



Annulment Law

Prepared by: 17 TRW / JA

Current as of March 2023

The information displayed in this handout is meant for the sole use of Active Duty service members, retirees, their families and other personnel eligible for legal assistance from the Goodfellow AFB Legal Office. The information is general in nature and presented to assist those eligible persons prepare for a legal assistance appointment with a professional in the legal office. Rights and responsibilities vary widely according to the particular set of circumstances in each case. Laws can vary across states, services, and civilian jurisdictions and laws are changed from time to time. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.

Annulment Law

How Is Annulment Different From Divorce?

An annulment is a decree that a marriage was invalid from its start. An annulment is a legal decree that undoes the marriage. In the eyes of the law, the marriage never existed. In contrast, a divorce brings a valid marriage to an end.

When Is Annulment Available?

Annulments are typically available under the following circumstances:

- You and your spouse are close biological relatives, and should not have qualified for marriage under the law. The exact limits of the relationship which qualify a couple for annulment vary between jurisdictions.
- One of the spouses did not have the mental capacity to enter into a marriage contract—whether it is temporary or permanent in nature.
- One of the spouses was below the legal age to consent to marriage.
- You or your spouse entered into the marriage as a result of threat, force or duress.
- 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.
- Your spouse was married to another living person at the time of the marriage.

Important Facts about Annulments

The length of a marriage is not a factor in the determination of whether an annulment is available. For annulment based upon 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 and that the fraud was thereby rendered a non-issue.

Most jurisdictions are reluctant to grant annulments once a married couple has had children. Furthermore, an annulment may limit your ability to share in the marital estate, or to obtain spousal support (alimony) which would otherwise result from 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.

If you should have further questions regarding annulment, please contact the Legal Office at (325) 654-3203 for our legal assistance hours to meet with an attorney.

References: V.T.C.A., Family Code §§ 6.102 - 6.206; <https://texaslawhelp.org/family-divorce-children/annulment-void-marriages>