Summary Dissolution: Is Connecticut's Current System as Effective as It Should Be?

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INTRODUCTION

How involved should the state be in the dissolution of a marriage? When a couple decides to marry, they take out a license and go through a ceremony of their choosing. Assuming age, consanguinity and other minor statutory requirements are satisfied, they are free to become husband and wife. At best, the state has only a minimal interest in whether or not they should marry. Absent a compelling state interest, why should it be any different for the dissolution of the marriage?

Two people voluntarily enter marriage through contract. Marriage is a free choice requiring no permission and fits seemingly into liberal democratic principles. We choose to surrender ourselves to this status. Other contracts that we freely enter into may be modified, restricted, enlarged, or entirely released upon the consent of the parties. This is not the case with marriage. Marriage is an institution of which the public is deeply interested in its purity. From a legal perspective, marriage has no peculiar sanctity; however, "as a social institution, a due regard for its consequences and for the orderly constitution of society has caused it to be regulated by laws in its conduct as in its dissolution."[1]

There was a time when divorce did not exist. As society evolved and couples had children and acquired assets, the need arose for some type of legal proceeding to sort out issues regarding the children and assets. This triggered society's interest in the marital relationship itself, believing that the courts should pass judgment on the viability of a marriage, as well as parenting and financial issues.

Once a couple decides to divorce, the State, through the judicial system, passes judgment on these individuals' actions. The courts evaluate the merits of the relation, i.e. resolving custody and visitation issues, and receive direction from pre-identified standards and criteria that are evolving every day in our statutory and common law.

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[1] DiLorenzo v. DiLorenzo, 67 N.E. 63, 64 (N.Y. 1903).

Some divorce cases are much more complex than others and require deep inquiry into the couple's affairs. However, individuals who have been married for a minimal amount of time with limited assets and no children should only have to follow minimal procedures to get divorced. These divorce cases can be done in a more efficient, private, and humane manner without changing the court's customary control over the subject of divorce. This process, for these select couples, would be deemed summary dissolution.

Summary dissolution is not an entirely new concept. California, Colorado, Minnesota, and Montana have statutes which provide for a quick and easy divorce procedure without a court hearing for couples married for less than five to eight years and with limited assets and debts.[2] If the parties qualify, they only need to prepare, file, and serve a small number of forms and wait a few months before the judgment is final.[3]

The benefits of the summary dissolution process include decreasing the amount of pro se litigation involved in the family courts, freeing up the dockets and providing a well-needed service to the public. Moreover, passing judgment on a marriage relationship in such modest situations holds no rationale. It is unheard of for a court to not grant a divorce in such circumstances, even in light of the State's expressed interest in the preservation of marriage. As such, it is time for the Connecticut legislature to consider changing the current process for these couples so that the courts can free up their dockets and have more time to spend on cases that require more of their attention and judgment.

This article will first discuss the historical view of marriage and how divorce and getting divorced has changed over the years. Part II will discuss the summary dissolution process and how other states have implemented similar processes. Part III will conclude with recommendations on why Connecticut's legislature should implement a summary dissolution process.

I. HISTORICAL VIEW OF MARRIAGE

Throughout history, most societies have needed a secure institution for the perpetuation of humankind, a system of rules to handle the granting of property rights and the protection of bloodlines. The institution of marriage handled these needs. Since the early 1900s, marriage has been recognized as the formal process by which the status of husband and wife is constituted.[4] Although the consent of the parties is an essential condition to the forming of this relation, once a marriage is entered, the

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[2] *See* discussion *infra* Part II.B.

[3] *Id.*

[4] Allen v. Allen, 46 A. 242, 242 (Conn. 1900).

relationship shifts from being contractually based to an actual status in society.[5] The married couple has essentially projected itself as a unit to the State. Although, marriage is, in essence, a contract, it has been viewed as the "basis of the family and the home and an institution upon which rests [a particular] way of life."[6]

Marriage is more than a simple relationship of two parties and goes beyond two people deciding to become unified as a legal entity. It is a "right of privacy older than the Bill of Rights, older than our political parties, older than our school system. . . . [I]t is an association for as noble a purpose as any involved in [a court's] decisions.[7] It is a status based relationship and an institution buttressed by a strong public policy that is subject to the control of the state legislature.[8] The legislative body not only decides the age at which parties may contract to marry, but identifies the procedure essential to form a marriage, the duties and obligations the marriage creates, its effects upon the property rights of both parties and what acts may constitute grounds for its dissolution.[9] As such, it has been said that there are three parties to every marriage: "the man, the woman, and the state."[10]

Neither the collusion nor the negligence of the parties can impair the state's interest in the marriage.[11] In fact, the state has always had a very vital interest in the maintenance of the marriage.[12]

For the good of all concerned, including society itself, there are certain circumstances under which two individuals should be released from their obligations. States have typically never favored divorce and generally only permit divorces to be granted when the parties would be happier apart and, as a result, better citizens.[13] Connecticut not only has an interest in the marriages of its citizens, it also has an interest in whether the judges of a competent court grant or deny divorce decrees.[14]

A. Divorce

Even though the dissolution of marriage has evolved over time, Connecticut has consistently remained involved in each couple's affairs through scrutinizing each individual in the dissolution process. Prior to no-fault divorce, families were viewed as interdependent units, as opposed to

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[5] *Id.*
[6] Casale v. Casale, 86 A.2d 568, 569 (Conn. 1952).
[7] Griswold v. Conn., 381 U.S. 479, 486 (1965).
[8] Maynard v. Hill, 125 U.S. 190, 205 (1888).
[9] *Id.*
[10] Fearon v. Treanor, 5 N.E.2d 815, 816 (N.Y. 1936).
[11] Allen v. Allen, 46 A. 242, 242 (Conn. 1900).
[12] Casale v. Casale, 86 A.2d 568, 569 (Conn. 1952).
[13] *See Allen*, 46 A. at 243.
[14] Silva v. Silva, 260 A.2d 408, 409 (Conn. Super. Ct. 1969).

a relationship of independent individuals.[15] Strong feelings for and against divorce varied between states and regions.[16] Those against divorce warned of the negative ramifications that divorce would bring, while those in favor of divorce were just as vocal and forceful.[17] States responded to these competing pressures by tightening and loosening their respective laws. Connecticut had a vague law until the 1870s that permitted dissolution on the basis of any act that "permanently destroy[ed] the happiness of the petitioner and defeat[ed] the purpose of the marriage relation."[18]

In most states, the only justifications for divorce were traditional fault grounds, such as adultery, abandonment, desertion, physical cruelty, and mental cruelty.[19] These traditional grounds coupled the determination of fault to the financial terms of the divorce.[20] Alimony and property were awarded to the innocent spouse as a judgment against the guilty spouse.[21] As such, states could essentially use property as a punishing tool against the blameworthy spouse.[22] If both parties were found to be at fault, the court could deny the divorce.[23]

During the 1950s and 1960s, the acceptance of divorce increased while divorce proceedings governed by concepts of fault and blame decreased.[24] The purpose of no-fault divorce was to free the legal process from outdated traditional models and to eliminate the need for grounds to obtain divorce.[25] No-fault divorces equalized the treatment of men and women by discounting any assumptions that husbands have a duty to support their wives.[26] The obligation of spousal support has since been deemed gender-neutral as a result of the women's movement.[27] Moreover, women's increased participation in the labor force has contributed to their ability to support themselves after divorce.[28] Currently, all states have some form of no-fault divorce available.[29]

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[15] Jane Biondi, Note, *Who Pays for Guilt?: Recent Fault-Based Divorce Reform Proposals, Cultural Stereotypes and Economic Consequences*, 40 B.C. L. REV. 611, 613 (1999).

[16] Joanna L. Grossman, *Fear and Loathing in Massachusetts: Same-Sex Marriage and Some Lessons from the History of Marriage and Divorce*, 14 B.U. PUB. INT. L.J. 87, 90 (2004).

[17] *Id.*

[18] *Id.* at 91 (quoting 3 GEORGE ELLIOTT HOWARD, HISTORY OF MATRIMONIAL INSTITUTIONS 13 (1904).

[19] Biondi, *supra* note 15, at 613.

[20] Alyson Finkelstein, *A Tug of War: State Divorce Courts Versus Federal Bankruptcy Courts Regarding Debts Resulting from Divorce*, 18 BANKR. DEV. J. 169, 172 (2001).

[21] *Id.*

[22] *Id.*

[23] Deborah H. Bell, *Family Law at the Turn of the Century*, 71 MISS. L.J. 781, 784 (2002).

[24] Biondi, *supra* note 15, at 613.

[25] *See id*. at 613-14.

[26] Finkelstein, *supra* note 20, at 172.

[27] *Id.*

[28] *Id.*

[29] S*ee* Biondi, *supra* note 15, at 614.

The no-fault divorce laws allow parties to assert that "irreconcilable differences have caused the irremediable breakdown of marriage."[30] On one hand, this has decreased the number of judicial barriers to divorce and now allows the parties involved to assess the viability of the marriage. As such, judges do not typically contest the viability of a marriage.[31] On the other hand, "it would be incorrect to assume that fault based divorce options no longer exist in the marriage dissolution process."[32] Most states, including Connecticut, retained their fault statutes when legislatures added no-fault statutes.[33] In fact, the moral behavior of the parties at issue may influence judges who adhere to particular definitions of gender behavior.[34] Therefore, although fault grounds are not the only way to obtain dissolution, they still loom as an alternative divorce procedure in many jurisdictions.[35]

When divorce is pursued, the State becomes a party to the proceedings, not necessarily to oppose, but to ensure that sufficient and lawful cause exists.[36] The State allows divorces because it believes its own prosperity will be promoted.[37] And, although states will likely never favor divorce,[38] the laws are currently much more lenient in the granting of a divorce. Overall, the courts have discretion in determining whether sufficient and lawful cause is shown and whether the legislature's prerequisite conditions are present.[39]

Divorce is not a guaranteed privilege, but rather each party is subject to restrictions imposed by the legislature. Essentially, no married person is vested with a legal right to divorce,[40] just as no person has a vested right to marry.

II. SUMMARY DISSOLUTION

Dissolving a marriage or civil union can be a costly process.[41] As divorce and its corresponding costs continue to rise, the number of people

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[30] Finkelstein, *supra* note 20, at 172.

[31] Biondi, *supra* note 15, at 614.

[32] *Id.*

[33] *Id. See also* CONN. GEN. STAT. § 46b-40(c) (2007) (listing no-fault and traditional fault claims as grounds for dissolution of a marriage).

[34] Biondi, *supra* note 15, at 614.

[35] *Id.* at 615.

[36] Allen v. Allen, 46 A. 242, 242 (Conn. 1900).

[37] *Id.* at 243.

[38] *Id.* at 242.

[39] *Id.* at 243.

[40] *Id.* at 242.

[41] Although not specifically addressed in this article, summary dissolution should apply to civil unions as well as marriages.

who represent themselves in family court also escalates.[42] A study by the American Judicature Society revealed the following:

> Over 95% of the respondents report that there has been an increase in pro se litigation in their courts in the last five years. Although the majority said that the increase is moderate, about twenty percent indicate that the increase has been dramatic. According to our respondents, family law matters have witnessed the greatest increase in pro se litigants and, with the creation of unified family courts, more individuals are seeking to resolve multi-issue disputes in child custody, support, and related domestic problems. We, therefore, see most of these local pro se programs originating in the 1990s with the majority after 1997. One hundred and six of the programs started after 1995. [43]

The increase of pro se litigation combined with the complexity of the law and the legal process tend to lead to problems with filling out the numerous requisite forms, drafting and filing the various court documents and addressing the problems in a legal context.[44] This obviously places a large burden on the public, which in turn places additional burdens on the judicial system.[45]

A. Connecticut's Divorce Procedure

Connecticut's dissolution process is governed by Connecticut General Statute § 46b-40 and provides:

> (a) A marriage is dissolved only by (1) the death of one of the parties or (2) a decree of annulment or dissolution of the marriage by a court of competent jurisdiction.
>
> (b) An annulment shall be granted if the marriage is void or voidable under the laws of this state or of the state in which the marriage was performed.

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[42] Amy C. Henderson, Comment, *Meaningful Access to the Courts?: Assessing Self-Represented Litigants' Ability to Obtain a Fair, Inexpensive Divorce in Missouri's Court System*, 72 UMKC L. REV. 571, 573 (2003).

[43] BETH LYNCH MURRAY, AM. JUDICATURE SOC'Y., RESULTS OF A NATIONAL SURVEY OF PRO SE ASSISTANCE PROGRAMS: A PRELIMINARY REPORT (2000), *available at* http://www.ajs.org/prose/pro_murphy.asp.

[44] Henderson, *supra* note 42, at 575-76.

[45] *Id.* at 576.

> (c) A decree of dissolution of a marriage or a decree of legal separation shall be granted upon a finding that one of the following causes has occurred: (1) The marriage has broken down irretrievably; (2) the parties have lived apart by reason of incompatibility for a continuous period of at least the eighteen months immediately prior to the service of the complaint and that there is no reasonable prospect that they will be reconciled; (3) adultery; (4) fraudulent contract; (5) willful desertion for one year with total neglect of duty; (6) seven years' absence, during all of which period the absent party has not been heard from; (7) habitual intemperance; (8) intolerable cruelty; (9) sentence to imprisonment for life or the commission of any infamous crime involving a violation of conjugal duty and punishable by imprisonment for a period in excess of one year; (10) legal confinement in a hospital or hospitals or other similar institution or institutions, because of mental illness, for at least an accumulated period totaling five years within the period of six years next preceding the date of the complaint.
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> (d) In an action for dissolution of a marriage or a legal separation on the ground of habitual intemperance, it shall be sufficient if the cause of action is proved to have existed until the time of the separation of the parties.
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> (e) In an action for dissolution of a marriage or a legal separation on the ground of willful desertion for one year, with total neglect of duty, the furnishing of financial support shall not disprove total neglect of duty, in the absence of other evidence.
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> (f) For purposes of this section, "adultery" means voluntary sexual intercourse between a married person and a person other than such person's spouse.[46]

After a complaint has been filed and the 90-day mandatory waiting period has passed, the divorce case appears on a case management calendar. The parties must appear on that specific date and present a statistical form called the dissolution of marriage report, financial

[46] CONN. GEN. STAT. § 46b-40 (2007).

affidavits, and a written agreement. The parties must then wait for their case to be called (they could be there the better part of a day) when they are ushered in front of a judge. They are given an oath and take the witness stand. The jurist then reviews the papers to ensure that they are in order and then proceeds to ask numerous routine questions, i.e. name, residence, date of marriage, verification of the agreement, etc. The key question is: "Has your marriage broken down irretrievably without any prospect of reconciliation?" If the answer is yes, the judge then makes a finding that the court has jurisdiction, that the allegations of the complaint are proven and true, and dissolves the marriage.

B. States That Have Enacted Summary Dissolution Statutes

California, Colorado, Minnesota and Montana are four states that allow married couples who meet specific criteria to get divorced through simplified dissolution procedures.

1. California

California values a simple and modified divorce system for married parties who meet certain criteria. California's statute regarding summary dissolution states:

> (a) A marriage may be dissolved by the summary dissolution procedure provided in this chapter if all of the following conditions exist at the time the proceeding is commenced:
>
> (1) Either party has met the jurisdictional requirements . . . with regard to dissolution of marriage.
>
> (2) Irreconcilable differences have caused the irremediable breakdown of the marriage and the marriage should be dissolved.
>
> (3) There are no children of the relationship of the parties born before or during the marriage or adopted by the parties during the marriage, and the wife, to her knowledge, is not pregnant.
>
> (4) The marriage is not more than five years in duration at the time the petition is filed.
>
> (5) Neither party has any interest in real property wherever situated, with the exception of the lease of a residence

occupied by either party which satisfies the following requirements:

(A) The lease does not include an option to purchase.

(B) The lease terminates within one year from the date of the filing of the petition.

(6) There are no unpaid obligations in excess of four thousand dollars ($4,000) incurred by either or both of the parties after the date of their marriage, excluding the amount of any unpaid obligation with respect to an automobile.

(7) The total fair market value of community property assets, excluding all encumbrances and automobiles, including any deferred compensation or retirement plan, is less than twenty-five thousand dollars ($25,000), and neither party has separate property assets, excluding all encumbrances and automobiles, in excess of twenty-five thousand dollars ($25,000).

(8) The parties have executed an agreement setting forth the division of assets and the assumption of liabilities of the community, and have executed any documents, title certificates, bills of sale, or other evidence of transfer necessary to effectuate the agreement.

(9) The parties waive any rights to spousal support.

(10) The parties, upon entry of the judgment of dissolution of marriage . . . irrevocably waive their respective rights to appeal and their rights to move for a new trial.

(11) The parties have read and understand the summary dissolution brochure . . . .

(12) The parties desire that the court dissolve the marriage.

(b) On January 1, 1985, and on January 1 of each odd-numbered year thereafter, the amounts in paragraph (6) of subdivision (a) shall be adjusted to reflect any change in the value of the dollar. On January 1, 1993, and on January 1 of each odd-numbered year thereafter, the amounts in

> paragraph (7) of subdivision (a) shall be adjusted to reflect any change in the value of the dollar. The adjustments shall be made by multiplying the base amounts by the percentage change in the California Consumer Price Index as compiled by the Department of Industrial Relations, with the result rounded to the nearest thousand dollars. The Judicial Council shall compute and publish the amounts.[47]

2. Colorado

Colorado's summary dissolution procedures involve the use of an affidavit as the mechanism for dissolution. The statute provides:

> (1) Final orders in a proceeding for dissolution of marriage may be entered upon the affidavit of either or both parties when:
>
> (a) There are no minor children of the husband and wife and the wife is not pregnant or the husband and wife are both represented by counsel and have entered into a separation agreement that provides for the allocation of parental responsibilities concerning the children of the marriage and setting out the amount of child support to be provided by the husband or wife or both; and
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> (b) The adverse party is served in the manner provided by the Colorado rules of civil procedure; and
>
> (c) There is no genuine issue as to any material fact; and
>
> (d) There is no marital property to be divided or the parties have entered into an agreement for the division of their marital property.
>
> (2) If one party desires to submit the matter for entry of final orders upon an affidavit, the submitting party shall file his affidavit setting forth sworn testimony showing the court's jurisdiction and factual averments supporting the relief requested in the proceeding together with a copy of the proposed decree, a copy of any separation agreement proposed for adoption by the court, and any other

[47] CAL. FAM. CODE § 2400 (West 2006).

> supporting evidence. The filing of such affidavit shall not be deemed to shorten any statutory waiting period required for entry of a decree of dissolution.
>
> (3) The court shall not be bound to enter a decree upon the affidavits of either or both parties, but the court may, upon its own motion, require that a formal hearing be held to determine any or all issues presented by the pleadings.[48]

3. Minnesota

Minnesota's summary dissolution laws mirror California and Colorado's process. The statute provides that a couple may dissolve their marriage by using a streamlined procedure if:

> (1) no living minor children have been born to or adopted by the parties before or the marriage, unless someone other than the husband has been adjudicated the father;
>
> (2) the wife is not pregnant;
>
> (3) they have been married fewer than eight years as of the date they file their joint declaration;
>
> (4) neither party owns any real estate;
>
> (5) there are no unpaid debts in excess of $ 8,000 incurred by either or both of the parties during the marriage, excluding encumbrances on automobiles;
>
> (6) the total fair market value of the marital assets does not exceed $ 25,000, including net equity on automobiles;
>
> (7) neither party has nonmarital assets in excess of $ 25,000; and
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> (8) neither party has been a victim of domestic abuse by the other.[49]

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[48] COLO. REV. STAT. § 14-10-120.3 (2006).
[49] MINN. STAT. ANN. § 518.195(1) (West 2005).

A couple qualifying under all of these criteria may obtain a divorce decree easily by filing a sworn joint declaration with the signature of both parties notarized and viewing educational videotapes regarding the summary process within 30 days after the filing of the joint declaration.[50]

4. Montana

Montana's summary dissolution laws are even more lenient than California, Colorado and Minnesota by allowing couples with children to get divorced through a summary judgment procedure as long as they have a parental plan outlining custody issues, etc. Prior to the recent revision to the summary dissolution statute, the parties could not engage in this procedure if there were either children from the marriage, or if the wife was pregnant.[51] Currently, parties with children can take advantage of a summary dissolution proceeding if they present to the court an agreed-upon parenting plan that outlines a child support and medical support order that has been determined by a judicial or administrative order for all children in the relationship.[52] The far-reaching result will be that more individuals should be able to quickly dispense with their dissolution proceedings where there is really no dispute between the parties.[53]

Montana's statute states that a marriage may be dissolved by the summary dissolution procedure specified in 40-4-130 through 40-4-136 if all of the following conditions exist on the date the proceeding is commenced:

> (1) Each party has met the requirements of 40-4-104 with regard to dissolution of marriage.
>
> (2) Irreconcilable differences have caused the irretrievable breakdown of the marriage, and both parties agree that the marriage should be dissolved.
>
> (3) The wife is not pregnant and:
>
> (a) there are no children from the relationship born before or during the marriage or adopted by the parties during the marriage; or

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[50] *Id.* § 518.195(2).

[51] P. Mars Scott, *Developments in the Law: Significant Changes in Family Law*, MONT. LAW., Nov. 1999, at 15, 16.

[52] *Id.*

[53] *Id.*

(b) the parties have executed an agreed-upon parenting plan and the child support and medical support have been determined by judicial or administrative order for all children from the relationship born before or during the marriage or adopted by the parties during the marriage.

(4)(a) Except as provided in subsection (4)(b), neither party has any interest in real property.

(b) The limitation of subsection (4)(a) does not apply to the lease of a residence occupied by either party if the lease does not include an option to purchase and if it terminates within 1 year from the date of the filing of the petition.

(5) There are no unpaid, unsecured obligations in excess of $ 8,000 incurred by either or both of the parties after the date of their marriage.

(6) The total fair market value of assets, excluding secured obligations, is less than $ 25,000.

(7) The parties have executed an agreement setting forth the division of assets and the assumption of liabilities and have executed any documents, title certificates, bills of sale, or other evidence of transfer necessary to effectuate the agreement.

(8) The parties waive any right to maintenance.

(9) The parties, upon entry of final judgment of dissolution of marriage, irrevocably waive their respective rights to appeal the terms of the dissolution and their rights to move for a new trial on the dissolution.

(10) The parties have read and state that they understand the contents of the summary dissolution brochure provided for in 40-4-136.

(11) The parties desire that the court dissolve the marriage.[54]

[54] MONT. CODE ANN. § 40-4-130 (2006).

C. Proposed Summary Dissolution Pamphlet

The following is an example of information that all couples would review prior to entering the summary dissolution procedure.[55]

1. What is Summary Dissolution?

A summary dissolution proceeding essentially ends a marriage or civil union more quickly and simply than through the regular dissolution procedure. In a regular dissolution proceeding, the husband or wife can ask for a court hearing or trial. And, if either spouse is unhappy with the judge's final decision, it is possible to challenge that decision. This can be done through an appeal to the Appellate Court. With a summary dissolution, there is no trial or hearing. Couples who choose this method of dissolving their marriage or civil union do not have the right to ask for a new trial (since there is no trial) or the right to appeal the case to a higher court.

Summary dissolution is only available for couples who meet specific legal requirements and who have no disagreements about how their belongings and debts are going to be divided after dissolution.

2. Legal Requirements

All of the following must be satisfied in order to utilize a summary dissolution proceeding:

(1) Both individuals have lived in Connecticut for at least one year before the court formally ends the marriage (final judgment);
(2) The relationship has reached the point that reconciliation is not reasonable and both agree this is true;
(3) There are no children from the relationship whether born or adopted during the relationship and the woman, if applicable, is not pregnant;
(4) Neither individual owns any real property;
(5) Total debts do not exceed $7,500, incurred by either during the marriage or civil union;
(6) The total fair market value of any property or assets belonging to both individuals is less than $25,000;
(7) Both individuals have signed an agreement agreeing to the division of property and who will be responsible for any bills or obligations;

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[55] These questions are modeled after OFFICE OF ATT'Y GEN., STATE OF MONT., SUMMARY DISSOLUTION OF MARRIAGE (WITHOUT CHILDREN), http://www.montanabar.org/groups/childandfamilysection/DissolutionSummary.pdf; and JUDICIAL COUNCIL OF CAL., SUMMARY DISSOLUTION INFORMATION, http://www.courtinfo.ca.gov/forms/documents/fl810.pdf.

(8) Signed documents, title certificates, bills of sale, or other evidence of transfer or agreement should be presented to the court at the time of the hearing to confirm the division and responsibilities;
(9) Neither individual is entitled to financial support from the other;
(10) Both individuals must give up their right to appeal the terms of the dissolution and their right to move for a new trial once the marriage is formally dissolved by the court;
(11) Both individuals understand that they are giving up certain legal rights that they would have obtained if they engaged in the regular dissolution procedure;
(12) Both individuals have read and state that they understand the foregoing.
(13) Both individuals must indicate that they want the marriage or civil union dissolved.

3. How is the Process Started?

The process is started by filing a joint petition signed by both individuals under oath. The petition should include the following information:

(1) A statement that all of the required conditions have been satisfied;
(2) The mailing address of each party;
(3) Whether the woman wishes to have her maiden or former name restored and, if so, the name to be restored; and
(4) The age, occupation and residence of each party and length of residence, date of marriage or civil union, and the place at which it was registered.

4. How Long Before the Marriage/Civil Union is Dissolved?

There is a 90-day waiting period and either person can stop the divorce at any time during this period. That said, after the dissolution becomes final, neither person has a right to expect money or support from the other. The marriage or civil union will be completely ended, after the waiting period, if one of the individuals files with the superior court clerk a [*Request for Judgment, Judgment of Dissolution of Marriage, and Notice of Entry of Judgment*] (whichever forms are applicable).

5. How Much Does it Cost?

The usual court costs are $225.00 for filing a petition for dissolution, and a $25.00 fee for a certified copy of the final judgment if one is desired. The judge can excuse either individual from paying these court costs if their income is very low or if an affidavit is filed showing inability to pay the costs. The affidavit may be obtained from the clerk's office.

6. Can an Agreement Made Under Summary Dissolution Be Challenged?

A dissolution agreement can be challenged if either individual can show fraud, mistake, or undue influence in signing.

III. RECOMMENDATIONS

The state of Connecticut has only a minimal interest in whether two consenting adults decide to enter marriage or a civil union and it does not get involved when they are making this decision.[56] Absent a compelling state interest, it should be no different for couples with no children, minimal assets, and a marriage or civil union of short duration that both parties want to dissolve.

The Connecticut legislature needs to consider the practical effects of summary dissolution in modest, childless divorce cases. This simplified process would free up judges to devote meaningful time to cases requiring more of their attention and scrutiny and would remove the routine, no problem cases requiring no judicial scrutiny from the docket.

Summary dissolution is a sensible way for these couples to terminate their legal relationship. There are many scenarios where one could imagine that the court would not have much discretion in granting a divorce. A typical one would be where a couple marries, one year later they separate, and both want a divorce. They have no children, no assets other than each own a car and have a small bank account, and the only relief the parties want is a divorce and a restoration of the wife's birth name. Why should these types of cases have to come before a judge where it is unheard of for the judge to refuse to grant the dissolution? These cases could easily be included in a summary dissolution process.

The benefits of a summary dissolution process would serve the Connecticut judicial system and the public by allowing parties that satisfy pre-identified criteria to engage in the process on their own, at the courthouse and in front of a court officer. Summary dissolution is essentially a quick and easy way to dissolve a marriage or civil union for couples who are educated to the process, because there is no need for a

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[56] With respect to marriage, this is assuming the man is not marrying his mother, grandmother, daughter, granddaughter, sister, aunt, niece, stepmother or stepdaughter, and the woman is not marrying her father, grandfather, son, grandson, brother, uncle, nephew, stepfather or stepson. Any marriage within these degrees is void. CONN. GEN. STAT. § 46b-21 (2005). With respect to civil unions, this is assuming the man is not entering into a civil union with his father, grandfather, son, grandson, brother, brother's son, sister's son, father's brother or mother's brother, and a woman is not entering into a civil union with her mother, grandmother, daughter, granddaughter, sister, brother's daughter, sister's daughter, father's sister or mother's sister. Any civil union within these degrees is void. CONN. GEN. STAT. § 46b-38cc (2006).

trial or hearing. The summary dissolution pamphlet would serve as the educational tool to inform couples of their options and the summary dissolution procedure. And, even though the couples would not appear before a judge and be subject to his or her scrutiny, the judicial system would still be involved in the process. The summary dissolution proceeding only eliminates the judgment of a jurist. In effect, it allows for a private ordering of marital affairs upon dissolution, but only for these modest cases.