



Copyright © 2000-2019, Judicial Branch, State of Connecticut. All rights reserved.

2019 Edition

Child Visitation Actions in Connecticut

A Guide to Resources in the Law Library

Table of Contents

Introduction	3
Section 1: Child Visitation Action.....	4
Section 2: Third Party Visitation Actions	12
Section 3: Temporary or Pendente Lite Visitation Orders	21
Section 4: Preference of the Child in Visitation Actions.....	24
Section 5: Contempt of Visitation Orders.....	27
Section 6: Habeas Corpus Proceedings in Child Visitation Matters.....	31

For modification of child visitation orders, see our research guide on [Modification of Judgments in Family Matters](#).

Treated Elsewhere:

- [Best Interest of the Child Standard in Connecticut](#)
- [Child Custody Actions in Connecticut](#)
- [Enforcement of Family and Foreign Matrimonial Judgments](#)
- [Parental Relocation](#)
- [Rights of Grandparents and Third Parties in Connecticut](#)

*Prepared by Connecticut Judicial Branch, Superior Court Operations,
Judge Support Services, Law Library Services Unit
lawlibrarians@jud.ct.gov*

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 slip opinions on the Connecticut Judicial Branch website and to case law hosted on Google Scholar.
The online versions are for informational purposes only.

Connecticut Judicial Branch Website Policies and Disclaimers
<https://www.jud.ct.gov/policies.htm>

Introduction

A Guide to Resources in the Law Library

- Every application or verified petition in an action for visitation of a minor child, other than actions for dissolution of marriage or civil union, legal separation or annulment, shall state the name and date of birth of such minor child or children, the names of the parents and legal guardian of such minor child or children, and the facts necessary to give the court jurisdiction. An application brought under this section shall comply with Section 25-5. Any application or verified petition brought under this Section shall be commenced by an order to show cause. Upon presentation of the application or verified petition and an affidavit concerning children, the judicial authority shall cause an order to be issued requiring the adverse party or parties to appear on a day certain and show cause, if any there be, why the relief requested in the application or verified petition should not be granted. The application or verified petition, order and affidavit shall be served on the adverse party not less than twelve days before the date of the hearing, which shall not be held more than thirty days from the filing of the application or verified petition. [Conn. Practice Book § 25-4 \(2019\)](#).
- **“(a) Any appropriate party may move for alimony, child support, custody, visitation, appointment or removal of counsel for the minor child, appointment or removal of a guardian ad litem for the minor child, counsel fees, or for an order with respect to the maintenance of the family or for any other equitable relief. (b) Each such motion shall state clearly, in the caption of the motion, whether it is a pendent lite or a postjudgment motion.”** [Conn. Practice Book §25-24 \(2019\)](#).
- **U.S. Supreme Court:** “The liberty interest at issue in this case — the interest of parents in the care, custody, and control of their children — is perhaps the oldest of the fundamental liberty interests recognized by this Court.” [Troxel v. Granville](#), 530 U.S. 57, 65, 120 S. Ct. 2054, 147 L. Ed. 49 (2000).
- **“Accordingly, any third party, including a grandparent or a great-grandparent, seeking visitation must allege and establish a parent-like relationship as a jurisdictional threshold in order both to pass constitutional muster and to be consistent with the legislative intent.”** [Roth v. Weston](#), 259 Conn. 202, 225, 789 A.2d 431 (2002).

Section 1: Child Visitation Action

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to actions seeking court ordered visitation.

DEFINITIONS:

- Every application or verified petition in an action for visitation of a minor child, other than actions for dissolution of marriage or civil union, legal separation or annulment, shall state the name and date of birth of such minor child or children, the names of the parents and legal guardian of such minor child or children, and the facts necessary to give the court jurisdiction. An application brought under this section shall comply with Section 25-5. Any application or verified petition brought under this Section shall be commenced by an order to show cause. Upon presentation of the application or verified petition and an affidavit concerning children, the judicial authority shall cause an order to be issued requiring the adverse party or parties to appear on a day certain and show cause, if any there be, why the relief requested in the application or verified petition should not be granted. The application or verified petition, order and affidavit shall be served on the adverse party not less than twelve days before the date of the hearing, which shall not be held more than thirty days from the filing of the application or verified petition. [Conn. Practice Book § 25-4 \(2019\)](#).

CT 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. (2019)

- § [45a-604](#). Definitions
- § [45a-606](#). Father and mother joint guardians
- § [46b-54](#). Counsel for minor children. Duties.
- § [46b-56](#). Orders re custody, care, education, visitation and support of children. Best interests of the child. Access to records of minor child by noncustodial parent. Orders re therapy, counseling and drug or alcohol screening.
- § [46b-57](#). Third party intervention re custody of minor children. Preference of the child.
- § [46b-59](#). Court may grant right of visitation to any person.
- § [46b-59a](#). Mediation of disputes re enforcement of visitation rights.
- § [46b-59b](#). Court may not grant visitation to parent convicted of murder. Exception.
- § [46b-61](#). Orders re Children where parents live separately. Filing of accompanying documents.
- § [46b-64](#). Orders of court prior to return day of complaint
- §§ [46b-115 through 46b-115jj](#) [Uniform Child Custody Jurisdiction & Enforcement Act](#).

OLR REPORTS:

[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 report.

- Saul Spigel, Chief Analyst, [Department of Children and Visitation Criteria](#), Connecticut General Assembly, Office of Legislative Research, Report No. 2004-R-0799 (October 5, 2004).

"You asked about the Department of Children and Families (DCF) criteria for deciding whether a child in foster care can visit overnight with a biological parent."

COURT RULES:

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

Connecticut Practice Book (2019)

- [Chapter 25, Superior Court - Procedure in Family Matters](#)
 - § [25-4](#). Action for visitation of minor child
 - § [25-5](#). Automatic orders upon service of complaint
 - § [25-7](#). Pleadings in general; Amendments to complaint or application
 - § [25-9](#). —Answer, cross complaint, claims for relief by defendant
 - § [25-23](#). Motions, requests, orders of notice, and short calendar
 - § [25-24](#). Motions
 - § [25-26](#). Modification of custody, alimony or support
 - § [25-27](#). Motion for contempt
 - § [25-28](#). Order of notice
 - § [25-30](#). Statements to be filed
 - § [25-38](#). Judgment files
 - § [25-50](#). Case management
 - § [25-57](#). Affidavit concerning children
 - § [25-59](#). Closure of courtroom in family matters
 - § [25-59A](#). Sealing files or limiting disclosure of documents in family matters
 - § [25-60](#). Family Division evaluations and studies
 - § [25-61](#). Family Division
 - § [25-62](#). Appointment of Guardian Ad Litem

LEGISLATIVE HISTORY:

- 1983 Conn. Acts 96. An act concerning visitation rights. "as initially enacted . . . permitted only grandparents to petition for visitation. [Castagno v. Wholean](#) [239 Conn. 336, 684 A.2d 1181], supra, 239 Conn. 347-48. In 1983, however § 49-59 . . . was amended to its current form to allow 'any person' to petition for visitation" [Roth v. Weston](#), 259 Conn. 202, 219, 789 A.2d 431(2002).
- 1974 Conn. Acts 169, § 12, 17 H.R. Proc., Pt. 6, 1974 Sess., p. 2805 [§ 46b-61] "...expands the jurisdiction of the superior court involving minor children and further states that the section can be used in controversies not only involving a husband and wife but in controversies involving parents of minor children or children if they are no longer married or were never married."

COURT FORMS:

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

- [Official Family Forms](#) (Connecticut Judicial Branch)
 - See Also: [Filing for Custody or Visitation \(or both\)](#)

Unofficial Forms

- MacNamara, Welsh, and George, editors. [Library of Connecticut Family Law Forms](#) (2d ed. 2014)
Custody and Visitation Forms 5-012 thru 5-033
- [Fish v. Fish](#), 285 Conn. 24, 38, 939 A. 2d 1040 (2008) “. . . a court could exercise jurisdiction over a petition for third party visitation against the wishes of a fit parent only if the **petition contains `specific, good faith allegations that the petitioner has a relationship with the child that is similar in nature to a parent-child relationship. The petition must also contain specific, good faith allegations that denial of the visitation will cause real and significant [emotional] harm to the child. As we have stated, that degree of harm requires more than a determination that visitation would be in the child's best interest. It must be a degree of harm analogous to the kind of harm contemplated by §§ 46b-120 and 46b-129, namely, that the child is `neglected, uncared-for or dependent.` The degree of specificity of the allegations must be sufficient to justify requiring the fit parent to subject his or her parental judgment to unwanted litigation. Only if these specific, good faith allegations are made will a court have jurisdiction over the petition.”**
- [Browne v. D’Alleva](#), Superior Court, Judicial District of Windham, No. FA06-4004782-S, (Dec. 7, 2007). **“Once a person signs a written acknowledgment form, that form has the same force and effect as a judgment in the court . . . Although the defendant has asserted that she did not intend for the plaintiff to obtain any rights with regard to the child by her acknowledgment under oath that belief does not affect the legal import of her having signed it. Undoing such an acknowledgment, after the sixty-day period has passed may only be done at the discretion of the Court and based upon a DNA test that the respondent is not possibly the biological father of the child. That is not the case here.”**
“Based on the circumstances surrounding the decision by the defendant to be artificially inseminated by the sperm of the plaintiff, the preconception intent of the parties, the evidence submitted, and, in particular, the plaintiff’s acknowledgment of paternity, it is the court’s determination that he has standing to bring an application for joint legal custody and visitation of the child. The defendant’s motion to dismiss is denied.”
- [Raffino v. Bottass](#), Superior Court, Judicial District of Hartford, No. FA05-4019188-S (April 11, 2006) (41 Conn. L. Rptr. 181, 183) (2006 WL 1149131). **“This court recognizes**

CASES:

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 anguish that the grandparents are suffering in not being able to spend as much time with their grandchildren as they previously did and their concern that the children will suffer too. However, the court also recognizes that the father must devote his energies to re-establishing his family unit with the children, and, as the courts have indicated, there is a presumption that he is acting in the best interests of the children. It is that very principle that is so protected that the Connecticut Supreme Court has declared that a very high standard must be met so as to appropriately protect the father's right to not have to defend his decisions in a court of law. While adherence to the underlying principle may be very difficult for the grandparents at this time, the grandparents might consider that just as parents must give their children two things — roots and wings, grandparents must continue to do that for the parents of their grandchildren.”

- [Foster v. Foster](#), 84 Conn. App. 311, 320, 853 A.2d 588 (2004). “As the plaintiff has no constitutionally protected right to counsel in a custody or visitation proceeding, we decline to require the court, in every custody or visitation dispute confronted with a pro se litigant, to grant a continuance simply because the request is founded on a **parent’s right to raise a child without undue interference**. Although we recognize the value of family integrity, we acknowledge also that the state has an interest in the orderly presentation of cases and the ability of the court to manage its docket. We therefore conclude that, balancing all **the interests, the court’s refusal to grant** a continuance did **not result in a constitutional deprivation**.”
- [Roth v. Weston](#), 259 Conn. 202, 789 A.2d 231 (2002). “In the absence of a threshold requirement of a finding of real and substantial harm to the child as a result of the denial of visitation, forced intervention by a third party seeking visitation is an unwarranted intrusion into family autonomy. Accordingly, in the absence of any such requirement of harm, § 46b-59 does not justify interference with parental **rights**.” Ibid, p. 229.

“... **the** petition must contain specific, good faith allegations that the petitioner has a relationship with the child that is similar in nature to a parent-child relationship. The petition must also contain specific, good faith allegations that the denial of the visitation will cause real and significant harm to **the child... Second, the petitioner must prove these allegations by clear and convincing evidence.**” Ibid, p. 235.

- [Laspina-Williams v. Laspina-Williams](#), 46 Conn. Supp. 165, 171, 742 A.2d 840 (1999). [Syllabus: Motion to dismiss; parent and child; visitation; guardianship of minor child; subject matter jurisdiction; standing; in petition for visitation rights with minor child, conceived through alternative insemination, who had been jointly raised by coguardian

same sex partners, whether separation of parties constituted sufficient disruption of family unit to confer standing upon plaintiff noncustodial parent to petition for visitation rights so **as to warrant denial of defendant custodial parent's motion** to dismiss for lack of subject matter jurisdiction; since defendant had brought separate action pursuant to statute (§ 45a-616) **in Probate Court to terminate plaintiff's** coguardianship, whether that statute exclusively vested **jurisdiction over plaintiff's petition** for visitation brought under state (§46b-59) in either Probate Court or Superior **Court so as to warrant granting of defendant's motion to** dismiss.]

- [Raymond v. Raymond](#), 165 Conn. 735, 742, 345 A.2d 48 (1974). "It has never been our law that support payments were conditioned on the ability to exercise rights of visitation or vice versa. The duty to support is wholly independent of the right of visitation."

**WEST KEY
NUMBERS:**

- *Child Custody - Visitation*
 - # 175. In general
 - # 176. Discretion
 - # 177. Grounds in general
 - # 178. Welfare and best interest of child
 - # 179. Existence of factors other than best interest of the child
 - # 180. Right of biological parent as to third persons in general
 - # 181. Ability of parties to cooperate
 - # 182. Person entitled in general
 - # 183. Custody of siblings
 - # 184. Geographic considerations
 - # 185. Religion
 - # 186. Primary caregiver
 - # 187. Rewarding or punishing party
 - # 188. Behavior of parties in general
 - # 189. Motives
 - # 190. Litigation conduct
 - # 191. Sexual behavior or preference of party
 - # 192. —In general
 - # 193. —Homosexuals
 - # 194. —Effect on child
 - # 195. Cohabitation with third party
 - # 196. Previous interference with lawful custody or visitation
 - # 197. Abuse or neglect of child
 - # 198. Physical condition of custodian
 - # 199. Use of drugs or alcohol
 - # 200. Commission of crime
 - # 201. Mental condition
 - # 202. Previous abandonment or relinquishment by custodian
 - # 203. Agreements, contracts, or stipulations

- # 204. Child's preference
- # 205. Age of child
- # 206. Health and physical condition of child
- # 207. Mental health or condition of child
- # 208. Performance of child in school
- # 208.5 Nonmarital circumstances of birth or conception
- # 209. Physical custody arrangement
- # 210. —In general
- # 211. —Hours
- # 212. —Holidays
- # 213. Transporting and transferring child
- # 214. Placement of child with third parties
- # 215. Visitation conditions
- # 216. —In general
- # 217. —Supervised visitation
- # 218. —**Payment of child support, attorney's fees, alimony**
- # 219. —Excluding other persons from being present during visitation
- # 220. —Place of visitation
- # 221. —Notice to custodial parent
- # 222. —Counseling
- # 223. —Restrictions on conduct
- # 224. —Bond
- # 225. Control and authority of parties
- # 226. —In general
- # 227. —Religion
- # 228. —Education
- # 229. —Extracurricular choices
- # 230. —Discipline or punishment
- # 231. Employment status
- ***Children out of Wedlock***
 - # 20.9. Visitation and joint custody

TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Louise Truax, Editor, [LexisNexis Practice Guide Connecticut Family Law](#), (2019 edition).
 - Chapter 8. Custody and Visitation
 - Part II. Establishing Jurisdiction and Analyzing Statutory Provisions for Child Custody and Visitation.
 - Part III. Determining Who May Seek Custody and Visitation.
 - Part V. Assessing Considerations in Custody and Visitation Actions.
 - Part VI. Filing Custody or Visitation Actions Post Judgment.
 - Part VII. Assessing Evidentiary Considerations in Custody or Visitation Actions.
- 8 Arnold H. Rutkin et al., [Connecticut Practice: Family Law and Practice with Forms](#) (2010).
 - Chapter 42. Custody and visitation
 - § 42.44. Visitation—General considerations

- § 42.45. Visitation schedules—Allocation of vacations, holidays and the like
 - § 42.46. Visitation—Checklist of holidays, vacations and special events
 - § 42.47. —Parental access via mail, telephone, and the like
 - § 42.48. —Supervision or denial of visitation rights
 - § 42.49. —With third parties
 - § 42.50. Parenting education program
 - § 42.52. Parenting plan
- 3 Sandra Morgan Little, [Child Custody & Visitation Law and Practice](#) (2018 edition).
 - Chapter 16A. Visitation
 - § 16A.01. Introduction
 - § 16A.02. Support and Visitation as Independent Obligations and Rights
 - § 16A.03. Conditioning Child Support on Compliance with Visitation
 - § 16A.04. Conditioning Visitation on Payment of Child Support
 - § 16A.05. The Perils of Self-Help Remedies
 - § 16A.06. Payment of Child Support Arrears
 - § 16A.07A. Visitation and Setting Support
 - § 16A.08 The Impact of Interference with Visitation On a URESA Proceeding
 - § 16A.09. Bibliography
 - Appendix A. Uniform Reciprocal Enforcement of Support Act (1968 Revised Act)
- Cynthia C. George and Amy Calvo MacNamara, [Connecticut Family Law Citations](#) (2018).
 - Chapter 11. Child Custody and Visitation
 - § 11.01. Best Interest of the Child Standard
 - § 11.03. Temporary Custody and Visitation
 - § 11.04. Modification of Custody and Visitation
 - § 11.01. Third Party Intervention for Custody and Visitation
- **Margaret "Pegi" S. Price**, [The Special Needs Child and Divorce, A Practical Guide to Evaluating and Handling Cases](#) (2009).
 - Chapter 4. Why Child Support Guidelines and Standard Visitation Schedules Do Not Meet the Needs of Special Needs Children
 - § II. Visitation Schedules
 - A. Noncustodial Parent
 - 1. Child's Schedule**
 - B. Environmental Modifications
 - Chapter 11. Forms and Samples
 - #9. Sample Special Needs Parenting Plan
 - Chapter 14. Checklists
 - 10. Visitation – Special Considerations Regarding

Visitation

- 1 Thomas R. Young, [Legal Rights of Children](#), 3d ed., (2018-2019).

Chapter 3. Secondary Custodial Rights: Visitation, Parent Time, and Parenting Time

§ 3:1.—Generally

§ 3:2.—Noncustodial parents

§ 3:3.—Stepparents and adoptive parents

§ 3:4.—Foster parents

§ 3:5.—Grandparents, generally

§ 3:6.—Effects of adoption on visitation rights of natural grandparents

§ 3:7.—**Siblings and other “family members”**

§ 3:8.—The wishes of the child with regard to visitation

§ 3:9.—Terms of visitation

§ 3:10.—Modification

ENCYCLOPEDIAS:

- 59 [Am. Jur. 2d](#) Parent & Child § 36-38 (2012).
 - § 36. Right to visitation
 - § 37.—Denial to noncustodial parent
 - § 38.—By third party

ARTICLES:

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

- Jason LaMarca, “Virtually Possible – Using the Internet to Facilitate Custody and Parenting Beyond Relocation”, 38 *Rutgers Computer & Tech. L.J.* 146 (2012).
- David Welsh, Statute Note, “Virtual Parents: How Virtual Visitation Legislation is Shaping the Future of Custody Laws”, 11 *J.L. & Fam. Stud.* 215 (2008).
- Anne LeVasseur, Note, “Virtual Visitation: How Will Courts Respond to a New and Emerging Issue?”, 17 [The Quinnipiac Probate Law Journal](#) 362 (2004).

Section 2: Third Party Visitation Actions

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to right of nonparents to initiate child visitation actions or to seek visitation by intervening in a pending family action.

SEE ALSO:

- [Rights of Grandparents and Third Parties in Connecticut](#) (Research Guide)

DEFINITIONS:

- **Constitutional Issues:** "The relevant statutes concerning visitation and custody are overly broad in exactly the same fashion; they fail to define with particularity those persons who may seek visitation and custody other than parents. Accordingly, we conclude that, to avoid constitutional infirmity, the standing requirement that a third party allege a parent-like relationship with the child should be applied for all of the reasons described in *Roth* [*Roth v. Weston*, 259 Conn. 202 (2002)] to third party custody awards and to third parties **seeking intervention in existing custody proceedings.**" [Fish v. Fish](#), 285 Conn. 24, 44, 939 A. 2d 1040 (2008).
- **Third Party:** "is not defined in the foregoing statutes or in any other related statutes. The legislative history of the statutes sheds no additional light on the matter. As we stated in *Castagno*, [*Castagno v. Wholean*, 239 Conn. 336, 684 A.2d 1181(1996)] 'courts are bound to assume that the legislature intended, in enacting a particular law, to achieve its purpose in a manner which is both effective and constitutional. . . . [T]his presumption of constitutionality imposes upon the trial court, as well as this court, the duty to construe statutes, whenever possible, in a manner that comports with constitutional safeguards of liberty.'" [Fish v. Fish](#), 285 Conn. 24, 42-43, 939 A. 2d 1040 (2008).
- **Petition for visitation:** "First, the petition must contain specific, good faith allegations that the petitioner has a relationship with the child that is similar in nature to a parent-child relationship. The petition must also contain specific, good faith allegations that denial of the visitation will cause real and significant harm to the child. As we have stated, that degree of harm requires more than a determination that visitation would be in the child's best interest. It must be a degree of harm analogous to the kind of harm contemplated by §§ 46b-120 and 46b-129, namely, that the child is 'neglected, uncared-for or dependent.' The degree of specificity of the allegations must be sufficient to justify requiring the fit parent to subject his or her parental judgment to unwanted litigation. Only if these specific, good faith allegations are made will a court have jurisdiction over the petition.

Second, once these high jurisdictional hurdles have been overcome, the petitioner must prove these allegations by clear

and convincing evidence. Only if that enhanced burden of persuasion has been met may the court enter an order of visitation. These requirements thus serve as the constitutionally mandated safeguards against unwarranted **intrusions into a parent's authority.**" [Roth v. Weston](#), 259 Conn. 202, 234-235, 789 A.2d 431 (2002).

- **Harm:** "The harm alleged in a visitation petition results from the child's lack of access to the petitioner rather than from the parent-child relationship, which is deemed to be beneficial." [Fish v. Fish](#), 285 Conn. 24, 47, 789 A.2d 431 (2002).
- **Custody vs. visitation:** "In summary, we conclude that third party custody petitions challenge the liberty interest of a parent in a way that is fundamentally different from visitation petitions . . . in which the child's relationship with the parent has not been placed in issue." [Fish v. Fish](#), 285 Conn. 24, 55-56, 939 A. 2d 1040 (2008)

CT 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. Statutes (2019)

- § [46b-56](#). Orders re custody, care, education, visitation and support of children. Best interests of the child. Access to records of minor child by noncustodial parent. Orders re therapy, counseling and drug or alcohol screening.
- § [46b-57](#). Third party intervention re custody of minor children. Preference of child.
- § [46b-59](#). Petition for right of visitation with minor child. Order for payment of fees.

OLR REPORTS:

[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.

- Duke Chen, [Updated Report: Caselaw on Grandparents' Visitation Right in Connecticut](#), Connecticut General Assembly, Office of Legislative Research Report No. 2011-R-0333 (October 25, 2011).
"You asked us to summarize four Connecticut Supreme Court cases and one U.S. Supreme Court case involving child visitation and custody disputes between fit parents and third parties, including grandparents (*Castagno v. Wholean, Troxel v. Granville, Roth v. Weston, Fish v. Fish, and DiGiavanni v. St. George*)."
- Mary M. Janicki, [Grandparents' Visitation Rights](#), Connecticut General Assembly, Office of Legislative Research Report No. 2011-R-0079 (February 7, 2011).
"You asked for a comparison of Connecticut's law on grandparents' right to visit their grandchildren with the laws on that subject in other states."
- Soncia Coleman, [Grandparents' Rights](#), Connecticut General Assembly, Office of Legislative Research Report No. 2009-R-0439 (Dec. 30, 2009).
"You asked several questions regarding grandparents' rights to petition the court for visitation with their grandchildren."

- Susan Price, [Grandparents' Rights](#), Connecticut General Assembly, Office of Legislative Research Report No. 2006-R-0383 (September 18, 2006).
"You have asked for an explanation of Connecticut law on grandparents' custody of, and visitation with, their grandchildren."
- Saul Spigel, [Grandparents' Custody of Grandchildren](#), Connecticut General Assembly, Office of Legislative Research, Report No. 2003-R-0596 (September 22, 2003).
"You asked for an explanation of (1) Connecticut law on grandparents' custody of, and visitation with, their grandchildren and (2) "de facto" custody laws in other states."

COURT RULES:

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

Connecticut Practice Book (2019)

- [Chapter 25 Superior Court - Procedure in Family Matters](#)
 - § 25-1. Definitions Applicable to Proceedings on Family Matters
 - § 25-3. Action for custody of Minor Child
 - § 25-4. Action for Visitation of Minor Child
 - § 25-5. Automatic Orders upon Service of Complaint or Application
 - § 25-23. Motions, Requests, Orders of Notice, and Short Calendar
 - § 25-59. Closure of courtroom in family matters
 - § 25-59a. Sealing files or limiting disclosure of documents in family matters
 - § 25-62. Appointment of Guardian Ad Litem

COURT FORMS:

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

- [Filing for Custody or Visitation \(or both\)](#) (Connecticut Judicial Branch)
- [Official Family Forms](#) (Connecticut Judicial Branch)
 - JD-CL-12 Appearance
 - JD-FM-75 Application for Waiver of Fees
 - JD-FM-221 Verified Petition for Visitation — Grandparents & Third Parties
 - JD-FM-162 Order to Attend Hearing and Notice to the Defendant
 - JD-FM-158 Notice of Automatic Orders
 - JD-FM-164 Affidavit Concerning Children
 - JD-FM-164A Addendum to Affidavit Concerning Children
 - JD-FM-6-Long Financial Affidavit **or**
 - JD-FM-6-Short Financial Affidavit
 - JD FM-183 Custody/Visitation Agreement
 - JD-FM- 184 Custody/Visitation Judgment

CASES:

- [Romeo v. Bazow](#), Superior Court, Judicial District of Hartford at Hartford, No. HHD FA18-6087099-S (Oct. 5, 2018) (2018 WL 5116489). "The plaintiffs' petition states that the plaintiffs disagree with some of the defendant's parenting decisions."

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 plaintiffs' petition does not allege, however, that the children's mother is unfit or that her children are neglected. Clearly, the plaintiffs themselves are hurt that they no longer have contact with their grandchildren. The grandchildren may miss regular contact with their grandparents, although this fact is not alleged. But even if, for arguments sake, the grandchildren miss their grandparents or the defendant has made parenting mistakes, this type of harm alone does not rise to the level of neglect or uncared for as contemplated by Roth or as defined in General Statute §46b-59. The court does not question the intentions of the plaintiffs. The court decides only whether the plaintiffs have met the constitutionally mandated requirements for standing in their petition. For the reasons stated above, the court concludes that the plaintiffs **lack standing. The motion to dismiss is granted.**"

- [Warner v. Bicknell](#), 126 Conn. App. 588, 593 (2011). "Our case law is clear that, absent the allegations identified by the *Roth* court, the court must dismiss a third party's application for visitation. *Id.*, 240, [789 A.2d 431]; see also *Denardo v. Bergamo*, 272 Conn. 500, 514, 863 A.2d 686 (2005); *Crockett v. Pastore*, 259 Conn. 240, 250, 789 A.2d 453 (2002); *Fennelly v. Norton*, 103 Conn. App. 125, 142, 931 A.2d 269 ("[i]f the application [for visitation] does not contain such allegations, the court lacks subject matter jurisdiction and the application must **be dismissed**"), cert. denied, 284 Conn. 918, 931 A.2d 936 (2007); *Clements v. Jones*, 71 Conn. App. 688, 696, 803 A.2d 378 (2002)." (Emphasis added.)
- [In re Andrew C.](#), Superior Court, Judicial District of Hartford at Hartford, No. H12CP11013647A (April 19, 2011) (43 Conn. L. Rptr. 290) (2011 WL 1886493). "The paramount purpose of our termination of parental rights and adoption laws is the compelling interest in locating a stable and permanent home for a child in a timely fashion. This strong public policy should not be undermined by the forced imposition of visitation actions instituted by biological family members, or even worse, by persons with a tenuous nexus to the child. To hold that § 46b-59 is applicable to a child for whom the department is statutory parent will impermissibly qualify or impede many adoptions, effectively undermining them. The legislature did not intend that § 46b-59 create third-party visitation rights to children who have been freed for adoption. Absent agreement, such children and their new or prospective adoptive families must **be free from such intrusions.**"
"Accordingly, the department's motion to dismiss is granted. As the plaintiffs lack standing to file a petition under § 46b-59 to visit with a child for whom the department is statutory parent, this court lacks **subject matter jurisdiction.**"
- [DiGiovanna v. St George](#), 300 Conn. 59, 61 (2011). "In *Roth v. Weston*, 259 Conn. 202, 789 A.2d 431 (2002), this court held that the legislature could, consistent with due process,

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.

authorize a nonparent to obtain visitation with a minor child over a fit parent's objection if the nonparent alleges and proves by clear and convincing evidence that he or she has a parent-like relationship with the child and that the child would suffer harm akin to abuse and neglect if that relationship is not permitted to continue. The present case calls on this court to consider whether a trial court may deny a nonparent's application for visitation when the applicant has met this stringent burden of proof if that court concludes that visitation nonetheless is not in the best interest of the child.... **We** conclude that the trial court improperly determined that the best interest of the child standard can overcome the Roth standard for ordering visitation."

- [Fish v. Fish](#), 285 Conn. 24, 46 (2008). "Mindful of the parent's constitutional rights, we concluded in *Roth* that Connecticut's third party visitation statute, without a judicial gloss, was unconstitutional and interfered with the fundamental right of parents to raise and care for their children because it was too broadly written and provided no standard to guide the court in making a visitation decision, other than the best interests of **the child.**"
- [Denardo v. Bergamo](#), 272 Conn. 500, 514, 863 A.2d 686(2005). "Our conclusion that *Roth* applies retrospectively leads to the further conclusion that the trial court was compelled to grant the defendant's motion to terminate visitation. The plaintiffs failed to allege or attempt to prove that their relationship with the child was similar to a parent-child relationship and that denial of visitation would cause real and significant harm to the child. Without those specific, good faith allegations or such proof, either at the time of the filing of their petition or at the time of the hearing on the defendant's motion, the trial court's prior order of visitation was rendered without subject matter jurisdiction. Accordingly, the defendant's motion to modify and terminate the plaintiffs' visitation **rights properly was granted.**"
- [Troxel v. Granville](#), 530 U.S. 57, 68, 120 S.Ct. 2054, 2061. (2000). "Accordingly, so long as a parent adequately cares for his or her children ... there will normally be no reason for the State to inject itself into the private realm of the family to further question the ability of that parent to make the best decisions concerning the rearing of that parent's children."
- [Roth v. Weston](#), 259 Conn. 202, 789 A.2d 231 (2002). "In the absence of a threshold requirement of a finding of real and substantial harm to the child as a result of the denial of visitation, forced intervention by a third party seeking visitation is an unwarranted intrusion into family autonomy. Accordingly, in the absence of any such requirement of harm, § 46b-59 does not justify interference with parental rights." (p. 229)

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 petition must contain specific, good faith allegations that the petitioner has a relationship with the child that is similar in nature to a parent-child relationship. The petition must also contain specific, good faith allegations that the denial of the visitation will cause real and significant harm to the child... **Second, the petitioner must prove these allegations by clear and convincing evidence.**” (p. 235)

- [Crockett v. Pastore](#), 259 Conn. 240, 246, 789 A.2d 453 (2002). **“This case is controlled by our concurrent decision in *Roth*, wherein we overruled our previous decision in *Castagno*;...”**
- [Castagno v. Wholean](#), 239 Conn. 336, 352, 684 A.2d 1181 (1996), **overruled** by [Roth v. Weston](#), 259 Conn. 202, 217, 789 A.2d 431 (2002).
- [In Re Felicia B](#), 56 Conn. App. 525, 743 A.2d 1160 (2000), **cert. denied**, 252 Conn. 952 (2000). Paternal grandparents were denied both custody and visitation in a case where the **father’s parental rights were terminated**. **“...they cannot safeguard and provide care in the children’s best interests while clinging to the hope that their son did not sexually abuse their grandchildren”** (p. 527).
- [Alexander v. Gomez](#), Superior Court, Judicial District of Danbury, No FA01-0344023-S (May 30, 2003) (34 Conn. L. Rptr. 660) (2003 Conn. Super. Lexis 1586). **“The plaintiff argues that applying Roth retroactively would be a substantial injustice to the plaintiff. This court agrees. The court in Roth noted that applying the new standard to the specific complaint allegations in the case before it would be ‘manifestly unfair, because these requirements are newly stated, and the plaintiffs could not have anticipated their adoption.’ Id., 235... For the foregoing reasons, the defendant’s motion to modify and eliminate the plaintiff’s visitation rights is denied, without prejudice, and the plaintiff will be allowed an opportunity to amend her application and provide proof that it is consistent with all the requirements of Roth.”**

[Pivnick v. Lasky](#), Superior Court, Judicial District of Hartford, No. FA99-0720419 (Mar. 24, 2003) (34 Conn. L. Rptr. 426) (2003 Conn. Super. Lexis 944). **“The question presented by this motion is whether the standard articulated in *Roth v. Weston*, invalidates the prior orders in this case which have allowed for grandparent visitation... The court concludes that the decision of *Roth v. Weston* does override the prior court orders in this matter granting visitation rights to third parties against the wishes of a fit custodial parent.”**

WEST KEY NUMBERS:

- Child Custody - Visitation
 - #175. Visitation in general
 - #181. Ability of parties to cooperate
 - #182. Person entitled in general

- #183. Custody of siblings
- #282. Grandparent visitation and access to child
 - #283. In General
 - #284. Grandparent rights as derivative
 - #285. Conduct or status of parent or custodian
 - #286. Objections of Parent
 - #287. Interference with parental rights
 - #288. Parent unavailable
 - #289. Death of parent

TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 8 Arnold H. Rutkin et al., [Connecticut Practice: Family Law and Practice with Forms](#) (2010).
 - § 42.49. Visitation—With third parties
- Louise Truax, Editor, [LexisNexis Practice Guide Connecticut Family Law](#), (2019).
 - Chapter 8. Custody and Visitation
 - Part III. Determining Who May Seek Custody and Visitation.
 - § 8.07. Checklist
 - § 8.08. Analyzing the Rebuttable Presumption of Parentage for a Child Born During the Marriage
 - § 8.09. Analyzing the Rebuttable Presumption Of Parental Custody
 - § 8.10. Assessing the Rights of Third Parties to Seek Custody and Visitation
 - § 8.11. Commencing an Action or Intervening
 - § 8.12. Contesting Third-Party Custody and Visitation Claims
- 2 Sandra Morgan Little, [Child Custody & Visitation Law and Practice](#) (2018 edition).
 - Chapter 11. Disputes Between Parents and Third Parties
 - § 11.01. Introduction
 - § 11.02. The constitutional basis of parental rights
 - § 11.03. The parental preference standard
 - § 11.04. Determination of parental fitness: Factors to be considered
 - § 11.05. The best interests standard
 - § 11.06. Standing
 - § 11.07. Role of expert witness
 - § 11.08. Bibliography
- 3 Arnold H. Rutkin, Gen. Ed., [Family Law and Practice](#) (2018).
 - Chapter 32. Child custody and visitation
 - § 32.09. Visitation
 - [1] Generally
 - [b] Visitation by nonparent
 - [7] Nonparent visitation
 - [a] Generally
 - [b] Grandparents

[c] Stepparents, siblings, other nonparents
[d] Guidelines for granting and scheduling
nonparent visitation

- 2 Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#), 3rd ed. (2009).
Chapter 10. Third-party custody and visitation
 - § 10.15. Third party visitation generally
 - § 10.17. Standing
 - § 10.19. Coordinating schedules
 - § 10.20. Representing the third party
 - § 10.21. Opposing third-party visitation
 - § 10.22. Effect of termination of parental rights or adoption

- 1 Thomas R. Young, [Legal Rights of Children](#), 3d ed., (2018-2019).
Chapter 3. Secondary Custodial Rights: Visitation, Parent Time, and Parenting Time
 - § 3:1.—Generally
 - § 3:2.—Noncustodial parents
 - § 3.3. —Stepparents and adoptive parents
 - § 3.4. —Foster parents
 - § 3.5. —Grandparents, generally
 - § 3.6. —Effects of adoption on visitation rights of natural grandparents
 - § 3.7. —**Siblings and other “family members”**
 - § 3.8. —The wishes of the child with regard to visitation
 - § 3.9. —Terms of visitation
 - § 3.10.—Modification

ENCYCLOPEDIAS:

- 59 [Am Jur 2d](#) Parent and Child (2012)
Custody; Visitation
 - § 36. Right of visitation
 - § 37. —Denial to noncustodial parent
 - § 38. —By third party

- 67A [C.J.S.](#) Parent and child (2013)
 - § 132. Visitation
 - § 134. Visitation—Rights of persons other than parents

ARTICLES:

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

- Nicole M. Riel, Note, “The Other Mother: Protecting Non-Biological Mothers in Same-Sex Marriages”, 31 [The Quinnipiac Probate Law Journal](#) 387 (2018).
- Jeff Atkinson, “Shifts in the Law Regarding the Rights of Third Parties to Seek Visitation and Custody of Children”, 47 [Family Law Quarterly](#) 1 (2013).
- Sonya C. Garza, “[The Troxel Aftermath: A Proposed Solution for State Courts and Legislatures](#)”, 69 Louisiana Law Review 927 (2009).

- John R. Logan, "Connecticut's Visitation Statute After Troxel v. Granville", [Conn. Lawyer](#) (Nov. 2000, at 4).
- Koreen Labrecque, Note, "Grandparent Visitation After Stepparent Adoption", 6 [Conn. Prob. L. J.](#) 61 (1991).

Section 3: Temporary or Pendente Lite Visitation Orders

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to temporary visitation orders issued while a family action is pending.

DEFINITION:

- **"Pendente lite** orders, by their very definition, are orders that continue to be in force **'during the pendency** of a suit, action, or litigation.' **Ballentine's Law Dictionary (3d ed., 1969.)** [Febroriello v. Febroriello](#), 21 Conn. App. 200, 206, 572 A.2d 1032 (1990).
- **"Pendente lite** orders necessarily cease to exist once a final judgment in the dispute has been rendered because their **purpose is extinguished at that time.**" [Connolly v. Connolly](#), 191 Conn. 468, 480, 464 A.2d 837 (1983).

CT 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. (2019)

- § [46b-56](#). Orders re custody, care, education, visitation and support of children. Best interests of the child. Access to records of minor child by noncustodial parent. Orders re therapy, counseling and drug or alcohol screening.
- § [46b-61](#). Orders re children where parents live separately. Filing of accompanying documents.
- § [46b-64](#). Orders of court prior to return day of complaint.

COURT RULES:

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

Connecticut Practice Book (2019)

- [Chapter 25 Superior Court - Procedure in Family Matters](#)
 - § [25-23](#). Motions, Requests, Orders of Notice, and Short Calendar
 - § [25-24](#). Motions. "(b) Each such motion shall state clearly in the caption of the motion, whether it is a pendente lite or a postjudgment motion."
 - § [25-26](#). Modification of Custody, Alimony or Support

FORMS:

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

- [Official Family Forms](#) (Connecticut Judicial Branch)
- [JD-FM-176 Motion for Orders Before Judgment \(Pendente Lite\) in Family Matters](#)

Unofficial Forms

- MacNamara, Welsh, and George, editors. [Library of Connecticut Family Law Forms](#) (2d ed. 2014).
Pendente Lite Motions – Pendente Lite Motions—Custody & Visitation, Forms 5-012 through 5-033
- Mary Ellen Wynn & Ellen B. Lubell, [Handbook of Forms for the Connecticut Family Lawyer](#) (1991).
VI. Pendente Lite motions, p.98

TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- [Gardner v. Falvey](#), 45 Conn. App. 699 (1997), Connecticut Appellate Records & Briefs, February 1997.
Motion for Specific Visitation, Pendente Lite
- 8 Arnold H. Rutkin et al., [Connecticut Practice: Family Law and Practice with Forms](#) (2010).
Chapter 41. Pendente lite custody and visitation
 - § 41.1. In general
 - § 41.2. Automatic orders affecting temporary custody
 - § 41.3. Determining necessity of motion for temporary custody
 - § 41.4. Significance of temporary custody determinations
 - § 41.5. Modification and enforcement of temporary orders
 - § 41.6. Appealability of temporary orders
 - § 41.7. Emergency temporary orders
- Louise Truax, Editor, [LexisNexis Practice Guide Connecticut Family Law](#), (2019).
Chapter 8. Custody and Visitation
 - Part II. Establishing Jurisdiction and Analyzing Statutory Provisions for Child Custody and Visitation.
 - Part III. Determining Who May Seek Custody and Visitation.
 - Part V. Assessing Considerations in Custody or Visitation Actions.
 - § 8.26 Filing Custody and Visitation Motions
Pendente Lite – General Considerations
 - § 8.27 Filing a Motion for Custody and Visitation
Pendente Lite
 - § 8.31 Modifying *Pendente Lite* Orders
- Barbara Kahn Stark, [Friendly Divorce Guidebook for Connecticut](#) (2d ed., 2003).
Temporary (Pendente Lite) orders, pp. 124-127.
- 2 Sandra Morgan Little, [Child Custody & Visitation Law and Practice](#) (2018 edition).
Chapter 8. Temporary custody determinations
 - § 8.01. Generally
 - § 8.02. Obtaining a temporary custody order
 - § 8.03. Third-party custody
 - § 8.04. Appealing a temporary custody order
 - § 8.05. Modification and enforcement of temporary custody orders
 - § 8.07. Forms
- Cynthia C. George and Amy Calvo MacNamara, [Connecticut Family Law Citations](#) (2018).
Chapter 11. Child Custody and Visitation

- 3 Arnold H. Rutkin, Gen. Ed., [Family Law and Practice](#) (2018).
Chapter 32. Child custody and visitation
§ 32.05. Temporary custody
 - [1] Generally
 - [2] Purposes and significance of temporary custody
 - [3] Obtaining temporary custody orders
 - [4] Effect of temporary custody on permanent award
 - [5] Appeal
 - [6] Forms: Temporary custody

Section 4: Preference of the Child in Visitation Actions

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to the consideration courts give to the wishes of the child when making child visitation orders.

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. (2019)

- § [46b-56](#). (b). In making or modifying any order as provided in subsection (a) of this section, the rights and responsibilities of both parents shall be considered and the court shall enter orders accordingly that serve the best interests of the child and provide the child with the active and consistent involvement of both parents commensurate with their abilities and interests. Such orders may include, but shall not be limited to: (1) Approval of a parental responsibility plan agreed to by the parents pursuant to section 46b-56a; (2) the award of joint parental responsibility of a minor child to both parents, which shall include (A) provisions for residential arrangements with each parent in accordance with the needs of the child and the parents, and (B) provisions for consultation between the parents and for the making of major decisions regarding the child's health, education and religious upbringing; (3) the award of sole custody to one parent with appropriate parenting time for the noncustodial parent where sole custody is in the best interests of the child; or (4) any other custody arrangements as the court may determine to be in the best interests of the child.
- § [46b-56](#). (c) In making or modifying any order as provided in subsections (a) and (b) of this section, the court shall consider the best interests of the child, and in doing so may consider, but shall not be limited to, one or more of the **following factors:...** (3) **any relevant and material information obtained from the child, including the informed preferences of the child;...**
- § [46b-57](#). Third party intervention re custody of minor children. Preference of child.
- § [46b-59](#). Petition for right of visitation with minor child. Order for payment of fees.

COURT RULES:

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

Connecticut Practice Book (2019)

- [Sec. 25-60](#). Evaluations, Studies, Family Services Mediation Reports and Family Services Conflict Resolution Reports

CASES:

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.

- [Szczerkowski v. Karmelowicz](#), 60 Conn. App. 429, 434 (2000). "Indeed, as the court succinctly stated, 'We're trying to respond to the articulated needs of the children to spend more time with [the plaintiff].' No other rational reading of the court's language is possible but that it was acting in the children's best interests when it modified visitation..."
- [Knock v. Knock](#), 224 Conn. 776, 788, 621 A.2d 267 (1993). "Section 46b-56(b) does not require that the trial court award custody to whomever the child wishes; it requires only that the court take the child's wishes into consideration."
- [Gennarini v. Gennarini](#), 2 Conn. App. 132, 137, 477 A.2d 674 (1984). "...whether the child's preferences and feelings as to custody and visitation are a significant factor in the court's ultimate determination ... will depend on all the facts of the particular case, including the child's age and ability intelligently to form and express those preferences and feelings." (p. 137)
- [Hamele v. Hamele](#), Superior Court, Judicial District of Fairfield at Bridgeport, No. 273497 (Dec. 31, 1991) (5 Conn. L. Rptr. 795) (91 WL 288142) (1991 Conn. Super. Lexis 3108). *The court refused to make an order requiring a 15 year old child to visit with his father in prison after the child testified that he did not wish to do so.*
- [Kawaller v. Kawaller](#), Superior Court, Judicial District of Hartford-New Britain at Hartford, No. 241310 (July 22, 1986) (1 C.S.C.R. 566).
"... it is the desire of all parties that the court modify the existing orders pertaining to visitation and transportation ... In so doing, the court is guided by the best interests of the child, ... age 11, giving consideration to his wishes as is set forth in Conn. Gen. Stat. §46b-56(b)."

WEST KEY NUMBERS:

TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Child Custody
Visitation.
#204. Child's preference
- 8 Arnold H. Rutkin et al., [Connecticut Practice: Family Law and Practice with Forms](#) (2010).
Chapter 42. Child custody and visitation
§ 42.26. Court conference or interview with child
§ 42.31. Preference of the child
- 3 Sandra Morgan Little, [Child Custody & Visitation Law and Practice](#) (2018 edition).
Chapter 16. Child visitation
§ 16.05. Child's preference

ARTICLES:

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

- Steven Sichel, *The Child's Preference in Disputed Custody Cases*, 6 [Conn. Family Law](#). 45 (1991).

Section 5: Contempt of Visitation Orders

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to the use of contempt proceedings to enforce visitation orders.

SEE ALSO:

- [Enforcement of Family and Foreign Matrimonial Judgments](#) (Research Guide)
- [Modification of Judgments in Family Matters](#) (Research Guide)

DEFINITIONS:

- "While particular acts do not always readily lend themselves to classification as civil or criminal contempts, a **contempt** is considered **civil** when the punishment is wholly remedial, serves only the purposes of the complainant, and is not intended as a deterrent to offenses against the public." [McCrone v. United States](#), 307 U.S. 61, 64, 59 S. Ct. 685, 686 (1939).
- "**Civil contempt** is conduct directed against the rights of the opposing party." [Tatro v. Tatro](#), 24 Conn. App. 180, 185 (1991)

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. (2019)
- § [46b-87](#). Contempt of orders
 - § [46b-87a](#). Forms and instructions for application for contempt order based on violation of visitation order

COURT RULES:

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

- Connecticut Practice Book (2019)
- [Chapter 25 Superior Court - Procedure in Family Matters](#)
 - § [25-27](#). Motion for Contempt
 - § [25-63](#). Right to Counsel in Family Civil Contempt Proceedings
 - § [25-64](#). Waiver
 - § [23-20](#). Review of Civil Contempt

FORMS:

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

- [Official Family Forms](#) (Connecticut Judicial Branch)
 - See Also: [Filing a Motion for Contempt](#)

Unofficial Forms

- Mary Ellen Wynn & Ellen B. Lubell, [Handbook of Forms for the Connecticut Family Lawyer](#) 188 (1991).
 - Form No. XI-A-1. Motion for Contempt [pendente lite], pp. 189-190
 - Form No. XI-A-3a. Application for Order to Show Cause and Contempt Citation [post judgment], pp. 193-194

CASES:

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.

- [Kennedy v. Kennedy](#), 83 Conn. App. 106, 847 A.2d 1104 (2004). "The denial of the plaintiff's request for a continuance to retain an attorney for assistance on the motion of civil contempt raises different concerns. Practice Book § 25-63 provides a right to counsel in family civil contempt proceedings. We have held that a court's failure to advise a party of the right to counsel in a contempt proceeding in which he faces potential incarceration, and in the event he is indigent, to court-appointed counsel, is fatal to the finding of contempt and any order related thereto. See *Emerick v. Emerick*, 28 Conn. App. 794, 800, 613 A.2d 1351, cert. denied, 224 Conn. 915, 617 A.2d 171 (1992). Moreover, a waiver of a right to counsel "should be clearly determined by the trial court, and it would be fitting and appropriate for that determination to appear on the record." (Internal quotation marks omitted.) **Id.**, 799."
- [Wilson v. Wilson](#), 38 Conn. App. 263, 661 A.2d 621 (1995). **"We agree with the plaintiff that a court may not find a person in contempt without considering the circumstances surrounding the violation to determine whether such violation was willful. See id.**, 124; *Marcil v. Marcil*, 4 Conn. App. 403, 405, 494 A.2d 620 (1985). Despite the plaintiff's claims to the contrary, our review of the transcripts of the proceedings in this case establish that the trial court gave thorough consideration to the circumstances surrounding the plaintiff's violation of the court's order of visitation."
- [Tatro v. Tatro](#), 24 Conn. App. 180, 186, 587 A.2d 154 (1991). **"The inability of a contemnor to obey a court order through no fault of her own is a defense to a claim of contempt... The act for which the penalty was imposed cannot constitute contempt if the actor was unable to obey the order."**
- [Tufano v. Tufano](#), 18 Conn. App. 119, 556 A. 2d 1036 (1989). The plaintiff mother was found in contempt for willful violation of the visitation rights granted to the paternal grandparents.
- [Gilman v. Gilman](#), Superior Court, Judicial District of New Haven at New Haven, No. 385930 (May 14, 1997) (1997 WL 276459) (1997 Conn. Super. Lexis 1284). "...the court has serious concerns as to whether the plaintiff fully appreciates **the importance of complying with the court's orders and the consequences for not doing so. It is fundamentally important that the children have visitation with their father according to the court's schedule. In order to insure that visitation occurs when scheduled, the court imposes a fine of \$150 for every visitation missed, now and in the future, due to the plaintiff's willful actions. The court also finds that an**

award to the defendant of attorney fees in the amount of \$750 ... is reasonable.”

WEST KEY NUMBERS:

- Child Custody
- Enforcement
 - # 850. In general
 - # 851. Contempt
 - # 852. —In general
 - # 853. —Excuses and defenses
 - # 854. —Visitation
 - # 855. Jurisdiction
 - # 856. Venue
 - # 857. Time for proceedings
 - # 858. Parties
 - # 859. Process
 - # 860. Appearance
 - # 861. Pleading
 - # 862. —In general
 - # 863. —Issues, proof and variance
 - # 864. Evidence
 - # 865. —In general
 - # 866. —Admissibility
 - # 867. —Burden of proof
 - # 868. —Presumptions
 - # 869. —Degree of proof
 - # 870. —Weight and sufficiency
 - # 871. Hearing
 - # 872. Judgment or order
 - # 873. Operation and effect of judgment or order
 - # 874. Relief granted

PAMPHLETS:

- [What if the Other Parent Doesn't obey a Court Order? How to file a Motion for Contempt.](#) Connecticut Network for Legal Aid. February 2018

TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 8 Arnold H. Rutkin et al., [Connecticut Practice: Family Law and Practice with Forms](#) (2010).
 - Chapter 43. Enforcement of custody and visitation orders
 - § 43.1. In general
 - § 43.2. Parties entitled to seek enforcement
 - § 43.3. Venue for enforcement proceedings
 - § 43.4. Contempt proceedings generally
 - § 43.5. Notice and hearing requirements for contempt proceedings
 - § 43.6. Defenses to contempt claims
 - § 43.7. Penalties imposed for contempt
 - § 43.8. Habeas Corpus proceedings
 - § 43.9. Application for writ of habeas corpus—Form
 - § 43.10. Arbitration or mediation
 - § 43.11. Criminal sanctions
 - § 43.12. Tort claims

§ 43.13. Effect of pending claims for modification
§ 43.14. Enforcement provisions incorporated into judgment or agreement

- Louise Truax, Editor, [LexisNexis Practice Guide Connecticut Family Law](#), (2019 edition).
 - Chapter 17. Enforcement of Orders
 - Part II. Filing Motions for Contempt.
 - Part III. Asserting Defenses to a Motion for Contempt.
 - Part IV. Determining General Relief that May be Sought in a Motion for Contempt.
 - Part VII. Crafting Orders to Enforce Custody and Visitation.

- 4 Sandra Morgan Little, [Child Custody & Visitation Law and Practice](#) (2018 edition).
 - Chapter 25. Modification and enforcement of forum **state's custody**-visitation directives
 - § 25.05. Enforcement proceedings
 - [1] Generally
 - [2] Preliminary considerations
 - [a]. Types of enforcement proceedings and remedies
 - [i]. Generally
 - [ii]. Contempt of court and habeas corpus
 - [iii]. Punitive modification
 - [iv]. Reduction, suspension or termination of child support
 - [v]. Required posting of a bond
 - [vi]. Money damages
 - [vii]. Criminal liability
 - [viii]. Injunctive relief
 - [ix]. **Court's discretionary powers in enforcing visitation directives**
 - [x]. Noncustodial parent compelled to exercise visitation
 - [3] Contempt of court proceedings
 - [4] Punitive transfer of custody or modification of visitation directives
 - [5] Reduction, termination or suspension of child support payments as an enforcement mechanism
 - [6] Requirement that a bond be posted to secure custody or visitation rights
 - [a]. Generally
 - [b]. **Court's authority to require the posting of bonds in child custody or visitation proceedings**
 - [c]. Appropriate circumstances for the imposition of a bond requirement
 - [d]. Amount of the bond
 - [e]. Execution on the bond

Section 6: Habeas Corpus Proceedings in Child Visitation Matters

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to the applicability of a writ of habeas corpus in child visitation matters and form preparation and procedure in habeas corpus visitation proceedings.

DEFINITION:

- "The employment of the forms of habeas corpus in a child custody case is not for the purpose of testing the legality of a confinement or restraint as contemplated by the ancient common-law writ... The primary purpose is to furnish a means by which the court ... may determine what is best for the welfare of the child." [Howarth v. Northcott](#), 152 Conn. 460, 464 (1965).
- "A habeas corpus petition concerning a minor child's custody is an equitable proceeding in which the trial court is called upon to decide, in the best exercise of its sound discretion, the custodial placement which will be best for the child." [Evans v. Santoro](#), 6 Conn. App. 707, 709 (1986).

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. (2019)

- § [45a-606](#). Father and mother joint guardians
- § [46b-1](#)(8), (9). Family relations matters defined
- § [52-466](#). Application for writ of habeas corpus. Service.
- Return.
- § [52-467](#). Punishment for refusal to obey writ or accept copy.
- § [52-493](#). Order in the nature of prerogative writs

COURT RULES:

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

Connecticut Practice Book (2019)

- [Chapter 25 Superior Court - Procedure in Family Matters](#)
 - § [25-40](#). Habeas Corpus in Family Matters; the Petition
 - § [25-41](#). —Preliminary Consideration
 - § [25-42](#). —Dismissal
 - § [25-43](#). —The Return
 - § [25-44](#). —Reply to the Return
 - § [25-45](#). —Schedule for filing Pleadings
 - § [25-46](#). —Summary Judgment as to Writ of Habeas Corpus
 - § [25-47](#). —Discovery

FORMS:

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

- 8 Arnold H. Rutkin et al., [Connecticut Practice: Family Law and Practice with Forms](#) (2010).
 - § 43.9. Application for Writ of Habeas Corpus
- Mary Ellen Wynn & Ellen B. Lubell, [Handbook of Forms for the Connecticut Family Lawyer](#) (1991).

- Form No. X-A-1a. Application for writ of habeas corpus concerning custody /visitation of minor child(ren), pp. 176-177
- Form no. X-A-1b. Affidavit, pp. 178-179
- Form no. X-A-1c. Writ of habeas corpus, p. 180
- Form no. X-A-1d. Certification into court
- Form no. X-A-1e. Petition for return of child

CASES:

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.

- [In re Emma E.](#), Superior Court, Judicial District of Hartford at New Britain, No. H14CP14011313A (2015 WL 1759353) (March 17, 2015). **“The earliest reported instance in Connecticut of the use of habeas corpus to obtain custody of a child is the case of *Nichols v. Giles*, 2 Root (Conn.) 461, 461–62 (1796), where the court denied such a petition brought by a father seeking to remove a three-year-old daughter from her mother because, the court held, said Nichols had ‘no house and very little property,’ was ‘very irregular in his temper and life,’ and the child ‘is well taken care of in her mother’s care’ and ‘not likely to be so by the father.’ As that case shows, ‘[t]he primary purpose of habeas corpus in matters relating to the custody of children is to furnish a means by which the Superior Court may determine what is best for the welfare of the child.’ *Doe v. Doe*, 163 Conn. 340, 342, 307 A.2d 166 (1972). Thus the father’s petition for a writ here, even if he proved the alleged constitutional violations, would ultimately depend on the precise issue pending in the child protection cases of what visitation and custody orders are in these children’s best interests.”**
- [In Re Jonathan M.](#), 255 Conn. 208, 223, 764 A.2d 739 (2001). **“The primary issue in this appeal is whether the habeas petition may be employed as a means of testing the merits of the termination judgment, and not solely as a means of bringing challenges to custody and visitation orders. Although the petitioner’s parental rights have been terminated by a presumptively valid judgment ... to foreclose, on jurisdictional grounds, his ability to seek custody and assert subsequent challenges to the termination judgment, whether through a petition for a writ of habeas corpus or other means, would require a circular course of reasoning in which we are unprepared to indulge.” ...**
“Indeed, permitting a habeas writ as a vehicle in which a parent whose rights have been terminated may attack that judgment collaterally, unbounded by constraints within which time such a petition may be filed, would further undermine the legislative pronouncements in this area of the law.” ...
“Moreover, even in habeas actions properly brought to challenge custody, this court has recited consistently that ‘the welfare of the child is the paramount consideration’ (Internal quotation marks omitted.) *McGaffin v. Roberts*, 193

Conn. 393, 403, 479 A.2d 176 (1984), cert. denied, 470 U.S. 1050, 105 S. Ct. 1747, 84 L. Ed. 2d 813 (1985). As such, we are unwilling to infect the delicate and serious process governing the placement of foster children in permanent adoptive homes with perpetual uncertainty where the **General Assembly has not directed us to do so.**"

- [Weidenbacher v. Duclos](#), 234 Conn. 51, 73, 661 A.2d 988 (1995). **"...we hold that the mere fact that a child was born while the mother was married is not a per se bar that prevents a man other than her husband from establishing standing to bring an action for a writ of habeas corpus for custody of or visitation with a minor child."**
- [Doe v. Doe](#), 163 Conn. 340, 307 A.2d 166 (1972). The court held that only parents and legal guardians have standing to bring an action for habeas corpus seeking visitation rights.
- [Evans v. Santoro](#), 6 Conn. App. 707, 709, 507 A.2d 116 (1986). **"In order to invoke the aid of a habeas corpus writ to enforce a right to physical custody of a minor, the applicant for the writ must show a prima facie legal right to custody... Once the writ has issued, the burden of proving that a change of custody would be in the child's best interest rests upon the party seeking the change... In this case, that party was the petitioner."**
- [Axelrod v. Avery](#), Superior Court, Judicial District of New London at New London, No. 532395 (Dec. 1, 1994) (13 Conn. L. Rptr. 124) (1994 Conn. Super. Lexis 3058). **"The language of [Nye](#) arguably extends standing in habeas corpus petitions from the narrow construction in [Doe](#) to a broad construction which include members of a child's biological family... Moreover, a finding of standing is appropriate on the facts ... because the plaintiffs have a sufficient 'personal stake in the outcome of the controversy,' namely the custody of their granddaughter and the maintenance of a familial relationship with her."**
- [Forestiere v. Doyle](#), 30 Conn. Supp. 284, 288, 31 A. 2d 607 (1973). ***Plaintiff father's petition for a writ of habeas corpus seeking visitation rights "... to deny him visitation rights without a hearing on the ultimate question of what is best for the welfare of the child is to deny him his constitutional rights."***
- 8 Arnold H. Rutkin et al., [Connecticut Practice: Family Law and Practice with Forms](#) (2010).
 - § 43.8. Habeas corpus proceedings
 - § 43.9. Application for writ of habeas corpus—Form
- 1 Sandra Morgan Little, [Child Custody & Visitation Law and Practice](#) (2018 edition).
 - Chapter 6. Commencement of action or proceeding
 - § 6.06. Habeas corpus

TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- [1]. —Applicability to custody disputes
- [2]. —Procedure