

How to Get a Marriage Annulled

Deciding to get an annulment is a significant choice. As an annulment is the legal process of completely erasing a marriage from history, it does not have the same effects as a divorce. An annulment is the same as if the marriage never took place from the perspective of the court. No one will have the right to demand child support from their spouse or have the presumption of paternity over children conceived during the marriage. Be aware of the consequences of annulment before you choose it.

When Can You Get an Annulment?

The timelines for getting an annulment vary from state to state and are also dependent on the situation surrounding your marriage. The statute of limitations for annulment expires when you fail to file your annulment request with the court in your state. Additionally, the cost of annulment varies, depending on the state.

For example, in California, your annulment must be filed within four years if you seek an annulment for physical incapacity, old age, or force. In California, fraud can invalidate a marriage within four years of discovering the fraud, but in other states, it is near impossible to annul a marriage at all based on fraud. In some states, an annulment may be sought based on an existing marriage or unsound mind.

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As with a divorce, you have to submit the proper documents to the court for the annulment to be approved. It will include background information on your marriage, the reasons for annulment, as well as the terms you wish to be included in the court's decision. Alternatively, you can also indicate "alternative" in the "dissolution" box on the form if the court does not approve your request for annulment.

Upon filing the annulment petition, you must complete the summons to notify your spouse within 30 days of filing. From the time the summons is received, the other party has 30 days to respond. An uncontested proceeding must be achieved, regardless of whether the summons was agreed to by the couple or a default judgment was entered. A court hearing about your request must be attended by you and your spouse. You will obtain an official order granting the annulment if your petition is valid and accompanied by proper documentation.

Annulment vs Divorce

The divorce process terminates a valid marriage, leaving both parties free to remarry or to live together as singles. When a marriage ends in divorce, it is still recognized as having existed in the past, but that it was brought to an end by irreconcilable differences.

Annulment fully cancels a marriage, unlike divorce. It is as if the marriage never existed. You and your spouse will not be recognized as ever being married by the court and your marriage records will be thrown away. Various reasons may be given by the court to invalidate a marriage, including:

- One of the spouses was under the age of 18 at the time of the marriage;
- The parties are blood relatives or one of them is a bigamist;
- There is one spouse who has an unsound mind or who does not understand the nature of marriage;
- One of the spouses entered into the marriage by fraud or force;
- There is a physical disability that renders one of the spouses incapable of consummating the marriage.

Your marriage will be declared invalid by the courts if it is deemed invalid from a legal standpoint. The annulment process is not as complex as a divorce, but it does have its own set of requirements.

When can a Marriage be Annulled?

The amount of time that you have to get an annulment depends on a number of factors, including what state you live in, why you are seeking an annulment, and what you do after you get married. You must research your state's laws to understand what you are required to do as these laws vary greatly from state to state.

Annuling a Void Marriage

In contrast to a divorce, an annulment means that no legal marriage ever existed, to begin with. You must either be legally void or voidable for your marriage to qualify. If neither of these categories applies to your marriage, you may need a divorce instead.

Void marriages are those that don't have any legal status and are illegal in many states. Incestuous marriages, such as those with close blood relatives, are invalid. The same goes for bigamy or polygamy, where you or your spouse were married to someone else before getting married, regardless of whether you knew it or not. As these marriages never had any validity, they can usually be annulled at any time as long as both spouses are alive.

Annuling a Voidable Marriage

In contrast to void marriages, which aren't legal at all, voidable marriages are legal but flawed to such an extent that the law says they shouldn't be recognized. In some cases, you might be

able to convince a court that a marriage is voidable if your spouse tricked or forced you to marry, or if you or your spouse were mentally incompetent at the time.

Most states allow the annulment of voidable marriages. Depending on your state's statute of limitations and your specific circumstances, the amount of time you have to do so can vary from a few months to a few years after you get married. The time frame usually begins the moment the circumstances become known to you.

Depending on where you live, a court may also consider your actions after discovering that your marriage is voidable when determining whether or not it qualifies for annulment. Virginia, for example, requires you to file within two years of learning about the circumstances that made your marriage voidable, and you cannot have lived together after that discovery. You will not be able to have your marriage annulled if you do not meet both requirements.

It can take time and resources to prove that your marriage is void or voidable, which eats into the statutory time frame that you have for getting an annulment. Prepare your case for the court as soon as possible by gathering the documentation for the type of case you think you qualify for. Visit the website of your state to learn more about which factors must be met, and how long you have to begin the process.

What's the Effect of an Annulment?

An annulled marriage legally puts both parties back in the position they were in preceding the marriage. An annulment makes it appear as though the two were never legally bound together. In essence, an annulment returns the parties to their lives before marriage. Accordingly, both parties will be able to retain their property upon marriage.

State laws determine whether alimony and property distribution will be addressed in annulments. In some states, you can apply for both, while in others you can only apply for one. Some states may not allow courts to rule on either issue.

What Does It Mean When a Marriage is Annulled?

If the court approves your annulment, the state no longer recognizes your marriage. Your state records will not reflect that marriage because it is as if you were never married to your ex-spouse in the first place. It is important to understand what an annulment means for you, your former spouse, and the children you may have shared.

Conclusions

The type of annulment or divorce you have will depend on the state law and particular circumstances. Understanding the laws in your particular state can help you understand what your rights are in the event of a divorce or annulment, and help you decide if a divorce or annulment is right for you.