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2018 Edition

Best Interest of the Child Standard in Connecticut

A Guide to Resources in the Law Library

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Prepared by Connecticut Judicial Branch, Superior Court Operations, Judge Support Services, Law Library Services Unit

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This guide links to advance release slip opinions on the Connecticut Judicial Branch website and to case law hosted on Google Scholar.
The online versions are for informational purposes only.

- "We have consistently held in matters involving child custody that while the rights, wishes and desires of the parents must be considered it is nevertheless the ultimate welfare of the child which must control the decision of the court." In re Appeal of Kindis, 162 Conn. 239, 242, 294 A.2d 316 (1972).

- "It is statutorily incumbent upon a court entering orders concerning custody or visitation or a modification of such order to be guided by the best interests of the child." Wilson v. Wilson, 38 Conn. App. 263, 269, 661 A.2d 621 (1995).

- "The guiding principle in determining custody is the best interest of the child." Schult v. Schult, 241 Conn. 767, 777, 699 A.2d 134 (1997).

- **Joint Custody**: "There shall be a presumption, affecting the burden of proof, that joint custody is in the best interests of a minor child where the parents have agreed to an award of joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child or children of the marriage. If the court declines to enter an order awarding joint custody pursuant to this subsection, the court shall state in its decision the reasons for denial of an award of joint custody." Conn. Gen. Stat. § 46b-56a(b) (2017).

- **Nonparent:** "In any dispute as to the custody of a minor child involving a parent and a nonparent, there shall be a presumption that it is in the best interest of the child to be in the custody of the parent, which presumption may be rebutted by showing that it would be detrimental to the child to permit the parent to have custody." Conn. Gen. Stats. § 46b-56b (2017).

- **Third Party Visitation**: "We conclude that the trial court improperly determined that the best interest of the child standard can overcome the *Roth* standard for ordering visitation." DiGiovanna v. St. George, 300 Conn. 59, 69, 12 A.3d 900 (2011).

- See also, the following research guides:
    - Child Custody in Connecticut
    - Child Visitation in Connecticut
    - Grandparents' Rights in Connecticut
    - Parental Relocation

Section 1: Statutory Factors (Effective October 1, 2005)

A Guide to Resources in the Law Library

SCOPE:

Bibliographic sources relating to the statutory factors the courts may consider in determining the best interest of the child effective October 1, 2005.

DEFINITIONS:

- **Factors**: In making or modifying any order as provided in subsections (a) and (b) of this section, the court shall consider the best interests of the child, and in doing so may consider, but shall not be limited to, one or more of the following factors . . . ." Conn. Gen. Stats. § 46b-56(c) (2017).
- ***See*** Table 1 for enumeration of statutory factors

LEGISLATIVE HISTORY:

- Legislative History of P.A. 05-258

STATUTES:

- Conn. Gen. Stats. (2017)
  Chapter 815j. Dissolution of marriage, legal separation and annulment
  § 46b-56(c). . . Best interests of the child.

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

CASES:

- Barros v. Barros, 309 Conn. 499, 509-510, 72 A.3d 367 (2013). "Presumably, both parents and the child share an interest in a custody determination that is in the child's best interest. The difficulty is that each parent has conflicting interpretations of the child's best interest. 'In cases in which both parents seek custody, [n]either parent has a superior claim to the exercise of [the] right to provide care, custody, and control of the children. . . . Effectively, then, each fit parent's constitutional right neutralizes the other parent's constitutional right, leaving, generally, the best interests of the child as the sole standard to apply to these types of custody decisions. Thus, in evaluating each parent's request for custody, the parents commence as presumptive equals and a trial court undertakes a balancing of each parent's relative merits to serve as the primary custodial parent; the child's best interests [tip] the scale in favor of an award of custody to one parent or the other.' (Emphasis omitted; internal quotation marks omitted.) *Fish v. Fish*, 285 Conn. 24, 45, 939 A.2d 1040 (2008)."

  "With respect to the third and final prong of *Mathews*, the government has a paramount interest in custody adjudication procedures that facilitate an accurate determination of the child's best interest. The touchstone for the court's custody determination is 'the best interests of the child . . . .' General Statutes § 46b-56 (c); see also *Schult v. Schult*, supra, 241

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your local law librarian to learn about the tools available to you to update cases.

Conn. 777 ('The guiding principle in determining custody is the best interests of the child. . . . The trial court is vested with broad discretion in determining what is in the child's best interests.'); *Gall v. Gall*, 184 Conn. 36, 43, 440 A.2d 782 (1981) ('the court must ultimately be controlled by the welfare of the particular child')." p. 517

- Watrous v. Watrous, 108 Conn. App. 813, 825, 949 A2d 557 (2008). "The language of § 46b-56 (c), however, does not compel the consideration of any particular factor or factors when determining the best interest of a child. See General Statutes § 46b-56 (c) ("[i]n making or modifying any order as provided in subsections (a) and (b) of this section, the court shall consider the best interests of the child, and in doing so *may consider, but shall not be limited to*, one or more of the following factors" [emphasis added]). Rather, the court is free to consider the factors it determines to be most appropriate given the facts of each individual case."

- Fennelly v. Norton, 103 Conn. App. 125, 143-144, 931 A2d 269 (2007). "As this court recently noted in *Fish v. Fish*, 90 Conn. App. 744, 881 A.2d 342, cert. granted, 275 Conn. 924, 883 A.2d 1243 (2005), the petition for child custody and the application for child visitation are two different animals. Whereas the paramount concern of the court in Roth was the right of a fit parent to raise a child free of interference by the state and nonparents, the paramount concern in awarding custody is the best interest of the child. Id., 756-57. The plaintiffs posit that by amending § 46b-56 to require the court to consider the best interest of the child in making or modifying any order as to the custody or care of a child, the legislature effectively overruled *Roth's* statement that in reviewing an application for visitation, 'the best interests of the child are secondary to the parents' rights.' *Roth v. Weston*, supra, 259 Conn. 223. Nothing in either the plain language of P.A. 05-258 or its legislative history supports that assertion. As such, the plaintiffs' claim fails."

- Diez-Canseco v. Hunt, No. FA04-4001769 (Conn. Super. Ct., J.D. New London (Apr. 19, 2006) 2006 WL 1230063. "The court has also weighed all of the relevant factors now enumerated in General Statutes § 46b-56(c), particularly the developmental needs of Carlos, the capacity and the disposition of the parent to understand and meet his needs, the willingness and ability of each parent to facilitate and encourage continuing parent-child relationship between the child and the other parent, including compliance with court orders, any manipulation by or coercive behavior of the parents in an effort to include the child in the parents' dispute, the stability of the child's existing and proposed residences, and the ability of each parent to be actively involved in the life of the child. Clearly the present custodial arrangement of two weeks in Connecticut with the plaintiff and two weeks in Maine with the defendant is not in Carlos' best interests. Unfortunately due to the defendant's lack of transportation

and funds, the plaintiff has had to bear all the burdens of transportation."

- Fish v. Fish, 90 Conn. App. 744, 757, 881 A.2d 343 (2005). "There is no question that the defendant, as a father, enjoys due process protection in disputes over the custody of the child. Our legislature has recognized as much in enacting § 46b-56b, which creates a rebuttable presumption that, in custody disputes between a parent and a nonparent, it is in the best interest of the child to be in the custody of the parent . . . . Given the court's findings of fact as reported previously, however, there was ample evidence for the court to conclude that the presumption in the defendant's favor was rebutted."

- Roth v. Weston, 259 Conn. 202, 789 A.2d 431 (2002).

- Guss v. Guss, 1 Conn. App. 356, 360-361, 472 A.2d 790 (1983). "A child's best interests, however, cannot be prospectively determined. Before transferring custody to the plaintiff, 'the court was bound to consider the child[ren's] *present* best interests and not what would have been in [their] best interests at some previous time.' (Emphasis in original.) *In re Juvenile Appeal* (Anonymous), 177 Conn. 648, 664, 420 A.2d 875 (1979)."

ENCYCLOPEDIAS:

- 27C C.J.S. *Divorce* (2016).
  §§ 1059-1070. Considerations affecting custody determination
  § 1060. Child's interest or welfare
  § 1061. Child's preference
- 67A C.J.S. *Parent & Child* (2013).
  §§ 63-93. Considerations affecting custody of child

- 59 Am. Jur. 2d *Parent & Child (*2012).
  §§ 26-38. Custody; Visitation
  § 30. Custody disputes between parents—factors affecting choice
- 24A Am. Jur. 2d *Divorce & Separation* (2008).
  §§ 849-856. Factors in determining custody

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.

- 8 Arnold H. Rutkin et al. Connecticut Practice Series. Family Law And Practice with Forms (3d ed. 2010).
  Chapter 42.
  § 42.28 Factors for consideration by the court

- Louise Truax, general editor, Connecticut Family Law Practice Guide (2018 edition).
  Chapter 8. Custody and Visitation
  § 8.05 Analyzing the Best Interests of the Child Standard
  § 8.06 Analyzing the Statutory Factors and Considerations When Determining the Best Interests of the Child

- 1 Alexander Lindey and Louis I. Parley, Lindey and Parley on Separation Agreements and Antenuptial Contracts 2d ed. (2017).
  - Chapter 20. Child custody
    - § 20.71. "Best Interests" standard
    - § 20.72. Criteria
      - [1] In General
      - [2] Specific Considerations

- 3 Arnold H. Rutkin et al., Family Law & Practice (2017).
  - Chapter 32. Child custody and visitation
    - § 32.06. Standards Used to Determine Custody Between Parents
      - [5]. Application of the Best Interests Standard
        - [a] Maternal Preference
        - [b] Primary Caretaker
        - [c] Stability and Continuity of Environment
        - [d] Health of the Parties
        - [e] Child's Preference
        - [f] Moral Fitness
        - [g] Religion
        - [h] Race
        - [i] Time Available to Spend with Child
        - [j] Most Cooperative Parent

- 2 Sandra Morgan Little, Child Custody and Visitation (2017).
  - Chapter 10. Custody disputes between parents
    - § 10.06. Standards for selecting the custodial parent
      - [2]. Best interest of the child

- Donald T. Kramer, Legal Rights of Children (rev.2nd ed. 2005).
  - Chapter 2. Child custody
    - § 2.4. Best interests of the child rule
  - Chapter 3. Visitation Rights
    - § 3.20. Child's best interests [visitation rights]
  - Chapter 28. Termination of Parental Rights
    - § 28:18. Termination and the best interests of the child
  - Chapter 29. Children in Foster Care
    - § 29:10. Best interests

Table 1: Factors Court May Consider Effective October 1, 2005

Statutory Factors Conn. Gen. Stat. § 46b-56(c) (2017) In making or modifying any order as provided in subsections (a) and (b) of this section, the court shall consider the best interests of the child, and in doing so may consider, but shall not be limited to, one or more of the following factors:
(1) The temperament and developmental needs of the child;
(2) the capacity and the disposition of the parents to understand and meet the needs of the child;
(3) any relevant and material information obtained from the child, including the informed preferences of the child;
(4) the wishes of the child's parents as to custody;
(5) the past and current interaction and relationship of the child with each parent, the child's siblings and any other person who may significantly affect the best interests of the child;
(6) the willingness and ability of each parent to facilitate and encourage such continuing parent-child relationship between the child and the other parent as is appropriate, including compliance with any court orders;
(7) any manipulation by or coercive behavior of the parents in an effort to involve the child in the parents' dispute;
(8) the ability of each parent to be actively involved in the life of the child;
(9) the child's adjustment to his or her home, school and community environments;
(10) the length of time that the child has lived in a stable and satisfactory environment and the desirability of maintaining continuity in such environment, provided the court may consider favorably a parent who voluntarily leaves the child's family home pendente lite in order to alleviate stress in the household;
(11) the stability of the child's existing or proposed residences, or both;
(12) the mental and physical health of all individuals involved, except that a disability of a proposed custodial parent or other party, in and of itself, shall not be determinative of custody unless the proposed custodial arrangement is not in the best interests of the child;
(13) the child's cultural background;
(14) the effect on the child of the actions of an abuser, if any domestic violence has occurred between the parents or between a parent and another individual or the child;
(15) whether the child or a sibling of the child has been abused or neglected, as defined respectively in section 46b-120; and

(16) whether the party satisfactorily completed participation in a parenting education program established pursuant to section 46b-69b. The court is not required to assign any weight to any of the factors that it considers, but shall articulate the basis for its decision.

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.

Section 2: Other Factors Used By the Courts

A Guide to Resources in the Law Library

SCOPE: Bibliographic sources relating to the factors used by the courts in Connecticut to determine the best interest of the child **prior to the passage of Public Act 05-258**.

SEE ALSO:

- Section 1: Statutory factors court may consider effective October 1, 2005

DEFINITIONS:

- "We continue to adhere to the view that the legislature was acting wisely in leaving the delicate and difficult process of fact-finding in family matters to flexible, individualized adjudication of the particular facts of each case without the constraint of objective guidelines." Seymour v. Seymour, 180 Conn. 705, 710, 433 A.2d 1005 (1980).

- "In making or modifying any order as provided in subsections (a) and (b) of this section, the court shall consider the best interests of the child, and in doing so may consider, **but shall not be limited to**, one or more of the following factors…" [Emphasis added.] Conn. Gen. Stat. § 46b-56(c) (2017)

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.

- Denardo v. Bergamo, 272 Conn. 500, 514, 863 A.2d 686 (2005). "Moreover, in a contested visitation case, the ultimate question is: What is in the child's best interest?"

- Foster v. Foster, 84 Conn. App. 311, 323, 853 A.2d 588 (2004). "It is well established that the court may require the parties and the child to undergo a psychiatric or psychological evaluation for the purpose of properly disposing of a family matter, in a modification of custody case, to assist in determining the best interest of the child. See General Statutes §§ 46b-3 and 46b-6; *Pascal v. Pascal*, 2 Conn. App. 472, 478-79, 481 A.2d 68 (1984). Until recently, the trial court was without statutory authority to order parties to undergo counseling after entering orders regarding the custody of the minor child. See *Janik v. Janik*, 61 Conn. App. 175, 180, 763 A.2d 65 (2000) (concluding that 'nothing in §§ 46b-3 and 46b-6 authorizes the court to order parties in a custody battle to undergo psychiatric therapy or counseling postjudgment since those provisions apply to pending family matters'), cert. denied, 255 Conn. 940, 768 A.2d 949 (2001). Our legislature, however, amended General Statutes § 46b-56 (g) in 2002, as follows: 'As part of a decision concerning custody or visitation, the court may order either parent or both of the parents and any child of such parents to participate in counseling and drug or alcohol screening, provided such participation is in the best interest of the child.' On the basis of that unambiguous statutory language, the court had the authority to order the plaintiff to undergo postjudgment counseling."

- Bretherton v. Bretherton, 72 Conn. App. 528, 538, 805 A.2d 766 (2002). "At the very outset of its analysis in *Ireland*, our Supreme Court announced that it had created the burden shifting scheme to further 'our commitment to the best interests of the child standard. . . .' Id., [*Ireland v. Ireland*, 246 Conn. 413,] 421. Moreover, after articulating the shifting burdens of proof, our Supreme Court again took the 'opportunity to reaffirm that the best interests of the child must always govern decisions involving custodial or visitation matters.' Id., [246 Conn. 425,] 430." (Bracketed information added.)

- Crockett v. Pastore, 259 Conn. 240, 249, footnote 5, 789 A.2d 453 (2002). "In *Roth*, however, we determined that the best interest of the child was not a sufficiently compelling interest to warrant the state's intrusion into a fit parent's decision regarding visitation. *Roth v. Weston*, supra, 259 Conn. 226."

- Ford v. Ford, 68 Conn. App. 173, 184, 789 A.2d 1104 (2002). "We, therefore, hold that that burden shifting scheme in *Ireland*, and the additional *Tropea* factors, do not pertain to relocation issues that arise at the initial judgment for the dissolution of marriage. Rather, we find that *Ireland* is limited to postjudgment relocation cases. We conclude that because the *Ireland* court did not expand its holding to affect all relocation matters, relocation issues that arise at the initial judgment for the dissolution of marriage continue to be governed by the standard of the best interest of the child as set forth in § 46b-56. While the *Ireland* factors may be considered as 'best interest factors' and give guidance to the trial court, they are not mandatory or exclusive in the judgment context."

- Schult v. Schult, 241 Conn. 767, 777-778, 699 A.2d 134 (1997). "The guiding principle in determining custody is the best interest of the child. . . This principle also governs the appointment of counsel for a minor child in a marriage dissolution action. . . The appointment of counsel lies firmly within the trial court's discretion in the best interests of the child. . . "

- Wilson v. Wilson, 38 Conn. App. 263, 269, 661 A.2d 621 (1995). "It is statutorily incumbent upon a court entering orders concerning custody or visitation or a modification of such order to be guided by the best interests of the child. . . . We review any order of the trial court concerning an order of visitation under the standard of whether in entering the order that it did, it abuse its discretion in making that order."

- Garrett's Appeal from Probate, 44 Conn. Supp. 169, 187, 677 A.2d 1000 (1994). "Moreover, the court finds that the defendant's 'parental acts or deficiencies' support the conclusion that he should not, in the children's best interests, be their guardian at this time, based on the evidence of events transpiring up to the dates of the Probate Court hearings."

- Knock v. Knock, 224 Conn. 776, 788-789, 621 A.2d 267 (1993). "[Conn. Gen. Stats.] Section 46b-56(b) does not require that the trial court award custody to whomever the child wishes; it requires only that the court take the child's wishes into consideration."

- Rudolewicz v. Rudolewicz, 1 CSCR 664 (1986). *Enumerates 22 factors to be used in determining the best interests of the child. See* Table 5-2

- Cappetta v. Cappetta, 196 Conn. 10, 16, 490 A.2d 996 (1985). "In the search for an appropriate custodial placement, the primary focus of the court is the best interests of the child, the child's interest in sustained growth, development, well-being, and in the continuity and stability of its environment."

- Seymour v. Seymour, 180 Conn. 705, 712, 433 A.2d 1005 (1980). "While psychological parenting is thus one indicator of the best interests of a child, a court has an independent responsibility to assure itself of the suitability of the parent to whom the child is primarily attached."

- Hall v. Hall, 186 Conn. 118, 124, 439 A.2d 447 (1982). "The plaintiff's wilful disobedience of these court orders . . . evidenced gross disrespect for the law and raised questions about her character, which are relevant to the welfare of the child."

- Yontef v. Yontef, 185 Conn. 275, 281, 440 A.2d 899 (1981). "We have never held, and decline now to hold, that a trial court is bound to accept the expert opinion of a family relations officer. As in other areas where expert testimony is offered, a trial court is free to rely on whatever parts of an expert's opinion the court finds probative and helpful."

- Ridgeway v. Ridgeway, 180 Conn. 533, 541, 429 A.2d 801 (1980). "In this case, the evidence showed that the children were living in a familiar and stable environment with love and attention from their paternal grandparents; that the plaintiff at times had an adverse effect upon the children; and that the plaintiff's psychological instability was such that it posed a threat to the children's well-being."

- Trunik v. Trunik, 179 Conn. 287, 288, 426 A.2d 274 (1979). ". . . the trial court's order changing the award of custody was based on evidence which revealed: (1) that the plaintiff father had remarried and he and his present wife were capable of caring for his children; and (2) that while the children were home, the defendant mother, inter alia, frequently entertained a variety of nocturnal male visitors."

- Pi v. Delta, 175 Conn. 527, 533, 400 A.2d 709 (1978). "Similarly, in accordance with this court's constant emphasis upon consideration for the welfare of minor children,

legitimate or not, we perceive no valid reason for denying the admitted natural father of an illegitimate child at the least the opportunity to obtain a judicial determination of custody where, as here, there is an allegation that the present custodian is unfit and that the interests of the children will best be served by a change in custody."

WEST KEY NUMBERS:

- *Child Custody* #76. Welfare and best interest of the child

ENCYCLOPEDIAS:

- 27C C.J.S. *Divorce* (2016).
  §§ 1059-1070. Considerations affecting custody determination
  § 1060. Child's interest or welfare
  § 1061. Child's preference
- 67A C.J.S. *Parent & Child* (2013).
  §§ 63-93. Considerations affecting custody of child
- 59 Am. Jur. 2d *Parent & Child (*2012).
  §§ 26-38. Custody; Visitation
  § 30. Custody disputes between parents—factors affecting choice
- 24A Am. Jur. 2d *Divorce & Separation* (2008).
  §§ 849-856. Factors in determining custody

TEXTS & TREATISES

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- 2 Family Law Practice in Connecticut (1995).
  Chapter 10. Child Custody and Visitation by Jeffrey D. Ginzberg
  § 10.26 Factors in awarding custody and visitation
  § 10.27 Focus of the Court

LAW REVIEWS:

Public access to law review databases is available on-site at each of our law libraries.

- Lloyd Cutsumpas, *Contested Custody In Connecticut*, 54 Connecticut Bar Journal 193-212 (1980). *List of factors used to determine "best interest of the child" from the* "Family Relations Office Manual."

Table 2: Criteria Used by the Courts in Determining Best Interest of the Child

#	Factors	Authorities Cited
1.	Parenting skills	*Cappetta v. Cappetta*, 196 Conn. 10,16-17, 490 A.2d 996 (1985)
2.	"Each person's relationship with the child"[1] "emotional ties of each parent with the child"[2] "the child's primary psychological parent"[3]	[1] *Cappetta v. Cappetta*, 196 Conn. 10, 17, 490 A.2d 996 (1985) [2] *Seymour v. Seymour*, 180 Conn. 705, 711, 433 A.2d 1005 (1980) [3] *Seymour*, supra, at 711-712
3.	Character of parent by reason of willful disobedience of court orders	*Hall v Hall*, 186 Conn. 118, 124, 439 A.2d 447 (1982) *Stewart v. Stewart*, 177 Conn. 401, 407, 418 A.2d 62 (1979) *Simons v. Simons*, 172 Conn. 341, 348, 374 A.2d 1040 (1977)
4.	Willingness to facilitate visitation by the other parent.	*Seymour v. Seymour*, 180 Conn. 705, 713, 433 A.2d 1005 (1980)
5.	"[P]ast behavior as it relates to parenting ability . . . ."	*Seymour v. Seymour*, 180 Conn. 705, 711, 433 A.2d 1005 (1980) *Yontef v. Yontef*, 185 Conn. 275, 283, 440 A.2d 899 (1981)
6.	Family Relations Division Report recommendations	See *Yontef v. Yontef*, 185 Conn. 275, 281, 440 A.2d 899 (1981)
7.	Independent advice of attorney appointed to represent minor children	See *Yontef v. Yontef*, 185 Conn. 275, 281, 440 A.2d 899 (1981)
8.	Credibility	*Yontef v. Yontef*, 185 Conn. 275, 277, 440 A.2d 899 (1981)
9.	"[M]anipulative and coercive behavior in . . . efforts to involve children in the marital dispute."	*Yontef v. Yontef*, 185 Conn. 275, 281, 440 A.2d 899 (1981)
10.	A parent's behavior and its effects on the child(ren).	*Yontef v. Yontef*, 185 Conn. 275, 282, 440 A.2d 899 (1981)
11.	Continuity and stability of environment.	*Cappetta v. Cappetta*, 196 Conn. 10,

		16, 490 A.2d 996 (1985)
12.	"[T]he flexibility of each parent to best serve the psychological development and growth of the child."	*Seymour v. Seymour*, 180 Conn. 705, 711, 433 A.2d 1005 (1980)
13.	Which parent is more willing and able to address medical and educational problems of the child and to take appropriate steps to have them treated and corrected.	*Faria v. Faria*, 38 Conn. Supp. 37, 47-50, 456 A.2d 1205 (1982)
14.	"[C]hildren were living in a familiar and stable environment with love and attention from their paternal grandparents."	*Ridgeway v. Ridgeway*, 180 Conn. 533, 541, 429 A.2d 801 (1980)
15.	Psychological instability of one parent posing a threat to the children well-being.	*Ridgeway v. Ridgeway*, 180 Conn. 533, 541, 429 A.2d 801 (1980)
16.	Recommendation that one party immediately commence in-patient treatment.	*Ridgeway v. Ridgeway*, 180 Conn. 533, 541, 429 A.2d 801 (1980)
17.	Visitation having an adverse effect on the child at times.	*Ridgeway v. Ridgeway*, 180 Conn. 533, 540, 429 A.2d 801 (1980)
18.	Remarriage.	*Trunik v. Trunik*, 179 Conn. 287, 289, 426 A.2d 274 (1979)
19.	Parental sexual activity.	*Trunik v. Trunik*, 179 Conn. 287, 288, 426 A.2d 274 (1979)
20.	"[C)onsistency in parenting and life style, insofar as these factors might affect the child's growth, development and well-being."	*Seymour v. Seymour*, 180 Conn. 705, 711, 433 A.2d 1005 (1980)
21.	"[T]he time each parent would be able to devote to the child on a day-to-day basis."	*Seymour v. Seymour*, 180 Conn. 705, 711, 433 A.2d 1005 (1980)
22.	Untidy condition of home, alcoholism, leaving home unattended, and emotional problems.	*Simons v. Simons*, 172 Conn. 341, 346, 374 A.2d 1040 (1977)

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.

* Rudolewicz v. Rudolewicz, 1 CSCR 664, 666 (1986).

Section 3: Custody Orders and Presumptions in Connecticut

A Guide to Resources in the Law Library

SCOPE:

Bibliographic sources relating to custody arrangements in Connecticut that the court may determine to be in the best interest of the child, including joint, sole or third party custody. Also presumptions in Connecticut that joint custody is in the best interest of the child and that the best interest of child to be in the custody of the parent.

DEFINITION:

- **Joint Custody**: "means an order awarding legal custody of the minor child to both parents, providing for joint decision-making by the parents and providing that physical custody shall be shared by the parents in such a way as to assure the child of continuing contact with both parents. The court may award joint legal custody without awarding joint physical custody where the parents have agreed to merely joint legal custody." Conn. Gen. Stats. § 46b-56a(a) (2017).

- **Joint Custody Presumption**: "There shall be a presumption, affecting the burden of proof, that joint custody is in the best interests of a minor child where the parents have agreed to an award of joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child or children of the marriage. If the court declines to enter an order awarding joint custody pursuant to this subsection, the court shall state in its decision the reasons for denial of an award of joint custody." Conn. Gen. Stats. § 46b-56a(b) (2017).

- **Sole Custody**: "The difference between a sole custodian and a joint legal custodian is that the sole custodian has the ultimate authority to make all decisions regarding a child's welfare, such as education, religious instruction and medical care whereas a joint legal custodian shares the responsibility for those decisions." Emerick v. Emerick, 5 Conn. App. 649, 657 n.9, 502 A.2d 933 (1985).

- **Third Party Custody**: ". . . any other custody arrangements as the court may determine to be in the best interests of the child." Conn. Gen. Stats. § 46b-56(b)(4) (2017).

- **Presumption Re Best Interest of Child To Be In Custody Of Parent**. "In any dispute as to the custody of a minor child involving a parent and a nonparent, there shall be a presumption that it is in the best interest of the child to be in the custody of the parent, which presumption may be rebutted by showing that it would be detrimental to the child to permit the parent to have custody." Conn. Gen. Stats. § 46b-56b (2017).

STATUTES:

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

- Conn. Gen. Stat. (2017)
  - § 46b-56a. **Joint custody Presumption**.
    - (b) "There shall be a presumption, affecting the burden of proof, that joint custody is in the best interests of a minor child where the parents have agreed to an award of joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child or children of the marriage. If the court declines to enter an order awarding joint custody pursuant to this subsection, the court shall state in its decision the reasons for denial of an award of joint custody."

  - § 46b-56b. Presumption re best interest of child to be in custody of parent.
    - (b) "In any dispute as to the custody of a minor child involving a parent and a nonparent, there shall be a presumption that it is in the best interest of the child to be in the custody of the parent, which presumption may be rebutted by showing that it would be detrimental to the child to permit the parent to have custody."

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.

- Keenan v. Casillo, 149 Conn. App. 642, 646, 89 A.3d 912 (2014). "In its decision, the court recognized that '[i]n order to enter an order of joint legal custody, the court must find that such an order in addition to being in the best interests of the children is also based on an agreement of the parties or upon motion of at least one of the parents'.... After concluding that such requirements were met, the court ordered joint legal custody." (Citations omitted.)

- Fish v. Fish, 285 Conn. 24, 25, 939 A.2d 1040 (2008). "To summarize, in cases in which a third party seeks to intervene in a custody proceeding brought pursuant to § 46b-56 (a), the party must prove by a fair preponderance of the evidence facts demonstrating that he or she has a relationship with the child akin to that of a parent, that parental custody clearly would be detrimental to the child and, upon a finding of detriment, that third party custody would be in the child's best interest. In cases in which the trial court considers awarding custody to a third party who has not intervened pursuant to § 46b-57, the court may award custody to the third party provided that the record contains proof of the foregoing facts by a fair preponderance of the evidence."

- Zitnay v. Zitnay, 90 Conn. App. 71, 77, 875 A.2d 71 (2005). "Joint legal custody involves equal sharing of decisions regarding a child's welfare, such as education, religious instruction and medical care."

- Doe v. Doe, 244 Conn. 403, 455, 710 A.2d 1297 (1998). "As these authorities make clear, the presumption does not

mean that the nonparent must, in order to rebut it, prove that the parent is unfit. It means that the parent has an initial advantage, and that the nonparent must prove facts sufficient to put into issue the presumed fact that it is in the child's best interest to be in the parent's custody. Once those facts are established, however, the presumption disappears, and the sole touchstone of the child's best interests remains irrespective of the parental or third party status of the adults involved. In that instance, then, neither adult - the parent or the third party - enjoys any advantage or suffers any disadvantage as a result of his or her parental or third party status."

- Schult v. Schult, 40 Conn. App. 675, 676, 672 A.2d 959 (1996). "The principal issue in this appeal is the proper construction and application of General Statutes § 46b-56b, which creates a rebuttable presumption 'that it is in the best interest of the child to be in the custody of the parent' in any dispute as to the custody of a minor child involving a parent and a nonparent."

- Antedomenico v. Antedomenico, 142 Conn. 558, 562, 115 A.2d 558 (1955). "The contest is not one primarily to determine the rights of the respective parties but rather the best interest of the child."

ENCYCLOPEDIAS

- Thomas R. Trenkner, Annotation, *Modern Status of Maternal Preference Rule Or Presumption In Child Custody Cases*, 70 ALR3d 262 (1976).

- *Child Custody Determination On Termination Of Marriage*, 34 POF2d 407 (1983).
  § 2. Rights of respective parents
  § 3. Determining factors

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.

- Louise Truax, general editor, Connecticut Family Law Practice Guide (2018 edition).
  Chapter 8. Custody and Visitation
  § 8.08. Analyzing the Rebuttable Presumption of Parentage
  § 8.09. Analyzing the Rebuttable Presumption of Parental Custody
  § 8.10. Assessing the Rights of Third Parties to Seek Custody and Visitation

- 1 Alexander Lindey and Louis I. Parley, Lindey and Parley on Separation Agreements and Antenuptial Contracts 2d ed. (2017).
  Chapter 20. Child custody
  § 20.72. Criteria
  § 20.73. Custodial arrangements

- 3 Arnold H. Rutkin et al., Family Law & Practice (2017).
  Chapter 32. Child custody and visitation
  [by Linda Henry Elrod and Steven C. Windsor]
  § 32.01[2]. Historical Background

[a]. Paternal preference and rights of father
[b]. Maternal preference
[c]. Gender-neutral best interests
§ 32.06. Standards used to determine custody between parents
[2]. Statutory factors
[c]. joint custody
[5]. Application of Best Interest Standard

- 1 Thomas R. Young, Legal Rights of Children (3d ed. 2016-2017).
  Chapter 2. Child Custody
  § 2:17. Preference of natural parent(s) over others, generally
  § 2:18. -- Preference of natural parent (s) over grandparent(s)
  § 2:19. – Preference over nonbiological parents who utilized assisted reproduction technologies/surrogacy
  § 2:20. -- Preference of natural parent(s) over adult siblings or other relatives
  § 2:21. -- Preference for continuing custody in current custodial parent or primary care

- 2 Sandra Morgan Little, Child Custody and Visitation (2014).
  Chapter 10. Custody disputes between parents
  § 10.04. Relative rights of mothers and fathers; married parents
  § 10.05. Relative rights of mothers and fathers; nonmarital parents
  § 10.06. Standards for selecting the custodial parent

OLR REPORTS:

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.

- Mary M. Janicki, Child Custody, Office of Legislative Research Report No. 2011-R-0212 (May. 3, 2011).

Table 3: Survey of the States: Best Interest of the Child Standard

Statute and case citations	Rutkin, A., Family Law and Practice (M. Bender). § 32.06 "Standards used to determine custody." Footnote 2.
Statute and case citations	Alexander Lindey and Louis I. Parley, Lindey on Separation Agreements and Antenuptial Contracts, 2d ed. (2017). §20.71 "Best interests" Standard. Footnote 1.
Case citations	Donald T. Kramer, Legal Rights Of Children (Rev.2d ed. 2005). §2.04 Best interest of the child rule. Footnote 2, p. 41.
Statute and case citations	Susan A. Lentz, Cause of Action for Modification of Child Custody Based on Neglect of Child by Custodial Parent, 19 Causes of Action 143 §3, pp. 167-168 (1989).

Section 4: Parental Responsibility Plan

A Guide to Resources in the Law Library

SCOPE: Bibliographic sources relating to the parental responsibility plan.

DEFINITION:

- **Parental Responsibility Plan**: "In any proceeding before the Superior Court involving a dispute between the parents of a minor child with respect to the custody, care, education and upbringing of such child, the parents shall file with the court, at such time and in such form as provided by rule of court, a proposed parental responsibility plan that shall include, at a minimum, the following: (1) A schedule of the physical residence of the child during the year; (2) provisions allocating decision-making authority to one or both parents regarding the child's health, education and religious upbringing; (3) provisions for the resolution of future disputes between the parents, including, where appropriate, the involvement of a mental health professional or other parties to assist the parents in reaching a developmentally appropriate resolution to such disputes; (4) provisions for dealing with the parents' failure to honor their responsibilities under the plan; (5) provisions for dealing with the child's changing needs as the child grows and matures; and (6) provisions for minimizing the child's exposure to harmful parental conflict, encouraging the parents in appropriate circumstances to meet their responsibilities through agreements, and protecting the best interests of the child." Conn. Gen. Stats. § 46b-56a(d) (2017)

STATUTES:

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

- Conn. Gen. Stats. (2017)
  - Chapter 815j. Dissolution of marriage, legal separation and annulment
    - § 46b-56(a). ". . . Subject to the provisions of section 46b-56a, the court may assign parental responsibility for raising the child to the parents jointly, or may award custody to either parent or to a third party, according to its best judgment upon the facts of the case and subject to such conditions and limitations as it deems equitable. The court may also make any order granting the right of visitation of any child to a third party to the action, including, but not limited to, grandparents."
    - § 46b-56a. Joint custody. Definition. Presumption. Conciliation. Parental responsibility plan. Modification of orders.

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.

- Bock v. Bock, Superior Court, Judicial District of Stamford-Norwalk, No. FST FA 05 4005415 S (Aug.15, 2006). "The parties shall use their best efforts to enter into a written Parenting Responsibility Plan. Until such Parenting Responsibility Plan is entered as an order of the Court, the following are the Court orders: The parties shall have joint legal custody of the minor children. In the event of any disagreement between the parties as to the minor children, the wife shall have the final decision-making authority. The children

will reside primarily with the wife. The husband will have reasonable and flexible visitation and access to all the children."

- Brooks v. Brooks, Superior Court, Judicial District of New London, No. FA05-4002166S (Mar. 24, 2006). "The parties have entered into parental responsibility plan concerning the minor children. This agreement is approved by the court, found to be in the best interest of the children and is incorporated by reference in the court's decree."

Section 5: The Psychological Parent

A Guide to Resources in the Law Library

SCOPE: Bibliographic sources relating to the identification of a child's psychological parent.

DEFINITION:

- "While psychological parenting is thus one indicator of the best interest of a child, a court has an independent responsibility to assure itself of the suitability of the parent to whom the child is primarily attached." Seymour v. Seymour, 180 Conn. 705, 712, 433 A.2d 1005 (1980).

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.

- In re Jordan T., 119 Conn. App. 748, 760, 990 A.2d 346, 353 (2010). "…the respondent's argument relies on evidence in the record tending to show that Jordan misses the respondent and is sad to be separated from her. She also refers to the report of Mantell that Jordan has several psychological parents, with the respondent being the first, the maternal aunt as the second and the foster mother as the third, and argues that the fact that Jordan is more closely bonded to the respondent shows that termination of the respondent's parental rights is not in Jordan's best interest."

- In Re Brea B., 75 Conn. App. 466, 473, 816 A.2d 707 (2003). "The child experienced her great aunt, rather than her mother, as her psychological parent and expressed a clear preference to have no further contact with her mother.

  On the basis of the foregoing, we conclude that the court's finding that there was no ongoing parent-child relationship was not clearly erroneous."

- Azia v. Dilascia, 64 Conn. App. 540, 552-553, 780 A.2d 992 (2001). "The fact that the defendant had been the child's primary psychological parent and caretaker in the past was relevant but was not dispositive on the issue of physical custody. Our Supreme Court in *Blake v. Blake*, supra, 207 Conn. 224-25, specifically indicated that an evaluation of the past was not enough. Although the mother had been important in the past and the father had not been as involved in the child's life for her first several years, he had become very involved in her life at the time of trial. The child's own therapist acknowledged that both parties were psychological parents of the child. We conclude that the court properly applied the standard established in *Blake*."

- Temple v. Meyer, 208 Conn. 404, 410, 544 A.2d 629 (1988). "Even if the plaintiff had demonstrated that he had been . . . psychological parent, such a finding would not have demonstrated that visitation continued to be in the best interest of the child."

- Cappetta v. Cappetta, 196 Conn. 10, 490 A.2d 996 (1985).

- Seymour v. Seymour, 180 Conn. 705, 711-712, 433 A.2d 1005

(1980). ". . . the concept of the psychological parent is not a fixed star by which custody decisions can invariably be guided."

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.

- 8 Arnold H. Rutkin et al. Connecticut Practice Series. Family Law and Practice With Forms (3d ed. 2010).
  §42.29 The Psychological Parent
- 2 Family Law Practice in Connecticut (1995).
  Chapter 10. Child Custody and Visitation by Jeffrey D. Ginzberg
  § 10.28 Psychological Parent
- 1 Thomas R. Young, Legal Rights of Children (3d ed. 2016-2017).
  Chapter 2. Child Custody
  § 2:8. The "psychological parent" doctrine

LAW REVIEWS:

Public access to law review databases is available on-site at each of our law libraries.

- Martha F. Leonard and Sally Provence, *The Development Of Parent-Child Relationships And The Psychological Parent*, 53 Connecticut Bar Journal 320 (August 1979).

Table 4: Proof of Denial of Child Visitation Rights

Proof of Denial of Child Visitation Rights 2 POF2d 801 (1974)	
A. Elements of Proof	§ 5. Guide and checklists
B. Testimony of Noncustodial Parent (Situation 1)	§ 6. History of visitation and attempts to exercise rights
C. Testimony of Noncustodial Parent (Situation 2)	§ 7. Alienation of affection

Table 5: Proof of Justification of Denial of Visitation Rights

Proof of Justification of Denial of Visitation Rights 2 POF2d 808 (1974)	
A. Elements of proof	§ 8. Guide and checklist
B. Testimony of Custodial Parent	§ 9. Marital history and terms of decree § 10. Exercise of visitation by noncustodian § 11. Denial of visitation and justification
C. Testimony of Noncustodial Parent on Cross-Examination	§ 12. Motivation of noncustodian; reason for nonexercise of visitation rights
D. Testimony of Third Party with Knowledge of Situation	§ 13. Corroboration of custodian's testimony
E. Testimony of Police Officer Regarding Incident	§ 14. Expert testimony regarding noncustodian's behavior

Table 6: Proof as to Which Parent Should Be Awarded Custody of Child

Proof As To Which Parent Should Be Awarded Custody Of Child 34 POF2d 426 (1983)	
A. Elements of proof	§ 11. Guide and checklist
B. Illustrative Case in Which Father Seeks Custody of Children 1. Evidence Offered on Father's Behalf	
a. Testimony of Father	§ 12. Introduction; mother's departure with children § 13. Neighborhood environment § 14. Church attendance § 15. Witness' employment § 16. Provision for child care § 17. Mother's neglect of children § 18. Mother's poor housekeeping § 19. Mother's mental problems—Violent temper, other unusual behavior § 20. — Depression and suicidal tendencies § 21. Mother's alcoholism
b. Testimony of Police Officer	§ 22. Neighborhood environment
c. Testimony of Neighbor	§ 23. Mother's mental problems, alcoholism, and poor housekeeping
d. Testimony of child	§ 24. Child's wishes as to custody § 25. Mother's attempted alienation of affections
2. Evidence Offered on Mother's Behalf	
a. Testimony of Mother	§ 26. Introductions, relationship with husband and children § 27. Recognition of drinking problem § 28. Response to allegations as to poor housekeeping and child neglect

Proof As To Which Parent Should Be Awarded Custody Of Child 34 POF2d 426 (1983)	
3. Father's Cross-Examination of Court-Appointed Psychologist	§ 33 Possible inaccuracy of diagnosis of mother's condition—Fallibility of tests § 34 —Lack of reasonable justification for mother's behavior § 35 —Possibility of different diagnosis by different psychologist § 36 Poor prognosis for mother's recovery; re-evaluation of recommendation

Section 6: Wishes of the Child

A Guide to Resources in the Law Library

SCOPE: Bibliographic sources relating to the wishes of a child as a factor in determining the best interest of the child

STATUTES:

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

- Conn. Gen. Stat. (2017)
  § 46b-56(b). "In making or modifying any order as provided in subsection (a) of this section, the rights and responsibilities of both parents shall be considered and the court shall enter orders accordingly that serve the best interests of the child and provide the child with the active and consistent involvement of both parents commensurate with their abilities and interests. Such orders may include, but shall not be limited to: (1) Approval of a parental responsibility plan agreed to by the parents pursuant to section 46b-56a; (2) the award of joint parental responsibility of a minor child to both parents, which shall include (A) provisions for residential arrangements with each parent in accordance with the needs of the child and the parents, and (B) provisions for consultation between the parents and for the making of major decisions regarding the child's health, education and religious upbringing; (3) the award of sole custody to one parent with appropriate parenting time for the noncustodial parent where sole custody is in the best interests of the child; or (4) any other custody arrangements as the court may determine to be in the best interests of the child."

- See Table 1: Statutory Factors. 46b-56(c)(3)

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.

- Azia v. Dilascia, 64 Conn. App. 540, 546, 780 A.2d 992 (2001). "The defendant first claims that the court improperly failed to consider the child's desire to live with her mother. Specifically, the defendant argues that the court improperly discounted the child's preference without finding that the child was not of a sufficient age or was incapable of forming an intelligent preference. We disagree."

- Knock v. Knock, 224 Conn. 776, 788-789, 621 A.2d 267 (1993). "Section 46b-56(b) does not require that the trial court award custody to whomever the child wishes; it requires only that the court take the child's wishes into consideration."

- Faria v. Faria, 38 Conn. Supp. 37, 40, 456 A.2d 1205 (1982). "In this case it is concluded that the minor child, five years old at the time of the hearing, is not of sufficient age or capable of forming an intelligent preference."

- Gennarini v. Gennarini, 2 Conn. App. 132, 137, 477 A.2d 674 (1984). "First, whether the child's preferences and feelings as to custody and visitation are a significant factor in the court's ultimate determination of the best interest of the child will necessarily depend on all the facts of the particular case,

including the child's age and ability intelligently to form and express those preferences and feelings."

ENCYCLOPEDIAS:

24A Am. Jur 2d *Divorce & Separation* (2008).
§ 850. Child's preference between parents

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.

- 8 Arnold H. Rutkin et al. Connecticut Practice Series. Family Law and Practice With Forms (3d ed. 2010).
  § 42.31. Preference of the child
- 2 Family Law Practice in Connecticut (1995).
  Chapter 10. Child Custody and Visitation by Jeffrey D. Ginzberg
  §10.32. Child's preference
- 2 Sandra Morgan Little, Child Custody and Visitation (2014).
  Chapter 10. Custody disputes between parents.
  § 10.08. The Child's Wishes
  [1]. In general
  [2]. Consideration of the Child's Preference
  [3]. Factors Affecting the Weight Given a Child's Preference
  [4[. Procedures for Ascertaining the Child's Preference
- 1 Alexander Lindey and Louis I. Parley, Lindey and Parley on Separation Agreements and Antenuptial Contracts 2d ed. (2017).
  Chapter 20. Child Custody
  § 20.72[2][c]. Child's Preferences
- 1 Thomas R. Young, Legal Rights of Children (3d ed. 2016-2017).
  Chapter 2. Child Custody
  § 2.6. The child's custodial preference
  § 2.7. —Manner of eliciting the child's custodial preference

LAW REVIEWS:

Public access to law review databases is available on-site at each of our law libraries.

- Lloyd Cutsumpas, *Contested Custody In Connecticut*, 54 Connecticut Bar Journal 193-212 (1980).

Section 7: Parental Misconduct

A Guide to Resources in the Law Library

SCOPE: Bibliographic sources relating to a parental misconduct as a factor in determining the best interest of the child

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)
  § 46b-56. Orders re custody, care, education, visitation and support of children. Best interest of the child. Access to records of minor child by noncustodial parent. Orders re therapy, counseling and drug or alcohol screening.
- See Table 1: Statutory Factors. 46b-56(c)(6),(7),(14),(15)

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.

- Cappetta v. Cappetta, 196 Conn. 10, 17, 490 A.2d 996 (1985). "It may, however, be useful to add a cautionary note that this court has consistently rejected 'any presumption that a parent's lifestyle necessarily has an adverse effect on a child.'"
- Greenwood v. Greenwood, 191 Conn. 309, 313, 464 A.2d 771 (1983). "It is quite evident that the plaintiff is determined to frustrate completely any order which might be issued allowing her husband to visit the child. She has reciprocated in kind for her husband's previous kidnapping of their child and keeping him for two years in violation of the initial temporary custody order. She has held the child incommunicado from his father for a period which now exceeds three years. Although she communicated regularly with her attorney regarding the court proceeding until she learned of the visitation order which is the subject of this appeal, from that moment to the present time she has not contacted him. Since neither he nor any member of her family knows where she and the child live, the plaintiff has succeeded in insulating herself from legal process and it is virtually impossible even to communicate with her.
  We will not treat a litigant who displays such defiance to court authority with the deference generally accorded to other. This court has often dismissed appeals for contemptuous conduct of an appellant not necessarily related to the merits of the appeal."
- Hall v. Hall, 186 Conn. 118, 439 A.2d 447 (1982).
- Faria v. Faria, 38 Conn. Supp. 37, 456 A.2d 1205 (1982).
- Yontef v. Yontef, 185 Conn. 275, 283, 440 A.2d 899 (1981). "In the exercise of its awesome responsibility to find the most salutary custodial arrangement for the children of divorce, the court must however take account of the parents' past behavior, since it must evaluate their present and future parenting ability and the consistency of their parenting for the purpose of determining which parent will better foster the children's growth, development and well-

being."

- Adams v. Adams, 180 Conn. 498, 430 A.2d 19 (1980).
- Friedman v. Friedman, 180 Conn. 132, 439 A.2d 823 (1980).
- Seymour v. Seymour, 180 Conn. 705, 713, 433 A.2d 1005 (1980). "Once it is definitively established . . . that each parent is loving, caring and otherwise suitable, the court must perforce look to other factors to come to a decision about custody. The court was not in error in basing its award of custody to the mother on . . . her willingness to facilitate visitation by the father."

ENCYCLOPEDIAS:

- 24A Am. Jur 2d *Divorce & Separation* (2008).
  § 854. Effect of parent's misconduct

TEXTS & TREATISES:

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- 8 Arnold H. Rutkin et al. Connecticut Practice Series. Family Law and Practice With Forms (3d ed. 2010).
  § 42.37 Parental misconduct as to custody or visitation
  § 42.38 Other parental misconduct
- 3 Arnold H. Rutkin et al., Family Law & Practice (2017).
  Chapter 32. Child custody and visitation
  § 32.06[5][f]. Moral fitness
- 1 Alexander Lindey and Louis I. Parley, Lindey and Parley on Separation Agreements and Antenuptial Contracts 2d ed. (2017).
  Chapter 20. Child custody
  § 20.72[2][f]. Child Abuse and Neglect
  § 20.72[2][i]. Moral character
  [i]. In general
  [ii]. Adultery and promiscuity
  [iii]. Drugs and alcohol addiction
  [iv]. Sexual orientation