

Legal Needs Study 2015

Kansas Legal Services, Inc.

**Exploring the Changing Legal Needs of
Low Income Kansans**

Kansas Legal Services, Inc.
712 S. Kansas Ave., Suite 200
Topeka, KS 66603
784-233-2068
www.kansaslegalservices.org
Marilyn Harp, Executive Director

My bank account and tax refund have both been garnished numerous times. I can't even have money in the bank now because I cannot risk having my money taken. I live paycheck to paycheck and cannot afford to have it taken because I need it to buy necessities and most of the time, my paycheck don't even cover all that I need.

Single, female Veteran, aged between 18 – 35, living in rural Kansas on less than \$10,000 a year.

#1 Top Legal Need: Problems with debt collection over the previous year were experienced by a majority of the persons completing the Kansas Legal Services (KLS) legal needs survey in 2015.

The consumer and debt area generated the highest percentage of frequency (“frequently,” “sometimes” or “rarely”) to questions asking how often respondents had experienced consumer problems in the past twelve months.

Survey consumer questions asked about garnishment of wages or bank accounts, debt collection, bankruptcy, repossession of car or personal belongings, pay day or car title loans, and disputes with the IRS. **About 63 percent of the survey respondents reported that they had experienced problems with debt collection within the previous 12 months.**

In 2015, Kansas Legal Services provided legal advice/representation to 1,255 persons with collection issues (including repossession, defense and garnishment), second only to divorces in number of persons served. KLS provided legal services in bankruptcy/debt relief in 506 cases. These cases covered debt collection, garnishment, harassment, repossession, bankruptcy, loans and contracts, unfair and deceptive sales practices. Over 1,100 cases in consumer law were rejected by KLS, most often due to lack of contact.

The Kansas Attorney General's office investigated over 4,000 consumer complaints in 2014, with the majority being about debt collection practices. The national Consumer Financial Protection Bureau received over 200,000 complains about abusive collection practices in 2014. A significant number of low income persons completing the survey voiced complaints about too much debt, and being harassed about debts.

Generally, respondents felt like there were in a crunch with consumer issues with 75 percent of all persons answering “yes” to “do you feel like your family is ‘struggling to get by?’” Whether or not they reported they were “frequently” experiencing a consumer problem, even a one-time, or “rare,” occurrence could profoundly affect a family's economic life and stability.

The poverty-fighting TalkPoverty.org—a project of the Center for American Progress—gives yearly reports on poverty in each state. In 2015, TalkPoverty reported that in Kansas, almost 16 percent of households were food insecure from 2012 to 2014, worse than most states in the country, or 38th out of 50 in food security. These families experienced difficulty providing enough food due to a lack of money or resources. In the open comments section, many persons told of their struggles with finances. A job loss made life difficult for one family:

Because I lost my job and I am now making way less, I am having to use credit cards for every day purchases such as food to feed my family.

White single female between 18 – 35, with three children

Overall debt and expenses overwhelmed other respondents:

We are behind on almost all credit cards.

Single, black female, employed, with three children living in a rural county

I work full-time, but the pay per hour is just enough to cover my bills with extra for food and nothing else.

Single, Native American female, employed with two children

One survey respondent reported student loan debt being a problem:

Student loans in default – 3 loans and unable to pay anything due to financial circumstances. I currently live in a shelter.

Single, unemployed white female with one child, between 18 – 35

Kansas has experienced increases in rates of poverty even as the national rates have gone down. In September, 2015, the U.S. Census Bureau announced the poverty rate in the State of Kansas has increased in all populations since 2010, moving overall from 11 percent to 14 percent in 2014, an increase of 27 percent, or over 85,000 more people in poverty. Women and children are the hardest hit by poverty in Kansas, as they are across the country. TalkPoverty reported that in Kansas, the gender wage gap showed that women earned 77 cents for every dollar of men's median earnings in 2014, making Kansas worse than most states in gender equality and handicapping female heads of household even further.

Over 75 percent of the persons completing the Kansas Legal Needs Survey reported living at or below \$29,000 per year, with 46 percent identifying themselves as unemployed. Women made up 69 percent of the persons completing the survey.

Over 80 percent of professionals who see low income Kansans regularly as their clients reported in the needs survey that they see persons being harassed by debt collectors (“very often,” “somewhat often” or “once in a while”), and 73 percent often see their clients take out payday or car title loans to help them pay for everyday expenses.

TalkPoverty.org reported that 8 percent of households in Kansas used high-cost, high-risk forms of credit to make ends meet in 2013. This included payday loans, automobile title loans, refund anticipation loans, rent-to-own and pawning. This practice by families was worse in Kansas than in most other states.

In the KLS survey, professionals' responses to “Please comment about any other debt and credit problems you see in your work.” included:

Harassing, unprofessional bill collectors, KS or IRS thinking more taxes owed, because a consumer wrongly filled out a tax form. HATE all payday loan places, they are "legal loan sharks" and should be banned off the face of the earth!

PayDay and Title loans are a reason many of the people I assist are evicted or lose their vehicles. These practices should be outlawed.

77 percent of court personnel (judges, attorneys, court clerks and other legal professionals) agreed that it is important for KLS to provide legal assistance to help persons who are harassed by debt collectors.

Judges and court personnel are less likely to see low income persons in court for consumer issues with an attorney by their side. Nearly always, an attorney is present for the plaintiff such as a debt collector, landlord, etc. From a court perspective, one attorney helps move the case along, making the need for an attorney for both sides less of a priority.

One judge stated that:

The value KLS has for society is difficult to quantify but is undoubtedly significant. Without them thousands of indigent individuals would have their rights trampled on by those with access to the Courts or have their rights denied because they lack the legal ability to fight to preserve their rights.

#2 Top Legal Need: Access to public benefits or denial of benefits are a problem for low income in Kansas, illustrating that poor persons denied public benefits join the un- and under-employed population to live in poverty in Kansas. KLS served 1,255 cases related to public benefits in 2015, and rejected 445, most due to lack of contact.

44 percent of persons reported that they had experienced a denial over the past year by Medicaid or Medicare for coverage, or of a specific treatment or were in the process now of appealing a denial. TalkPoverty.org reported that almost 25 percent of all persons under age 65 and below 138 percent of the poverty line in Kansas, did not have health insurance at any time in 2014, a situation worse in Kansas than in most other states.

State gives and revokes assistance what seems like on a whim. Discrimination due to medical condition and no representation leads to job loss and unemployment benefit denials.

Unemployed, white male, between 18 – 35 in family of four

83 percent of professionals see clients (“very often,” “somewhat often” or “once in a while”) who have great difficulty with the process of applying or those who had been denied. A professional with the Kansas Department for Children and Families reported that:

Renewal Medicaid applications continue to be sent out at the last minute. Individuals aren't able to complete them by the time frame or at all because they either don't understand them or unable to read. DCF continues to say they didn't get the applications even when they have been emailed and put into the drop box in front of DCF. Case managers were told that DCF

could help them with the applications. Even if the individual could complete them with assistance DCF only takes the name and number of the person so there is no one to help that individual complete the application. Case managers were told that DCF would help with the applications since case managers are no longer able to complete them. This is NOT happening. People have not been able to purchase medications because they lost their Medicaid.

Another professional reported that:

The paperwork for benefits, in the past two years, has become a nightmare for people with cognitive disabilities.

#3 Top Legal Need: Barriers to employment and/or housing. Having even a minor criminal record can stand in the way of employment, housing, education and training, building good credit, and even meager public assistance. For example, nearly nine in ten employers use background checks in hiring, and four in five landlords conduct background checks on potential tenants. A criminal record can mean every door is closed as people seek to get back on their feet.

Un- or under-employment can lead to poverty for many families. Unemployment rates in Kansas are low compared to the national rates. Yet the number of long-term unemployed and under-employed persons are not reflected in the statistics. Many of the persons in poverty in Kansas are under-employed. Many are struggling to make a family-sustaining wage.

Whether employed or receiving public benefits, many poor people are dealing with serious barriers to employment and housing. Barriers include little education, poor credit histories, evictions, criminal records and poor or incomplete work records. These serious barriers are reflected in the responses to this needs survey.

Thirty percent of all respondents reported that they had experienced barriers to participating in work and training programs over the past year. The question gave lack of childcare or transportation as examples of barriers, but respondents reported on other barriers, as well.

Even though my criminal record is over 20 years old, my record still follows me to this day with denials for employment.

Single, Native American, unemployed male, between 36 – 59

A criminal record has been shown in research to severely limit the earning power of a person over their lifetime. For example, a 2014 national study by the U.S. Department of Labor showed that 26 percent of young persons at age 25 who had been arrested as a juvenile lived at or below the poverty line compared with only 13 percent of persons at age 25 who had not been arrested as a juvenile. The U.S. leads the world in the rate of incarceration of its citizens and it also leads the world in the number of arrests. Between 25 percent and 40 percent of American adults have been arrested by

age 23.¹ Arrest records can be as damaging as conviction records for persons applying for jobs and housing.

According to many anti-poverty advocates, criminal records serve as both a *direct cause* and also as a *consequence* of poverty. It is a cause because having a criminal record often prevents access to employment, housing and more; convictions result in financial stress and debts as well. It is a consequence due to the criminalization of poverty and homelessness, i.e. criminalizing basic survival behaviors and nonpayment of fines leading to arrests.

One recent study finds that our nation's poverty rate would have dropped by 20 percent between 1980 and 2004 if not for mass incarceration and the subsequent criminal records that haunt people for years after they have paid their debts to society. "Failure to address this link as part of a larger anti-poverty agenda risks missing a major piece of the puzzle."²

85 percent of court personnel thought it was important for KLS to provide legal assistance in helping persons clear a criminal record that prevents them from getting job or housing. **Seventeen percent of persons completing the survey reported having had problems with a criminal record preventing them from getting a job or housing over the past year:**

I'm 100 percent disabled, my husband has had problems with issues on a background check that are incorrect.

Married, white female, one child, between 36 – 59

Denied unemployment, med assistance, food stamps and cannot get job in my field of my certification....due to situation.

Single, unemployed female between 36 – 59

Over 90 percent of the professionals who responded to the legal needs survey for professionals reported that they often ("very often," "somewhat often," or "once in a while") see persons with barriers (such as lack of childcare or transportation) to participating in work and training programs.

Responses to the request for further comments included:

I often see families with criminal trouble, often having warrants in other counties. They don't have anyone to take care of their children and no money for lawyer fees, so they avoid getting much needed cash assistance through the state.

Section 8 housing does not allow people with criminal record and we only have minimal housing available so this is a huge problem.

¹ Jain, E. Arrests as Regulation, Stanford Law Review, December 17, 2014 Stanford Law Review, Vol. 67, No. 3, 2015

² Dietrich, S. M., Vallas, R., One Strike and You're Out - How We Can Eliminate Barriers to Economic Security and Mobility for People with Criminal Records, Center for American Process, December, 2014, <https://cdn.americanprogress.org/wp-content/uploads/2014/12/VallasCriminalRecordsReport.pdf>

Persons with felonies often find it difficult to get the only housing they can afford, housing that is offered as low-income or on a sliding scale fee.

Childcare is not affordable for low income families. Therefore, it is easier for one of the parents to stay home with the children.

Credit scores are becoming one of the biggest barriers to housing ... more than past evictions or criminal history.

For each legal issue section of the survey, a series of questions was followed up by open-ended responses that asked the respondent to elaborate on the previous questions or identify any experiences and ongoing legal issues. Persons used the open-ended format to explain their legal problems in great detail.

The most significant number of problems described in the comments sections of the survey revolved around **consumer issues and legal barriers to accessing employment and housing**, using key words such as criminal or felony records, drivers or occupational licensing problems, (revoked, suspended, etc.), no transportation to get to employment or court (causing dismissals and compounding fines), too little income to meet financial needs and unaffordable, unsafe housing.

#4 Top Legal Need: Domestic abuse or violence were experienced over the past year by one out of five persons completing the needs survey. Seven percent of respondents reported that they experienced domestic abuse or violence over the past year “frequently,” 9 percent reported “sometimes,” and 5 percent reported “rarely” for a total of 21 percent reporting incidents. In the case of domestic abuse or violence, even “rarely” is too often.

KLS provided services in 3,800 cases in domestic abuse and/or violence, including abuse with children, abuse with paternity, protection from abuse orders and abuse and neglect. KLS rejected 1,179 abuse cases in 2015, most often because of limited resources or lack of contact. KLS was forced to turn many income-eligible victims of domestic and sexual violence away from legal help because we simply did not have enough staff to meet the demand. Domestic advocacy comprised 52 percent of KLS cases statewide in 2014.

According to the most recent available data from the Kansas Bureau of Investigation, Kansas agencies reported 23,508 incidents of domestic violence in 2013. This tally translates to 7.9 reported incidents per 1,000 people in the state. The reality of the problem is much greater as several agencies provided incomplete or no reports. Furthermore, these numbers represent only those incidents reported to authorities. Domestic violence is a notoriously underreported crime. Domestic violence is a dangerous and pervasive problem throughout the state.

While domestic violence may occur at any income level, this survey found that 23 percent of respondents living at or below income levels of \$19,000 a year reported experiencing domestic violence in their households “rarely,” “sometimes” or “frequently,” making this income level group the largest demographic to report domestic violence.

Eighteen percent of persons living at an income level of \$20,000 to \$39,000 a year reported experiencing domestic violence in their households in the past year. Seventeen percent of respondents at an income level of \$40,000 a year or higher reported incidents of domestic violence in past year. While lower income families are reporting a higher level of domestic violence incidents than other income levels, this survey also reported that 22 percent of unemployed respondents experienced domestic violence in their households. Thirteen percent of all female respondents reported domestic violence in their households. Two percent of the male respondents reported domestic violence in their households.

The crimes can be most debilitating to those without the financial means to seek help. Often victims are cut off from financial resources by their abuser and have no means to pay for legal assistance. Providing legal assistance to those who are fleeing abuse aids victims by circumventing financial concerns, as well as by empowering them to disengage from the abusive situation. Legal advocacy interventions help abused women directly by providing them with information and support on how to access community resources.

One respondent who reported that she experienced domestic violence “frequently” stated that:

Mentally and emotionally abusive husband and children are suffering and now he is holding us here saying I can’t take my kids.

Other respondents reported:

My ex-husband has kept my children from me and won’t return them . He torments me daily through email, does not allow me to communicate to my children. He stalks my family and somehow knows all of our personal business.

White female, between 36 – 59, family of 6

I left a husband who was a substance abuser and abusive towards me in many ways. I was not safe. Now that I’m away from him, I want and need to file for divorce.

Single, white female

Professionals and court personnel both agree that KLS needs to focus considerable resources to assisting victims of domestic violence and sexual assault. 77 percent of professionals reported seeing legal difficulties in helping victims of domestic violence or sexual assault escape the abuse often (“once in a while,” “somewhat often,” or “very often”). 99 percent of court personnel stated that it was important (“somewhat important,” “important” and “most important”) for KLS to provide legal assistance in helping victims of domestic violence or sexual assault escape the abuse.

A professional with a social service agency in central Kansas lamented:

The number of women coming to our office who have been abused and needed to escape domestic violence has grown in recent years. KLS has stepped up to help these women time and time again. Why is it that fathers do not want to care for their children financially or emotionally?

A professional with a health services agency stated that they “very often” see:

Domestic violence in conjunction with immigration issues.

A significant number of professionals and court personnel (about two thirds of each) named domestic abuse and/or protection orders as the “number one legal issue facing low income Kansans today.”

Populations in Need

Three special populations who have needed KLS assistance on a continuing basis will still need our help in the future.

Elderly. KLS has served older adults for decades, and devoted special attention to elder needs through the Elder Law program and the Elder Law Hotline, among other projects. KLS also provides assistance through programs in some field office service areas where local governments target the elderly for Mill levy and other local funding. On occasion KLS has received funding from Kansas Department on Aging and Disability Services to conduct outreach and education on elder abuse through the Protecting Elderly from Abuse, Neglect and Exploitation (PEANE) grants.

The U.S. Census Bureau reported that in 2010, 13 percent of the population was age 65 or above. This number is projected to rise to 19.6 percent by the year 2030. Accordingly, the overall population of Kansas will increase by approximately 252,000 people by 2030. Most of the increase (237,000 people) will be in the 65+ age category. In other words, nine out of every ten people Kansas gains by 2030 will be 65 or above.

Most of those people aging are already here: they are the “active” Baby Boomers (working longer and staying more healthy and independent in later life) who will retire by 2030. This will change the age composition of the state, and due to its uneven geographic distribution may mean significant challenges for many communities.³

Persons over 60 years old in Kansas make up 20 percent of the total population. The group is very different from what one sees in popular retirement destinations, such as Florida or Arizona. Aging in Kansas is “aging in place.” The persons aging now in Kansas have grown up here, and have never left.⁴ The Baby Boom cohort, which had an impact on aging in the mid-20th century, has an increasing impact on aging now. In Kansas, this means that community challenges will intensify.

One challenge will be due to poverty. Because of gender differences in life expectancy, aging means the feminization of population. The sex ratio becomes unbalanced in populations over the age 75. Generally, females are more likely to be poor so that translates to more low income elderly for KLS to serve. The older population is also less mobile as well as socially/economically more

³ Kulcsar, L., Institute for Policy and Social Research, Kansas Policy Review, Vol. 29, No. 1 Spring 2007
<http://www.ipsr.ku.edu/publicat/kpr/kprV29N1/kprV29N1A1.shtml>

⁴ Kulcsar, L., Institute for Policy and Social Research, Kansas Policy Review, Vol. 29, No. 1 Spring 2007
<http://www.ipsr.ku.edu/publicat/kpr/kprV29N1/kprV29N1A1.shtml>

disadvantaged. Twenty percent of all Kansans over age 60 have mobility limitations.⁵ This makes a problem for KLS in that 33 percent of the elder population is concentrated in rural counties⁶, and when they have mobility limitations, travel to Courts and meetings is problematic and poverty means few options for persons to obtain transportation.

In 2015, KLS served a total of 3,849 persons aged 60 or older in all types of cases. Generally, the KLS clients over sixty were less impoverished than younger clients and their problems skewed more to end-of-life issues. The cases most often seen in this age group involved powers of attorney and advance directives, wills and estates, and/or consumer/finance issues such as collections or bankruptcy.

The legal needs survey had several areas of concern for targeting KLS services to the elderly. In the professional responses, one professional working with a city housing agency said:

We do see people whose family have become their payee or guardian and are abusing their finances.

Another professional who works in housing and mental health services described an elder problem:

Have one senior client whose daughter can't get her to sign for guardianship or committal papers, but her mom isn't cooperative with any agency, won't go to the Dr. for meds. (paranoid schizophrenic), and also alcoholic - is a danger to herself, and others (she tried to burn down her daughter's apt.) and is one who is falling through the cracks of the system.

Court personnel rated elder issues as the most important areas for KLS to focus its resources, concerned about elder abuse and financial exploitation. 96 percent agreed on the importance of KLS providing legal assistance in addressing the physical abuse of an elderly person, 95 percent agreed that KLS should provide assistance in financial exploitation cases, and 97 percent found it important that KLS provide assistance for families dealing with a senior relative who is incompetent.

KLS will continue its special focus on issues of greatest concern and importance to older adults and will address emerging issues that affect seniors such as changes in Medicare regulations and preventing identity theft.

Veterans and Servicemembers

KLS has targeted resources to assist Veterans, Servicemembers and their families as a priority in the past few years, especially with the high number of returning Servicemembers to Kansas from the Gulf conflicts. Some of the difficulties specific to Servicemembers and their families who must endure multiple deployments often need simple civil legal action that can be resolved with the help of KLS staff such as consumer or collection problems or landlord/tenant disputes. Servicemembers

⁵ Aging Integrated Database, Administration for Community Living, U.S. Department of Health and Human Services, 2016, Population Estimates – Mobility in Kansas 2013
<http://www.agid.acl.gov/StateProfiles/Profile/Compare/?id=18&compareid=109&variable=4&years=2013>

⁶ IBID

and Veterans also need assistance with some of the same issues that plague civilians such as criminal record expungements and access to public benefits.

In the needs survey, one professional who works primarily with Veterans in the Supportive Services for Veterans Families stated:

Many of my veterans have felony charges which prevents them from getting jobs. Criminal records seems to be the issue I see very often-more times than not and there is no one-not even the workforce center who can help them get jobs! The veterans are stuck! They need help with felony expungement in order to become employed,

In the top ten unmet needs of Veterans as surveyed in 2014 by the Department of Veterans Affairs are six legal problems: legal assistance to prevent eviction and foreclosure, child support issues, help restoring a driver's license, family reconciliation assistance, assistance for outstanding warrants and fines, and financial guardianship.⁷ The survey states that “unmet needs are primarily services that require community partnership to meet. This consistency underscores the importance of collaboration between federal, state, local, and community partners to meet the needs of homeless Veterans to successfully end homelessness.”⁸ The needs are unmet in the general Servicemember population, as well.

In 2015, KLS rejected 1,102 requests for assistance by Veterans or Servicemembers, most often due to lack of contact but also because of limited resources. KLS has been fortunate to collaborate with the AmeriCorps program, Veterans Legal Corps, that places legal interns in communities to assist with legal problems of Servicemembers and Veterans. These students have helped increase the number of Servicemembers and Veterans who receive free legal assistance in Kansas.

Children and Youth in Foster Care and Those Aging Out

The worst indicator of poverty for Kansas in 2015, as reported by TalkPoverty.org, was the number of children living apart from their parents, also known as the number of children in state care who live in foster care. Nine out of every 1,000 children under the age of 18 in 2013 in Kansas were living in foster care. Kansas was 42nd out of fifty states in this measure, only seven states had higher numbers of youth in foster care. Since 2013, the number of youth has risen even higher.

This poverty indicator is considered by poverty-fighting advocates to be one of the saddest and most serious predictors of continued generational poverty as well as increased risks for youth in foster care of homelessness, school failure, teen births, criminal records, poor physical and mental health outcomes, sexual violence and human trafficking, substance abuse and diminished lifetime earning potential. These risks are compounded by the length of time spent in out of home placements and by the number of different placements/locations experienced by the youth.⁹

⁷ Department of Veterans Affairs, Fact Sheet, Project CHALENG, May 2015, Participant Survey 2014 Results Summary, http://www.va.gov/homeless/docs/chaleng/52015_CHALENG_2015_Fact_Sheet.pdf

⁸ IBID

⁹ Midwest Evaluation of the Adult Functioning of Former Foster Youth, 2015, Chapin Hall at the University of Chicago, <http://www.chapinhall.org/research/report/midwest-evaluation-adult-functioning-former-foster-youth>

Kansas has over 6,500 youth in state custody in 2015, the highest number in the state's history. Some anti-poverty advocates believe that this situation has been caused by the regressive policies put in place by Governor Sam Brownback's administration to reduce safety net programs for the poor and the resulting stress that has been placed on families. Parents have little or no childcare, have less supervision of children, have no services for special needs children or have seen other vital services cut for their families.

For many decades, KLS has directed legal resources for children and youth (some who may become involved in state care) in areas of family law that include adoption, child-in-need-of-care, emancipation, foster youth and families helpline, Guardian ad Litem training and support, special needs/special education issues, children's social security benefits, child support, child custody and other youth and family issues that profoundly affect family safety, security and stability.

Most research shows that youth preparing for emancipation from foster care represent a high-risk population with particular needs and challenges that make entry into adult society a serious undertaking.¹⁰ The present situation will soon lead to large numbers of young Kansans in foster care who will age out into young adulthood with overwhelming challenges to face. KLS hopes to provide more legal assistance to this vulnerable population by targeting special issues of concern for their welfare and success. Legal assistance and education will be provided in issues such as record clearing, barrier resolutions for housing and employment, family reintegration and access to public benefits.

¹⁰ Supporting Foster Youth Transitioning to Adulthood, July 30, 2015, NGA Centers for Best Practices, National Governors Association, <http://www.nga.org/cms/home/nga-center-for-best-practices/center-divisions/center-issues/page-ehsw-issues/col2-content/main-content-list/supporting-foster-youth-transiti.html>