support	43.97% (95% CI: 29.05%–60.07%)
Education Instruction & Library	45.56% (95% CI: 33.95%–57.67%)
Food Preparation & Serving Related	50.43% (95% CI: 36.2%–64.59%)

5 <https://www.census.gov/programs-surveys/cps/technical-documentation/methodology/industry-and-occupation-classification.html>

TABLE 2 Percent Unprotected by Industry Category

Industry	Percent Unprotected
Public Administration	10.55% (95% CI: 4.63%–22.28%)
Finance & Insurance	14.82% (95% CI: 7.92%–26.03%)
Accommodation & Food Service	47.33% (95% CI: 34.61%–60.41%)
Educational Services	49.01% (95% CI: 39.06%–59.03%)

>>> Firm Size

Currently, with regard to employer size, the NJFLA covers private employers with 30 or more employees. The NJ Legislature has discussed proposals reducing the threshold to 5, but we cannot estimate the numbers of employees left out of job protection at that level because the CPS-ASEC does not include fewer than 5 as a firm size. However, the CPS-ASEC does include a firm size category of fewer than 10 employees. This section estimates the number of workers left out if the coverage was reduced to fewer than 10 employees. We also include the tenure requirements in these estimates. So, for these estimates, those not protected include those who worked for employers with a size of fewer than 10, those who worked for fewer than 1,000 hours, those who worked for less than a year, and those who worked at more than one employer in a year.

Figure 7 shows that around 33.5% of employees are not covered if they work at a firm with fewer than 10 employees, have worked for more than one employer in the past year, have worked for less than a year, or have worked fewer than 1,000 hours in the past year. Applying the sample weights, this figure represents 1,405,566 workers (95% CI: 1,279,408–1,537,595).

FIGURE 7
Not covered by Firm Size <10 and Tenure Requirements

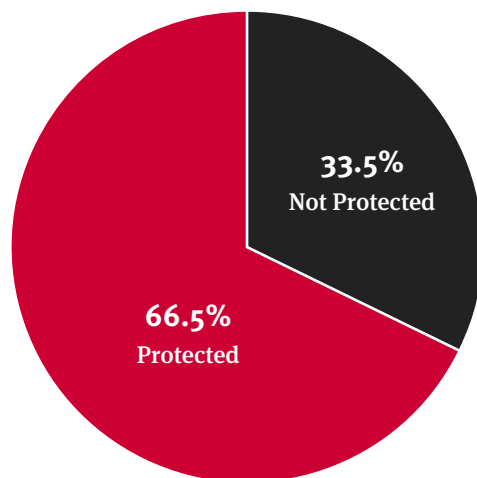
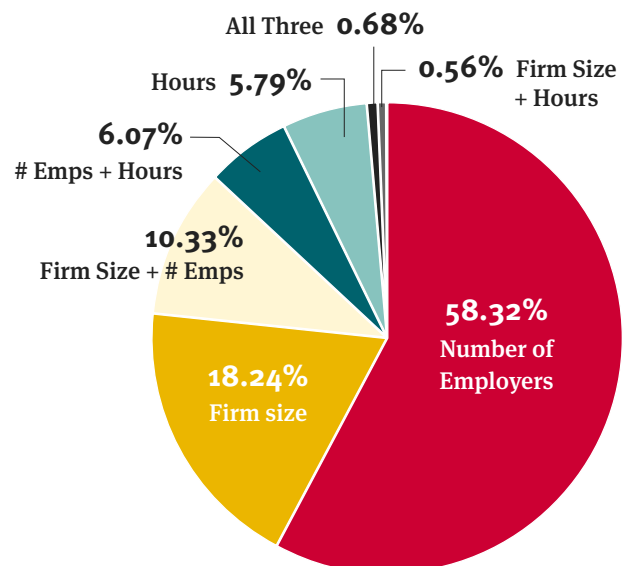


FIGURE 8
Reasons for not being Protected



Source: CWW Analysis of 2023 CPS-ASEC microdata

Figure 8 shows that the highest percentage of those not protected are those who have worked at more than one employer in the last year at 58% (95% CI: 53%–64%). The second largest group are those who worked for an employer with fewer than 10 employees at 18% (95% CI: 14%–23%). If one includes the pie slices that represent multiple reasons for not being protected, those who work for more than one employer and/or for less than a year account for around 75% of the workers who are not protected, those who work for employers with fewer than 10 employees represent about 30% of workers, and those who worked for fewer than 1,000 hours represent around 13% of workers.

Figure 9 shows that 55.71% of those who are not protected are female.

FIGURE 9
Percent not Protected by Gender (with firm size)

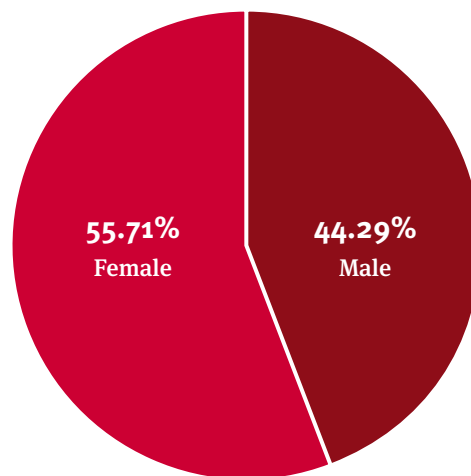
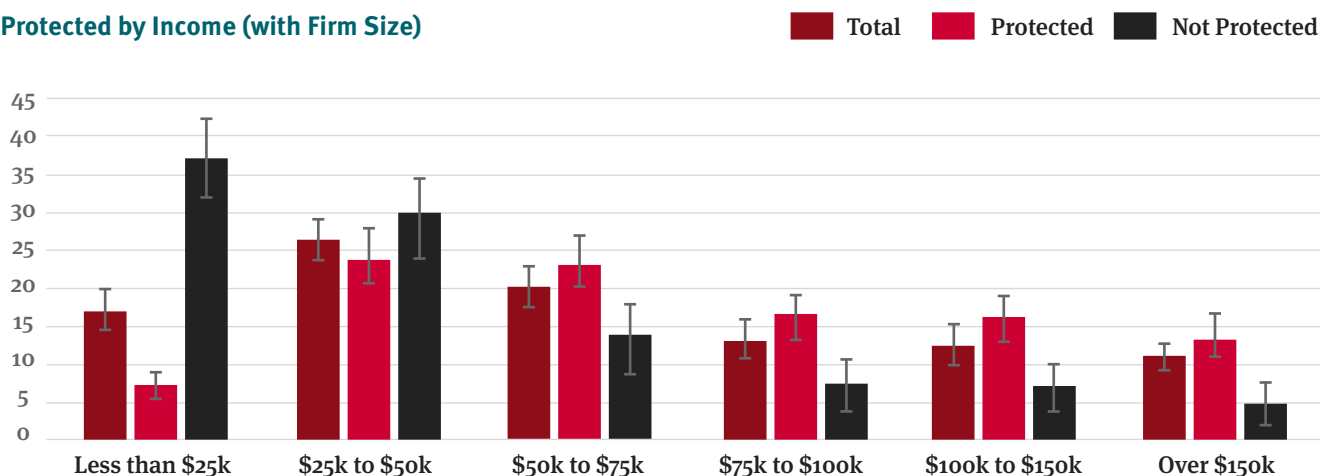


Figure 10 shows that nearly 37% of those who are unprotected make less than \$25k (95% CI: 32%–42%), compared to 7% of those who are protected (95% CI: 5%–9%) and 17% of the full sample (95% CI: 15%–20%). On the other side of the income spectrum, only 5% of those who are unprotected make over \$150k (95% CI: 3%–8%), compared to 14% of those who are protected (95% CI: 11%–17%) and 11% of the full sample (95% CI: 9%–13%). As in our tenure estimates, lower income employees are more likely to be unprotected than higher income employees.

FIGURE 10
Protected by Income (with Firm Size)



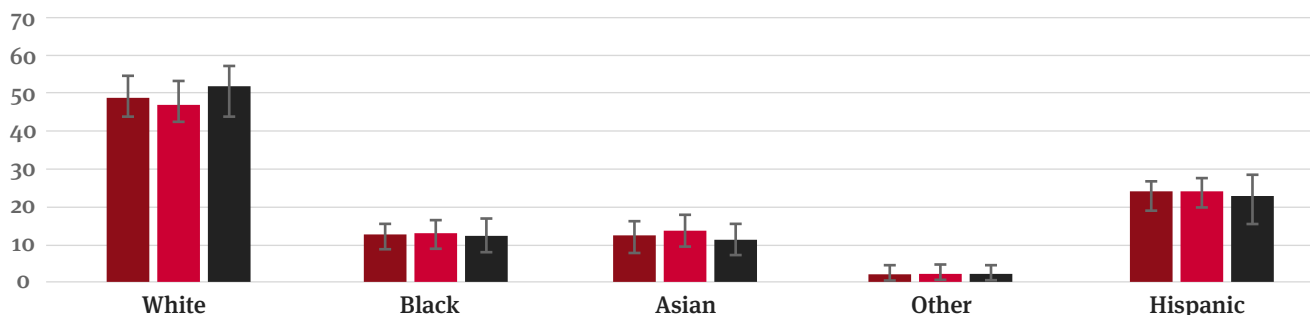
Source: CWW Analysis of 2023 CPS-ASEC microdata

Figure 11 shows protection by race and ethnicity. We estimate that white workers are more likely to be unprotected and Asian workers are less likely to be unprotected. Among unprotected workers, 51.4% (95% CI: 45.48%–57.28%) are white, compared to 48.8% (95% CI: 44.69%–52.93%) of total workers. On the other hand, 11.25% (95% CI: 8.06%–15.49%) of Asian workers are unprotected, compared to 13.1% (95% CI: 10.5%–16.22%) of the total.

FIGURE 11

Protected by Race/Ethnicity (with firm size)

■ Total ■ Protected ■ Not Protected



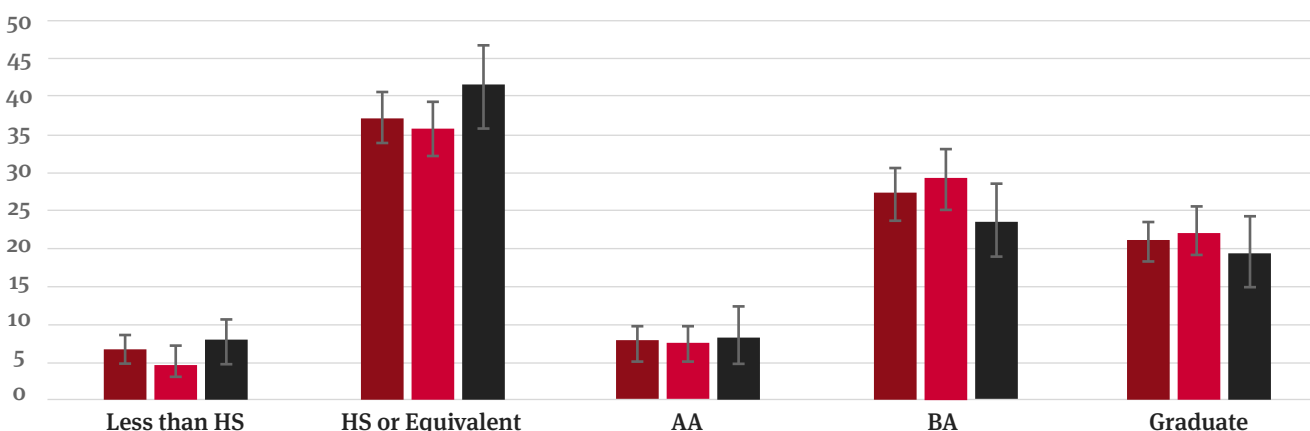
Source: CWW Analysis of 2023 CPS-ASEC microdata

Figure 12 indicates that workers who are 18 and over and who are unprotected are more likely to be in the lowest education categories than those who are protected. Among unprotected workers, 7.12% (95% CI: 4.74%–10.58%) have less than a HS degree and 41.2% (95% CI: 35.95%–46.67%) have a HS degree or equivalent, compared to 4.82% (95% CI: 3.09%–7.45%) of protected workers with less than a HS degree and 35.52% (95% CI: 31.72%–39.51%) of protected workers having a HS degree or equivalent.

FIGURE 12

Protection by Highest Level of Education (with firm size)

■ Total ■ Protected ■ Not Protected



Source: CWW Analysis of 2023 CPS-ASEC microdata

Additionally, age is an important component in this sample, as it was in the tenure sample. The mean age of those who are unprotected is 40 (95% CI: 38–41) while the mean age of those who are protected is 45 (95% CI: 44–46) and the mean age of the full sample is 43 (95% CI: 43–44). Those who are unprotected are more likely to be younger.

Finally, when firm size is included in the analysis, the occupations and industries that have the most and least unprotected workers change somewhat. Tables 3 and 4 below show the percent of employees not protected if firm size is included in the estimates. **Table 3** shows that those in Business & Financial and Management occupations are less likely to be unprotected, and those in Education Instruction & Library, Healthcare Support, Community & Social Service, Food Preparation & Serving Related, and Personal Care & Service occupations are more likely to be unprotected. **Table 4** shows that those in Finance & Insurance and Manufacturing industries are mostly likely to be protected while those in Educational Services, Accommodation & Food Service, and Other Services (except Public Administration) are most likely to be unprotected. The industry category Other Services includes the following industries: Automotive Repair, Car Washes, Barber Shops, Salons, Dry Cleaning & Laundry, Funeral Homes, Religious Organizations, Civic Organizations, Labor Unions, Professional Organizations, and Private Households. The percentage estimates give us a reasonable idea of the occupations and industries that are the most affected by the gaps in protection. Here we only include in the lists those occupations or industries that showed a statistically significant difference between the number of employees who were protected and unprotected.

TABLE 3 Percent Unprotected by Occupation Category

Occupation Category	Percent Unprotected
Business & Financial Operations	9.74% (95% CI: 5.44%–16.85%)
Management	23.92% (95% CI: 17.74%–31.44%)
Education Instruction & Library	47.6% (95% CI: 35.49%–60%)
Healthcare Support	49.02% (95% CI: 33.78%–64.44%)
Community & Social Service	57.24% (95% CI: 34.99%–76.9%)
Food Preparation & Serving Related	60.89% (95% CI: 45.82%–74.13%)
Personal Care & Service	70.79% (95% CI: 43.72%–88.32%)

Source: CWW Analysis of 2023 CPS-ASEC microdata

TABLE 4 Percent Unprotected by Industry Category

Industry Category	Percent Unprotected
Finance & Insurance	15.63% (95% CI: 8.53%–26.89%)
Manufacturing	21.94% (95% CI: 13.73%–33.17%)
Educational Services	52.61% (95% CI: 41.94%–63.05%)
Accommodation & Food Service	55.64% (95% CI: 41.71%–68.73%)
Other Services (except Public Administration)	59.28% (95% CI: 44.40%–72.63%)

Source: CWW Analysis of 2023 CPS-ASEC microdata

>>> Summary

This updated gaps analysis estimates the number of employees who remain left behind, even if legislation changes the NJFLA to include under job protections those who work at smaller firms. The legislation does not address the tenure requirements in the NJFLA, which leaves around 1.15 million workers unprotected. The estimates in this analysis indicate that those employees are more likely to work for less than a year, change jobs within a year, be women, earn lower incomes, be younger, or some combination of all of these. The estimates also indicate that those who work in healthcare support, food preparation, and education instruction & library are the most likely to be unprotected.

The data in this analysis show the numbers of employees who are not covered by NJFLA and why. However, as we highlighted in our 2022 analysis, even more employees report that they are uncertain about whether they are covered. This confusion was highlighted in a report released by the Heldrich Center for Workforce Development in 2022.⁶ Their survey showed that over 50% of workers did not use FLI because they feared job loss or loss of seniority. Additionally, 56% of survey respondents in the Fall of 2021 did not know whether they qualified for leave.

Our analysis in this report, paired with the survey data, show that fear of losing one’s job remains at the forefront of the minds of New Jersey workers. Our analysis shows that this is indeed the case for nearly 30% of employees. The survey results show that there is a perception among an even larger percent of workers that their jobs are not safe if they take leave. Given the confusion around whether someone is actually protected by the NJFLA and the lack of awareness that job protection and wage replacement have different criteria for qualification, means larger percentages of workers continue to fear that they will lose their job if they take the leave that they are entitled to. Closing all of these gaps will lead to job protection coverage for more workers, lessen confusion among New Jersey workers, and is likely to lead more workers to take the paid leave benefits they need and to which they are entitled without fear of losing their jobs.

6 https://heldrich.rutgers.edu/sites/default/files/2022-05/New_Jersey%E2%80%99s_Earned_Sick_Leave_Law_and_Family_Leave%20Insurance_Program.pdf

SUGGESTED CITATION

Logue-Conroy, R. 2024. An Update on Job Protection Gaps under the New Jersey Family Leave Act. Center for Women and Work. New Brunswick, NJ: Rutgers University.

The Rutgers' Center for Women and Work (CWW) engages in research, education and programming that promotes economic and social equity for women workers, their families, and communities. CWW's work focuses on addressing women's advancement in the workplace; providing technical assistance and designing programming for educators, industry, and government; and engaging in issues that directly affect the living standards of working families in New Jersey and around the world.