

ARKANSAS ESTATE PLANNING CHECKLIST

Following the Arkansas estate planning checklist will supply residents with the tools needed to protect their well-being against unforeseen circumstances such as incapacitation or death. It is advised that individuals speak with a licensed attorney before making efforts to officially execute the below-provided instruments

Step 1 - Appoint a Health Care Proxy

To ensure that the principal's medical preferences are communicated in the event of mental incapacity, a **health care proxy** will need to be appointed. The health care proxy, or "health care agent," will make medical decisions for the principal when they are incapable of communicating properly. Choosing an agent should be done with caution as the selected individual will have permission to accept or deny health care that could significantly affect the principal's well-being.

[Power of Attorney for Health Care](#) - This form allows the principal to grant a health care proxy the authority to relay their medical preferences to health care professions when they are incapable of communicating.

- **Signing Requirements** ([§ 20-6-103](#)) - Must be in writing and signed by the principal. If the document is part of an advance directive, the advance directive must either be notarized or signed by two (2) adult witnesses who have no interest in the principal's estate and are not related to the principal by blood, marriage, or adoption.

Step 2 - Appoint an Attorney-In-Fact

An **attorney-in-fact** is an individual that acts as the principal's financial agent and manages their financial interests. Appointing an attorney-in-fact is accomplished through the completion of a Durable (Financial) Power of Attorney (available below). "Durable" means that the agent's authority will remain active while the principal is disabled or mentally incapacitated. When executing the document, the principal can indicate specific powers with which the financial agent shall operate. These powers may permit the attorney-in-fact to manage the principal's bills, financial accounts, personal property, business operations, and any other financial transaction.

[Durable \(Financial\) Power of Attorney](#) - This form allows the principal to appoint an attorney-in-fact (the "financial agent") to manage the principal's finances.

- **Signing Requirements** ([§ 28-68-105](#)) - Requires the principal's signature only. To ensure the validity of the signature, the principal should acknowledge the signature in the presence of a notary public.

Financial Powers Allowed

- Real Property ([§ 28-68-204](#));
- Tangible Personal Property ([§ 28-68-205](#));
- Stocks and Bonds ([§ 28-68-206](#));
- Commodities and Options ([§ 28-68-207](#));
- Banks and Other Financial Institutions ([§ 28-68-208](#));
- Operation of Entity or Business ([§ 28-68-209](#));
- Insurance and Annuities ([§ 28-68-210](#));
- Estates, Trusts, and Other Beneficial Interests ([§ 28-68-211](#));
- Claims and Litigation ([§ 28-68-212](#));
- Personal and Family Maintenance ([§ 28-68-213](#));
- Benefits from Governmental Programs or Civil or Military Service ([§ 28-68-214](#));
- Retirement Plans ([§ 28-68-215](#));
- Taxes ([§ 28-68-216](#)).

Step 3 - Make a List of All Assets in the Estate

Prior to completing an estate planning document to detail the distribution of one's estate, it is wise to create a list of all assets and property contained therein. This information can be recorded in a [Current Assets List](#) and included with the individual's Will or Living Trust. Before drafting the document, it may be helpful to collect all paperwork proving the principal's ownership interests such as vehicle titles, property deeds, and stock certificates.

Step 4 - Appoint the Beneficiaries

Nominating the inheritors of the estate will inform the estate manager of where the principal's assets should go after they die. After the beneficiaries are selected, they should be contacted to make certain that they are prepared to receive the principal's property, and to supply any pertinent information concerning the real property or assets they are to inherit.

Step 5 - Draft a Living Trust or Last Will and Testament

The next step requires the creation of a document that dictates how the principal's estate will be handled after the die. This document will identify the beneficiaries of the estate and the property that will be distributed to each party. The following options are applicable:

[Last Will and Testament \('Will'\)](#) - This document details what will happen to the estate once the principal dies. Provided in the document will be a description of the assets each beneficiary is entitled to receive. Upon the principal's death, the Last Will and Testament **will go through the probate court**. This means that a public court proceeding will be held during which the document will be reviewed to determine its legitimacy and whether any parties have claims against a portion of the estate.

- **Signing Requirements** ([§ 28-25-103](#)) - A Last Will and Testament must be signed by the principal and two (2) adult witnesses.

[Living Trust \(Revocable\)](#) - A Living Trust is an entity to which the principal can transfer the ownership of their property and assets. The assets in the trust will be managed by a trustee for the duration of the principal's lifetime (unless revoked). In most cases, the principal will act as their own trustee and retain control over their property until they die. After the principal passes away, the assets in the trust can be transferred to the beneficiaries **without going through the probate court**. This process dramatically reduces the time needed to both settle the principal's estate and distribute assets.

- **Signing Requirements** (No Statutory Signing Requirement) - It is recommended that the document be signed in the presence of two (2) witnessed and notarized.

Step 6 - Protect Estate Documents

The estate planning documents should be kept in a secure location once completed by the principal. If the paperwork is being stored in a safe, the combination to the lock should be given to trusted parties so that there will always be someone with the ability to access the paperwork. It is also practical to keep the documents with the principal's attorney or immediate family members should they be available and willing to assist.

Arkansas Estate Planning Laws

- **Power of Attorney for Health Care** - [Title 20, Subtitle 2, Chapter 6, Subchapter 1](#)
- **Durable (Financial) Power of Attorney** - [Title 28, Subtitle 5, Chapter 68](#)
- **Last Will and Testament** - [Title 28, Subtitle 3](#)
- **Revocable Living Trust** - [Title 28, Subtitle 5, Chapter 73](#)