

WRONGFUL DEATH IN ARKANSAS

*The Surviving Family of Someone Who Has Died,
As the Result of a Personal Injury Caused By
Someone Else, Has the Legal Right to File
a Lawsuit for “Wrongful Death”*



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Losing a loved one is, no doubt, one of the most difficult challenges a family can face. When that death is the result of the negligence or misconduct of someone else, it can be even more difficult. The surviving family of someone who has died, as the result of a personal injury caused by someone else, has the legal right to file a lawsuit for "wrongful death."



What is Wrongful Death?

The term "wrongful death" refers to the circumstance where a person dies as a result of the negligence or misconduct of another. The dependents or beneficiaries of the person who was killed may be entitled to monetary compensation for that person's death. Each state has its own laws that govern wrongful death claims.

The Definition of Wrongful Death in Missouri and Arkansas

Missouri's Wrongful Death Statute section 537.080 defines a "wrongful death" as "the death of a person resulting from any act, conduct, occurrence, transaction, or circumstance which, if death had not ensued, would have entitled such person to recover damages in respect thereof." Arkansas's definition is virtually the same.

Who can file a wrongful death lawsuit?

In Arkansas, if a personal representative has been appointed to handle the estate of the deceased, that person is required to file the wrongful death claim. Otherwise, the claim can be filed by the deceased's legal heirs, which includes the "surviving spouse, children, parents, or siblings; persons standing "in loco parentis," and persons to whom the deceased stood in loco parentis."



In Missouri, the surviving spouse, children, or grandchildren are first in line to bring a wrongful death claim. The parents are next in line to bring the claim. If the claim involves the death of a child, the parents are generally the ones that

file the wrongful death claim. If none of those individuals have survived the deceased, then a surviving sibling may bring the wrongful death suit.

Recovery in wrongful death cases



The survivors of the victim are allowed to seek damages on behalf of the deceased, as well as compensation for their own personal losses, as a result of their loved one's untimely death. This compensation received can help to alleviate medical bills and other expenses that may have been incurred, such as funeral expenses.

Damages in a Missouri Wrongful Death Case

In Missouri, the purpose of a wrongful death claim is to seek compensation in the form of monetary damages, for the following:

- funeral and burial expenses
- medical bills related to the deceased person's final injury or illness
- value of wages and benefits the deceased would likely have earned
- pain and suffering experienced by the deceased just prior to death, and
- the "reasonable value of the services, consortium, companionship, comfort, instruction, guidance, counsel, training, and support" the deceased person provided to surviving family members.

Damages in Arkansas Wrongful Death Claims

In Arkansas, damages for wrongful death claims are separated into two categories: the estate claim and the family claim. A claim made by the estate generally seeks compensation for any losses the deceased person actually suffered as a result of his or her untimely death. These damages usually include:

- funeral and burial costs
- medical bills for treatment of the deceased person's last illness or injury
- pain and suffering the deceased endured before death, and
- the loss of the value of the deceased person's remaining life, including wages

The family claim, on the other hand, is the claim made by the surviving family members seeking compensation for losses the family members suffered as a result of losing their family member. These types of damages generally include:

- loss of the financial support of the deceased person
- loss of household services, and
- loss of care, comfort, and guidance.

There are important deadlines for filing wrongful death claims

Like nearly all legal claims, there is a time limit for filing a lawsuit. Each state establishes its own time limits, called the "statute of limitations," for bringing



wrongful death claims. In both Arkansas and Missouri the statute of limitations for a wrongful death action is three (3) years.

Because wrongful death actions are often more complicated than basic

personal injury cases, and often result in large damage awards, it is wise to consult with a wrongful death attorney to determine whether you have a claim. If you have unexpectedly lost a loved one, call the Cottrell Law Office at (800) 364-8305.

About the Author



Wesley A. Cottrell

Wesley A. Cottrell has been successfully practicing law for over 29 years. Born in Springdale, Arkansas and raised in Baxter Springs, Kansas, Wes is licensed to practice law in Arkansas, Kansas, Missouri, and Oklahoma.

Wes earned his B.A. from Pittsburg State University in 1981 and his J.D. from the Washburn University School of Law in Topeka, Kansas in 1985. He was admitted to practice law in Kansas in 1986, in Missouri in 1987, in Arkansas in 1989, and Oklahoma in 1993.

He is licensed to practice law in the United States District Court for the District of Kansas, eastern Arkansas, western Arkansas, and western Missouri. He was Deputy Prosecuting Attorney in Crawford County, Kansas from 1987-1989.

Wes lives in Rogers, Arkansas with his wife, Shelly, and their two daughters, Kennedy and Gabby. He is active in his community, and is regularly asked to teach courses to other attorney on personal injury and workers' compensation litigation.

Memberships and Associations:

National Organization of Social Security Representatives
Benton County Bar Association
Arkansas Bar Association
The Missouri Bar
Kansas Bar Association
Oklahoma Bar Association
Arkansas Trial Lawyers Association
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