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**2019 Edition**

# Marriage in Connecticut

A Guide to Resources in the Law Library

## **Table of Contents**

Introduction .....	3
Section 1: Who May Marry .....	4
Section 2: The Marriage License.....	10
Table 1: Blood Tests (Repealed).....	14
Section 3: Who May Perform a Marriage.....	14
Table 2: Proof of Valid Ceremonial Marriage.....	18
Section 4: The Marriage Ceremony .....	19
Section 5: Foreign and Out-Of-State Marriages in Connecticut .....	22
Section 6: Common Law Marriage .....	27
Table 3: Marital Privilege – Evidence Treatises and Selected Case Law .....	31

Treated Elsewhere:

- [Annulment of Marriages and Civil Unions in Connecticut](#)
- [Cohabitation Law in Connecticut](#)
- [Dissolution of Marriages in Connecticut](#)
- [Legal Separation in Connecticut](#)

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

# Introduction

## A Guide to Resources in the Law Library

- "The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men." [Loving v. Virginia](#), 388 U.S. 1, 87 S.Ct. 1817, 18 L.Ed.2d 1010 (1967).
- "The significance of state responsibilities for the definition and regulation of marriage dates to the Nation's beginning;" [United States v. Windsor](#), 570 U.S. 12, 133 S.Ct. 2675, 2691, 186 L.Ed.2d 808 (2013).
- "Wherever in the general statutes or the public acts the term 'husband', 'wife', 'groom', 'bride', 'widower' or 'widow' is used, such term shall be deemed to include one party to a marriage between two persons of the same sex." Conn. Gen. Stats. [§ 1-1m](#) (2017).
- "'Marriage' means the legal union of two persons." Conn. Gen. Stats. [§ 46b-20](#) (2017).
- "The State makes itself a party to all marriages, in that it requires the marriage contract to be entered into before officers designated by itself, and with certain formalities which it has prescribed." [Dennis v. Dennis](#), 68 Conn. 186, 196, [36 A. 34, 37](#) (1896).
- "There are two types of regulations concerning the validity of a marriage: 1) substantive requirements determining those eligible to be married and 2) the 'formalities prescribed by the state for the effectuation of a legally valid marriage.' [Carabetta v. Carabetta](#), 182 Conn. 344, 347 (1980). The formality requirements are of two sorts: 1) a marriage license and 2) solemnization." [Ross v. Ross](#), Superior Court, Judicial District of Stamford-Norwalk, No. FA97 0162587 (Aug. 10, 1998) (22 Conn. L. Rptr. 637) (1998 WL 516159) (1998 Conn. Super. Lexis 2248).
- "Marital status, of course, arises not from the simple declarations of persons nor from the undisputed claims of litigants. . . . It is rather created and dissolved only according to law." [Hames v. Hames](#), 163 Conn. 588, 592-593, 316 A.2d 379 (1972).
- "A marriage ceremony, especially if apparently legally performed, gives rise to a presumptively valid status of marriage which persists unless and until it is overturned by evidence in an appropriate judicial proceeding." [Perlstein v. Perlstein](#), 152 Conn. 152, 157, 204 A.2d 909 (1964).
- "A marriage is dissolved only by (1) the death of one of the parties or (2) a decree of annulment or dissolution of the marriage by a court of competent jurisdiction." Conn. Gen. Stats. [§ 46b-40\(a\)](#) (2017).

# Section 1: Who May Marry

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to persons who may marry in Connecticut

## **DEFINITIONS:**

- **"Eligibility to marry.** A person is eligible to marry if such person is:
  - (1) Not a party to another marriage, or a relationship that provides substantially the same rights, benefits and responsibilities as a marriage, entered into in this state or another state or jurisdiction, unless the parties to the marriage will be the same as the parties to such other marriage or relationship;
  - (2) Except as provided in section 46b-29, not under the supervision or control of a conservator; and
  - (3) Not prohibited from entering into a marriage pursuant to section 46b-21." Conn. Gen. Stats. [§ 46b-20a \(2018 Supplement\)](#)
- "Connecticut has its statutory scheme in place to implement its policy of delineating the relationships between persons under our jurisdiction who may properly enter into marriage. It has been for many years and still remains the declared public policy of the state." [Singh v. Singh](#), 213 Conn. 637, 656, 569 A.2d 1112 (1990).
- **Affinity vs. Consanguinity:** "Affinity is 'the connection existing in consequence of marriage between each of the married persons and the kindred of the other.' [In re Bordeaux's Estate](#), 37 Wn.2d 561, 565, 225 P.2d 433 (1950); annot., 26 A.L.R.2d 271." [Lavieri v. Commissioner of Revenue Services](#), 184 Conn. 380, 383, 439 A.2d 1012 (1981). Affinity is distinguished from consanguinity, which is relationship by blood." [Remington v. Aetna Casualty & Surety Co.](#), 35 Conn. App. 581, 587, 646 A.2d 266 (1994).

## **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. (2017)
  - [§ 1-1m.](#) Applicability of Marriage Terms.
  - [§ 46b-20a](#) Eligibility to marry. ([2018 Supplement](#))
  - [§ 46b-21.](#) Marriage of persons related by consanguinity or affinity prohibited
  - [§46b-28c.](#) Prior divorce in another state or country. Validity of marriage in this state.
  - [§ 46b-29.](#) Marriage of persons under conservatorship or guardianship
  - [§ 46b-150d.](#) Effect of emancipation. ([2018 Supp.](#))
  - [§ 53a-72a.](#) Sexual assault in the third degree: Class D Felony.
  - [§ 53a-190.](#) Bigamy: Class D felony.

[§ 53a-191](#). Incest: Class D felony.

**RECENT PUBLIC ACTS:**

- [Public Act No. 17-54](#). An Act Concerning the Legal Age to Marry in this State.
- [Public Act No. 09-13](#). An Act Implementing the Guarantee of Equal Protection Under the Constitution of the State for Same Sex Couples.

**LEGISLATIVE:**

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each report's publication.

- Susan Price, [Kerrigan v. Commissioner Of Public Health](#), Connecticut General Assembly, Office of Legislative Research, OLR Research Report, 2008-R-0585 (November 7, 2008).
- Susan Price-Livingston, [Restricting Marriage to People Lawfully Present in the United States](#), Office of Legislative Research, OLR Research Report, 2003-R-0174 (February 13, 2003).
- Susan Price-Livingston, [History of Civil Marriage in Connecticut: Selected Changes](#), Connecticut General Assembly, Office of Legislative Research, OLR Backgrounder, 2002-R-0850 (October 15, 2002).

**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.

- [United States v. Windsor](#), 570 U.S. 12, 133 S.Ct. 2675, 2691, 186 L.Ed.2d 808 (2013). "The significance of state responsibilities for the definition and regulation of marriage dates to the Nation's beginning;"
- [Luster v. Luster](#), 128 Conn. App. 259, 275, 17 A.3d 1068 (2011). "Pursuant to General Statutes § 46b-20a, a conserved person is not permitted to marry without the express written consent of the conservator, and the consent form must be signed and properly acknowledged by a person authorized to take acknowledgments. We can ascertain no legislative restrictions on the ability of a conserved person to seek a dissolution of marriage through a properly appointed representative."
- [Kerrigan v. Commissioner of Public Health](#), 289 Conn. 135, 957 A.2d 407 (2008). "...our conventional understanding of marriage must yield to a more contemporary appreciation of the rights entitled to constitutional protection. Interpreting our state constitutional provisions in accordance with firmly established equal protection principles leads inevitably to the conclusion that gay persons are entitled to marry the otherwise qualified same sex partner of their choice. To decide otherwise would require us to apply one set of constitutional principles to gay persons and another to all others."
- [Birmingham v. Stanek](#), Superior Court, Judicial District of New Britain at New Britain, No. HHB CV 06 4010372 S (April 12, 2007) (43 Conn.L.Rptr. 506) (2007 WL 1677097) (2007

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. Super. LEXIS 1349 ). "In [Hames v. Hames](#), supra, 163 Conn. [588,] 598, the Supreme Court stated, '[i]t has long been settled that unless a statute expressly declares a marriage to be void, as in the case of an incestuous marriage (General Statutes § 46-1), or one attempted to be celebrated by an unauthorized person (General Statutes § 46-3), deficiencies will render the marriage dissoluble rather than void.' However, the Supreme Court also stated, immediately thereafter, that '[s]tatutory deficiencies are, of course, to be distinguished from substantive defects such as lack of the consent which, even at common law, is deemed essential to forming the relationship.' Id., 163 Conn. [588,] 598."

- [Greten v. Estate Of Mack](#), Superior Court, Judicial District of New Haven, No. CV 03 0285543-S (May 11, 2004) (37 Conn. L. Rptr. 166) (2004 WL 1194199) (2004 Conn. Super. LEXIS 1248). "The plaintiff relies on [Carabetta v. Carabetta](#), supra, 182 Conn. 349, which held that a marriage that is defective for want of a required statutory formality, such as a marriage license or solemnization of the ceremony, does not necessarily void the marriage. The issue before the court in [Carabetta](#) was 'whether, under Connecticut law, despite solemnization according to an appropriate religious ceremony, a marriage is void where there has been noncompliance with the statutory requirement of a marriage license.' [Carabetta v. Carabetta](#), supra, 182 Conn. 345. The court recognized that '[i]n the absence of express language in the governing statute declaring a marriage void for failure to observe a statutory requirement, this court has held in an unbroken line of cases since . . . [1905], that such a marriage, though imperfect, is dissoluble rather than void.' (Citation omitted.) Id., 349. The court then concluded that 'the legislature's failure expressly to characterize as void a marriage properly celebrated without a license means that such a marriage is not invalid.' Id. Similarly, in [Hames v. Hames](#), 163 Conn. 588, 316 A.2d 379 (1972), the court reaffirmed that '[t]he policy of the law is strongly opposed to regarding an attempted marriage . . . entered into in good faith, believed by one or both of the parties to be legal, and followed by cohabitation, to be void.'"
- [State v. George B.](#), 258 Conn. 779, 796, 785 A.2d 573 (2001). "Accordingly, we affirm the trial court's ruling that an adopted granddaughter falls within the degree of kinship set forth in §§ 53a-72a(a)(2) and 46b-21."
- [Singh v. Singh](#), 213 Conn. 637, 656, 569 A.2d 1112 (1990). "In conclusion, a marriage between persons related to one another as half-uncle and half-niece is void under General Statutes 46b-21 and 53a-191 as incestuous."
- [Manndorff v. Dax](#), 13 Conn. App. 282, 535 A.2d 1324 (1988). "Our cases make clear that a court may be required

to pass upon the validity of a marriage in the course of rendering a judgment in another action. See, e.g., *Eva v. Gough*, 93 Conn. 38, 104 A. 238 (1918) (appeal from probate court regarding appointment of administrator of estate); *Roxbury v. Bridgewater*, 85 Conn. 196, 82 A. 193 (1912) (action to recover expenses incurred in support of pauper); *Erwin v. English*, 61 Conn. 502, 23 A. 753 (1892) (action to obtain possession of land); see also [Metropolitan Life Ins. Co. v. Manning](#), 568 F.2d 922 (2d Cir. 1977) (interpleader action to determine beneficiary of life insurance policy). It is true that this case is less clear because, unlike those cases, the sole relief sought is a declaration of the invalidity of the marriage. Nonetheless, those cases do recognize that a judicial determination regarding the validity of a marriage does not alone turn another form of action into an annulment action. . .

“Rather than seeking a change in the status of the defendant's marriage to the husband, the plaintiff seeks a declaration of the invalidity of that marriage when it was contracted and as it may have existed in the past as a basis for determining the status of the parties upon his death. As such, the present action is more properly viewed as a declaratory judgment action.”

- [State v. Moore](#), 158 Conn. 461, 466, 262 A.2d 166 (1969). “The element of consanguinity appears in all relationships enumerated in 46-1 [now 46b-21] except the relationship of stepmother or stepdaughter and stepfather or stepson. The question at once arises as to why, in its enumeration of relationships which do not include the element of consanguinity, the General Assembly saw fit to include only those of a stepparent or a stepchild. In the application of the criminal law, it would be an unwarranted extension and presumption to assume that by specifying those relationships the legislature has intended to include others which lack the element of consanguinity. Had the legislative intent been to include what, in this case, would commonly be called a relationship of niece-in-law and uncle-in-law, it would have been a simple matter to say so . . . . In the absence of such a declaration, we believe that the construction placed upon the statute by the trial court amounted to an unwarranted extension of its expressed meaning and intent.”
- [Catalano v. Catalano](#), 148 Conn. 288, 291, 170 A.2d 726 (1961). “It is the generally accepted rule that a marriage valid where the ceremony is performed is valid everywhere . . . . There are, however, certain exceptions to that rule, including one which regards as invalid incestuous marriages between persons so closely related that their marriage is contrary to the strong public policy of the domicile though valid where celebrated.”

- Manning v. Manning, 16 Conn. Supp. 461, 462, 1950 WL 629, (1950). "It is concluded that lack of parental consent does not render a marriage performed in this state either void or voidable."

**WEST KEY NUMBER:**

- *Marriage*
  - # 221 Persons who may marry
  - # 222 \_\_\_\_\_ In general
  - # 223 \_\_\_\_\_ age
  - # 224 \_\_\_\_\_ physical capacity
  - # 225 \_\_\_\_\_ mental capacity
  - # 226 \_\_\_\_\_ race or color
  - # 227 \_\_\_\_\_ Sex or gender; same-sex marriage
  - # 228 \_\_\_\_\_ Civil Status or condition
  - # 229 \_\_\_\_\_ consanguinity or affinity
  - # 230 \_\_\_\_\_ Prior existing marriage; bigamy and polygamy

**DIGEST TOPICS:**

- [West's ALR Digest: Marriage](#)
  - # 221 Persons who may marry
  - # 222 - In general
  - # 223 - Age
  - # 225 - Mental capacity
  - # 226 - Race or color
  - # 229 - Consanguinity or affinity
  - # 230 - Prior existing marriage
- [Connecticut Family Law Citations](#) (2018): *Marriage*

**ENCYCLOPEDIAS:**

- 52 Am. Jur. 2d *Marriage* (2011).
  - §18. Generally; minimum age
  - §19. Consent of parent or guardian
  - §20. Ratification
  - §§ 21-25. Mental capacity
  - §§ 26-27. Physical capacity
- 55 C.J.S. *Marriage* (2009).
  - §4. What law governs
  - §5. What law governs—lex loci contractus as controlling
  - §6. What law governs—lex loci contractus as controlling—Common-law marriage
  - §7. Same-sex marriage
  - §13. Capacity of parties in general
  - §14. Age
  - §15. Mental capacity
  - §16. Physical capacity
  - §17. Consanguinity or affinity
- John D. Fletcher, *Validity of Marriage*, 36 [POF2d](#) 441 (1983).
  - §§ 15-27. Proof of valid ceremonial marriage [see [Table 2](#)]

**TEXTS & TREATISES:**

- 7 Arnold H. Rutkin and Kathleen A. Hogan, Connecticut Practice Series, [Family Law And Practice with Forms](#) (3d ed.

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2010).

Chapter 3. Marriage—Generally

- § 3:4 Who may marry, in general
- § 3:5 Persons under a disability
- § 3:6 Minors
- § 3:7 Consent of parent or guardian
- § 3:8 Role of Probate Court
- § 3:9 Persons afflicted with venereal disease
- § 3:10 Persons barred by consanguinity or affinity
- § 3:11 Previously married persons

- Louise Truax, Editor, [LexisNexis Practice Guide: Connecticut Family Law](#) (2018).

Chapter 1. Marriage

- § 1.04. Confirming the Requirements for a Marriage Contract
- § 1.05. Determining Who May Marry
- § 1.14. Understanding the Evolution of Same-Sex Marriage in Connecticut

**LAW REVIEWS:**

- DiChristina, Wendy Dunne and Samuel V. Schoomaker IV. *Windsor's Invalidation of DOMA's Definition of Marriage: Implications for Connecticut Courts and Attorneys*, [Connecticut Lawyer](#), Vol. 24, Issue 2, p. 16 (Sept. 2013).
- Berall, Frank S. *Legal Aspects of Same-Sex Relationships in Connecticut*, 85 [Conn. B.J.](#) 199 (2011).
- Goldberg, Suzanne B., *Marriage as Monopoly: History, Tradition, Incrementalism, and the Marriage/Civil Union Distinction*, 41 [Connecticut Law Review](#) 1397 (2009).
- Meyer, David D. *The Constitutionalism of Family Law*, 42 [Fam. L.Q.](#) 531 (2008-2009).
- Note: *Conservatorships and Marriage: For Love or Money?*, 16 [Quinnipiac Probate Law Journal](#) 298 (2003).

## Section 2: The Marriage License

A Guide to Resources in the Law Library

**SCOPE:** Bibliographic resources relating to issuing and use of a marriage licenses in Connecticut

**DEFINITIONS:**

- "Such license, when certified by the registrar, is sufficient authority for any person authorized to perform a marriage ceremony in this state to join such persons in marriage, provided the ceremony is performed within the town where the license was issued and within a period of not more than sixty-five days after the date of application." Conn. Gen. Stat. [§ 46b-24\(b\)](#) (2017).

**SEE ALSO:**

- [Table 3: Blood Tests \(Repealed\)](#)

**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. (2017)
  - [§ 7-73](#). Fees of Registrars. Marriage license surcharge.
  - [§ 46b-24](#). License required. Period of validity. Penalty. ([2018 Supplement](#))
  - [§ 46b-24a](#). Validation of marriage occurring in town other than town where license issued.
  - [§ 46b-25](#). Application for license.

**ATTORNEY GENERAL OPINION:**

- [Marriages Performed on the Mashantucket Pequot Indian Reservation](#), 2005-022 Formal Opinion (September 7, 2005).

**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.

- [Adziovski v. Elezovski](#), Superior Court, Judicial District of New Britain at New Britain, No. FA-07-4014596S (Jul. 25, 2008) (46 Conn. L. Rptr. 13) (2008 WL 3853582) (2008 Conn. Super. Lexis 1897). "Our Supreme Court has held that the absence of a marriage license does not render a marriage void. [Carabetta v. Carabetta](#), 182 Conn. 344, 349 (1980). The court noted that an unbroken line of Connecticut cases upheld marriages with statutory deficiencies when the statute in question did not explicitly state that a violation would render the marriage void."
- [Reddy v. Reddy](#), Superior Court, Judicial District of New Haven at Meriden, No. FA 03 0285473 (May 17, 2005) (39 Conn. L. Rptr. 373) (2005 WL 1433188) (2005 Conn. Super. Lexis 1385). "Although Connecticut does not recognize common-law marriages, some courts have recognized marriages entered into in Connecticut that have not complied with the necessary statutory requirements where the parties believed they were married and acted as such. [Carabetta v. Carabetta](#), 182 Conn. 344, 350, 438 A.2d 109 (1980). In [Carabetta](#) the court addressed the issue of whether, under Connecticut law, despite solemnization according to an

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.

appropriate religious ceremony, a marriage is void where there has been noncompliance with the statutory requirement of a marriage license. The court noted that public policy is strongly opposed to regarding an attempted marriage, entered into in good faith, believed by one or both parties to be legal, and followed by cohabitation, to be void. *Id.*, 346-47 (citing [Hames v. Hames](#), 163 Conn. 588, 599, 316 A.2d 379 (1972)). The court further explained that "[i]n the absence of express language in the governing statute declaring a marriage void for failure to observe statutory requirement . . . such a marriage, though imperfect, is dissoluble rather than void." *Id.*, 349. The court concluded that "the legislature's failure expressly to characterize as void a marriage properly celebrated without a license means that such a marriage is not invalid." See also *Hames v. Hames*, *supra*, 163 Conn. [588], 599 (interpreting statutes not to make void a marriage consummated after the issuance of a license but deficient for want of due solemnization.)"

- [Kosek v. Osman](#), Superior Court, Judicial District of New Haven, No. FA 02-04665181 (Feb. 25, 2005) (2005 WL 758125) (2005 Conn. Super. Lexis 579). "Under these circumstances, the court finds that the parties intended to marry and were in fact legally and validly married. Their marriage was properly and ceremonially solemnized in accord with the practices of their religion. Although they did not obtain a marriage license until six months later, that certificate stated the incorrect date, and the plaintiff did not file the license until five years later, lack of formal compliance with statutory requirements pertaining to marriage licenses does not void their marriage."
- [State v. Nosik](#), 245 Conn. 196, 202, 715 A.2d 673 (1998). "Thus, in [Carabetta](#), we decided not to invalidate legally imperfect marriages if the parties had: (1) participated in a religious rite with the good faith intention of entering into a valid legal marriage; and (2) shared and manifested a good faith belief that they were, in fact, legally married. We conclude in part II of this opinion that neither of these predicates has been established in this case."
- [Garrison v. Garrison](#), 190 Conn. 173, 175, 460 A.2d 945 (1983). "He [the defendant] does not argue that the mere failure to file the marriage license makes the marriage void."
- [Carabetta v. Carabetta](#), 182 Conn. 344, 349, 438 A.2d 109 (1980). "In sum, we conclude that the legislature's failure expressly to characterize as void a marriage properly celebrated without a license means that such a marriage is not invalid."
- [Yonkers v. Yonkers](#), 6 Conn. Law Tribune No. 48, p. 14 (December 1, 1980). "The fact that the legislature omitted to declare marriages entered into by persons who had not

obtained a license void is significant, because such a declaration is found in the case of marriages within the prohibited degree of kinship. This leads to a conclusion that the marriage entered into between the parties is dissoluble rather than void."

- [Kowalczyk V. Kleszczynski](#), 152 Conn. 575, 577, 210 A.2d 444 (1965). "Marriage certificates are treated in this state as original documents, and need not therefore be authenticated as copies. . . ."
- [State Ex Rel. Felson v. Allen](#), 129 Conn. 427, 431, 29 A.2d 306 (1942). "A failure to comply with many of the requirements as to marriage provided in our statutes, where there is no express provision that such a failure will invalidate it, will not have that effect . . . ."

**WEST KEY  
NUMBER:**

- *Marriage*
  - # 232 Licenses and licensing officers
  - # 233 In General
  - # 234 Necessity of license
  - # 235 Requisites and validity of license
  - # 236 Authority to issue license
  - # 237 Duties of officers in general
  - # 238 Liability of officers and bondsmen in general
  - # 239 Actions against officers or bondsmen

**DIGEST  
TOPICS:**

- West's ALR Digest: *Marriage*
  - # 232 Licenses and licensing officers

**TEXTS &  
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.

- [Connecticut Family Law Citations](#) (2018): *Marriage*
- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice Series, Family Law And Practice with Forms](#) (3d ed. 2010).
  - Chapter 4. Marriage Licenses and Ceremonies.
    - § 4:1. Necessity
    - § 4:2. Blood testing and other medical examinations
    - § 4:3. Rubella immunity test
    - § 4:4. Application
    - § 4:5. Copy of statute to applicants
    - § 4:6. Issuance
    - § 4:7. Duration
- Louise Truax, Editor, [LexisNexis Practice Guide: Connecticut Family Law](#), (2018).
  - Chapter 1. Marriage
    - § 1.06. Determining How Couples May Marry

**ENCYCLOPEDIAS:**

- 52 [Am. Jur. 2d Marriage](#) (2011).
  - § 32. License
  - § 33. —Effect of noncompliance with licensing statutes
  - § 34. Marriage performed in absence of license, or prior to issuance of license

§ 37. Registration of marriage; recording or filing of license

- 55 [C.J.S. Marriage](#) (2009).
  - § 27. Licenses
  - § 28. —Issuance of license
  - § 29. —Liability for wrongful issuance of license
- John D. Fletcher, *Validity of Marriage*, 36 [POF2d](#) 441 (1983).
  - §§ 15-27. Proof of valid ceremonial marriage
  - [see [Table 2](#)]

Table 1: Blood Tests (Repealed)

<b>Premarital Blood Tests</b> <b>REPEALED: Effective October 1, 2003</b>	
<p><a href="#">Public Act No. 03-188</a> § 6 (Reg. Sess.).                      An act concerning premarital blood test requirements and marriage certificates                      (Effective October 1, 2003)</p> <p>Sections 19a-27, 46b-26 and 46b-27 of the general statutes are REPEALED.</p>	
Statutes	Test for venereal disease and rubella prerequisite. Conn. Gen. Stat. (2001) § 46b-26. Waiver of tests by judge of probate. Conn. Gen. Stat. (2001) § 46b-27(a).
Regulations	"Premarital test for rubella," Conn. Agencies Regs. § 19a-36-A56 (2002), eff. October 25, 1989. [Conn. Gen. Stat. (2001) § 19a-27 was REPEALED effective October 1, 2003]
Case	"It is apparent that an essential provision of this statute was not complied with, that is to say when the statement of the physician was filed with the registrar it was not accompanied by a record of the standard laboratory blood test made. The only thing that accompanied the statement was a certificate by the Director of the Bureau of Laboratories of the State Department of Health that a standard laboratory blood test had in fact been made and reported to the physician who made the statement. This certificate is not at all the thing that the statute expressly requires. It is a record of the standard laboratory blood test made which must be filed with the statement. A certificate that a test has been made is one thing. The record required by the statute is quite another thing." <i>Doe v. Doe</i> , 11 Conn. Sup. 157 (1942).
Text	7 Arnold H. Rutkin and Kathleen A. Hogan, <a href="#">Connecticut Practice Series, Family Law And Practice with Forms</a> (3d ed. 2010).  § 4:2 Blood testing and other medical examinations § 4:3 Rubella immunity test

# Section 3: Who May Perform a Marriage

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to who may perform a marriage in Connecticut including liability of person officiating and the validity of marriages performed by unauthorized persons

## **DEFINITIONS:**

- “Persons authorized to solemnize marriages in this state include (1) all judges and retired judges, either elected or appointed, including federal judges and judges of other states who may legally join persons in marriage in their jurisdictions, (2) family support magistrates, family support referees, state referees and justices of the peace who are appointed in Connecticut, and (3) all ordained or licensed members of the clergy, belonging to this state or any other state. All marriages solemnized according to the forms and usages of any religious denomination in this state, including marriages witnessed by a duly constituted Spiritual Assembly of the Baha'is, are valid. All marriages attempted to be celebrated by any other person are void.” Conn. Gen. Stat. [§ 46b-22\(a\)](#) (2017)

## **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. (2017)
  - [§ 46b-22](#). Who may join persons in marriage. Penalty for unauthorized performance.
  - [§ 46b-22a](#). Validation of marriages performed by unauthorized justice of the peace or family support referee.
  - [§ 46b-22b](#). Refusal to solemnize or participate in ceremony solemnizing a marriage on religious grounds.
  - [§ 46b-23](#). Joining persons in marriage knowingly without authority.

## **LEGISLATIVE:**

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

- Adam Wolkoff, [License to Perform Marriage](#), Connecticut General Assembly, Office of Legislative Research, 2006-R-0322 (May 2, 2006).
- Susan Price-Livingston, [Regulating "Mail Order" Ministries](#), Connecticut General Assembly, Office of Legislative Research, 2003-R-0490 (June 18, 2003).
- Susan Price-Livingston, [History of Civil Marriage in Connecticut: Selected Changes](#), Connecticut General Assembly, Office of Legislative Research, OLR Backgrounder 2002-R-0850 (October 15, 2002).

## **CASES:**

- [Adziovski v. Elezovski](#), Superior Court, Judicial District of New Britain at New Britain, No. FA-07-4014596S (Jul. 25, 2008) (46 Conn. L. Rptr. 13) (2008 WL 3853582) (2008 Conn. Super. Lexis 1897). “With respect to the Imam who conducted the marriage ceremony, Connecticut law provides

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.

that [a]ll marriages solemnized according to the forms and usages of any religious denomination in this state are valid. Conn. Gen. Stat. 46b-22. Further, marriages conducted by an Imam, without a marriage license, have been upheld as valid by other Connecticut courts.”

- [Ross v. Ross](#), Superior Court, Judicial District of Stamford-Norwalk, No. FA97 0162587 S (Aug. 10, 1998) (22 Conn. L. Rptr. 637) (1998 WL 516159) (1998 Conn. Super. Lexis 2248). “There are two types of regulations concerning the validity of a marriage: 1) Substantive requirements determining those eligible to be married and 2) The ‘formalities prescribed by the state for the effectuation of a legally valid marriage.’ [Carabetta v. Carabetta](#), 182 Conn. 344, 347 (1980). The formality requirements are of two sorts: 1) a marriage license and 2) solemnization. This case involves the issue of lack of solemnization.”
- [Carabetta v. Carabetta](#), 182 Conn. 344, 348, 438 A.2d 109 (1980). “Although solemnization is not at issue in the case before us, this language is illuminating since it demonstrates that the legislature has on occasion exercised its power to declare expressly that failure to observe some kinds of formalities, e.g., the celebration of a marriage by a person not authorized by this section to do so, renders a marriage void.”
- [State Ex Rel. Felson v. Allen](#), 129 Conn. 427, 432 (1942). “The situation [marriage performed by a person not authorized by statute] falls within the express terms of the statute, which declares such a marriage to be void.”
- [Town of Goshen v. Town of Stonington](#), 4 Conn. 209, 218 (1822). “A clergyman in the administration of marriage, is a public civil officer...”
- [Kibbe v. Antram](#), 4 Conn. 134, 139 (1821). “...whether Mr. Dimick was an ordained minister within the meaning of the statute...”
- [Roberts v. State Treasurer](#), 2 Root 381, 382 (1796). “It is clear that the defendant was not such an ordained minister...he therefore had no right or authority by law to marry”.
- “Minister emeritus.” 21 Op. Atty. Gen. 297, 298 (May 29, 1939). “We believe, further, that a minister emeritus has the same status as a minister who has retired, if he has not taken up another vocation or profession, and may still be considered as being in the work of the ministry.”
- [Marriages Performed on the Mashantucket Pequot Indian Reservation](#), 2005-022, Formal Opinion (September 7, 2005).

**ATTORNEY  
GENERAL  
OPINIONS:**



**WEST KEY  
NUMBER:**

- *Marriage*
  - # 205 Formal or ceremonial marriage
  - # 206 In general
  - # 207 Solemnization or celebration.
  - # 208 Customs of particular sects or societies
  - # 209 Authority to perform or officiate ceremony.
  - # 210 Liability of person performing or officiating
  - # 240 Certificate

**DIGEST  
TOPICS:**

- West's ALR Digest: *Marriage*
  - § 238. Liability of officers and bondsmen in general

**TEXTS &  
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.

- [Connecticut Family Law Citations](#) (2018): *Marriage*
- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice Series, Family Law And Practice with Forms](#) (3d ed. 2010).
  - Chapter 4. Marriage Licenses and Ceremonies
    - § 4:8 Who may solemnize marriages
    - § 4:9. Formalities of ceremony
    - § 4:10. Duties of persons officiating at marriage
    - § 4:11. Effect of lack of authority to solemnized marriage
    - § 4:12. Penalty for unauthorized performance
    - § 4:13. Effect of lack of solemnization
    - § 4:14. Return and recordation
    - § 4:15. Proof of marriage
- Louise Truax, Editor, [LexisNexis Practice Guide: Connecticut Family Law](#) (2018).
  - Chapter 1. Marriage
    - § 1.06. Determining How Couples May Marry

**ENCYCLOPEDIAS:**

- 52 [Am. Jur. 2d Marriage](#) (2011).
  - § 35. Performance of marriage ceremony by qualified person
  - § 36. —Effect of violation of solemnizing statutes
- 55 [C.J.S. Marriage](#) (2009).
  - § 30. Solemnization
  - § 31. —Persons who may solemnize
  - § 32. —Liabilities of persons solemnizing
- John D. Fletcher, *Validity of Marriage*, 36 [POF2d](#) 441 (1983).
  - §§ 15-27. Proof of valid ceremonial marriage [see [Table 2](#)]

Table 2: Proof of Valid Ceremonial Marriage

Table 2: Proof of Valid Ceremonial Marriage 36 <a href="#">POF2d</a> 441 (1983) John D. Fletcher	
Testimony of Investigator	
§15	Authentication of marriage certificate
Testimony of Eyewitness to Marriage	
§16	Parties' cohabitation as married couple
§17	Identification of parties as participants in ceremony
§18	Performance of ceremony
§19	Capacity of parties at time of ceremony
C. Testimony of Custodian of Church Records	
§20	Church record of marriage
Testimony as to Statements of Family Members	
§21	Qualifications of witness
§22	Qualifications of declarant
§23	Statements by declarant about marriage
§24	Statements by party to marriage
Testimony as to Family Reputation and Family Documents	
§25	Relationship of witness to family
§26	Family reputation as to marriage
§27	Family record of marriage

# Section 4: The Marriage Ceremony

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to marriage ceremonies in Connecticut.

## **DEFINITIONS:**

- "Our statutory scheme specifies no precise form for the celebration of marriage; nor does it explicitly require that the parties declare that they take one another as husband and wife . . . . No requirement is made concerning witnesses, but, like consent, the physical presence of the parties before an official is an implicit requirement to the performance of a marriage in this state." [Hames v. Hames](#), 163 Conn. 588, 596, 316 A.2d 379 (1972).
- "The law has not pointed out any mode in which marriages shall be celebrated, but has left it to the common custom and practice of the country. Any form of words which explicitly constitute a contract and engagement from the parties to each other, and published in the presence of, and by the officer appointed by the Statute, will be a valid marriage." 1 Swift, Digest, p. 20 (1822).
- "Consent of the participants is a necessary condition to the creation of a valid marriage relationship, and there must be an intention of the parties to enter into the marriage status." [Bernstein v. Bernstein](#), 25 Conn. Supp. 239, 201 A.2d 660 (1964).

## **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. (2017)
  - [§ 46b-24](#). License. Period of validity. Penalty for solemnization without license. Validity of marriage ceremony. ([2018 Supplement](#))
  - [§ 46b-24a](#). Validation of marriage occurring in town other than town where license issued

## **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.

- [Ross v. Ross](#), Superior Court, Judicial District of Stamford-Norwalk, No. FA97 0162587 S (Aug. 10, 1998) (22 Conn. L. Rptr. 637, 639) (1998 WL 516159) (1998 Conn. Super. Lexis 2248). "The Supreme Court reversed and held that the plaintiffs absence in 1960 from the ceremony in which the priest signed the marriage certificate prevented solemnization for the purpose of General Statutes § 46-3 (currently General Statutes § 46b-22). The noncompliance with that statute precluded the parties from acquiring valid marital status and rendered the 1960 marriage voidable."

- [State v. Nosik](#), 245 Conn. 196, 207, 715 A.2d 673 (1998). "In light of these facts, the trial court reasonably could have concluded that the defendant did not participate in the ceremony in New Jersey with the good faith belief that she was entering into a valid legal marriage. We conclude, therefore, that the trial court's finding that the service at St. George's was not a valid wedding ceremony was not clearly erroneous."
- [Garrison v. Garrison](#), 190 Conn. 173, 175, 460 A.2d 945 (1983). "He [the defendant] does not argue that the mere failure to file the marriage license makes the marriage void."
- [Hames v. Hames](#), 163 Conn. 588, 596, 316 A.2d 379 (1972). ". . . the purported marriage, deficient for want of due solemnization, was voidable rather than void, insofar as the latter term may imply an absolute nullity."
- [Perlstein v. Perlstein](#), 152 Conn. 152, 157, 204 A.2d 909 (1964). "A marriage ceremony, especially if apparently legally performed, gives rise to a presumptively valid status of marriage which persists unless and until it is overthrown by evidence in an appropriate judicial proceeding. No mere claim of bigamy, whether made in a pleading or elsewhere, would establish that a marriage was bigamous."
- [State Ex Rel. Felson v. Allen](#), 129 Conn. 427, 431-432, 29 A.2d 306 (1942). "The plaintiffs appeared in Greenwich before a person whom they believed to be a justice of the peace; he purported to join them in marriage, but they are unable to prove that he was authorized by the statute to do so, and they do not claim that there is any basis upon which we can hold that he was. The situation falls within the express terms of the statute, which declares such a marriage to be void."

**ATTORNEY  
GENERAL  
OPINIONS:**

- "Marriage by proxy," 23 Op.Atty.Gen. 147 (July 1, 1943). "It is my opinion that Connecticut does not permit marriages by proxy, nor does it recognize such marriages when entered into elsewhere."

**WEST KEY  
NUMBER:**

- *Marriage*
  - # 205 Formal or ceremonial marriage
  - # 206 In general
  - # 207 Solemnization or celebration
  - # 241 Return and recording or registration

**DIGEST  
TOPICS:**

- West's ALR Digest: *Marriage*
  - # § 207. Solemnization or celebration
- [Connecticut Family Law Citations](#) (2018): *Marriage*

**TEXTS &  
TREATISES:**

- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice Series, Family Law And Practice with Forms](#) (3d ed.

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2010).

- § 3:3 Marriage by proxy
- § 4:9. Formalities of ceremonies
- § 4:14. Return and recordation
- § 4:15. Proof of marriage

- Louise Truax, Editor, [LexisNexis Practice Guide: Connecticut Family Law](#) (2018).  
Chapter 1. Marriage  
§ 1.06. Determining How Couples May Marry

**ENCYCLOPEDIAS:**

- 52 [Am. Jur. 2d](#) *Marriage* (2011).
  - § 15. Ceremonial marriage. Generally
  - § 16. --Necessity of consummation or cohabitation
  - § 17. Proxy marriage
- 55 [C.J.S.](#) *Marriage* (2009).
  - § 30. Solemnization
  - § 33. —Place of solemnization
  - § 34. —Form of ceremony
  - § 35. Certificate and return or record
  - § 36. Mistake
  - § 37. Fraud
- John D. Fletcher, *Validity of Marriage*, 36 [POF2d](#) 441 (1983).  
§§ 15-17 Proof of valid ceremonial marriage  
[see [Table 2](#)]
- Annotation, *Validity Of Solemnized Marriage As Affected By Absence Of License Required By Statute*, 61 [ALR 2d](#) 847 (1958).

# Section 5: Foreign and Out-Of-State Marriages in Connecticut

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to the validity of foreign marriages in Connecticut

## **DEFINITIONS:**

- **Recognition of marriages and other relationships entered into in another state or jurisdiction.** "A marriage, or a relationship that provides substantially the same rights, benefits and responsibilities as a marriage, between two persons entered into in another state or jurisdiction and recognized as valid by such other state or jurisdiction shall be recognized as a valid marriage in this state, provided such marriage or relationship is not expressly prohibited by statute in this state." Conn. Gen. Stat. [§ 46b-28a](#) (2017).
- **Comity:** "The principle of comity provides the basis upon which state courts give validity to divorce judgments of foreign countries. Comity permits recognition of judgments of foreign countries pursuant to international duty and convenience, with due regard for the rights of American citizens." *Baker v. Baker*, 39 Conn. Supp. 66, 68, 468 A.2d 944 (1983).
- "A state has the authority to declare what marriages of its citizens shall be recognized as valid, regardless of the fact that the marriages may have been entered into in foreign jurisdictions where they were valid." *Catalano v. Catalano*, 148 Conn. 288, 291, 170 A.2d 726 (1961).
- "Neither case law nor § 42b-28 suggests that courts are under any obligation to recognize a marriage which is not valid in the country in which it was obtained or which was not celebrated in the presence of the U.S. ambassador or minister to that country or a U.S. consular officer accredited to such country at a place within his consular jurisdiction." *Reddy v. Reddy*, Superior Court, Judicial District of New Haven at Meriden, No. FA 03 0285473 (May 17, 2005) (39 Conn. L. Rptr. 373) (2005 WL 1433188) (2005 Conn. Super. Lexis 1385).

## **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. (2017)
  - [§ 46b-28](#). When marriages in foreign country are valid.
  - [§ 46b-28a](#). Recognition of marriages and other relationships entered into in another state or jurisdiction.
  - [§ 46b-28b](#). Recognition by another state or jurisdiction of marriages entered into in this state.
  - [§ 46b-28c](#). Prior divorce in another state or country. Validity of marriage in this state.

**RECENT  
PUBLIC ACTS:**

- [Public Act No. 09-13](#), *An Act Implementing the Guarantee of Equal Protection under the Constitution of the State for Same Sex Couples*.

**LEGISLATIVE:**

- OLR Backgrounder: [Effect of Undissolved Civil Union on Subsequent Marriage](#), Office of Legislative Research, 2012-R-0409 (Sept. 20, 2012). *This backgrounder summarizes Elia-Warnken v. Elia, 463 Mass. 29 (2012), the case in which the Massachusetts Supreme Court invalidated a same-sex marriage because one of its celebrants was in an undissolved civil union when the marriage took place.*

**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.

- [Schneider v. Picano](#), Superior Court, Judicial District of Tolland at Rockville, CV106001607S (Oct. 6, 2011) (52 Conn. L. Rptr. 696) (2011 WL 5120460) (2011 Super. Lexis 2602). "Indeed, there are certain formalities that must be complied with in order for Connecticut to recognize a marriage performed in a foreign country. See Conn. Gen. Stat. 46b-28. A mere assertion that the plaintiff and Ms. Godfrey were married 'in some fashion' in a foreign country does not, without more, give validity to this alleged union and is not sufficient to establish the existence of a material fact sufficient to defeat a motion for summary judgment. [Ramirez v. Health Net of the Northeast, Inc.](#), 285 Conn. 1, 10-11, 938 A.2d 576 (2008).

"The plaintiff further argues that he and Ms. Godfrey 'have lived in Rhode Island and Canada', places where the plaintiff claims recognize common law marriages, and suggests that their cohabitation in Rhode Island and Canada is sufficient to constitute a common law marriage which should be recognized under Connecticut law. There is no evidence, however, that plaintiff and Ms. Godfrey lived in either Rhode Island or Canada. The plaintiff has also failed to establish that the plaintiff's and Ms. Godfrey's conduct or contacts with Rhode Island or Canada satisfy the common law marriage requirements in those jurisdictions. Without evidence to establish what the law of Canada and Rhode Island is, it is presumed to be like our own law. *McLoughlin v. Shaw*, 95 Conn. 102, 106 (1920); *American Woolen Co. v. Maaget*, 86 Conn. 234, 235, 85 A. 583 (1912). Moreover, for this court to recognize the validity of a marriage or relationship entered into in another state or jurisdiction, that marriage or relationship must be recognized as valid by such other state or jurisdiction. See Conn. Gen.Stat. § 46b-28a. The plaintiff has failed to present evidence to this court of a valid common law marriage in either Canada or Rhode Island."

- [Reddy v. Reddy](#), Superior Court, Judicial District of New Haven at New Haven, FA030285473 (May 17, 2005) (39 Conn. L. Rptr. 373) (2005 WL 1433188) (2005 Conn. Super. Lexis 1385). "Thus, in these types of cases, courts typically take into account equitable considerations, such as the length

of the marriage and whether there are issues of the marriage. See [Carabetta v. Carabetta](#), 182 Conn. 344, 350, 438 A.2d 109 (1980); [Baker v. Baker](#), 39 Conn. Supp. 66, 468 A.2d 944 (1983). Where, however, the marriage occurs in a foreign jurisdiction, [Carabetta](#) is not controlling. [State v. Nosik](#), 44 Conn. App. 294, 300-01, 689 A.2d 489 (1997). 'It is well established that the validity of a marriage is determined by the law of the jurisdiction where the ceremony was performed.' *Id.*, 301.

"Neither case law nor § 42b-28 suggests that courts are under any obligation to recognize a marriage which is not valid in the country in which it was obtained or which was not celebrated in the presence of the U.S. ambassador or minister to that country or a U.S. consular officer accredited to such country at a place within his consular jurisdiction."

- [Baker v. Baker](#), 39 Conn. Supp. 66, 71, 468 A.2d 944 (1983). "For although the majority of states refuse to recognize the validity of a foreign divorce decree when their own jurisdictional requirements with respect to domicile are absent, most courts, when equities mandate, will give practical recognition to the foreign decree. Consequently, the party attacking the foreign decree may be effectively barred from securing judgment of its invalidity. Thus, in [Chilcott v. Chilcott](#), 257 Cal.App.2d 868, 65 Cal.Rptr. 263 (1968), the court held that even if a wife's Mexican divorce were invalid, her husband would be estopped to deny its validity where both parties had remarried in the belief that they were divorced."
- [Litvaitis v. Litvaitis](#), 162 Conn. 540, 546, 295 A.2d 519 (1972). "In the case at bar, the court found that the defendant went to Mexico solely for the purpose of securing a divorce and that he intended to return to Connecticut. The plaintiff never submitted herself to the jurisdiction of the Mexican court. 'To constitute domicil, the residence at the place chosen for the domicil must be actual, and to the fact of residence there must be added the intention of remaining permanently; and that place is the domicil of the person in which he has voluntarily fixed his habitation, not for a mere temporary or special purpose, but with the present intention of making it his home.' *Rice v. Rice*, supra, [134 Conn. 440,] 445-46; *Mills v. Mills*, 119 Conn. 612, 617, 179 A. 5. It is quite obvious that the defendant, who was the only party to appear before the foreign court, was not a domiciliary of the Mexican state. The court properly refused to recognize the Mexican divorce as terminating the marriage."
- [Catalano v. Catalano](#), 148 Conn. 288, 291, 170 A.2d 726 (1961). "It is the generally accepted rule that a marriage valid where the ceremony is performed is valid everywhere . . . There are, however, certain exceptions to that rule, including one which regards as invalid incestuous marriages



between persons so closely related that their marriage is contrary to the strong public policy of the domicile though valid where celebrated. Restatement, Conflict of Laws 132 (b). That exception may be expressed in the terms of a statute or by necessary implication.”

- Fantasia v. Fantasia, 8 Conn. Supp. 25 (1940). “. . . it is universally recognized that a marriage, valid in the jurisdiction in which it is performed, is valid everywhere unless, of course, it violates some rule of public policy, and for that reason it is concluded that the marriage involved in the present case, being valid in New York is likewise valid in Connecticut.”

**WEST KEY  
NUMBER:**

- *Marriage*  
Validity and Effect of Foreign Marriage, # 251-260  
# 251 In general  
# 252 Informal or nonceremonial foreign marriage in general  
# 253 Marriage under tribal laws or customs  
# 254 Marriage under laws of foreign country  
# 257 Same-sex or other nontraditional marriage

**DIGEST  
TOPICS:**

- [Connecticut Family Law Citations](#) (2018): *Comity; Foreign Divorce*

**ENCYCLOPEDIAS:**

- 52 [Am. Jur. 2d Marriage](#) (2011).  
§§ 64-78. Effect of conflicting foreign law
- 15A [C.J.S. Conflict of Laws](#) (2012).  
§ 63. Marriage  
§ 72. Capacity to marry
- 55 [C.J.S. Marriage](#) (2009).  
§ 4. What law governs  
§ 5. —Lex loci contractus as controlling
- John D. Fletcher, *Validity of Marriage*, 36 [POF2d](#) 441 (1983).  
§§ 15-17 Proof of valid ceremonial marriage  
[see [Table 2](#)]
- John C. Williams, Annotation, *Recognition By Forum State Of Marriage Which, Although Invalid Where Contracted, Would Have Been Valid If Contracted Within Forum State*, 82 [ALR3d](#) 1240 (1978).
- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice Series, Family Law And Practice with Forms](#) (3d ed. 2010).

**TEXTS &  
TREATISES:**

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- Chapter 5. Foreign Marriage
  - § 5:1. Law governing capacity and status
  - § 5:2. Effect of validity under foreign law
  - § 5:3. Proof of foreign law
  - § 5:4. Nonage or want of parental consent

§ 5:5. Marriage against consanguinity prohibition

- Louise Truax, Editor, [LexisNexis Practice Guide: Connecticut Family Law](#) (2018).  
Chapter 1. Marriage  
§ 1.08. Determining the Validity of Foreign Marriages
- American Law Institute, [Restatement \(Second\) of Conflict of Laws](#) (1971).  
§ 283 Validity of Marriage.

# Section 6: Common Law Marriage

A Guide to Resources in the Law Library

**SCOPE:** Bibliographic resources relating to the validity of common law marriages in Connecticut including recognition by Connecticut of out of state common law marriages.

**SEE ALSO:** • [Cohabitation Agreements in Connecticut](#) (Research Guide)

**DEFINITIONS:** • “Although other jurisdictions may recognize common-law marriage or accord legal consequences to informal marriage relationships, Connecticut definitely does not.” [McAnerney v. McAnerney](#), 165 Conn. 277, 285, 334 A.2d 437 (1973).

**STATUTES:** • Conn. Gen. Stat. (2017)  
[§ 46b-22](#). Who may join persons in marriage . . . .  
[§ 46b-28a](#). Recognition of marriages and other relationships entered into in another state or jurisdiction.

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

**LEGISLATIVE:** • Michelle Kirby, [Common-Law Marriage](#), Connecticut General Assembly, Office of Legislative Research, 2013-R-0264 (July 2, 2013).

**AGENCY GUIDANCE:** • Connecticut Department of Revenue Services, Taxpayer Answer Center, Frequently Asked Questions.  
[Does Connecticut recognize common law marriages?](#)

**CASES:** • [Schneider v. Picano](#), Superior Court, Judicial District of Tolland at Rockville, CV106001607S (Oct. 6, 2011) (2011 WL 5120460). “The plaintiff further argues that he and Ms. Godfrey ‘have lived in Rhode Island and Canada’, places where the plaintiff claims recognize common law marriages, and suggests that their cohabitation in Rhode Island and Canada is sufficient to constitute a common law marriage which should be recognized under Connecticut law. There is no evidence, however, that plaintiff and Ms. Godfrey lived in either Rhode Island or Canada. The plaintiff has also failed to establish that the plaintiff’s and Ms. Godfrey’s conduct or contacts with Rhode Island or Canada satisfy the common law marriage requirements in those jurisdictions. Without evidence to establish what the law of Canada and Rhode Island is, it is presumed to be like our own law. *McLoughlin v. Shaw*, 95 Conn. 102, 106 (1920); *American Woolen Co. v. Maaget*, 86 Conn. 234, 235, 85 A. 583 (1912). Moreover, for this court to recognize the validity of a marriage or relationship entered into in another state or jurisdiction, that marriage or relationship must be recognized as valid by such other state or jurisdiction. See Conn. Gen.Stat. § 46b-28a.

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 plaintiff has failed to present evidence to this court of a valid common law marriage in either Canada or Rhode Island.”

- [Biercevicz v. Liberty Mutual Insurance Company](#), 49 Conn. Supp. 175, 865 A.2d 1267 (2004). “Indeed, as in New Jersey, Connecticut does not recognize common-law marriage. Engaged couples are not recognized for the purposes of workers’ compensation, social security benefits, welfare, or inheritance by intestate succession. It is also noted that Connecticut would not allow an unmarried person to sue for loss of consortium, whether or not that person cohabited with the injured party.”
- [Collier v. City of Milford](#), 206 Conn. 242, 249, 537 A.2d 474 (1988). “This court has never had the occasion to rule directly on the question of the validity in this state of a common law marriage validly contracted in accordance with the law of another state. The Superior Court in [Delaney v. Delaney](#), 35 Conn. Sup. 230, 405 A.2d 91 (1979), however, held that the validity of a marriage is governed by *lex loci contractus* and recognized the validity of a common law marriage contracted in Rhode Island . . . . Further, it is the generally accepted rule that a marriage that is valid in the state where contracted is valid everywhere . . . . unless for some reason the marriage is contrary to the strong public policy of the state required to rule on its validity.”
- [Boland v. Catalano](#), 202 Conn. 333, 339, 521 A.2d 142 (1987). “We agree with the trial referee that cohabitation alone does not create any contractual relationship or, unlike marriage, impose other legal duties upon the parties. In this jurisdiction, common law marriages are not accorded validity . . . . The rights and obligations that attend a valid marriage simply do not arise where the parties choose to cohabit outside the marital relationship . . . . Ordinary contract principles are not suspended, however, for unmarried persons living together, whether or not they engage in sexual activity.” [See also: [Klein v. Bratt](#), Superior Court, Judicial District of Stamford-Norwalk, FSTCV055000502S (Nov. 25, 2009) (2009 WL 5184192).]
- [McAnerney v. McAnerney](#), 165 Conn. 277, 285, 334 A.2d 437 (1973). “Although other jurisdictions may recognize common-law marriage or accord legal consequences to informal marriage relationships, Connecticut definitely does not . . . . It follows that although two persons cohabit and conduct themselves as a married couple, our law neither grants to nor imposes upon them marital status. Thus, for the purposes of the laws of this jurisdiction and for the purposes of the contract, Mrs. McAnerney’s cohabitation with another has no effect on the contractual provision whereby the plaintiff’s obligation terminates with the wife’s remarriage.”

- [Hames v. Hames](#), 163 Conn. 588, 596-597, 316 A.2d 379 (1972). “Under 46-3, ‘all marriages attempted to be celebrated’ by an unauthorized person ‘shall be void.’ This prohibiting clause of 46-3 was construed in *State ex rel. Felson v. Allen*, [129 Conn. 427] *supra*, 432, to carry ‘the necessary implication that no valid marriage is created where there is no celebration at all but merely an exchange of promises, or cohabitation under such circumstances as would constitute a common law marriage.’ In the *Felson* case, the court construed 46-3 to invalidate marriages in which the only celebrants were the would-be spouses themselves — that is, where neither met the statutory criteria to act as the state’s agent in performing the marriage. Implicit in this decision, however, is the proposition that a third party must witness or officiate at a ceremony wherein the parties each presently consent to marriage.”
- [Hames v. Hames](#), 163 Conn. 588, 596, 316 A.2d 379 (1972). “Marital status, of course, arises not from the simple declarations of persons nor from the undisputed claims of litigants . . . . It is rather created and dissolved only according to law.”
- [State Ex Rel. Felson v. Allen](#), 129 Conn. 427, 431, 29 A.2d 306 (1942). “While the statute in terms makes void only a marriage celebrated by an unauthorized person, the provision carries the necessary implication that no valid marriage is created when there is no celebration at all but merely an exchange of promises, or cohabitation under such circumstances as would constitute a common-law marriage . . . . **Our law does not recognize common-law marriages.**” (Emphasis added.)

**FORMS:**

- 16B [Am Jur Legal Forms 2d Social Security](#) (2011).  
     § 235:24. Statement—Facts Showing Valid Common-Law Marriage  
     § 235:25. Certificate—Of Attorney—Recognition Of Common-Law Marriage In Particular Jurisdiction
- [Nichols Cyclopedia of Legal Forms Husband and Wife](#) (2010).  
     § 100.378. Affirmation of Common Law Marriage

**WEST KEY NUMBERS:**

- *Marriage*  
     # 213. Common-law requisites  
     # 217. Cohabitation, reputation or holding out

**DIGEST TOPICS:**

- West’s ALR Digest: Marriage §§213
- [Connecticut Family Law Citations](#) (2018): *Marriage*

**TEXTS & TREATISES:**

- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice Series, Family Law And Practice with Forms](#) (3d ed. 2010).

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.

#### Chapter 4. Marriage Licenses and Ceremonies

§ 4:16. Common-law marriage — In general

§ 4:17. Validity of common-law marriage contracted in state.

§ 4:18. Validity of common-law marriage contracted outside state.

§ 4:19. Cohabitation after invalid marriage.

- Louise Truax, Editor, [LexisNexis Practice Guide: Connecticut Family Law](#) (2018).

#### Chapter 1. Marriage

§ 1.07. Assessing Common Law Marriages

§ 1.08. Determining the Validity of Foreign Marriages

#### **ENCYCLOPEDIAS:**

- 52 [Am. Jur. 2d](#) *Marriage* (2011).
  - §§ 38-48. Common-law marriage
  - § 72. Common-law marriages (validly entered into in another state)
- 55 [C.J.S.](#) *Marriage* (2009).
  - § 4 What law governs
  - § 6.—Common-law marriage
  - § 10. Common-law marriage requisites
  - § 19. Consent of parties in general
  - § 20. —Requisite and sufficiency
  - § 22. Mutual agreement
  - § 23. —Common law marriage
  - § 25. Consummation and assumption of marital rights and duties
  - § 26. —Common-law marriage relation
- John D. Fletcher, *Validity of Marriage*, 36 [POF2d](#) 441 (1983).
  - §§ 28-41. Proof of valid common-law marriage

#### **LAW REVIEW:**

- Peter Nicolas, Common Law Same-Sex Marriage, 43 Conn. L. Rev. 931 (2011).

Table 3: Marital Privilege – Evidence Treatises and Selected Case Law

Adverse spousal testimony privilege, see Conn. Gen. Stat. [§ 54-84a](#) (2017) and Connecticut Code of Evidence [sec. 5-3\(a\)](#) (2018).

Marital communications privilege, see Conn. Gen. Stat. [§ 54-84b](#) (2017) and Connecticut Code of Evidence [sec. 5-3\(b\)](#) (2018).

<b><a href="#">Tait's Handbook of Connecticut Evidence</a> (6th ed., 2018)</b>	
Chapter 5 - D. Marital and Family Privileges	
§ 5.20	In General
§ 5.21	Husband – Wife: Testimonial Privilege
§ 5.22	Husband – Wife: Confidential Communication Privilege
<b><a href="#">Connecticut Trial Evidence Notebook</a> (2d ed., 2014)</b>	
Page S-25	Spousal Privileges
<b><a href="#">Connecticut Practice Series, Rules of Evidence, v.11</a> (2018 ed.)</b>	
Article V: Privileges	
§ 5-3	(b) Marital Privilege
<b><a href="#">Connecticut Evidence, v.2</a> (1988)</b>	
§ 126c	Husband – Wife Privilege
<b><a href="#">Connecticut Practice Series, Family Law And Practice with Forms</a> (3d ed., 2010).</b>	
§ 23:11	Familial Privileges

**State v. Christian, 267 Conn. 710, 841 A. 2d 1158 (2004).**

"We note at the outset that evidentiary privileges are governed by § 5-1 of the Connecticut Code of Evidence, which provides: 'Except as otherwise required by the constitution of the United States, the constitution of this state, the General Statutes or the Practice Book, privileges shall be governed by the principles of the common law.' The adverse spousal testimony privilege, which is codified at § 54-84a, belongs to the 'witness spouse.' *State v. Saia*, 172 Conn. 37, 43, 372 A.2d 144 (1976). Under that privilege, the husband or wife of a criminal defendant has a privilege not to testify against his or her spouse in a criminal proceeding, provided that the couple is married at the time of trial. See *id.*; *State v. Volpe*, 113 Conn. 288, 290, 155 A. 223 (1931); see also C. Tait, *Connecticut Evidence* (3d Ed. 2001) § 5.34.1, pp. 325-26. The marital communications privilege, on the other hand, 'permits an individual to refuse to testify, and to *prevent* a spouse or former spouse from testifying, as to any confidential communication made by the individual to the spouse during their marriage.' (Emphasis added.) *United States v. Rakes*, 726 F.3d 1, 3 (1st Cir. 1998); see also *Trammel v. United States*, 445 U.S. 40, 51, 100 S.Ct. 906, 63 L.Ed.2d 186 (1980) (marital communications privilege 'protect[s] information privately disclosed between husband and wife in the confidence of the marital relationship'); 1 C. McCormick, *Evidence* (5th Ed. 1999) §§ 78 through 86, pp. 323-42; C. Tait, *supra*, §§ 5.35.1 through 5.35.5, pp. 328-31. Because the marital communications privilege is not addressed squarely by either the federal constitution, state constitution, General Statutes or Practice Book, it is governed by the principles of the common law. See Conn. Code Evid. § 5-1."

**State v. Davalloo, 320 Conn. 123, 140, 128 A. 3d 492 (2016).**

"After *Christian* was decided, the legislature codified the privilege by enacting § 54-84b. That provision defines 'confidential communications' as 'any oral or written communication made between spouses during a marriage that is intended to be confidential and is induced by the affection, confidence, loyalty and integrity of the marital relationship.' General Statutes § 54-84b (a). Accordingly, we agree with the state that the legislature adopted the elements stated in *Christian*, but also added a third element, effectively narrowing the scope of the privilege."