Revisiting the Impact of Wrongful Discharge Laws on Labor Markets

Dissertation Abstract
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My dissertation research revisits the impact of the adoption of wrongful discharge laws on labor markets. Wrongful-discharge laws are common law court doctrines, spreading most rapidly from the late 1970s through 1990s, which undermine the status quo legal framework, called employment at will, which allows employers to dismiss their employees for any reason or no reason at all. This large shift in employment law spurred an economics literature investigating the impact of this change on labor market outcomes. Wrongful discharge law adoption has been linked to changes in employment, productivity, the use of temporary workers, and job finding rates. A contemporaneous literature has emerged within the labor movement seeking to understand the dramatic fall in union membership and union economic influence in the U.S. economy, beginning in the immediate post WWII period, but accelerating since the late 1970s. My research is the first to link these two strands of research by investigating the impact of wrongful discharge law adoption on union density. Secondly, I contribute to the social science research on this topic by updating the wrongful discharge law adoption dataset to 2014 through an analysis of case law and secondary legal literature. Next, I examine the impact of adoption of wrongful discharge laws on wage distributions with quantile regression methods. Finally, I explore the impact of state courts’ recognition of employee handbook disclaimers, a major restriction of wrongful discharge doctrines, on employment, union density, and wages, as a check on the validity of previous findings regarding policy adoption.
My first dissertation paper, “The Impact of Adoption of Wrongful Discharge Laws on Union Density: 1983-2014” utilizes variation in the time and location of adoption of wrongful-discharge court doctrines in the U.S. as the source of numerous natural experiments regarding the impact of employment protection on union membership and union coverage outcomes. I find that adoption of one wrongful discharge law, the implied contract doctrine, is associated with small but consistent increases in union membership rates in the private sector of 0.84 percentage points, in manufacturing of 1.39 percentage points, and for young male workers with less than college education of 1.91 percentage points. These results appear largely driven by significant increases in union membership levels in the private sector of 5.37 percent, in manufacturing of 8.06 percent, and for young male workers with less than college education of 11.34 percent. My paper proposes that wrongful discharge law adoption boosts union density by lowering the costs of seeking union membership and coverage. My findings suggest that employment protection policies may serve as a counterweight to the pressures undermining union density over this period.

My second dissertation paper, “The Impact of Adoption of Wrongful Discharge Laws on Wage and Employment Distributions: 1983-2014”, employs quantile regression methods to inspect the impact of the adoption of wrongful discharge doctrines on wages. My research investigates earlier findings regarding disemployment effects for those with lower labor market participation. Previous research suggests no significant impact on average wages, when theory predicts downward wage pressure following policy adoption, may indicate that wrongful discharge doctrines increase worker bargaining power. I explore the impact of wrongful discharge laws on average wages, as well as on the distribution of wages, to examine the role of bargaining power, in so far as workers with higher pre-treatment wages may be better positioned
to utilize wrongful discharge laws in ceding wage gains from employers. I find significant increases across quartiles of the wage distribution for all workers, female workers, and nonwhite workers.

In my third dissertation paper, “The Effect of Wrongful Discharge Law Restrictions on State Labor Markets”, I conduct original legal research to date the adoption by state courts of employee handbook disclaimers, which greatly limit the scope of the implied contract doctrine. I then estimate the impact of these policy restrictions on employment, union density, and wages using difference in difference regression. I find that restriction of wrongful discharge doctrines should have the opposite effect of policy adoption. These restrictions have been largely motivated by employers’ response to large and often unpredictable jury awards in wrongful discharge cases in the years immediately preceding enactment of wrongful discharge laws. I find that handbook disclaimers significantly reduce the positive effect of wrongful discharge laws on union density and wages. In addition to validating the impact of wrongful discharge laws on labor markets, handbook disclaimers provide an interesting lens through which to view the political economic process of changes in employment protection policies. The Journal of Law and Economics is my target publication for this paper, and I plan to submit it there on March 1, 2018.