



Measuring the effects of employment protection policies: Theory and evidence from the Americans with Disabilities Act

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ABSTRACT

Title I of the Americans with Disabilities Act (ADA) is an employment protection policy for disabled workers. By exploiting cross-state variation in pre-ADA legislation, we measure the effects of the law on transition rates of disabled workers. We find a decline in employment-to-non-employment transitions after the ADA, with an insignificant change in flow into employment. We use a model to disentangle the costs of firing and hiring imposed by the ADA. Our findings suggest that the ADA induces firms to fire less frequently but become more selective with new hires, impacting the aggregate productivity of the workforce and output of the economy.

1. Introduction

The Americans with Disabilities Act (ADA) of 1990 is a civil rights law intended to protect people with disabilities from discrimination. Title I of the ADA covers employment protection, allowing employees who feel they have been discriminated against to file charges against their employers. Thus, while the ADA protects workers with disabilities, it simultaneously places constraints on (potential) employers with regard to disabled employees. In 2017, the total number of charges filed under the ADA accounted for 32% of all filings under the Equal Employment Opportunity Commission (EEOC),¹ and \$135 million in monetary benefits was issued. With the passage of the ADA Amendments in 2008² and the aging of the American population, increasingly more individuals are expected to benefit from the law, imposing higher costs on firms with (and those planning on hiring) disabled employees.

While there are studies focusing on the ADA's impact on employment rates (e.g., [Acemoglu and Angrist, 2001](#); and [DeLeire, 2000](#)), analysis on worker flows is limited. However, understanding the changes in worker

flows caused by the ADA is important. As is well-known in macro-labor literature (e.g., [Blanchard and Portugal, 2001](#)), employment protections make labor markets sclerotic: firms face higher costs in firing and hiring, and workers' duration of both employment and unemployment increase. These equilibrium consequences may have aggregate efficiency effects. This paper complements the literature by (i) empirically measuring the effects of the ADA on worker flows into and out of employment; (ii) analyzing the equilibrium effects on transition flows of both disabled and non-disabled workers; and (iii) disentangling the regulatory costs of the hiring and firing clauses of the ADA and measuring the aggregate impacts of those clauses to the economy.

Our first goal is to estimate the impact of the ADA on workers' labor market transition flows between employment and non-employment. We identify the effect of employment protection using a difference-in-differences estimation based on the cross-state variation in pre-ADA labor laws. We generate a comprehensive measure for employment protection by extending the similarity measure of [Jolls \(2004\)](#) and [Jolls and Prescott \(2004\)](#), using the scope of coverage documented in [Percy \(1989\)](#).³ According to our classification, we find that before the enactment of the ADA, 34 states had already implemented labor protection laws for the disabled that were similar to the ADA; these serve as our control group. We compare the labor market performance of disabled and non-disabled workers in these control states

³ According to the coverage definitions in [Percy \(1989\)](#), a state's legislation provides "restricted coverage" if (i) the law applies to only to public sector employees and (ii) workers with traditional forms of disabilities, such as blindness and mobility impairment.

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¹ The EEOC is a federal agency in charge of enforcing anti-discrimination laws in the workplace. It handles discrimination charges against a person's race, color, religion, sex, national origin, age, disability, or genetic information.

² In 2008, the ADA Amendments Act (ADAAA) was passed to broaden and clarify the definition of disabilities. Under the ADAAA, a person is considered disabled if he/she (i) has a physical or mental impairment that substantially limits one or more major life activities, (ii) has a history or record of such an impairment, or (iii) is perceived by others as having such an impairment.

with those in 11 other states with weaker labor protection prior to the ADA.⁴

Our estimation results show that the introduction of the ADA decreased the annual employment-to-non-employment transition rate of the disabled by 3.5 to 4.3 percentage points (21.8 to 26.8%), without improving their non-employment-to-employment transition rate. Although not statistically significant, we also find a decline in transition flows into employment. Overall, we find no significant improvement (or deterioration) in employment rates caused by the ADA. Our findings are robust to controlling for time trends, clustering of standard errors, and choice of sample periods.

To better understand the relationship between the policy and labor market outcomes, and to build a framework for a quantitative analysis, we extend the model presented in [Mortensen and Pissarides \(1994\)](#) by incorporating the costs imposed on firms in their hiring and firing practices. We find that when faced with firing costs under the ADA, firms terminate employment less frequently but become more selective in hiring new workers. Simultaneously, the rise in job termination costs reduces the profitability of creating a new job. As a consequence, even though the policy targets disabled workers, it affects all workers in the labor market (general equilibrium effect).

Lastly, using the changes in worker flows from the empirical part as our targets, we conduct a quantitative analysis to measure the hiring and firing cost parameters of the model and the aggregate consequences of the ADA. We find that due to the ADA, firms face expected firing and hiring costs of 9.2% and 0.9%, respectively, of average monthly wages in the calibrated economy. The asymmetric costs associated with firing and hiring of disabled workers induce firms to retain more existing workers by firing less frequently while being more selective in hiring new workers. Overall, the latter effect dominates, increasing the average productivity of the employed disabled workers. However, due to lower employment, aggregate output declines in the post-ADA economy. Furthermore, higher costs decrease job creation, leading to a 12% decline in the equilibrium job-finding rate of workers. This decline in the equilibrium job-finding rates underscores the importance of evaluating policies in a general equilibrium model incorporating endogenous responses of firms to government policies.

The ADA is an employment protection policy targeting a specific group of workers. This paper is thus broadly related to the literature studying the effects of employment protection policies. There are many studies that focus on the theoretical and empirical implications of firing and hiring restrictions. While some focus on the aggregate employment rate effects of these policies (e.g., [Bentolila and Bertola, 1990](#)), others use search and matching frameworks to analyze the effects on worker flows both theoretically and empirically (e.g., [Lazear, 1990](#); [Hopenhayn and Rogerson, 1993](#); [Blanchard and Portugal, 2001](#); [Pissarides, 2001](#); [Ljungqvist, 2002](#)). Most of these papers use the differences in cross-country labor market regulations (e.g., U.S. vs. European countries, or between different European countries) to identify the impacts of strong employment protection policies. Recently, [Kugler and Pica \(2008\)](#) uses an Italian reform that increased dismissal costs for small firms and empirically show that the reform lowered the accessions and separations of workers, but did not impact the employment rate. While the labor market policies they study are applicable to all workers in the labor market, the ADA is applicable only for disabled workers. Our paper thus models this targeted employment protection policy and shows its potential effects on all workers in the market through general equilibrium, within the model and empirically.

The paper is also directly related to the previous literature assessing the impact of the ADA.⁵ These papers have adopted frictionless labor

⁴ We were unable to find institutional details for the following five states and therefore do not include them in our benchmark empirical analysis: Arizona, Connecticut, Georgia, New Hampshire, and Wyoming.

⁵ In the context of the literature of discrimination in labor markets, [Oyer and Schaefer \(2002a\)](#) and [Oyer and Schaefer \(2002b\)](#), among others, measure the ef-

fects of the Civil Rights Act of 1991, focusing on black workers, female workers, and older workers, and using the change in employment shares across industries.

market models and have measured labor market outcomes using stock variables such as the employment rate and the labor force participation rate (see, for example, [Acemoglu and Angrist, 2001](#) and [DeLeire, 2000](#)). However, as emphasized in the studies of general employment protection policies, underlying the effects of the ADA on employment might be important changes in worker flows into and out of employment. We complement the literature by providing a comprehensive evaluation of the law, jointly exploring its effects on worker flows and employment rates for all workers in the labor market.

The paper also fits into a broader labor economics literature addressing general equilibrium effects of policy changes. The indirect effect of employment protection is an example of general equilibrium effects from implicit taxes in labor market policies discussed in [Hagedorn and Manovskii \(2008\)](#), [Hagedorn et al. \(2013\)](#), and [Chodorow-Reich and Karabarbounis \(2016\)](#), among others.

The remainder of the paper is organized as follows. [Section 2](#) contains descriptions of our dataset and the definition of key variables used in the empirical analyses. In [Section 3](#), we explain our empirical approach and document its results. To conduct quantitative analysis, we introduce our model and characterize the effects of employment protection policies in [Section 4](#). [Section 5](#) presents the quantitative analysis results of our ADA evaluation, and [Section 6](#) concludes.

2. Data

In this section, we give a brief overview of the two key variables of interest we use in our empirical analysis in [Section 3](#): the measure of the degree of employment protection and worker flows.

2.1. State-level employment protection variables

According to [Sales et al. \(1982\)](#), most states established their own legislation against discrimination based on disability in the 1970s in various sectors, including education and housing. As no federal guidelines for these regulations existed at the time, [Sales et al. \(1982\)](#) note that there were variations across states in the strength of the laws' protection. In this section, we explain how we define the degree of employment protection for each state prior to the enactment of the ADA in July 1990.

We construct the measure of state-level employment protection based on two criteria: similarity to the ADA and the scope (coverage) of the legislation. For the first criterion, we follow the classification of [Jolls \(2004\)](#) and [Jolls and Prescott \(2004\)](#). According to the analysis in those papers, the four key elements of the ADA compared to the previous employment protections are the prohibition of discrimination based on disability in hiring, firing, and compensation for workers, and the provision of reasonable accommodations. Based on these criteria, 18 states had already implemented state-level labor protection laws for the disabled that were similar to the ADA (*full* protection). Of the remaining states, 29 had enacted limited labor protection prior to the ADA that included anti-discrimination laws but did not provide more than one major clause of the ADA (*weak* protection), while the remaining 3 states did not have any state-level protection laws in place (*no* protection).

The second criterion that we incorporate is the scope of the protection provided by each state's legislation. The ADA is enforced for both public and private employers and covers physical and mental disabilities. In contrast to the wide range of coverage under the ADA, however, some states provided employment protection only to public sector employees or only for individuals with a specific subset of physical disabilities. For instance, the employment protection laws of the state of Idaho strictly prohibited discrimination prior to the ADA and is classified as a full-protection state for the similarity criterion. However, the law excluded the private sector; only public employers were covered under the

effects of the Civil Rights Act of 1991, focusing on black workers, female workers, and older workers, and using the change in employment shares across industries.

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