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2023 Edition

# Property of Spouses in Connecticut

A Guide to Resources in the Law Library

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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.

Treated elsewhere in our [Legal Research Guides](#):

- [Enforcing Money Judgments](#)
- [Equitable Distribution of Marital Property](#)
- [Premarital \(Antenuptial\) and Postnuptial Agreements in Connecticut](#)
- [Breach of Promise to Marry and Return of Engagement Ring and Courtship Gifts](#)
- [Rights of Surviving Spouse](#)

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# Introduction

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## A Guide to Resources in the Law Library

- “A spouse shall not acquire by marriage any right to or interest in any property held by the other spouse before or acquired after such marriage, except as to the share of the survivor in the property as provided by sections 45a-436 and 45a-437. Each spouse shall have power to make contracts with the other spouse or with third persons, to convey to the other spouse or to third persons his or her real and personal estate and to receive conveyances of real and personal estate from the other spouse or from third persons as if unmarried. Each spouse may bring suit in his or her own name upon contracts or for torts and he or she may be sued for a breach of contract or for a tort; and his or her property, except such property as is exempt by law, may be taken on attachment and execution, but shall not be taken for the debts of the other spouse, except as provided in section 46b-37. Neither spouse shall be liable for the debts of the other spouse contracted before marriage, nor upon the other spouse's contracts made after marriage, except as provided in said section.” **Conn. Gen. Stat. § 46b-36** (2023).
- See Also: [Table 1 - Joint Duty of Spouses to Support Family](#)

# Section 1: Married Women's Act in Connecticut

A Guide to Resources in the Law Library

## SCOPE:

Bibliographic sources relating to the history and effect of the **Married Women's Act of 1877 in Connecticut.**

## DEFINITIONS:

- "An enhancement of the wife's legal status had been brought about by the enactment of the Married Women's Act in 1877. See Public Acts 1877, c. 114 (now General Statutes 46b-36). This legislation enabled a married woman to control her own property and to sue and be sued in the same manner as her husband." [Yale University School of Medicine v. Collier](#), 206 Conn. 31, 34, 536 A.2d 588 (1988).
- "We think that in enacting this law the State adopted a fundamental change of public policy . . . that in every marriage contracted since April 20th, 1877, husband and wife alike retain the capacity of owning, acquiring and disposing of property, which belongs to unmarried persons; that the power of contracting incident to such capacity, necessarily follows; and that the legal status of husband and wife involves the capacity to contract with each other and with others. Under the law of status which the act of 1877 abolished, the wife could not contract with her husband or any one else, because her legal identity and capacity of owning property attached to the husband, and for the same reason the husband could not contract with his wife." [Mathewson v. Mathewson](#), 79 Conn. 23, 35, 63 A. 285 (1906).

## 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. (2023)
  - [Chapter 815e](#). Marriage
    - § [46b-36](#). Property rights of spouse not affected by marriage.
    - § [46b-37](#). Joint duty of spouses to support family. Liability for purchases and certain expenses. Abandonment.

## HISTORY:

- Public Act 1877, Chapter 114. [An Act in Alteration of the Act Concerning Domestic Relations](#).

## CASES:

- [Jewish Home for the Aged v. Nuterangelo](#), Superior Court, Judicial District of New Haven at New Haven, No. CV04-0489608-S (December 10, 2004) (38 Conn. L. Rptr. 408) (2004 Conn. Super. Lexis 3709) (2004 WL 3130225).  
"The problem with this count is that the common-law right of action known as the doctrine of necessities could only be asserted against husbands. [Yale University School of Medicine v. Scianna](#), 45 Conn. Supp. 84, 19 Conn. L. Rptr. 77 (1997). This was because, at common-law, a married

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.

woman had no property and therefore could make no contracts. *Id.*, at 1W. Blackstone, Commentaries on the Laws of England (1807) p. 442. Indeed, it was this gender bias in the common law that led to the promulgation of **the Married Women’s Act of 1877**. Public Acts 1877, c. 114. This statute created a new cause of action making spouses liable for the cost of any article purchased by either that went to the support of the family. *Id.*, § 2. This statutory remedy was, however, independent of the common-law doctrine of necessities. [Buckingham v. Hurd](#), 52 Conn. 404, 406 (1884). The point is that the common-law **duty of support applied only to husbands.**”

- [Wendt v. Wendt](#), 59 Conn. App. 656, 687-688, 757 A.2d 1225, 1245 (2000). **“As the court in this case rightly stated: ‘The plaintiff would have the decision in this case take its place along with the great events making changes in women’s rights: the 1848 Seneca Falls [New York] Convention; the Married Women’s Act of 1877 in Connecticut [Public Acts 1877, c. 114, now General Statutes § 46b-36]; the nineteenth amendment to the United States Constitution, ratified in Connecticut on September 14 and 20, 1920; and the ERA to the Connecticut constitution, adopted November 27, 1974. This historical progression, while compelling, does not warrant the results the plaintiff seeks. The plaintiff seeks, by judicial fiat, to declare unconstitutional, statutes in order to correct an economic disorder.’ We agree with the court and conclude that the plaintiff has not successfully proven a violation of the ERA.”**

#### 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.

- 41 *Am Jur 2d* Husband and Wife, Thomson West, 2015 (also available on Westlaw).
  - I. Introduction
    - Marital and Family Relationships
      - § 3. Statutory supersession of common-law status of married women
  - III. Property Rights and Interests
    - § 11. Right to hold property separately
    - § 20. **Prevalence today; effect of married women’s acts**
- 41 *C.J.S.* Husband and Wife, Thomson West, 2014 (also available on Westlaw).
  - II. Mutual Rights, Duties, and Liabilities of Spouses
    - § 4. Separate legal identities; effect of married **women’s acts**
    - § 10. Right to own separate property
    - § 12. Rights of creditors in separate property of **debtor’s spouse**
    - § 13. What constitutes separate property

TEXTS &  
TREATISES:

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

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

- 7 *Connecticut Practice Series. Family Law and Practice with Forms*, by Arnold H. Rutkin et al., Thomson West, 2010, with 2022-2023 supplement (also available on Westlaw).
  - Chapter 7. Property Rights of Husband and Wife
    - § 7.1. **Married Women’s Property Act**
- 5 *Family Law and Practice*, by Arnold H. Rutkin et al., Matthew Bender, 1985, with 2023 supplement (also available on Lexis Advance).
  - Chapter 62. Nondivorce Support and Property Rights
    - § 62.01. Nondivorce Support and Property Rights
      - [2] Property Rights During Marriage
        - [b] The “feme” sole estate and married women’s property acts**
          - [ii] The **Married Women’s Property Acts**

## Section 2: Property Rights of Spouses

A Guide to Resources in the Law Library

### SCOPE:

Bibliographic sources relating to the property rights of each spouse in an ongoing marriage.

### SEE ALSO:

- Alimony Research Guide: [§ 1. Duty to Support Spouse](#)
- Child Support Research Guide: [§ 1. Duty to Support Children](#)

### DEFINITIONS:

- **"A spouse shall not acquire by marriage any right to or interest in any property held by the other spouse before or acquired after such marriage, except as to the share of the survivor in the property as provided by sections 45a-436 and 45a-437. Each spouse shall have power to make contracts with the other spouse or with third persons, to convey to the other spouse or to third persons his or her real and personal estate and to receive conveyances of real and personal estate from the other spouse or from third persons as if unmarried. Each spouse may bring suit in his or her own name upon contracts or for torts and he or she may be sued for a breach of contract or for a tort; and his or her property, except such property as is exempt by law, may be taken on attachment and execution, but shall not be taken for the debts of the other spouse, except as provided in section 46b-37. Neither spouse shall be liable for the debts of the other spouse contracted before marriage, nor upon the other spouse's contracts made after marriage, except as provided in said section."** Conn. Gen. Stat. § [46b-36](#) (2023).
- "It is clear that the statute [Conn. Gen. Stats. § 46b-10, now § 46b-37] imposes a joint liability upon the husband and the wife regardless of which one of them made the contract for the services." [Maislin v. Lawton](#), 30 Conn. Supp. 593, 594, 314 A.2d 783, 784 (1973).

### 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. (2023)
  - [Chapter 815e](#). Marriage
    - § [46b-36](#). Property rights of spouse not affected by marriage.
    - § [46b-37](#). Joint duty of spouses to support family. Liability for purchases and certain expenses. Abandonment.
  - [Chapter 802h](#). Protected Persons and Their Property
    - § [45a-631](#). **Limitation on receipt or use of minor's property by parent, guardian or spouse.** Release.

## REGULATIONS:

You can visit your local law library or browse the [Connecticut eRegulations System](#) on the Secretary of the State website to check if a regulation has been updated.

## 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.

- Conn. Agencies Regs. Department of Revenue Services. Title 12 – Taxation.  
§ [12-702\(c\)\(1\)-2](#). Relief of spouse from Connecticut income tax liability on joint Connecticut income tax return.
- [Lawrence v. Gude](#), 216 Conn. App. 624, 630-31, 285 A.3d 1198 (2022). **“The defendants' argument that a spouse cannot be liable to a third party under § 46b-37 for rent owed when the spouse is not a signatory to the leasehold agreement is contrary to the plain language of § 46b-37 (b) (3) and analogous appellate precedent interpreting other subdivisions of § 46b-37 (b) vis-à-vis third-party claims for payment.”**
- [Wilton Meadows Ltd. Partnership v. Coratolo](#), 299 Conn. 819, 831-832, 14 A. 3d 982, 989 (2011). **“[E]xcluding nursing home expenses from spousal liability under § 46b-37 (b) creates ‘a harmonious and consistent body of law,’ and one that ‘makes sense within the overall legislative scheme.’ (Internal quotation marks omitted.)** Sokaitis v. Bakaysa, supra, 293 Conn. at 23, 975 A.2d 51. In so doing, we also conclude that the trial court properly determined that §46b-37 (b)(4) does not include services or general expenses associated with nursing home care, including food and medicine consumed by nursing home residents.”
- [Utzler v. Braca](#), 115 Conn. App. 261, 271, 972 A. 2d 743, 751 (2009). **“The plaintiff has, however, cited no authority for the proposition that the law presumes that one spouse has been unjustly enriched by the other spouse’s misappropriation of a third person’s property. Indeed, enactment of chapter 114 of the Public Acts of 1877, p. 211 (now General Statutes § 46b-36) entitled ‘An Act in Alteration of the Act concerning Domestic Relations,’ but commonly called the Married Women’s Act, makes such an argument untenable.”**
- [North v. North](#), 183 Conn. 35, 39-40, 438 A.2d 807, 810 (1981). **“Although a party may have received property through inheritance, assigning such property to the other spouse does not violate § 46b-36.”**
- [Botticello v. Stefanovicz](#), 177 Conn. 22, 27, 411 A.2d 16, 19 (1979). **“Moreover, the fact that one spouse tends more to business matters than the other does not, absent other evidence of agreement or authorization, constitute the delegation of power as to an agent.”**



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- [Cherniack v. Home National Bank & Trust Co.](#), 151 Conn. 367, 370, 198 A.2d 58, 59 (1964). **"It is important to bear in mind in this connection that under Connecticut law neither husband nor wife acquires, by virtue of the marriage, any interest in the real or personal property of the other during that other's lifetime."**
- [Schaefer v. Schaefer](#), 9 Conn. Supp. 49, 61 (1941). "The broad claim of the defendant as regards all of the property is that there existed a verbal contract between him and his wife that there should be a partnership between him and that all property that came into the possession of either during their marriage should be the so-called community property of both and that each should own an undivided one-half interest therein. The evidence does not justify a finding that there was any such general express agreement between them."
- [Wagner v. Mutual Life Insurance Co.](#), 88 Conn. 536, 542, 91 A. 1012, 1014 (1914). **"From the finding it appears that Mrs. Wagner always retained the possession and control of, and collected the income from, her personal property free from the domination and supervision of her husband; and that as to the proceeds of the securities sold and loaned him, and all other loans made, he agreed to repay the same with interest. It is also found that Mr. Wagner always treated the moneys loaned him by Mrs. Wagner, and all of her securities, as her sole and separate estate."**

#### DIGESTS:

- *ALR Digest: Husband and Wife*

#### 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.

- 41 *Am Jur 2d Husband and Wife*, Thomson West, 2015 (also available on Westlaw).
  - III. Property Rights and Interests
    - §§ 11-17. Separately held property
  - VI. Transactions Between Spouses
    - §§ 76-80. Transfers of separate property between spouses
    - §§ 138-140. Liability for debts of other spouse
- 41 *C.J.S. Husband and Wife*, Thomson West, 2014 (also available on Westlaw).
  - II. Mutual Rights, Duties, and Liabilities of Spouses
    - §§ 10-59. Property
      - § 66. Duty of support, generally
      - § 72. Doctrine of necessities

#### TEXTS & TREATISES:

- *7 Connecticut Practice Series. Family Law and Practice with Forms*, by Arnold H. Rutkin et al., Thomson West 2010, with 2022-2023 supplement (also available on Westlaw).
  - Chapter 7. Property Rights of Husband and Wife
    - § 7.2 Property rights of married persons
    - § 7.3 Authority of spouses to act for each other

Each of our law libraries own the Connecticut treatises cited.

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

§ 7.4 Property acquired during the marriage  
§ 7.5 Partition

Table 1: Joint Duty of Spouses to Support Family

Joint Duty of Spouses to Support Family Conn. Gen. Stats. <a href="#">§ 46b-37</a> (2023)	
Purchases by spouse	(a) Any purchase made by either a husband or wife in his or her own name shall be presumed, in the absence of notice to the contrary, to be made by him or her as an individual and he or she shall be liable for the purchase.
Necessities	(b) Notwithstanding the provisions of subsection (a) of this section, it shall be the joint duty of each spouse to support his or her family, and both shall be liable for: <ul style="list-style-type: none"> <li>(1) The reasonable and necessary services of a physician or dentist;</li> <li>(2) hospital expenses rendered the husband or wife or minor child while residing in the family of his or her parents;</li> <li>(3) the rental of any dwelling unit actually occupied by the husband and wife as a residence and reasonably necessary to them for that purpose; and</li> <li>(4) any article purchased by either which has in fact gone to the support of the family, or for the joint benefit of both.</li> </ul>
Abandoned spouse	(c) Notwithstanding the provisions of subsection (a) of this section, a spouse who abandons his or her spouse without cause shall be liable for the reasonable support of such other spouse while abandoned.
Separation	(d) No action may be maintained against either spouse under the provisions of this section, either during or after any period of separation from the other spouse, for any liability incurred by the other spouse during the separation, if, during the separation the spouse who is liable for support of the other spouse has provided the other spouse with reasonable support.
Abandonment without cause	(e) Abandonment without cause by a spouse shall be a defense to any liability pursuant to the provisions of subdivisions (1) to (4), inclusive, of subsection (b) of this section for expenses incurred by and for the benefit of such spouse. Nothing in this subsection shall affect the duty of a parent to support his or her minor child.
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 <a href="#">contact your local law librarian</a> to learn about the tools available to you to update cases.	

Table 2: Superior Court Cases About the Debt of Spouses

Superior Court Cases About the Debt of Spouses	
<p><u>Raccone v. Bringnole</u>, Superior Court, Judicial District of Hartford at Hartford, No. CV05-4013688-S (Jan. 27, 2006) (40 Conn. L. Rptr. 652) (2006 WL 360883) (2006 Conn. Super. LEXIS 301).</p>	<p><b>"[...] Raccone was never a joint owner of the home. Only Nancy Raccone's name ever appeared in the chain of title. Although Raccone completed work that improved the value of the home, and although the value of the improvements can be ascertained, an ascertainable value of improvements made over a ten-year period does not equate to the value of any sweat equity to which Raccone might or might not assert a claim or to which Raccone might or might not be found to be entitled. Courts in Connecticut have held that 'those interests that are 'so indeterminate, uncertain or contingent that [they are] incapable of being appraised or sold with fairness,' are excluded from the operation of [General Statutes § 52-380a].'</b> <i>Id.</i>, citing <i>Humphrey v. Gerard</i>, 83 Conn. 346, 356, 77 A. 65 (1910). That is the case here. Where the value of Raccone's interest, if any, is inchoate at best and has not been determined, and cannot fairly be determined, it is not subject to lien or attachment." (p. 5) --- <b>"At no time did title of the house pass to or from Raccone in order to avoid satisfying the judgment against Raccone or any other debt or for any other reason."</b> (p. 9)</p>
<p><u>Constantini v. Willinger</u>, <u>Willinger &amp; Bucci</u>, Superior Court, Judicial District of Fairfield, No. CV01-0381444-S (Aug. 13, 2001) (2001 WL 1044624) (2001 Conn. Super. LEXIS 2371)</p>	<p><b>"Upon the application of the plaintiff to discharge a lien placed by the defendant upon property known as 26 Old Field Road, Trumbull, in order to secure payment on a judgment against the plaintiff's former spouse, the court finds that at no time did the former spouse have legal or equitable title to said property which from the time of purchase was solely in the name of the plaintiff."</b> (p. 1) --- <b>"Therefore, it is the order of the court that said judgment lien in the amount of \$6,862.08 dated January 28, 1999, and recorded in Volume 995 at page 230 of the Trumbull land records be and is hereby released."</b> (p. 1)</p>
<p><u>Cohen v. Beharry</u>, Superior Court, Judicial District of Hartford-New Britain, No. CV90- 0386103-S (Nov. 21, 2000) (2000 WL 1868259) (2000 Conn. Super. LEXIS 3341).</p>	<p><b>"With respect to the garnishment of the plaintiff's joint bank account with his wife, only the plaintiff's interest in that account is subject to garnishment because the judgment runs solely against the plaintiff. His wife was never a party to the action in which the judgment was rendered. Cavanaugh and Beharry, however, cannot be deprived of their right to garnish or attach any assets of the plaintiff held by the bank simply because his assets are mingled with those of his wife in a joint account."</b> (p. 3)</p>
<p>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 <a href="#">contact your local law librarian</a> to learn about the tools available to you to update cases.</p>	