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2023 Edition

Marriage in Connecticut

A Guide to Resources in the Law Library

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Treated Elsewhere:

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

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

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

Introduction

A Guide to Resources in the Law Library

- **"'Marriage' means the legal union of two persons."** Conn. Gen. Stat. § [46b-20](#) (2023).
- **"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, 12, 87 S.Ct. 1817, 1824, 18 L.Ed.2d 1010, 1018 (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. 744, 767, 133 S.Ct. 2675, 2691, 186 L.Ed.2d 808, 825 (2013).
- **"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 (1896).
- **"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. Stat. § [1-1m](#) (2023).
- **"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. Stat. § [46b-40](#)(a) (2023).
- **"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).

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 relationship; (2) At least eighteen years of age; (3) Except as provided in section 46b-29, not under the supervision or control of a conservator; and (4) Not prohibited from entering into a marriage pursuant to section 46b-21." Conn. Gen. Stat. § [46b-20a](#) (2023). (As amended by [P.A. 23-44](#), sec. 1)
- Affinity vs. Consanguinity: "The stepparent-stepchild relationship is one based on affinity. 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).
- "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, 240, 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. (2023).
 - [Chapter 1](#). Construction of Statutes
 - § [1-1m](#). Applicability of marriage terms.
 - [Chapter 815e](#). Marriage
 - § [46b-20a](#). Eligibility to marry. Issuance of license to minor who is sixteen or seventeen, when permitted. (Amended by [P.A. 23-44](#), sec. 1)
 - § [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.
 - [Chapter 815t](#). Juvenile Matters
 - § [46b-150d](#). Effect of emancipation. (Amended by [P.A. 23-44](#), sec. 3; [P.A. 23-46](#), sec. 19)

[Chapter 952](#). Penal Code: Offenses

§ [53a-72a](#). Sexual assault in the third degree: Class D or C felony.

§ [53a-190](#). Bigamy: Class D felony.

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

PUBLIC ACTS:

- [Public Act No. 23-44](#). An Act Concerning the Minimum Age to be eligible to Marry.
- [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. Current law may be different from what is discussed in the reports.

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

- [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."
- [Kerrigan v. Commissioner of Public Health](#), 289 Conn. 135, 262, 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. HHBCV064010372S (April 12, 2007) (43 Conn. L. Rptr. 506, 507) (2007 Conn. Super. LEXIS 1349) (2007 WL 1677097). "In [Hames v. Hames](#), supra, 163 Conn. [588] at 598, 316 A.2d 379, the

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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] at 598, 316 A.2d 379."

- [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, 569 A.2d 1112 (1990). "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." (p. 654)

"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.**" (p. 656)

- [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."**
- [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
NUMBERS:

- *Marriage and Cohabitation*
 - III. Creation, Existence and Validity of Marriage
 - A. In General; Requisites and Essentials
 - 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.

DIGESTS:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Decisions*, by Monika D. Young, LexisNexis, 2023.
 - Chapter 1. Marriage and Civil Unions
 - § 1.01[1]. General overview.
 - § 1.01[2]. Capacity to marry.

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.

- 52 *Am Jur 2d* Marriage, Thomson West, 2021 (Also available on Westlaw).
 - II. Creation and Validity
 - A. Ceremonial Marriage; Proxy Marriage
 - 2. Capacity to Marry
 - §§ 17-19. Age
 - §§ 20-24. Mental capacity
 - § 25. Physical capacity to marry; effect of impotence or sterility
- 55 *CJS* Marriage, Thomson West, 2021 (Also available on Westlaw).
 - I. Marital Relationship, in General
 - B. Regulation of Marriage and Marital Relations
 - § 7. What law governs marital relationships
 - § 8. What law governs marital relationships—Place of marriage as governing validity of marriage
 - § 9. What law governs marital relationships—Law governing common-law marriage
 - § 11. Restrictions on marriage based on party's gender, sex, or sexual orientation
 - II. Validity of Marriage; Requisites
 - B. Persons Who May Marry; Capacity
 - § 20. Capacity of parties to marry, generally
 - § 21. Age requirements for marriage
 - § 22. Mental capacity to marry
 - § 23. Mental capacity to marry—Mental capacity to marry in particular circumstances
 - § 24. Physical capacity to marry

§ 25. Effect of consanguinity or affinity on capacity to marry

- 177 *POF3d* 111, *Validity of Marriage*, Thomson West, 2019 (Also available on Westlaw).
 - § 4. Capacity to marry, generally
 - § 5. Consent to marriage
 - § 15. Factors and requirements showing validity of marriage

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*, 3d ed., by Arnold H. Rutkin, et al., Thomson West, 2010, with 2022-2023 supplement (also available on Westlaw).
 - Chapter 3. Marriage—Generally
 - § 3:4. Who may marry?
 - § 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
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
 - Chapter 1. Marriage
 - Part II. Determination of the Validity of Marriage
 - § 1.04. Confirming the requirements for a marriage contract
 - § 1.05. Determining who may marry
 - [1] Determining who may marry—In general
 - [2] Understanding same-sex marriage limitations prior to 2005
 - [4] Determining who are relatives
 - [5] Determining the status of minors
 - [6] Determining the status of conserved persons and their capacity to marry

LAW REVIEWS:

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

- Suzanne B. Goldberg, *Marriage as Monopoly: History, Tradition, Incrementalism, and the Marriage/Civil Union Distinction*, 41 *Connecticut Law Review* 1397 (2009).
- David D. Meyer, *The Constitutionalism of Family Law*, 42 *Family Law Quarterly* 529 (2008).

Section 2: The Marriage License

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to issuing and use of marriage licenses in Connecticut.

DEFINITIONS:

- "(a) . . . issued a license by the registrar for the town in which the marriage is to be celebrated, which license shall bear the certification of the registrar that the persons named therein have complied with the provisions of said sections. (b) 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 a period of not more than sixty-five days after the date of application." **Conn. Gen. Stat. § 46b-24** (2023).
- "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, 438 A.2d 109 (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 at Stamford, No. FA 970162587 (August 10, 1998) (22 Conn. L. Rptr. 637, 639) (1998 Conn. Super. LEXIS 2248) (1998 WL 516159).

SEE ALSO:

[Table 1: 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. (2023).
 - [Chapter 93](#). Registrars of Vital Statistics
 - § [7-73](#). Fees for marriage license, burial or removal, transit and burial permit. Marriage license surcharge.
 - [Chapter 815e](#). Marriage
 - § [46b-20a](#). Eligibility to marry. Issuance of license to minor who is sixteen or seventeen, when permitted. (Amended by [P.A. 23-44](#), sec. 1)
 - § [46b-24](#). License. Period of validity. Penalty for solemnization without license. Validity of marriage ceremony.
 - § [46b-24a](#). Validation of marriage occurring in town other than town where license issued.
 - § [46b-25](#). Application for license.
 - § [46b-28d](#). Recognition of marriages entered into at Mashantucket Pequot reservation or Mohegan reservation.

REGULATIONS:

- Regulations of Connecticut State Agencies
 - Title 19a - Public Health and Well-being
 - § [19a-41-13](#). Application for marriage license.

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.

ATTORNEY GENERAL OPINIONS:

CASES:

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- *Race Requirements on Marriage Licenses*, Nicole Dube, Connecticut General Assembly, Office of Legislative Research Report, [2020-R-0061](#) (February 13, 2020).
- [Marriages Performed on the Mashantucket Pequot Indian Reservation](#), 2005-022 Formal Opinion (September 7, 2005).
- [Adziovski v. Elezovski](#), Superior Court, Judicial District of New Britain at New Britain, No. FA074014596S (July 25, 2008) (46 Conn. L. Rptr. 13, 14) (2008 Conn. Super. LEXIS 1897) (2008 WL 3853582). **"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, 438 A.2d 109 (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."**
- [Kosek v. Osman](#), Superior Court, Judicial District of New Haven at New Haven, No. FA 02-04665181 (February 25, 2005) (2005 Conn. Super. LEXIS 579) (2005 WL 758125). **"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. See [Carabetta v. Carabetta](#), 182 Conn. 344, 349,

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438 A.2d 109 (1980). He does claim, however, that the failure to file the license is evidence which, when taken with other evidence offered at trial, shows that the parties never intended to be married. He asserts that the **marriage was simply a sham.**"

- [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."**
- [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. . . ."**

WEST KEY NUMBERS:

- *Marriage and Cohabitation*
 - III. Creation, Existence and Validity of Marriage
 - A. In General; Requisites and Essentials
 - 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.

DIGESTS:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Decisions*, by Monika D. Young, LexisNexis, 2023.
 - Chapter 1. Marriage and Civil Unions

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- 52 *Am Jur 2d* Marriage, Thomson West, 2021 (Also available on Westlaw).
 - II. Creation and Validity
 - A. Ceremonial Marriage; Proxy Marriage
 - 4. Formal Requirements
 - § 30. Marriage license requirement
 - § 31. Validity of marriage performed in absence of license or prior to issuance of license
 - § 34. Registration of marriage; recording or filing of license
- 55 *CJS* Marriage, Thomson West, 2021 (Also available on Westlaw).
 - II. Validity of Marriage; Requisites
 - D. Formal and Procedural Requirements in Creation of Marriage
 - 1. Marriage Licenses and Records
 - § 35. Marriage licenses, generally

§ 36. Issuance of marriage license
§ 37. Liability for wrongful issuance of license

- 177 *POF3d* 111, *Validity of Marriage*, Thomson West, 2019 (Also available on Westlaw).
 - § 6. Licenses, procedures, and forms of marriage ceremony
 - § 11. Claims of invalidity—Generally
 - § 15. Factors and requirements showing validity of marriage

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- 7 Connecticut Practice Series, *Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin, et al., Thomson West, 2010, with 2022-2023 supplement (also available on Westlaw).
 - 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
 - § 4:14. Return and recordation
 - § 4:15. Proof of marriage
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
 - Chapter 1. Marriage
 - § 1.06. Determining how couples may marry
 - [3]. Defining the requirements for a marriage license

Table 1: Blood Tests (Repealed)

Premarital Blood Tests	
REPEALED: Effective October 1, 2003	
<p>Public Act No. 03-188 § 6 (Reg. Sess.) (Effective October 1, 2003) An Act Concerning Premarital Blood Test Requirements and Marriage Certificates</p> <p>“Sections 19a-27, 46b-26 and 46b-27 of the general statutes are REPEALED.”</p>	
<p><u>STATUTES:</u></p> <p>You can visit your local law library or search the most recent statutes and public acts on the Connecticut General Assembly website.</p>	<ul style="list-style-type: none"> • 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). <p>[Conn. Gen. Stat. (2001) § 19a-27 and § 46b-27 were REPEALED effective October 1, 2003]</p>
<p><u>CASES:</u></p> <p>Once you have identified useful cases, it is important to update them to ensure they are still good law. You can contact your local law librarian to learn about updating cases.</p>	<ul style="list-style-type: none"> • “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.” Doe v. Doe, 11 Conn. Supp. 157, 159, 1942 WL 867 (1942).
<p><u>TEXTS & TREATISES:</u></p> <p>You can contact us or visit our catalog to determine which of our law libraries own the treatises cited.</p> <p>References to online databases refer to in-library use of these databases.</p>	<ul style="list-style-type: none"> • 7 Connecticut Practice Series, <i>Family Law and Practice with Forms</i>, 3d ed., by Arnold H. Rutkin, et al., Thomson West, 2010, with 2022-2023 supplement (also available on Westlaw). <ul style="list-style-type: none"> § 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) (2023).

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-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.
§ [46b-28d](#). Recognition of marriages entered into at Mashantucket Pequot reservation or Mohegan reservation.

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.

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

ATTORNEY
GENERAL
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CASES:

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- [Marriages Performed on the Mashantucket Pequot Indian Reservation](#), 2005-022 Formal Opinion (September 7, 2005).
- "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.**"
- [Adziovski v. Elezovski](#), Superior Court, Judicial District of New Britain at New Britain, No. FA074014596S (July 25, 2008) (46 Conn. L. Rptr. 13, 14) (2008 Conn. Super. LEXIS 1897) (2008 WL 3853582). "With respect to the Imam who conducted the marriage ceremony, Connecticut law provides 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."
- [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.**"
- [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, 140 (1821). "The remaining question is, whether Mr. *Dimick* was *settled* at *Ellington* in the work of the ministry. By a *settled minister*, in this case, I understand a person authorized to perform ministerial functions, and particularly, the celebration of marriage. . . ."
- [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."
- *Marriage and Cohabitation*
 - III. Creation, Existence and Validity of Marriage
 - A. In General; Requisites and Essentials
 - 205. Formal or ceremonial marriage.
 - 206. —In general.
 - 207. —Solemnization or celebration.

WEST KEY
NUMBERS:

- 208. —Customs of particular sects or societies.
- 209. —Authority to perform or officiate.
- 210. —Liability of person performing or officiating.
- 240. Certificate.

DIGESTS:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Decisions*, by Monika D. Young, LexisNexis, 2023.
 Chapter 1. Marriage and Civil Unions
 § 1.01[1]. General overview.
 § 1.01[4]. Validity.

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.

- *52 Am Jur 2d Marriage*, Thomson West, 2021 (Also available on Westlaw).
 II. Creation and Validity
 A. Ceremonial Marriage; Proxy Marriage
 4. Formal Requirements
 § 32. Performance of marriage ceremony by qualified person
 § 33. Effect of violation of marriage solemnizing statutes
- *55 CJS Marriage*, Thomson West, 2021 (Also available on Westlaw).
 II. Validity of Marriage; Requisites
 D. Formal and Procedural Requirements in Creation of Marriage
 2. Solemnization of Marriage
 § 39. Requisite solemnization of marriage, generally
 § 40. Persons who may solemnize marriages
 § 41. Liabilities of persons solemnizing marriages
- *177 POF3d 111, Validity of Marriage*, Thomson West, 2019 (Also available on Westlaw).
 § 6. Licenses, procedures, and forms of marriage ceremony

TEXTS & TREATISES:

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

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

- *7 Connecticut Practice Series, Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin, et al., Thomson West, 2010, with 2022-2023 supplement (also available on Westlaw).
 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

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

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

- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
Chapter 1. Marriage
§ 1.06. Determining how couples may marry
[1] Defining who may perform marriages

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).
- **"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."** [Perlstein v. Perlstein](#), 152 Conn. 152, 157, 204 A.2d 909 (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. (2023).
[Chapter 815e](#). Marriage
§ [46b-24](#). License. Period of validity. Penalty for solemnization without license. Validity of marriage ceremony.
§ [46b-28d](#). Recognition of marriages entered into at Mashantucket Pequot reservation or Mohegan reservation.

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."**

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 at Stamford, No. FA 970162587 (August 10, 1998) (22 Conn. L. Rptr. 637, 639) (1998 Conn. Super. LEXIS 2248) (1998 WL 516159). **"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**

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

WEST KEY NUMBERS:

DIGESTS:

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.

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."**

- [Hames v. Hames](#), 163 Conn. 588, 596, 316 A.2d 379 (1972). "The policy of the law is strongly opposed to regarding an attempted marriage such as that in this case, entered into in good faith, believed by one or both of the parties to be legal, and followed by cohabitation, to be void."
- *Marriage and Cohabitation*
 - III. Creation, Existence and Validity of Marriage
 - A. In General; Requisites and Essentials
 - 205. Formal or ceremonial marriage.
 - 206. —In general.
 - 207. —Solemnization or celebration.
 - 241. Return, record, and registration.
- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Decisions*, by Monika D. Young, LexisNexis, 2023.
 - Chapter 1. Marriage and Civil Unions
 - § 1.01[1]. General overview.
 - § 1.01[4]. Validity.
- *A Digest of the Laws of Connecticut*, by Zephaniah Swift, S. Converse, 1822.
 - "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.**" ([p. 20](#))
- 61 *ALR 2d* 847, *Validity Of Solemnized Marriage As Affected By Absence Of License Required By Statute*, by F.M. English, Thomson West, 1958 (Also available on Westlaw).
- 52 *Am Jur 2d* Marriage, Thomson West, 2021 (Also available on Westlaw).
 - II. Creation and Validity
 - A. Ceremonial Marriage; Proxy Marriage
 - 1. In General
 - § 14. Requisites for ceremonial marriage
 - § 15. —Effect of absence of cohabitation or consummation
 - § 16. Proxy marriage as distinguished from ceremonial marriage

- 55 *CJS Marriage*, Thomson West, 2021 (Also available on Westlaw).
 - II. Validity of Marriage; Requisites
 - D. Formal and Procedural Requirements in Creation of Marriage
 - 1. Marriage Licenses and Records
 - § 38. Certificate of marriage; return or record
 - 2. Solemnization of Marriage
 - § 39. Requisite solemnization of marriage, generally
 - § 42. Nature or form of ceremony for solemnization of marriage
 - E. Grounds for Determination That Marriage Is Invalid; Effect of Invalidity
 - § 43. Invalidity of marriage due to mistake
 - § 45. Fraud constituting grounds for invalidity of marriage, generally
- 177 *POF3d 111*, Validity of Marriage, Thomson West, 2019 (Also available on Westlaw).
 - § 6. Licenses, procedures, and forms of marriage ceremony
- 7 Connecticut Practice Series, *Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin, et al., Thomson West, 2010, with 2022-2023 supplement (also available on Westlaw).
 - Chapter 3. Marriage—Generally
 - § 3:3. Marriage by proxy
 - Chapter 4. Marriage Licenses and Ceremonies
 - § 4:9. Formalities of ceremonies
 - § 4:14. Return and recordation
 - § 4:15. Proof of marriage
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
 - Chapter 1. Marriage
 - § 1.06. Determining how couples may marry
 - [2] Defining solemnization

TEXTS &
TREATISES:

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

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](#) (2023).
- 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. FA030285473 (May 17, 2005) (39 Conn. L. Rptr. 373, 375) (2005 Conn. Super. LEXIS 1385) (2005 WL 1433188).

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-28](#). Validity of marriages celebrated in a foreign country.
 - § [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.

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.

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.

- [Gershuny v. Gershuny](#), 322 Conn. 166, 170, 140 A.3d 196 (2016). **“The trial court improperly concluded that § 46b-22, which identifies the classes of persons who are authorized to solemnize marriages in this state, is relevant to determining whether a marriage performed in another state is ‘expressly prohibited by statute’ pursuant to § 46b-28a. The plain language of § 46b-22, however, limits the scope of that statute to marriages that are performed in this state.”**
- [Schneider v. Picano](#), Superior Court, Judicial District of Tolland at Rockville, No. CV106001607S (October 6, 2011) (52 Conn. L. Rptr. 696, 698) (2011 Conn. Super. LEXIS 2602) (2011 WL 5120460). **“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).”**
- [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 [Davis v. Davis](#), 119 Conn. 194, 197, 175 A. 574. 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.”**

WEST KEY NUMBERS:

- *Marriage and Cohabitation*
III. Creation, Existence and Validity of Marriage
251-260. Validity and Effect of Foreign Marriage.

DIGESTS:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Decisions*, by Monika D. Young, LexisNexis, 2023.
Chapter 1. Marriage and Civil Unions
§ 1.01[4]. Validity.
Chapter 3. Annulment

§ 3.02. Void and voidable marriages.
Chapter 4. Jurisdiction and Service
§ 4.08. Full faith and credit and foreign judgments.

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.

- 52 *Am Jur 2d* Marriage, Thomson West, 2021 (Also available on Westlaw).
 - II. Creation and Validity
 - D. Governing Law; Effect of Conflicting Foreign Law
 - §§ 58-69. Choice of governing law; Validity of particular marriages with foreign aspects
- 15A *C.J.S.* Conflict of Laws, Thomson West, 2021 (Also available on Westlaw).
 - III. Status and Capacity of Persons
 - § 63. Conflict of laws regarding marriage status
 - § 72. Conflict of laws regarding capacity to marry
- 55 *CJS* Marriage, Thomson West, 2021 (Also available on Westlaw).
 - I. Marital Relationship, in General
 - B. Regulation of Marriage and Marital Relations
 - § 7. What law governs marital relationships
 - § 8. What law governs marital relationships—
Place of marriage as governing validity of marriage
- 177 *POF3d* 111, Validity of Marriage, Thomson West, 2019 (Also available on Westlaw).
 - § 3. General principles—Foreign state and country marriages
 - § 9. Foreign and native marriages
- 7 Connecticut Practice Series, *Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin, et al., Thomson West, 2010, with 2022-2023 supplement (also available on Westlaw).
 - 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
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
 - Chapter 1. Marriage
 - § 1.08. Determining the validity of foreign marriages
- American Law Institute, *Restatement (Second) of Conflict of Laws*. Thomson West, 1971, with 2023 supplement (Also available on Westlaw).
 - Chapter 11. Status
 - Topic 1. Marriage

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.

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§ 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:

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-22](#). Who may join persons in marriage. Penalty for unauthorized performance.
§ [46b-28a](#). Recognition of marriages and other relationships entered into in another state or jurisdiction.

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.

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

FORMS:

- 12A *Am Jur Legal Forms 2d* Marriage, Thomson West, 2018 (Also available on Westlaw).
§ 171:17. Affirmance of common-law marriage
§ 171:18. Agreement to establish common-law marriage
- 5P2 *Nichols Cyclopedia of Legal Forms* Husband and Wife, Thomson West, 2017 (Also available on Westlaw).
§ 100.383. Affirmance of common-law marriage

CASES:

- [Schneider v. Picano](#), Superior Court, Judicial District of Tolland at Rockville, No. CV106001607S (October 6, 2011) (52 Conn. L. Rptr. 696, 698) (2011 Conn. Super. LEXIS 2602) (2011 WL 5120460). **"The plaintiff further**

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.

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."

- [Biercevicz v. Liberty Mutual Insurance Company](#), 49 Conn. Supp. 175, 181, 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.”

- [McAnerney v. McAnerney](#), 165 Conn. 277, 285-286, 334 A.2d 437 (1973). **“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.”**

WEST KEY NUMBERS:

- *Marriage and Cohabitation*
 - III. Creation, Existence and Validity of Marriage
 - A. In General; Requisites and Essentials
 - 211. Informal or nonceremonial marriage.
 - 213. —Common-law marriage in general.
 - 217. —Cohabitation, reputation or holding out.

DIGESTS:

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Decisions*, by Monika D. Young, LexisNexis, 2023.
 - Chapter 1. Marriage and Civil Unions
 - § 1.03. Cohabitation.

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.

- 133 ALR 758, *Validity of Common-Law Marriage in American Jurisdictions*, by R.H.S, Thomson West, 1941 (Also available on Westlaw).
- 52 *Am Jur 2d* Marriage, Thomson West, 2021 (Also available on Westlaw).
 - II. Creation and Validity
 - B. Common-Law Marriage
 - §§ 35-44. Common-law marriage— Basic requirements and elements; Validity, effect, and termination
 - D. Governing Law; Effect of Conflicting Foreign Law
 - § 63. Recognition of common-law marriage entered into in foreign state
- 55 *CJS* Marriage, Thomson West, 2021 (Also available on Westlaw).
 - I. Marital Relationship, in General
 - B. Regulation of Marriage and Marital Relations
 - § 7. What law governs marital relationships
 - § 8. What law governs marital relationships— Place of marriage as governing validity of marriage
 - § 9. What law governs marital relationships— Law governing common-law marriage

- II. Validity of Marriage; Requisites
 - A. Validity, in General; Requisites for Establishing Existence and Validity of Marriage
 - § 16. Existence and validity of common-law marriage, generally
 - § 17. Essential elements to establish common-law marriage
 - C. Required Consent or Agreement for Marriage; Consummation
 - § 32. Form and sufficiency of consent to establish common-law marriage
 - § 33. Form and sufficiency of consent to establish common-law marriage—Evidence of consent to enter or establish informal or common-law marriage

- 177 *POF3d* 111, Validity of Marriage, Thomson West, 2019 (Also available on Westlaw).
 - §§ 7-8. Requirements of valid common-law marriage
 - §§ 31-40. Proof of common-law or similar marriage without license
- 7 Connecticut Practice Series, *Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin, et al., Thomson West, 2010, with 2022-2023 supplement (also available on Westlaw).
 - 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
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
 - Chapter 1. Marriage
 - § 1.07. Assessing common law marriages
 - § 1.08. Determining the validity of foreign marriages

TEXTS & TREATISES:

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Table 2: Marital Privilege – Evidence Treatises and Selected Case Law

Adverse spousal testimony privilege, see Conn. Gen. Stat. § [54-84a](#) (2023) and Connecticut Code of Evidence [sec. 5-3](#)(a) (2023).

Marital communications privilege, see Conn. Gen. Stat. § [54-84b](#) (2023) and Connecticut Code of Evidence [sec. 5-3](#)(b) (2023).

2 <i>Connecticut Evidence</i> , by Benedict M. Holden, Jr. and John J. Daly, Atlantic Law Book Co., 1988.	
§ 126c	Husband-Wife Privilege
11 Connecticut Practice Series, <i>Connecticut Rules of Evidence</i> , 2023 ed., Thomson West (Also available on Westlaw).	
Article V: Privileges	
§ 5-3	Marital Privileges
<i>Connecticut Trial Evidence Notebook</i> , 2nd ed., by Dale P. Faulkner et al., LexisNexis, 2022.	
Page S-25	Spousal Privileges
7 Connecticut Practice Series, <i>Family Law and Practice with Forms</i> , 3d ed., by Arnold H. Rutkin, et al., Thomson West, 2010, with 2022-2023 supplement (Also available on Westlaw).	
§ 23:11	Familial Privileges
<i>Tait's Handbook of Connecticut Evidence</i> , 6th ed., by Colin C. Tait and Hon. Eliot D. Prescott, Wolters Kluwer, 2019, with 2023 supplement.	
Chapter 5 – D. Marital and Family Privileges	
§ 5.20	In General
§ 5.21	Husband-Wife Testimonial Privilege
§ 5.22	Husband-Wife: Confidential Communication Privilege

Marital Privilege – Evidentiary Matters (continued)

[State v. Davaloo](#), 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."

[State v. Christian](#), 267 Conn. 710, 725-726, 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."

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