



2016 Edition

Civil Unions in Connecticut

A Guide to Resources in the Law Library

Civil union statutes 46b-38aa through 46b-38oo were repealed effective October 1, 2010.

Table of Contents

Introduction 3

Section 1: Who May Enter Into a Civil Union in Connecticut 4

Section 2: License for a Civil Union in Connecticut 8

 Table 1: Civil Union Licenses 9

Section 3: Who May Join Persons in a Civil Union 10

Section 4: The Civil Union Ceremony 12

Section 5: Civil Unions Celebrated in a Foreign Jurisdiction 14

Section 6: Recognition of Connecticut Civil Unions by Other States or the Federal Government 16

 Figure 1: Public Act No. 09-13 19

 Figure 2: Public Act 05-10 (Civil Unions) 24

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This guide links to advance release slip opinions on the Connecticut Judicial Branch website and to case law hosted on Google Scholar.
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Treated elsewhere in our [Family Law Research Guides](#):

- [Annulment of Marriages in Connecticut](#)
- [Dissolution of Marriages and Nonadversarial Dissolution of Marriages in Connecticut](#)
- [Legal Separation in Connecticut](#)
- [Marriage in Connecticut](#)

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Introduction

A Guide to Resources in the Law Library

Civil union statutes 46b-38aa through 46b-38oo were repealed effective October 1, 2010.

[Public Act 09-13](#) - An Act Implementing the Guarantee of Equal Protection Under the Constitution of the State for Same Sex Couples.

To implement the decision of the Connecticut Supreme Court in Kerrigan v. Commissioner of Public Health [289 Conn. 135], provide for the recognition of marriages and relationships providing substantially the same rights, benefits and responsibilities entered into in another state or jurisdiction and provide for the merger of existing civil unions into marriages.

Bill (SB 899) Analysis from the Office of Legislative Research [[Full-Text](#)]:

SUMMARY: This bill redefines "marriage" as the legal union of two persons. On October 1, 2010, it transforms civil unions into marriages unless they have been annulled or the couple has divorced or is in the process of dissolving their relationship.

Conn. Gen. Stats. (2015) - [Chapter 815f – Civil Unions](#)

[Sec. 46b-38pp](#). Applicability of estate tax, gift tax and income tax to parties to a civil union.

[Sec. 46b-38rr](#). Merger of civil union into marriage by default. Exception. (a) Two persons who are parties to a civil union established pursuant to sections 46b-38aa to 46b-38oo, inclusive, that has not been dissolved or annulled by the parties or merged into a marriage by operation of law under section 46b-38qq as of October 1, 2010, shall be deemed to be married under chapter 815e on said date and such civil union shall be merged into such marriage by operation of law on said date.

(b) Notwithstanding the provisions of subsection (a) of this section, the parties to a civil union with respect to which a proceeding for dissolution, annulment or legal separation is pending on October 1, 2010, shall not be deemed to be married on said date and such civil union shall not be merged into such marriage by operation of law but shall continue to be governed by the provisions of the general statutes applicable to civil unions in effect prior to October 1, 2010.

[Sec. 46b-38ss](#). Savings clause. Nothing in section 46b-38qq or 46b-38rr or section 21 of public act 09-13* shall impair or affect any action or proceeding commenced, or any right or benefit accrued, or responsibility incurred, by a party to a civil union prior to October 1, 2010. *Note: Section 21 of public act 09-13 repealed sections 46b-38aa to 46b-38oo, inclusive, effective October 1, 2010.

[Sec. 46b-38tt](#). Dissolution, annulment or legal separation of civil union performed in foreign jurisdiction. Enforcement or modification of foreign matrimonial judgment. Each party to a valid civil union performed in a foreign jurisdiction may bring an action for dissolution, annulment or legal separation of the civil union in this state, and the Superior Court may enter an order of dissolution, annulment or legal separation of the civil union.

Section 1: Who May Enter Into a Civil Union in Connecticut

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to persons who may establish a civil union in Connecticut.

- DEFINITIONS:**
- **Eligibility:** "A person is eligible to enter into a civil union if such person is:
(1) Not a party to another civil union or a marriage;
(2) Of the same sex as the other party to the civil union;
(3) At least eighteen years of age; and
(4) Not prohibited from entering into a civil union pursuant to section 46b-38cc." [Conn. Gen. Stats. § 46b-38bb](#) (2010 Supplement).
[Repealed, Effective October 1, 2010]
 - **Who Shall not Enter into a Civil Union:**
"(a) A woman shall not enter into a civil union with her mother, grandmother, daughter, granddaughter, sister, brother's daughter, sister's daughter, father's sister or mother's sister.
(b) A man shall not enter into a civil union with his father, grandfather, son, grandson, brother, brother's son, sister's son, father's brother or mother's brother.
(c) A civil union between persons prohibited from entering into a civil union pursuant to subsection (a) or (b) of this section is void." [Conn. Gen. Stats. § 46b-38cc](#) (2010 Supplement).
[Repealed, Effective October 1, 2010]
 - **Applicant under the Supervision or Control of a Conservator:** "(a) No civil union license may be issued to any applicant under the supervision or control of a conservator, appointed in accordance with sections 45a-644 to 45a-662, inclusive, unless the written consent of the conservator, signed and acknowledged before a person authorized to take acknowledgments of conveyances under the provisions of section 47-5a or authorized to take acknowledgments in any other state or country, is filed with the registrar of vital statistics.
(b) Any person who enters into a civil union without the consent provided for in subsection (a) of this section shall acquire no rights by such civil union in the property of any person who was under such control or supervision at the time the civil union was entered into." [Conn. Gen. Stats. § 46b-38ii](#) (2010 Supplement). *[Repealed, Effective October 1, 2010]*
 - **Age:** "No civil union license may be issued to any applicant under eighteen years of age." [Conn. Gen. Stats. § 46b-38jj](#) (2010 Supplement).
[Repealed, Effective October 1, 2010]

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. Stats. (2015)
[Chapter 815f – Civil Unions](#)
 - § 46b-38pp. Applicability of estate tax, gift tax and income tax to parties to a civil union
 - § 46b-38qq. Merger of civil union into marriage by action of the parties.
 - § 46b-38rr. Merger of civil union into marriage by default. Exception.
 - § 46b-38ss. Savings clause.
 - § 46b-38tt. Dissolution, annulment or legal separation of civil union performed in foreign jurisdiction. Enforcement or modification of foreign matrimonial judgment.
- Conn. Gen. Stats. (2010 Supplement)
[Chapter 815f – Civil Unions](#)
 - § 46b-38aa. Definitions [Repealed, Effective October 1, 2010]
 - § 46b-38bb. Eligibility [Repealed, Effective October 1, 2010]
 - § 46b-38cc. Kindred prohibited from entering into civil union
 - § 46b-38dd. Person authorized to join persons in a civil union [Repealed, Effective October 1, 2010]
 - § 46b-38ee. Penalty for unauthorized joining of persons in a civil union [Repealed, Effective October 1, 2010]
 - § 46b-38ff. Failure or refusal to join persons in a civil union [Repealed, Effective October 1, 2010]
 - § 46b-38gg. License. Period of validity. Penalty for solemnization without license. Validity of civil union ceremony [Repealed, Effective October 1, 2010]
 - § 46b-38hh. Application for license [Repealed, Effective October 1, 2010]
 - § 46b-38ii. Issuance of license to person under conservatorship [Repealed, Effective October 1, 2010]
 - § 46b-38jj. Issuance of license to minor prohibited [Repealed, Effective October 1, 2010]
 - § 46b-38kk. Civil union certificate. Affidavit in lieu of certificate [Repealed, Effective October 1, 2010]
 - § 46b-38ll. Evidentiary weight of certificate or affidavit [Repealed, Effective October 1, 2010]
 - § 46b-38mm. Validity of civil union celebrated in foreign country [Repealed, Effective October 1, 2010]
 - § 46b-38nn. Equality of benefits, protections and responsibilities [Repealed, Effective October 1, 2010]
 - § 46b-38oo. Applicability of statutes to civil unions and parties to a civil union [Repealed, Effective October 1, 2010]

LEGISLATIVE:

- Susan Price, *OLR Backgrounder: Effect of Undissolved Civil Union on Subsequent Marriage*, Connecticut General Assembly, Office of Legislative Research, OLR Research Report, [2012-R-0409](#), (September 20, 2012).

[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.

- 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, *Questions about Civil Unions Legislation*, Connecticut General Assembly, Office of Legislative Research, OLR Research Report, [2005-R-0354](#) (April 5, 2005).
- Susan Price, *Civil Unions and Gay Marriage Compared*, Connecticut General Assembly, Office of Legislative Research, OLR Research Report, [2005-R-0410](#) (April 22, 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.

- *Barse v Pasternak*, Superior Court, Judicial District of Judicial District of New Britain, No. FA12-4030541-S (Jan. 16, 2015) (59 Conn. L. Rptr. 801) (2015 WL 600973). "The present motion and objection involve the legal issue of whether the plaintiff, who was in a civil union that was subsequently converted to a same-sex marriage, is the legal parent of a child born to her now spouse during the civil union, where the plaintiff has no genetic relationship to the minor child, the plaintiff did not adopt the child, and the parties did not comply with Connecticut's artificial insemination statutes".
- *Mueller v. Tepler*, 312 Conn 631, 650-652 & 653, 95 A3d 1011, 1023-1025 (2014). "We also conclude that we *should* expand the action for loss of consortium to plaintiffs in Stacey's position. As this court recognized in *Kerrigan v. Commissioner of Public Health* . . . the attitudes and needs of society with respect to same sex relationships and marriage have changed significantly in recent decades . . . Specifically, society has come to accept the view that committed same sex couples who wish to marry are entitled to the same social and legal recognition as committed opposite sex couples who wish to marry. Accordingly, we agree with Stacey that, in light of this new societal attitude, we must reevaluate this court's decisions in *Hopson* and *Gurliacci*. . . . We further conclude that none of the public policies that this court considered in *Hopson* and *Gurliacci* would be undermined by allowing a member of a same sex couple to maintain a loss of consortium claim if he or she can prove that the couple would have been married when the underlying tort occurred if not for the fact that they were barred from doing so under the laws of this state. The public policy in favor of recognizing such claims is the policy favoring the compensation of individuals for the loss of a 'variety of intangible relations which exist between spouses living together in marriage . . . [including] affection, society, companionship and sexual relations.' . . . *Hopson v. St. Mary's Hospital*, supra, 176 Conn. 487."
- *Kerrigan v. Commissioner of Public Health*, 289 Conn. 135, 140-141, 957 A.2d 407, 411-412 (2008). "We conclude that, in light of the history of pernicious discrimination faced by gay men and lesbians, and because the institution of marriage

carries with it a status and significance that the newly created classification of civil unions does not embody, the segregation of heterosexual and homosexual couples into separate institutions **constitutes a cognizable harm.**"

- [United States v. Windsor](#), 570 US _____, 186 L.Ed.2d 808, 133 SCT 2675, 2695-2696 (2013). **"The federal statute is invalid, for no legitimate purpose overcomes the purpose and effect to disparage and to injure those whom the State, by its marriage laws, sought to protect in personhood and dignity. By seeking to displace this protection and treating those persons as living in marriages less respected than others, the federal statute is in violation of the Fifth Amendment. This opinion and its holding are confined to those lawful marriages."**
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2016).
Chapter 1. Marriage
§ 1.14 Understanding the Evolution of Same-Sex Marriage in Connecticut

**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.

Section 2: License for a Civil Union in Connecticut

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to the issuance and use of a license for a civil union in Connecticut (*effective October 1, 2005*).

- DEFINITION:**
- **Requirements:** "No persons may be joined in a civil union in this state until both have complied with the provisions of sections 46b-38hh to 46b-38jj, inclusive, and have been issued a license by the registrar of vital statistics for the town in which (1) the civil union is to be celebrated, or (2) either person to be joined in the civil union resides, which license shall bear the certification of the registrar that the persons named therein have complied with the provisions of sections 46b-38hh to 46b-38jj, inclusive." [Conn. Gen. Stats. § 46b-38gg](#) (2010 Supplement).
[Repealed, Effective October 1, 2010]
 - **Formalities:** "No license for a civil union may be issued by the registrar of vital statistics until both persons have appeared before the registrar and made application for a license. The license shall be completed in its entirety, dated, signed and sworn to by each applicant and shall state each applicant's name, age, race, birthplace, residence, whether single, widowed or divorced and whether under the supervision or control of a conservator or guardian. The Social Security numbers of the two persons shall be recorded in the 'administrative purposes' section of the license. If the license is signed and sworn to by the applicants on different dates, the earlier date shall be deemed the date of application. The registrar shall issue a copy of sections 46b-38aa to 46b-38oo, inclusive, to any person making application for a license." [Conn. Gen. Stats. § 46b-38hh](#) (2010 Supplement).
[Repealed, Effective October 1, 2010]
 - **Time Limit of Application:** "Such license, when certified by the registrar, is sufficient authority for any person authorized to perform a civil union ceremony in this state to join such persons in a civil union, provided the ceremony is performed not more than sixty-five days after the date of application." [Conn. Gen. Stats. § 46b-38gg](#) (b) (2010 Supplement).
[Repealed, Effective October 1, 2010]
 - **Penalty:** "Any person who joins any persons in a civil union without having received such license from them shall be fined not more than one hundred dollars." [Conn. Gen. Stats. § 46b-38gg](#) (c) (2010 Supplement).
[Repealed, Effective October 1, 2010]

Table 1: Civil Union Licenses

<h2 style="margin: 0;">Civil Union Licenses</h2> <p style="margin: 0;">Conn. Gen. Stats. – Chapter 815f – Civil Unions (2010 Supplement).</p> <p style="margin: 0;">[Repealed, Effective October 1, 2010]</p>	
§ 46b-38hh	<p>“No license for a civil union may be issued by the registrar of vital statistics until both persons have appeared before the registrar and made application for a license. The license shall be completed in its entirety, dated, signed and sworn to by each applicant and shall state each applicant's name, age, race, birthplace, residence, whether single, widowed or divorced and whether under the supervision or control of a conservator or guardian. The Social Security numbers of the two persons shall be recorded in the ‘administrative purposes’ section of the license. If the license is signed and sworn to by the applicants on different dates, the earlier date shall be deemed the date of application. The registrar shall issue a copy of sections 46b-38aa to 46b-38oo, inclusive, to any person making application for a license.”</p>
§ 46b-38ii	<p>“(a) No civil union license may be issued to any applicant under the supervision or control of a conservator, appointed in accordance with sections 45a-644 to 45a-662, inclusive, unless the written consent of the conservator, signed and acknowledged before a person authorized to take acknowledgments of conveyances under the provisions of section 47-5a or authorized to take acknowledgments in any other state or country, is filed with the registrar of vital statistics.</p> <p>(b) Any person who enters into a civil union without the consent provided for in subsection (a) of this section shall acquire no rights by such civil union in the property of any person who was under such control or supervision at the time the civil union was entered into.”</p>
§ 46b-38jj	<p>“No civil union license may be issued to any applicant under eighteen years of age.”</p>
<p>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.</p>	

Section 3: Who May Join Persons in a Civil Union

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to who may join persons in a civil union.

- DEFINITIONS:**
- **Who May Join Persons in a Civil Union:** "Persons authorized to solemnize civil unions 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 or a civil union in their jurisdictions, (2) family support magistrates, 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, as long as they continue in the work of the ministry. All civil unions solemnized according to the forms and usages of any religious denomination in this state are valid. All civil unions attempted to be celebrated by any other person are void." [Conn. Gen. Stats. § 46b-38dd](#) (a) (2010 Supplement). *[Repealed, Effective October 1, 2010]*
 - **Who May Not:** "No public official legally authorized to issue civil union licenses may join persons in a civil union under authority of a license issued by such official, or such official's assistant or deputy; nor may any such assistant or deputy join persons in a civil union under authority of a license issued by such public official." [Conn. Gen. Stats. § 46b-38dd](#) (b) (2010 Supplement). *[Repealed, Effective October 1, 2010]*
 - **Penalties:** "Any person violating any provision of this section shall be fined not more than fifty dollars." [Conn. Gen. Stats. § 46b-38dd](#) (c) (2010 Supplement). *[Repealed, Effective October 1, 2010]*
 - "Any person who undertakes to join persons in a civil union, knowing that such person is not authorized to do so, shall be fined not more than five hundred dollars or imprisoned not more than one year or both." [Conn. Gen. Stats. § 46b-38ee](#) (2010 Supplement). *[Repealed, Effective October 1, 2010]*
 - "Any person authorized to join persons in a civil union pursuant to section 46b-38dd who fails or refuses for any reason to join persons in a civil union shall not be subject to any fine or other penalty for such failure or refusal." [Conn. Gen. Stats. § 46b-38ff](#) (2010 Supplement). *[Repealed, Effective October 1, 2010]*

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. Stats. (2015)
[Chapter 815f – Civil Unions](#)
 - § 46b-38dd. Person authorized to join persons in a civil union [Repealed, Effective October 1, 2010]
 - § 46b-38ee. Penalty for unauthorized joining of persons in a civil union [Repealed, Effective October 1, 2010]
 - § 46b-38ff. Failure or refusal to join persons in a civil union [Repealed, Effective October 1, 2010]

Section 4: The Civil Union Ceremony

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to civil union ceremonies in Connecticut

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. Stats. (2010 Supplement)
[Chapter 815f – Civil Unions](#)

§ 46b-38gg. License.

“(a) No persons may be joined in a civil union in this state until both have complied with the provisions of sections 46b-38hh to 46b-38jj, inclusive, and have been issued a license by the registrar of vital statistics for the town in which (1) the civil union is to be celebrated, or (2) either person to be joined in the civil union resides, which license shall bear the certification of the registrar that the persons named therein have complied with the provisions of sections 46b-38hh to 46b-38jj, inclusive.

(b) Such license, when certified by the registrar, is sufficient authority for any person authorized to perform a civil union ceremony in this state to join such persons in a civil union, provided the ceremony is performed not more than sixty-five days after the date of application.”

[Repealed, Effective October 1, 2010]

§ 46b-38kk. Civil Union Certificate. Affidavit in lieu of certificate.

“(a) Each person who joins any person in a civil union shall certify upon the license certificate the fact, time and place of the civil union, and return it to the registrar of vital statistics of the town where the civil union was celebrated, before or during the first week of the month following the celebration of the civil union. Any person who fails to do so shall be fined not more than ten dollars.

(b) If any person fails to return the certificate to the registrar of vital statistics, as required under subsection (a) of this section, the persons joined in a civil union may provide the registrar with a notarized affidavit attesting to the fact that they were joined in a civil union and stating the date and place of the civil union. Upon the recording of such affidavit by the registrar of vital statistics, the civil union of the affiants shall be deemed to be valid as of the date of the civil union stated **in the affidavit.**”

[Repealed, Effective October 1, 2010]

§ 46b-38ll. Evidentiary weight of certificate or affidavit.

“The certificate required by section 46b-38kk or an affidavit recorded pursuant to subsection (b) of said section shall be prima facie evidence of the facts stated in

them.”

[Repealed, Effective October 1, 2010]

§ 46b-38nn. Equality of benefits, protections and responsibilities.

“Parties to a civil union shall have all the same benefits, protections and responsibilities under law, whether derived from the general statutes, administrative regulations or court rules, policy, common law or any other source of civil law, as are granted to spouses in a marriage.”

[Repealed, Effective October 1, 2010]

Section 5: Civil Unions Celebrated in a Foreign Jurisdiction

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to the validity of civil unions celebrated in a foreign country.

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. Stats. (2015)
[Chapter 815e – Marriage](#)
Conn. Gen. Stat. § 46b-28a. 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.”
- [Chapter 815f – Civil Unions](#)
§ 46b-38tt. Dissolution, annulment or legal separation of civil union performed in foreign jurisdiction. Enforcement or modification of foreign matrimonial judgment.
“(a). Either party to a valid civil union performed in a foreign jurisdiction may bring an action for dissolution, annulment or legal separation of the civil union in this state, and the Superior Court may enter an order of dissolution, annulment or legal separation of the civil union.
(b) The procedures and requirements in the general statutes for the dissolution, annulment or legal separation of a marriage, whether applicable prejudgment or postjudgment, or requirements for enforcement or modification of a foreign matrimonial judgment, shall apply to the dissolution, annulment or legal separation of a civil union or enforcement or modification of a foreign civil union judgment. The substantive law in the general statutes that applies to the dissolution of a marriage, annulment or legal separation, whether applicable prejudgment or postjudgment, shall apply to the dissolution, annulment or legal separation of a valid civil union performed in a foreign jurisdiction.”
- Conn. Gen. Stats. (2010 Supplement)
[Chapter 815f – Civil Unions](#)
§ 46b-38mm. Validity of civil union celebrated in foreign country.
“All civil unions in which one or both parties are citizens of this state, celebrated in a foreign country, shall be valid, provided: (1) Each party would have legal capacity to contract such civil union in this state and the civil union is

celebrated in conformity with the law of that country; or (2) the civil union is celebrated in the presence of the ambassador or minister to that country from the United States or in the presence of a consular officer of the United States accredited to such country, at a place within his or her consular jurisdiction, by any ordained or licensed member of the clergy engaged in the work of the ministry in **any state of the United States or in any foreign country.**"
[Repealed, Effective October 1, 2010]

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.

- Susan Price, *OLR Backgrounder: Effect of Undissolved Civil Union on Subsequent Marriage*, [2012-R-0409](#), (September 20, 2012).
- Susan Price, *Questions About Civil Unions Legislation*, Connecticut General Assembly, Office of Legislative Research, OLR Research Report, [2005-R-0354](#) (April 5, 2005).
 1. How does the bill compare with Vermont's civil union law
- Susan Price-Livingston, *Recognition of Same-Sex Canadian Marriages in Connecticut*, Connecticut General Assembly, Office of Legislative Research, OLR Research Report, [2003-R-0514](#) (July 23, 2003).

Section 6: Recognition of Connecticut Civil Unions by Other States or the Federal Government

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to the recognition of civil unions by other states or the federal government.

DEFINITIONS:

- [United States v. Windsor](#), 570 US ____, 186 L.Ed.2d 808, 133 SCT 2675, 2695-2696 (2013). **"The federal statute is invalid, for no legitimate purpose overcomes the purpose and effect to disparage and to injure those whom the State, by its marriage laws, sought to protect in personhood and dignity. By seeking to displace this protection and treating those persons as living in marriages less respected than others, the federal statute is in violation of the Fifth Amendment. This opinion and its holding are confined to those lawful marriages."**

DOMA: [Defense of Marriage Act, P.L. 104-199](#) (September 21, 1996)

[Full Faith and Credit Clause: Article IV, Section 1 of the U.S. Constitution.](#)

- [Rosenbrahn v. Daugaard](#), 61 F.Supp.3d 845, 2014 WL 6386903 (2014). **"Recently, many federal courts have seen challenges centering on the constitutional validity of state same-sex marriage bans. With few exceptions, those courts have found that denying same-sex couples the right to marry violates the Constitution. Some courts have recognized that same-sex marriage bans impermissibly deprive same-sex couples of the fundamental right to marry. See, e.g., [Bostic v. Schaefer](#), 760 F.3d 352, 384 (4th Cir.2014) ('The choice of whether and whom to marry is an intensely personal decision that alters the course of an individual's life. Denying same-sex couples this choice prohibits them from participating fully in our society, which is precisely the type of segregation that the Fourteenth Amendment cannot countenance.'). Other courts have found that same-sex marriage bans classify citizens in a way that has no rational relationship to a legitimate government objective. See, e.g., [Baskin v. Bogan](#), 766 F.3d 648 (7th Cir.2014) (holding that same-sex marriage bans in Indiana and Wisconsin denied same-sex couples equal protection of the law because they classified citizens in a way that bore no rational relationship to any legitimate government purpose)."**

STATUTES:

- Conn. Gen. Stats. (2015)
[Chapter 815e – Marriage Sec. 46b-28b](#). **"Recognition by another state or**

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.

You can visit your local law library or [search the most recent U.S. Code](#) on the U.S. Code website to confirm that you are accessing the most up-to-date laws.

jurisdiction of marriages entered into in this state. A marriage between two persons entered into in this state and recognized as valid in this state may be recognized as a marriage, or a relationship that provides substantially the same rights, benefits and responsibilities as a marriage, in another state or jurisdiction if one or both persons travel to or reside in such other state or jurisdiction.”

- [1 U.S.C. § 7](#). Definition of “marriage” and “spouse”
“In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word ‘marriage’ means only a legal union between one man and one woman as husband and wife, and the word ‘spouse’ refers only to a person of the opposite sex who is a husband or a wife.” Declared unconstitutional by [United States v. Windsor](#).
- [28 U.S.C. § 1738C](#). Certain acts, records, and proceedings and the effect thereof
“No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship.”
- [House Report No. 104-664](#), 5 U.S.C.C.A.N. 2905 (104th Congress, Second Session 1996)
“H.R. 3396, the Defense of Marriage Act, has two primary purposes. The first is to defend the institution of traditional heterosexual marriage. The second is to protect the right of the States to formulate their own public policy regarding the legal recognition of same-sex unions, free from any federal constitutional implications that might attend the recognition by one State of the right for homosexual couples to acquire marriage licenses.

To achieve these purposes, H.R. 3396 has two operative provisions. Section 2, entitled ‘Powers Reserved to the States,’ provides that no State shall be required to accord full faith and credit to a marriage license issued by another State if it relates to a relationship between persons of the same sex. And Section 3 defines the terms ‘marriage’ and ‘spouse’ for purposes of federal law only, to reaffirm that they refer exclusively to relationships between persons of the opposite sex.”

WEST KEY NUMBER:

- *Constitutional Law (Equal Protection)*
 - 6. Levels of Scrutiny
 - # 3082. Sexual orientation
 - 12. Sexual Orientation
 - # 3436. Families and children

- # 3437. --- In general
- # 3438. --- Marriage and civil unions

- **Marriage**
 - # 17.5. Same-sex and other non-traditional unions
 - (1). In general
 - (2). Effect of foreign union

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.

- Susan Price, *OLR Backgrounder: Effect of Undissolved Civil Union on Subsequent Marriage*, [2012-R-0409](#), (September 20, 2012).
- Susan Price, *Questions About Civil Unions Legislation*, Connecticut General Assembly, Office of Legislative Research, OLR Research Report, [2005-R-0354](#) (April 5, 2005).
- Susan Price, *Civil Unions And Gay Marriage Compared*, Connecticut General Assembly, Office of Legislative Research, OLR Research Report, [2005-R-0410](#) (April 22, 2005).

**LAW
REVIEWS:**

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

- Charles D. Pulman, *Same-sex marriages: the quagmire continues after Windsor*, 37 Family Advocate 8 (no. 2, Fall 2014)
- Maureen M. Murphy, *Connecticut's Civil Union Law: A Look Forward*, 16 Connecticut Lawyer 18 (no. 2, October 2005)
Legal issues facing parties to a Civil Union Moving to Connecticut or traveling outside the state: Taking your status with you
- Lynn D. Wardle, *Non-recognition of same-sex marriage judgments under DOMA and the Constitution. (Defense of Marriage Act of 1996)(Symposium on the Implications of Lawrence and Goodridge for the Recognition of Same-Sex Marriages and the Validity of DOMA)*, 38 Creighton Law Review 365-420 (Issue 2, February 2005).

Figure 1: Public Act No. 09-13

First page of the Preface to State of Connecticut Public and Special Acts states:
"Whenever an act amends a General Statute of a Public or Special Act, the material being deleted is enclosed within brackets and new material is indicated by underscoring." (See General Statutes, Sec. [2-18](#))

2009 Conn. Acts 13

AN ACT IMPLEMENTING THE GUARANTEE OF EQUAL PROTECTION UNDER THE CONSTITUTION OF THE STATE FOR SAME SEX COUPLES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective from passage*) 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.

Section 2. (NEW) (*Effective from passage*) A marriage between two persons entered into in this state and recognized as valid in this state may be recognized as a marriage, or a relationship that provides substantially the same rights, benefits and responsibilities as a marriage, in another state or jurisdiction if one or both persons travel to or reside in such other state or jurisdiction.

Section 3. Section 46b-20 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

As used in this chapter:

[(a)] (1) "Registrar" means the registrar of vital statistics;

[(b)] (2) "Applicant" means applicant for a marriage license;

[(c)] (3) "License" means marriage license; and

(4) "Marriage" means the legal union of two persons.

Section 4. (NEW) (*Effective from passage*) 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-30 of the general statutes, at least eighteen years of age;

(3) Except as provided in section 46b-29 of the general statutes, not under the supervision or control of a conservator; and

(4) Not prohibited from entering into a marriage pursuant to section 46b-21 of the general statutes, as amended by this act.

Section 5. Section 46b-25 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

No license may be issued by the registrar until both persons have appeared before the registrar and made application for a license. The registrar shall issue a license to any two persons eligible to marry under this chapter and section 4 of this act. The

license shall be completed in its entirety, dated, signed and sworn to by each applicant and shall state each applicant's name, age, race, birthplace, residence, whether single, widowed or divorced and whether under the supervision or control of a conservator or guardian. The Social Security numbers of **【the bride and the groom】** both persons shall be recorded in the "administrative purposes" section of the license. If the license is signed and sworn to by the applicants on different dates, the earlier date shall be deemed the date of application.

Section 6. Section 46b-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

【No man may marry his mother, grandmother, daughter, granddaughter, sister, aunt, niece, stepmother or stepdaughter, and no woman may marry her father, grandfather, son, grandson, brother, uncle, nephew, stepfather or stepson. 】 No person may marry such person's parent, grandparent, child, grandchild, sibling, parent's sibling, sibling's child, stepparent or stepchild. Any marriage within these degrees is void.

Section 7. (NEW) (*Effective from passage*) (a) No member of the clergy authorized to join persons in marriage pursuant to section 46b-22 of the general statutes shall be required to solemnize any marriage in violation of his or her right to the free exercise of religion guaranteed by the first amendment to the United States Constitution or section 3 of article first of the Constitution of the state.
(b) No church or qualified church-controlled organization, as defined in 26 USC 3121, shall be required to participate in a ceremony solemnizing a marriage in violation of the religious beliefs of that church or qualified church-controlled organization.

Section 8. (NEW) (*Effective from passage*) 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.

Section 9. Section 45a-727a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The General Assembly finds that:

(1) The best interests of a child are promoted by having persons in the child's life who manifest a deep concern for the child's growth and development;

(2) The best interests of a child are promoted when a child has as many persons loving and caring for the child as possible; and

(3) The best interests of a child are promoted when the child is part of a loving, supportive and stable family, whether that family is a nuclear, extended, split, blended, single parent, adoptive or foster family. **【; and】**

【(4) It is further found that the current public policy of the state of Connecticut is now limited to a marriage between a man and a woman.】

Section 10. Section 46b-38nn of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Parties to a civil union shall have all the same benefits, protections and responsibilities under law, whether derived from the general statutes, administrative regulations or court rules, policy, common law or any other source of civil law, as are granted to spouses in a marriage. **【,which is defined as the union of one man and one woman.】**

Section 11. (NEW) (*Effective from passage*) (a) On and after the effective date of this section and prior to October 1, 2010, two persons who are parties to a civil

union entered into pursuant to sections 46b-38aa to 46b-38oo, inclusive, of the general statutes, as amended by this act, may apply for and be issued a marriage license, provided such persons are otherwise eligible to marry under section 4 of this act and chapter 815e of the general statutes and the parties to the marriage will be the same as the parties to the civil union.

(b) After the celebration of such marriage and upon the recording of the license certificate or notarized affidavit with the registrar of vital statistics of the town where the marriage took place pursuant to section 46b-34 of the general statutes, the civil union of such persons shall be merged into the marriage by operation of law as of the date of the marriage stated in the certificate or affidavit.

Section 12. (NEW) (*Effective from passage*) (a) Two persons who are parties to a civil union established pursuant to sections 46b-38aa to 46b-38oo, inclusive, of the general statutes, as amended by this act, that has not been dissolved or annulled by the parties or merged into a marriage by operation of law under section 11 of this act as of October 1, 2010, shall be deemed to be married under chapter 815e of the general statutes, as amended by this act, on said date and such civil union shall be merged into such marriage by operation of law on said date.

(b) Notwithstanding the provisions of subsection (a) of this section, the parties to a civil union with respect to which a proceeding for dissolution, annulment or legal separation is pending on October 1, 2010, shall not be deemed to be married on said date and such civil union shall not be merged into such marriage by operation of law but shall continue to be governed by the provisions of the general statutes applicable to civil unions in effect prior to October 1, 2010.

Section 13. (NEW) (*Effective from passage*) Nothing in section 11, 12 or 21 of this act shall impair or affect any action or proceeding commenced, or any right or benefit accrued, or responsibility incurred, by a party to a civil union prior to October 1, 2010.

Section 14. Section 46a-81a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

For the purposes of sections 4a-60a, 45a-726a and 46a-81b to ~~46a-81r~~ 46a-81q, inclusive, "sexual orientation" means having a preference for heterosexuality, homosexuality or bisexuality, having a history of such preference or being identified with such preference, but excludes any behavior which constitutes a violation of part VI of chapter 952.

Section 15. Subsection (a) of section 17b-137a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) The Social Security number of the applicant shall be recorded on each (1) application for a license, certification or permit to engage in a profession or occupation regulated pursuant to the provisions of title 19a, 20 or 21; (2) application for a commercial driver's license or commercial driver's instruction permit completed pursuant to subsection (a) of section 14-44c; and (3) application for a marriage license made under section 46b-25, as amended by this act. ~~For a civil union license under section 46b-38hh.~~

Section 16. Section 46b-150d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

An order that a minor is emancipated shall have the following effects: (1) The minor may consent to medical, dental or psychiatric care, without parental consent, knowledge or liability; (2) the minor may enter into a binding contract; (3) the minor may sue and be sued in such minor's own name; (4) the minor shall be entitled to

such minor's own earnings and shall be free of control by such minor's parents or guardian; (5) the minor may establish such minor's own residence; (6) the minor may buy and sell real and personal property; (7) the minor may not thereafter be the subject of a petition under section 46b-129 as an abused, dependent, neglected or uncared for child or youth; (8) the minor may enroll in any school or college, without parental consent; (9) the minor shall be deemed to be over eighteen years of age for purposes of securing an operator's license under section 14-36 and a marriage license under subsection (b) of section 46b-30; ~~or a civil union license under section 46b-38jj without parental consent;~~ (10) the minor shall be deemed to be over eighteen years of age for purposes of registering a motor vehicle under section 14-12; (11) the parents of the minor shall no longer be the guardians of the minor under section 45a-606; (12) the parents of a minor shall be relieved of any obligations respecting such minor's school attendance under section 10-184; (13) the parents shall be relieved of all obligation to support the minor; (14) the minor shall be emancipated for the purposes of parental liability for such minor's acts under section 52-572; (15) the minor may execute releases in such minor's own name under section 14-118; and (16) the minor may enlist in the armed forces of the United States without parental consent.

Section 17. (NEW) (*Effective from passage*) Notwithstanding any other provision of law, a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, shall not be required to provide services, accommodations, advantages, facilities, goods or privileges to an individual if the request for such services, accommodations, advantages, facilities, goods or privileges is related to the solemnization of a marriage or celebration of a marriage and such solemnization or celebration is in violation of their religious beliefs and faith. Any refusal to provide services, accommodations, advantages, facilities, goods or privileges in accordance with this section shall not create any civil claim or cause of action, or result in any state action to penalize or withhold benefits from such religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.

Section 18. (NEW) (*Effective from passage*) The marriage laws of this state shall not be construed to affect the ability of a fraternal benefit society to determine the admission of members as provided in section 38a-598 of the general statutes or to determine the scope of beneficiaries in accordance with section 38a-636 of the general statutes, and shall not require a fraternal benefit society that has been established and is operating for charitable and educational purposes and which is operated, supervised or controlled by or in connection with a religious organization to provide insurance benefits to any person if to do so would violate the fraternal benefit society's free exercise of religion as guaranteed by the first amendment to the Constitution of the United States and section 3 of article first of the Constitution of the state.

Section 19. (NEW) (*Effective from passage*) Nothing in this act shall be deemed or construed to affect the manner in which a religious organization may provide adoption, foster care or social services if such religious organization does not receive state or federal funds for that specific program or purpose.

Section 20. Section 46a-81r of the general statutes is repealed. (*Effective from passage*)

Section 21. Sections 46b-38aa to 46b-38mm, inclusive, section 46b-38nn, as amended by this act, and section 46b-38oo of the general statutes are repealed. *(Effective October 1, 2010)*

Approved April 23, 2009. Effective as provided in each section. Note: Sections that are "effective from passage" are effective April 23, 2009.

Figure 2: Public Act 05-10

First page of the Preface to State of Connecticut Public and Special Acts states: **"Whenever an act amends a General Statute of a Public or Special Act, the material being deleted is enclosed within brackets and new material is indicated by underscoring."** (See General Statutes, Sec. [2-18](#))

2005 Conn. Acts 10 §§ 1-15

AN ACT CONCERNING CIVIL UNIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (Effective October 1, 2005) For the purposes of sections 1 to 15, inclusive, of this act:

- (1) "Civil union" means a union established pursuant to sections 1 to 15, inclusive, of this act between two eligible persons; and
- (2) "Party to a civil union" means a person who has established a civil union pursuant to sections 1 to 15, inclusive, of this act.

Section 2. (NEW) (Effective October 1, 2005)

A person is eligible to enter into a civil union if such person is:

- (1) Not a party to another civil union or a marriage;
- (2) Of the same sex as the other party to the civil union;
- (3) Except as provided in section 10 of this act, at least eighteen years of age; and
- (4) Not prohibited from entering into a civil union pursuant to section 3 of this act.

Section 3. (NEW) (Effective October 1, 2005)

- (a) A woman shall not enter into a civil union with her mother, grandmother, daughter, granddaughter, sister, brother's daughter, sister's daughter, father's sister or mother's sister.
- (b) A man shall not enter into a civil union with his father, grandfather, son, grandson, brother, brother's son, sister's son, father's brother or mother's brother.
- (c) A civil union between persons prohibited from entering into a civil union pursuant to subsection (a) or (b) of this section is void.

Section 4. (NEW) (Effective October 1, 2005)

- (a) All judges and retired judges, either elected or appointed, including federal judges and judges of other states who may legally join persons in marriage or a civil union, family support magistrates, state referees and justices of the peace may join persons in a civil union in any town in the state, and all ordained or licensed members of the clergy, belonging to this state or any other state, as long as they continue in the work of the ministry may join persons in a civil union. All civil unions solemnized according to the forms and usages of any religious denomination in this state are valid. All civil unions attempted to be celebrated by any other person are void.
- (b) No public official legally authorized to issue civil union licenses may join persons in a civil union under authority of a license issued by such official, or such official's assistant or deputy; nor may any such assistant or deputy join

persons in a civil union under authority of a license issued by such public official.

- (c) Any person violating any provision of this section shall be fined not more than fifty dollars.

Section 5. (NEW) (Effective October 1, 2005)

Any person who undertakes to join persons in a civil union, knowing that such person is not authorized to do so, shall be fined not more than five hundred dollars or imprisoned not more than one year or both.

Section 6. (NEW) (Effective October 1, 2005)

Any person authorized to join persons in a civil union pursuant to section 4 of this act, who fails or refuses for any reason to join persons in a civil union shall not be subject to any fine or other penalty for such failure or refusal.

Section 7. (NEW) (Effective October 1, 2005)

- (a) No persons may be joined in a civil union in this state until both have complied with the provisions of sections 8 to 10, inclusive, of this act and have been issued a license by the registrar of vital statistics for the town in which (1) the civil union is to be celebrated, or (2) either person to be joined in the civil union resides, which license shall bear the certification of the registrar that the persons named therein have complied with the provisions of sections 8 to 10, inclusive, of this act.
- (b) Such license, when certified by the registrar, is sufficient authority for any person authorized to perform a civil union ceremony in this state to join such persons in a civil union, provided the ceremony is performed not more than sixty-five days after the date of application.
- (c) Any person who joins any persons in a civil union without having received such license from them shall be fined not more than one hundred dollars.

Section 8. (NEW) (Effective October 1, 2005)

No license for a civil union may be issued by the registrar of vital statistics until both persons have appeared before the registrar and made application for a license. The license shall be completed in its entirety, dated, signed and sworn to by each applicant and shall state each applicant's name, age, race, birthplace, residence, whether single, widowed or divorced and whether under the supervision or control of a conservator or guardian. The Social Security numbers of the two persons shall be recorded in the "administrative purposes" section of the license. If the license is signed and sworn to by the applicants on different dates, the earlier date shall be deemed the date of application. The registrar shall issue a copy of sections 1 to 15, inclusive, of this act to any person making application for a license.

Section 9. (NEW) (Effective October 1, 2005)

- (a) No civil union license may be issued to any applicant under the supervision or control of a conservator, appointed in accordance with sections 45a-644 to 45a-662, inclusive, of the general statutes unless the written consent of the conservator, signed and acknowledged before a person authorized to take acknowledgments of conveyances under the provisions of section 47-5a of the general statutes or authorized to take acknowledgments in any other state or country, is filed with the registrar of vital statistics.
- (b) Any person who enters into a civil union without the consent provided for in subsection (a) of this section shall acquire no rights by such civil union in the

property of any person who was under such control or supervision at the time the civil union was entered into.

Section 10. (NEW) (Effective October 1, 2005)

No civil union license may be issued to any applicant under eighteen years of age.

Section 11. (NEW) (Effective October 1, 2005)

- (a) Each person who joins any person in a civil union shall certify upon the license certificate the fact, time and place of the civil union, and return it to the registrar of vital statistics of the town where it was issued, before or during the first week of the month following the celebration of the civil union. Any person who fails to do so shall be fined not more than ten dollars.
- (b) If any person fails to return the certificate to the registrar of vital statistics, as required under subsection (a) of this section, the persons joined in a civil union may provide the registrar with a notarized affidavit attesting to the fact that they were joined in a civil union and stating the date and place of the civil union. Upon the recording of such affidavit by the registrar of vital statistics, the civil union of the affiants shall be deemed to be valid as of the date of the civil union stated in the affidavit.

Section 12. (NEW) (Effective October 1, 2005)

The certificate required by section 11 of this act or an affidavit recorded pursuant to subsection (b) of said section shall be prima facie evidence of the facts stated in them.

Section 13. (NEW) (Effective October 1, 2005)

All civil unions in which one or both parties are citizens of this state, celebrated in a foreign country, shall be valid, provided: (1) Each party would have legal capacity to contract such civil union in this state and the civil union is celebrated in conformity with the law of that country; or (2) the civil union is celebrated in the presence of the ambassador or minister to that country from the United States or in the presence of a consular officer of the United States accredited to such country, at a place within his or her consular jurisdiction, by any ordained or licensed member of the clergy engaged in the work of the ministry in any state of the United States or in any foreign country.

Section 14. (NEW) (Effective October 1, 2005)

Parties to a civil union shall have all the same benefits, protections and responsibilities under law, whether derived from the general statutes, administrative regulations or court rules, policy, common law or any other source of civil law, as are granted to spouses in a marriage, which is defined as the union of one man and one woman.

Section 15. (NEW) (Effective October 1, 2005)

Wherever in the general statutes the terms "spouse", "family", "immediate family", "dependent", "next of kin" or any other term that denotes the spousal relationship are used or defined, a party to a civil union shall be included in such use or definition, and wherever in the general statutes, except sections 7-45 and 17b-137a of the general statutes, as amended by this act, subdivision (4) of section 45a-727a, sections 46b-20 to 46b-34, inclusive, section 46b-150d of the general statutes, as amended by this act, and section 14 of this act, the term "marriage" is used or defined, a civil union shall be included in such use or definition.