



Annulment

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Annulment Law

How Is Annulment Different From Divorce?

An annulment is a legal decree that declares a marriage invalid from its inception, effectively undoing the marriage. In the eyes of the law, it is as if the marriage never existed. In contrast, a divorce terminates a valid marriage, recognizing that the marriage did exist but is now ending.

When Is Annulment Available?

Annulments are typically available under the following circumstances:

- **Consanguinity:** You and your spouse are close biological relatives and should not have qualified for marriage under the law. The exact limits of the relationship that qualify a couple for annulment vary between jurisdictions.
- **Mental Incapacity:** One of the spouses did not have the mental capacity to enter into a marriage contract, whether temporarily or permanently.
- **Underage Marriage:** One of the spouses was below the legal age to consent to marriage
- **Duress:** You or your spouse entered into the marriage as a result of threat, force, or duress.
- **Fraud:** You or your spouse were fraudulently induced into entering the marriage. Fraud may include the concealment of an important fact, such as permanent impotence or sterility, a criminal history, or infection with a sexually transmitted disease.
- **Bigamy:** Your spouse was married to another living person at the time of the marriage.

Important Facts about Annulments

- **Length of Marriage:** The duration of the marriage is not a factor in determining whether an annulment is available.
- **Fraud or Deception:** For annulment based on fraud or deception, it may be necessary for the spouse seeking the annulment to end the relationship as husband and wife upon learning of the deception. If cohabitation continues once the innocent spouse knows of the fraud, many jurisdictions will consider that the spouses resolved the issue between themselves, rendering the fraud a non-issue.
- **Children:** Most jurisdictions are reluctant to grant annulments once a married couple has had children.
- **Marital Estate and Spousal Support:** An annulment may limit your ability to share in the marital estate or to obtain spousal support (alimony), which would otherwise result from a divorce.

Texas Annulment Law

Under Texas annulment laws, the following are the voidable grounds under which you can file for annulment:

- **Consanguinity:** The term consanguinity means ‘related by blood’. You may file for annulment if you are related to the other party either as an ancestor or descendant, by blood or adoption, or you are brother, sister, aunt, uncle, son, or daughter.
- **Existence of Prior Marriage:** You may file for an annulment if your partner had an existing marriage that has not been dissolved by legal action or death of the other spouse.
- **Marriage under the Age of 18:** If you get married under the age of 18 without a court order of emancipation, your parents can claim an annulment (and, sometimes, even a friend). However, once you reach the age of 18 and continue living with the person, this is no longer a grounds for annulment.
- **Under Influence of Alcohol or Drugs:** If you got married under the influence of drugs or alcohol and as long as you have not voluntarily cohabited with the other party to the marriage, you can file for annulment.
- **Impotency:** If your spouse was unable to consummate the marriage for physical or mental reasons, or was permanently impotent at the time of the marriage, and you did not know of the impotency at the time of the marriage and you have not voluntarily cohabited with the other party after learning of the impotency, you may file for an annulment.
- **Fraud & Duress:** Duress is when someone forces or threatens you to get married to him/her. Fraud is anything done by misrepresentation or by cheating someone. Additionally, you must not have voluntarily cohabited with the other party after learning of the fraud or have been released from the duress or force.
- **Mental Incapacity:** If your spouse had a pre-marriage mental illness which was concealed from you, you can file for annulment if you do not want to continue with the relationship.
- **Concealed Divorce:** You may file for an annulment if the other party divorced a third party within 30 days of your marriage and at the time of marriage you did not know or could not of known of the divorce and after discovering the fact you have not voluntarily cohabited with the other party.

You can file for an annulment in Texas if either you or your spouse live in Texas, or the marriage took place in Texas. Unlike a divorce, there is no waiting period before an annulment may be granted.

NOTE: This guide is intended for general informational purposes only and does not constitute legal advice. It is advisable to periodically verify this information and consult with a legal professional for the most current and applicable advice. Due to the limited capacity of JAG attorneys, we can only provide basic guidance on annulment. We strongly recommend seeking out an attorney who specializes in this area of law for more comprehensive assistance regarding divorce. If you have any questions or

need to schedule an appointment with a legal assistance attorney, please call the Legal Office at 325-654-3203