

Annulment: Answers to Common Questions

This article provides answers to common questions about annulment in Texas. This article was written by the Self-Represented Litigants Project at the **Texas Legal Services Center** (<http://www.tlsc.org>) [1].

What is an annulment?

An annulment is a type of lawsuit where a judge states that a marriage is invalid due to reasons that existed at the start of the marriage. If a judge grants an annulment, the marriage is found to have never have legally existed and legally it will be as though the marriage never happened. The spouses will no longer be married once an annulment has been granted.

Practically, however, an annulment can have lasting effects on the spouses to the invalid marriage in the areas of property and children. The annulment statutes can be found in **chapter 6 of the Texas Family Code**. (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.6.htm#6.102>) [2]

What if there are children involved in the annulment?

If there are children adopted by or born to the spouses during the marriage, a suit to set up custody of the children—also known as a **Suit Affecting the Parent-Child Relationship (“SAPCR”)** (<https://texaslawhelp.org/toolkit/sapcr-i-need-custody-order-i-am-childs-parent>) [3]—must also be joined with the annulment.

Joining a SAPCR with an annulment suit allows the court to make orders for custody, visitation, and child support concerning the children. If your case involves children adopted or born during the marriage and you would like an annulment our forms are not right for you, and you should strongly consider getting help from **legal aid** (<https://texaslawhelp.org/legal-help/legal-help-finder>) [4] or a **private attorney** (<https://texaslawhelp.org/full-representation-private-lawyer>) [5] through at least **limited scope representation** (<https://texaslawhelp.org/limited-scope>) [6] before going further.

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Residency: How long do I have to live in Texas to file for an annulment?

To be able to file for an annulment in Texas, either

1. One of the spouses must live in Texas or
2. The spouses were married in Texas.

If at least one spouse lives in Texas and is asking for an annulment for a marriage from another state, Texas can grant the annulment but the law of the state where the marriage took place will generally be considered as well.

Generally, an annulment lawsuit can be filed in the county where all or a large part of the relevant facts or acts leading to the annulment happened or where the petitioner or respondent lived when the facts, acts, and marriage took place.



Jurisdiction and Venue: Where can I file an annulment?

For the most part, the courts that can decide divorce cases can also decide annulments. Annulments can also be filed in county courts. Call your local district clerk and ask which courts in your county handle annulment cases.

Is there a waiting period between the filing of the annulment petition and the final annulment decree?

No, there is no waiting period required between the filing of an **Original Petition to Annul Marriage (https://texaslawhelp.org/form/original-petition-annul-marriage-uncontested-no-children) [7]** and the court granting an annulment. However, it is not likely that the court will be able to grant it right away, due to its busy schedule. Expect the process to take at least a few weeks.

What is the difference between a divorce and an annulment?

A divorce will end a valid marriage. An annulment will end the marriage and consider the marriage to not be valid from the beginning and therefore to legally never have existed.

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<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.6.htm#6.102> [2]

What is the difference between an annulment and a suit to declare a marriage void?

Like an annulment, a suit to declare a marriage void focuses on reasons why it wasn't a valid marriage at the start of the marriage. However, unlike an annulment, a void marriage is automatically not a valid marriage from the start whether or not a court states it isn't.

In a **void marriage** (<https://texaslawhelp.org/article/void-marriages-answers-common-questions>) [8], the spouses cannot agree to it being a legally valid marriage. The Texas Family Code lists specific grounds for void marriages, including a new marriage when an earlier marriage has not ended, and marriage between certain relatives. See **Texas Family Code chapter 6.201** (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.6.htm#6.201>) [9] to **6.202** (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.6.htm#6.202>) [10].

In general, what are the grounds for annulment?

In Texas, there are several grounds under which a person can file for annulment:

1. A spouse of the marriage was under age 18
2. A spouse was under the influence of alcohol or narcotics
3. Either spouse is permanently impotent
4. A spouse was convinced to marry the other spouse by fraud, duress, or force
5. A spouse lacked the mental capacity to enter into the marriage
6. A spouse concealed a prior divorce
7. The spouses were married within 72 hours of the marriage license being issued.

See **Texas Family Code chapter 6** (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.6.htm#00>) [11].

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What are the requirements for annulling a marriage on the grounds one spouse is under 18 years of age?

As of September 1, 2017, you cannot marry in Texas if you are under age 18 and have not been legally emancipated. See **Texas Family Code sections 2.003** (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.2.htm#2.003>) [12] and **2.101** (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.2.htm#2.101>) [13].



If a person is between 16 and 18 years old, and married without parental consent or a court order, a judge may grant an annulment. The judge will consider the welfare of the spouses involved, including whether the wife is pregnant.

The petition for annulment can be filed by:

- a next friend for the benefit of the underage spouse, within 90 days of the day the parties married;
- a parent, prior to the spouse's 18th birthday; or
- a court-ordered managing conservator or guardian of the person, prior to the spouse's 18th birthday.

See **Texas Family Code 6.102** (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.6.htm#6.102>) [2].

What are the requirements for annulling a marriage on the grounds a spouse was under the influence of alcohol or narcotics?

A judge may grant an annulment if, when they married, the petitioner was under the influence of drugs or alcohol to the point that they lacked the capacity to consent to the marriage.

Also, a petitioner must not have voluntarily lived with their spouse once the alcohol or drugs had worn off.

See **Texas Family Code chapter 6.105** (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.6.htm#6.105>) [14].

What are the requirements for annulling a marriage on the grounds one spouse is impotent?

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If either party was permanently impotent (unable to have sexual intercourse) (for physical or mental reasons) at the time the spouses married and the petitioner was unaware of this condition at the time, a judge may grant an annulment. Further, the petitioner must not have voluntarily lived with the spouse since learning about the impotency.



What are the requirements for annulling a marriage on the grounds there was fraud, duress, or force involved?

Fraud

A judge can annul a marriage if a spouse made an important misrepresentation intending to persuade or influence the other spouse into marrying them. Also, the petitioner must not have voluntarily lived with the spouse since learning about the fraud.

Duress or force

A court can also grant an annulment on the basis of **duress** or **force** if the petitioner can show the other spouse threatened them and the petitioner felt there was no choice but to marry. Further, the petitioner must not have voluntarily lived with the spouse after no longer being under the influence of the duress or force.

What are the requirements for annulling a marriage on the grounds of mental incapacity?

A court can grant an annulment if the petitioner did not have the mental capacity to consent when the spouses married. Also, a petitioner in an annulment cannot have voluntarily lived with the other party during a period of time when they had the mental capacity to realize they were married.

A court can also grant an annulment if the petitioner did not know, nor reasonably should have known, that the other party did not have the mental capacity to consent to marriage.

Further, the petitioner cannot have not voluntarily lived with the other party after the petitioner discovered or should have discovered [Click here to play](#).



What are the requirements for an annulment on the grounds of concealed divorce?

The court may grant an annulment if the petitioner did not know, and a reasonably prudent person would not have known, that the other party was divorced from a different person within 30 days before the day the petitioner and the other spouse married.

Also, the petitioner did not voluntarily live with the other spouse after the petitioner found out (or a reasonably prudent person would have found out) about this prior concealed divorce. This lawsuit must be filed prior to the first anniversary of the marriage.

What are the requirements for an annulment on the grounds the marriage took place within 72 hours of the issuance of the marriage license?

A judge can grant an annulment if the marriage took place within 72 hours after the marriage license was issued. **There are a few exceptions to this** (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.2.htm#2.204>) [15]. Further, the annulment petition must be filed within 30 days of the marriage.

What if I don't qualify for an annulment? What do I do?

If you don't qualify for an annulment, you will probably qualify for a divorce or a suit to declare the marriage void. Please read over our **divorce toolkits** (<https://texaslawhelp.org/family-divorce-children/divorce>) [16] and **void marriage article** (<https://texaslawhelp.org/article/void-marriages-answers-common-questions>) [8] for more information.

Do I need legal advice?

Getting legal advice from a lawyer now can save you time and money in the long run. This is true especially if you have children or if you or your spouse has a
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retirement account, house, or other valuable property. An attorney can review your situation for potential issues that can arise.

The State Bar of Texas Lawyer Referral Information Service at (800) 252-9690 can help you find a **private lawyer. (<https://texaslawhelp.org/full-representation-private-lawyer>) [5]** **You can ask for a lawyer willing to accept reduced fee arrangements or are willing to provide limited scope representation, also known as unbundling. (<https://texaslawhelp.org/limited-scope>) [6]** This is an arrangement where you just want advice but don't want the attorney to go to court with you.



If you are low income, you may qualify for free help from legal aid. Regardless of income, you may get **free legal advice at walk-in legal clinics (<https://texaslawhelp.org/legal-clinic-calendar>) [17]**. For more information, please **click here. (<https://texaslawhelp.org/legal-advice>) [18]**

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Links

- [1] <http://www.tlsc.org>
- [2] <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.6.htm#6.102>
- [3] https://texaslawhelp.org/toolkit/sapcr-i-need-custody_order-i-am-childs-parent
- [4] <https://texaslawhelp.org/legal-help/legal-help-finder>
- [5] <https://texaslawhelp.org/full-representation-private-lawyer>
- [6] <https://texaslawhelp.org/limited-scope>
- [7] <https://texaslawhelp.org/form/original-petition-annul-marriage-uncontested-no-children>
- [8] <https://texaslawhelp.org/article/void-marriages-answers-common-questions>
- [9] <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.6.htm#6.201>
- [10] <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.6.htm#6.202>
- [11] <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.6.htm#00>
- [12] <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.2.htm#2.003>
- [13] <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.2.htm#2.101>
- [14] <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.6.htm#6.105>
- [15] <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.2.htm#2.204>
- [16] <https://texaslawhelp.org/family-divorce-children/divorce>
- [17] <https://texaslawhelp.org/legal-clinic-calendar> Click here to chat.

[18] <https://texaslawhelp.org/legal-advice>



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