Overview of Arkansas Employment Laws
OVERVIEW OF ARKANSAS EMPLOYMENT LAWS

EQUAL OPPORTUNITY EMPLOYER
Employers with 9 or more employees must hire and retain individuals for employment without regard to race, religion, ancestry or national origin, gender, or the presence of any sensory, mental, or physical disability (Ark. Code Ann. § 16-123-107). No person may discriminate against any individual because such individual in good faith has opposed any employment act or practice made unlawful by Arkansas' civil rights law or because such individual in good faith made a charge, testified or participated in any manner in an investigation, proceeding or hearing under such law (Ark. Code Ann. § 16-123-108).

Employers may not discharge, expel or otherwise discriminate against an individual because the individual opposes an unlawful employment practice, files a complaint, testifies, or assists in any enforcement proceeding (Ark. Code Ann. § 378-2).

AT-WILL EMPLOYMENT STATUS
Arkansas is an at-will employment state and there is no liability for breach of contract for terminating an employee. Although, there is no public policy exception to this rule Arkansas courts have construed policy manuals (i.e. handbooks) as implied contract terms.

EMPLOYEE ACCESS TO PERSONNEL FILES
Arkansas does not have a general access to personnel files law. Arkansas does not require access to employee personnel files in the private sector. Personnel records are the property of the employer, and employee access to their own personnel records is at the employers discretion.

EMPLOYER JOB REFERENCES
With written consent from a current/former employee, employers may disclose the following information to a prospective employer: employment dates, pay rate/wage history, job description/duties, last written performance evaluation, attendance information, drug/alcohol test results (within 1 year), threats of violence/harassing acts related to the workplace, reasons for separation, and eligibility for rehire. (Consents must meet specific requirements.) Employers acting in good faith are generally immune from civil liability for the disclosures and their consequences (Ark. Code Ann. § 11-3-204).

DRUG TESTING
Employers that implement a drug-free workplace program must include with it a required notice, education and procedural requirements, and may require substance abuse testing. Employers must notify all employees that refraining from working under influence of drugs is required and injured employees who refuse to submit to testing forfeit eligibility for workers' compensation medical and indemnity benefits (Ark. Code Ann. § 11-14-101(b)).

Employers that voluntarily establish a drug-free workplace program must conduct job applicant drug testing; reasonable-suspicion drug testing; routine fitness-for-duty drug testing; follow-up drug testing after an employee enters an employee assistance program or rehabilitation program; and post-accident testing (Ark. Code Ann. § 11-14-106).
In addition, an employer must pay the cost of all drug tests. An employee or job applicant must then pay the costs of any additional drug tests not required by the employer (Ark. Code Ann. § 11-14-107(d)).

An employer must give employees and applicants a written policy statement that contains a general policy statement on required testing for employees or job applicants (including reasonable suspicion testing or any other basis) and any adverse actions that may be taken on positive confirmed test results; a statement of the drug-free workplace law; all confidentiality requirements and procedures; the consequences of refusing to be tested; any contact information for representative sample of employee assistance/rehabilitation programs; the procedures for contesting or explaining positive confirmed test results; a statement of employees' responsibility to notify the laboratory of any administrative or civil action brought; a list of all drug classes that may be tested; employees' and applicants' right to consult with a drug testing review officer for technical information; and a statement complying with the law's notice requirements (Ark. Code Ann. § 11-14-105(a)).

The notice of testing policy must be posted conspicuously on the employer's premises, with copies available for inspection by employees or applicants during regular business hours (Ark. Code Ann. § 11-14-105).

Employers may not discharge, discipline or discriminate solely upon an employee's voluntarily seeking treatment, while employed, for a substance abuse problem if the employee has not previously tested positive, entered an employee assistance program for substance abuse or entered a substance abuse rehabilitation program (Ark. Code Ann. § 11-14-107(e)).

NEW HIRE REPORTING
The name, address, and social security number of all new hires and rehires and the name, address, and federal taxpayer identification number of the employer must be reported to the Arkansas New Hire Reporting Center (Ark. Code Ann. § 11-10-902(b)(3)). Reports are due no later than 20 days after the date of hire or rehire. Employers transmitting reports electronically must transmit twice a month, if necessary, and not fewer than 12 days or more than 16 days apart (Ark. Code Ann. § 11-10-902(b)(4)).

CRIMINAL BACKGROUND INQUIRIES
Arkansas allows employers in general industry to conduct criminal background records checks and pre-employment inquiries about certain arrest and conviction records. However, employers cannot use—or ask applicants or employees to obtain, provide, authorize release of, or confirm or deny the existence of—sealed or expunged information. Applicants legally can deny that sealed or expunged information exists. (Ark. Code Ann. §§ 12-12-1001 though 12-12-1013) Employers must maintain in their files for three years signed releases from all applicants or employees subject to electronic checks of conviction and felony arrest records (Ark. Code Ann. § 12-12-1506)

Child Labor
Generally, no minor under the age of 14 is permitted employment (Ark. Code Ann. § 11-6-104). No child under 16 years may be employed or permitted to work in any occupation dangerous to
the life and limb, or injurious to the health and morals of the child, or in any saloon, resort, or bar where intoxicating liquors of any kind are sold or dispensed (Ark. Code Ann. § 11-6-105).

Minors under 16 cannot work more than: (1) 8 hours a day; (2) 48 hours a week; (3) 6 days a week; or (4) before 6:00 a.m. or after 7:00 p.m., except that on nights preceding nonschool days, children under the age of 16 years may be employed until 9:00 p.m. (Ark. Code Ann. § 11-6-108).

Minors under 18 cannot work in any occupation for more than: (1) 10 hours a day; (2) 6 days a week; (3) 54 hours a week; (4) more than 10 hours in a 24-hour period; or (5) before 6:00 a.m. or after 11:00 p.m., except that the limitations of 6:00 a.m. and 11:00 p.m. will not apply to children under the age of 18 years employed on nights preceding nonschool days (Ark. Code Ann. § 11-6-110).

**COMPANY BENEFITS**

**Pay Days**
Corporations employing salespersons, mechanics, laborers or other servants must pay employees wages semi-monthly. However, those with annual gross income of $500,000 or more must pay wages of exempt management level and executive employees with annual gross compensation over $25,000 at least once per month (Ark. Code Ann. § 11-4-401.)

**Pay upon Death of Employee**
Arkansas does not have any provisions for payment upon the death of an employee.

**Payment Of Wages Upon Separation of Employment**
Discharged employees must be paid on date of discharge, or within 7 days on demand or request (Ark. Code Ann. § 11-4-405).

**Recordkeeping Procedures**
Employers must make and keep in the workplace, for not less than 3 years, for each employee a record of the name, address, and occupation; the rate of pay and the amount paid each pay period; and other information as the Director of the Department of Labor may prescribe (Ark. Code Ann. § 11-4-217).

Employers employing any child under 16 years must keep an employment certificate on file (Ark. Code Ann. § 11-6-109) and accessible to the Department of Education or local school officials, in addition to the Department of Labor (Ark. Code Ann. § 11-6-109; and Ark Admin Regs. § 2.601). Employers employing any child under 18 years of age must maintain complete and accurate records that contain the following: (1) name in full; (2) home address, including ZIP code and telephone number; (3) date of birth; (4) occupation; (5) rate of pay; (6) any employment certificate or entertainment work permit issued; (7) hours worked each workday, including starting time and ending time; and (8) total hours worked each workweek (Ark Admin Regs. § 2.600).
**Overtime**
Employers must pay overtime compensation at the rate of 1 1/2 times the regular pay rate for hours worked over 40 per workweek (Ark. Code Ann. § 11-4-211).

**Deductions From Wages**
Deductions for union dues are not allowed as a condition of employment. Employees must voluntarily consent in writing to pay dues or any other monetary consideration to any labor organization (Ark. Code Ann. § 11-3-303).

Wages of an employee who requests payment before a regular payday may not be deducted at a rate of more than 10% per annum, measured from the date of payment to the regular payday (Ark. Code Ann. § 11-4-402(a)). Employers may not require employees to pay for a medical exam that is a condition of employment (Ark. Code Ann. § 11-3-203).

**Tips**
Employers of employees engaged in occupations in which gratuities have been recognized as customarily being a part of remuneration are entitled to an allowance for gratuities as a part of the hourly wage rate, in an amount not to exceed 58% of the minimum wage (Ark. Code Ann. § 11-4-212).

Employers may claim allowances for gratuities (tip credit) in an amount of no less than $3.62 per hour, provided that the tipped employee actually receives that amount in tips and providing that the employee receives wages other than tips in the amount of at least $2.63 per hour (Ark. Code Ann. § 11-4-212). Employees must actually have received that amount in gratuities, and only cash gratuities received by employees are considered wages.

Where tips are split, each employee is to have included in wages only the applicable proportionate share. Whenever an employee is required to work 20 minutes or more in any occupation in which tips have not been recognized as part of the remuneration, the rate for the entire hour must be at least the applicable state minimum hourly wage rate without an allowance for gratuities (Ark Wage Rules. § 5).

**Wage Garnishments/Deductions**
Employers may withhold up to $2.50 per pay period as administrative costs for any court-issued income withholding order (Ark. Code Ann. § 16-110-417).

For failing to answer interrogatories attached to a writ of garnishment within 20 days of service of the writ, employers will become personally liable for the amount of nonexempt wages owed the employee at the time the writ is served (Ark. Code Ann. § 16-110-401).

**Paid Vacation**
Arkansas statutes do not require nor prohibit vacation. However, Upon termination, resignation or retirement, amounts due (including accrued unpaid annual or holiday leave due) should be included in the final pay to the employee for active work, even though the final payment may exceed 1/26 or other fractional amount based upon days, weeks or months of the employee's annual authorized compensation (Ark. Code Ann. § 19-4-1613).
Health Insurance
Arkansas does not require employers to provide health insurance for their employees. However, if an employer does provide insurance, it must be aware of specific coverage required to be included in health insurance policies and contracts.

Health benefit plans must provide medical coverage for the diagnosis and mental health treatment of mental illnesses and the mental health treatment of those with developmental disorders under the same terms and conditions provided for covered benefits offered under the plan for the treatment of other medical illnesses or conditions (Ark. Code Ann. § 23-99-506).

Every plan must include coverage for newborn infant children by the insured from the moment of birth. The coverage of newborn children must be the same as is provided for other members of the insured's family, and must include coverage for illness, injury, congenital defects, premature birth, and tests for hypothyroidism, phenylkaptonuria and galactosemia, and, in the case of non-Caucasian newborn infants, tests for sickle-cell anemia, as well as any testing of newborn infants hereafter mandated by law. Coverage must also be provided to pay for routine nursery care and pediatric charges for a well newborn child for up to five full days in a hospital nursery or until the mother is discharged from the hospital following the birth of the child, whichever is the lesser period of time (Ark. Code Ann. § 23-79-129).

Every plan must include coverage for any minor under the charge, care, and control of the insured whom the insured has filed a petition to adopt. The coverage of the minor must be the same as provided for other members of the insured's family (Ark. Code Ann. § 23-79-137).

Every plan must offer and make available under all group policies, contracts, and plans providing hospital and medical coverage on an expense-incurred, service, or prepaid basis benefits for the necessary care and treatment of alcohol and other drug dependency that are not less favorable than for physical illness generally, subject to the same durational limits, dollar limits, deductibles, and coinsurance factors, except as provided below (Ark. Code Ann. § 23-79-139).

Arkansas Health Insurance Continuation
Arkansas's health care continuation law requires an employer to offer continuation coverage to certificate holders, members, spouses, and their eligible dependents who have been continuously insured for three months prior to termination of employment or a change in marital status (Ark. Code Ann. § 23-86-114).

Continuation of health care is available only to individuals who have been continuously insured for three months prior to termination of employment or change in marital status. Continuation coverage is not available to those eligible for Medicare or full coverage under any other group coverage (Ark. Code Ann. § 23-86-114).

A person must elect continuation coverage within 10 days after termination of employment or membership or change in marital status (Ark. Code Ann. § 23-86-114).

Continuation coverage ends 120 days after it begins (Ark. Code Ann. § 23-86-114).
Worker’s Compensation
Compensation will not be paid to an injured worker for the first seven days of disability, excluding the day of injury. If the disability continues beyond the first seven days, plus the day of injury (the first eight days), compensation will begin on the ninth day of disability. If the disability lasts for two weeks, compensation will be paid retroactive to the first day of disability, excluding the day of injury (Ark. Code Ann. § 11-9-501).

An employer must require the claimant to indicate whether the claimant has child support obligations and if so, the employer must provide a copy of the claimant's application to the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration (Ark. Code Ann. § 11-9-115).

The employer has the right to select the initial primary care physician from a managed care entity certified by the Workers’ Compensation Commission. The employee may petition the commission once for a change of physician associated with the managed care entity selected by the employer or to the regular treating physician of the employee with a history of regular treatment prior to the injury. If the employer does not have an arrangement with a managed care entity, the employee may petition once to change to a physician at a managed care entity certified by the commission or to the regularly treating physician (Ark. Code Ann. § 11-9-514).

Injuries must be reported to the employer immediately. Failure of notice is excusable only under certain circumstances (Ark. Code Ann. § 11-9-701).

Notice that an employer has secured compensation must be posted in a conspicuous place in the employer's workplace (Ark. Code Ann. § 11-9-407).

Jury Duty
Employers may not discharge employees, cause them to lose sick leave or vacation time, or impose penalties on account of absences due to jury duty (Ark. Code Ann. § 16-31-106).

Employees must provide employers with reasonable notice of their summons to jury duty (Ark. Code Ann. § 16-31-106).

Voting
Work hours must be scheduled to allow employees opportunity to vote (Ark. Code Ann. § 7-1-102).

Sick Pay/Leave
Arkansas law does not require nor prohibit sick pay or sick leave.

Medical Leave and Pregnancy Leave
Arkansas has not enacted a medical leave or pregnancy leave law that applies to employees in the private sector.
Donor Leave
Employees are eligible to take leave in order to serve as organ donors or bone marrow donors. Employees covered by the federal Family and Medical Leave Act are not eligible for leave under this law. Employees must request leave in writing (Ark. Code Ann. § 11-3-205).

Military Leave of Absence
Employees called to active state duty in the National Guard or the state militia are eligible for all employment and reemployment rights, privileges, benefits, and protections in employment as though they had been called to active duty in the service of the United States (Ark. Code Ann. § 12-62-413).

Military Service Discrimination
Employers may not coerce, intimidate, threaten or interfere with a person in his or her exercise of any rights granted or protected under the Military Service Protection Act (Ark. Code Ann. § 12-62-807).

Family Military Leave
Arkansas does not have a family military leave law.

Disaster services leave
Arkansas does not have a disaster or emergency services leave law that is applicable to private employers.

Leave For Crime Victims
Arkansas does not a victims leave law applicable to private employers.

Meals & Rest Breaks
Arkansas does not have a meal and rest breaks law covering private employers.

Breastfeeding in the Workplace
Arkansas does not have a law covering breastfeeding rights in the workplace.

SMOKING POLICY
Smoking is prohibited in all public places and enclosed areas within places of employment. In addition, an individual, person, entity, or business subject to the smoking prohibitions of this section must not discriminate or retaliate in any manner against a person for making a complaint of a violation of this section or furnishing information concerning a violation to a person, entity, or business or to an enforcement authority (Ark. Code Ann. § 20-27-1804).

"No smoking" signs or the international "no smoking" symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it may be clearly and conspicuously posted by the owner, operator, manager, or other person in control in every public place and place of employment where smoking is prohibited by this law (Ark. Code Ann. § 20-27-1806).