



Seniors and the Law



A Handbook for
Seniors in the
Natural State

by the Center for Arkansas Legal Services

Who Are We?

The Center for Arkansas Legal Services provides civil legal aid to low-income Arkansans to help protect their health, family, and property. To learn more about us, visit www.ArkansasLegal.org or call our Helpline at 501-376-3423.

What can a lawyer do for me?

- Give advice about rights and options
- Spot evidence and information necessary for a court case
- Create paperwork to file in court
- Represent clients in court
- Talk to the other side in a disagreement or court case
- Help prepare a client and evidence for court

If you want to talk to an attorney, you can look in the yellow pages, search the internet for a lawyer near you, or call the Arkansas Bar Association at 501-375-4606. You can also call the Center for Arkansas Legal Services to see if you qualify for free legal help.

Social Security Disability Insurance (SSDI)

To qualify for SSDI, you must be disabled and have a qualifying work history, either from your own employment or a family member (spouse or parent). SSDI is based on disability and work credits.




Supplemental Security Income

SSI provides basic financial help to older people and disabled people of any age. SSI is based on age/disability and low income. Common legal problems with SSI and SSDI are denials, stopped payments, and overpayments.

Food Stamps or SNAP

SNAP gives funds to buy food to people with low income. The amount of SNAP is based on household size, household income, and other resources the family has. Common legal problems are overpayments, work requirements, and losing benefits.



Landlord/Tenant Disputes


Problems may come up between landlords and tenants. It is important to get a written lease, since the lease will tell the tenant their rights. If you are a tenant and you are having trouble with your landlord, you should contact an attorney to talk about your situation.

Evictions

Before you can legally be evicted from the home/apartment you are renting, your landlord has to file a case against you in court and a Judge has to sign an order to evict you. If you are served with court papers, read them carefully to learn how to file an answer in court to defend yourself. Consider contacting an attorney.

Public Housing

Because there are different types of public housing, your lease will tell you the ways that a landlord or housing provider can evict you. Read your lease and any notices you get from housing or your landlord to determine how you can defend yourself from eviction. An attorney can help you understand your rights.



Nursing Homes

People who live in nursing homes have guaranteed rights. They have the right to a dignified existence, which includes being treated with respect and dignity, freedom from abuse and neglect, the exercise of their rights, and security of possessions. Residents also have the right to self-determination, the right to be fully informed of their care, the right to raise grievances, the right to access visitors, the right to access their personal property and medical records, as well as the right to participate in social, religious, and community activities. They also have rights to privacy and rights during discharge and transfer.



Power of Attorney

Deciding to appoint a Power of Attorney (POA) allows you to choose who will handle your affairs. Your POA can be to help you out now while you are capable, or can take effect once you are no longer capable. You may appoint a general POA to handle all of your affairs, or a power of attorney limited to handling only certain aspects of your life.

Living Wills

A living will, also known as an advanced directive, is a document that tells your family and medical professionals what kind of medical care you want or do not want when you are no longer able to express your wishes. A living will has nothing to do with your property, and it only applies to the medical care you receive. Additionally, it is only valid while you are living.





Testamentary Wills

A will is a document used to instruct how you would like your property divided once you pass away. This document is legally binding. Wills can also give directions for funerals, burial, or any other wishes the person has regarding their death. A will needs to be typed, signed, and have the signature of two witnesses who will not receive a benefit of the will.

Hand-written or "Holographic" Wills

A handwritten will, or "holographic" will, is a valid legal document in Arkansas. The document must be written out completely in the handwriting of the person making the will, and must be signed by the person making the will.



Guardianship

Guardianships can help family members care for their loved one by giving them the power to make decisions when the loved one is no longer capable of doing so. A guardianship is granted by the court when the court finds that the guardianship is in the best interest of the incapacitated person.

Conservatorships

A conservatorship is similar to a guardianship in that it gives another person permission to handle your affairs for you. The difference is that a conservatorship is something you can agree to and end if you wish before you become incapacitated. Proof must be provided to the court that you agree to having a conservator before it will be granted.

Debt Collection

When a debt is past due, the original party that is owed the debt can send it to a collection agency to collect payment. The collection agency must follow the rules in the Arkansas Fair Debt Collection laws that are meant to protect people with debt from harassment and unfair practices.



Predatory Lending

The term "predatory lending" covers lots of illegal practices related to people receiving loans that they likely are not able to repay. This practice is seen mostly when people are getting approved for home loans. In order to avoid being a victim, be sure to have an attorney read all contracts for you before signing to make sure it is in your best interest. If you believe you are a victim, please reach out to an attorney immediately.

Deceptive Business Practices

An act is deceptive if it tricks or is made to trick a customer, the customer's understanding was reasonable under the circumstances, and the tricky act is a big part of the agreement. Using a phony business name or taking advantage of an individual with an illness are two examples of deceptive practices.

Robo Calls

Robo Calls, also called spam calls, can be from a legitimate business, or from someone committing fraud. You must be sure not to give people you don't know your personal information. If you do, be sure to pay attention to your credit report to make sure no lines of credit have been opened using your social security number.

To stop robocalls, you may put your number on the Do Not Call Registry. You can do this by going to [donotcall.gov](https://www.donotcall.gov). You also may ask the caller to put you on the Do Not Call List, and they must do it if they are not a scammer. If you are still getting calls after doing this, you may report the calls to the Arkansas Attorney General's Office.




Medicaid

Medicaid programs include traditional programs for people with lower income or health and family situations, private option Medicaid under the ACA ("Obamacare"), and people eligible for the insurance Marketplace.

People who can get Medicaid include SSI recipients, children, pregnant women, former foster children up to age 26, people who are aged, blind, or disabled under Social Security rules, and nursing facility and waiver programs.

Common legal issues with Medicaid:

 eligibility

 service limits

 time limits

Medicare

Medicare provides health insurance for people who are age 65 and older, people that Social Security has found disabled who are younger than 65, and people with some specific health diagnoses. A common legal issue is eligibility denials.





Long Term Care

Sometimes a facility is the best option for a person whose illness or disability is so serious that they nor their family can care for them. In-home services may be best for many people. To learn about facilities as well as learn about alternatives to facilities, visit humanservices.arkansas.gov.

ARChoices

In order to qualify for AR Choices, you must be either 21-64 with a disability, or 65+. You also must be financially eligible, be eligible to live in a nursing home at the intermediate level, and need at least one of the following: attendant care, home delivered meals, personal emergency response system, adult day services, adult day health services, facility-based respite care, in-home respite care, or environmental modifications.