

What We Know

ARTICLES & INSIGHTS

ABOUT THE AUTHOR



[John Narron](#) is a Board Certified Family Law Specialist and has been practicing law in North Carolina since 1977, with a practice concentration in all manner of civil disputes that frequently involve complex equitable distribution proceedings, alimony trials, will caveats, employment disputes, personal injury trials and negotiations, and a wide variety of commercial business disputes. John has served as a mediator in more than 200 family law disputes in Wake County, Franklin County, Johnston County, Wayne County, Guilford County, Forsyth County, and Pender County.

Can I date after I'm separated but before I'm divorced?

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This is a question I am frequently asked; and although the technically correct answer is "yes," my advice is usually "NO!" Such advice, however, bears further clarification of context, as follows.

Absolutely nothing is stated in the law to prevent someone who is separated from dating whomever they please. Dating while separated is not a criminal act. A more educated answer (and the careful answer) to this dating question depends on the facts, as outlined in the various fact patterns below.

1. If you have children and are planning to expose the children to someone you intend to date, you should be sure this person has the character and moral qualities of someone you are willing to have around your children. If this person's character and moral qualities are in question, the other parent of your children could use your involvement with this person as a reason to try to change the custody arrangement.
2. If you have been accused of having an illicit sexual relationship with this person you plan to date **before** you are separated, then obviously your involvement with this person after you are separated can be used as evidence of a relationship with him or her before the separation.
3. If you are in a hotly contested negotiation or litigation with your separated spouse over custody, child support, alimony, or property division, and you have not been separated very long (say, less than 6 months), then it is usually a mistake to begin a dating relationship with another person. An outside dating relationship can change the emotional dynamics of those negotiations and frequently makes those negotiations significantly more difficult.
4. If you met someone for absolutely the first time after you separated from your spouse and you desire to begin a relationship with him or her, it is usually acceptable to do so, but remember what I said in number 3 above.
5. If your separated spouse already has a dating relationship and you desire to enter into a new dating relationship (especially with someone you had no prior relationship with) then it is almost always acceptable for you to do so.

If the dating relationship under any of these scenarios (even the one where you met the

person after you separated) becomes an intimate sexual relationship, and you are only separated but not divorced, then under North Carolina law your new dating interest can be sued by your spouse for [criminal conversation](#). Under the common law of criminal conversation, the mere act of having sexual relations with a married person (even if that person is separated) constitutes an act of criminal conversation under the civil law.

In at least one case in which I represented a client, an individual met a former spouse for the very first time after she separated. They began a dating and later had a sexual relationship. In retaliation and in connection with some other litigation that was going on, this spouse's former husband filed a criminal conversation and [alienation of affections](#) civil action against this individual. While the alienation of affections claim was eventually dismissed, the judge ruled that criminal conversation would still be subject to a trial by a jury, despite the fact that this individual met this woman for the first time after she was separated.

If you are being represented by an attorney in an ongoing domestic matter and are considering entering into a dating relationship before you are divorced, you should discuss all of the ramifications of that decision with your attorney before you follow through with your plans.

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