

Note on Annulment

A suit for annulment, as apposed to a suit for divorce, is brought when there has been some legal impediment to the creation of a valid marriage; that is, the suit is for premarital causes rather than conduct that occurred during the marriage (as in a divorce). Annulments have declined in popularity because in 1970 the Texas Legislature adopted no-fault grounds for divorce which made getting a divorce far easier. Today many people pursue annulments for religious reasons.

There are four general grounds under which an annulment is possible.

1. A court can annul a marriage if a party to the marriage was at least 16 years of age, but less than 18 years of age, at the time of marriage and did not have parental consent or court-ordered permission to marry. Note, however, that an annulment under this ground is discretionary and the court must consider facts relevant to the welfare of the parties to the marriage (for example, whether the wife is pregnant).
2. A court can also annul a marriage if at the time of the marriage the person seeking the annulment was under the influence of drugs and/ or alcohol and as a result lacked the capacity to consent to the marriage. Also, the person seeking annulment cannot have voluntarily continued to live with the other party since the effects of the drugs/ alcohol ended. Note that we're not talking about a simple case of having a few drinks and then getting hitched. Texas courts have held that the degree of intoxication must be so great as to have "dethroned reason, memory and judgment."
3. Another ground for annulment is impotency. A court can annul a marriage if either party was permanently impotent at the time of marriage and the person seeking annulment did not know of the impotency at the time of marriage. Also, the person seeking annulment cannot have continued to voluntarily live with the other person once they learned of the impotency.
4. Fraud, duress and force are additional grounds for annulment. A court can annul a marriage if one party used fraud, duress or force to induce the person seeking annulment into the marriage. Just like the other grounds for annulment, the person seeking annulment cannot have voluntarily continued to live with the other party since learning of the fraud or being freed from the duress or force.

These are the grounds most people think of when considering an annulment. Once an annulment is granted, the marriage will be considered void and treated as if it never happened. If an annulment is not granted, then the marriage will be considered valid indefinitely and the parties must seek a divorce to end it.

This is an excerpt from our book, [Basics of Texas Divorce Law](#), available for purchase on Amazon.com by clicking the link.