

Annulment Proceedings

Annulment is different from divorce because, in annulment, the marriage will be entirely nullified by the court as if the marriage never existed between the parties. Annulment thus will enable the parties to marry again. Annulment proceedings are restricted to the proof of certain grounds like fraud, insanity, cruelty, or insanity.

In the United States, actions relating to divorce and annulment are governed by state statute and are also subject to public policy and equity. Annulment of marriage can be granted only when the marriage is void or voidable under the laws of the state where the marriage was performed. Typically, the annulment of marriage can take place only on the basis of certain grounds such as: (1) the marriage took place when either party was still married and that party's spouse was living at the time of the marriage; (2) where the marriage took place during the insanity of either party; (3) where such marriage was procured by fraud or coercion; (4) where either party was incapacitated at the time of marriage without the knowledge of the other and continue to be under such incapacity; or (5) where either party was under the age of consent. For example, most states provide for the annulment of incestuous marriages and marriages between parties under the legal age of consent. Some states provide for marriages under the legal age of consent if the parties have obtained the written consent of their parents.

The duration of the marriage is not a determining factor in annulment proceedings, as whether annulment is warranted is based on the facts and state law. Furthermore, many states will deny annulment of marriage once the couple has had children. It should be kept in mind that annulment may also limit a person's ability to share the marital estate or to obtain spousal support (alimony) which might otherwise result from divorce.