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**2018 Edition**

# Annulment of Marriages in Connecticut

A Guide to Resources in the Law Library

## **Table of Contents**

Introduction .....	3
Section 1: Effect, History and Definition .....	4
Section 2: Grounds for Annulment .....	7
Table 1: Grounds for Annulment .....	19
Table 2: Proof of Grounds for Annulment .....	20
Table 3: Selected Cases—Concealment or Representation .....	20
Section 3: Procedures in Annulment .....	24
Figure 1: Complaint for Annulment (Form 504.5) .....	29
Section 3a: Jurisdiction .....	30
Section 3b: Service of Process and Venue .....	32
Section 3c: Parties .....	35
Section 3d: Pleading .....	37
Table 4: Other Unreported Decisions on Annulment of Marriage .....	40
Section 4: Defenses to Annulment .....	42
Section 5: Children and Annulment .....	45
Section 6: Property Distribution .....	47
Section 7: Out of State and Foreign Annulments .....	49

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Judge Support Services, Law Library Services Unit*

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# Introduction

A Guide to Resources in the Law Library

- “An annulment shall be granted if the marriage is void or voidable under the laws of this state or of the state in which the marriage was performed.” Conn. Gen. Stat. § [46b-40\(b\)](#) (2017).
- “A decree of annulment. . . shall give the parties the status of unmarried persons and they may marry again.” Conn. Gen. Stat. § [46b-67\(c\)](#) (2017).
- “Divorce and annulment differ fundamentally. The former is based upon a valid marriage and a cause for terminating it which arises subsequently. *Davis v. Davis*, 119 Conn. 194, 196, 175 A. 574. The latter proceeds upon the theory that the marriage is void ab initio [from the beginning].” [Mazzei v. Cantales](#), 142 Conn. 173, 178, 112 A.2d 205, 208 (1955).
- “Annulment may be decreed by the court when the marriage was a void or voidable marriage but annulment may not be decreed when the marriage was a legal marriage. . . . In determining the legality or voidability of a marriage the court is concerned with those incidents leading up to the celebration of the marriage ceremony and the incidents immediately surrounding that ceremony in order to determine the state of mind and the intention of the parties when entering into the ceremony of marriage, and hence, the validity of the marriage.” *Trotta v. Trotta*, 5 Conn. Supp. 218 (1937).

# Section 1: Effect, History and Definition

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to the legal effect and history of an annulment in Connecticut. Includes how an annulment differs from a dissolution or a legal separation.

## **DEFINITIONS:**

- “. . . an annulment and a dissolution of marriage differ fundamentally. An annulment renders the marriage void ab initio [from the beginning] while a dissolution is based upon a valid marriage which terminates as of the date of the judgment of **dissolution**.” [Durham v. Miceli](#), 15 Conn. App. 96, 543 A.2d 286, 287 (1988).

## **STATUTES:**

Conn. Gen. Stat. (2017)

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.

- [Chapter 815j](#). Dissolution of Marriage, Legal Separation and Annulment  
§ [46b-67\(c\)](#). Waiting period. Filing of motion to waive waiting period. Effect of decree.

## **ONLINE PUBLICATIONS & PAMPHLETS:**

- *What’s the difference between a divorce, a dissolution of marriage, a legal separation, and an annulment?*

“Many people think they can ask for an annulment because they have been married for a very short time. An annulment is usually only possible when the marriage was not legal in the first place (for example, if one of the people was underage or already married).”

Source: CTLawHelp.org -

<https://ctlawhelp.org/en/divorce-separation-annulment>

## **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.

- [Davis v. Davis](#), 119 Conn. 194, 203-204, 175 A. 574, 577-578 (1934). “. . . it clearly appears that two young people, by their foolish and unconsidered conduct, have gotten themselves into such a situation as arises out of the performance of a marriage ceremony between them without the intent on the part of either to enter into the marriage relationship. . . . it is in the public interest legally to declare them to be unmarried rather than leave them under the shadow of a relationship which is but an empty form. A petition for the annulment of a marriage on this ground requires of the court hearing it great caution and demands clear proof. . . . But if the court is satisfied that the petitioner has fairly proven a situation within the

principle we have stated, it should by its decree declare the marriage to be void.”

**WEST KEY NUMBERS:**

- *Marriage*
  - 56. Annulment.
  - 56.1. In general.
  - 57. Nature and form of remedy.
  - 61. Scope and extent of relief in general.

**DIGESTS:**

- Cynthia C. George, [Connecticut Family Law Citations](#): Chapter 3 *Annulment*
- [Dowling’s Digest](#): *Marriage*
- [Phillips’ Digest](#): *Marriage*

**ENCYCLOPEDIAS:**

- 4 [Am. Jur. 2d](#) *Annulment of Marriage* (2018).
  - § 1. Annulment of marriage, generally
  - § 2. Effect of no-fault divorce on annulments
- 1D [Am Jur Pleading and Practice Forms](#) *Annulment of Marriage* (2014 rev.).
  - § 1. Introductory comments
- 55 [C.J.S.](#) *Marriage* (2009).
  - IV. Annulment
    - § 70. In general
    - § 71. Nature and form of action
- *Annulment of Marriage*, 42 [POF2d](#) 665 (1985).
  - § 1. In general; scope of article
  - § 1.5. Void and voidable marriages (pocket part only)
- *Cause Of Action To Annul Marriage*, 65 [COA2d](#) 617 (2014), Cecily Fuhr.
  - § 2. Background
  - § 3. Void and voidable marriages

**TEXTS & TREATISES:**

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

Connecticut:

- Renée Bevacqua Bollier and Susan V. Busby, [Stephenson’s Connecticut Civil Procedure](#), volume 2 (3<sup>rd</sup> ed. 2002).
  - § 263. Annulment
    - a. Generally
    - b. History in Connecticut
- 7 Arnold H. Rutkin et al. [Connecticut Practice Series. Family Law And Practice with Forms](#) (3<sup>rd</sup> ed. 2010).
  - Chapter 12. Annulment in general
    - § 12.1. Definition
    - § 12.2. Annulment distinguished from divorce
- Louise Truax, general editor, [LexisNexis Practice Guide: Connecticut Family Law](#) (2018 edition).

Chapter 1. Marriage  
Part III: Analyzing Annulments  
§ 1.12. Differentiating Between an Annulment  
and Dissolution of Marriage Actions

General:

- Harry D. Krause and David D. Meyer, [Family Law in a Nutshell](#), (5<sup>th</sup> ed. 2007).  
Chapter 5. Effects of Non-compliance with Marriage Regulation  
§ 5.1. Void and Voidable Marriages Defined  
§ 5.2. Legal Effects of Invalid Marriages  
Chapter 18. Annulment  
§ 18.1. History of Annulment  
§ 18.3. Consequences of Annulment
- 1 Arnold H. Rutkin, [Family Law and Practice](#) (2017).  
Chapter 5. Annulment  
§ 5.01. Introduction  
[1] Annulment and Divorce  
[2] Direction of the Law on Annulment  
[3] Statistics on Annulment  
[4] Complexity of Annulment
- 1 Homer H. Clark, [Law of Domestic Relations in the United States](#) (2<sup>nd</sup> ed. 1987).  
Chapter 3. The Suit to Annul  
§ 3.1. The Suit to Annul—Nature and History  
§ 3.6. —Effect of the Decree
- Harriet S. Daggett, *Annulment of a Marriage in Connecticut*, 25 [Connecticut Bar Journal](#) 1 (1951).
- C.E.P. Davies, *Annulment of Marriage*, 27 [Connecticut Bar Journal](#) 41 (1953).

**LAW REVIEWS:**

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

# Section 2: Grounds for Annulment

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to the grounds for granting an annulment in Connecticut.

## **DEFINITIONS:**

- **"It is the well-established law of this state that no marriage performed in this state is to be held void or voidable except for some ground recognized at common law or for some ground which a statute expressly provides shall be ground for annulment."** Manning v. Manning, 16 Conn. Supp. 461 (1950).
- **"Grounds for annulment of a marriage fall into two general categories: those specifically set forth by statute, and those recognized pursuant to common law. . . . Unlike the statutory provisions regarding the grounds for dissolution of a marriage, there is no single statute itemizing the grounds for annulment. The Court must, therefore, look to the statutes and case law."** Phillips v. Dame, Superior Court, Judicial District of New London, No. 518815 (July 11, 1991) (4 Conn. L. Rptr. 650) (1991 Conn. Super. Lexis 1623) (1991 WL 131732).

## **STATUTES:**

Conn. Gen. Stat. (2017)

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.

- [Chapter 815e](#). Marriage
  - § [46b-20a](#). Eligibility to marry ([2018 Supplement](#)).
  - § [46b-21](#). Marriage of persons related by consanguinity or affinity prohibited.
  - § [46b-22](#). Who may join persons in marriage. Penalty for unauthorized performance.
  - § [46b-24](#). License. Period of validity. Penalty for solemnization without license. Validity of marriage ceremony ([2018 Supplement](#)).
  - § [46b-29](#). Marriage of persons under conservatorship.
  - § [46b-30](#). Marriage of minors (**Repealed**. [2018 Supplement](#)). **See** § [46b-20a\(b\)](#). Eligibility to marry ([2018 Supplement](#)).
- [Chapter 815j](#). Dissolution of Marriage, Legal Separation and Annulment
  - § [46b-40\(b\)](#). Grounds for dissolution of marriage; legal separation; annulment.
  - § [46b-48](#). Dissolution of marriage or annulment upon conviction of crime against chastity; procedure.
  - § [46b-67\(c\)](#). Waiting period. Filing of motion to waive waiting period. Effect of decree.
- Katherine Dwyer, [Acts Affecting Children](#), Connecticut General Assembly, Office of Legislative Research, Special Report, 2017-R-0126 (July 12, 2017) – see page 12

## **LEGISLATIVE:**

**ONLINE PUBLICATIONS & PAMPHLETS:**

[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.

*Marriage of Minors* for explanation of [Public Act 17-54](#) An Act Concerning the Legal Age To Marry in this State.

- Lawrence K. Furbish, [Grounds For a Legal Annulment](#), Connecticut General Assembly, Office of Legislative Research, OLR Research Report, 2000-R-0736 (July 13, 2000).
- "What's the difference between a divorce, a dissolution of marriage, a legal separation, and an annulment?"

"Many people think they can ask for an annulment because they have been married for a very short time. An annulment is usually only possible when the marriage was not legal in the first place (for example, if one of the people was underage or already married)."

CTLawHelp.org - <http://ctlawhelp.org/divorce-separation-annulment#>

**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.

- *Emerick v. Emerick*, Superior Court, Judicial District of Hartford at Hartford, FA144073480S (June 25, 2015) (2015 Conn. Super. LEXIS 1681). "The moving party for an annulment has the burden of proving grounds for annulment. [Fattibene v. Fattibene](#), 183 Conn. 433, 441 A.2d 3 (1981). 'A petition for the annulment of a marriage . . . requires of the court hearing it great caution and demands clear proof.' *Davis v. Davis*, 119 Conn 194, 175 A. 574 (1934). 'To decree annulment the evidence must be clear and convincing.' *Trotta v. Trotta*, 5 Conn.Sup. 218 (1937). The presumption of the validity of a marriage is very strong. [Carabetta v. Carabetta](#), 182 Conn. 344, 438 A.2d 109 (1980)."
- *Ross v. Ross*, Superior Court, Judicial District of Stamford/Norwalk at Stamford, No. FA97 0162587 S (August 10, 1998) (22 Conn. L. Rptr. 637). "An annulment can be granted on common law grounds or statutory grounds. In general, common law grounds have been incorporated in our statutes. . . . There are statutory grounds for annulment. General Statutes §46b-21 (marriage of certain kindred); §46b-22 (marriage attempted to be celebrated by person other than those listed); §46b-24 (marriage performed in Connecticut without a marriage license); §46b-29 (marriage of persons under conservatorship or guardianship); §46b-30 (marriages of minors); §45b-48 (conviction of an offense against chastity)."



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### ***Consanguinity or Affinity (CGS 46b-21)***

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- [Kubanek v. Star](#), Superior Court. Judicial District of New Britain, No. HHB-CV16-6032449-S (December 23, 2016) (63 Conn. L. Rptr. 627). **"In her complaint dated February 23, 2016, the plaintiff . . . seeks a declaratory judgment pursuant to Practice Book § 17-54 that the marriage between the defendant . . . and the decedent . . . is void because of consanguinity. . . . The complaint alleges that, if the defendant's marriage is lawful and the decedent dies intestate, the defendant would be entitled to one-half of the estate and the plaintiff would share in the other half. However, if the marriage is void, then the plaintiff would share in the decedent's entire estate rather than just one-half. . . . For the foregoing reasons, the court finds that the plaintiff has standing and that the court has subject matter jurisdiction over this dispute."**
- [Singh v. Singh](#), 213 Conn. 637, 656, 569 A.2d 1112, 1121 (1990). ". . . 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."
- [Catalano v. Catalano](#), 148 Conn. 288, 291, 170 A.2d 726, 728 (1961). **"It is the generally accepted rule that a marriage valid where the ceremony is performed is valid everywhere . . . . There are, however, certain exceptions to that rule, including one which regards as invalid incestuous marriages between persons so closely related that their marriage is contrary to the strong public policy of the domicile though valid where celebrated."**

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### ***Bigamy***

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- [Anderson v. Anderson](#), 27 Conn. Supp. 342, 343, 238 A.2d 45 (1967). **"This action raises the question: Is the plaintiff, a Connecticut resident, a 'guilty' party to a bigamous marriage entered into in the state of New York, entitled to a decree declaring that marriage null and void?"**
- [Perlstein v. Perlstein](#), 26 Conn. Supp. 257, 259, 217 A.2d 481, 483 (1966). **"A bigamous marriage is not merely voidable; it is void."**

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### ***Age of Parties (CGS 46b-20a(b))***

Note: CGS § [46b-30](#) Marriage of Minors, was repealed by [Public Act 17-54, \*An Act Concerning the Legal Age to Marry in this State\*](#), effective October 1, 2017. (See: [Summary](#))

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- [Manning v. Manning](#), 16 Conn. Supp. 461 (1950). "This is an uncontested action to annul the marriage of the parties on the ground that at the time of the marriage the plaintiff was only seventeen years of age and had not received the consent of her parents to the marriage. . . . The statute invoked in this case does not expressly provide that failure to comply with it shall render the marriage either void or voidable. . . . It is concluded that lack of parental consent does not render a marriage performed in this state either void or voidable."
- [Fantasia v. Fantasia](#), 8 Conn. Supp. 25, 25-26 (1940). "In this action the plaintiff prays the annulment of the marriage which she entered into with the defendant . . . without her **parents' consent, on the ground that at the time she was a minor of the age of nineteen years. . . . The plaintiff's** contention . . . is that she, having been domiciled in Connecticut, the Connecticut law which required the written consent of her parents to the marriage, would apply. . . . The statute in question imposes penalties for its violation, but does not either expressly or by clear inference, indicate that the Legislature intended that as a result of the violation of the statute, the marriage itself should be either void or voidable. . . . Accordingly, it cannot well be held that the marriage involved in the case is rendered either void or voidable . . ."

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### ***Defects in Marriage Ceremony or License (CGS 46b-22a)***

- [Carabetta v. Carabetta](#), 182 Conn. 344, 346, 438 A.2d 109, 110 (1980). "The issue before us is whether, under Connecticut law, despite solemnization according to an appropriate religious ceremony, a marriage is void where there has been noncompliance with the statutory requirement of a marriage license. . . . The trial court held that failure to obtain a marriage license was a flaw fatal to the creation of a legally valid marriage and that the court therefore lacked subject matter jurisdiction over an action for dissolution. **We disagree with the court's premise and hence with its conclusion.**"
- [Ross v. Ross](#), Superior Court, Judicial District of Stamford/Norwalk at Stamford, No. FA97 0162587 S (August 10, 1998) (22 Conn. L. Rptr. 637). "This case involves the issue of lack of solemnization. . . . This court

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concludes that it is civil law, not canon law, that determines the solemnization of the marriage ceremony under General Statutes §46b-22.”

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### ***Fraud, Force or Duress***

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- Martinez v. Santiago, Superior Court, Judicial District of Norwich at New London, KNO-FA-18-5106176 (September 18, 2018) (67 CLR 120). "The concealed intent not to assume the duties of the marital relationship is sufficient cause for an annulment. Intention at the time of the marriage is most important." Neither party testified as to their intentions.

Since failure to consummate the marriage does not in and of itself constitute grounds for the granting of an annulment, and since there was no testimony as to the intentions and circumstances of the parties in entering this union, nor as to their willingness to seek counseling to reconcile their differences, the court is unable to conclude that an annulment is proper.”

- Barra v. Barra, Superior Court, Judicial District of Hartford at Hartford, HHD-FA-15-5039866 (January 27, 2016) (61 CLR 582). “. . . **the test of what is essential to the marital relation must be construed by an objective standard, encompassing such matters as sexual relations which are generally acknowledged to be basic elements of marriage by its very nature. To extend the definition of ‘essentialia’ to any issue considered important by either party under the couple’s particular circumstances would deprive the definition of any practical meaning.**

Second, the allegedly fraudulent statement by the defendant pertained not to an existing fact but to a promise of future action. This alone does not preclude a finding of **fraud, but it makes the burden of the plaintiff’s proof more difficult.”** p. 584

- Barra v. Barra, Superior Court, Judicial District of Hartford at Hartford, HHD-FA-15-5039866 (January 27, 2016) (61 CLR 582). “He laid out to the defendant certain conditions for him to marry her, which related directly to the issue of **the defendant’s ex-husband**. . . . She conceded that she had not been honest during their premarital discussion when she assured him that she would be able to stand up to her ex-husband and allow the plaintiff also to do so on her behalf. . . . **The plaintiff’s action for annulment rests upon his claim that the defendant committed a fraud upon him when she agreed to his conditions for marriage.** . . . If the defendant consciously lied about her intentions, planning all along never to attempt to fulfill her promise, then one of the elements of fraud might exist. But if she

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made the promise in the hope that she could keep it, even if she harbored doubts about her ability to do so, her conduct would not be fraudulent. Based on the evidence, the latter possibility is found to be at least as likely as the former. The court concludes that the plaintiff has not sustained his burden of proof and that it may not grant the relief he seeks. **The plaintiff's complaint for annulment is denied and dismissed."**

- Schibi v. Schibi, 136 Conn. 196, 198, 69 A.2d 831, 833 (1949). **"The sole question presented to the court for determination was whether the marriage was void because there was no mutual consent of the parties."**
- Avery v. Avery, 16 Conn. Supp. 418, 419 (1949). ". . .if a fraudulent representation is to be one which makes the marriage voidable it must be at least as serious as those which give ground for divorce for fraudulent contract. That is, it must be one which goes to the very essence of the **marriage relationship."**
- Lyman v. Lyman, 90 Conn. 399, 403, 97 A. 312, 313 (1916). ". . .the courts are practically agreed in holding that antenuptial pregnancy by another man, if concealed by the wife from the husband, who was himself innocent of improper relations with her, is a fraud upon him justifying a divorce or annulment of the marriage, as the appropriate remedy in the jurisdiction may be."

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### ***Concealment or Misrepresentation of Facts***

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- LaBranche v. LaBranche, Superior Court, Judicial District of Windham, No. FA054003420 (March 27, 2006) (41 CLR 171). **"In the present case, the plaintiff is claiming that the defendant represented to her before the marriage that he would be able to secure full-time work to help support her and her three children (from her previous marriage), and that such fraudulent representation was the inducing cause of the marriage. . . . The misrepresentations claimed by the plaintiff do not fall within the ambit of statutory or common-law exceptions that would allow the annulment of her marriage. . . . Accordingly, the plaintiff's petition for an annulment of the marriage is denied."**
- Avery v. Avery, 16 Conn. Supp. 418, 419 (1949). ". . .if a fraudulent representation is to be one which makes the marriage voidable it must be at least as serious as those which give ground for divorce for fraudulent contract. That is, it must be one which goes to the very essence of the marriage relationship."

- Nerini v. Nerini, 11 Conn. Supp. 361, 367 (1943). "My conclusion on the law, then, is this: all misrepresentations concerning one's health and fitness are immaterial unless they involve the essentialia to the marital relation such as a physical impediment making impossible the performance of the duties and obligations of the relation or rendering its assumption and continuance dangerous to the health or the other spouse or capable of affecting the health of their offspring."

**WEST KEY NUMBERS:**

- *Marriage*
  - 58. Annulment - Grounds.
    - (1). In general.
    - (2). Physical disease or incapacity.
    - (3). Mental incapacity.
    - (4). Pregnancy at time of marriage.
    - (5). Prior existing marriage.
    - (6). Mistake.
    - (7). Fraud, misrepresentation, or imposition.
    - (8). Duress.

**DIGESTS:**

- Cynthia C. George, [Connecticut Family Law Citations: Chapter 3 Annulment](#)
- [Dowling's Digest](#): *Marriage*
- [Phillips' Digest](#): *Marriage*

**ENCYCLOPEDIAS:**

- Audrey W. Collins, Annotation, *Sexual Intercourse Between Persons Related By Half Blood As Incest*, 34 [ALR5th](#) 723 (1995).
- David E. Rigney, Annotation, *Power Of Incompetent Spouse's Guardian Or Representative To Sue For Granting Or Vacation Of Divorce Or Annulment Of Marriage, Or To Make Compromise Or Settlement In Such Suit*, 32 [ALR5th](#) 673 (1995).
- Jay M. Zitter, Annotation, *Homosexuality, Transvestism, And Similar Sexual Practices As Grounds For Annulment Of Marriage*, 68 [ALR4th](#) 1069 (1989).
- Annotation, *Spouse's Secret Intention Not To Abide By Written Antenuptial Agreement Relating To Financial Matters As Ground For Annulment*, 66 [ALR3d](#) 1282 (1975).
- David B. Perlmutter, Annotation, *Incapacity For Sexual Intercourse As Ground For Annulment*, 52 [ALR3d](#) 589 (1973).
- Mary J. Cavins, Annotation, *What Constitutes Mistake In The Identity Of One Of The Parties To Warrant Annulment Of Marriage*, 50 [ALR3d](#) 1295 (1973).

- Jeffrey F. Ghent, Annotation, *Concealment Or Misrepresentation Relating To Religion As Grounds For Annulment*, 44 [ALR3d](#) 972 (1972).
- J. Evans, Annotation, *Concealment Of Or Misrepresentation As To Prior Marital Status As Ground For Annulment Of Marriage*, 15 [ALR3d](#) 759 (1967).
- L.A. Watt, Annotation, *Mental Incompetency Of Defendant At Time Of Action As Precluding Annulment Of Marriage*, 97 [ALR2d](#) 483 (1964).
- H.D. Warren, Annotation, *Concealed Premarital Unchastity Or Parenthood As Ground Of Divorce Or Annulment*, 64 [ALR2d](#) 742 (1959).
- J.A. Tyler, Annotation, *What Constitutes Intoxication Sufficient To Warrant Annulment Of Marriage*, 57 [ALR2d](#) 1250 (1958).
- M.L. Cross, Annotation, *Refusal Of Sexual Intercourse As Ground For Annulment*, 28 [ALR2d](#) 499 (1953).
- M.L. Cross, Annotation, *What Constitutes Duress Sufficient To Warrant Divorce Or Annulment Of Marriage*, 16 [ALR2d](#) 1430 (1951).
- R.P. Davis, Annotation, *Cohabitation Of Persons Ceremonially Married After Learning Of Facts Negating Dissolution Of Previous Marriage Of One, As Affecting Right To Annulment*, 4 [ALR2d](#) 542 (1949).
- 4 [Am. Jur. 2d](#) *Annulment of Marriage* (2018).
  - II. Grounds
    - A. In General
      - § 3. Generally
      - § 4. Lack of intent to enter into binding marriage
      - § 5. Failure to consummate; refusal of intercourse
      - § 6. Under age of consent
    - B. Unlawful Marriages
      - § 7. Incestuous marriage
      - § 8. Bigamous marriage
    - C. Fraud
      - 1. General Principles
        - § 9. Generally
        - § 10. Kind and degree of fraud; essential nature
        - § 11. Materiality of facts misrepresented or concealed
      - 2. Misrepresentations or Concealment of Specific Matters

- § 12. Prior marital status
- § 13. Premarital unchastity
- § 14. Prenuptial pregnancy or parenthood
- § 15. False charge of paternity
- § 16. False pretense of pregnancy
- § 17. Intent not to cohabit or have sexual relations
- § 18. —Marriage to circumvent immigration laws
- § 19. Sexual orientation
- § 20. Intention regarding desire to have children
- § 21. Promises concerning religion
- § 22. Matters relating to health; drug and alcohol addiction
- § 23. Personal characteristics and attributes

D. Duress; Undue Influence

- § 24. Necessity that duress be the inducing cause

**§ 25. Pressure resulting in "shotgun marriage"**

E. Physical or Mental Incapacity

- 1. Impotency
  - § 26. Generally
  - § 27. What constitutes impotency
  - § 28. Curability
- 2. Mental Incapacity
  - § 29. Generally
  - § 30. Extent of mental incapacity
  - § 31. Concealment of mental condition
  - § 32. Person under influence of drugs or alcohol

- 52 [Am. Jur. 2d Marriage](#) (2011).

II. Creation and Validity

A. Ceremonial Marriage; Proxy Marriage

- 2. Capacity to Marry
  - §§ 18-20. In General
  - §§ 21-25. Mental capacity
  - §§ 26-27. Physical capacity
- 3. Consent
  - § 28. Generally
  - § 29. Fraud
  - § 30. Duress
- 4. Formal Requirements
  - § 31. Generally
  - § 32. License
  - § 33. – Effect of noncompliance with licensing statutes
  - § 34. Marriage performed in absence of license, or prior to issuance of license

- § 35. Performance of marriage ceremony by qualified person
    - § 36. – Effect of violation of solemnizing statutes
    - § 37. Registration of marriage; recording or filing of license
  - C. Particular Impediments to Lawful Marriage
    - §§ 53-56. Relationship of Parties; Incest
    - §§ 57-63. Prior marriage
- 1D [Am Jur Pleading and Practice Forms](#) ***Annulment of Marriage*** (2014 rev.).
  - II. Grounds for Annulment
    - § 11. In General
    - §§ 17-20. Undissolved Prior Marriage; Bigamy
    - §§ 27-29. Under Age of Consent
    - §§ 35-37. Incestuous Marriage
    - §§ 40-42. Fraud; Unchastity; Pregnancy
    - §§ 53-55. Duress
    - §§ 58-61. Mental Incapacity
    - §§ 68-70. Physical Incapacity, Defect, or Infirmary; Disease
- ***Cause Of Action To Annul Marriage***, 65 [COA2d](#) 617 (2014), Cecily Fuhr.
  - 2. Grounds for Annulment
    - a. Prohibited Marriage
      - § 6. Prohibited marriage, generally
      - § 7. Undissolved prior marriage
      - § 8. Marriage within prohibited period following divorce
      - § 9. Consanguinity or affinity
      - § 10. Nonage
    - b. Mental or Physical Incapacity
      - § 11. Mental incapacity
      - § 12. Nonconsummation of marriage
    - c. Duress and Undue Influence
      - § 13. Duress and undue influence, generally
    - d. Fraud
      - § 14. Fraud, generally
      - § 15. Impersonation
      - § 16. Misrepresentation of legal capacity to marry
      - § 17. Misrepresentation of intent to fulfill marital duties
      - § 18. Misrepresentation regarding religion or religious impediment to marriage
      - § 19. Misrepresentation of intent or ability to have children
      - § 20. Concealment of physical or mental incapacity
      - § 21. Misrepresentation regarding pregnancy or child's paternity



- e. Other Grounds
  - § 22. Other grounds, generally

- 55 [C.J.S. Marriage](#) (2009).
  - IV. Annulment
    - § 72. Grounds
- *Annulment of Marriage*, 42 [POF2d](#) 665 (1985).
  - § 2. Fraud as ground for annulment—In general
  - § 3. —Fraudulent concealment of intent not to cohabit, copulate, or have children
  - § 4. —Fraudulent concealment of or misrepresentations as to physical or mental condition
  - § 5. Physical incapacity as ground for annulment
  - § 6. Mental incapacity as ground for annulment
  - § 7. Duress as ground for annulment

**TEXTS &  
TREATISES:**

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

Connecticut:

- 7 Arnold H. Rutkin et al., [Connecticut Practice Series. Family Law And Practice with Forms](#) (3<sup>rd</sup> ed. 2010).
  - Chapter 12. Annulment in general
    - § 12.3. Grounds for annulment—In general
    - § 12.4. —Consanguinity or affinity
    - § 12.5. Bigamous marriage
    - § 12.6. Incompetence
    - § 12.7. Age of parties
    - § 12.8. Defects in marriage ceremony or license
    - § 12.9. Intentions of the parties—Fraud, force or duress
    - § 12.10. Concealment or misrepresentation of facts or circumstances
- Louise Truax, general editor, [LexisNexis Practice Guide: Connecticut Family Law](#) (2018 edition).
  - Chapter 1. Marriage
    - Part III: Analyzing Annulments
      - § 1.09. CHECKLIST: Analyzing Annulments
      - § 1.10. Establishing the Availability and Necessity of an Annulment
        - [1] Determining the Availability of Annulments – In General
        - [2] Determining Bigamy as a Basis for an Annulment
        - [3] Determining Incompetence as a Basis for and Annulment
        - [4] Determining the Status of Minors as a Basis for an Annulment
        - [5] Assessing Licensing Defects
        - [6] Assessing Contractual Defenses to a Valid Marriage

[a] Discussing Contractual Defenses – In  
General  
[b] Determining Duress and Force as a  
Contractual Defense  
[c] Determining Fraud as a Contractual  
Defense  
[7] Determining Misrepresentation as a  
Basis for Annulment

- Renée Bevacqua Bollier and Susan V. Busby, [Stephenson's Connecticut Civil Procedure](#), volume 2 (3<sup>rd</sup> ed. 2002).  
§ 263. Annulment

General:

- 1 Arnold H. Rutkin, [Family Law and Practice](#) (2017).  
Chapter 5. Annulment  
§ 5.02. Grounds  
[1] Fraud  
[2] Physical Incapacity  
[3] Nonage  
[4] Force or Duress  
[5] Mental Incapacity  
[6] Bigamy  
[7] Consanguinity

Table 1: Grounds for Annulment

<b>Grounds</b>	<b>Rutkin*</b>	<b>COA**</b>
Bigamous marriage	§12.5	§§7-8
Consanguinity or affinity	§12.4	§9
Defects in marriage ceremony	§12.8	§22
Duress or undue influence	§12.9	§13
Fraud	§12.9	§§14-21
Incompetence—mental	§12.6	§11
Incompetence—physical	§12.10	§12
Misrepresentation, concealment	§12.10	§§16-21
Nonage	§12.7	§10

\* 7 Arnold H. Rutkin et al. [Connecticut Practice Series. Family Law And Practice with Forms](#) (3<sup>rd</sup> ed. 2010).

\*\* Cecily Fuhr, *Cause Of Action To Annul Marriage*, 65 [COA2d](#) 617 (2014), Cecily Fuhr.

Table 2: Proof of Grounds for Annulment

<b>Annulment of Marriage</b> 42 <a href="#">POF2d</a> 665 (1985)	
Concealed intent not to consummate marriage	§§ 23-24
Fraudulent failure to disclose prior undissolved marriage	§§ 18-22
Fraudulent misrepresentation of paternity	§§ 13-16
Marriage entered into under duress	§§ 38-40
Marriage fraudulently induced to obtain permanent resident visa or "green card"	§§ 34-37
Marriage induced by concealment of impotency	§§ 31-33
Mental incapacity to marry due to excessive intoxication	§§ 41-45
Wife's concealment of sterility	§§ 25-30

Table 3: Selected Cases—Concealment or Representation

<b>Concealment or Misrepresentation as Grounds for Annulment of Marriage</b>	
<p><u>Barra v. Barra</u>, Superior Court, Judicial District of Hartford at Hartford, HHD-FA-15-5039866-S (January 27, 2016) (61 CLR 582).</p>	<p>“Although the general rule is that a misrepresentation must relate to an existing or past fact, there are exceptions to this rule, one of which is that a promise to do an act in the future, when coupled with a present intent not to fulfill the promise, is a false representation.’ <a href="#">Paiva v. Vanech Heights Const. Co.</a>, 159 Conn. 512, 515 (1970). Even if the defendant’s promise concerned an essential element of the marriage relation, in order to sustain his burden the plaintiff must prove that when the defendant made the promise she had no intentions of fulfilling it.”</p>

<p><u>Emerick v. Emerick</u>, Superior Court, Judicial District of Hartford at Hartford, FA144073480S (June 25, 2015) (2015 Conn. Super. LEXIS 1681).</p>	<p><b>"The defendant's claim is of plaintiff's fraudulent representations at the time of the marriage and subsequent alleged financial improprieties during the marriage. Aside from the fact that the court finds the claims without merit, such allegations do not give rise to a basis for an annulment. A party is entitled to an annulment on the grounds of fraud only when it is proven that the fraud relates to the 'essentialia of the marriage relation.'</b> <i>Lyman v. Lyman</i>, 90 Conn. 399, 402, 97 A. 312 (1916); <i>Fattibene</i>, supra at 439. Such a fraud is accomplished whenever a person enters into that contract knowing that he is incapable of sexual intercourse, and yet, in order to induce the marriage, designedly and deceitfully concealing the fact from the other party, who is ignorant of it and has no reason to suppose it to exist. <i>Gould v. Gould</i>, 78 Conn 242, 250, 61 A. 604 (1905)."</p>
<p><u>Sampson v. Wesoloski</u>, Superior Court, Judicial District of Hartford, No. HH DFA134071069S (February 25, 2014) (2014 Conn. Super. Lexis 402) (2014 WL 1193333).</p>	<p><b>"The gist of the plaintiff's evidence is that, in her words, the defendant 'intentionally misled me by creating an appealing male persona in order to get close to me and form a relationship with me'. . . . the complaint rests on the common-law grounds of fraud. The plaintiff alleges that the defendant's misrepresentations rise to the level of fraud rendering the marriage void or voidable. . . . In the present case, the defendant clearly engaged in a persistent pattern of untruthfulness in an attempt to make himself more attractive to the plaintiff. Much of the alleged misrepresentation occurred after the time of the marriage, and for that reason cannot be considered as 'fraud in the inducement' which might warrant an annulment.</b></p> <p>There was, of course, significant misrepresentation that predated the marriage as well. However, the court finds no legal basis to grant an annulment based on the nature of the deceit in this case, which was first and foremost about financial matters. The court does not find the existence of fraud which goes to the essential purposes of the marriage relationship."</p>
<p><u>Vascianna v. Vascianna</u>, Superior Court, Judicial District of Hartford, No. FA114057012S (March 19, 2012) (2012 Conn. Super. Lexis 748) (2012 WL 1139138).</p>	<p><b>"The defendant's immigration status, refusal to cohabit with the plaintiff and offer of money to remain married lead to the inevitable conclusion that Mr. Vascianna married the plaintiff for the sole purpose of obtaining a green card and legal residence in this country. The court finds Mrs. Vascianna was completely unaware of her husband's intention not to cohabit or assume the duties and responsibilities of husband and wife. ORDERS 1. A decree of annulment may enter . . . ."</b></p>

<p><u>Rice v. Monteleone</u>, Superior Court, Judicial District of New London, No. FA020563144S (February 25, 2004) (2004 Conn. Super. Lexis 443) (2004 WL 503689).</p>	<p><b>"In essence, the plaintiff's claims, which form the bases of her request for an annulment, are that the defendant lied to her in his assertions of love and affection and married her for her money. Even if one assumes for the sake of argument that those claims were proven, they are not sufficient for the entry of an order of annulment."</b></p>
<p><u>DaSilva v. DaSilva</u>, Superior Court, Judicial District of New Haven, No. FA020470290 (April 21, 2003) (2003 Conn. Super. Lexis 1229) (2003 WL 21037549).</p>	<p><b>"The Wife alleged that the Husband had married her for a green card, that he did not contribute to the household financially, that he was not supportive of her, that he was insulting to her, that he did not spend time with her, and that he referred to his family in Brazil as his real family. . . .The Wife did not sustain her burden of proving, by clear and convincing evidence, that the conditions leading up to and surrounding the marriage render the marriage void or voidable."</b></p>
<p><u>Brennauer v. Brennauer</u>, Superior Court, Judicial District of New London at Norwich, No. FA020124680S (November 15, 2002) (2002 Conn. Super. Lexis 3622) (2002 WL 31687423).</p>	<p><b>"Counts one, three, four and five seek an annulment of the marriage on the following grounds, respectively: that the defendant had determined prior to the marriage never to cohabit or consummate the marriage and that if the plaintiff had known this, he never would have entered into the marriage; that the defendant created fraud upon the deceived plaintiff in that she concealed facts which would have affected the plaintiffs decision to enter into the marriage; that the defendant lacked the requisite intent to be married and misrepresented her intentions regarding the ceremony; and that the marriage ceremony itself was defective."</b></p>
<p><u>Hardy v. Hardy</u>, Superior Court, Judicial District of Tolland at Rockville, No. FA 95 57392 S (November 7, 1995) (2002 Conn. Super. Lexis 3071) (1995 WL 669153).</p>	<p><b>"The plaintiff claims that this marriage is voidable because the defendant fraudulently led her to believe he earned \$22,000 per year when he only earned \$16,000; that he had no outstanding bills when he did; that he failed to pay her for the cost of being added to her medical plan as he promised and that the marriage was not consummated."</b></p>
<p><u>Gregor v. Kamerling</u>, Superior Court, Judicial District of New Haven at New Haven, No. FA 89- 0257042-S (August 5, 1992)</p>	<p><b>"The court finds first that there was no concealment, and finds, further, that even if there has been such concealment, that it did not prevent some essential purpose of the marriage."</b></p>

<p><a href="#">Fattibene v. Fattibene</a>, 183 Conn. 433, 437 &amp; 440, 441 A.2d 3, 5 (1981).</p>	<p>“. . .the defendant sought an annulment of the marriage <b>based on the plaintiff’s fraudulent nondisclosure</b> at the time of the marriage of her prior marital status and of the previous birth of a child. . . .the defendant alleges that he did not learn of the nondisclosed facts until the commencement of this action. . . .and never condoned the <b>plaintiff’s fraud</b> or cohabitated with her after discovering it. The trial court decided that a valid marriage existed between the parties and dissolved it, rather than declare it null and void. The defendant claims on appeal that the <b>trial court erred.</b>”  <b>“The trial court did not err when it failed to grant the defendant’s claim for an annulment based on the plaintiff’s nondisclosures or the alleged invalid divorce decree.”</b></p>
<p><a href="#">Bernstein v. Bernstein</a>, 25 Conn. Supp. 239, 240-241, 201 A.2d 660, 661 (1964).</p>	<p><b>“To warrant the annulment</b> of a marriage, the cause must be such as goes to the essence of the marriage contract. 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. <i>Davis v. Davis</i>, 119 Conn. 194. The concealed intent not to assume the duties of the marital relationship <b>is sufficient cause for an annulment.</b>”</p>
<p><a href="#">Gordon v. Gordon</a>, 11 Conn. Supp. 302, 303 (1942).</p>	<p><b>“The fact that the husband in this case had somewhat less money available for his wife’s support than she supposed he would have does not offer a sufficient ground to dissolve a marriage status.”</b></p>

# Section 3: Procedures in Annulment

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to the procedures for obtaining an annulment in Connecticut.

## **COURT RULES:**

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

- Conn. Practice Book (2018).  
§ [25-2](#). Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment

## **STATUTES:**

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

- Conn. Gen. Stat. (2017).  
[Chapter 815](#). Court Proceedings in Family Relations Matters
  - § [46b-1](#). Family relations matters defined.
  - § [46b-6](#). Investigations.
  - § [46b-9](#). Hearing by referee in action for. . . . annulment.
  - § [46b-10](#). Attempt at reconciliation in action for. . . . annulment.
  - § [46b-11](#). Closed hearings and records.[Chapter 815j](#). Dissolution of Marriage, Legal Separation and Annulment
  - § [46b-42](#). Jurisdiction.
  - § [46b-43](#). Capacity of minor to prosecute or defend.
  - § [46b-44](#). Residency requirement.
  - § [46b-45](#). Service and filing of complaint ([2018 Supplement](#)).
  - § [46b-46](#). Notice to nonresident party. Jurisdiction over nonresident for alimony and support.
  - § [46b-47](#). Complaint for dissolution of marriage on ground of confinement for mental illness; procedure.
  - § [46b-48](#). Dissolution of marriage or annulment upon conviction of crime against chastity; procedure.
  - § [46b-49](#). Private hearing.
  - § [46b-53](#). Conciliation procedures; privileged communications.
  - § [46b-55](#). Attorney General as party. Paternity establishment.
  - § [46b-56c](#). Educational support orders.
  - § [46b-60](#). Orders re children and alimony in annulment cases.
  - § [46b-62](#). **Orders for payment of attorney's fees and fees of guardian ad litem in certain actions.** Limitations on orders for payment of fees to counsel or guardian ad litem for a minor child. Methodology for calculating fees on sliding-scale basis.



§ [46b-67\(c\)](#). Waiting period. Effect of decree.  
“Neither the ninety-day period specified in this section nor the six-month period referred to in section 46b-53 shall apply in actions for annulment...”

§ [46b-69](#). Statutes applicable to matrimonial actions.

§ [46b-69a](#). Wage executions and earning assignments.

§ [46b-82](#). Alimony.

## **COURT FORMS:**

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

## **FORMS:**

- [Official Court Forms](#)  
Annulment Complaint, [JD-FM-240](#), Rev 10-18  
Summons – Family Actions, [JD-FM-003](#), Rev 10-18  
Notice of Automatic Court Orders, [JD-FM-158](#), Rev 10-18
- 1D [Am Jur Pleading and Practice Forms](#) *Annulment of Marriage* (2014 rev.).
  - §§ 4-8. Complaint, petition, or declaration—To annul marriage—No children or property
  - §§ 12-16. Complaint, petition, or declaration—To annul marriage—Mock marriage—Lack of intent
  - §§ 21-24. Complaint, petition, or declaration—To annul marriage on ground of prior existing marriage
  - §§ 30-33. Complaint, petition, or declaration—To annul marriage where party under age—On attaining majority
  - §§ 38-39. Complaint, petition, or declaration—To annul incestuous marriage
  - §§ 43-51. Complaint, petition, or declaration—To annul marriage on ground of fraud—Undisclosed intent not to cohabit
  - §§ 62-67. Complaint, petition, or declaration—To annul marriage—Plaintiff of unsound mind at time of marriage—  
Restored to mental capacity
  - §§ 71-76. Complaint, petition, or declaration—To annul marriage on ground of physical incapacity
- 3 Joel M. Kaye and Wayne D. Efron. [Connecticut Practice Series. Civil Practice Forms](#) (4<sup>th</sup> ed. 2004).  
Form 504.5. Complaint for Annulment
- *Cause Of Action To Annul Marriage*, 65 [COA2d](#) 617 (2014), Cecily Fuhr.
  - § 47. Sample complaint
  - § 48. Sample complaint to annul marriage where there are no children or property
  - § 49. Sample complaint to annul “mock” marriage**

**WEST KEY NUMBERS:**

- *Marriage*
  - 60. Annulment - Jurisdiction and proceedings.
    - (.5). In general.
    - (1). Who may sue.
    - (2). Time to sue.
    - (3). Jurisdiction.
    - (4). Process or notice.
    - (5). Parties.
    - (6). Pleading.
    - (7). Evidence.
    - (8). Trial or hearing.

**ENCYCLOPEDIAS:**

- Maurice T. Brunner, Annotation, *Rule As Regards Competency Of Husband Or Wife To Testify As To Nonaccess*, 49 [ALR3d](#) 212 (1973).
- J.A. Connelly, Annotation, *Power Of Incompetent Spouse's Guardian, Committee, Or Next Friend To Sue For Granting Or Vacation Of Divorce Or Annulment Of Marriage, Or To Make A Compromise Or Settlement In Such Suit*, 6 [ALR3d](#) 681 (1966).
- F.M. English, Annotation, *Necessity And Sufficiency Of Corroboration Of Plaintiff's Testimony Concerning Ground For Annulment Of Marriage*, 71 [ALR2d](#) 620 (1960).
- M.C. Dransfield, Annotation, *Limitation Of Actions For Annulment Of Marriage*, 52 [ALR2d](#) 1163 (1957).
- W.W. Allen, Annotation, *Right To Attack Validity Of Marriage After Death Of Party Thereto*, 47 [ALR2d](#) 1393 (1956).
- E.H. Schopler, Annotation, *Applicability, To Annulment Actions, Of Residence Requirements Of Divorce Statutes*, 32 [ALR2d](#) 734 (1953).
- W.J. Dunn, Annotation, *Antenuptial Knowledge Relating To Alleged Grounds As Barring Right To Annulment*, 15 [ALR2d](#) 706 (1951).
- 4 [Am. Jur. 2d](#) *Annulment of Marriage* (2018).
  - IV. Action for Annulment
    - A. In General
      - § 45. Generally
      - § 46. Equitable nature of proceedings
      - § 47. Jurisdiction and venue; state of domicile
      - § 48. -State of celebration of marriage
      - § 49. What law governs
      - § 50. Residential requirements
      - § 51. Service of process
      - § 52. -Constructive service
      - § 53. Effect of death of spouse while annulment suit pending
    - B. Time for Bringing Suit

- § 54. Limitation of actions
- § 55. –Depending on grounds for which annulment is sought
- § 56. Delay in bringing action; laches
- § 57. Bringing action after death of party
- § 58. –For particular causes of invalidity

C. Parties

- § 59. Generally
- § 60. Party charging fraud or duress
- § 61. Party under age of consent
- § 62. Party alleging bigamy
- § 63. Party who is mentally incompetent

D. Trial

- § 64. Generally
- § 65. Physical examination of party

E. Pleading and Proof

- § 66. Pleadings
- § 67. Competency and admissibility of evidence
- § 68. Burden of proof
- § 69. Sufficiency of proof
- § 70. –Necessity of corroboration of testimony concerning grounds for annulment
- § 71. Proof of fraud or duress
- § 72. Proof of physical incapacity or impotency
- § 73. Proof of mental incapacity
- § 74. –Evidence of previous or subsequent mental condition
- § 75. Proof of prior undissolved marriage; bigamy

- 55 [C.J.S. Marriage](#) (2009).

IV. Annulment

- § 74. Jurisdiction
- § 75. Time to sue and limitations; laches
- § 76. Parties
- § 77. Parties – Person under disability
- § 78. Process of notice
- § 79. Pleading
- § 80. Evidence
- § 81. Burden of proof
- § 82. Evidence — Admissibility
- § 83. Evidence — Weight and sufficiency
- § 84. Trial or hearing

- *Cause Of Action To Annul Marriage*, 65 [COA2d](#) 617 (2014), Cecily Fuhr.

III. Practice and Procedure

- § 32. Jurisdiction and venue
- § 33. Limitations on actions
- § 34. Pleading
- § 35. Proof
- § 36. Plaintiff's proof**
- § 37. Defendant's proof**

**TEXTS &  
TREATISES:**

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Connecticut:

- Renée Bevacqua Bollier and Susan V. Busby, [Stephenson's Connecticut Civil Procedure](#), volume 2 (3<sup>rd</sup> ed. 2002).
  - § 263. Annulment
    - c. Jurisdiction Required
    - d. Procedure
    - e. Where Children are Involved
- 7 Arnold H. Rutkin et al. [Connecticut Practice Series. Family Law And Practice with Forms](#) (3<sup>rd</sup> ed. 2010).
  - Chapter 14. Procedure in Annulment Actions
    - § 14.1. In general
    - § 14.2. Jurisdiction
    - § 14.3. Commencement of action; service of process
    - § 14.4. Parties
    - § 14.5. Pleadings in annulment actions
    - § 14.6. Presumptions and burden of proof
    - § 14.7. Judgment and orders in annulment actions
    - § 14.9. Resumption of former name
- Louise Truax, general editor, [LexisNexis Practice Guide: Connecticut Family Law](#) (2018 edition).
  - Chapter 1. Marriage
    - Part III: Analyzing Annulments
      - § 1.11. Filing for an Annulment
        - [1] Filing for an Annulment – In General
        - [2] Preparing the Complaint

Figure 1: Complaint for Annulment (Form 504.5)

*See also: Official Court Form [JD-FM-240](#), Annulment Complaint*

### **Complaint for Annulment**

1. The plaintiff [*or* defendant] whose maiden name was and the defendant [*or* plaintiff] intermarried on [*date*] at \_\_\_\_\_.

2. [*Set forth reasons why marriage was invalid or should be annulled.*]

3. [*Set forth names and birthdate of any minor child born to the wife since the marriage, if any, and other information required by § 25-2(b).*].

The plaintiff claims

1. An annulment of said marriage
2. Restoration of her maiden name
3. Lying-in expenses incurred in the future birth of any child issue of this marriage.
4. Custody and support for the minor children
5. Alimony
6. Counsel fees

# Section 3a: Jurisdiction

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to jurisdiction in an action for annulment of marriage 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. Stat. (2017).  
[Chapter 815](#). Court Proceedings in Family Relations Matters  
§ [46b-1](#). Family relations matters defined.  
  
[Chapter 815j](#). Dissolution of Marriage, Legal Separation and Annulment  
§ [46b-42](#). Jurisdiction.  
§ [46b-43](#). Capacity of minor to prosecute or defend.  
§ [46b-44](#). Residency requirement.  
§ [46b-46](#). Notice to nonresident party. Jurisdiction over nonresident for alimony and support.

## **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.

- [Manndorff v. Dax](#), 13 Conn. App. 282, 284-285, 535 A.2d 1324, **1325 (1988)**. "Although the annulment statutes do not specifically say so, the parties agree, as do we, that there is an additional requirement with respect to subject matter jurisdiction over annulment actions. At least one party must be domiciled in Connecticut."
- [Mazzei v. Cantales](#), 142 Conn. 173, 179 (1955), 112 A.2d 205, **208 (1955)**. "Where both parties to an action for annulment of a void marriage are non-residents and the defendant is not served with process within this state or does not appear and submit to the jurisdiction of the Superior Court, the fact that the marriage was performed within this state does not empower the court to obtain jurisdiction over the defendant by constructive service and to render a judgment annulling the marriage."
- [Perlstein v. Perlstein](#), 152 Conn. 152, 160, 204 A.2d 909, 913 (1964). "It follows that the statute (§52-68) generally governing service by publication on a nonresident defendant properly applies to an annulment action, where, as here, the plaintiff is domiciled in Connecticut."

## **WEST KEY NUMBERS:**

- *Marriage*  
60. Annulment – Jurisdiction and proceedings.  
(3). Jurisdiction.

## **ENCYCLOPEDIAS:**

- E.H. Schopler, Annotation, *Applicability, To Annulment Actions, Of Residence Requirements Of Divorce Statutes*, 32 [ALR2d](#) 734 (1953).
- 4 [Am. Jur. 2d Annulment of Marriage](#) (2018).  
IV. Action for Annulment  
§ 47. Jurisdiction and venue; state of domicile

§ 48. —State of celebration of marriage  
§ 49. What law governs  
§ 50. Residential requirements

- 55 [C.J.S. Marriage](#) (2009).  
IV. Annulment  
§ 74. Jurisdiction
- *Cause Of Action To Annul Marriage*, 65 [COA2d](#) 617 (2014).  
§ 32. Jurisdiction and venue

### **TEXTS & TREATISES:**

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

#### Connecticut:

- Renée Bevacqua Bollier and Susan V. Busby, [Stephenson's Connecticut Civil Procedure](#), volume 2 (3<sup>rd</sup> ed. 2002).  
§ 263. Annulment  
c. Jurisdiction Required
- 7 Arnold H. Rutkin et al. [Connecticut Practice Series. Family Law And Practice with Forms](#) (3<sup>rd</sup> ed. 2010).  
Chapter 14. Procedure in Annulment Actions  
§ 14.2. Jurisdiction
- Louise Truax, general editor, [LexisNexis Practice Guide: Connecticut Family Law](#) (2018 edition).  
Chapter 1. Marriage  
Part III. Analyzing Annulments  
§ 1.10. Establishing the Availability and Necessity of an Annulment  
[1] Determining the Availability of Annulments – In General  
§ 1.11. Filing for an Annulment  
[2] Preparing the Complaint

## Section 3b: Service of Process and Venue

A Guide to Resources in the Law Library

### **SCOPE:**

Bibliographic sources relating to the procedures for service of process in an action for annulment of marriage.

### **DEFINITIONS:**

- **Process:** "shall be a writ of summons or attachment, describing the parties, the court to which it is returnable and the time and place of appearance, and shall be accompanied by the plaintiff's complaint." Conn. Practice Book § [8-1\(a\)](#) (2018).
- **Applicable to Family Matters:** "The provisions of Sections 8-1, 8-2, 9-1, 9-3 through 9-6, inclusive, 9-18, 9-19, 9-22, 9-24 and 10-12 through 10-17 of the rules of practice shall apply to family matters as defined in Section 25-1." Conn. Practice Book § [25-6](#) (2018).
- **Manner of Service:** "Except as otherwise provided, process in any civil action shall be served by leaving a true and attested copy of it, including the declaration or complaint, with the defendant, or at his usual place of abode, in this state." Conn. Gen. Stat. § [52-57\(a\)](#) (2017).
- **Venue:** "A proceeding for an annulment... shall be commenced by the service and filing of a complaint as in all other civil actions in the Superior Court for the judicial district in which one of the parties resides. The complaint may also be made by the Attorney General in a proceeding for annulment of a void marriage. The complaint shall be served on the other party." Conn. Gen. Stat. § [46b-45\(a\)](#) ([2018 Supplement](#)).
- **Usual Place of Abode:** "It is clear that one's 'usual place of abode' is in the place where he would most likely have knowledge of service of process. . . . Its chief purpose is to ensure actual notice to the defendant that the action is pending. . . . The usual place of abode is generally considered to be the place where the person is living at the time of service . . . . It is not necessarily his domicile. . . . and a person may have more than one usual place of abode . . . . In the final analysis, the determination of one's usual place of abode is a question of fact and the court may consider various circumstances." [Plonski v. Halloran](#), 36 Conn. Supp. 335, 335-336, 420 A.2d 117-118 (1980).



## **COURT RULES:**

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

- Conn. Practice Book (2018).
  - [Chapter 8](#). Commencement of Action
    - § 8-1. Process
    - § 8-2. Waiver of Court Fees and Costs
  - [Chapter 10](#). Pleadings
    - § 10-12. Service of the Pleading and Other Papers; Responsibility of Counsel or Self-Represented Party: Documents and Persons to Be Served
    - § 10-13. —Method of Service
    - § 10-14. —Proof of Service
    - § 10-15. —Numerous Defendants
    - § 10-16. —Several Parties Represented by One Attorney
  - [Chapter 25](#). Procedure in Family Matters
    - § 25-6. Parties and Appearances
      - “The provisions of Sections 8-1, 8-2, 9-1, 9-3 through 9-6, inclusive, 9-18, 9-19, 9-22, 9-24 and 10-12 through 10-17 of the rules of practice shall apply to family matters as defined in Section 25-1.”
    - § 25-28. Order of Notice

## **STATUTES:**

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

- Conn. Gen. Stat. (2017).
  - [Chapter 815j](#). Dissolution of Marriage, Legal Separation and Annulment
    - § [46b-45](#). Service and filing of complaint ([2018 Supplement](#)).
  - [Chapter 896](#). Civil Process, Service and Time for Return
    - § [52-46](#). Time for service.
    - § [52-48](#). Return day of process.
    - § [52-50](#). Persons to whom process shall be directed.
    - § [52-54](#). Service of summons.
    - § [52-57](#). Manner of service upon individuals, municipalities, corporations, partnerships and voluntary association

## **COURT FORMS:**

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

- [Official Court Forms](#)
  - [JD-FM-240](#). Annulment Complaint (Rev 10/18)
  - [JD-FM-003](#). Summons, Family Actions (Rev 10/18)
  - [JD-FM-167](#). Motion for Order of Notice in Family Cases (rev. 2/11)
  - [JD-FM-168](#). Order of Notice in Family Cases (Rev 3/18)
  - [JD-FM-169](#). Motion for Additional Order of Notice in Family Cases (Rev 4/08)

## **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.

- [Babouder v. Abdennur](#), 41 Conn. Supp. 258, 262, 566 A.2d 457, 459 (1989). "In Connecticut, as in other states, the court will not exercise jurisdiction in a civil case which is based upon service of process on a defendant who has been decoyed, enticed or **induced to come within the court's jurisdiction by any** false representation, deceitful contrivance or wrongful device for which the plaintiff is responsible. . . . This rule does not apply, however, when the defendant enters the state on his own, even if the plaintiff and his agents then engage in trickery to make **service of process.**"

## **WEST KEY NUMBERS:**

- *Marriage*  
60. Annulment - Jurisdiction and proceedings.  
(4). Process or notice.

## **ENCYCLOPEDIAS:**

- 4 [Am. Jur. 2d Annulment of Marriage](#) (2007).  
IV. Action for Annulment  
§ 51. Service of process  
§ 52. —Constructive service
- 55 [C.J.S. Marriage](#) (2009).  
IV. Annulment  
§ 78. Process of notice

## **TEXTS & TREATISES:**

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

### Connecticut:

- 7 Arnold H. Rutkin et al. [Connecticut Practice Series. Family Law And Practice with Forms](#) (3<sup>rd</sup> ed. 2010).  
Chapter 14. Procedure in Annulment Actions  
§ 14.3. Commencement of action; service of process

### General:

- 1 Homer H. Clark, [Law of Domestic Relations in the United States](#) (2<sup>nd</sup> ed. 1987).  
Chapter 3. The Suit to Annul  
§ 3.2. —Jurisdiction

# Section 3c: Parties

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to proper or necessary parties to an action for annulment of marriage in Connecticut.

## **COURT RULES:**

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

- Conn. Practice Book (2018).
  - [Chapter 3](#). Appearances
    - § 3-9(c). Withdrawal of Appearance; Duration of Appearance
  - [Chapter 9](#). Parties
    - § 9-1. Continuance for Absent or Nonresident Defendant
    - § 9-24. Change of Name by Minor Child
  - [Chapter 10](#). Pleadings
    - § 10-12. Service of the Pleading and Other Papers; Responsibility of Counsel or Self-Represented Party; Documents and Persons to be Served
    - § 10-15. —Numerous Defendants
    - § 10-16. —Several Parties Represented by One Attorney
  - [Chapter 25](#). Procedure in Family Matters
    - § 25-6. Parties and Appearances
      - “The provisions of Sections 8-1, 8-2, 9-1, 9-3 through 9-6, inclusive, 9-18, 9-19, 9-22, 9-24 and 10-12 through 10-17 of the rules of practice shall apply to family matters as defined in Section 25-1.”

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2017).
  - [Chapter 815j](#). Dissolution of Marriage, Legal Separation and Annulment
    - § [46b-43](#). Capacity of minor to prosecute or defend.
    - § [46b-45](#). Service and filing of complaint ([2018 Supplement](#)).

## **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.

- [Anderson v. Anderson](#), 27 Conn. Supp. 342, 343, 238 A.2d 45 (1967). “This action raises the question: Is the plaintiff, a Connecticut resident, a ‘guilty’ party to a bigamous marriage entered into in the state of New York, entitled to a decree declaring that marriage null and void?”
- [Mannorff v. Dax](#), 13 Conn. App. 282, 287, 535 A.2d 1324, 1326 (1988). “Although interested in the defendant’s marriage to the husband, the plaintiff, as a nonparty to that marriage, had no right to maintain an action for its annulment.”

**WEST KEY  
NUMBERS:**

- *Marriage*  
60. Annulment - Jurisdiction and proceedings.  
(5). Parties.

**ENCYCLOPEDIAS:**

- 4 [Am. Jur. 2d](#) *Annulment of Marriage* (2018).  
IV. Action for Annulment  
C. Parties  
§ 59. Generally  
§ 60. Party charging fraud or duress  
§ 61. Party under age of consent  
§ 62. Party alleging bigamy  
§ 63. Party who is mentally incompetent
- 55 [C.J.S.](#) *Marriage* (2009).  
IV. Annulment  
§ 76. Parties  
§ 77. Parties — Persons under disability
- *Annulment of Marriage*, 42 [POF2d](#) 665 (1985).  
§ 8.5 Standing (pocket part only)
- *Cause Of Action To Annul Marriage*, 65 [COA2d](#) 617 (2014), Cecily Fuhr.  
Parties  
§ 30. Persons who may seek annulment  
§ 31. Persons who may oppose annulment

**TEXTS &  
TREATISES:**

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

Connecticut:

- 7 Arnold H. Rutkin et al. [Connecticut Practice Series. Family Law And Practice with Forms](#) (3<sup>rd</sup> ed. 2010).  
Chapter 14. Procedure in Annulment Actions  
§ 14.4. Parties

# Section 3d: Pleading

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to the pleadings in an annulment in Connecticut.

## **COURT RULES:**

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

- Conn. Practice Book (2018).  
[Chapter 25](#). Procedure in Family Matters
  - § 25-1. Definitions Applicable to Proceedings on Family Matters
  - § 25-2. Complaints for. . . . Annulment
  - § 25-5. Automatic Orders upon Service of Complaint or Application
  - § 25-7. Pleadings in General; Amendments to Complaint or Application
  - § 25-11. —Order of Pleadings

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2017).  
[Chapter 815j](#). Dissolution of Marriage, Legal Separation and Annulment
  - § [46b-45](#). Service and filing of complaint ([2018 Supplement](#)).

## **FORMS:**

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

- [Official Court Forms](#)
  - Annulment Complaint, [JD-FM-240](#), Rev 10-18
  - Summons – Family Actions, [JD-FM-003](#), Rev 10-18
- 1D [Am Jur Pleading and Practice Forms](#) *Annulment of Marriage* (2014 rev.).
  - §§ 4-8. Complaint, petition, or declaration—To annul marriage—No children or property
  - §§ 12-16. Complaint, petition, or declaration—To annul marriage—Mock marriage—Lack of intent
  - §§ 21-24. Complaint, petition, or declaration—To annul marriage on ground of prior existing marriage
  - §§ 30-33. Complaint, petition, or declaration—To annul marriage where party under age—On attaining majority
  - §§ 38-39. Complaint, petition, or declaration—To annul incestuous marriage
  - §§ 43-51. Complaint, petition, or declaration—To annul marriage on ground of fraud—Undisclosed intent not to cohabit
  - §§ 62-67. Complaint, petition, or declaration—To annul marriage—Plaintiff of unsound mind at time of marriage—Restored to mental capacity
  - §§ 71-76. Complaint, petition, or declaration—To annul marriage on ground of physical incapacity

- 3 Joel M. Kaye and Wayne D. Efron. [Connecticut Practice Series. Civil Practice Forms](#) (4<sup>th</sup> ed. 2004).  
Form 504.5. Complaint for Annulment
- 1A Douglass B. Wright and John H. Yeomans. [Connecticut Legal Forms](#) (1983).  
Form 1101.5. Complaint for Annulment
- *Cause Of Action To Annul Marriage*, 65 [COA2d](#) 617 (2014).  
§ 47. Sample complaint  
§ 48. Sample complaint to annul marriage where there are no children or property  
§ 49. Sample complaint to annul “mock” marriage
- [Durham v. Miceli](#), 15 Conn. App. 96, 97, 543 A.2d 286, 287 (1988). “In order to be entitled to an annulment of marriage, the plaintiff must allege and prove that ‘the marriage is void or voidable under the laws of this state or, the state in which the marriage was performed.’ General Statutes § 46b-40(b). The plaintiff’s complaint is devoid of such allegations.”

### **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.

### **WEST KEY NUMBERS:**

- *Marriage*  
60. Annulment - Jurisdiction and proceedings.  
(6). Pleading.

### **ENCYCLOPEDIAS:**

- 4 [Am. Jur. 2d Annulment of Marriage](#) (2018).  
IV. Action for Annulment  
E. Pleading and Proof  
§ 66. Pleadings
- 55 [C.J.S. Marriage](#) (2009).  
IV. Annulment  
§ 79. Pleading
- *Cause Of Action To Annul Marriage*, 65 [COA2d](#) 617 (2014), Cecily Fuhr.  
§ 33. Limitation on actions  
§ 34. Pleading

### **TEXTS & TREATISES:**

Connecticut:

- 7 Arnold H. Rutkin et al. [Connecticut Practice Series. Family Law And Practice with Forms](#) (3<sup>rd</sup> ed. 2010).  
Chapter 14. Procedure in Annulment Actions  
§ 14.5. Pleadings in annulment actions

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§ 14.6 Presumptions and burden of proof

§ 14.7 Judgment and orders in annulment actions

- Louise Truax, general editor, [LexisNexis Practice Guide: Connecticut Family Law](#) (2018 edition).
  - Chapter 1. Marriage
    - Part III: Analyzing Annulments
      - § 1.11. Filing for an Annulment
        - [1] Filing for an Annulment – In General
        - [2] Preparing the Complaint

Table 4: Other Unreported Decisions on Annulment of Marriage

<b>Unreported Connecticut Decisions</b>	
<p><u>Dunlap v. Current</u>, Superior Court, Judicial District of New London at Norwich, No. FA134122263 (March 27, 2014) (57 CLR 783) (2014 Conn. Super. Lexis 683) (2014 WL 1647038).</p>	<p><b>“The crux of the plaintiff’s complaint is that the marriage is voidable because prior to the marriage, the defendant misrepresented and/or omitted aspects of his criminal record and his financial condition to the plaintiff. . . . The stipulation of the parties does not inform the court’s analysis, nor is it determinative of the question of whether the marriage should be voided. The fact that the parties believe that their marriage is void or voidable is irrelevant. Whether the marriage is void or voidable is a legal question, which the court must determine based upon the facts and the law. Although the plaintiff clearly believes that she made a mistake by marrying the defendant, the court cannot find an otherwise valid marriage void or voidable based on a party’s belief, or the agreement of the responding party.”</b></p>
<p><u>Yan v. Fu</u>, Superior Court, Judicial District of New Haven, No. FA074026177S (October 17, 2008) (2008 Conn. Super. Lexis 2669) (2008 WL 4853353).</p>	<p><b>“The wife seeks an annulment of the marriage claiming that the husband married her solely in order to obtain legal permanent residency in the United States. The wife contends that the Nevada judgment dissolving the husband’s first marriage was a sham. She offered evidence that the address given by the husband in Nevada was either false or non-existent and claimed that he always intended to continue a conjugal relationship with his ex-wife as evidenced by the birth of his daughter to his ex-wife in 2005. The wife also alleges the husband sexually assaulted her, denied her what she wanted most i.e. a child, and used blackmail as a method of control. The later of these allegations are best addressed through the dissolution action and do not serve as a basis for annulment. . . . From evidence the wife presented at trial it is not clear and convincing that the husband’s Nevada divorce was a sham nor that the husband married solely to establish permanent residency. . . . While the fact that the husband applied for permanent resident status on the exact date of the marriage is unsettling, it is evident that the wife could not be surprised or defrauded by that fact in that she assisted him in the submission of his application and at the hearing before the Immigration Services in support of that application as late as February 2007. The wife’s amended cross complaint for annulment is denied.”</b></p>
<p><u>Duren v. Burwood</u>, Superior Court, Judicial District of Litchfield at</p>	<p>“. . . the plaintiff seeks an annulment on the grounds that the marriage is voidable because the plaintiff was fraudulently induced to enter the marriage. The court heard evidence from the plaintiff that he expected a monogamous relationship with the defendant when he married her. The defendant engaged in</p>



<p>Litchfield, No. FA010084521 (August 29, 2001) (2001 Conn. Super. Lexis 2457) (2001 WL 1159629).</p>	<p>an extramarital relationship almost immediately after the marriage with a guest at the wedding. The defendant testified <b>that she had expected that the marriage would be 'open'. There</b> was no discussion regarding these expectations before the marriage. . . .The court finds that the plaintiff has failed to <b>prove the allegations to support a judgment of annulment."</b></p>
<p><u>Ross v. Ross</u>, Superior Court, Judicial District of Stamford-Norwalk at Stamford, No. FA 970162587S (August 10, 1998) (22 Conn. L. Rptr. 637) (1998 Conn. Super. Lexis 2248) (1998 WL 516159)</p>	<p><b>"Although in 1973 the Connecticut legislature made it virtually impossible for a court to reject a complaint for a dissolution of marriage, no such statute was passed concerning annulments. In most reported contested annulment cases tried to Connecticut courts since 1973, the request for annulment has been denied. Most complaints allege a second count, a fall-back position, seeking a dissolution of marriage. In most of those cases the decree dissolving the marriage was entered."</b></p>
<p><u>Gutkowski v. Gutkowski</u>, Superior Court, Judicial District of Hartford-New Britain at Hartford, No. FA96712571S (November 4, 1996) (18 Conn. L. Rptr. 101) (1996 Conn. Super. LEXIS 2882) (1996 WL 651641).</p>	<p><b>"This court acknowledges the principle that a legal representative of a decedent's estate may pursue an annulment action that had been commenced prior to death. While the lessons of <i>Perlstein v. Perlstein</i> remain vital, however, they should only apply to an action in which a fiduciary of a married party's estate seeks to obtain an annulment of a marriage to which its decedent was a party. As such, <i>Perlstein v. Perlstein</i>, supra, fails to provide adequate guidance for this court, which must assess the status of <i>non-fiduciaries</i> who seek to secure the annulment of a marriage which terminated by reason of death prior to the assertion of their claims."</b></p>
<p>Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can <a href="#">contact your local law librarian</a> to learn about the tools available to you to update cases.</p>	

# Section 4: Defenses to Annulment

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic sources relating to defenses to actions for annulment.

## **COURT RULES:**

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

- Conn. Practice Book (2018).  
[Chapter 25](#). Procedure in Family Matters  
§ 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant  
§ 25-10. —Answer to Cross Complaint

## **FORMS:**

- 1D [Am. Jur. Pleading and Practice Forms Annulment of Marriage](#) (2014 rev.).  
§ 25. Answer—Divorce obtained from former spouse in another state  
§ 34. Answer—Defense—Parties of lawful age in state where marriage performed  
§ 52. Answer—Defense—Statute of limitations

## **CASES:**

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.

- [Fattibene v. Fattibene](#), 183 Conn. 433, 437, 441 A.2d 3, 5 (1981). “In the counterclaim to the complaint, the defendant sought an annulment of the marriage based on the plaintiff’s fraudulent nondisclosure at the time of the marriage of her prior marital status and of the previous birth of a child. Although there is evidence in the record to the contrary, the defendant alleges that he did not learn of the nondisclosed facts until the commencement of this action, over twenty-five years after the wedding ceremony, and never condoned the plaintiff’s fraud or cohabitated with her after discovering it. The trial court decided that a valid marriage existed between the parties and dissolved it, rather than declare it null and void. The defendant claims on appeal that the **trial court erred.**”

## **WEST KEY NUMBERS:**

- *Marriage*  
59. Annulment – Defenses.

## **ENCYCLOPEDIAS:**

- 4 [Am. Jur. 2d Annulment of Marriage](#) (2018).  
III. Defenses  
A. In General  
§ 33. Generally  
§ 34. Equitable defenses: clean hands; estoppel  
B. Postnuptial Conduct; Ratification of Marriage  
§ 35. Condonation  
§ 36. Marriage induced by fraud or duress  
§ 37. Marriage under age of consent  
§ 38. Cohabitation with knowledge of bigamous marriage  
§ 39. Refusal of intercourse; refusal to have children

- § 40. Impotence
- § 41. Mental incompetence
- C. Antenuptial Knowledge of Ground for Annulment
  - § 42. Generally
  - § 43. Existence of undissolved prior marriage
  - § 44. —Application of doctrine of estoppel and clean hands
- IV. Action for Annulment
  - B. Time for Bringing Suit
    - § 54. Limitation of actions
    - § 55. —Depending on grounds for which annulment is sought
    - § 56. Delay in bringing action; laches
    - § 57. Bringing action after death of party
    - § 58. —For particular causes of invalidity

- 55 [C.J.S. Marriage](#) (2009).
  - IV. Annulment
    - § 73. Defenses
    - § 75. Time to sue and limitations; laches
- *Annulment of Marriage*, 42 [POF2d](#) 665 (1985).
  - § 8. Defense considerations
  - § 8.5. Standing (pocket part only)
- *Cause Of Action To Annul Marriage*, 65 [COA2d](#) 617 (2014), Cecily Fuhr.
  - B. Defenses
    - § 23. Defenses, generally
    - § 24. Prior knowledge of annulment grounds
    - § 25. Ratification
    - § 26. —Ratification or validation of void marriage
    - § 27. Nonessential fraud
    - § 28. Res judicata and collateral estoppel
    - § 29. Laches, equitable estoppel, and unclean hands

**TEXTS & TREATISES:**

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

Connecticut:

- Louise Truax, general editor, [LexisNexis Practice Guide: Connecticut Family Law](#) (2018 edition).
  - Chapter 1: Marriage
    - Part III. Analyzing Annulments
      - § 1.10. Establishing the Availability and Necessity of an Annulment
        - [6] Assessing Contractual Defenses to a Valid Marriage
          - [a] Discussing Contractual Defenses – In General
          - [b] Determining Duress and Force as a Contractual Defense
          - [c] Determining Fraud as a Contractual Defense

General:

- 1 Arnold H. Rutkin, [Family Law and Practice](#) (2017).  
Chapter 5. Annulment  
§ 5.03. Defenses; Generally
- Harry D. Krause and David D. Meyer, [Family Law in a Nutshell](#), (5<sup>th</sup> ed. 2007).  
Chapter 18. Annulment  
§ 18.2. Defenses

# Section 5: Children and Annulment

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to children and annulment including child support, custody and visitation.

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2017).  
[Chapter 815j](#). Dissolution of Marriage, Legal Separation and Annulment  
§ [46b-60](#). Orders re children and alimony in annulment cases.  
§ [46b-84](#). **Parents' obligation for maintenance** of minor child. Order for health insurance coverage.  
§ [46b-86](#). Modification of alimony or support orders and judgments.

## **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.

- [Singh v. Singh](#), Superior Court, Judicial District of New Haven, No. FA16-6061216 (Dec. 20, 2016) (63 Conn. L. Rptr. 587). **"Although there is strong public policy favoring otherwise valid marriages, in the instant case, the parties themselves knew that they were but actors in an elaborately orchestrated play and never intended that their ceremony constitute a valid marriage."**
- [Hames v. Hames](#), 163 Conn. 588, 593, 316 A.2d 379, 382 (1972). **"Section 46-28 of the General Statutes provides that the issue of any void or voidable marriage shall be deemed legitimate and permits the Superior Court to order alimony, custody and child support as it might in a divorce proceeding."**
- [Sarantos v. Sarantos](#), 18 Conn. Supp. 472, 474 (1953). "Our statute. . . empowers our court to annul a marriage illegal under the laws of the foreign state in which it was celebrated. It does not purport to carry over to Connecticut the foreign law of the state in which the marriage was celebrated as to the legitimacy of the offspring of such marriage. The question of legitimacy under the facts here is governed by the law of Connecticut, which at the **time of the child's birth was, and up to the present time** continuously has been, the domicile of both parents and of the child."

## **WEST KEY NUMBERS:**

- *Child Custody*  
(D) Termination of Parents' Marriage  
327. Annulment of Marriage.
- *Child Support*  
III. Factors Considered  
57. Effect of divorce, dissolution of marriage, or annulment.  
VI. Modification  
244. Divorce, dissolution of marriage, or other proceeding pending.

## **ENCYCLOPEDIAS:**

- George L. Blum, Annotation, *Grandparents' Visitation Rights Where Child's Parents Are Living*, 71 [ALR5th](#) 99 (1999).  
§ 9. "Where child's parents' marriage is annulled."
- E. LeFevre, Annotation, *Court's Power As To Support And Maintenance Of Children In Marriage Annulment Proceedings*, 63 [ALR2d](#) 1029 (1959).
- E. LeFevre, Annotation, *Court's Power As To Custody And Visitation Of Children In Marriage Annulment Proceedings*, 63 [ALR2d](#) 1008 (1959).
- 4 [Am. Jur. 2d](#) *Annulment of Marriage* (2018).
  - IV. Action for Annulment
    - F. Judgment and Incidental Relief
      - 3. Custody, Support, and Paternity of Children
        - § 87. Determination of custody and support of children
        - § 88. Determination of visitation rights
        - § 89. Determination of paternity or legitimacy
- 1D [Am Jur Pleading and Practice Forms](#) *Annulment of Marriage* (2014 rev.).
  - III. Custody of Children, Support, and Litigation Expenses
    - § 77. Introductory Comments
- 55 [C.J.S.](#) *Marriage* (2009).
  - IV. Annulment
    - § 87. Relief awarded—Custody and support of children
- *Annulment of Marriage*, 42 [POF2d](#) 665 (1985).
  - § 10. Effect of judgment or decree – Award of alimony, custody, and child support

## **TEXTS & TREATISES:**

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

### Connecticut:

- Renée Bevacqua Bollier and Susan V. Busby, [Stephenson's Connecticut Civil Procedure](#), volume 2 (3<sup>rd</sup> ed. 2002).
  - § 263. Annulment
    - e. Where Children are Involved
- 7 Arnold H. Rutkin et al. [Connecticut Practice Series. Family Law And Practice with Forms](#) (3<sup>rd</sup> ed. 2010).
  - Chapter 14. Procedure in Annulment Actions
    - § 14.8 Legitimacy of children
- Louise Truax, general editor, [LexisNexis Practice Guide: Connecticut Family Law](#) (2018 edition).
  - Chapter 1. Marriage
    - Part III: Analyzing Annulments
      - § 1.11 Filing for an Annulment
        - [3] Determining Custody Orders
        - [4] Determining Support Orders

# Section 6: Property Distribution

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to property distribution and annulments in Connecticut.

## **DEFINITIONS:**

- "At the time of entering a decree annulling or dissolving a marriage or for legal separation pursuant to a complaint under section 46b-45, the Superior Court may assign to either spouse all or any part of the estate of the other spouse. The court may pass title to real property to either party or to a third person or may order the sale of such real property, without any act by either spouse, when in the judgment of the court it is the proper mode to carry the **decree into effect.**" Conn. Gen. Stat. § [46b-81\(a\)](#) (2017).
- "In fixing the nature and value of the property, if any, to be assigned, the court, after considering all the evidence presented by each party, shall consider the length of the marriage, the causes for the annulment, dissolution of the marriage or legal separation, the age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate, liabilities and needs of each of the parties and the opportunity of each for future acquisition of capital assets and income. The court shall also consider the contribution of each of the parties in the acquisition, preservation or **appreciation in value of their respective estates.**" Conn. Gen. Stat. § [46b-81\(c\)](#) (2017).
- "A direct action to annul a marriage not only affects the status of the marriage itself but may also affect property **rights arising from this status.**" *Perlstein v. Perlstein*, 26 Conn. Supp. 257, 258, 217 A.2d 481, 482-483 (1966).

## **STATUTES:**

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

- Conn. Gen. Stat. (2017).

[Chapter 815j](#). Dissolution of Marriage, Legal Separation and Annulment

§ [46b-66a](#). Order of court re conveyance of title to real property. Effect of decree.

§ [46b-80](#). Prejudgment remedies available; lis pendens; notice; effect.

§ [46b-81](#). Assignment of property and transfer of title.

## **ENCYCLOPEDIAS:**

- Caroll J. Miller, Annotation, *Prior Institution Of Annulment Proceedings Or Other Attack On Validity Of One's Marriage As Barring Or Estopping One From Entitlement To Property Rights As Surviving Spouse*, 31 [ALR4th](#) 1190 (1984).

- John S. Herbrand, J.D., Annotation, *Right to Allowance of Permanent Alimony in Connection with Decree of Annulment*, 81 [ALR3d](#) 281 (1977).
- H. P. F., *Division of Property Upon Annulment of Marriage*, 11 ALR 1394 (1921).
- 4 [Am. Jur. 2d](#) *Annulment of Marriage* (2018).
  - IV. Action for Annulment
    - F. Judgment and Incidental Relief
      - 2. Alimony, Support, and Property Rights
        - § 79. Generally
        - § 80. Allowance of permanent alimony
        - § 81. Allowance for services or necessities
        - § 82. Effect on property rights; division of property accumulated during marriage
- 55 [C.J.S.](#) *Marriage* (2009).
  - IV. Annulment
    - § 88. Relief awarded—Restitution or other disposition of property
- *Cause Of Action To Annul Marriage*, 65 [COA2d](#) 617 (2014), Cecily Fuhr.
  - C. Remedies
    - § 40. Alimony and division of property
    - § 41. – Status as putative spouse
- *Annulment of Marriage*, 42 [POF2d](#) 665 (1985).
  - § 9. Effect of judgment or decree – In general; division of property

**TEXTS & TREATISES:**

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

Connecticut:

- 7 Arnold H. Rutkin et al. [Connecticut Practice Series. Family Law And Practice with Forms](#) (3<sup>rd</sup> ed. 2010).
  - Chapter 14: Procedure in Annulment Actions
    - § 14:7. Judgment and orders in annulment actions
- Louise Truax, general editor, [LexisNexis Practice Guide: Connecticut Family Law](#) (2018 edition).
  - Chapter 1. Marriage
    - Part III: Analyzing Annulments
      - § 1.11 Filing for an Annulment
        - [5] Determining Orders Concerning Property Division

General:

- 3 Arnold H. Rutkin, [Family Law and Practice](#) (2017).
  - Chapter 37. Principles of Property Distribution
    - § 37.02[5][a]. Void marriages



# Section 7: Out of State and Foreign Annulments

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to out-of-state and foreign annulments in Connecticut.

## **DEFINITION:**

- "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, 728 (1961).
- "The Superior Court has authority to annul a marriage performed in another state if the marriage would have been invalid in that state or violates a strong public **policy of this state.**" [Fattibene v. Fattibene](#), 183 Conn. 433, 437, 441 A.2d 3, 5 (1981).
- "The trial court failed to give full faith and credit to the 2002 legislation through which the New York legislature validated ab initio all marriages performed by Heller, including the marriage of the parties. See 2002 N.Y. Sess. Laws 3572. The recognition of **the parties'** marriage as valid by the New York legislature renders it valid under the laws of Connecticut. Accordingly, the trial court improperly concluded that it lacked subject matter jurisdiction. The judgment is reversed and the case is remanded for further **proceedings.**" [Gersuny v. Gersuny](#), 322 Conn. 166, 140 A.3d 196 (2016).

## **STATUTES:**

Conn. Gen. Stat. (2017)

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

[Chapter 815j](#). Dissolution of Marriage, Legal Separation and Annulment

§ [46b-40\(b\)](#). Grounds for dissolution of marriage; legal separation; annulment.

## **CASES:**

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.

- Delaney v. Delaney, 35 Conn. Supp. 230, 232, 405 A.2d 91, 93 (1979). “. . . a valid common-law marriage contracted in a state that recognizes such marriages would be upheld in this state.”
- Parker v. Parker, 29 Conn. Supp. 41, 43, 270 A.2d 94, 95 (1970). “The validity of the marriage between the plaintiff and the defendant is governed by the lex loci contractus. . . . where the ceremony was performed.”
- Browner v. Browner, 15 Conn. Supp. 77 (1947). “This marriage was contracted in the state of New York and consequently may be annulled by this court if, for any cause, it is void or voidable under New York law.”

## **ENCYCLOPEDIA:**

- 52 Am. Jur. 2d Marriage (2011).
  - II. Creation and Validity
    - D. Effect of Conflicting Foreign Law
      - 1. Choice of Governing Law
        - § 64. Power of legislature; comity
        - § 65. Rule that validity of marriage is governed by law where parties were married
        - § 66. – Exception where recognition of marriage would be contrary to public policy
      - 2. Validity of Particular Marriages with Foreign Aspects
        - a. Marriages Prohibited After Divorce
          - § 67. Generally
          - § 68. Where marriage is challenged in state where divorce was obtained
          - § 69. Marriage challenged in other state
        - b. Bigamous Marriages
          - § 70. Generally
          - § 71. Remarriage following interlocutory or void divorce
        - c. Other Marriages
          - § 72. Common-law marriages
          - § 73. – Temporary visits in states permitting common-law marriages
          - § 74. Incestuous marriages
          - § 75. Proxy marriages
          - § 76. Underage marriages
          - § 77. Same-sex marriages
          - § 78. Other particular kinds of marriages

## **TEXTS & TREATISES:**

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

### Connecticut:

- 7 Arnold H. Rutkin et al. Connecticut Practice Series. Family Law And Practice with Forms (3<sup>rd</sup> ed. 2010).
  - Chapter 14: Procedure in Annulment Actions
    - § 14.10 Annulment of foreign marriages

General:

- Ann Laquer Estin, [International Family Law Desk Book](#) (2<sup>nd</sup> ed. 2016).
  - Chapter 2. Marriage, Partnership and Cohabitation
  - Annuling a Marriage, p. 32
  - Jurisdiction and Choice of Law
  - Consequences of Annulment