

Arkansas Evictions from March 27 through April 17, 2020 and Additional Information

By Lynn Foster

Three types of eviction proceedings are in use in Arkansas:

1. Unlawful detainers, which are tracked through Court Connect
2. Civil evictions pursuant to 18-17-901, which are tracked only partially, if at all, because many district courts are not on Court Connect
3. Unlawful detainers, which are not tracked separately from other misdemeanors, and only partially, because many district courts are not on Court Connect

As of noon on April 19, there have been 63 unlawful detainers filed for nonpayment of rent between March 27 and April 17 (21 days). Here are the numbers for each county. A link to an eviction spreadsheet that is attempting to keep up with all Arkansas evictions and writs of possessions is <https://drive.google.com/file/d/1XP23bvqqVjzRHBOvWjNuKof6P2-jHyM/view?usp=sharing>

- Pulaski County = 21
- Washington County = 18
- Craighead County = 7 (also hears 18-17-901)
- Crittenden County = 1
- Independence County = 1
- Madison County = 1
- Benton County = 5
- Drew County = 2
- Greene County = 1
- Faulkner County = 3
- Pope County = 1
- Garland County = 1 (also hears FTVs)
- Van Buren = 1

There have been at least four 18-17-901 evictions filed, one in Crawford County, one in Perry County, and two in Craighead County. We believe these were all for nonpayment of rent, but only one was filed electronically and it appears on the list.

Twenty-seven evictions were filed against female tenants, as opposed to 14 against males and 11 against couples.

Although most evictions were filed because of unpaid rent accruing before the COVID crisis, one, filed by Republic Westbridge, was for April rent only. One, filed by Imran Bohra (who was prosecuted by the AG), appears to be for April rent only. Two are for March and April rent only. Of course, these numbers will only increase.

Even if amounts due are from before March, that does not change the fact that if a writ of possession is issued, tenants will be turned out during a pandemic, at a time when all are being encouraged to stay at home and thousands have lost jobs and may not be able to find a new place to live.

Since March 27, 27 writs of possession in unlawful detainer cases for nonpayment of rent have been filed statewide in the following counties:

- Faulkner = 1
- Chicot = 1
- Benton = 6
- Miller = 1
- White = 1
- Lonoke = 2
- Washington = 5
- Baxter = 1
- Jefferson = 1
- Madison = 1
- Pulaski = 4 (all but one Judge Fox)
- Boone = 1
- Hempstead = 2

Evictions around Arkansas

The Arkansas Supreme Court has stated “the courts of the State of Arkansas shall remain open.” It has suspended all in-person proceedings in all courts through May 1 (per curiam of April 3), with a few exceptions. These exceptions do not include civil eviction proceedings, except that as noted below, an unlawful detainer action can result in the eviction of a tenant without an in-person proceeding. Around the state, courts are accepting filings. Court clerks “should consider adopting measures for ensuring timely filings by pro se litigants who lack access to Arkansas’s e-filing system.” This would include most tenants, who now will have the challenge of responding to an eviction to add to life during a pandemic. It’s clear that all courts are accepting filings, and process servers are serving.

As stated above, there are three procedures in existence, which are used in different parts of the state with no real rhyme or reason. Judge Vann Smith has suspended execution of writs of possession until further notice in the judicial district that does include Pulaski and Perry Counties. However, that order does not apply to Judge Tim Fox for some reason, and Court Connect shows eviction cases in his court. Judge Ralph Wilson, Jr., has also suspended petitions for writs of possessions until further notice. This suspension covers the six counties of Clay, Craighead, Crittenden, Greene, Mississippi, and Poinsett. That leaves 67 counties (and Judge Fox’s court) where as far as I know, writs of possession can still be issued and enforced by law enforcement. Civil hearings are not being held, but in the case of unlawful detainer, after a complaint is filed the tenant is notified with a difficult-to-read notice that many tenants believe is a notice evicting them, even though it states they can respond in writing and be granted a hearing. So many tenants begin to try to move out and don’t respond, clearing the way for the clerk to issue a writ of possession because they have not responded, without any judicial review.

In the case of 18-17-901 evictions, a writ of possession may issue similarly if the tenant fails to “appear and show cause within the ten-calendar-day period.” However, since appearances have been in large part cancelled, in theory a writ of possession should not issue, since the courts have cancelled appearances. I have heard reports that these types of evictions have basically stopped.

In the case of failure to vacate hearings, those tracking these cases have been informed that FTVs are taking place in Garland County despite the Supreme Court's order. Cases in Montgomery and Pike Counties won't be heard until May. Desha and Howard County are also scheduling them for the near future. Ouachita County's FTV cases are held up at the service stage. Not appearing has consequences that can cause arrest and criminal fines, although few tenants understand the differences between civil and criminal proceedings.

I have heard that the Washington County sheriff sought suspension of writs of possession and was refused. Sheriffs are concerned because evicting tenants puts their law enforcement at risk of contracting COVID.

The Federal CARES Act places a 120-day moratorium on the filing of evictions [in some cases](#)—if the rental property is subject to a federally backed mortgage loan or a federally backed multifamily mortgage loan. Arkansas circuit court judges have been informed of this aspect of the Act. However, as noted above, a writ of possession can issue without a judge ever being involved, and I've not heard of any courts taking any action in Arkansas to change procedure in any way.

The National Low-Income Housing Coalition has just published a [partial list of properties covered nationwide by the CARES Act](#). Owners of these properties should not be able to file an eviction action until the third week in July.

HUD is halting evictions nationwide for 60 days.

Evictions in Other States

Governor after governor has suspended evictions. For a current list, see <https://evictionlab.org/covid-eviction-policies/>.

[The National Multifamily Housing Council](#) tracks late rent payments and has noted that 84% of renters nationwide paid their April rent by April 12, down from 91% by March 12. It would seem that these numbers may continue to fall as the effects of increased unemployment escalate. Further, the [NMHC reported](#) that 28% of Arkansas tenants did not make a rent payment during the first week in April of this year, the highest number of any continental state except for Maine and Connecticut.

Why Evictions Should Be Suspended Here

Unemployment rates are rising. Arkansas is not due to "peak" until early May, and even then, people will continue to become infected until vaccinations are available. Widespread testing is not occurring, and people can spread the virus without even having symptoms. Policy-wise, it's foolish to turn people out of their housing during a pandemic with the characteristics of COVID, especially when they've lost their jobs through no fault of their own.

Arkansas's crazy quilt patchwork of eviction law is even more absurd now that court orders in at least one district, the CARES Act, the HUD moratorium, the inability to process 18-17-901 evictions but the ability to continue to evict under the unlawful detainer statute and at least in some places the FTV statute is unimpeded. There should be consistent eviction law across the state.

Some Human Stories

These were supplied by attorneys.

- A young woman was threatened with self-help eviction (which is illegal in Arkansas but which nonetheless happens) after her hours were cut at her restaurant job over COVID-19. She was not able to pay her April rent. She had tried to apply for unemployment benefits, but could not use the website successfully. Her landlord would not agree to let her pay the rent out of her stimulus check. Instead, the landlord told the tenant that she was going to change the locks or self-help evict the tenant if she did not leave within the week. The tenant was able to obtain a legal aid lawyer and prevent the lockout, but the landlord still plans to pursue legal action instead of working with the tenant.
- A woman with three young children was threatened with a self-help eviction after she lost her job as a hairstylist over COVID-19. She got behind on rent. She has applied for unemployment and expects some income in the future, so she offered to work out a payment plan with her landlord to get caught up. The landlord refused and told the tenant that they were going to change the locks if the tenant did not pay the full balance in 48 hours. The tenant was only able to prevent the illegal, self-help eviction because a legal aid attorney intervened.
- A tenant lost her job and cannot find another due to the impacts of COVID-19. She is two months behind on rent. She applied for unemployment benefits and was approved, but the benefits have not arrived. She was recently served with an eviction lawsuit. She wants to stay in her home and catch up on rent but will not have the resources until her unemployment benefits arrive.
- A military veteran was threatened with eviction after falling a month behind on his rent. The tenant's wife always took care of delivering their rent payments, but she recently suffered a massive heart attack and passed away. Amid the emotional and financial burdens the tenant is experiencing he forgot about the rent payment due for March. His landlord threatened to evict him.
- A tenant in Garland County got behind on rent and received a 10-day notice to vacate. This may mean that the landlord plans to press criminal charges against the tenant using failure to vacate or "criminal eviction." Those are still being filed in Garland County on a regular basis.