

2010

Arkansas

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2009-10 UPDATES TO THE
**STATE-BY-STATE REPORT ON
AUTHENTICATION OF
ONLINE LEGAL RESOURCES**



AMERICAN ASSOCIATION OF LAW LIBRARIES
ELECTRONIC LEGAL INFORMATION ACCESS & CITATION COMMITTEE
February 2010

Arkansas

2007 Report and 2009-10 Update by Timothy L. Coggins, University of Richmond School of Law Library

OFFICIAL STATUS  Changes since the 2007 report	AUTHENTICATION  Changes since the 2007 report
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Arkansas online court opinions are *official*, but other online legal resources are not *official*.
The Arkansas Supreme Court Law Library was a leader in the United States in terms of making its opinions available to the public electronically. The state now has assumed a national leadership role as well and currently designates its court opinions as official. Arkansas's legislative and executive branches have not, however, taken steps to change the status of the online legal resources to official.

Arkansas is addressing the authentication of online legal resources.
Court personnel have investigated necessary hardware and software to begin the authentication process for court opinions. The Reporter of Decisions indicates that the Court has developed a system using watermarking and electronic signatures and will implement that system shortly. The Arkansas legislative and executive branches have not, however, taken steps to authenticate their online resources.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Yes, Arkansas has eliminated the printing of *Arkansas Reports* and *Arkansas Appellate Reports* in favor of online sources since the 2007 report. This action taken by the Arkansas Supreme Court occurred after the Arkansas legislature passed Act 221, "An Act to Provide for the Electronic Publication and Distribution of the Arkansas Reports," in its 2009 regular session. The act was approved by the Governor on February 25, 2009.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Arkansas has not enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report.

Have courts in your state adopted a medium neutral citation system since the 2007 report? Arkansas has adopted a medium neutral citation system since the 2007 report, although its rule indicates that a parallel citation to the regional reporter is required *if available*.

Have there been any other significant changes to the 2007 state summary? Arkansas courts have designated as *official* the online versions of Arkansas Supreme Court and Court of Appeals decisions and are currently implementing a watermarking system to certify court decisions as *authentic*.

The 2009 legislative action, Act 221, requires that the Arkansas courts make available all the decisions by the Supreme Court and the Court of Appeals, removing a previous distinction between “published” and “unpublished” opinions. Amended *Ark. Code Ann.* § 25-18-218 (A) (1) (2009) indicates that the reports of the Supreme Court and the Court of Appeals shall be published and distributed in such format and medium as the Supreme Court may direct. Sub-section (A) (2) stipulates that “the medium shall be a *permanent, secure, and unalterable record* of the final, official decisions of the Supreme Court and the Court of Appeals.” [emphasis added]

The publication of *Arkansas Reports* and *Arkansas Appellate Reports* in print ends with volume 375 Ark./104 Ark. App. (2009). The Court, therefore, adopted a new neutral citation system in *In Re: Arkansas Supreme Court and Court of Appeals Rule 5-2*, No. 09-540, opinion delivered on May 28, 2009. For all published decisions issued between February 14, 2009 and July 1, 2009 and all decisions issued after July 1, 2009, the citation shall reference the case name, the year of the decision, the abbreviated court name, and the appellate decision number. Parallel citations to the regional reporter, *Southwestern Reporter, Third Series*, if available, are required. If the regional reporter citation is not available, then parallel citations to unofficial sources, including unofficial electronic databases, may be provided (Supreme Court, Opinion 09-540, pages 5-6; http://courts.arkansas.gov/court_opinions/sc/2009a/20090528/published/09-540.pdf).

Arkansas does not certify as *official* and *authentic* online versions of statutes, session laws, and administrative regulations. The Arkansas General Assembly website states that the “code that is provided on this site is an unofficial posting of the *Arkansas Code*” and indicates that the “printed version of the *Arkansas Code* should be consulted for all matters requiring reliance on the statutory text.” The website includes acts of the Arkansas General Assembly for both the current session and earlier sessions, but does not indicate whether the acts located there are official or unofficial and does not refer the user to the print *Acts of Arkansas* as the *official* versions. Since the Arkansas General Assembly has designated the online version of the *Arkansas Code* as unofficial, it is likely that it would view the online version of the *Acts of Arkansas* as unofficial as well.

Arkansas administrative regulations are published in two sources - a print *Code of Arkansas Rules* and print and online versions of the *Arkansas Register*. The *Code of*