



LAW OFFICE OF  
BRYAN FAGAN  
— PLLC —



# VOID MARRIAGE IN HOUSTON, TX

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## INTRODUCTION

Thank you for downloading our special report: about Void Marriage, 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

## VOIDING A MARRIAGE IN TEXAS

### LEARN MORE FROM A HOUSTON LAWYER

Under Texas law, marriages can only end upon the death of one spouse unless spouses obtain a divorce. However, if a marriage begins under circumstances that are invalid, then there's a third option for how to end it: annulment. Annulment is the process of declaring a marriage "null and void" thus making it as though it never happened in the first place. While this may seem like an ideal solution, the truth of the matter is annulments are actually quite rare, and it's best to speak with a Houston attorney to discuss whether you even qualify this option before beginning.

At the Law Office of Bryan Fagan, PLLC, our team of experienced Houston lawyers may be able to assist you with determining the legality of your marriage and then with the pursuit of the annulment process. We understand the complexities and difficulty of trying to navigate a family law case, and our years of knowledge and experience give us the ability to guide you through your matter and give you the confidence that you're in good hands. As our client, we put your needs first, and we make sure that you are in charge of your case at all times so the final outcome is one that you'll be happy with and puts you in an ideal position for the next phase of your life.

### QUALIFYING FOR AN ANNULMENT

As we stated previously, annulments are pretty rare. The overwhelming majority of the time, those who wish to end their marriage must go through the divorce process to do so. Annulments are generally reserved for when circumstances would invalidate the signature and legality of a marital agreement, thus making it unenforceable.

- How can you have your marriage found to be void in Texas?
- Can I get my Ex-wife's New Marriage Terminated or Voided?

**You may be eligible for annulment if you can show any of the following circumstances in your marriage:**

- Bigamy: If either partner is already engaged in another marriage that was not terminated when the marriage began
- Underage: If either spouse was under the legal marriage age
- Intoxication: If one spouse was too intoxicated during the ceremony or signing of the marriage to fully consent to the union
- Impotence: If one spouse is permanently unable to have sexual intercourse
- Incest: If two spouses are related closer than first cousins
- Fraud: If one spouse lied or hid important information that's essential to the marriage
- Duress: If one or both spouses were under threat of harm, or otherwise forced or coerced into getting married

In any of these instances were present at the time of your marriage, then the marriage becomes an unenforceable agreement, and thus can be terminated quickly. For the select few who qualify, this could be a quick and simple solution to getting out of a marriage and on with your life independently without the hassle and time consuming difficulty of a traditional divorce.

## HOW CAN YOU HAVE YOUR MARRIAGE FOUND TO BE VOID IN TEXAS?

Let's start today's blog post from the Law Office of Bryan Fagan, PLLC with a story. I recently spoke with a woman who told me about a man that she had dated in high school. After high school, the relationship continued as both she and her boyfriend began to work at the same business here in Houston.



Given her young age and her religious upbringing, she was against having premarital sex. Her boyfriend respected her decision and the issue never really came up in their relationship until the two got married. On their wedding night and during the following couple days it became obvious that her new husband was impotent. This came as a shock to our potential client.

This nice lady wanted to know simply if she is able to get out of the marriage and whether or not she could get an annulment. This is an issue that has major importance for some of you out there and is one that we do not write about all that much. With all of that said let's dig into it further today.

## **ANNULMENTS IN TEXAS- HOW TO DETERMINE IF YOU ARE ELIGIBLE FOR ONE**

Fortunately for the young lady in the above story, I was able to tell her that, yes, she was likely eligible to get an annulment due to her marriage being void. It is quite difficult to actually qualify for an annulment and most folks who attempt to get an annulment end up having to settle for a divorce. It is a longer and more detailed process even for a marriage that lasted only a month or so.

The grounds for an annulment in Texas are divided up between two categories- void and voidable marriages.

Void marriages are those that are not valid due to issues regarding consanguinity or the existence of a prior marriage. Consanguinity is a fancy word for when a person marries a relative. Relative means a person who is a "close" relative like a sibling, parent, uncle, aunt, niece or nephew. If this is the case for you and your marriage then you can get an annulment.

The other ground for getting an annulment based on a void marriage is if you or your spouse were already married at the time you got married. The truth is neither of these issues ever come up very often but they merit mentioning here as possible grounds to get a marriage declared void.

## **WHAT IS A PUTATIVE SPOUSE?**

If your spouse was already married at the time that you and he got married then you are known as a putative spouse as long as you have no reason to believe that your marriage is not valid. You would have the ability to receive somewhat would ordinarily be known as community property had you entered into a valid marriage with your spouse.

A word of caution- your right to recover property under a quasi-property division situation ends once you have reason to know that your spouse was married at the time you and he got married. Your ability to recover property is limited to the time beginning at the start of your (void) marriage and when you found out about your spouse's prior marriage's existence.

Voidable marriages involve a little more wiggle room in terms of being able to make an argument. Consanguinity and already being married at the time you were getting married to another person are tough points to argue. Either those factors are relevant or they are not. Voidable marriages allow you to make an argument which leads me to believe that they are easier grounds on which to get your annulment.

Let's start off with two unfortunate situations that can lead to an annulment. If you or your spouse are determined to be mentally incapacitated or have a mental illness that is significant you can have your marriage determined to be voidable. Mental incapacity basically means that you or your spouse were under the influence of drugs or alcohol at the time your marriage began. The basis for this ground is that if you were intoxicated you would be unable to consent to become married.

Fraud is the next ground that we need to discuss as far as having a marriage declared voidable. If you were forced, threatened or otherwise coerced into getting married then your marriage may be voidable. What sort of circumstances avail themselves most often to fraud? Well, if your spouse coerced you into a marriage with a threat of you losing your residency in the United States that may be grounds for an annulment. If you were blackmailed or otherwise threatened into getting married in order to avoid a painful or embarrassing secret from being let out, that too could form the basis for a fraud allegation.



## **AFTER YOUR DIVORCE, WAIT THIRTY DAYS TO GET MARRIED**

The law in Texas is that if you get a divorce you must then wait for thirty days until you can marry again. A motion for a new trial can be filed in a civil case if you file within thirty days of the final judgment in your case.

This means that if you are marrying a person who recently got a divorce you must wait until your spouse-to-be's ex-spouse has time to file a motion for a new trial if he or she chooses. You need to get your annulment before your first wedding anniversary or you lose the right to pursue an annulment on these grounds.

## **AFTER YOU OBTAIN YOUR MARRIAGE LICENSE, WAIT THREE DAYS TO GET MARRIED**

Similarly, the law in Texas requires that you and your spouse wait at least 72 hours after you obtain a marriage license to actually get married. The failure to do so could result in a voidable marriage should one of you raise that issue to a court.

## **ISSUES TO BE CONCERNED WITH WHEN ATTEMPTING TO OBTAIN AN ANNULMENT**

Finally, you need to think about any property/assets that you have with your "spouse" including your home, bank accounts, debts, and vehicles. Mortgages and credit cards could become points of argument when you eventually leave your marital home.

Other than the protections afforded to a putative spouse the Texas Family Code does not cover any property division for those who are seeking an annulment. You will need to work with your partner on how to divide the property up between yourselves. Seeking assistance through a mediator is not a bad idea. Consider the difficulties of removing a person's name from a title document or refinancing a loan.

## **WHERE TO BEGIN WHEN CONSIDERING AN ANNULMENT? CONTACT THE LAW OFFICE OF BRYAN FAGAN**

As you can tell, the first step towards pursuing an annulment is to actually see if you qualify. Your circumstances may not be straightforward and you may need to speak to someone with experience in family law to determine if it is even worth your while to pursue an annulment as opposed to a divorce.

If you are interested in speaking with an experienced and seasoned group of attorneys then you need to look no further than those with the Law Office of Bryan Fagan, PLLC. Our attorneys handle a variety of family law cases including divorces. We take pride in representing people in our community just like you. To learn more about your case and about our office please do not hesitate to contact us today. We offer free of charge consultations six days a week where we can answer your questions and address your concerns in a comfortable and pressure-free environment.

## **CAN I GET MY EX-WIFE'S NEW MARRIAGE TERMINATED OR VOIDED?**

I am often looking for inspiration on topics to write about for or law firms blog. Recently, inspiration walked in the door in the form of a consult. The potential client who was inquiring about whether he could get his ex-wife's new marriage terminated or voided?

For the purposes of this blog topic let's pretend that he and his wife had divorced on the 1st of the month and the ex-wife remarried her new husband on 30th of that same month.

Although, I do not know much from my conversation with him my guess would be based how quickly the ex-wife remarried is perhaps there had been some overlap in her relationships. My take away from our conversation was that the divorce had not been amical and there was some lingering resentment.



### 30 DAY WAITING PERIOD

I have never devoted an entire blog on this topic but I have discussed that Texas has a 30 day waiting period after a divorce prior to remarriage in my blog posts "Am I Married? - Marital Status in Texas" and "How Long Will My Texas Divorce Take?"

Not all states do not require a divorced person to wait before remarrying, however under 6.801 of the Texas Family Code a person in Texas is free to marry again 30 days after the judge signs their final divorce order, called a "decree." It is important to note that:

- ☑ The 30-day waiting period begins the day after the judge signs their final divorce order
- ☑ This means the 31 after the judge signs the divorce order is the earliest day you can legally remarry.
- ☑ the Judge does not always sign the Decree on the same day that you appear in court.

### RESPECT THE 30 DAY WAITING PERIOD

There are some good reasons to Respect the 30-day waiting period including:

If someone decides not to wait the entire thirty-day period and remarries too early, the new marriage is "voidable" and may be challenged for a period of time.

A motion for new trial can be filed 30 days after a Judge signs the final divorce decree and reopen the divorce case.

If the parties have been involved a bitter divorce it would not be unexpected that just because the divorce is over an ex may be looking for excuse to cause problems even after the divorce.

If one of the spouses has a substantial change in assets during the 30-day period may cause the "ex" spouse to wonder whether the property was actually owned prior to the divorce, and look to reopen the case.

In the case *Baqdounes v. Baqdounes*, No. 01-07-1102-CV, 2009 WL 214508 (Tex. App. Jan. 29, 2009) the 30 day waiting period became an issue because the husband in the case argued that the marriage was void because his wife had not waited long enough to marry him after her prior divorce.

In this case the Trial court agreed with the husband and granted the husband summary saying the marriage was void. The wife then appealed and one that on the basis that:

- ☑ Yes, her ceremonial marriage was void but
- ☑ She was common law married to her new husband after the waiting period was up

The wife did ultimately win that she was married but I can only imagine that she had to spend an incredible amount of money on legal fees. It would have been a lot cheaper for her and her husband had they both respected the 30-day waiting period.





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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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