

## ARKANSAS — State Laws by Topic

---

### ➤ AGE ◀

The Arkansas Age Discrimination Law applies to public employers and prohibits such employers from refusing to hire, discharging, or otherwise discriminating with respect to compensation or terms, conditions, or privileges of employment against those individuals who are at least 40 years of age.

### ➤ AIDS ◀

*Testing:* Informed consent is not required for HIV testing when an individual is a health care provider or employee of a health care facility and the individual or employee has direct skin or mucous membrane contact with the blood of patients.

### ➤ ARRESTS/CONVICTIONS ◀

*Arrests:* An employer or a person performing background checks on behalf of an employer is permitted to obtain arrest records or information provided that the requestor has obtained the written authorization of the subject of the record. However, records will not include felony arrests that occurred more than three years from when the request for records is made.

### ➤ BREAKS ◀

No provision.

### ➤ BREAST-FEEDING ◀

An employer must: 1) provide reasonable unpaid break time each day to an employee who needs to express breast milk for her child, and 2) make reasonable efforts to provide a private, secure, sanitary room or other location, in close proximity to the work area, other than a toilet stall, where the employee can express milk. The break time must, if possible, run concurrently with any paid or unpaid break time already provided to the employee. An employer is not required to provide break time if doing so would create an undue hardship on its operations.

In addition, a woman may breast-feed her child in a public place or any place where other individuals are present.

### ➤ CHILD LABOR ◀

Click on the following link [www.labor.arkansas.gov/child-labor](http://www.labor.arkansas.gov/child-labor) to access the Arkansas Department of Labor, Labor Standards Division home page for child labor.

➤ **CHILD SUPPORT** ◀

Employers served with a child support order must begin withholding with the first pay period occurring after 14 days after the order is mailed. Amounts are remitted immediately after employee is paid. Notify the court immediately if employee-obligor terminates employment. Employers must withhold up to 50% from lump-sum payments made to employees who owe back child support.

➤ **COURT ATTENDANCE** ◀

Employers cannot discharge or discipline an employee who, as the victim of a sex offense or violent crime or as the representative of a crime victim, takes time off to prepare for or attend a criminal justice proceeding if such time off is reasonably necessary to protect the interests of the victim.

State employees are prohibited from keeping witness and mileage fees when summoned to appear in court as a witness for matters within the scope of their employment.

➤ **DISABILITIES** ◀

Under Arkansas's laws governing persons with disabilities, the right of an otherwise qualified individual with a sensory, mental, or physical disability to obtain and hold employment without discrimination is a civil right.

Employers with nine or more employees are subject to these disabilities laws.

➤ **DRUG TESTING** ◀

Arkansas does not have statutory provisions regarding drug testing, but it does have a drug-free workplace law. Under this law, all employees and applicants must be informed — one time only, prior to testing — of an employer's policy of testing for drug or alcohol use. In addition, all employees must be given a written policy statement that contains the following.

1. A statement of the company's drug or alcohol use policy.
2. A statement advising of the drug-free workplace law.
3. A confidentiality statement.
4. Procedures for confidentially reporting the use of prescription or non-prescription medications following a positive test result.
5. The consequences of refusing to submit to testing.
6. A statement advising of the company's employee assistance program or other assistance resources.
7. An explanation of the right to contest or explain a positive test result within five working days after written notification of the positive test result is received.

8. A statement explaining that the laboratory must be informed of any administrative or civil action brought under the law.
9. A list of all drug classes for which an employer may test.
10. A statement regarding any applicable collective bargaining agreement or contract, and any right to appeal to a court.
11. A statement explaining the right to consult about technical information regarding prescription or non-prescription medications.
12. A statement complying with the requirements for notice under the law.

It is unlawful to require an applicant or employee, as a condition of employment or continued employment, to submit to a drug test unless the test is provided at no cost. A free copy of the examiner's report must be given to the applicant or employee upon request.

If an employee tests positive for illegal drugs, the employer and employee may agree in writing who will bear the cost of future drug tests required as a condition of continued employment.

#### ➤ **FAMILIAL/MARITAL STATUS** ◀

No provisions specified in the general employment context.

#### ➤ **FAMILY/MEDICAL LEAVE** ◀

See medical donation leave and pregnancy.

#### ➤ **GENETIC TESTING** ◀

Under the Arkansas Genetic Information in the Workplace Act, employers are prohibited from obtaining or using genetic tests or genetic information for any discriminatory purpose against applicants and employees.

#### ➤ **HEALTH CARE CONTINUATION COVERAGE** ◀

Continuation coverage requirements apply to employer-sponsored group health plans (except self-insured plans) that do not meet federal COBRA requirements. Eligible employees have the right to continue coverage for up to 120 days.

Click on the following link [www.insurance.arkansas.gov/](http://www.insurance.arkansas.gov/) to access the state insurance department's website.

#### ➤ **JURY DUTY** ◀

Employers may not discharge employees who are absent for jury duty, provided they have given reasonable notice. Employers cannot cause employees to lose sick leave, vacation time, or receive any other penalty because of absences due to jury service.

Private employers are not required to compensate employees for time spent on jury duty. Public employees who serve as jurors are entitled to full compensation in addition to any fees paid for such services.

➤ **LIFESTYLE DISCRIMINATION** ◀

No provision.

➤ **MASS LAYOFF NOTIFICATION** ◀

No state-specific notification provision.

➤ **MEDICAL DONATION LEAVE** ◀

Private employers must provide an unpaid leave of absence for an employee to serve as an organ or a bone marrow donor, if the employee requests the leave in writing. The length of the leave of absence shall be equal to the time requested by the employee or 90 days, whichever is less. Employees are not eligible for medical donation leave if they are eligible for Family and Medical Leave Act leave.

Eligible employees of a state agency must be afforded up to seven days of paid leave per calendar year to serve as a bone marrow donor and up to 30 days of paid leave per calendar year to serve as an organ donor. To be eligible for leave, employees must: 1) make a written request; 2) provide written verification from the physician slated to perform the procedure; and 3) provide written verification from the physician that the employee did, indeed, serve as a donor.

➤ **MILITARY LEAVE** ◀

Employees who work for private employers and public employees, including teachers, administrators, and noncertified personnel are entitled to take up to 15 days per year for military purposes.

Members of the state National Guard or militia are entitled to the same employment and reemployment rights as provided by federal law for members of the U.S. Armed Forces.

Public employees deemed by the U.S. Department of Affairs to have incurred a military-related disability are entitled to six days of leave during any one calendar year for treatment or re-examination. This leave is given in addition to annual sick and personal leave. During the leave of absence, public employees are entitled to: regular salary; seniority rights, performance ratings, promotional status, retirement privileges, and life and disability insurance benefits; and any other rights, privileges, and benefits of employment.

*Reinstatement:* An individual shall not be denied hiring, retention in employment, promotions, or other incidences or advantages of employment because of any obligation as a member of the Arkansas National Guard or militia.

**Note:** The Military Service Protection Act prohibits private employers with five or more employees from discriminating against an individual because of military service.

➤ **MINIMUM WAGE** ◀

*Minimum hourly wage/overtime rate:* \$9.25/\$13.88; \$10/\$15, eff. 1-1-20; \$11/\$16.50, eff. 1-1-21.

*Basis for overtime:* Over 40 hours/week.

*Opportunity wage for under 20-year-olds:* None.

**Note:** Employers may pay a lower state minimum wage *only* if they're not covered by inter-state commerce.

➤ **NATIONAL ORIGIN** ◀

The Arkansas Civil Rights Act prohibits employers from discriminating against an individual based on national origin.

An employer is defined as a person who employs nine or more employees in the state in each of 20 or more calendar weeks in the current or preceding calendar year, or any agent of such a person.

➤ **NEW-HIRE REPORTING** ◀

*Data to be reported:* Employee's name, address, SSN; employer's name, address, federal EIN.

*Reporting deadline/form:* Within 20 days of hire or rehire; on W-4s or through the state's website.

➤ **OVERTIME** ◀

*Basis for overtime:* Over 40 hours in a workweek.

➤ **PAY STATEMENTS** ◀

*Information required:* No provision.

➤ **PERSONNEL FILES** ◀

Public employers only. Public employers are covered under Arkansas's Freedom of Information Act. Therefore, personnel and evaluation records must be made available to the person about whom the records are maintained or that person's designated representative.

➤ **POLYGRAPH TESTING** ◀

No provisions specified in the general employment context.

➤ **POSTING REQUIREMENTS** ◀

Unemployment Insurance — All employers

Workers' Compensation — All employers within operation of the AR Workers' Compensation law

Minimum Wage, OT, and Child Labor Law — Businesses with annual sales less than \$500,000 and four or more employees

Right to Know — All public operations

**Note:** The Arkansas Department of Labor requires the Right to Know poster to be 8 1/2" × 14" (legal size).

Health Care Notice for Employees under Managed Care — Employers whose insurance representatives have a managed care organization (MCO) for work-related injuries

No Smoking/Arkansas Clean Indoor Air Act — All employers except those who seek and are approved for exemption status

Notice to Employer & Employee — All employers with 4 or more employees

➤ **PREGNANCY** ◀

*Coverage:* Public employees.

*General rule:* Maternity leave is to be treated as any other leave for sickness or disability. Accumulated sick leave and annual leave may be used for maternity leave, if requested by the employee. After any accumulated paid leave is used, maternity leave without pay may be used.

Employers that provide paternity or maternity leave for employees after the birth of a child must provide the same leave to employees who adopt a child. Any other benefit provided by an employer, such as a job guarantee or a pay guarantee, must be equally available to biological and adoptive parents.

*Coverage:* State employees.

*Requirements:* Female employees may take up to four weeks of paid maternity leave within the first 12 weeks after the birth or adoption of a child. Employees must have been employed by the state for more than one year. Employees aren't required to exhaust their sick or annual leave prior to being awarded catastrophic leave for maternity purposes.

➤ **RACE** ◀

The Arkansas Civil Rights Act prohibits employers from discriminating against an individual based on race.

An employer is defined as a person who employs nine or more employees in the state in each of 20 or more calendar weeks in the current or preceding calendar year, or any agent of such a person.

➤ **REFERENCES** ◀

*Blacklisting:* It is unlawful to distribute written documents that are intentionally false.

For every employee whose job is directly or indirectly related to caring for or supervising children, employers that provide short-term child care services must perform a criminal history check with the state police and a check with the Department of Human Services' Child Maltreatment Central Registry.

*Social media:* Employers cannot require, request, suggest, or cause current employees or job candidates to disclose their usernames and passwords to their personal social media accounts; add an employee, supervisor, or administrator to their contact lists; or change their privacy settings. Further, employers cannot take any action against, threaten to discharge, discipline, or otherwise penalize employees or job candidates for exercising these rights. *Excluded:* Employers can require these actions for social media accounts opened by employees at their request or when employees are provided with company e-mail accounts or other software programs owned and operated by their employers.

Employers that inadvertently receive employees' usernames, passwords, or other login information via employer-provided equipment aren't liable for having this information, but they can't use it to gain access to employees' social media accounts. Employers may, however, view information about current employees or job candidates that is publicly available on the Internet. In addition, employers must continue to comply with federal, state, and local laws and regulations requiring certain disclosures. Employees may be requested to disclose their usernames and passwords if it's reasonably believed to be relevant to a formal investigation or related proceeding regarding a violation of law or company policy.

➤ **RELIGION** ◀

The Arkansas Civil Rights Act prohibits employers from discriminating against an individual based on religion.

An employer is defined as a person who employs nine or more employees in the state in each of 20 or more calendar weeks in the current or preceding calendar year, or any agent of such a person.

➤ **REPORTING PAY** ◀

No provision.

➤ **SAFETY** ◀

Click on <https://portal.arkansas.gov/agency/department-of-labor-and-licensing/workers-compensation-commission/health-safety/> to access the Arkansas Department of Labor's Safety Division.

➤ **SCHOOL VISITATION LEAVE** ◀

State employees are entitled to eight hours of leave during any one calendar year for the purpose of attending or assisting with the educational activities of their child, stepchild, foster child, grandchild, ward, or a child in any other legal capacity where the employee is acting as parent, enrolled in pre-kindergarten through grade 12. Children include developmentally disabled children who are older than 18 and children of any age who are declared to be mentally incompetent.

➤ **SEX DISCRIMINATION** ◀

The Arkansas Civil Rights Act prohibits employers from discriminating against an individual based on gender.

An employer is defined as a person who employs nine or more employees in the state in each of 20 or more calendar weeks in the current or preceding calendar year, or any agent of such a person.

➤ **SEXUAL ORIENTATION DISCRIMINATION** ◀

No provision.

➤ **SEXUAL HARASSMENT** ◀

All state agencies are required to develop and implement a policy concerning sexual harassment and the resolution of such complaints.

➤ **SMOKING** ◀

Under the state's Clean Indoor Air Act, smoking is prohibited in all enclosed areas within places of employment.

➤ **SOCIAL SECURITY NUMBER PRIVACY** ◀

Social Security numbers may not be made available to the general public; printed on any card required to access products or services provided by the employer; printed on a postcard or other mailer not requiring an envelope, or in a manner in which the number is visible on the envelope or without the envelope being opened; or transmitted over unsecured Internet connections. Employers are required to: 1) destroy records that contain personal information (e.g., Social Security numbers) and that are no longer to be retained, and 2) disclose unauthorized access to personal information to those individuals whose information may have been accessed.



➤ **UNEMPLOYMENT INSURANCE** ◀

Click on the following link [www.dws.arkansas.gov/Employers/index.htm](http://www.dws.arkansas.gov/Employers/index.htm) for the Arkansas Department of Workforce Services unemployment information home page for employers.

➤ **VACATION PAY UPON TERMINATION** ◀

Payment depends on employer-employee contract.

➤ **VIOLENCE** ◀

Employers are permitted to seek a temporary restraining order, a preliminary injunction, or an injunction against an individual who, while at the employer's worksite, commits an act of violence involving the employer, an employee, or an invitee. Injunctions and restraining orders may be valid for up to 10 years.

The term worksite is defined to include any place where work is being performed on the employer's behalf.

➤ **VOTING** ◀

Employers must schedule work hours on Election Day so that employees will have an opportunity to vote if they so choose.

➤ **WAGE DEDUCTIONS** ◀

No employer may make deductions from wages unless authorized by the state labor board, authorized or required by law, or authorized by the employee and for the employee's benefit. No payroll deductions may be made from state employees except for taxes, Social Security, payments to state employees' credit union, purchase of savings bonds, etc.

➤ **WAGE GARNISHMENT** ◀

The lesser of 25% of disposable weekly pay, or the amount by which disposable weekly pay exceeds 30 times the federal minimum wage in effect during the week the garnishment is to occur, may be withheld. For mechanics and laborers, the first \$25 of net wages are exempt from garnishment. The equivalent of 60 days' pay may be exempt if the employee-debtor files an affidavit with the court. The state has no provisions prohibiting discharge, but federal law prohibits discharging an employee for any one indebtedness.

➤ **WAGE PAYMENT ON TERMINATION** ◀

*Employee who quits:* No regulations. Final wages should be paid according to regular payday rules.

*Employee who's fired:* Within seven days.

➤ **WAGE PAYMENTS** ◀

*Payday requirements:* Semimonthly or more often.

*Direct deposit:* Employers may not require employees to be paid electronically. An employee can opt out of direct deposit in writing.

➤ **WHISTLEBLOWING** ◀

No general provision.

➤ **WORK AUTHORIZATION** ◀

*Public contracts:* No state agency may enter into or renew a public contract for services (with a total dollar value of \$25,000 or greater) with a contractor who knows that it or a subcontractor employs or contracts with an illegal immigrant to perform work under the contract. A state agency is defined as any agency, institution, authority, department, board, commission, bureau, council, or other agency of the state supported by the appropriation of state or federal funds, except an exempt agency under a subdivision of this law.

Prior to signing a public contract, each prospective contractor shall certify that it does not employ or contract with an illegal immigrant. Any contractor that violates this section must remedy the violation within 60 days. If the contractor does not, the state shall terminate the contract and the contractor shall be liable to the state for actual damages for breach of contract.

If a contractor uses a subcontractor, the subcontractor shall certify that it does not employ or contract with an illegal immigrant. A subcontractor must submit this certification within 30 days after execution of the contract. The contractor shall maintain on file the certification of the subcontractor throughout the duration of the term of the contract. If the contractor learns that a subcontractor is in violation of this section, the contractor may terminate the contract with the subcontractor, and the termination shall not be considered a breach of the contract by the contractor and subcontractor.

➤ **WORKERS' COMPENSATION** ◀

Click on the following link [www.awcc.state.ar.us/index.html](http://www.awcc.state.ar.us/index.html) to access the Arkansas Workers' Compensation Commission home page. For basic facts for employers on Workers' Compensation in Arkansas, click on [www.awcc.state.ar.us/employerbasicfacts.html](http://www.awcc.state.ar.us/employerbasicfacts.html).