

ANNULMENTS

If you are seeking an annulment, contact an attorney immediately as time is of the essence. If you wait to file for an annulment, you may find that it is too late.

An annulment is an action sought to void a marriage that is not valid. However, a valid marriage can only be terminated through a dissolution proceeding. How and if a marriage can be annulled depends on many factors. Additionally, marriages that are void can be challenged by anyone. Conversely, other marriages that are merely voidable can only be attacked by one of the parties in the marriage. In order to petition the court for an annulment of a voidable marriage, the person seeking the annulment must be the innocent party.

Void Marriages

1. **Bigamy.** If one of the parties to a marriage has a living spouse and has not obtained a divorce then the subsequent marriage is void.
2. **Insanity, Intoxication, or Incapacity.** As in any contractual situation, persons entering into a valid marriage must have the mental and physical capacity to contract. However, if a person who was lacking the capacity to contract affirms the marriage while lucid, then the marriage may become valid.
3. **Homosexual and Transsexual Persons.** In Florida, the law prohibits marriages between persons of the same sex or between a postoperative transsexual person and a person of the gender that was attributed to the transsexual at birth.

Voidable Marriages

An innocent party can seek to void a voidable marriage on the following grounds:

1. **Fraud.** A party who has been the victim of fraud and deception which induced the marriage may file and obtain a decree of annulment so long as the marriage has not been consummated by cohabitation or the victim has not engaged in any condonation of the fraud or any affirmation of the marriage.
2. **Duress and undue influence.** A marriage secured as a result of an unlawful or improper act that destroys a party's volition is voidable. Duress does not exist if the party freely consents to the marriage at some state prior to the ceremony.
3. **Consanguinity.** A person is not allowed to marry his or her brother, sister, aunt, uncle, nephew, niece, father, or mother. Courts have not ruled on grandparent and grandchild.
4. **Impotence.** Impotence renders a marriage voidable.