

# Marriages Are Annulled in Special Cases

## **Q: What is an annulment?**

**A:** When certain circumstances, exist, a court can grant a marriage annulment, which means that the marriage is not only terminated, but treated as if it never took place.

## **Q: What are these certain circumstances?**

**A:** The circumstances under which a marriage is annulled are called "grounds." There are six grounds for an annulment. You may qualify for an annulment if, at the time of the marriage:

- 1) You were under the age required for marriage (males must be 18 and females must be 16), and you did not thereafter live with your spouse in a husband-wife relationship. This annulment action must be brought within two years after you attain the legal age for marriage.

- 2) Either you or your husband/wife was already legally married and the spouse from the other marriage is still alive.

- 3) Either you or your spouse had been declared incompetent, unless competency was later restored and you lived together afterward as husband and wife.

- 4) The marriage consent of either you or your spouse was obtained by fraud, unless, after learning all of the facts, you lived together as husband and wife. (For example, consent may be obtained by fraud when a woman falsely tells her "significant other" that she is pregnant and that he is the father. Or, consent may be obtained by fraud when a spouse seriously misrepresents his/her identity or gender.) An annulment action based on fraud must be filed within two years after discovery of the facts that constitute fraud.

- 5) The consent of either you or your spouse was obtained by force (such as in a so-called "shotgun wedding"), unless afterward you lived together as husband and wife. This annulment action must be filed within two years of the date of the marriage.

- 6) Your marriage was never consummated. This means that you and your spouse failed to have physical relations at any time following the marriage ceremony. Such an annulment action also must be filed within two years of the date of the marriage.

## **Q: Can I get alimony if I file for an annulment?**

**A:** No. The Ohio statute that provides for spousal support (previously known as alimony) does not apply to annulments.

## **Q: Can I be awarded attorney fees if I file for an annulment?**

**A:** Generally, no. The main statute that allows a party to recover attorney fees does not apply to annulments. However, courts may award fees in civil cases where fraud is involved. Courts have awarded attorney fees to parties who have obtained an annulment on the grounds of fraud.

## **Q: Do I need an attorney to file for an annulment?**

**A:** All persons have the right to represent themselves in any case. However, because the grounds for annulment are complicated and the actions the court must take in annulment cases are not always clear, it would be in your best interest to hire an attorney.

**Q: How long can it take to get an annulment?**

**A:** Just as with divorce cases, it depends on the circumstances. If you and your spouse can reach an agreement, your annulment can be completed within several months. If an agreement cannot be reached, and the case must be tried before the court, the case can last a year or more.

**Q: How can I decide whether to file for a divorce or an annulment?**

**A:** You should consult an attorney who practices in the area of domestic relations. If you have grounds for both divorce and annulment, you will want to consider the amount of property you have and the relief (financial compensation) you need. You can obtain certain types of relief through a divorce case that you probably cannot obtain through an annulment, such as attorney fees and spousal support. If the facts of your case indicate that you are likely to receive an award of attorney fees or spousal support, an action for divorce would give you access to these remedies while an annulment would not. Similarly, the equitable division of marital property possible through a divorce case may be a better option for you than an annulment if you have accumulated a great deal of marital property.

**Q: Will an annulment cost me more than a divorce?**

**A:** Generally, no. In fact, since most grounds for annulment come up rather early in a marriage, there often is not as much work for the attorney to do. Otherwise, the attorney fees charged for an annulment should not be much different from fees charged for a divorce.

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*This "Law You Can Use" consumer legal information column was provided by the Ohio State Bar Association. It was originally prepared by Robert C. Wentz, a Cleveland attorney, and updated by family law attorney Stanley Morganstern.*

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