



LAW OFFICE OF
BRYAN FAGAN
— PLLC —



ANNULMENT IN HOUSTON, TX

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INTRODUCTION

Thank you for downloading our special report: about Annulment, with information that will help you protect your assets and secure your future. For more insider divorce tips, please download our other special reports about Dirty Divorce Tricks, How to Plan and Prepare for Divorce, and Divorce after 50. We understand that you have a lot of questions and concerns about your divorce and we want to help you feel as comfortable with the process as we can. If you would like to speak to one of our highly skilled Law Office of Bryan Fagan, PLLC attorneys, we encourage you to contact us to schedule a free confidential consultation. We're here for you, always. Sincerely, Bryan Fagan, Law Office of Bryan Fagan

ANNULMENT IN TEXAS

EXPERIENCED HOUSTON ATTORNEYS – (281) 810-9760

At the Law Office of Bryan Fagan, PLLC, our compassionate Houston lawyers have represented hundreds of clients in divorce and family law issues. If you are seeking an annulment, our attorneys will analyze your situation, determine your eligibility, and walk you through the legal process.

UNDERSTANDING THE DIFFERENCE BETWEEN DIVORCE & ANNULMENT

While a divorce legally ends a valid marriage, an annulment declares that the marriage was never valid. It essentially voids the marriage and treats it like it never existed. In a divorce, issues such as the division of assets and property, child support, and other financial aspects are decided by the court. However, in an annulment, you must file a separate petition to deal with these issues.

- ☑ Annulment Essentials for Texas Residents
- ☑ Frequently Asked Questions Regarding Texas Annulment
- ☑ How An Annulment is Different Than a Divorce in Texas

ELIGIBILITY FOR AN ANNULMENT

Annulment is not available for everyone. It is granted for marriages that are considered void or voidable. Void marriages are those that are deemed illegal in the first place. They include marriage between close family members, marriage to a spouse who is already married to a third party, marriage to a spouse under the age of 14 (or 18 without a court order or parental consent), marriage within 30 days of a spouse's previous divorce, and marriage within 72 hours of taking out the marriage license

Under Texas law, marriage between close relatives is illegal. These relationships involve:

- ☑ Brother and sister (by half blood, whole blood, or adoption)
- ☑ Aunt and nephew
- ☑ Uncle and niece
- ☑ Ancestor and descendant

Voidable marriages are those that are considered legal, but are entered into under conditions that the spouse would not have reasonably agreed to. Examples include marriage under intoxication, deception, or compulsion. Furthermore, if one spouse lacked the mental capacity to agree to the marriage, or was permanently impotent at the time of the marriage, this is also grounds for an annulment.

THE PROCESS OF OBTAINING AN ANNULMENT IN TEXAS

According to Texas statutes, at least one spouse must live in the state, or the spouses must have been married in the state, in order to pursue an annulment. In general, an annulment lawsuit may be filed in the county where either spouse lived when the marriage took place. If children were born or adopted into the marriage, you will need to file a Suit Affecting the Parent-Child Relationship (SAPCR) in addition to the Original Petition to Annul Marriage form. The court will then determine child visitation, custody, and support.



KNOWLEDGEABLE FAMILY LAW ATTORNEYS IN HOUSTON, TEXAS

The Law Office of Bryan Fagan, PLLC gives personalized attention to each client. We know you are going through a stressful time. If you want to understand your options regarding annulment, our Houston lawyers will answer your questions and help you file the necessary documents. We have years of experience, and will work hard to protect your interests throughout the process.

ANNULMENT ESSENTIALS FOR TEXAS RESIDENTS

One of the least common family law cases that attorneys and courts run into are annulments. Divorces, child custody cases and even adoptions are more prevalent than annulments. Let's spend today's blog post discussing this subject and the grounds for achieving an annulment as opposed to a divorce.

WHAT EXACTLY IS AN ANNULMENT?

In a divorce, the court is legally terminating the marriage between yourself and your spouse. This isn't taking an eraser to the marriage, it's more or less crossing out the marriage on a piece of paper. The marriage is still in the record books but it is no longer valid.

An annulment on the other hand formally dissolves a marriage on the basis that it was invalid to begin with and should not have been granted. This is the clean sweep, eraser to pencil type of dissolving that a divorce cannot achieve. It is much more difficult to be granted an annulment compared to a divorce, however, due to the grounds being harder to satisfy in order to qualify for one.

VOID VS. VOIDABLE MARRIAGE- WHY THIS DISTINCTION IS IMPORTANT

A voidable marriage is one in which the marriage itself is valid and recognized by the State of Texas until the time that the annulment is granted and the marriage is declared invalid as a matter of law.

A void marriage is one in which the marriage was never valid and never recognized by the State of Texas.

Let's look at an example in order to make this distinction a little more clear. A marriage can be classified as voidable and is therefore able to be annulled if the parties to the marriage were under the influence of drugs or alcohol during the exchange of vows/time the marriage was being formalized. This marriage is a valid marriage in the eyes of the law until an annulment is sought and granted by a court.

An example of a void marriage is one where one spouse was already married at the time of the marriage vows being exchanged. This sort of relationship is not a legal marriage, is not valid and is not recognized in the eyes of the law.

AN ANNULMENT- EASIER SAID THAN DONE

For the most part, annulments are not as easily achieved as you might ordinarily believe. There are circumstances that meet the requirements for an annulment but there must be evidence that can be presented to a court in order to allow the annulment to be granted.

The remainder of this blog post will detail the grounds that parties may cite for their reason for asking for the annulment.

MARRIAGE OF PERSON UNDER THE AGE OF 18

An annulment may be granted in the event that one of the parties is 16 or 17 years of age and did not receive parental consent prior to the marriage. If a party to the marriage is under the age of 16 the marriage is void and an annulment is not necessary as the marriage is not valid and cannot be recognized as a matter of law. A parent or legal guardian may file for the annulment but must be done before the minor's 18th birthday.



ONE OR BOTH PARTIES TO THE MARRIAGE WERE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL

This is perhaps the most well known ground for asking for an annulment. There have been so many TV and movie plots surrounding this scenario that we could spend all day listing them. A person who is under the influence of drugs or alcohol lacks the capacity to consent to the marriage, rendering the marriage voidable.

A key point to understand, however, is that you cannot argue that the marriage is voidable on the grounds of intoxication if you have been living with your spouse since the time of the origination of the marriage. It probably is not a good idea, therefore, to shack up or continue to shack up with your spouse if you seek to annul the marriage on these grou

IMPOTENCY

If either you or your spouse were impotent at the time your marriage came to be you can present evidence to that effect in order to be granted an annulment in Texas. If you are the spouse seeking the annulment you must prove that you were unaware of the impotency of your partner at the time of your marriage and must also show that you have not been living with your spouse since having found out about the impotency.

FRAUD, DURESS OR FORCE

A shotgun marriage will not suffice. If your spouse forced you or otherwise used duress or fraud to induce you into a marriage you can request an annulment. Again- do not live with your spouse since you became aware of the fraud or after the force or duress ended.

MENTAL INCAPACITY

Either you or your spouse can seek an annulment on grounds that either of you were mentally incapacitated at the time of the marriage. To prove the incapacity you or your spouse must prove to a court that you lacked the ability to consent to the marriage and since the marriage took place you have not lived together during a time in which either of you gained the ability to recognize and consent to the marriage. If basing the annulment on the incapacity of the other spouse, you must show that you were unaware of the mental incapacity of your spouse during the time of the marriage.

CONCEALED DIVORCE

You can also annul your marriage if you can show a court that your spouse got a divorce immediately before your marriage began and that you had no clue about your spouse's prior marriage or divorce. Additional requirements include the divorce having occurred within 30 days before marrying you. You must bring your annulment action before your one year anniversary of marriage. Here's a shocker- you can't have lived with your spouse since finding out about the prior marriage and divorce.

HOW AN ANNULMENT IS DIFFERENT THAN A DIVORCE IN TEXAS

I periodically get questions regarding annulments and divorces. I believe it is worth writing about some of the differences between the two. In Texas there are two different ways to legally end a marriage. Those methods include an annulment and divorce.

WHAT IS A DIVORCE?

A divorce ends a valid marriage. It is the legal procedure that returns both parties to single status with the ability to remarry.

WHAT IS AN ANNULMENT IN TEXAS?

An annulment is a procedure under the law that cancels a marriage. When a marriage is annulled it is as though it is completely erased. Technically it declares that the marriage never existed and was never valid. Or under Texas Law it would mean you were never married in the first place.



LEGAL REASONS FOR AN ANNULMENT

In some ways, annulments are harder to get than a divorce. This is because, with an annulment, there are required statutory grounds that must be met, such as:

- ☑ Marriage Under the Age of 14;
- ☑ Marriage Under the Age of 18;
- ☑ Under Influence of Alcohol or Drugs;
- ☑ Fraud & Duress;
- ☑ Impotency;
- ☑ Mental Incapacity;
- ☑ Concealment—one of the spouses hid something significant from the other;

CAN A COURT DIVIDE PROPERTY IN AN ANNULMENT?

Yes, Under Section 7.002 of the Texas Family Code:

- ☑ In addition to the division of the estate of the parties required by Section 7.001, in a decree of divorce or annulment the court shall order a division of the following real and personal property, wherever situated, in a manner that the court deems just and right, having due regard for the rights of each party and any children of the marriage:
 - ☑ property that was acquired by either spouse while domiciled in another state and that would have been community property if the spouse who acquired the property had been domiciled in this state at the time of the acquisition; or
 - ☑ property that was acquired by either spouse in exchange for real or personal property and that would have been community property if the spouse who acquired the property so exchanged had been domiciled in this state at the time of its acquisition.
- ☑ In a decree of divorce or annulment, the court shall award to a spouse the following real and personal property, wherever situated, as the separate property of the spouse:
 - ☑ property that was acquired by the spouse while domiciled in another state and that would have been the spouse's separate property if the spouse had been domiciled in this state at the time of acquisition; or
 - ☑ property that was acquired by the spouse in exchange for real or personal property and that would have been the spouse's separate property if the spouse had been domiciled in this state at the time of acquisition.
- ☑ In a decree of divorce or annulment, the court shall confirm the following as the separate property of a spouse if partitioned or exchanged by written agreement of the spouses:
 - ☑ income and earnings from the spouses' property, wages, salaries, and other forms of compensation received on or after January 1 of the year in which the suit for dissolution of marriage was filed; or
 - ☑ income and earnings from the spouses' property, wages, salaries, and other forms of compensation received in another year during which the spouses were married for any part of the year.

WAITING PERIOD

Unlike a divorce in Texas with an annulment there is not a statutory waiting period. With divorce in Texas there is a statutory waiting period. This does not mean you will be able to get a quick annulment it just does means there is no required length of time you have to wait before you can get an annulment.



IS AN ANNULMENT IN TEXAS THE SAME AS A RELIGIOUS ANNULMENT?

No. While Texas law has its grounds for obtaining an annulment, the grounds for obtaining a religious annulment may not be the same. If you get an annulment under Texas law and want an annulment through your religious organization, you will have to follow their procedures and have to meet their grounds for an annulment.

Both an annulment under Texas Law and a religious annulment have essentially the same effect--the marriage is treated as though it never existed.

CHILDREN IN EITHER A DIVORCE OR AN ANNULMENT

If children have been born as a result the relationship between you and your spouse then the party seeking a divorce or annulment will also have to bring a "Suit Affecting the Parent-Child Relationship," or SAPCR.

A SAPCR is required in both a divorce or an annulment involving children of the marriage relationship. The SAPCR determines the parties' rights and duties regarding the children.





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WE'RE HERE FOR YOU

When it comes to your financial future, your peace of mind matters. No matter where you are in the divorce process, we are always available to help you protect your assets and safeguard your future. As a Texas law firm exclusively devoted to divorce and family law, our experienced divorce attorneys will explain your options and support you throughout the process. Please contact us at (281) 810-9760 if you would like to schedule a free confidential consultation

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