

§ 46b-81. (Formerly Sec. 46-51). Assignment of property and transfer of title.

## **Connecticut Statutes**

### **Title 46B. FAMILY LAW**

#### **Chapter 815J. DISSOLUTION OF MARRIAGE, LEGAL SEPARATION AND ANNULMENT**

*Current through P.A. 1 of the 2014 Legislative Session*

#### **§ 46b-81. (Formerly Sec. 46-51). Assignment of property and transfer of title**

(a) 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.

(b) A conveyance made pursuant to the decree shall vest title in the purchaser, and shall bind all persons entitled to life estates and remainder interests in the same manner as a sale ordered by the court pursuant to the provisions of section 52-500 . When the decree is recorded on the land records in the town where the real property is situated, it shall effect the transfer of the title of such real property as if it were a deed of the party or parties.

(c) 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.

**Cite as Conn. Gen. Stat. § 46b-81**

#### **Source:**

**P.A. 73-373, S. 20; P.A. 75-331; P.A. 78-230, S. 36, 54; P.A. 13-0213, S. 2.**

**History.** P.A. 75-331 authorized court to pass title to real property to either party or a third person or to order sale of property and added provisions relating to transfer or sale of property; P.A. 78-230 divided section into Subsecs. and changed wording slightly; Sec. 46-51 transferred to Sec. 46b-81 in 1979 and references to other sections within provisions revised as necessary to reflect their transfer; P.A. 13-0213 amended Subsec. (a) by replacing "the husband or wife" with "spouse" and by making a technical change and amended Subsec. (c) by replacing "hearing the

witnesses, if any, of each party, except as provided in subsection (a) of section 46b-51" with "considering all the evidence presented by each party" and by adding "earning capacity" and "education" as factors considered by the court in fixing the nature and value of the property to be assigned.

#### **Case Notes:**

Annotations to former section 46-51:

Court has broad discretion in awarding alimony. 163 C. 345. Imposition of a duty of support pendente lite only on a husband not unconstitutional as a form of sex discrimination. 165 C. 190. Based on common law principle of husband's duty to support wife and on the legislature's concept of family relationships. Id. Sec. 46-21 is very broad and gives the court wide discretion. Id., 777, 784. Cited. 166 C. 380; 168 C. 579; Id., 619; 171 C. 23, 28; Id., 278; 172 C. 269; Id., 316; Id., 361; 173 C. 397. Court has authority to assign husband's interest in marital home to wife despite wife's failure to specifically claim such interest. 174 C. 1. Cited. Id., 361; Id., 602; 176 C. 222; 178 C. 212; 179 C. 213. Discussion of ante nuptial agreements relating to property rights upon dissolution of the marriage. 181 C. 482. Cited. 183 C. 433.

Alimony award after judgment invalid. 29 CS 507. Alimony for women only. 30 CS 111. Social custom of woman to change name upon marriage, recognized. Id., 385. Assignment of property. 33 CS 44, 46.

Annotations to present section:

Cited. 177 C. 465; 178 C. 308; Id., 377; 179 C. 174; Id., 568; Id., 622. Since the "estate" of the parties comprehends the aggregate of the property and liabilities of the parties, trial court did not abuse its discretion in assigning to defendant sole responsibility for the parties' joint liabilities. 180 C. 184. The fault of a party in causing a marital dissolution is material to the issue of an assignment of property. Id., 212. Portion of dissolution judgment which gave wife option to purchase husband's interest in jointly owned home was an assignment of property and not subject to modification. Id., 285. Court is not required to give equal weight to each of the specified items it considers when assigning property. Id., 528. Court improperly delegated its judicial power by directing the family relations division to divide parties' personal property in the event of their inability to do so. Id., 532. Assignment of property in a marital dissolution rests in the sound discretion of the court. Id., 533. Cited. Id., 705; 181 C. 492; Id., 622; 183 C. 35. Trial court's transfer of out-of-state realty discussed. Id., 490. Cited. Id., 512; 184 C. 406; 185 C. 141; Id., 156; Id., 275; Id., 491; 186 C. 167; Id., 191; Id., 211; Id., 709; 187 C. 70; Id., 249; 188 C. 232; Id., 385; Id., 736; 190 C. 173; Id., 491; Id., 657; Id., 813; 191 C. 468; 197 C. 1. Award to defendant of a share of plaintiff's expectancy cannot be sustained as a permissible transfer of property under statute; judgment of Appellate Court reversed. 204 C. 224. Cited. 207 C. 217; 211 C. 485; 213 C. 686; 214 C. 713; 218 C. 801; 220 C. 372; 221 C. 698; 222 C. 32; 224 C. 776; 226 C. 219. Order to pay mortgage installments and taxes was intended by trial court to constitute a division of property. Judgment of Appellate Court in 28 CA 854 reversed. 228 C. 85. Judgment of Appellate Court in 34 CA 930 reversed and case remanded to trial court to assign appropriate valuation to pension benefits and reconsider its financial orders. 234 C. 783. Court need not make explicit references to statutory criteria it considered in its decision resolving property and alimony disputes in a dissolution of marriage action; judgment of Appellate Court in 40 CA 178 reversed. 240 C. 79. Advanced degree (medical degree) is not property subject to distribution upon dissolution of marriage but is properly

classified as an expectancy rather than as presently existing property interest; definition of "property" discussed. 244 C. 158. Based on the evidence, unvested stock options were properly distributed as property under section. 245 C. 508. In accord with prior cases, in distributing property in dissolution proceeding, court must consider all statutory criteria, and no single criterion is preferred over others, but court has latitude to vary weight placed on each item. *Id.* Right to purchase contents of defendant's rented apartment was properly subject to distribution under section. *Id.* Date of dissolution of marriage is date on which to value the parties' assets in accordance with prior cases. *Id.* Plaintiff's personal injury award is a property interest subject to equitable distribution under statute. 247 C. 356. Unvested pension benefits are property subject to equitable distribution, which court may value on a case-by-case basis among the present value method, the present division method of deferred distribution, and any other valuation method that it deems appropriate in accordance with Connecticut law. 258 C. 733. Trial court did not abuse its discretion by including in the marital property estate the entire amount received by defendant in an employment case. 265 C. 669. For purposes of determining an equitable distribution of property, the court may consider evidence that a spouse dissipated marital assets prior to the couple's physical separation as long as the actions constituting dissipation occur either in contemplation of divorce or separation, or while the marriage is in serious jeopardy or is undergoing an irretrievable breakdown. 287 C. 491. The portion of defendant's state employment retirement benefit under Sec. 5-192p attributable to actual years of service is distributable, while the portion attributable to the additional amount received as a consequence of being disabled is not distributable. 292 C. 597.

Cited. 1 CA 158; *Id.*, 604; 2 CA 179; *Id.*, 425; *Id.*, 635; 3 CA 249; 4 CA 275; *Id.*, 575; *Id.*, 611; *Id.*, 663; 5 CA 198; 6 CA 143; *Id.*, 471; *Id.*, 632; 8 CA 356; 9 CA 240; *Id.*, 432; 11 CA 195; *Id.*, 369; *Id.*, 610; *Id.*, 653; 12 CA 525; 13 CA 185; *Id.*, 270; *Id.*, 300; *Id.*, 651; 14 CA 195; *Id.*, 296; *Id.*, 541; 15 CA 292; 16 CA 193; *Id.*, 412; *Id.*, 680; 17 CA 480; 18 CA 166; *Id.*, 333; *Id.*, 622; 19 CA 65; 20 CA 812; 22 CA 136; *Id.*, 248; *Id.*, 337; *Id.*, 392; *Id.*, 410; *Id.*, 806; 23 CA 330; 24 CA 509; 25 CA 41; *Id.*, 595; 26 CA 527; 27 CA 364; 28 CA 208; *Id.*, 854; judgment reversed, see 228 C. 85; 30 CA 292; *Id.*, 443; *Id.*, 560; 31 CA 736; 32 CA 152; *Id.*, 465; *Id.*, 537; 33 CA 214; *Id.*, 536; 34 CA 328; *Id.*, 641; *Id.*, 785; judgment reversed, see 235 C. 45; 36 CA 305; 37 CA 397; 39 CA 57; 40 CA 178; judgment reversed, see 240 C. 79; *Id.*, 533; *Id.*, 562; *Id.*, 697; 41 CA 716; *Id.*, 728; *Id.*, 861. In determining parties' relative contributions within meaning of statute, court should consider nonmonetary as well as monetary contributions; court not required to make explicit reference to statutory criteria considered in arriving at decision or to make express findings as to each statutory factor. 48 CA 732. Court has authority to order distribution of property even if neither party requested such order in its prayer for relief. 54 CA 304. Personal injury award in name of both spouses is a property interest within meaning of "property" under section. 57 CA 165. Section authorizes one party to assume joint liabilities of the parties. *Id.* Although court must consider all statutory criteria when determining appropriate property distribution, it need not give equal weight to or explicitly address each factor. 59 CA 167. Stock options taken as incentive for future services to be performed after final separation not a marital asset. *Id.*, 452. Reaffirmed previous holdings that date of separation may be significant in determining value of assets at date of dissolution. *Id.*, 656. No presumption under Connecticut Constitution Art. I, Sec. 20 that property be equally divided between the spouses. *Id.* Section provides court with jurisdiction to divide the parties' property. 60 CA 337. Court properly classified defendant's business and share bank accounts as "property". 61 CA 791. Court not required to assign a present value to defendant's pension before distributing it. 69 CA 472. Not error for court to award plaintiff a portion of defendant's retirement benefits. *Id.*, 482. Although court has jurisdiction to assign property in connection with section, that assignment is not modifiable. 70 CA 212. Court does not have continuing jurisdiction over property distributed at the time of dissolution. *Id.*, 772. Pension benefits subject to

equitable distribution. 74 CA 120. Assignment of property may only be made at the time of the marital dissolution and is not thereafter subject to modification as are periodic orders. 77 CA 9. Statute authorizes court to issue orders respecting marital property only at the time of dissolution; it does not authorize postjudgment orders for the division of marital property. 79 CA 812. Financial orders cannot be logically inconsistent with factual findings. 82 CA 378. Court did not abuse discretion by awarding plaintiff a portion of stock that vested in defendant after the date of separation. 83 CA 53. Trial court's order requiring sale of marital home and barring parties from purchasing the home was equitable and did not exceed court's statutory authority under section. 84 CA 495. Trial court's order allowing defendant up to fifteen years to pay plaintiff for his share of the marital residence was not abuse of discretion or violation of statutory considerations. 92 CA 678. Trial court properly determined plaintiff did not own the inventory in his antiques business. 102 CA 74. Court did not improperly rely on section in dividing the net partition proceeds. 108 CA 184. Nothing in section prohibits court from mending its erroneous personal property orders. 119 CA 120. Although the court has leeway in determining value of assets in a marital dissolution, a market value approach to valuation, nevertheless, necessarily requires an examination of marketability of the asset being appraised. 121 CA 659. It was within the court's authority to order defendant to repay loans and promissory notes made to plaintiff during course of their marriage and to award interest on any wrongfully withheld moneys. 123 CA 146. Court's second order altered the original property distribution from an award of the qualified domestic relations order to an award of a fixed sum to be paid out of the funds in the qualified domestic relations order as well as the sale of assets and constituted an improper postjudgment modification that exceeded court's powers under section. 125 CA 441. Nothing in section forbids a court from awarding periodic alimony to one spouse when the court has made an equitable distribution of the other spouse's closely held business. 129 CA 171.

Unliquidated personal injury action is subject to award under this section. 41 CS 115. Cited. 43 CS 400; 44 CS 431.

Subsec. (a):

Cited. 181 C. 248; 216 C. 673; 236 C. 582.

Cited. 3 CA 25; 17 CA 431; 18 CA 589; 39 CA 162; 46 CA 87. Principal payments defendant received on purchase money mortgage he held on real estate awarded to him pursuant to dissolution decree is merely an exchange of assets and may not be included in calculation of his income in postdissolution modification proceeding. 53 CA 378. Court rendering a dissolution judgment may order one party to assume joint liabilities of both parties. 57 CA 807. Court was within its discretion, as part of the overall equitable distribution of assets, to divide defendant's 401(k) equally between the parties even if part of it had accrued prior to the marriage. 97 CA 122. Trial court's award of marital residence and 100 per cent of equity in the residence to plaintiff wife did not constitute abuse of discretion where defendant husband was not ordered to pay alimony and retained his pensions free from any claim of plaintiff wife. 101 CA 106. Court does not have authority to modify division of property once the dissolution becomes final; court's subsequent modification of arbitrator's decision and award concerning transfer of property and court's order to defendant to pay a specific monetary amount rather than to transfer the actual stock and options that had been previously awarded to plaintiff was improper. 132 CA 291.

Subsec. (b):

Cited. 185 C. 180.

Ascribing a current value to the home, in combination with an order to sell the home, is neither absurd nor prohibited by section. 99 CA 145.

Subsec. (c):

Cited. 183 C. 96; 184 C. 36; Id., 513; 186 C. 311; Id., 709; Id., 773; 187 C. 142; Id., 144; 189 C. 570; 190 C. 126; 197 C. 1; 206 C. 150; 210 C. 170; 231 C. 168; 236 C. 582. Appellate Court's conclusion that trial court improperly relied on total length of parties' relationship in crafting its financial orders was supported by record; under this Subsec. and Sec. 46b-82(a) , a court shall consider length of parties' marriage, which does not include prior marriages or cohabitation preceding marriage. 280 C. 632. "Dissipation" is the antithesis of "preservation", and a party that dissipates assets detracts from the preservation of those assets, and a trial court has the authority to consider a spouse's dissipation of marital assets when determining the nature and value of property to be assigned to each respective spouse. 287 C. 491.

Cited. 2 CA 416; 3 CA 25; Id., 704; 4 CA 504; 5 CA 185; Id., 484; Id., 681; 7 CA 41; Id., 119; 12 CA 596.

"Contemplates nonmonetary as well as monetary contributions." 13 CA 300. Cited. 15 CA 318; 17 CA 431; 20 CA 145; 22 CA 310; 23 CA 111; Id., 287; 25 CA 693; 26 CA 386; Id., 720; 39 CA 162. Court must consider all statutory criteria but is free to accord whatever weight it determines appropriate to each statutory factor. 86 CA 665. Prior marriage and cohabitation between parties before their remarriage to each other are not to be included when calculating "length of the marriage" in remarriage divorce proceedings. 93 CA 618. Although court must consider all statutory criteria in dividing property in a dissolution action, it does not need to make an express finding as to each criterion. 97 CA 122. Defendant's annual bonus constituted an "amount and source of income" that court should have considered when determining division of marital property and awarding alimony and child support, and matter should be remanded for recalculation of all awards even though child support award was calculated correctly. 98 CA 706. There is no language of presumption in statute that marital property should be divided equally prior to applying statutory criteria. 99 CA 326.

In dissolution of marriage case, in which plaintiff wife sought greater share in distribution of \$25,840 in cash wedding gifts on basis that bride's side had more family and friends in attendance than groom's side, and where there was insufficient evidence of donor's intent, court adopted New York rule for classifying wedding gifts that where there is inadequate evidence of donor's intent, wedding gift is intended as a joint gift unless the gift is appropriate for the use of only one spouse or is earmarked for one particular spouse and because Connecticut is an all property state, money received at wedding is "marital property" within meaning of statute, regardless of the donor. 50 CS 11.

#### **Cross References:**

See Sec. 17b-743 re direction of payments under support order to Commissioner of Administrative Services or local welfare department.