



2023 Edition

# Dissolution of Marriage in Connecticut

A Guide to Resources in the Law Library

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*Note:* If you are looking for information about how to file for divorce, please see the Connecticut Judicial Branch [Divorce Navigator](#) and this web page on [Divorce, Custody, and Visitation](#).

*Prepared by Connecticut Judicial Branch, Superior Court Operations,  
Judge Support Services, Law Library Services Unit*

Connecticut Judicial Branch Family Forms & Information

<a href="#">Divorce, Custody, and Visitation</a> Information (CT Judicial Branch)	<a href="#">What to Expect on Your Resolution Plan Date</a> (PDF)
<a href="#">Family Law Forms</a> (Full List)	<a href="#">Nonadversarial (simplified or "non-ad") Divorce</a>
<a href="#">Divorce Forms</a> , including <a href="#">Divorce Navigator</a>	<a href="#">Responding to a Divorce</a>
<a href="#">Divorce with an Agreement (or "waive 90")</a>	<a href="#">File for Custody or Visitation (or both)</a>
<a href="#">Divorce without an Agreement</a>	<a href="#">File for a Motion for Modification</a>
<a href="#">Filing for a Divorce with Children</a>	<a href="#">File for a Motion for Contempt</a>
<a href="#">Filing for a Divorce without Children</a>	<a href="#">File for a Restraining Order</a>

These guides are provided with the understanding that they represent only a beginning to research. It is the responsibility of the person doing legal research to come to his or her own conclusions about the authoritativeness, reliability, validity, and currency of any resource cited in this research guide.

View our other research guides at  
<https://jud.ct.gov/lawlib/selfguides.htm>

This guide links to advance release opinions on the Connecticut Judicial Branch website and to case law hosted on Google **Scholar and Harvard's Case Law Access Project**. The online versions are for informational purposes only.

References to online legal research databases refer to in-library use of these databases. Remote access is not available.

[Connecticut Judicial Branch Website Policies and Disclaimers](#)

<https://www.jud.ct.gov/policies.htm>

## Part A. Dissolution of Marriages

- **“By contrast, ‘[t]he purpose of a dissolution action is to sever the marital relationship, to fix the rights of the parties with respect to alimony and child support...to divide the marital estate...and to consider custody issues.’** [Bouchard v. Sundberg](#), 80 Conn. App. 180, 189, 834 A.2d 744 (2003).”  
[Kimberly C. v. Anthony C.](#), 179 Conn. App. 856, 863, 179 A.3 856 (2018).
- **“‘A dissolution of a marriage is essentially an equitable action.’** *Id.*, at 302, [[Gaudio v. Gaudio](#), 23 Conn. App. 287] 580 A.2d 1212 (1990). Here, because **the plaintiff’s cause of action sought only a dissolution** of her marriage, together with alimony and an equitable division of property, her cause of action is essentially equitable, for which the defendant has no right to a trial **by jury.**” [Emerick v. Emerick](#), 170 Conn. App. 368, 386, 154 A.3d 1069 (2017).
- **“The trial court found that the plaintiff’s transactions violated these** [automatic] orders but did not hold the plaintiff in contempt because the court concluded the violations were not wilful. Nevertheless, because the transactions had caused a significant loss to the marital estate, the court considered that loss when it distributed the marital property between the parties, awarding a greater than **even distribution to the defendant.**”  
[O’Brien v. O’Brien](#), 326 Conn. 81, 85, 161 A.3d 1236 (2017).
- **“A marriage is dissolved only by (1) the death of one of the parties or (2) a decree of annulment or dissolution of marriage by a court of competent jurisdiction.”** [Conn. Gen. Stat. § 46b-40\(a\)](#) (2021).
- **“We recognize that an annulment and a dissolution of marriage differ** fundamentally. An annulment renders the marriage void ab initio [from the beginning] while a dissolution is based upon a valid marriage which **terminates as of the date of the judgment of dissolution.**” [Durham v. Miceli](#), 15 Conn. App. 96, 543 A.2d 286 (1988).
- **“‘Marriage’ means the legal union of two persons.”** [Conn. Gen. Stat. § 46b-20\(4\)](#) (2021).
- Waiver of ninety day waiting period or six months stay.  
**“If the parties attest, under oath, that they have an agreement as to all terms** of the dissolution of marriage or legal separation and wish the court to enter a decree of dissolution of marriage or legal separation prior to the expiration of the time periods set forth in subsection (a) of this section, and file a motion seeking the waiver of said time periods, the court may waive the provisions of subsection **(a) of this section.**” [Conn. Gen. Stat. § 46b-67\(b\)](#) (2021).  
[Form JD-FM-247](#). Motion to Waive Statutory Time Period- Divorce or Legal Separation
- Proceeding to judgment on case management date when defendant has not appeared.  
**“If the defendant has not filed an appearance by the case management date,** the plaintiff may appear and proceed to judgment on the case management date without further notice to the defendant, provided the plaintiff has

complied with the provisions of Section 25-30.” [Connecticut Practice Book Sec. 25-50\(c\)](#) (2022).

- Waiver of Service of Process.

**“Any person entitled to service of process of a summons and complaint that commences an action for annulment, a dissolution of marriage, a dissolution of a civil union or a legal separation may waive such service by (1) executing a written waiver of service on a form prescribed by the Office of the Chief Court Administrator, and (2) filing an appearance with the court. Upon filing of both the waiver of service and the appearance of the person waiving such service, the action shall proceed as consistent with the provisions of this chapter.”** [Conn. Gen. Stat. 46b-45\(b\)](#) (2021).

[Form JD-FM-249](#). Certification of Waiver of Service of Process- Divorce, Legal Separation, Annulment

## Part B. Nonadversarial Dissolution of Marriages

- **“Two years ago, I came before this Committee and asked for your support of a similarly titled bill that established a simplified dissolution of marriage for parties who agreed to the dissolution and who met certain criteria, as well as allowed other parties with an agreement to obtain a divorce in nearly a quarter of the time that it would ordinarily require. Thanks to your leadership on the issue, the bill passed, and as a result, one in six of all dissolutions subsequently filed have taken advantage of this new law, resulting in thousands of litigants moving on with their lives more quickly, and without the time and expense of numerous court hearings.”**

[Substitute H.B. 7196, 2017 Sess., Judiciary Committee Public Hearing, March 6, 2017, Testimony of the Honorable Elizabeth A. Bozzuto, Chief Administrative Judge for Family Matters—State of Connecticut Judicial Branch.](#)

- **“This act creates an expedited court process that allows a judge to enter a divorce decree without a hearing for certain nonadversarial divorce actions. Among other things, it:**
  1. allows parties to a marriage to file a notarized joint petition to begin the divorce process if, among other things, (a) they have not been married for more than eight years [now nine years], (b) they have no children or real property, (c) at least one party is a Connecticut resident, (d) the total combined net fair market value of all property owned by either party is less than \$35,000 [now \$80,000], and (e) neither party has a defined benefit pension plan;”

[Summary for Public Act No. 15-7](#) (Effective October 1, 2015).

- **“This act makes changes in the conditions for nonadversarial divorce actions. In so doing, it extends this divorce option to certain parties who (1) have been married for nine years or less instead of eight years or less and (2) own property with a total combined net fair market value less than \$80,000 instead of less than \$35,000. The law limits this divorce option to parties who do not have a defined benefit pension plan. The act defines a ‘defined benefit pension plan’ expressly for the purpose of nonadversarial divorce actions. Additionally, under the act, if a judge terminates a nonadversarial divorce action and places**

the matter on the Superior Court's regular family docket, the parties do not **have to pay any new filing fees, file a complaint, or serve process.**" [Summary for Public Act 17-47](#) (Effective October 1, 2017).

# Part A. Dissolution of Marriage – Section 1: Grounds for Dissolution of Marriage or Legal Separation

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- **"A decree of dissolution of a marriage or a decree of legal separation shall be granted upon a finding that one of the following causes has occurred:**
  - (1) The marriage has broken down irretrievably;
  - (2) the parties have lived apart by reason of incompatibility for a continuous period of at least the eighteen months immediately prior to the service of the complaint and that there is no reasonable prospect that they will be reconciled;
  - (3) adultery;
  - (4) fraudulent contract;
  - (5) willful desertion for one year with total neglect of duty;
  - (6) **seven years' absence, during all of** which period the absent party has not been heard from;
  - (7) habitual intemperance;
  - (8) intolerable cruelty;
  - (9) sentence to imprisonment for life or the commission of any infamous crime involving a violation of conjugal duty and punishable by imprisonment for a period in excess of one year;
  - (10) legal confinement in a hospital or hospitals or other similar institution or institutions, because of mental illness, for at least an accumulated period totaling five years within the period of six years next preceding the date of **the complaint.**" [Conn. Gen. Stat. § 46b-40\(c\)](#) (2021).

# Section 1.1: No Fault Grounds

A Guide to Resources in the Law Library

## SCOPE:

- Bibliographic resources relating to a no fault dissolution of marriage (divorce) commenced after October 1, 1997.

## DEFINITIONS:

- No fault divorce: **"A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred: (1) the marriage has broken down irretrievably; (2) the parties have lived apart by reason of incompatibility for a continuous period of at least the eighteen months immediately prior to the service of the complaint and that there is no reasonable prospect that they will be reconciled . . . ."** [Conn. Gen. Stat. § 46b-40\(c\)](#) (2021).
- **"The determination of whether a breakdown of a marriage is irretrievable is a question of fact to be determined by the trial court."** [Eversman v. Eversman](#), 4 Conn. App. 611, 614, 496 A.2d 210 (1985).
- **"The absence of objective guidelines does not mean an abdication of judicial function, nor does it signal, as the defendant argues, that a court determining whether a marriage has in fact irretrievably broken down is acting purely ministerially or is granting a divorce 'upon demand.' It does, however, sustain the trial court's conclusion that the defendant's decision to rearrange his business ventures after the initiation of divorce proceedings does not necessarily repair the rupture in the marital relationship that had previously occurred."** [Joy v. Joy](#), 178 Conn. 254, 255-256, 423 A.2d 895 (1979).

## STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2021). [§ 46b-51](#). Stipulation of parties and finding of irretrievable breakdown ([2022 Supplement](#))
- Conn. Gen. Stat. (2021). [§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment

## COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2023). [Chapter 25. Procedure in Family Matters](#)
  - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
  - § 25-7. Pleadings in General; Amendments to Complaint or Application
  - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
  - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
  - § 25-10. —Answer to Cross Complaint

## Case Law:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

[Nietupski v. Del Castillo](#), 196 Conn. App. 31, 38, 228 A. 3d 1053 (2020). “...[Section] 46b-40(c)(1) is a valid and neutral law of general applicability. The statute does not in any manner infringe on the defendant's right to exercise his religious beliefs merely because it permits the plaintiff to obtain a divorce from him against his wishes.”

- [Kimberly C. v. Anthony C.](#), 179 Conn. App. 856, 860, 182 A.3d 106 (2018). “The plaintiff testified that the defendant had physically, verbally, and sexually abused her during the course of the marriage. The defendant denied all allegations of abuse....**the court issued its written memorandum for decision**, in which it found that neither the plaintiff nor defendant were credible witnesses and made no finding that the defendant had abused the plaintiff. The court found both parties responsible for the **breakdown of the marriage.**”
- [Joseph v. Glasgow](#), Superior Court, Judicial District of Danbury at Danbury, No. DBD-FA-175010651-S (Jan. 25, 2018) (2018 WL 1137537) (2018 Conn. Super. LEXIS 200). “**There are ten possible grounds for the granting of a dissolution of marriage in Connecticut.** Those grounds are listed by General Statutes § 46b-40(c). The ‘no-fault divorce’ ground is set forth in § 46b-40(c)(1): The marriage has broken down irretrievably. The word ‘irretrievably’ is not defined in the statute. The Connecticut Supreme Court has consistently declined to impose guidelines for an inquiry into ‘irretrievability’ because of the recognition that such an inquiry by the trial court is necessarily individualized and particularized for each case. [Joy v. Joy](#), 178 Conn. 254, 255, 423 A.2d 895 (1979). The complaint in this matter relies upon irretrievable breakdown as the sole ground for dissolving the parties’ marriage. ‘The determination of whether a breakdown of a marriage is irretrievable is a question of fact to be determined by the trial court.’ [Eversman v. Eversman](#), 4 Conn. App. 611, 614, 496 A.2d 210 (1985), cert. denied 197 Conn. 806, 499 A.2d 57 (1985). ‘Since it is the marriage as a whole which is at issue, any evidence which bears upon the viability of the marriage is admissible, whether it be classified as objective or subjective.’ *Id.* (Internal quotation marks omitted.)”

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“...The plaintiff was, however, unwilling to testify that the marriage had broken down irretrievably....Near the end of the trial, the court told the parties the court was doubtful as to the irretrievable breakdown of the marriage. The court invited either party to provide additional testimony specifically as to the issue of the irretrievability of the marital breakdown. The plaintiff chose to remain silent.

...When the court invited each party to speak to the question of irretrievability near the end of the trial, the



defendant stated: 'I do not wish to remain married.' He avoided speaking to the question of irretrievability. In light of the parties' testimony and the reluctance of both to assert the marriage cannot be saved, the court cannot find the parties' marriage has broken irretrievably...."

- [Barcelo v. Barcelo](#), 158 Conn. App. 201, 205-206, 118 A.3d 657 (2015). "Ultimately, all things considered...the cause of the breakdown of the parties' marriage was their irreconcilable differences stemming from their respective extramarital affair(s) and their difficulty in being intimate with each other."
- [Brody v. Brody](#), 315 Conn. 300, 307, 105 A.3d 887 (2015). "In a second passage, the trial court stated that '[t]he marriage between the parties has broken down irretrievably, in large part because of the defendant's dishonesty, probable infidelity and his increasingly abusive behavior towards the plaintiff.' Later, in a third passage, the trial court '[found] that the defendant [was] responsible for the breakdown of the marriage for conduct described herein.'"
- [Embriano v. Embriano](#), Superior Court, Judicial District of Hartford at Hartford, No. FA06-4023849-S (Mar. 24, 2008) (2008 WL 962887) (2008 Conn. Super. LEXIS 704). "By complaint dated June 5, 2006, the plaintiff-husband commenced this action seeking a dissolution of marriage on the grounds of irretrievable breakdown and other relief. . . . The court has considered all of the factors set out in Connecticut General Statutes Sections 46b-81, 46b-82, 46b-62 and other pertinent statutes, earnings and earning capacity differentials, causes for the breakdown of the marriage and the consequences of the financial orders set forth below."
- [Evans v. Taylor](#), 67 Conn. App. 108, 115, 786 A.2d 525 (2001). "On the basis of the record, we conclude that the court could reasonably have found that the defendant had failed to establish her claim of intolerable cruelty, and therefore it was not clearly erroneous for the court to reject intolerable cruelty as a ground for dissolution and instead grant the dissolution of the marriage on the ground of irretrievable breakdown."
- [Eversman v. Eversman](#), 4 Conn. App. 611, 614, 496 A.2d 210 (1985). "The determination of whether a breakdown of a marriage is irretrievable is a question of fact to be determined by the trial court . . . . The fact that the defendant maintains hope for reconciliation will not support a finding that there are prospects for a reconciliation. . . . A difference, to be irreconcilable, need not necessarily be so viewed by both parties."

- [Sweet v. Sweet](#), 190 Conn. 657, 659, 462 A.2d 1031 (1983). "Section 46b-51 allows the court to avoid specifying fault for the breakdown of the marriage and allows the parties to avoid calling friends or relatives to testify as to the reasons for the breakdown. Under the appropriate circumstances the record need not contain information which would invade the privacy of the parties and their families. The statute offers the parties an opportunity to keep their conduct from being heard by the public or discovered in the future by their children."
- [Posada v. Posada](#), 179 Conn. 568, 572, 427 A.2d 406 (1980). "No-fault divorce does not mean that the causes of a marital breakup are always irrelevant, but it does mean that determining cause is not crucial to the judicial administration of matrimonial matters."
- [Gluck v. Gluck](#), 181 Conn. 225, 227, 435 A.2d 35 (1980). "Next, the defendant asserts that General Statutes 46b-40(c), to the extent that it authorizes the dissolution of a marriage if the marriage has broken down irretrievably, is vague, nullifies the other grounds for dissolution, prevents defenses and impairs the obligation of contracts, all in violation of constitutional strictures. The vagueness issue was resolved in [Joy v. Joy](#), 178 Conn. 254, 255-56, 423 A.2d 895 (1979); what was said there need not be repeated here. The gravamen of the unparticularized claim that irretrievable breakdown nullifies the other grounds for dissolution set forth in 46b-40(c) and prevents defenses appears to be that the legislature has sanctioned divorce on demand. This claim too was rejected in *Joy v. Joy*, supra. The notion that allowing marital dissolutions based on irretrievable breakdown impairs the obligation of contracts within the meaning of article one, § 10 of the United States constitution is bankrupt. Marriage is not a contract within the meaning of this clause of the constitution. [Maynard v. Hill](#), 125 U.S. 190, 210, 8 S.Ct. 723, 31 L.Ed. 654 (1888)."
- [Joy v. Joy](#), 178 Conn. 254, 255, 423 A.2d 895 (1979). "The main issue on this appeal is the constitutionality of General Statutes §46-32 (Rev. to 1977) (now § 46b-40) insofar as it authorizes, in subsection (c), a decree of dissolution of marriage 'upon a finding that ... [a] marriage has broken down irretrievably.' . . ."

The defendant claims that 46-32(c) is unconstitutional unless this court imposes judicial standards or guidelines to limit discretionary fact-finding by the trial courts of this state. We disagree. At least since [Maynard v. Hill](#), 125 U.S. 190, 210-14, 8 S.Ct. 723, 31 L.Ed. 654 (1888), it has been clear that the legislature has plenary power to determine the circumstances under which a marital relationship is created and terminated . . . . The legislature could rationally conclude that public policy requires an

accommodation to the unfortunate reality that a marital relationship may terminate in fact without regard to the fault of either marital partner, and that such a relationship should therefore be dissoluble in law upon a judicial determination of irretrievable breakdown. Courts in other jurisdictions with similar statutes have unanimously upheld the constitutionality of no-fault divorce.”

WEST KEY NUMBERS:

- *Divorce*
  - II. Grounds
    - #12. Causes for divorce in general.
    - #34. Inability to live together.
    - #36. Voluntary separation.

DIGESTS:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2022.
  - Chapter 7. Grounds for Dissolution of Marriage
    - § 7.01 Grounds for dissolution—No fault.
- *West’s Connecticut Digest*
  - Divorce
    - II. Grounds
      - 12. Causes for divorce in general.

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

Online databases are available for in-library use. Remote access is not available.

- *24 Am Jur 2d, Divorce and Separation*, Thomson West, 2018 (Also available on Westlaw).
  - I. Divorce and Separation Proceedings
    - B. Grounds
      - 2. No-Fault Grounds; Breakdown of Marriage
        - §§ 22-24
      - 3. Voluntary Separation
        - §§ 25-33
- *27A CJS, Divorce*, Thomson West, 2016 (Also available on Westlaw).
  - II. Grounds for Divorce; Fault and No-Fault Divorce
    - A. In General
      - §§ 27. Elimination of Fault as Necessary for Divorce
    - B. No-Fault Divorce
      - 1. Irretrievable Breakdown of Marriage; Irreconcilable Differences; Incompatibility
        - §§ 28-32
      - 2. Separation of Living Apart
        - §§ 33-38
- *55 ALR 3d 581, Validity, Construction, and Effect of "No-Fault" Divorce Statute Providing for Dissolution of Marriage Upon Finding that Relationship is No Longer Viable*, by Jack W. Shaw, Jr., J.D., Thomson West, 1974 (also available on Westlaw).

- 19 POF 2d 221, *Dissolution of Marriage on Statutory Ground of Incompatibility*, Thomson West, 1979 (also available on Westlaw).

ALR INDEX:

- Divorce and Separation  
Incompatibility
- No-Fault Divorce

TEXTS &  
TREATISES:

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

- *A Practical Guide to Divorce in Connecticut*, Hon. Barry F. Armata and Campbell D. Barrett, editors, Massachusetts Continuing Legal Education, 2013, with 2018 supplement.
- *Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect*, by Renee C. Bauer, Addicus Books, 2014.
  - 1.3 Is Connecticut a “no-fault” state or do I need grounds for a divorce?
- 7 Connecticut Practice Series: *Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).
  - Chapter 15. Dissolution of Marriage in General
    - § 15.1 Basis for divorce established by statute
    - § 15.2 Breakdown of marriage relationship
    - § 15.3 Constitutionality of no-fault law
    - § 15.4 Other grounds for dissolution
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
  - Chapter 3. Dissolution of Marriage and Legal Separation
    - § 3.03 CHECKLIST: Asserting Grounds for a Dissolution of Marriage and Legal Separation
    - § 3.05 Pleading Irretrievable Breakdown
- Robert M. McAnernery and Samuel V. Schoonmaker, III, *Connecticut’s New Approach To Marriage Dissolution*, 47 Connecticut Bar Journal 375 (1973).

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

# Section 1.2: Fault Grounds

A Guide to Resources in the Law Library

## SCOPE:

- Bibliographic resources relating to dissolution of marriage (divorce) based upon fault grounds.

## DEFINITIONS:

- Fault grounds: **"A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred. . . (3) adultery; (4) fraudulent contract; (5) wilful desertion for one year with total neglect of duty; (6) seven years' absence, during all of which period the absent party has not been heard from; (7) habitual intemperance; (8) intolerable cruelty; (9) sentence to imprisonment for life or the commission of any infamous crime involving a violation of conjugal duty and punishable by imprisonment for a period in excess of one year; (10) legal confinement in a hospital or hospitals or other similar institution or institutions, because of mental illness, for at least an accumulated period totaling five years within the period of six years next preceding the date of the complaint."** Conn. Gen. Stat. [§46b-40\(c\)](#) (2021).

## STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2021).  
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.

## COURT RULES:

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- Connecticut Practice Book (2023).  
[Chapter 25. Procedure in Family Matters](#)
  - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
  - § 25-7. Pleadings in General; Amendments to Complaint or Application
  - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
  - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
  - § 25-10. —Answer to Cross Complaint

## CASE LAW:

- [Al-Fikey v. Obaiah](#), 196 Conn. App. 13,19, 228 A.3d 668 (2020). "The defendant first claims that the trial court erroneously concluded that he was at fault for the breakdown of the marriage. We disagree. A trial court's finding of fault in a dissolution action is reviewed under a clearly erroneous standard. See [Emerick v. Emerick](#), supra, 170 Conn. App. 383 n.11; see also [Jewett v. Jewett](#), 265 Conn. 669, 692-93, 830 A.2d 193 (2003). Our review of the extensive record before the trial court reveals that there was sufficient evidence to support its finding that the defendant was at fault for the irretrievable breakdown of

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

the marriage. For example, in the summer of 2009, the defendant abruptly left the marital home with little explanation and moved to Canada to live with his mother. He ultimately returned to the United States, but lived separately from the plaintiff and their children. The court's finding of fault was not clearly erroneous."

- [Brody v. Brody](#), 315 Conn. 300, 308, 105 A.3d 887 (2015). "We agree with the plaintiff's broader view of the trial court's judgment—namely, that it actually dissolved this marriage due to irreconcilable differences, fueled in large part by the defendant's persistent lack of trustworthiness...."
- [Turgeon v. Turgeon](#), 190 Conn. 269, 278, 460 A.2d 1260 (1983). "Although, because of their clandestine nature, adulterous acts are usually proved by circumstantial evidence . . . the circumstances must be such as to lead the guarded discretion of a reasonable and just person to the conclusion of guilt . . . . The adulterous relationship must be established by a fair preponderance of the evidence."
- [Posada v. Posada](#), 179 Conn. 568, 573, 427 A.2d 406 (1980). "In the text of the statutes, the criteria relating to the 'the causes for the . . . dissolution of marriage' is only one item in an extensive list of criteria that the trial court is directed to take into account."
- [Alden v. Alden](#), 21 Conn. Sup. 301, 304, 154 A.2d 522 (1959). "The desertion for three years which constitutes a ground for divorce under our statute involves the coexistence of the following four conditions: (1) cessation from cohabitation, (2) an intention on the part of the absenting party not to resume it, (3) the absence of the other party's consent, and (4) the absence of justification."
- [Vendetto v. Vendetto](#), 115 Conn. 303, 305, 161 A. 392 (1932). "The plaintiff's ground of divorce was the fraud of the defendant in entering into the marriage contract knowing her epileptic condition, and yet, in order to induce marriage, concealing the fact from the plaintiff."
- [Kinsley v. Kinsley](#), 110 Conn. 695, 695-696, 147 A. 907 (1929). "The cumulative effect of the defendant's acts and conduct as recited in the report of the committee may well have been held to have been so cruel as to have destroyed the public and personal objects of matrimony, past rehabilitation, and rendered a continuance of the marriage relation unbearable—beyond reasonable endurance—and therefore intolerable within the meaning we have given it in the ground for divorce, 'intolerable cruelty.'"

WEST KEY  
NUMBERS:

- *Divorce*  
II. Grounds

#12-#38. Causes for divorce in general.

DIGESTS:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2022.  
Chapter 7. Grounds for Dissolution of Marriage  
§ 7.02 *Fault and cause of breakdown.*
- **West's Connecticut Digest**  
Divorce  
II. Grounds  
12-38.

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

Online databases are available for in-library use. Remote access is not available.

- 24 *Am Jur 2d* Divorce and Separation, Thomson West, 2018 (Also available on Westlaw).  
I. Divorce and Separation Proceedings  
B. Grounds  
§§ 34-106. Fault Grounds
- 27A *CJS* Divorce, Thomson West, 2016 (Also available on Westlaw).  
II. Grounds for Divorce; Fault and No-Fault Divorce  
C. Cruelty  
§§ 39-64  
D. Desertion or Abandonment  
§§ 65-78  
E. Personal Indignities  
§§ 79-86  
F. Other Particular Grounds  
§§ 87-99

TEXTS & TREATISES:

- *A Practical Guide to Divorce in Connecticut*, Hon. Barry F. Armata and Campbell D. Barrett, editors, Massachusetts Continuing Legal Education, 2013, with 2018 supplement.
- *Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect*, by Renee C. Bauer, Addicus Books, 2014.  
**1.3 Is Connecticut a "no-fault" state or do I need grounds for a divorce?**
- 7 Connecticut Practice Series: *Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).  
Chapter 15. Dissolution of Marriage in General  
§ 15.1 Basis for divorce established by statute  
§ 15.2 Breakdown of marriage relationship  
§ 15.5 Separation for 18 months  
§ 15.6 Adultery  
§ 15.7. Fraudulent contract  
§ 15.8. Willful desertion for one year  
§ 15.9. Continuous absence for seven years  
§ 15.10. Habitual intemperance  
§ 15.11. Intolerable cruelty  
Dissolution of Marriage - 15

§ 15.12. Imprisonment; life sentence or commission of infamous crime

§ 15.13. Five-year confinement for mental illness

§ 15.14. Defenses

- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.

Chapter 3. Dissolution of Marriage and Legal Separation

§ 3.03 CHECKLIST: Asserting Grounds for a Dissolution of Marriage and Legal Separation



Table 1: Fault and Financial Awards

Fault and Financial Awards	
Assignment of property	<p><b>"As we stated in <i>Christoni v. Christoni</i>, 156 Conn. 628, 629, 239 A.2d 533, on the issue of choosing between alternative grounds for granting a divorce: 'Where more than one ground for a divorce is claimed and one alleged ground is proved, it is immaterial whether or not the additional statutory ground or grounds may also exist.'</b> The fault of a party in causing a marital dissolution is material, however, to the issue of an assignment of property ancillary to the marital dissolution." <a href="#">Hollingsworth v. Hollingsworth</a>, 180 Conn. 212, 214 fn. 2, 429 A.2d 463 (1980).</p>
Irretrievable breakdown	<p><b>"The contention</b> of the defendant, therefore, that a determination of irretrievable breakdown precludes the court from considering the <b>causes of the dissolution in making financial awards is erroneous."</b> <a href="#">Sweet v. Sweet</a>, 190 Conn. 657, 660, 462 A.2d 1031 (1983).</p>
Factors	<p><b>"In the text of the statutes, the criterion relating to the 'the causes for the . . . dissolution of marriage' is only one item in an extensive list of criteria that the trial court is directed to take into account."</b> <a href="#">Posada v. Posada</a>, 179 Conn. 568, 573, 427 A.2d 406 (1980).</p>
Contribution	<p><b>"We disagree with the plaintiff's claim that the trial court, in making its award of alimony and its assignment of property, gave inordinate weight to the cause of the breakdown. There is no provision in the governing statutes requiring that awards of alimony be distributed equally between the parties . . . . The trial court structured the division of property in a way which returned to the defendant his contribution to the marriage."</b> <a href="#">Carter v. Carter</a>, 8 Conn. App. 356, 359, 512 A.2d 979 (1986).</p>
Misconduct	<p><b>"While alimony, in whatever form, or an assignment of property is not to be considered either as a reward for virtue or as a punishment for wrongdoing, a spouse whose conduct has contributed substantially to the breakdown of the marriage should not expect to receive financial kudos for his or her misconduct. Moreover, in considering the gravity of such misconduct it is entirely proper for the court to assess the impact of the errant spouse's conduct on the other spouse. Because in making its assignment of property the trial court had a reasonable basis for its disposition we see no reason for disturbing the result."</b> <a href="#">Robinson v. Robinson</a>, 187 Conn. 70, 72, 444 A.2d 234 (1982).</p>

# Section 1.2a: Adultery

A Guide to Resources in the Law Library

## SCOPE:

- Bibliographic resources relating to dissolution of marriage (divorce) based upon the grounds of adultery.

## DEFINITIONS:

- Adultery “means voluntary sexual intercourse between a married person and a person other than such person’s spouse.” Conn. Gen. Stat. [§ 46b-40](#)(f) (2021).

## STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2021)  
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.

(c) “A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred . . . (3) adultery . . . .”

## COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2023).  
[Chapter 25. Procedure in Family Matters](#)
  - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
  - § 25-7. Pleadings in General; Amendments to Complaint or Application
  - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
  - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
  - § 25-10. —Answer to Cross Complaint

## Case Law:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Brody v. Brody](#), 315 Conn. 300, 308, 105 A.3d 887 (2015).  
“Upon closer examination, we are unpersuaded by the defendant’s argument that the four relevant passages from the trial court’s memorandum of decision show it made a conclusive finding of infidelity which, in turn, affected its alimony award.”

“Upon a full review of the memorandum, the fleeting mentions of infidelity are eclipsed by the trial court’s flood of findings that the defendant acted dishonestly....This rampant dishonesty was identified by the trial court as a driving cause of the marital breakdown....Indeed, the trial court expressly dissolved the marriage because it had broken down irretrievably, and not because of adultery.” (p. 310)

- [Olson v. Olson](#), Superior Court, Judicial District of Hartford, No. FA09-4045403 (Oct. 22, 2010) (2010 WL 4517444) (2010 Conn. Super. LEXIS 2700). “Beginning with the question of whether adultery is the cause of the marital breakdown, the court concludes from the evidence presented at trial that sexual relations between the defendant and Ms. Jenkins did not occur until several months after the plaintiff filed this action for the dissolution of her marriage. Therefore, the court finds that ‘adultery’

as defined by our dissolution statutes did not occur until after the breakdown of the marriage. Although adultery was not pleaded as the grounds for dissolution in this case, the causes for the breakdown of the marriage are properly considered by courts in the context of an allegation and finding of irretrievable breakdown and may be considered **in the courts' equitable division of marital assets.**

Therefore, in determining the causes of the breakdown of a marriage, the court is not limited to proof by a preponderance of evidence of the statutory causes of action for dissolution, enumerated in General Statutes § 46b-40, such as proof of **sexual intercourse.**"

- [Turgeon v. Turgeon](#), 190 Conn. 269, 278, 460 A.2d 1260 (1983). "Adultery as a ground for dissolution under General Statutes § 46b-40 requires proof that the other spouse has engaged in extramarital sexual relations. [Brodsky v. Brodsky](#), 153 Conn. 299, 300, 216 A.2d 180 (1966). Although, because of their clandestine nature, adulterous acts are usually proved by circumstantial evidence; [Zeiner v. Zeiner](#), 120 Conn. 161, 165, 179 A. 644 (1935); the circumstances must be such as to lead the guarded discretion of a reasonable and just person to the conclusion of guilt. *Brodsky v. Brodsky*, supra, 301; *Zeiner v. Zeiner*, supra; [Neff v. Neff](#), 96 Conn. 273, 275, 114 A. 126 (1921). The adulterous relationship must be established by a fair preponderance of the evidence. *Brodsky v. Brodsky*, supra, 301. '[I]n weighing the evidence of adultery, the court should exercise great care to see that it is not imposed upon through the intense interest of the parties to color the facts; it should not see evil where the circumstances may reasonably lend themselves to an innocent interpretation, nor, on the other hand, should it refuse to reach that conclusion which the sound and unprejudiced judgment should lead to.' *Neff v. Neff*, supra, 276. Adultery will not be inferred from circumstantial evidence unless there is both an opportunity and an adulterous disposition. [Eberhard v. Eberhard](#), 4 N.J. 535, 73 A.2d 554 (1950); 24 Am. Jur.2d, Divorce and Separation § 393; Clark, Domestic Relations § 12.3, p. 330. Moreover, the existence of both the opportunity and the inclination without more does not necessarily compel a conclusion that adultery has occurred. See [Antonata v. Antonata](#), 85 Conn. 390, 393, 82 A. 967 (1912).
- [Beede v. Beede](#), 186 Conn. 191, 196, 440 A.2d 283 (1982). "There is nothing in the record to support the defendant's claim that the court acted punitively in making its award by focusing on the defendant's adultery as the cause of the dissolution."
- [Brodsky v. Brodsky](#), 153 Conn. 299, 300, 216 A.2d 180 (1966). "Adultery, as a ground for divorce or legal separation under General Statutes §§ 46-13 or 46-29, requires proof that the other spouse has engaged in

extramarital sexual relations. 27A C.J.S., Divorce, § 21; 17 Am.Jur., Divorce and Separation, § 34; see [Schilcher v. Schilcher](#), 124 Conn. 445, 200 A. 351; [Torlonia v. Torlonia](#), 108 Conn. 292, 302, 142 A. 843; [Dennis v. Dennis](#), 68 Conn. 186, 195, 36 A. 34; [Trubee v. Trubee](#), 41 Conn. 36, 40. A principal claim of error in the present case is that the plaintiff failed to prove that the defendant committed adultery with Barbara Jean Miles. Although the proof will be circumstantial in nearly every case, the plaintiff must nonetheless prove the adulterous relationship by a fair preponderance of the evidence. [Zeiner v. Zeiner](#), 120 Conn. 161, 165, 179 A. 644. The circumstances must be such as to lead the guarded discretion of a reasonable and just man to the conclusion of guilt. [Neff v. Neff](#), 96 Conn. 273, 275, 114 A. 126.”

- [Neff v. Neff](#), 96 Conn. 273, 276, 114 A. 126 (1921). “...in weighing the evidence of adultery, the court should exercise great care to see that it is not imposed upon through the intense interest of the parties to color the facts; it should not see evil where the circumstances may reasonably lend themselves to an innocent interpretation, nor, on the other hand, should it refuse to reach that conclusion which the sound and unprejudiced judgment should lead to.”

WEST KEY NUMBERS:

DIGESTS:

- *Divorce*  
II. Grounds  
#26. Adultery.
- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2022.  
Chapter 7. Grounds for Dissolution of Marriage  
§ 7.02 *Fault and cause of breakdown.*

- **West’s Connecticut Digest**  
Divorce  
II. Grounds  
26. Adultery  
IV. Proceedings  
J. Evidence  
2. Admissibility  
115. Adultery  
3. Weight and Sufficiency  
129. Adultery

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

- 24 *Am Jur 2d Divorce and Separation*, Thomson West, 2018 (Also available on Westlaw).  
I. Divorce and Separation Proceedings  
B. Grounds  
5. Adultery  
§ 56. Adultery as ground for divorce, Generally  
§ 57. Requirement of intent
- 27A *CJS Divorce*, Thomson West, 2016 (Also available on Westlaw).

II. Grounds for Divorce; Fault and No-Fault Divorce  
F. Other Particular Grounds  
§ 87. Adultery

- 49 *Am Jur POF 3d 277 Proof of Adultery as Grounds for Dissolution of Marriage*, Thomson West, 1998 (Also available on Westlaw).
- *A Practical Guide to Divorce in Connecticut*, Hon. Barry F. Armata and Campbell D. Barrett, editors, Massachusetts Continuing Legal Education, 2013, with 2018 supplement.
- *Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect*, by Renee C. Bauer, Addicus Books, 2014.
- 7 Connecticut Practice Series: *Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).  
Chapter 15. Dissolution of Marriage in General  
§ 15.6. Adultery
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.  
Chapter 3. Dissolution of Marriage and Legal Separation  
§ 3.03 CHECKLIST: Asserting Grounds for a  
Dissolution of Marriage and Legal Separation  
§ 3.07. Defining Adultery
- Victor M. Gordon, *Adultery As A Ground For Divorce In Connecticut*, 23 Connecticut Bar Journal 315 (1949).

TEXTS &  
TREATISES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

# Section 1.2b: Fraudulent Contract

A Guide to Resources in the Law Library

## SCOPE:

- Selected bibliographic resources relating to dissolution of marriage (divorce) based upon the grounds of fraudulent contract.

## DEFINITIONS:

- Fraudulent contract: **“There must be a deception in respect to some fact whose existence or nonexistence may affect in some certain way the very essence of the marriage relation, resulting in a lawful marriage which practically operates as a fraud upon the deceived spouse; and the existence or nonexistence of the fact thus concealed or misrepresented must operate, as between parties to the marriage, to prevent some essential purpose of marriage and work a practical destruction of that relation.”** [Gould v. Gould](#), 78 Conn. 242, 261, 61 A. 604 (1905).
- **“All the grounds of divorce specified, except fraudulent contract, are of such a nature that they can come into existence only after the marriage. While fraudulent conduct of a certain kind will render a marriage voidable, such fraud differs from that which vitiates ordinary contracts in that the party defrauded may not at his own election avoid the marriage, but it is held to be voidable only by a decree of the court.”** [Davis v. Davis](#), 119 Conn. 194, 196, 175 A. 574 (1934).

## STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2021).  
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.  
**“A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred . . . (4) fraudulent contract . . . .”**

## COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2023).  
[Chapter 25. Procedure in Family Matters](#)
  - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
  - § 25-7. Pleadings in General; Amendments to Complaint or Application
  - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
  - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
  - § 25-10. —Answer to Cross Complaint

## Case Law:

- [Ngo v. Lee](#), Superior Court, Judicial District of Hartford at Hartford, No. HHD-FA16-6064836-S (Nov. 21, 2016) (2016 WL 7444006) (2016 Conn. Super. LEXIS 2881)  
**“Fraud, to vitiate a marriage contract, must relate to the very essence of the marriage relation. . . . A**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

misrepresentation, made through honest error and with a bona fide belief in its truth, is not fraudulent. This is obviously so, when the representation was made without knowledge or culpable ignorance of its falsity, and the belief in its truth was based upon adequate grounds. To constitute fraud by nondisclosure or suppression, there must be a failure to disclose known facts, and, as well, a request or an occasion or circumstance which **imposes a duty to speak.**' (Citations omitted.) *Behrmann v. Behrmann*, 110 Conn. 443, 445-46, 148 A. 363, (1930)."

- *Dasilva v. Dasilva*, Superior Court, Judicial District of New Haven at New Haven, No. FA02-0470290-S (Apr. 21, 2003) (2003 WL 21037549) (2003 Conn. Super. LEXIS 1229). "What amounts to 'fraudulent contract,' as that term is used in our divorce statute, and to that or other equivalent language, as used in the law, written or unwritten, elsewhere, to express a recognized condition justifying the annulment or dissolution of a marriage, has been much discussed, but no satisfactory and comprehensive definition applicable to all situations has been arrived at or attempted to be arrived at. *Gould v. Gould*, 78 Conn. 242 (1905).

It is certain, however, that wherever there is a fraud on **the part of one of the parties amounting to 'a fraud in the essentialia of the marriage relation,'** or as in *Gould v. Gould*, supra, page 261-62, whenever there is 'a deception in respect to some fact whose existence or nonexistence may affect in some certain way the very essence of the marriage relation, resulting in a lawful marriage which practically operates as a fraud upon the deceived spouse, and the existence or nonexistence of the fact thus concealed or misrepresented must operate, as between the parties to the marriage, to prevent some essential purpose of marriage and work a practical destruction of that relation.'"

- *Gordon v. Gordon*, 11 Conn. Sup. 302 (1942). "In order to make out fraudulent contract as a ground for divorce the facts misrepresented or concealed must be such as **to go to the very essence of the marriage.**"
- *McCurry v. McCurry*, 126 Conn. 175, 177, 10 A.2d 365 (1939). "The referee refused specifically to find that the defendant entered into the marriage with the concealed intent not to consummate it or to have children and found that the plaintiff had failed to prove that allegation of the complaint. The existence of such an intent would be a question of fact; and we cannot hold that no other conclusion was reasonably possible than that she had that intent when **she was married.**"

- [Horowitz v. Horowitz](#), 6 Conn. Sup. 14, 16 (1938). "The false representation of a woman that she is pregnant by the man who is thereby induced to marry her is not the representation of a fact which if it does not exist prevents some essential purpose of marriage and **works a practical destruction of the relationship.**"
- [Wetstine v. Wetstine](#), 114 Conn. 7, 12, 157 A. 418 (1931). "Misrepresentations by the defendant as to her age, her name, and her nationality would not furnish a sufficient basis to dissolve a consummated marriage on that ground."
- [Lyman v. Lyman](#), 90 Conn. 399, 403, 97 A. 312 (1916). "In consonance with this principle the courts are practically agreed in holding that antenuptial pregnancy by another man, if concealed by the wife from the husband, who was himself innocent of improper relations with her, is a fraud upon him justifying a divorce or annulment of the marriage, as **the appropriate remedy in the jurisdiction may be.**"
- [Gould v. Gould](#), 78 Conn. 242, 250, 61 A. 604 (1905). "Such a fraud is accomplished whenever a person enters into that contract knowing that he is incapable of sexual intercourse, and yet, in order to induce marriage, designedly and deceitfully concealing that fact from the other party, who is ignorant of it and has **no reason to suppose it to exist.**"

WEST KEY NUMBERS:

- *Divorce*  
II. Grounds  
#14. Grounds existing at time of marriage.  
#18. Fraud or duress in procuring marriage.

DIGESTS:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2022.  
Chapter 18. Miscellaneous  
§ 18.07 Fraud
- *West's Connecticut Digest*  
Divorce  
II. Grounds  
18. Fraud or duress in procuring marriage

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

- 24 *Am Jur 2d Divorce and Separation*, Thomson West, 2018 (Also available on Westlaw).  
I. Divorce and Separation Proceedings  
B. Grounds  
12. Grounds existing at or before marriage  
B. Fraud  
§ 98. Generally  
§ 99. Premarital unchastity  
§ 100. Pregnancy at time of marriage  
§ 101. —**Effect of husband's guilt or knowledge**



- 27A *CJS* Divorce, Thomson West, 2016 (Also available on Westlaw).
  - II. Grounds for Divorce; Fault and No-Fault Divorce
    - F. Other Particular Grounds
      - § 90. Fraud.
- 65 *ALR2d* 776, Annotation, *What Constitutes Impotency as Ground for Divorce* (1959) (Also available on Westlaw).
- 7 Connecticut Practice Series: *Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).
  - § 15.7. Fraudulent contract
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
  - Chapter 3. Dissolution of Marriage and Legal Separation
    - § 3.03 CHECKLIST: Asserting Grounds for a
      - Dissolution of Marriage and Legal Separation
        - § 3.08. Defining Fraudulent Contract

TEXTS &  
TREATISES:

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

# Section 1.2c: Willful Desertion

A Guide to Resources in the Law Library

## SCOPE:

- Selected bibliographic resources relating to dissolution of marriage (divorce) based upon the grounds of willful desertion for one year with total neglect of duty.

## DEFINITIONS:

- Willful desertion: **“the wilful absenting of one party to the marriage contract from the society of the other, coupled with the intention on the part of the absenting party to live apart, in spite of the wish of the other, and not to return to cohabitation.”** [Casale v. Casale](#), 138 Conn. 490, 492, 86 A.2d 568 (1952).
- **“The elements of a cause of action on the grounds of desertion are (1) cessation from cohabitation; (2) an intention on the part of the absenting party not to resume it; (3) the absence of the other party’s consent; and (4) absence of justification.”** [Gannon v. Gannon](#), 130 Conn. 449, 450, 35 A.2d 204 (1943).
- **“When our legislature, in 1843, adopted as grounds of divorce *a vinculo*, ‘habitual intemperance’ and ‘intolerable cruelty,’ it used these words with their ordinary meaning, but with special reference to what had been since 1639 our settled policy in respect to divorce; i.e., marriage is a life status and should never be dissolved, unless one of the parties is guilty of conduct which in itself is a practical annulling and repudiation of the marriage covenant. Willful desertion for such a length of time as the statute says shall conclusively prove a permanent abandonment and repudiation of all marital rights and duties, had been a ground for divorce. Following this analogy the legislature, in 1843, made grounds of divorce: intemperance so long continued that the fixed habit renders the party incapable of performing the duties of the marriage relation; and cruelty of such a nature as to be intolerable, and to render a continuance of the relation by the suffering victim impracticable.”** [Morehouse v. Morehouse](#), 70 Conn. 420, 426, 39 A. 516 (1898). (Emphasis added.)

## STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2021).  
[§ 46b-40](#). Grounds for dissolution of marriage; legal separation; annulment.  
  
(c) **“A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred: . . . (5) willful desertion for one year with total neglect of duty;”**  
  
(e) **“In an action for dissolution of a marriage or a legal separation on the ground of willful desertion for one year, with total neglect of duty, the furnishing of financial support shall not disprove total neglect of duty, in the absence of other evidence.”**

## COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2023).  
[Chapter 25. Procedure in Family Matters](#)
  - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
  - § 25-7. Pleadings in General; Amendments to Complaint or Application
  - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
  - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
  - § 25-10. —Answer to Cross Complaint

## Case Law:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [deCossy v. deCossy](#), 172 Conn. 202, 203, 374 A.2d 182 (1977). "The plaintiff, Edwin deCossy, filed this divorce action against the defendant, Dorothy deCossy, on November 9, 1972, alleging that the defendant had been guilty of intolerable cruelty toward the plaintiff. The defendant filed a cross-complaint alleging that the plaintiff was guilty of intolerable cruelty and that he had deserted her. **The marriage was dissolved...on the basis of the plaintiff's wilful desertion of the defendant wife.**"
- [Toth v. Toth](#), 23 Conn. Sup. 161, 164, 178 A.2d 542 (1962). "Nevertheless, there is no question of the validity of the ground of constructive desertion where the facts of the same fit in with the definition of wilful desertion . . . found in Connecticut cases in **construing our statute.**"
- [Schick v. Schick](#), 17 Conn. Sup. 232, 233 (1951). "Desertion requires not only separation for the requisite period of three years but also an intent, persisting throughout that entire period, not to resume the marriage relationship. Separation **alone is not the equivalent of desertion.**"
- [McDonnell v. McDonnell](#), 14 Conn. Sup. 123, 129 (1946). "For all of the reasons discussed, the conclusions are reached that there is a clear distinction between the duty of a husband to support his wife and that to cohabit with her; that desertion as a ground for divorce in this state is concerned **only with the cessation of cohabitation; that the phrase 'with total neglect of duty' refers only to refusal to cohabit and** makes it manifest that such default, to provide a cause for divorce, must be intentional, complete and continuous throughout the prescribed three-year period; and that neglect to cohabit is a breach of the marriage contract, while the failure of a husband to support his wife is a violation of a duty annexed by law to the marital status, and neither, in itself, **includes the other.**"
- [Baccash v. Baccash](#), 11 Conn. Sup. 387, 389 (1942). "Desertion involves the co-existence of the following conditions: (1) Cessation from cohabitation, (2) an intention on the part of the absenting party not to resume it, (3) the **absence of the other party's consent, and (4) the absence of**

justification....From the above and all of the other evidence in the case it is found that the plaintiff has failed to properly establish any one of the essential conditions necessary to constitute desertion on the part of the defendant."

- [McCurry v. McCurry](#), 126 Conn. 175, 178, 10 A.2d 365 (1940). "By the weight of authority refusal of marital intercourse is not in itself desertion, but becomes so only when coupled with a substantial abandonment of other marital duties."

#### WEST KEY NUMBERS

- *Divorce*
  - II. Grounds
    - #37 Desertion or absence
      - (15) Obstinate, willful, or causeless separation

#### DIGESTS:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2022.
  - Chapter 7. Grounds for Dissolution of Marriage
    - § 7.03 Willful desertion for one year

- *West's Connecticut Digest*
  - Divorce
    - II. Grounds
      - 37. Desertion or absence.
    - IV. Proceedings
      - J. Evidence.
        - 2. Admissibility
          - 119. Desertion
        - 3. Weight and sufficiency
          - 133. Desertion or absence

#### ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

Online databases are available for in-library use. Remote access is not available.

- *24 Am Jur 2d Divorce and Separation*, Thomson West, 2018 (Also available on Westlaw).
  - I. Divorce and Separation Proceedings
    - B. Grounds
      - 6. Desertion and Abandonment
        - A. General Considerations
          - §§ 58-67
        - B. Justification for Separation; Constructive Desertion or Abandonment
          - §§ 68-76
        - C. Offer of Reconciliation
          - §§ 77-80
- *27A CJS Divorce*, Thomson West, 2016 (Also available on Westlaw).
  - §§ 65-78. Desertion or Abandonment

#### ALR INDEX:

- Divorce and Separation
  - Abandonment of persons

#### TEXTS & TREATISES:

- *Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect*, by Renee C. Bauer, Addicus Books, 2014.

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

- 7 Connecticut Practice Series: *Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).
  - Chapter 15. Dissolution of Marriage in General
    - § 15.8 Willful desertion for one year
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
  - Chapter 3. Dissolution of Marriage and Legal Separation
    - § 3.03 CHECKLIST: Asserting Grounds for a Dissolution of Marriage and Legal Separation
    - § 3.09 Defining Willful Desertion for One Year with Total Neglect of Duty

Table 2: Constructive Desertion

Constructive Desertion	
Connecticut Superior Court	<p><b>"In other jurisdictions, it is almost universally held that conduct on the part of one spouse which reasonably forces the other spouse to leave the home constitutes desertion by the first spouse as a ground for divorce, and this is generally held to be true whether the misconduct was indulged in with the specific intent of forcing the other spouse to leave the home or not."</b> <a href="#">Finn v. Finn</a>, 13 Conn. Sup. 169, 170 (1944).</p> <p><b>"It must therefore be concluded that in this State, as well as in other jurisdictions, constructive desertion is desertion within the meaning of that term as used in the divorce statute and that where a wife separates from her husband for adequate cause and he, for a period of three years thereafter, shows no indication of a purpose to change the course of conduct which has justified the separation, then she is entitled to a divorce on the ground of desertion."</b> Ibid. pp. 170-171.</p>
Connecticut Supreme Court	<p><b>"According to the rule as it has been stated in jurisdictions where it has been adopted, where a spouse intentionally brings the cohabitation to an end by misconduct which renders the continuance of marital relations so unbearable that the other leaves the family home, the former is the deserter and the latter may obtain a divorce on that ground."</b> <a href="#">Lindquist v. Lindquist</a>, 137 Conn. 165, 169, 75 A.2d 397 (1950).</p> <p><b>"Where the rule has been adopted, serious misconduct upon the part of the offending spouse is held essential to its application. In no event could misconduct of an offending husband be held to afford a basis for a decree on the ground of constructive desertion unless it was so improper as to defeat the essential purposes of the marriage relation or give the wife good reason to believe that cohabitation could no longer be continued with due regard to her health or safety or otherwise render continued cohabitation intolerable. Ibid.</b></p>

# Section 1.2d: Seven Years' Absence

A Guide to Resources in the Law Library

## SCOPE:

- Selected bibliographic resources relating to dissolution of **marriage (divorce) based upon the grounds of seven years' absence**, during all of which period the absent party has not been heard from.

## STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2021).  
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.  
**"A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred; . . . (6) seven years' absence, during all of which period the absent party has not been heard from;"**

## COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2023).  
[Chapter 25. Procedure in Family Matters](#)
  - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
  - § 25-7. Pleadings in General; Amendments to Complaint or Application
  - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
  - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
  - § 25-10. —Answer to Cross Complaint

## Case Law:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Cikora v. Cikora](#), 133 Conn. 456, 457, 52 A.2d 310 (1947).  
**"This action for divorce was brought on two grounds: desertion, and seven years' absence, during all of which period the absent party had not been heard from."**

"Even where a defendant has gone to parts unknown, very likely outside the State, it may well be that publication in the place of the former marital residence is the form of notice most apt to bring the pendency of the action to his attention, because of the likelihood that there will be relatives or friends there who have means of communicating information to him directly or indirectly. The trial court was in error in striking the case from the docket on the ground that it was without jurisdiction to try **the case.**" (p. 462)

## WEST KEY NUMBERS:

- Divorce
  - II. Grounds
    - #37. Desertion or absence.

## DIGESTS:

- *West's Connecticut Digest*
  - Divorce
    - II. Grounds
      - 37. Desertion or absence.
    - IV. Proceedings
      - J. Evidence.

- 2. Admissibility
  - 119. Desertion
- 3. Weight and sufficiency
  - 133. Desertion or absence

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

Online databases are available for in-library use. Remote access is not available.

- 24 *Am Jur 2d Divorce and Separation*, Thomson West, 2018 (Also available on Westlaw).
  - I. Divorce and Separation Proceedings
  - B. Grounds
    - 6. Desertion and Abandonment
      - A. General Considerations
        - §§ 58-67
      - B. Justification for Separation; Constructive Desertion or Abandonment
        - §§ 68-76
      - C. Offer of Reconciliation
        - §§ 77-80
- 27A *CJS Divorce*, Thomson West, 2016 (Also available on Westlaw).
  - §§ 65-78. Desertion or Abandonment

TEXTS & TREATISES:

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

- 7 Connecticut Practice Series: *Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).
  - Chapter 15. Dissolution of Marriage in General
    - § 15.9 Continuous absence for seven years
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
  - Chapter 3. Dissolution of Marriage and Legal Separation
    - § 3.03 CHECKLIST: Asserting Grounds for a Dissolution of Marriage and Legal Separation
      - § 3.10 Pleading Seven Years' Absence During All of Which Absent Party Has Not Been Heard From**



# Section 1.2e: Habitual Intemperance

A Guide to Resources in the Law Library

## SCOPE:

- Selected bibliographic resources relating to dissolution of marriage (divorce) based upon grounds of habitual intemperance.

## DEFINITIONS:

- **“When our legislature, in 1843, adopted as grounds of divorce *a vinculo*, ‘habitual intemperance’ and ‘intolerable cruelty,’ it used these words with their ordinary meaning, but with special reference to what had been since 1639 our settled policy in respect to divorce; i.e., marriage is a life status and should never be dissolved, unless one of the parties is guilty of conduct which in itself is a practical annulling and repudiation of the marriage covenant. Wilful desertion for such a length of time as the statute says shall conclusively prove a permanent abandonment and repudiation of all marital rights and duties, had been a ground for divorce. Following this analogy the legislature, in 1843, made grounds of divorce: intemperance so long continued that the fixed habit renders the party incapable of performing the duties of the marriage relation; and cruelty of such a nature as to be intolerable, and to render a continuance of the relation by the suffering victim impracticable.”** [Morehouse v. Morehouse](#), 70 Conn. 420, 426-427, 39 A. 516 (1898). (Emphasis added.)

## STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2021).  
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.  
**“A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred; . . . (7) habitual intemperance; .”**

## COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2023).  
[Chapter 25. Procedure in Family Matters](#)
  - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
  - § 25-7. Pleadings in General; Amendments to Complaint or Application
  - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
  - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
  - § 25-10. —Answer to Cross Complaint

## Case Law:

- [Troy v. Troy](#), Superior Court, Judicial District of Litchfield, No. FA08-4007537-S (Feb. 7, 2012) (2012 WL 670594) (2012 Conn. Super. LEXIS 353). **“Although the court believes that the parties loved each other and had many happy times together, it is clear that the marriage has broken down irretrievably and that the defendant’s drinking**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

during the later years of the marriage was the major factor **causing the breakdown. Whether the defendant's alcoholism** amounted to habitual intemperance was not proven by a preponderance of the evidence. The court will dissolve the **marriage based upon irretrievable breakdown."**

- [Dyke v. Dyke](#), Superior Court, Judicial District of Stamford-Norwalk at Stamford, No. FA01-0187101-S (Feb. 10, 2005) (2005 WL 590465) (2005 Conn. Super. LEXIS 329). **"Very little was offered by either party regarding the imbibing habits of the defendant in his use of alcoholic beverage. There was no claim that it interfered with his ability to work as was required by 'habitual intemperance' (Sec. 46b-40(c)(7))."**
- [Welch v. Welch](#), Superior Court, Judicial District of Tolland at Rockville, No. FA00-0072505-S (May 17, 2002) (2002 WL 1332028) (2002 Conn. Super. LEXIS 1820). **"The case law regarding what facts the court must find in order to conclude that a divorce should be granted on the grounds of habitual intemperance are sparse. However, in [Dennis v. Dennis](#), 68 Conn. 186, 192-194 (1896), the court held that in order to establish habitual intemperance as a grounds for a divorce, it must be established that the habit was so gross or so long continued as to produce suffering or want in the family. Excessive indulgence in alcohol is not sufficient."**
- [Wilhelm v. Wilhelm](#), 13 Conn. Sup. 270, 271 (1945). **"He also frequently indulged to excess in alcoholic liquor. This indulgence, however, was not such as to cause any want to the family or suffering,.... For that reason his habitual intemperance was not such as to provide a ground for divorce independently...."**
- [Fagan v. Fagan](#), 131 Conn. 688, 689, 42 A.2d 41 (1945). **"A detailed rehearsal of the marital difficulties of these parties would serve no useful purpose. The trial court concluded that the plaintiff was both intolerably cruel and habitually intemperate to the point that the public and personal objects of matrimony have been destroyed beyond rehabilitation, and that the custody of the minor child of the marriage should be awarded to the defendant."**
- [Hickey v. Hickey](#), 8 Conn. Sup. 445, 446 (1940). **"In order to constitute it a ground for divorce, habitual intemperance must be such that it produces at some substantial suffering and does material harm to the marriage relationship."**
- [Purcell v. Purcell](#), 101 Conn. 422, 425, 126 A. 353 (1924). **"The subordinate facts found as to intoxication, as set forth in the statement of facts, do not disclose that the defendant's use of intoxicants was so gross as to produce want or suffering in the family, either objective or subjective, to a degree which could not reasonably be borne, or which disqualified the defendant from attending to**

his business; under these circumstances, the conclusion that the subordinate facts did not establish habitual intemperance, cannot be held to be illegal or illogical.”

- [Dennis v. Dennis](#), 68 Conn. 186, 192, 36 A. 34 (1896).  
“**Habitual intemperance as a cause for which a divorce** might be granted, was first named in this State by a statute enacted in 1843, where it was coupled with intolerable cruelty. Precisely what constitutes intemperance within the meaning of that statute, it is not easy to define. It may however be safely assumed that the purpose of the Act was not primarily to promote temperance or to reform the offender, but to preserve the peace, comfort, safety, happiness and prosperity, of the non-offending party, and of the family of which they are together the members and **parents.**”

WEST KEY  
NUMBERS:

- *Divorce*  
II. Grounds  
#22. Habitual drunkenness.  
#27 Cruelty.  
(15). Habitual drunkenness or use of opiates or narcotics as cruelty.

DIGESTS:

- *West’s Connecticut Digest*  
Divorce  
II. Grounds  
22. Habitual drunkenness.

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

Online databases are available for in-library use. Remote access is not available.

- 24 *Am Jur 2d Divorce and Separation*, Thomson West, 2018 (Also available on Westlaw).  
I. Divorce and Separation Proceedings  
B. Grounds  
8. Habitual Drunkenness or Drug Addiction  
§§ 83-86.
- 27A *CJS Divorce*, Thomson West, 2016 (Also available on Westlaw).  
E. Personal Indignities  
2. Particular Acts, Conduct, and Conditions as Personal Indignities  
§ 84. Drunkenness and Use of Drugs Constituting Personal Indignity as Ground for Divorce  
F. Other Particular Grounds  
2. Personal Infirmities  
§ 96. Habitual drunkenness as Ground for Divorce
- 101 *ALR 6th 455, Habitual Intemperance or Drunkenness, What Amounts to Habitual Intemperance, Drunkenness, Excessive Drug Use, and the Like within Statute relating to Substantive Grounds for Divorce*, Marjorie A. Shields, J.D., Thomson West, 2015 (Also available on Westlaw).

ALR INDEX:

- Divorce and Separation  
Alcoholics and alcoholism  
Habitual intemperance

TEXTS &  
TREATISES:

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- 7 Connecticut Practice Series: *Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).  
Chapter 15. Dissolution of Marriage in General  
§ 15.10 Habitual intemperance
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.  
Chapter 3. Dissolution of Marriage and Legal Separation  
§ 3.03 CHECKLIST: Asserting Grounds for a  
Dissolution of Marriage and Legal Separation  
§ 3.11 Pleading Habitual Intemperance

## Section 1.2f: Intolerable Cruelty

A Guide to Resources in the Law Library

### SCOPE:

- Selected bibliographic resources relating to dissolution of marriage (divorce) based upon the grounds of intolerable cruelty.

### DEFINITIONS:

- Intolerable cruelty: **"The term 'intolerable cruelty' as used in our statute involves two distinct elements, and the acts which are claimed to constitute it must be, either singly or in combination, not only cruel but intolerable."** [Swist v. Swist](#), 107 Conn. 484, 489 (1928).
- **"Incompatibility of personalities is not and has never been a ground for divorce in Connecticut. Under our law, married persons are expected to accept the ordinary vicissitudes of marriage caused by unwise mating, unhappy situations, unruly tempers and common quarrels or marital wranglings. To constitute intolerable cruelty, the consequences must be serious."** [Nowak v. Nowak](#), 23 Conn. Sup. 495, 497, 185 A.2d 83 (1962).
- **"When our legislature, in 1843, adopted as grounds of divorce *a vinculo*, 'habitual intemperance' and 'intolerable cruelty,' it used these words with their ordinary meaning, but with special reference to what had been since 1639 our settled policy in respect to divorce; i.e., marriage is a life status and should never be dissolved, unless one of the parties is guilty of conduct which in itself is a practical annulling and repudiation of the marriage covenant. Willful desertion for such a length of time as the statute says shall conclusively prove a permanent abandonment and repudiation of all marital rights and duties, had been a ground for divorce. Following this analogy the legislature, in 1843, made grounds of divorce: intemperance so long continued that the fixed habit renders the party incapable of performing the duties of the marriage relation; and cruelty of such a nature as to be intolerable, and to render a continuance of the relation by the suffering victim impracticable."** [Morehouse v. Morehouse](#), 70 Conn. 420, 426-427, 39 A. 516 (1898). (Emphasis added.)

### STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2021).  
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.

**"A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred; . . . (8) intolerable cruelty;"**

### COURT RULES:

- Connecticut Practice Book (2023).  
[Chapter 25. Procedure in Family Matters](#)  
§ 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- § 25-7. Pleadings in General; Amendments to Complaint or Application
- § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
- § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
- § 25-10. —Answer to Cross Complaint

#### Case Law:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Evans v. Taylor](#), 67 Conn. App. 108, 115, 786 A.2d 525 (2001). **"In its memorandum of decision, the court noted, on the basis of the testimony of the parties, that the marriage of the parties was troubled from the start and that each party believed that he or she was mistreated by the other. It also noted that although the defendant claimed that the plaintiff's treatment of her over the course of their seven year marriage was intolerable, she tolerated it by not moving from the marital home until her husband filed an action for dissolution, despite the fact that she had the financial means to do so. Finally, the court noted that some of the difficulties in what was a stormy marriage, arose from the verbal abuse by the defendant toward the plaintiff. On the basis of those observations, the court stated that the defendant failed to prove her claim of intolerable cruelty."**
- [Mailly v. Mailly](#), 13 Conn. App. 185, 188, 535 A.2d 385 (1988). **"The state trial referee rendered judgment after a fully contested hearing. He found that the defendant had been guilty of intolerable cruelty to the plaintiff in several respects, that these acts of cruelty rendered the continuation of any relationship between the parties impossible and that they forced the plaintiff to leave the defendant to live with her daughter."**
- [Garrison v. Garrison](#), 190 Conn. 173, 180, 460 A.2d 945 (1983). **"The trial court's finding that the behavior of the defendant constituted a continuing course of conduct is clearly supported by the record. In cases like the one before us, it would be archaic and absurd to hold that the plaintiff was under an obligation to be beaten more often in order to establish a continuing course of conduct. The facts found indicate that the defendant's attitude toward the plaintiff had become indifferent and uncaring for months before the striking incidents. He was at times openly hostile and cruel, as when he confronted the plaintiff with his own adultery. He had struck her twice, for no apparent reason. In this atmosphere, a person in the plaintiff's position could reasonably believe that the physical abuse would either continue or escalate. It would thereafter be reasonable to consider that the continuation of the marital relationship would be unbearable. The trial court did not err, but reasonably concluded that the defendant's actions constituted intolerable cruelty."**
- [Sarafin v. Sarafin](#), 28 Conn. Sup. 24, 27, 247 A.2d 500 (1968). "However, much as the plaintiff may now be

incompatible with the defendant in interests, desires and attitudes, and the court fully recognizes this to be the case, such incompatibility is not a ground for divorce under the law of this state. Proof is lacking that the conduct of the defendant was intended by him to be cruel, or that its character was such that this court can reasonably infer that it was intended to be cruel. This is a situation where the defendant himself is intolerable and unbearable to the plaintiff, but it cannot reasonably be found that it was his conduct toward her which rendered continuance of their marital relationship unbearable.

In her brief, the plaintiff makes reference to the difficult situation which will ensue if a divorce is not granted. This is not a permissible argument and cannot be given any consideration. The court is bound to decide this case, as any other case, upon the facts and the law, without regard to any other considerations which are not material or relevant to the issues."

- [Richards v. Richards](#), 153 Conn. 407, 409, 216 A.2d 822 (1966). **"Whether intolerable cruelty exists or not in a particular case is ordinarily a conclusion of fact for the trier to draw. Where not so drawn, it is only in exceptionally aggravated cases, where the mere statement of the evidential facts demonstrates the intolerable character of the defendant's alleged cruelty, that this court is warranted in treating that fact as established."**
- [Nowak v. Nowak](#), 23 Conn. Sup. 495, 498. 185 A.2d 83 (1962). **"Our courts have never adopted the policy, which some jurisdictions have followed, 'of comparative guilt.'"**
- [Bloomfield v. Bloomfield](#), 144 Conn. 568, 135 A.2d 736 (1957). **"There must be not only proof of acts of cruelty on the part of the defendant but also proof that in their cumulative effect upon the plaintiff they are intolerable in the sense of rendering the continuance of marital relation unbearable."**
- [Vanguilder v. Vanguilder](#), 100 Conn. 1, 3, 122 A. 719 (1923). **"It is enough to repeat that, as the phrase imports, intolerable cruelty has a subjective as well as an objective significance. There must not only be proof of acts of cruelty on the part of the defendant, but proof that in their cumulative effect upon the plaintiff they are intolerable in the sense of rendering the continuance of the marital relation unbearable by him."**

WEST KEY  
NUMBERS:

- *Divorce*  
II. Grounds  
#27. Cruelty.

DIGESTS:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2022.

Chapter 7. Grounds for Dissolution of Marriage  
§ 7.04 *Intolerable cruelty*.

- **West's Connecticut Digest:**

Divorce  
II. Grounds  
27. Cruelty

ENCYCLOPEDIAS:

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Online databases are available for in-library use. Remote access is not available.

- 24 *Am Jur 2d Divorce and Separation*, Thomson West, 2018 (Also available on Westlaw).
  - I. Divorce or Separation Proceedings
  - B. Grounds
    - 4. Cruelty
      - A. In General  
§§ 34-38
      - B. Physical Violence or Threat of Violence  
§§ 39-42
      - C. Mental Cruelty  
§§ 43-44
      - D. Adultery as Constituting Cruelty  
§§ 45-46
      - E. Sexual Matters  
§§ 47-49
      - F. Specific Acts or Conduct  
§§ 50-55

27A *CJS Divorce*, Thomson West, 2016 (Also available on Westlaw).

II. Grounds for Divorce; Fault and No-Fault Divorce  
C. Cruelty  
1. In General  
§§ 39-47  
2. Specific Types of Behavior as Cruelty  
§§ 48-64

ALR INDEX:

TEXTS &  
TREATISES:

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited. References to online databases refer to in-library use of these databases.

- Divorce and Separation  
Cruelty
- 7 Connecticut Practice Series: Family Law and Practice with Forms, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).
  - Chapter 15. Dissolution of Marriage in General  
§ 15.11 Intolerable cruelty
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
  - Chapter 3. Dissolution of Marriage and Legal Separation
    - § 3.03 CHECKLIST: Asserting Grounds for a Dissolution of Marriage and Legal Separation
    - § 3.12 Defining Intolerable Cruelty

LAW REVIEWS:

- Victor M. Gordon, *Intolerable Cruelty As A Ground For Divorce In Connecticut*, 21 Connecticut Bar Journal 64 (1947).



# Section 1.2g: Imprisonment / Infamous Crime

A Guide to Resources in the Law Library

## SCOPE:

- Selected bibliographic resources relating to dissolution of marriage (divorce) based upon grounds of sentence to imprisonment for life or the commission of any infamous crime involving a violation of conjugal duty and punishable by imprisonment for a period in excess of one year.

## DEFINITIONS:

- “. . . the three essentials to a divorce upon this ground are: (1) the commission by the defendant of an infamous crime, (2) involving a violation of conjugal duty, and (3) **punishable by imprisonment in the state prison.**” [Swanson v. Swanson](#), 128 Conn. 128, 129, 20 A.2d 617 (1941).

## STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2021).  
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.  
**“A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred; . . . (9) sentence to imprisonment for life or the commission of any infamous crime involving a violation of conjugal duty and punishable by imprisonment for a period in excess of one year;”**

## COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2023).  
[Chapter 25. Procedure in Family Matters](#)  
§ 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment  
§ 25-7. Pleadings in General; Amendments to Complaint or Application  
§ 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union  
§ 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant  
§ 25-10. —Answer to Cross Complaint

## Case Law:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Mezrioui v. Mezrioui](#), Superior Court, Judicial District of Tolland, No. FA13-4019233-S (March 17, 2014) (2014 WL 1395073) (2014 Conn. Super. LEXIS 611). **“Mr. Mezrioui has been incarcerated...since February 2012. He pled guilty to risk of injury to a minor, and sexual assault of his step-granddaughter, age 14, a child the parties had cared for since infancy. A permanent protective order was issued by the criminal court in favor of the plaintiff. The defendant violated the protective order while incarcerated. The criminal court ordered the defendant to have no contact with anyone 16 years old or younger...”**

**“Pursuant to Connecticut General Statutes § 46b-40[c](9) imprisonment for an infamous crime involving a violation of conjugal duty and intolerable cruelty pursuant to Connecticut General Statutes § 46b-40c(8) the court finds**

the defendant solely at fault for the breakdown of the marriage.”

- [Cugini v. Cugini](#), 13 Conn. App. 632, 636, 538 A.2d 1060 (1988). “The defendant also claims an abuse of discretion by the trial court in permitting an amendment to the complaint to allege as an additional ground for dissolution that he had been convicted of an infamous crime. This is one of the grounds upon which dissolution may be sought; General Statutes 46b-40(c)(9); and, in any event, it was not the ground upon which dissolution was granted in this case.”
- [Sweet v. Sweet](#), 21 Conn. Sup. 198, 202, 151 A.2d 350 (1957). “From the broad range of the crime as above described, it is apparent that while there might be acts which would violate the statute and at the same time be a violation of conjugal duty, it is, nevertheless, equally true that there might be many violations of the statute which would not amount to a violation of conjugal duty. In fact, acts which might impair the morals of a child as alleged in the information here involved would not necessarily be acts in violation of conjugal duty.”
- [Donovan v. Donovan](#), 14 Conn. Sup. 429, 430 (1947). “. . . the conviction of an indecent assault upon a minor female is conviction of an infamous crime involving breaching of conjugal duty.”
- [Swanson v. Swanson](#), 128 Conn. 128, 130, 20 A.2d 617 (1941). “It is our conclusion therefore, that the defendant’s conviction of assault with intent to commit rape established the commission by him of an infamous crime involving a violation of conjugal duty and punishable by imprisonment in the state prison . . . .”

WEST KEY NUMBERS:

- *Divorce*
  - II. Grounds
    - #19. Personal infirmities and conditions arising after marriage.
    - #24. Conviction and imprisonment for crime.

DIGESTS:

- *West’s Connecticut Digest*
  - Divorce
    - II. Grounds
      - 24. Conviction and imprisonment for crime.

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

- 24 *Am Jur* 2d Divorce and Separation, Thomson West, 2018 (Also available on Westlaw).
  - I. Divorce and Separation Proceedings
  - B. Grounds
    - 7. Conviction of Crime
      - §§ 81-82.

27A *CJS* Divorce, Thomson West, 2016 (Also available on Westlaw).

II. Grounds for Divorce; Fault and No-Fault Divorce

F. Other Particular Grounds

1. In General

§ 88. Conviction of crime

TEXTS &  
TREATISES:

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

- 7 Connecticut Practice Series: *Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).
  - § 15.12 Imprisonment; life sentence or commission of infamous crime
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
  - Chapter 3. Dissolution of Marriage and Legal Separation
    - § 3.03 CHECKLIST: Asserting Grounds for a Dissolution of Marriage and Legal Separation
      - § 3.13 Defining Life Imprisonment or Commission of an Infamous Crime

## Section 1.2h: Confinement / Mental Illness

A Guide to Resources in the Law Library

### SCOPE:

- Selected bibliographic resources relating to dissolution of marriage (divorce) based upon grounds of legal confinement in a hospital or hospitals or other similar institution or institutions, because of mental illness, for at least an accumulated period totaling five years within the period of six years next preceding the date of the complaint.

### STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2021).  
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.

**"A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred; . . . (10) legal confinement in a hospital or hospitals or other similar institution or institutions, because of mental illness, for at least an accumulated period totaling five years within the period of six years next preceding the date of the complaint."**

### COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2023).  
[Chapter 25. Procedure in Family Matters](#)
  - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
  - § 25-7. Pleadings in General; Amendments to Complaint or Application
  - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
  - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
  - § 25-10. —Answer to Cross Complaint

### Case Law:

Once you have identified useful cases, it is important to update them to ensure they are still good law. You can [contact your local law librarian](#) to learn about updating cases.

- [Henin v. Henin](#), 26 Conn. App. 386, 391, 601 A.2d 550 (1992). **"Having reviewed the record and the evidence in this case, we find ample support for the court's conclusion that the defendant's [mental] illness and refusal to seek treatment caused the breakdown. We further conclude, on the basis of the record, that the court's finding about the cause of the breakdown did not improperly infect the financial awards."**
- [Parker v. Parker](#), 16 Conn. Sup. 128, 130 (1949). **"...it is doubtful whether the plaintiff has established the ground for divorce upon which he relies. The statute (§ 7327) requires 'legal confinement, because of incurable mental illness, for at least five years next preceding the date of the complaint.' There has been no actual confinement of the defendant for five years prior to February 13, 1948, when the action was commenced."**

WEST KEY  
NUMBERS:

- *Divorce*  
II. Grounds  
#19. Personal infirmities and conditions arising after marriage.  
#23. Insanity or other mental incompetency.

DIGESTS:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2022.  
Chapter 7. Grounds for Dissolution of Marriage  
§ 7.05 Mental Illness.
- **West's Connecticut Digest**  
Divorce  
II. Grounds  
23. Insanity or other mental incompetency.

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

Online databases are available for in-library use. Remote access is not available.

- 24 *Am Jur 2d Divorce and Separation*, Thomson West, 2018 (Also available on Westlaw).  
I. Divorce and Separation Proceedings  
B. Grounds  
12. Grounds Existing at or Before Marriage  
C. Insanity or Mental Health Capacity  
§§ 102-106.
- 27A *CJS Divorce*, Thomson West, 2016 (Also available on Westlaw).  
II. Grounds for Divorce; Fault and No-Fault Divorce  
F. Other Particular Grounds  
1. In General  
§ 99. Insanity or other mental incompetency

TEXTS &  
TREATISES:

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

- 7 *Connecticut Practice Series: Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).  
Chapter 15. Dissolution of Marriage in General  
§ 15.13 Five-Year confinement for mental illness
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.  
Chapter 3. Dissolution of Marriage and Legal Separation  
§ 3.03 CHECKLIST: Asserting Grounds for a Dissolution of Marriage and Legal Separation  
§ 3.14 Pleading Legal Confinement in a Hospital Because of Mental Illness, for at Least Five Years

# Section 1.3: Multiple Grounds

A Guide to Resources in the Law Library

## SCOPE:

- Selected bibliographic resources relating to dissolution of marriage (divorce) based upon multiple grounds.

## STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2021).  
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.

## COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

Connecticut Practice Book (2023).

### [Chapter 25. Procedure in Family Matters](#)

- § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
- § 25-7. Pleadings in General; Amendments to Complaint or Application
- § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
- § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
- § 25-10. —Answer to Cross Complaint

## Case Law:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

[Mezrioui v. Mezrioui](#), Superior Court, Judicial District of Tolland, No. FA13-4019233-S (March 17, 2014) (2014 WL 1395073) (2014 Conn. Super. LEXIS 611). **"Pursuant to Connecticut General Statutes § 46b-40(c)(9) imprisonment for an infamous crime involving a violation of conjugal duty and intolerable cruelty pursuant to Connecticut General Statutes § 46b-40(c)(8) the court finds the defendant solely at fault for the breakdown of the marriage."**

- [Sweet v. Sweet](#), 190 Conn. 657, 660, 462 A.2d 1031 (1983). **"The contention of the defendant, therefore, that a determination of irretrievable breakdown precludes the court from considering the causes of the dissolution in making financial awards is erroneous."**
- [Gluck v. Gluck](#), 181 Conn. 225, 227, 435 A.2d 35 (1980). **"Next, the defendant asserts that General Statutes 46b-40 (c), to the extent that it authorizes the dissolution of a marriage if the marriage has broken down irretrievably . . . nullifies the other grounds for dissolution . . . . The gravamen of the unparticularized claim that irretrievable breakdown nullifies the other grounds for dissolution set forth in 46b-40 (c) and prevents defenses appears to be that the legislature has sanctioned divorce on demand. This claim too was rejected in [Joy v. Joy](#) . . . ."**
- [Joy v. Joy](#), 178 Conn. 254, 255, 423 A.2d 895 (1979). **"The absence of objective guidelines does not mean an abdication of judicial function, nor does it signal, as the defendant**

argues, that a court determining whether a marriage has in fact irretrievably broken down is acting purely ministerially **or is granting a divorce 'upon demand.'** **It does, however, sustain the trial court's conclusion that the defendant's** decision to rearrange his business ventures after the initiation of divorce proceedings does not necessarily repair the rupture in the marital relationship that had previously occurred."

- [Edge v. Commissioner Of Welfare](#), 34 Conn. Sup. 284, 286, **388 A.2d 1193 (1978)**. " . . . **although fault need not be** established in dissolution of marriage actions, fault can still be an element to be raised in dissolution actions for purposes of establishing the support obligation of either spouse to the other."
- [Christoni v. Christoni](#), 156 Conn. 628, 629, 239 A.2d 533 (1968). "Where more than one ground for a divorce is claimed and one alleged ground is proved, it is immaterial whether or not the additional statutory ground or grounds **may also exist.**"

WEST KEY NUMBERS:

- *Divorce*  
II. Grounds  
#12-#38

DIGESTS:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2022.  
Chapter 7. Grounds for Dissolution of Marriage  
§ 7.02: Fault and cause of breakdown.

- *West's Connecticut Digest*  
Divorce  
II. Grounds

TEXTS & TREATISES:

- 7 Connecticut Practice Series: *Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).  
Chapter 15. Dissolution of marriage in general  
§ 15.4. Other grounds for dissolution
- *Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect*, by Renee C. Bauer, Addicus Books, 2014.  
**1.3 Is Connecticut a "no-fault" state or do I need grounds for a divorce?**
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.  
Chapter 3. Dissolution of Marriage and Legal Separation  
§ 3.03 CHECKLIST: Asserting Grounds for a Dissolution of Marriage and Legal Separation

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

## Section 1.4: Defenses

A Guide to Resources in the Law Library

### SCOPE:

- Selected bibliographic resources relating to defenses to grounds for dissolution of marriage (divorce).

### DEFINITIONS:

- Comity: "[C]omity is a flexible doctrine, the application of which rests in the discretion of the state where enforcement of a foreign order is sought." [Walzer v. Walzer](#), 173 Conn. 62, 70, 376 A.2d 414 (1977).
- **"The defenses of recrimination and condonation have been abolished."** [Venuti v. Venuti](#), 185 Conn. 156, 157, 440 A.2d 878 (1981).
- Condonation: **"the principle relied upon means only that an aggrieved spouse actually forgives and forgets."** [Toolan v. Toolan](#), 15 Conn. Sup. 277, 277 (1948).
- Recrimination **"is generally defined as a rule or doctrine which precludes one spouse from obtaining a divorce from the other, where the spouse seeking the divorce has himself or herself been guilty of conduct which would entitle the opposite spouse to a divorce."** [Courson v. Courson](#), 117 A.2d 850, 851, 208 Md. 171 (1955).

### STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2021).  
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation;  
[§ 46b-52](#). Recrimination and condonation abolished.  
**"The defenses of recrimination and condonation to any action for dissolution of marriage or legal separation are abolished."**

### Case Law:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Nietupski v. Del Castillo](#), 196 Conn. App. 31, 37, 228 A. 3d 1053 (2020). "We first consider the plaintiff's claim that the court violated the free exercise clause of the first amendment to the United States constitution by rendering a judgment of marital dissolution pursuant to § 46b-40(c)(1). That contention is without merit.

In his principal appellate brief, the plaintiff alleges that '[c]ivil laws granting divorce ... are morally wrong because the state therein usurps an authority to which it has no right whatsoever. It is obvious that the state unlawfully invades an area of religious liberty in which it has no competence when it claims the power to dissolve a marriage lawfully contracted by two baptized persons such contract is a sacrament. Marriage belongs to God.' By dissolving the parties' marriage, the plaintiff argues, the court violated his right to free exercise of religion.



The plaintiff has provided no legal authority that substantiates his bald assertion. In his principal appellate brief, the plaintiff alleges that he sought a judgment of legal separation because 'divorce is [a] great offense' to his religious beliefs. No such allegation was contained in his operative complaint or advanced at trial. Moreover, the record plainly indicates that, following the commencement of the plaintiff's action, the defendant filed a cross complaint, in which she sought a judgment of dissolution pursuant to § 46b-40(c)(1).

This court previously has rejected a first amendment challenge in such circumstances. As we explained: 'The United States Supreme Court has consistently held that the right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes). ... [Section] 46b-40(c)(1) is a valid and neutral law of general applicability. The statute does not in any manner infringe on the defendant's right to exercise his religious beliefs merely because it permits the plaintiff to obtain a divorce from him against his wishes.' (Citation omitted; internal quotation marks omitted.)

[Grimm v. Grimm](#), 82 Conn. App. 41, 45, 844 A.2d 855 (2004), rev'd in part on other grounds, [276 Conn. 377](#), 886 A.2d 391 (2005), cert. denied, [547 U.S. 1148](#), 126 S. Ct. 2296, 164 L. Ed. 815 (2006); see also [Joy v. Joy](#), 178 Conn. 254, 256, 423 A.2d 895 (1979) (upholding constitutionality of § 46b-40(c)(1) generally). This court thus concluded that the rendering of a judgment of dissolution pursuant to § 46b-40(c)(1) 'does not violate [a party's] right to exercise his religious beliefs.' [Grimm v. Grimm](#), supra, at 46, 844 A.2d 855. In light of that precedent, the plaintiff's claim fails."

- [St. Denis-Lima v. St. Denis](#), 190 Conn. App. 296, 212 A.3d 242 (2019). "Thereafter, on June 13, 2017, the court granted the defendant's motion to dismiss, concluding that the certified copies of the dissolution proceedings from Brazil by and between the parties implicated the principle of comity. Furthermore, the court noted that (1) the evidence submitted supported the finding that the marriage of the parties was dissolved by a decree of the court in Brazil on May 16, 2016, and that the decree was made final by an order of the court by way of the registration of the decree on July 6, 2016; (2) the plaintiff's appeal from the decree was dismissed; (3) both parties submitted themselves to the court in Brazil and were represented by counsel throughout the proceedings; (4) as part of the decree, the parties were awarded joint custody and certain parenting rights, and support orders were issued; and (5) although the parties continue to litigate, inter alia, alimony, property, custody, and visitation issues in Brazil, those issues did not affect the finality of the Brazilian decree dissolving the marriage."

- [Ribeiro v. Riberio](#), Superior Court, Judicial District of New Haven, No. FA08-4009313-S (Jan. 7, 2011) (2011 WL 383981) (2011 Conn. Super. LEXIS). **"In his motion to open judgment, the defendant claims that reasonable cause exists for his non-appearance due to his mistaken belief that a foreign court had exclusive jurisdiction. The defendant further alleges that he has a defense to the action and should be allowed to submit evidence relating to the grounds for dissolution..."**

**"The court does not credit the husband's testimony that he was advised that Portugal had exclusive jurisdiction of dissolution proceedings but does find credible his testimony that he mistakenly believed that to be the case. The defendant has also persuaded this court that he has a defense to the portion of the complaint that alleged willful desertion."**

- [Dervin v. Dervin](#), 27 Conn. Sup. 459, 462 (1968). **"That a person having property is incapable of managing his affairs and has a conservator appointed to do so in their behalf does not warrant a finding or interpretation in and of itself that such person is insane. What was said in the [Dochelli](#) [v. *Dochelli*] case, supra, [125 Conn. 468,] 470, applies with even greater force: 'This does not connote insanity in the narrower sense and will not avail as a defense.'"**

WEST KEY NUMBERS:

- *Divorce*  
III. Defenses  
#38.5-#56.

DIGESTS:

- **West's Connecticut Digest**  
Divorce  
III. Defenses.  
38.5-56

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

Online databases are available for in-library use. Remote access is not available.

- 24 *Am Jur 2d Divorce and Separation*, Thomson West, 2018 (Also available on Westlaw).  
I. Divorce and Separation Proceedings  
C. Defenses in Divorce Actions  
§§ 107-169
- 27A *CJS Divorce*, Thomson West, 2016 (Also available on Westlaw).  
III. Defenses; Circumstances Precluding Divorce  
§§ 100-140
- 13 *ALR 3d 1419, Domestic Recognition of Divorce Decree Obtained in Foreign Country and Attacked for Lack of Domicile or Jurisdiction of Parties*, Thomson West, 1967 (Also available on Westlaw).

ALR INDEX:

- Divorce and Separation
- Defenses

TEXTS &  
TREATISES:

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References to online databases refer to in-library use of these databases.

- 7 Connecticut Practice Series: *Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).
  - Chapter 15. Dissolution of marriage in general
    - § 15.2. Breakdown of marriage relationship
    - § 15.14. Defenses
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
  - Chapter 3. Dissolution of Marriage and Legal Separation
    - § 3.03 CHECKLIST: Asserting Grounds for a Dissolution of Marriage and Legal Separation
    - § 3.15 Asserting Defenses to Ground for Dissolution

## Section 2: Procedures

A Guide to Resources in the Law Library

### SCOPE:

- Selected bibliographic resources relating to procedures in a dissolution of marriage (divorce) commenced after October 1, 1997.

### DEFINITIONS:

- Jurisdiction: **"The Superior Court shall have exclusive jurisdiction of all complaints seeking a decree of annulment, dissolution of a marriage or legal separation."** Conn. Gen. Stat. [§ 46b-42](#) (2021).

### COURT INFORMATION:

- [Divorce, Custody, and Visitation](#), Connecticut Judicial Branch

### PUBLIC ACTS:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website

- Waiver of service of process of summons and complaint under section [46b-45](#)(b).  
**"Any person entitled to service of process of a summons and complaint that commences an action for an annulment, a dissolution of marriage, a dissolution of civil union or a legal separation may waive such service by (1) executing a written waiver of service on a form prescribed by the Office of the Chief Court Administrator, and (2) filing an appearance with the court. Upon filing of both the waiver of service and the appearance of the person waiving such service, the action shall proceed as consistent with the provisions of this chapter."** [Public Act No. 17-47](#), Sec. 3 (June 2017 Spec. Sess.) (Effective October 1, 2017)

- Waiver of ninety day waiting period or six months stay under section [46b-67](#)(b).

**"If the parties attest, under oath, that they have an agreement as to all terms of the dissolution of marriage or legal separation and wish the court to enter a decree of dissolution of marriage or legal separation prior to the expiration of the time periods set forth in subsection (a) of this section, and file a motion seeking the waiver of said time periods, the court may waive the provisions of subsection (a) of this section."** [Public Act No. 15-7](#), Sec. 5. (January 2015 Reg. Sess.) (Effective October 1, 2015)

### STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat (2021).  
[Chapter 815j. Dissolution of Marriage, Legal Separation and Annulment](#)
  - § 46b-44. Residency requirement.
  - § 46b-45. Service and filing of complaint.
  - § 46b-46. Notice to nonresident party. Jurisdiction over nonresident for alimony and support.
  - § 46b-53. Conciliation procedures; privileged communications.
  - § 46b-67. Waiting period. Filing of motion to waive waiting period. Effect of decree.

## COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2023).  
[Chapter 25. Procedure in Family Matters](#)
  - § 25-2. Complaint for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
  - § 25-3. Action for Custody of Minor Children
  - § 25-5. Automatic Orders upon Service of Complaint or Application
  - § 25-11. Order of Pleadings
  - § 25-28. Order of Notice
  - § 25-30. [Sworn] Statements to be filed
  - § 25-49. Definitions [Uncontested, Limited Contested and Contested Matters]
  - § 25-50. Case Management
  - § 25-51. When Motion for Default for Failure to Appear Does Not Apply
  - § 25-52. Failure to Appear for Scheduled Disposition
  - § 25-57. Affidavit concerning Children
  - § 25-58. Reports of Dissolution of Marriage or Civil Union

## Case Law:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [O'Brien v. O'Brien](#), 326 Conn. 81, 101-102, 161 A.3d 1236 (2017). "We therefore conclude that, although the trial court could not punish the plaintiff because it had not found him in contempt, the court nevertheless properly determined that it could compensate the defendant for any **losses caused by the plaintiff's violations of the automatic orders. The plaintiff's transactions--in which he sold and exchanged stock shares and options for cash—plainly violated the automatic orders, which expressly provide that, while the dissolution proceedings are pending, no party shall 'sell, transfer, [or] exchange' any property without permission from the other party or the court.** Practice Book § 25-5 (b) (1). The automatic orders are **intended to 'keep the financial situation of the parties at a status quo during the pendency of the dissolution action'** [Ferri v. Powell-Ferri](#), 317 Conn. 223, 116 A.3d 297 (2015)."
- [Grant v. Grant](#), 171 Conn. App. 851, 860, 158 A.3d 19 (2017). "In light of these legal principles, it is clear that a violation of the court's automatic orders will not arise when expenditures are used for customary and usual expenses."

"There was evidence submitted at trial which established that at the time the defendant depleted his retirement account,..., he had been unemployed..., and did not have a substantial source of income. The plaintiff resided in the marital property, which was in the process of being foreclosed, and, with the exception of the defendant's retirement account, he had minimal assets available to use for customary and usual household expenses and reasonable attorney fees. In light of the evidence and **testimony as to the defendant's unemployment status and minimal available income and assets, with the exception of his retirement account, 'it is not clear how [he] could have**

paid [his] own living and legal expenses independently.’  
[Traystman v. Traystman](#), 141 Conn. App. 789, 800-801,  
62 A.3d 1149 (2013) (p. 862)

‘As is often stated, we do not reverse the factual findings of the trial court unless they are clearly erroneous and find no support in the evidence.’ (Emphasis in original; internal quotation marks omitted.) [Szynkowicz v. Szynkowicz](#), supra, 140 Conn. App. at 542, 59 A.3d 1194. Under the circumstances of this case, the court’s finding the defendant in contempt for violating the automatic orders was clearly erroneous because the evidence at trial suggested that the defendant spent money from his retirement account for customary and usual household expenses. The court failed to identify any expenditures that violated the automatic orders in its articulation. See Practice Book § 25-5(b). The court, therefore, abused its discretion with respect to this claim.”

- [Emerick v. Emerick](#), 170 Conn. App. 368, 386, 154 A.3d 1069 (2017). “The defendant next claims that the court erred in denying his request for a jury trial. It is well settled, however, that ‘there is no right to a jury trial in an equitable action.... Whether the right to a jury trial attaches in an action presenting both legal and equitable issues depends on the relative importance of the two types of claims....In an action that is essentially equitable, the court may determine incidental issues of fact without a jury.’ [Gaudio v. Gaudio](#), 23 Conn. App. 287, 302, 580 A.2d 1212, cert. denied, 217 Conn. 803, 584 A.2d 471 (1990). ‘A dissolution of a marriage is essentially an equitable action.’ Id., at 302, 580 A.2d 1212. Here, because the plaintiff’s cause of action sought only a dissolution of her marriage, together with alimony and an equitable division of property, her cause of action is essentially equitable, for which the defendant has no right to a trial by jury. Accordingly, the defendant’s claim lacks merit.”
- [Keller v. Keller](#), 158 Conn. App 538, 539, 119 A.3d 1213 (2015). “In this marital dissolution action, the plaintiff, Beth Keller, appeals from an order of contempt entered against her by the trial court in the course of the proceedings dissolving her marriage to the defendant, Richard Keller.”

“The court found the plaintiff in contempt both for failing to provide the defendant with her new address, and failing to give the defendant sufficient details and contact information for a trip that she took with the children to California.” (p. 542)

- [Barcelo v. Barcelo](#), 158 Conn. App. 201, 204, 118 A.3d 657 (2015). “We reverse all of the court’s financial orders in the judgment of dissolution...on the basis of our conclusion that the court erred by (1) ordering the defendant, by way of a supplemental child support order, to pay the plaintiff

15 percent of his future bonus income, (2) failing to provide notice to the parties, prior to rendering its judgment of dissolution, that it would not reserve jurisdiction to enter postsecondary educational support **orders for the parties' minor children, and (3) ordering the parties to submit to arbitration to resolve any future disputes over distribution of their personal property."**

- [Chambers v. Stewart](#), Superior Court, Judicial District of Stamford-Norwalk at Stamford, No. CV09-5012130-S, (Jan. 20, 2012) (53 Conn. L. Rptr. 315) (2012 WL 432552) (2012 Conn. Super. LEXIS 186). **"Plaintiff has a three-count complaint which alleges that two mortgages which the defendant holds on the plaintiff's home are invalid because they violate the automatic orders (hereafter 'orders') which were entered at the commencement of the dissolution action between the plaintiff and his former spouse and were in effect at the time the mortgages were given."**

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"There is nothing in either the Rule (Rule 25-5) or in Form JD-FM-158 which expressly imposes a duty on third parties to take notice of or abide by the prohibitions contained in the rule. It is undeniable that the Judges of the Superior Court could easily have added language to the rule to indicate that the automatic order was indeed intended to be binding on third parties. [Provencher v. Enfield](#), 284 Conn. at 785, *supra*. In fact, a contrary intention appears from the fact that that the rule making authority has chosen the remedy of a contempt proceeding as a means of enforcement and have said so in bold upper case letters. Thus, it is fair to infer that the automatic order was designed for no other purpose than to control the conduct **of the parties during the pendency of the action."** (p. 317)

- [Parotta v. Parotta](#), 119 Conn. App. 472, 475, 988 A.2d 383 (2010). "... the court, ..., **heard argument on the defendant's motion to transfer and, treating it as a motion for modification of the automatic orders, ordered the sum of the \$100,000 to be wired from a brokerage account in the defendant's name directly to the account of his criminal defense attorney, to be used for legal fees and expert witness fees in conjunction with the pending criminal charges. The court also ordered that no portion of those funds could be used for the posting of the defendant's bail or bond. Finally, the court indicated that the \$100,000 sum would be considered a draw against the defendant's share of the equitable distribution of property at the time of the final hearing in the dissolution action. This appeal followed.**

**...Our Supreme Court has, however, determined that certain interlocutory orders may be treated as final judgments for purposes of appeal. [State v. Curcio](#), 191 Conn. 27, 31, 463 A.2d 566, (1983). 'An otherwise interlocutory order is appealable in two circumstances: (1) where the order or action terminates a separate and**

distinct proceeding, or (2) where the order or action so concludes the rights of the parties that further proceedings cannot affect them.' *Id.*"

When the plaintiff filed this appeal, the court had not rendered judgment on her complaint for dissolution or the defendant's cross complaint. Nor had the court assigned to either party any part of the estate of the other as the court is permitted to do, by statute, only at the time of the final hearing. We must, therefore, determine whether the court's order modifying the automatic orders to give the defendant permission to expend funds in his own name, although interlocutory, is a final judgment for purposes of appeal. The plaintiff contends that there is an appealable final judgment pursuant to the second prong of *Curcio*. We are not persuaded. (p. 476)

"Finally, we are further persuaded that the court's order did not constitute an appealable final judgment in light of the decisional law regarding temporary injunctions. We believe that the automatic orders in marital dissolution judgments are most akin to temporary injunctions on the basis that they represent a temporary restraint on the use **of or alienation of one's assets pending full adjudication on conjunction with a final hearing....**" (p. 482)

As in the case of a temporary injunction, the purpose of the automatic orders in marital dissolution cases is simply to maintain the status quo while the action is pending. And, as a permanent injunction typically encompasses the relief sought or granted by the temporary injunction, a dissolution judgment similarly assigns, to one party or the other, the property that was subject to the injunctive effect **of the automatic orders...**" (p. 483)

WEST KEY  
NUMBERS:

- *Divorce*  
IV. Proceedings  
#57-#499.

DIGESTS:

- **West's Connecticut Digest**  
Divorce  
IV. Proceedings.
  - A. Jurisdiction
  - B. Venue
  - C. Time for Proceeding
  - D. Parties
  - E. Process or Notice
  - F. Appearance
  - G. Abatement and Revival
  - H. Incidental Proceedings
  - I. Pleading
  - J. Evidence
  - K. Dismissal
  - L. Trial or Hearing
  - M. New Trial



- N. Judgment or Decree
- O. Appeal

#### ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

- 24 *Am Jur 2d Divorce and Separation*, Thomson West, 2018 (Also available on Westlaw).
  - I. Divorce and Separation Proceedings
  - D. Practice and Procedure in Divorce Actions
  - §§ 170-355
- 27A *CJS Divorce*, Thomson West, 2016 (Also available on Westlaw).
  - IV. Proceedings, Trial, and Judgment
  - §§ 141-459

#### TEXTS & TREATISES:

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

- 7 Connecticut Practice Series: *Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).
  - Chapter 16. Jurisdiction
  - Chapter 17. Parties
  - Chapter 18. Process
  - Chapter 19. Pleadings
- *Friendly Divorce Guidebook for Connecticut*, 2d ed., by Barbara Kahn Stark, LawFirst Publishing, 2003.
  - Chapter 6. Getting divorced: procedures and paperwork.
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
  - Chapter 3. Dissolution of Marriage and Legal Separation
  - Chapter 4. Pretrial Pleadings and Discovery

## Section 2.1: Jurisdiction

A Guide to Resources in the Law Library

### SCOPE:

- Bibliographic resources relating to the residency requirement for:
  - filing a complaint for dissolution of marriage
  - issuing a decree dissolving a marriage

### SEE ALSO:

- [Pleadings and Motion Practice in Connecticut Family Matters](#)  
Sec. 3. Motion to Dismiss

### DEFINITIONS:

- Jurisdiction: "Jurisdiction is the power in a court to hear and determine the cause of action presented to it. Jurisdiction must exist in three particulars: the subject **matter of the case, the parties, and the process.**" [Brown v. Cato](#), 147 Conn. 418, 422, 162 A.2d 175 (1960).
- Domicil: "'To constitute domicil[e], the residence at the place chosen for the domicil[e] must be actual, and to the fact of residence there must be added the intention of remaining permanently; and that place is the domicil[e] of the person in which he has voluntarily fixed his habitation, not for a mere temporary or special purpose, but with the present intention of making it his home.... [T]his intention must be to make a home in fact, and not an intention to acquire a domicil[e].... Moreover, [a] person may have ... only one domicil[e] at any one time.... [A] former domicil[e] persists until a new one is acquired.... Therefore proof of the acquisition of a new domicil[e] of choice is not complete without evidence of an abandonment of the old.... [O]ur review of a question of subject matter jurisdiction is a matter of law over which our review is plenary....' (Citations omitted; emphasis omitted; internal quotation marks omitted.) [Juma v. Aomo](#), 143 Conn. App. 51, 56-60, 68 A.3d 148 (2013)." [St. Denis-Lima v. St. Denis](#), 190 Conn. App. 296, 309, 212 A.3d 242 (2019).
- Residence: "**while domicil is essential to 'final judgment,'** residence alone provides jurisdiction for filing a dissolution **complaint.**" [Sauter v. Sauter](#), 4 Conn. App. 581, 582, 495 A.2d 1116 (1985).

### STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2021).  
[§ 46b-44](#). Residency requirement.
  - "(a) A complaint for dissolution of a marriage or for legal separation may be filed at any time after either party has established residence in this state.
  - "(b) Temporary relief pursuant to the complaint may be granted in accordance with sections 46b-56 and 46b-83 at any time after either party has established residence in this state.

“(c) A decree dissolving a marriage or granting a legal separation may be entered if: (1) One of the parties to the marriage has been a resident of this state for at least the twelve months next preceding the date of the filing of the complaint or next preceding the date of the decree; or (2) one of the parties was domiciled in this state at the time of the marriage and returned to this state with the intention of permanently remaining before the filing of the complaint; or (3) the cause for the dissolution of the marriage arose after either party moved into this state.

“(d) For the purposes of this section, any person who has served or is serving with the armed forces, as defined by section 27-103, or the merchant marine, and who was a resident of this state at the time of his or her entry shall be deemed to have continuously resided in this state during the time he or she has served or is serving with the armed forces or merchant marine.”

#### Case Law:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Altraide v. Altraide](#), 153 Conn. App. 327, 329 n.2, 101 A.3d 317 (2014). “The defendant also argues that the court lacked jurisdiction over this case because a prior divorce action had been filed in Nigeria. The test for jurisdiction over marital actions is domicile. [Litvaitis v. Litvaitis](#), 162 Conn. 540, 545, 295 A.2d 519 (1972). The record confirms, based on the testimony of the plaintiff and the defendant, that both parties were residents of Connecticut for twelve months prior to the filing of the complaint. Jurisdiction in this state is therefore proper.”
- [Juma v. Aomo](#), 143 Conn. App. 51, 57, 68 A.3d 148 (2013). “With regard to whether a court has jurisdiction, “[t]he traditional requisite for subject matter jurisdiction in matrimonial proceedings has been domicil.... Regardless of its validity in the nation awarding it, the courts of this country will not generally recognize a judgment of divorce rendered by the courts of a foreign nation as valid to terminate the existence of a marriage unless, by the standards of the jurisdiction in which recognition is sought, *at least one of the spouses was a good faith domiciliary in the foreign nation at the time the decree was rendered.*’ ... Id. at 545-46.

“**To** constitute domicil, the residence at the place chosen for the domicil must be actual, and to the fact of residence there must be added the intention of remaining permanently; and that place is the domicil of the person in which he has voluntarily fixed his habitation, not for a mere temporary or special purpose, but with the present **intention of making it his home....**’ [Rice v. Rice](#), 134 Conn. 440, 445-46, 58 A.2d 523 (1948), *aff’d*, 336 U.S. 674, 69 S.Ct. 751, 93 L.Ed. 957 (1949). ‘**[T]his intention must be to make a home in fact, and not an intention to acquire a**

domicil.'" . . .Id., 447. "Where . . . it becomes highly advantageous to the claimant temporarily to feign an intention to become a resident for only a brief time, in order to accomplish other ends, his claim of intention will be scrutinized and weighted like any other evidence in the light of his conduct and all the circumstances surrounding it.' Id., 448. Moreover, '[a] person may have ... only one domicile at any one time.' *Smith v. Smith*, 174 Conn. 434, 439, 389 A.2d 756 (1978). '[A] former domicile persists until a new one is acquired.... Therefore proof of the acquisition of a new domicile of choice is not complete without evidence of an abandonment of the old.' ... *Rice v. Rice*, supra, 134 Conn. at 446, 58 A.2d 523."

- *Zitkene v. Zitkus*, 140 Conn. App. 856, 866, 60 A.3d 322 (2013). "Our Supreme Court likewise has explained that 'judgments of courts of foreign countries are recognized in the United States because of the comity due to the courts and judgments of one nation from another. Such recognition is granted to foreign judgments with due regard to international duty and convenience, on the one hand, and to rights of citizens of the United States and others under the protection of its laws, on the other hand. This principle is frequently applied in divorce cases; a decree of divorce granted in one country by a court having jurisdiction to do so will be given full force and effect in another country by comity.... The principle of comity, however, has several important exceptions and qualifications. A decree of divorce will not be recognized by comity where it was obtained by a procedure which denies due process of law in the real sense of the term, or was obtained by fraud, or where the divorce offends the public policy of the state in which recognition is sought, or where the foreign court lacked jurisdiction.' *Litvaitis v. Litvaitis*, 162 Conn. 540, 544-45, 295 A.2d 519 (1972).

With respect to establishing the jurisdiction of the foreign court, 'courts of this country will not generally recognize a judgment of divorce granted by a court of another country unless, by the standards of the jurisdiction in which recognition is sought, at least one of the spouses was a good faith domiciliary in the foreign nation at the time the decree was rendered.' (Internal quotation marks omitted.) *Bruneau v. Bruneau*, 3 Conn. App. 453, 455, 489 A.2d 1049 (1985). It is undisputed that the plaintiff was domiciled in Lithuania at the time that the Kaunas City District Court rendered judgment dissolving their marriage, that both parties appeared before that court and that both parties agreed to the settlement agreement submitted thereto. On that basis, the trial court determined that the Kaunas City District Court 'had jurisdiction to enter the divorce decree.' The plaintiff does not argue otherwise in this appeal."

- *Jungnelius v. Jungnelius*, 133 Conn. App. 250, 255, 258-259, 35 A.3d 359 (2012). "B. Residency Requirement to

**Establish Subject Matter Jurisdiction...our Supreme Court precedent only requires the plaintiff to establish that for the twelve months before the date the complaint was filed ...that either she or the defendant were domiciled in Connecticut with substantially continuous residence....Our Supreme Court discussed the elements of domicile in [Adame v. Adame](#), 154 Conn. 389, 225 A2d. 188 (1966). In that case, the court wrote: 'The requisites of domicile are actual residence coupled with the intention of permanently remaining...The intention is a fact which must be found by the court....and the intention must be to make a home at the moment, not to make a home in the future. We discussed the concept of domicile at length in [McDonald v. Hartford Trust Co.](#), 104 Conn 169, 132 A. 902 (1926), where we noted that a domicile once acquired continues until another is established and that the law does not permit one to abandon, nor recognize an abandonment of, a domicile until another has been established. ` "**

- [Charles v. Charles](#), 243 Conn. 255, 256, 701 A.2d 650 (1997). "The sole issue on appeal is whether the Superior Court has subject matter jurisdiction, pursuant to General Statutes § 46b-44 (c)(1), over a dissolution of marriage action brought by an individual who is not a resident of Connecticut against a member of the Mashantucket Pequot Indian Tribe (tribe) who resides on the tribe's reservation in Ledyard. We answer this question in the affirmative."
- [Sauter v. Sauter](#), 4 Conn. App. 581, 582, 495 A.2d 1116 (1985). "The plaintiff initially argues that the court erred in dismissing the action for lack of subject matter jurisdiction because it should not have considered the question of domicile until trial. On the basis of [LaBow v. LaBow](#), 171 Conn. 433, 370 A.2d 990 (1976), he argues that while domicile is essential to 'final jurisdiction,' residence alone provides jurisdiction for the filing of a dissolution complaint. We agree."

"The pendency of an action in one state is not a ground for abatement of a later action in another state . . . ." (p. 584)

"In the interests of judicial economy, a court may, in the exercise of its discretion, order that the second action be stayed during the pendency of the first action, even though the actions are pending in different jurisdictions." (p. 584)

- [Taylor v. Taylor](#), 168 Conn. 619, 620-621, 362 A.2d 795 (1975). "the burden of proving an allegation of lack of jurisdiction . . . falls upon the party making that claim . . ."
- [Hames v. Hames](#), 163 Conn. 588, 595, 316 A.2d 379 (1972). "Obviously, even if canon law should deny the authority of the state to dissolve a marriage, religious doctrine could not nullify the decrees of our courts. U.S. Const., amend. 1, 14."

WEST KEY  
NUMBERS:

- *Divorce*  
IV. Proceedings  
(A) Jurisdiction  
#57-#65.

DIGESTS:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2022.  
Chapter 4. Jurisdiction and service.
- **West's Connecticut Digest**  
Divorce  
IV. Proceedings  
A. Jurisdiction  
57. Courts invested with jurisdiction  
58. Jurisdiction of cause of action  
59. – In general  
60. – Place of marriage  
61. – Place of occurrence of cause for divorce  
62. – Domicile or residence of parties  
63. – Separate domicile  
64. – Acquisition of domicile for purpose of divorce  
65. Jurisdiction of the person

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

Online databases are available for in-library use. Remote access is not available.

- 24 *Am Jur 2d* Divorce and Separation, Thomson West, 2018 (Also available on Westlaw).  
I. Divorce and Separation Proceedings  
D. Practice and Procedure in Divorce Actions  
1. Jurisdiction in Divorce Actions  
§§ 170-196.
- 25 *Am Jur 2d* Domicil, Thomson West, 2014 (Also available on Westlaw).
- 27A *CJS* Divorce, Thomson West, 2016 (Also available on Westlaw).  
IV. Proceedings, Trial, and Judgment  
B. Jurisdiction and Venue  
§§ 146-168.
- 28 *CJS* Domicile, Thomson West, 2019 (Also available on Westlaw).
- 73 *ALR 3d* 431, *Validity and Construction of Statutory Provision Relating to Jurisdiction of Court for Purpose of Divorce for Servicemen*, by James O. Pearson, Jr., J.D., Thomson West, 1976 (Also available on Westlaw).
- 51 *ALR 3d* 223, *What Constitutes Residence or Domicil Within State by Citizen of Another Country for Purpose of Jurisdiction in Divorce*, by Emile F. Short, LL.B., LL.M., Barrister-at-Law, **Lincoln's Inn**, Thomson West, 1973 (Also available on Westlaw).
- 13 *ALR 3d* 1419, *Domestic Recognition of Divorce Decree Obtained in Foreign Country and Attacked for Lack of*

*Domicile or Jurisdiction of Parties*, Thomson West, 1967  
(Also available on Westlaw).

ALR INDEX:

- Divorce and Separation  
Jurisdiction  
Residence or domicile

TEXTS &  
TREATISES:

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

- ALI *Restatement of the Law Conflict of Laws*, 2d  
Chapter 3. Judicial jurisdiction  
Topic 3. Jurisdiction over status  
Title B. Jurisdiction for divorce
- *Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect*, by Renee C. Bauer, Addicus Books, 2014.  
Chapter 1. Understanding the Divorce Process
- *A Practical Guide to Divorce in Connecticut*, Hon. Barry F. Armata and Campbell D. Barrett, editors, Massachusetts Continuing Legal Education, 2013, with 2018 supplement.
- *2 Stephenson's Connecticut Civil Procedure*, 3d ed., by Renée Bevacqua Bollier and Susan V. Busby, Atlantic Law Book Company, 2002, with 2003 supplement.  
Chapter 20. Family law procedures  
§ 243. Exclusive jurisdiction of superior court; Venue  
§ 244. Jurisdiction required for dissolution; Domicile  
§ 245. Residence requirements  
§ 246. Exceptions to residence requirements
- 7 Connecticut Practice Series: *Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).  
Chapter 16. Jurisdiction.
- *Friendly Divorce Guidebook for Connecticut*, 2d ed., by Barbara Kahn Stark, LawFirst Publishing, 2003.  
Chapter 6. Getting divorced: procedures and paperwork.
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.  
Chapter 2. Jurisdiction
- *The Military Divorce Handbook: A Practical Guide to Representing Military Personnel and Their Families*, 3d ed., by Mark E. Sullivan, American Bar Association, 2019.  
Chapter 6. Divorce
- Frank S. Berall, *Domicile, Residence and Citizenship*, 82 Connecticut Bar Journal 249 (2008).
- Robert M. McAnerney and Samuel V. Schoonmaker, III, *Connecticut's New Approach to Marriage Dissolution*, 47 Connecticut Bar Journal 375 (1973).

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

Table 3: Domicile

Domicile	
Leaving	<p><b>"When the parties left this State with the intention of never returning, their domicile in Connecticut was not thereby changed. The former domicile persists until a new one is acquired. <a href="#">Mills v. Mills</a>, 119 Conn. 612, 617-618, 617, 179 A. 5 (1935).</b></p>
Abandonment	<p><b>"The law does not permit one to abandon, nor recognize an abandonment of a domicile until another has been established." <a href="#">McDonald v. Hartford Trust Co.</a>, 104 Conn. 169, 177, 132 A. 902 (1926).</b></p>
Compared to address	<p><b>"An 'address' is not domicile, and a person may have simultaneously two or more residence addresses but only one domicile at any one time." <a href="#">Taylor v. Taylor</a>, 168 Conn. 619, 620-621, 362 A.2d 795 (1975).</b></p>



## Section 2.2: Process

A Guide to Resources in the Law Library

### SCOPE:

- Bibliographic sources relating to the procedures for service of process in an action for dissolution of marriage.

### DEFINITIONS:

- **Process: "shall be a writ of summons or attachment,** describing the parties, the court to which it is returnable and the time and place of appearance, and shall be **accompanied by the plaintiff's complaint."** Connecticut Practice Book [§ 8-1\(a\)](#) (2022).
- **Manner of service: "Except as otherwise provided,** process in any civil action shall be served by leaving a true and attested copy of it, including the declaration or complaint, with the defendant, or at his usual place of **abode, in this state."** Conn. Gen. Stat. [§ 52-57\(a\)](#) (2021).
- **Usual place of abode: "It is clear that one's 'usual place of abode' is in the place where he would most likely have** knowledge of service of process . . . . Its chief purpose is to ensure actual notice to the defendant that the action is pending . . . . The usual place of abode is generally considered to be the place where the person is living at the time of service . . . . It is not necessarily his domicile . . . and a person may have more than one usual place of abode . . . . In the final analysis, the determination of **one's** usual place of abode is a question of fact and the **court may consider various circumstances."** [Plonski v. Halloran](#), 36 Conn. Sup. 335, 335-336, 420 A.2d 117 (1980).
- Long arm statute (domestic relations): Conn. Gen. Stat. [§ 46b-46](#) (2021).

### STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2021).
  - [§ 46b-45](#). Service and filing of complaint.
  - [§ 46b-46](#). Notice to nonresident party.
  - [§ 52-46](#). Time for service.
  - [§ 52-46a](#). Return of process ([2022 Supplement](#))
  - [§ 52-48](#). Return day of process.
  - [§ 52-50](#). Persons to whom process shall be directed.
  - [§ 52-54](#). Service of summons.
  - [§ 52-57](#). Manner of service upon individuals, municipalities, corporations, partnerships and voluntary associations.
  - [§ 52-123](#). Circumstantial defects not to abate pleadings.

### PUBLIC ACT:

- [Public Act No. 17-47](#) - *An Act Concerning Nonadversarial Dissolution Of Marriage* (Effective October 1, 2017)  
[Summary for Public Act 17-47](#)

Waiver of service of process of summons and complaint under section 46b-45(b).

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

**"Any person entitled to service of process of a summons and complaint that commences an action for an annulment, a dissolution of marriage, a dissolution of civil union or a legal separation may waive such service by (1) executing a written waiver of service on a form prescribed by the Office of the Chief Court Administrator, and (2) filing an appearance with the court. Upon filing of both the waiver of service and the appearance of the person waiving such service, the action shall proceed as consistent with the provisions of **this chapter.**"** [Public Act No. 17-47](#), Sec. 3 (June 2017 Spec. Sess.) (Effective October 1, 2017)

#### COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2023).
  - [Chapter 8. Commencement of action](#)
    - § 8-1. Process
    - § 8-2. Waiver of Court Fees and Costs
  - [Chapter 10. Pleadings](#)
    - § 10-12. Service of Pleadings and Other Papers; Responsibility of Counsel or Pro Se Party; Documents and Persons to be Served
    - § 10-13. —Method of Service
    - § 10-14. —Proof of Service
    - § 10-15. —Numerous Defendants
    - § 10-16. —Several parties represented by one attorney
    - § 10-17. —Service by Indifferent Person
  - [Chapter 11. Motions, Requests, Orders of Notice, and Short Calendar](#)
    - § 11-4. Applications for Orders of Notice
    - § 11-5. Subsequent Orders of Notice; Continuance
    - § 11-6. Notice by Publication
    - § 11-7. Attestation; Publication; Proof of Compliance
    - § 11-8. Orders of Notice Directed Outside of the United States of America
  - [Chapter 25. Procedure in Family Matters](#)
    - § 25-5. Automatic Orders upon Service of Complaint or Application
    - § 25-23. Motions, Requests, Orders of Notice, and Short Calendar
    - § 25-28. Order of Notice

#### Case Law:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Coppola v. Coppola](#), 243 Conn. 657, 666, 707 A.2d 281 (1998). **"Allowing an amendment of the return date under the circumstances of the present case does not render § 52-46a meaningless. A return date may be amended but it still must comply with the time limitations set forth in § 52-48 (b). Section 52-48 (b) requires that '[a]ll process shall be made returnable not later than two months after the date of the process . . . .' Section 52-48 (b), therefore, with its two month limit, circumscribes the extent to which a return date may be amended."**
- [Cato v. Cato](#), 226 Conn. 1, 2, 626 A.2d 734 (1993). "The sole issue in this appeal is whether an order of notice is necessary to meet the jurisdictional requirements of General Statutes (Rev. to 1989) § 46b-46, the domestic relations long-arm statute."

"We conclude that in a case such as this, where service of process can be accomplished by the most reliable means—that is, in-hand service of process by a process server in accordance with 52-57a—an order of notice is not required pursuant to 46b-46." (p. 9)

- [Babouder v. Abdennur](#), 41 Conn. Sup. 258, 262, 566 A2d 457(1989). "In Connecticut, as in other states, the court will not exercise jurisdiction in a civil case which is based upon service of process on a defendant who has been decoyed, enticed or induced to come within the court's jurisdiction by any false representation, deceitful contrivance or wrongful device for which the plaintiff is responsible . . . . This rule does not apply, however, when the defendant enters the state on his own, even if the plaintiff and his agents then engage in trickery to make service of process."
- [Gluck v. Gluck](#), 181 Conn. 225, 226, 435 A.2d 35 (1980). "In particular, she [the defendant] claims that abode service is constitutionally deficient within the context of a dissolution proceeding. We disagree."
- [Smith v. Smith](#), 150 Conn. 15, 20, 183 A.2d 848 (1962). "Abode service is only a step removed from manual service and serves the same dual function of conferring jurisdiction and giving notice."

WEST KEY NUMBERS:

- *Process #1 et seq.*
- *Divorce*
  - IV. Proceedings
  - (E) Process or Notice
  - #76-#80

DIGESTS:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2022.
  - Chapter 4. Jurisdiction and service.
- *West's Connecticut Digest*
  - Divorce
  - IV. Proceedings
  - C. Time for proceeding
  - E. Process or notice.

ENCYCLOPEDIAS:

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- 24 *Am Jur 2d Divorce and Separation*, Thomson West, 2018 (Also available on Westlaw).
  - I. Divorce and Separation Proceedings
  - D. Practice and Procedure in Divorce Actions
  - 1. Jurisdiction in Divorce Actions
  - § 173. Service and notice requirements
- 27A *CJS Divorce*, Thomson West, 2016 (Also available on Westlaw).
  - IV. Proceedings, Trial, and Judgment
  - C. Parties and Process
  - 2. Process, Notice and Appearance
  - §§ 177-192

ALR INDEX:

TEXTS &  
TREATISES:

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

- 72 *CJS Process*, Thomson West, 2018 (Also available on Westlaw).
- Divorce and Separation  
Process and service of process and papers.
- 2 *Stephenson's Connecticut Civil Procedure*, 3d ed., by Renée Bevacqua Bollier and Susan V. Busby, Atlantic Law Book Company, 2002, with 2003 supplement.  
Chapter 20. Family law procedures  
§ 248. Service of process
- 7 Connecticut Practice Series: *Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).  
Chapter 18. Process
- *Friendly Divorce Guidebook for Connecticut*, 2d ed., by Barbara Kahn Stark, LawFirst Publishing, 2003.  
Chapter 6. Getting divorced: procedures and paperwork.
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.  
Chapter 2. Jurisdiction  
Part IV. Effectuating Service of Process

## Section 2.3: Parties

A Guide to Resources in the Law Library

### SCOPE:

- Bibliographic resources relating to proper or necessary parties to an action for dissolution of marriage in Connecticut and third party intervention.

### STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2021).
  - [§ 46b-43](#). Capacity of minor to prosecute or defend.
  - [§ 46b-54](#). (Formerly Sec. 46-43). Appointment of counsel or guardian ad litem for a minor child. Duties. Best interests of the child. (2022 Supplement)
  - [§ 46b-55](#). (Formerly Sec. 46-63). Attorney General as party to action. (2022 Supplement)
  - [§ 46b-57](#). Third party intervention re custody of minor children. Preference of child.

### COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2023).
  - [Chapter 9. Parties](#)
    - § 9-1. Continuance for Absent or Nonresident Defendant
    - § 9-3. Joinder of Parties and Actions; Interested Persons as Plaintiffs
    - § 9-4. — Joinder of Plaintiffs in One Action
    - § 9-5. — Consolidation of Actions
    - § 9-10. — Orders to Ensure Adequate Representation
    - § 9-18. Addition or Substitution of Parties; Additional Parties Summoned in by Court
    - § 9-19. — Nonjoinder and Misjoinder of Parties
    - § 9-22. — Motion to Cite in New Parties
    - § 9-24. Change of Name by Minor Children
  - [Chapter 10. Pleadings](#)
    - § 10-12. Service of the Pleadings and Other Papers; Responsibility of Counsel or Pro Se Party; Documents and Persons to Be Served
    - § 10-13. — Method of Service
    - § 10-14. — Proof of Service
    - § 10-15. — Numerous Defendants
    - § 10-16. — Several parties Represented by One Attorney
    - § 10-17. — Service by Indifferent Person

### CASE LAW:

- [Luster v. Luster](#), 128 Conn. App. 259, 270, 273-275, 17 A.3d 1068 (2011). "In determining whether the conservators in this case have the authority to maintain a dissolution action on behalf of the defendant, we are mindful of the importance of the right of access to our courts, a right shared by all people, including those declared legally incompetent."

"General Statutes § 45a-650 (k) very clearly states: '[a] conserved person shall retain *all rights and authority* not expressly assigned to a conservator.' (Emphasis added.) Additionally, although a conserved person retains all of his

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

or her unassigned rights and authority; see General Statutes § 45a-650(k); there has been created a common-law rule that a conserved person, like a minor, does not have the legal capacity to bring a civil action in his or her own name, but must do so through a properly appointed representative, except in limited circumstances.

See [Lesnewski v. Redvers](#), 276Conn. 526,530, 886 A.2d 1207 (2005); [Cottrell v. Connecticut Bank & Trust Co.](#), supra, 175 Conn. 261; [Newman v. Newman](#), supra, 35 Conn.App. [449] at 451, 646 A.2d 885. (p. 273)

“Given that a conserved person, except in limited circumstances, may bring a civil action only through a properly appointed representative, such as a conservator, and that an action for dissolution of marriage is a **civil action, combined with the conserved person’s retention of all rights and authority** not specifically assigned, we conclude that a conservator may bring a civil action for **dissolution of marriage on behalf of the conserved person.**” (p.274)

- [Manndorf v. Dax](#), 13 Conn. App. 282, 287, 535 A.2d 1324 (1988). “**Although interested in the defendant’s marriage** to the husband, the plaintiff, as a nonparty to that marriage, had no right to maintain an action for its **annulment.**”
- [Derderian v. Derderian](#), 3 Conn. App. 522, 526, 490 A.2d 1008 (1985). “...Other jurisdictions have upheld judgments in dissolution of marriage actions which potentially disturb the interests of those not parties to a dissolution action by construing the judgments as determinative of the right, title and interest in the property of the husband and wife, assuming that the property is an asset of the marital estate....”

A judgment in a dissolution of marriage action may, therefore, contain the judicial seeds of the divestment of a claimed interest in realty belonging to those other than the parties to the action. If a judgment in a dissolution of marriage action is subsequently, collaterally attacked by a third person who took his interest after it or after another earlier aborted action between the same marital parties was pending, knowing of the pendency of those actions, and who could have, but did not intervene in those actions, the judgment will nevertheless stand.

In the present action, a precise, underlying debt of the brother to the defendant [his sister] had been determined in the second dissolution of marriage action. That debt was the award of the marital home to the defendant. Since there was an established debt at the time of the present partition action, the brother was not an indispensable party **in the action.**”

- [Vanderlip v. Vanderlip](#), 1 Conn. App. 158, 159, 468 A.2d 1253 (1984). **"In this case, we cannot believe that the defendant was harmed by the refusal of the court to permit a continuance. On the day following the order to proceed immediately to trial, the defendant appeared. The usual order of trial was revamped in her favor. She was present at all relevant times. Under these circumstances, we are not persuaded that the trial court abused its discretion."**
- [Sands v. Sands](#), 188 Conn. 98, 105, 448 A.2d 822 (1982). "Drawing a distinction between a situation where a party has actually received or is receiving state welfare benefits and a situation where a party has merely applied for those benefits would impinge on the discretion of the trial court to fashion a remedy that is just and equitable. It is obvious that the defendant applied for state welfare benefits with the expectation of having her application approved. In addition, there was testimony that the defendant had already received benefits from the city of Meriden. The trial court could not ignore the fact that the state had a definite and imminent interest in this matter. Under these circumstances, the trial court clearly acted within its discretion in awarding \$1 per year alimony in order to **protect a valid state interest.**"
- [Salvio v. Salvio](#), 186 Conn. 311, 324, 441 A.2d 190 (1982). **"Since Gerald and Deborah [the children] had acquired no legal interest in the funds on deposit, they were not necessary parties for the purpose of establishing the trial court's jurisdiction over those accounts."**
- [Manter v. Manter](#), 185 Conn. 502, 503, 441 A.2d 146 (1981). "The issue in this case is whether a divorced adoptive father who has permitted his former wife's second husband to adopt his children may, more than a year following the latter's divorce, intervene to regain custody of the children. The appellant's motion to intervene was denied by the trial court, and he appeals from that denial.

Prospective third party intervenor Allan Dexter Coombs married Brenda Mae Coombs in March, 1961. The couple then adopted two minor children, Donald Allan and Heather Eleanor. After the Coombs' divorce in July, 1974, Brenda Coombs married John P. Manter in February, 1975, using thereafter the name of Bonnie Manter. Because of the Manter marriage, Allan Coombs consented to the termination of his parental rights and the adoption of Donald and Heather by John Manter; the termination and adoption agreements were ordered by Probate Court decree on September 9, 1975. After two years of marriage Bonnie and John Manter were divorced on January 18, 1978, with Bonnie Manter retaining custody of both children. The divorce decree was modified on April 6, 1978, to deny John Manter visitation rights. To date he has not challenged that denial or the custody decision.

Seeking custody or visitation rights, Allan Coombs moved on February 13, 1979, to intervene in the divorce action of *Manter v. Manter* under General Statutes 46b-57, which permits interested third parties to intervene in custody controversies before the Superior Court. At a preliminary hearing the trial court on April 2 granted Coombs standing for the expressly limited purpose of a visitation study by the family relations office. By supplemental order dated October 1, 1979, the court denied the motion to intervene on the dual grounds that no present dispute was then before the court and no facts were presented to qualify Coombs as an interested party under 46b-57. Coombs now **appeals from that denial of his motion to intervene.**”

WEST KEY NUMBERS:

- *Divorce*  
IV. Proceedings  
(D) Parties.  
#70-#75.

DIGESTS:

- *ALR Digest*  
Divorce  
IV. Proceedings  
(d). Parties  
§§ 70-74
- *West’s Connecticut Digest*  
Divorce  
IV. Proceedings  
D. Parties  
§§ 70-74

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

Online databases are available for in-library use. Remote access is not available.

- *24 Am Jur 2d Divorce and Separation*, Thomson West, 2018 (Also available on Westlaw).  
I. Divorce and Separation Proceedings  
D. Practice and Procedure in Divorce Actions  
2. Parties in Divorce Actions  
§§ 197-215
- *27A CJS Divorce*, Thomson West, 2016 (Also available on Westlaw).  
IV. Proceedings, Trial, and Judgment  
C. Parties and Process  
1. In General  
§§ 169-176

ALR INDEX:

- Divorce and Separation  
Third persons

TEXTS & TREATISES:

- *7 Connecticut Practice Series: Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).  
Chapter 17. Parties
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.  
Chapter 2. Jurisdiction



## Part VI. Determining the Parties to Dissolution, Paternity and Custody Actions

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases

## Section 3: Pleadings, Motions, and Forms

A Guide to Resources in the Law Library

- See our research guide on [Pleadings and Motion Practice in Family Matters](#).
- Connecticut Judicial Branch Family Court Forms:

<a href="#">Family Law Forms</a> (Full List)	<a href="#">Nonadversarial (simplified or "non-ad") Divorce</a>
<a href="#">Divorce Forms</a> , including <a href="#">Divorce Navigator</a>	<a href="#">Responding to a Divorce</a>
<a href="#">Divorce with an Agreement (or "waive 90")</a>	<a href="#">File for Custody or Visitation (or both)</a>
<a href="#">Divorce without an Agreement</a>	<a href="#">File for a Motion for Modification</a>
<a href="#">Filing for a Divorce with Children</a>	<a href="#">File for a Motion for Contempt</a>
<a href="#">Filing for a Divorce without Children</a>	<a href="#">File for a Restraining Order</a>

- *Library of Connecticut Family Law Forms*, 2d ed., by Amy Calvo MacNamara, Aidan R. Welsh, and Cynthia Coulter George, Eds., 2014, Connecticut Law Tribune.
- *7 Connecticut Practice Series: Family Law and Practice with Forms*, 3rd ed., by Arnold H. Rutkin et al., 2010, Thomson West, with 2022-2023 supplement (also available on Westlaw).
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis. Chapter 20. Forms

# Part B. Nonadversarial Dissolution of Marriage

A Guide to Resources in the Law Library

## SCOPE:

- Bibliographic resources relating to nonadversarial dissolutions of marriage.

## DEFINITIONS:

- **Effect of Decree of Dissolution of Marriage:** “**The decree of dissolution of marriage shall give the parties the status of unmarried persons and they may marry again.**” Conn. Gen. Stat. [§ 46b-44c\(b\)](#) (2021).
- “**defined benefit pension plan’ means** a pension plan in which an employer promises to pay a specified monthly benefit upon an employee’s retirement that is predetermined by a formula based on the employee’s earnings history and **tenure of service.**” Conn. Gen. Stat. [§ 46b-44a\(b\)](#) (2021).

## STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

Conn. Gen. Stat. (2021).

[§ 46b-44a](#). Filing of joint petition for nonadversarial dissolution of marriage. Procedure.

[§ 46b-44b](#). Revocation of joint petition for nonadversarial dissolution of marriage. Effect.

[§ 46b-44c](#). Disposition of nonadversarial dissolution of marriage; entry of decree of dissolution of marriage.

[§ 46b-44d](#). Nonadversarial dissolution of marriage. Appearance of parties required; exceptions.

## PUBLIC ACTS:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- [Public Act No. 19-64](#) - An Act Concerning Court Operations. See section 2. (Effective October 1, 2019)  
[Summary for Public Act 19-64](#)
- [Public Act No. 17-47](#) - *An Act Concerning Nonadversarial Dissolution Of Marriage* (Effective October 1, 2017)  
[Summary for Public Act 17-47](#)
- [Public Act No. 15-7](#) - *An Act Concerning a Nonadversarial Dissolution of Marriage* (Effective October 1, 2015)  
[Summary for Public Act No. 15-7](#)

## LEGISLATIVE:

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each **report’s** publication. Current law may be different from what is discussed in the reports.

- [Public Act No. 17-47](#)  
[Substitute for Raised House Bill No. 7196: Bill Status](#) (2017)  
[Office of Legislative Research Bill Analysis, House Bill 7196](#) (2017)  
[Judiciary Committee Joint Favorable Report, House Bill 7196](#) (2017)  
[Substitute for Raised House Bill No. 7196 Public Hearing Testimony](#) (2017)
- Michele Kirby, [Connecticut’s Expedited Divorce Processes](#), Connecticut General Assembly, Office of Legislative

Research, OLR Research Report 2016-R-0213 (October 5, 2016).

- [Public Act No. 15-7](#)  
[Raised Senate Bill No. 1029: Bill Status](#) (2015)  
[Office of Legislative Research Bill Analysis, Senate Bill 1029: An Act Concerning a Nonadversarial Dissolution of Marriage](#) (2015)  
[Judiciary Committee Joint Favorable Report, Senate Bill 1029](#) (2015)  
[Raised Senate Bill No. 1029 Public Hearing Testimony](#) (2015)

#### COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2023).  
[Chapter 3. Appearances](#)
  - § 3-1. Appearance for Plaintiff on Writ or Complaint in Civil and Family Cases.
  - § 3-2. Time to File Appearance.
  - § 3-3. Form and Signing of Appearance
  - § 3-4. Filing Appearance
  - § 3-5. Service of Appearance on Other Parties[Chapter 25. Procedure in Family Matters](#)
  - § 25-5B. Automatic orders upon filing of joint petition—Nonadversarial divorce

#### FORMS:

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- **[Nonadversarial \(simplified or “non-ad”\) Divorce](#)** (Connecticut Judicial Branch)

#### Law Reviews:

Public access to law review databases is available on-site at each of our [law libraries](#).

- Hon. Lynda B. Munro (Ret.), Johanna S. Katz, and Meghan M. Sweeney, *Administrative Divorce Trends and Implications*, 50 Fam. L.Q. 427 (2016-2017)

Table 6: Excerpts from the Public Hearing Testimony of Conn. Public Act 17-47

<p>The Connecticut General Assembly</p> <p>Judiciary Committee Public Hearing</p> <p>March 6, 2017</p>	
<p>Testimony of the Honorable Elizabeth A. Bozzuto, Chief Administrative Judge for Family Matters Connecticut Judicial Branch</p>	
<p><u>Background:</u></p>	<p><b>"Two years ago, I</b> came before this Committee and asked for your support of a similarly titled bill that established a simplified dissolution of marriage for parties who agreed to the dissolution and who met certain criteria, as well as allowed other parties with an agreement to obtain a divorce in nearly a quarter of the time that it would ordinarily require. Thanks to your leadership on the issue, the bill passed, and as a result, one in six of all dissolutions subsequently filed have taken advantage of this new law, resulting in thousands of litigants moving on with their lives more quickly, and without the time and expense of numerous court hearings."</p>
<p><u>Benefits to the Parties:</u></p>	<p>"The bill before you expands upon the original criteria of our nonadversarial dissolution so that more parties can take advantage of the simplified process, as well as makes additional changes to our dissolution framework, all with one central goal in mind: to allow parties to move expeditiously and efficiently through the dissolution process."</p>
<p><u>Changes to Dissolution Framework:</u></p>	<p><b>"Section 1 of the bill amends the existing nonadversarial process, whereby parties obtain a divorce without appearing before a judge, if they meet specific criteria."</b></p> <p><b>"The two criteria that would change include: 1) instead of a couple having been married eight years or less to qualify, we propose increasing this to nine years, and 2) the asset ceiling would increase from \$35,000 to \$80,000. We believe these two changes would significantly expand the pool of divorcing couples who would qualify for this process."</b></p> <p><b>"Section 2 of the bill makes a technical change... This section would simply clarify that if the court places the matter on the regular family docket, neither party shall pay a new filing fee or be responsible for serving one another."</b></p>