

# 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 am 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.

Absolutely nothing is stated in North Carolina 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 scenarios below.

### Scenario One

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.

### Scenario Two

If at any time before your [separation](#), you were accused of having an illicit sexual relationship with this person you plan to date, then obviously your involvement with this person after your separation could possibly be used as evidence of such a relationship having existed prior to the separation.

### Scenario Three

If you are engaged in a hotly contested negotiation or litigation with your separated spouse over child custody, child support, [alimony](#), or property division, and you have only been separated say, less than six months, then it is not in your best interests to begin a dating relationship with another person. An outside dating relationship can affect the emotional dynamics of those negotiations and frequently makes the process significantly more difficult.

### Scenario Four

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 scenario three.

### **Scenario Five**

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.

### **Word of Caution**

If the dating relationship under any of these scenarios becomes an intimate sexual relationship, and you are suspected of having been involved with that person before you separated, then your post separation sexual relations could be used as evidence in an *alienation of affections* case or *criminal conversation* case. The Plaintiff in such a case would be your former spouse suing your new romantic interest. He/she would try to make the claim that you were involved with this new romantic interest before you were separated, and he/she would offer your post separation conduct as corroborative evidence to the claim that the relationship predated the separation.

In 2009, our legislature enacted a statute that put to rest a problem that had existed in *alienation of affections* and *criminal conversation* cases. Prior to this statute, if a person engaged in sexual relations with a married person, even if the married person was separated from his or her spouse, the mere act of having sexual relations with a married (but separated) person constituted *criminal conversation*. Now by NC statute, any act involving sexual relations with a person who is married, but separated from his or her spouse with the intention that the separation be made permanent, shall not constitute *criminal conversation*.

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.

*If you have any questions or would like more information about this topic, please feel free to contact me at [jnarron@smithdebnamlaw.com](mailto:jnarron@smithdebnamlaw.com) or by calling my direct line at 919.250.2170.*

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