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2020 Edition

Property of Spouses in Connecticut

A Guide to Resources in the Law Library

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- [Equitable Distribution of Marital Property](#)
- [Premarital Agreements in Connecticut](#)
- [Return of Engagement Ring and Courtship Gifts](#)
- [Rights of Surviving Spouse](#)

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Introduction

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- **“A spouse shall not acquire by marriage any right to or interest in any property** held by the other spouse before or acquired after such marriage, except as to the share of the survivor in the property as provided by sections 45a-436 and 45a-437. Each spouse shall have power to make contracts with the other spouse or with third persons, to convey to the other spouse or to third persons his or her real and personal estate and to receive conveyances of real and personal estate from the other spouse or from third persons as if unmarried. Each spouse may bring suit in his or her own name upon contracts or for torts and he or she may be sued for a breach of contract or for a tort; and his or her property, except such property as is exempt by law, may be taken on attachment and execution, but shall not be taken for the debts of the other spouse, except as provided in section 46b-37. Neither spouse shall be liable for the debts of the other spouse **contracted before marriage, nor upon the other spouse’s contracts made after marriage, except as provided in said section.”** Conn. Gen. Stat. § [46b-36](#) (2019).

Section 1: Married Women's Act in Connecticut

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SCOPE:

Bibliographic sources relating to the history and effect of the **Married Women's Act of 1877 in Connecticut.**

DEFINITIONS:

- "An enhancement of the wife's legal status had been brought about by the enactment of the Married Women's Act in 1877. See Public Acts 1877, c. 114 (now General Statutes 46b-36). This legislation enabled a married woman to control her own property and to sue and be sued in the same manner as her husband." [Yale University School of Medicine v. Collier](#), 206 Conn. 31, 34, 536 A.2d 588 (1988).
- "We think that in enacting this law the State adopted a fundamental change of public policy . . . that in every marriage contracted since April 20th, 1877, husband and wife alike retain the capacity of owning, acquiring and disposing of property, which belongs to unmarried persons; that the power of contracting incident to such capacity, necessarily follows; and that the legal status of husband and wife involves the capacity to contract with each other and with others. Under the law of status which the act of 1877 abolished, the wife could not contract with her husband or any one else, because her legal identity and capacity of owning property attached to the husband, and for the same reason the husband could not contract with his wife." [Mathewson v. Mathewson](#), 79 Conn. 23, 35, 63 A. 285 (1906).

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. (2019).
[Chapter 815e](#). Marriage
§ [46b-36](#). Property rights of spouse not affected by marriage.
§ [46b-37](#). Joint duty of spouses to support family. Liability for purchases and certain expenses. Abandonment.

HISTORY:

- Public Act 1877, Chapter 114. [An Act in Alteration of the Act Concerning Domestic Relations](#).

CASES:

- [Jewish Home for the Aged v. Nuterangelo](#), Superior Court, Judicial District of New Haven at New Haven, No. CV040489608S (December 10, 2004) (38 Conn. L. Rptr. 408) (2004 Conn. Super. Lexis 3709) (2004 WL 3130225). "The problem with this count is that the common-law right of action known as the doctrine of necessities could only be asserted against husbands. [Yale University School of Medicine v. Scianna](#), 45 Conn. Sup. 84, 19 Conn. L. Rptr. 77 (1997). This was because, at

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.

common-law, a married woman had no property and therefore could make no contracts. *Id.*, at 1W. Blackstone, *Commentaries on the Laws of England* (1807) p. 442. Indeed, it was this gender bias in the common law that led to the **promulgation of the Married Women's Act of 1877**. Public Acts 1877, c. 114. This statute created a new cause of action making spouses liable for the cost of any article purchased by either that went to the support of the family. *Id.*, § 2. This statutory remedy was, however, independent of the common-law doctrine of necessities. *Buckingham v. Hurd*, 52 Conn. 404, 406 (1884). The point is that the common-law duty of support **applied only to husbands."**

- [Wendt v. Wendt](#), 59 Conn. App. 656, 687-688, 757 A.2d 1225, 1245 (2000). **"As the court in this case rightly stated: 'The plaintiff would have the decision in this case take its place along with the great events making changes in women's rights: the 1848 Seneca Falls [New York] Convention; the Married Women's Act of 1877 in Connecticut [Public Acts 1877, c. 114, now General Statutes § 46b-36]; the nineteenth amendment to the United States Constitution, ratified in Connecticut on September 14 and 20, 1920; and the ERA to the Connecticut constitution, adopted November 27, 1974. This historical progression, while compelling, does not warrant the results the plaintiff seeks. The plaintiff seeks, by judicial fiat, to declare unconstitutional, statutes in order to correct an economic disorder.' We agree with the court and conclude that the plaintiff has not successfully proven a violation of the ERA."**

ENCYCLOPEDIAS:

- 41 Am. Jur. 2d *Husband & Wife* (2015).
 - I. Introduction
 - Marital and Family Relationships
 - § 3. Statutory supersession of common-law status of married women
 - III. Property Rights and Interests
 - § 11. Right to hold property separately
 - § 20. **Prevalence today; effect of married women's acts**
- 41 C.J.S. *Husband and Wife* (2014).
 - II. Mutual Rights, Duties, and Liabilities of Spouses
 - § 4. Separate legal identities; effect of married **women's acts**
 - § 10. Right to own separate property
 - § 12. Rights of creditors in separate property of **debtor's spouse**
 - § 13. What constitutes separate property

**TEXTS &
TREATISES:**

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

- 7 Arnold H. Rutkin et al. *Connecticut Practice Series. Family Law and Practice with Forms* (3rd ed. 2010).
Chapter 7. Property Rights of Husband and Wife
§ 7.1. **Married Women’s Property Act**
- 5 Arnold H. Rutkin, *Family Law and Practice* (2019).
Chapter 62. Nondivorce Support and Property Rights
§ 62.01. Nondivorce Support and Property Rights
[2] Property Rights During Marriage
[b] **The “feme” sole estate and married women’s property acts**
[ii] **The Married Women’s Property Acts**

Section 2: Property Rights of Spouses

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SCOPE:

Bibliographic sources relating to the property rights of each spouse in an ongoing marriage.

SEE ALSO:

- Alimony Research Guide: [§ 1. Duty to Support Spouse](#)
- Child Support Research Guide: [§ 1. Duty to Support Children](#)

DEFINITIONS:

- “A spouse shall not acquire by marriage any right to or interest in any property held by the other spouse before or acquired after such marriage, except as to the share of the survivor in the property as provided by sections 45a-436 and 45a-437. Each spouse shall have power to make contracts with the other spouse or with third persons, to convey to the other spouse or to third persons his or her real and personal estate and to receive conveyances of real and personal estate from the other spouse or from third persons as if unmarried. Each spouse may bring suit in his or her own name upon contracts or for torts and he or she may be sued for a breach of contract or for a tort; and his or her property, except such property as is exempt by law, may be taken on attachment and execution, but shall not be taken for the debts of the other spouse, except as provided in section 46b-37. Neither spouse shall be liable for the debts of the other spouse contracted before marriage, nor upon the other **spouse’s contracts made** after marriage, except as **provided in said section.**” Conn. Gen. Stat. § [46b-36](#) (2019).
- “It is clear that the statute [Conn. Gen. Stats. § 46b-10, now § 46b-37] imposes a joint liability upon the husband and the wife regardless of which one of them made the contract for the services.” [Maislin v. Lawton](#), 30 Conn. Supp. 593, 594, 314 A.2d 783, 784 (1973).

STATUTES:

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

- Conn. Gen. Stat. (2019).
 - [Chapter 815e](#). Marriage
 - § [46b-36](#). Property rights of spouse not affected by marriage.
 - § [46b-37](#). Joint duty of spouses to support family. Liability for purchases and certain expenses. Abandonment.
 - [Chapter 802h](#). Protected Persons and Their Property
 - § [45a-631](#). **Limitation on receipt or use of minor’s** property by parent, guardian or spouse. Release.

REGULATIONS:

You can visit your local law library or browse the [Connecticut eRegulations System](#) on the Secretary of the State website to check if a regulation has been updated.

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.

- Conn. Agencies Regs. Department of Revenue Services. Title 12 – Taxation.
§ [12-702\(c\)\(1\)-2](#). Relief of spouse from Connecticut income tax liability on joint Connecticut income tax return.
- [Utzler v. Braca](#), 115 Conn. App. 261, 271, 972 A. 2d 743, 751 (2009). “The plaintiff has, however, cited no authority for the proposition that the law presumes that one spouse has been unjustly enriched by the other spouse’s misappropriation of a third person’s property. Indeed, enactment of chapter 114 of the Public Acts of 1877, p. 211 (now General Statutes § 46b-36) entitled ‘An Act in Alteration of the Act concerning Domestic Relations,’ but commonly called the Married Women’s Act, makes such an argument untenable.”
- [North v. North](#), 183 Conn. 35, 39-40, 438 A.2d 807, 810 (1981). “Although a party may have received property through inheritance, assigning such property to the other spouse does not violate § 46b-36.”
- [Botticello v. Stefanovicz](#), 177 Conn. 22, 27, 411 A.2d 16, 19 (1979). “Moreover, the fact that one spouse tends more to business matters than the other does not, absent other evidence of agreement or authorization, constitute the delegation of power as to an agent.”
- [Cherniack v. Home National Bank & Trust Co.](#), 151 Conn. 367, 370, 198 A.2d 58, 59 (1964). “It is important to bear in mind in this connection that under Connecticut law neither husband nor wife acquires, by virtue of the marriage, any interest in the real or personal property of the other during that other’s lifetime.”
- [Schaefer v. Schaefer](#), 9 Conn. Supp. 49, 61 (1941). “The broad claim of the defendant as regards all of the property is that there existed a verbal contract between him and his wife that there should be a partnership between him and that all property that came into the possession of either during their marriage should be the so-called community property of both and that each should own an undivided one-half interest therein. The evidence does not justify a finding that there was any such general express agreement between them.”
- [Wagner v. Mutual Life Insurance Co.](#), 88 Conn. 536, 542, 91 A. 1012, 1014 (1914). “From the finding it appears that Mrs. Wagner always retained the possession and control of, and collected the income from, her personal

property free from the domination and supervision of her husband; and that as to the proceeds of the securities sold and loaned him, and all other loans made, he agreed to repay the same with interest. It is also found that Mr. Wagner always treated the moneys loaned him by Mrs. Wagner, and all of her securities, as her sole and separate estate."

DIGESTS:

- ALR Digest: *Husband and Wife*

ENCYCLOPEDIAS:

- 41 Am. Jur. 2d. *Husband & Wife* (2015).
 - III. Property Rights and Interests
 - §§ 11-17. Separately held property
 - VI. Transactions Between Spouses
 - §§ 76-80. Transfers of separate property between spouses
 - §§ 138-140. Liability for debts of other spouse
- 41 C.J.S. *Husband and Wife* (2014).
 - II. Mutual Rights, Duties, and Liabilities of Spouses
 - §§ 10-59. Property
 - § 66. Duty of support, generally
 - § 72. Doctrine of necessities

TEXTS & TREATISES:

- 7 Arnold H. Rutkin et al. *Connecticut Practice Series. Family Law and Practice with Forms* (3rd ed. 2010).
 - Chapter 7. Property Rights of Husband and Wife
 - § 7.2 Property rights of married persons
 - § 7.3 Authority of spouses to act for each other
 - § 7.4 Property acquired during the marriage
 - § 7.5 Partition

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Table 1: Joint Duty of Spouses to Support Family

Joint Duty of Spouses to Support Family Conn. Gen. Stats. § 46b-37 (2019)	
Purchases by spouse	(a) Any purchase made by either a husband or wife in his or her own name shall be presumed, in the absence of notice to the contrary, to be made by him or her as an individual and he or she shall be liable for the purchase.
Necessities	(b) Notwithstanding the provisions of subsection (a) of this section, it shall be the joint duty of each spouse to support his or her family, and both shall be liable for: <ul style="list-style-type: none"> (1) The reasonable and necessary services of a physician or dentist; (2) hospital expenses rendered the husband or wife or minor child while residing in the family of his or her parents; (3) the rental of any dwelling unit actually occupied by the husband and wife as a residence and reasonably necessary to them for that purpose; and (4) any article purchased by either which has in fact gone to the support of the family, or for the joint benefit of both.
Abandoned spouse	(c) Notwithstanding the provisions of subsection (a) of this section, a spouse who abandons his or her spouse without cause shall be liable for the reasonable support of such other spouse while abandoned.
Separation	(d) No action may be maintained against either spouse under the provisions of this section, either during or after any period of separation from the other spouse, for any liability incurred by the other spouse during the separation, if, during the separation the spouse who is liable for support of the other spouse has provided the other spouse with reasonable support.
Abandonment without cause	(e) Abandonment without cause by a spouse shall be a defense to any liability pursuant to the provisions of subdivisions (1) to (4), inclusive, of subsection (b) of this section for expenses incurred by and for the benefit of such spouse. Nothing in this subsection shall affect the duty of a parent to support his or her minor child.
<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 contact your local law librarian to learn about the tools available to you to update cases.</p>	