

# ANNULMENT

Florida does not have an annulment statute. It is a matter of common law.

There are a variety of different reasons people would like their marriage annulled; However, there are only very specific incidences that permit an annulment in the State of Florida.

## **Below are the Florida grounds for an annulment:**

1. The marriage is void because it's bigamous (means one spouse is legally married to more than one person), incestuous (the couple is closely related by blood or marriage), the union consists of two under-aged people, or because one spouse is permanently mentally incapacitated and unable to consent to marriage. Although these marriages are void by their very nature, it is still advisable to obtain an annulment.
2. The marriage is voidable because one of the spouses lack the ability to consent to marriage. During the ceremony, the spouse was suffering from a serious, but temporary mental problem, or was under the influence of intoxicating alcohol or drugs.
3. The marriage is voidable because one spouse is impotent, and the other spouse did not know it at the time of marriage.
4. The marriage is voidable because one of the spouses used fraudulent acts, or misrepresentations to trick the other spouse into entering the marriage. Not all misrepresentations will qualify. A qualifying fraud goes to the essence of the marital relationship. What that means is if a spouse married just to obtain a green card for immigration purposes, this can qualify.
5. The marriage is voidable because one spouse is underage and entered the marriage without the consent of a parent, or guardian.
6. The marriage is voidable because one or both spouses only entered into the marriage because they were under duress. This can be defined as extreme coercion, or possibly even force. It will have to be proven to a court that the duress was current at the time of marriage, not a regret later.
7. The marriage is voidable because one, or both spouses entered the marriage as a joke.

In Florida, a voidable marriage can be ratified if after the fraud is discovered by the party who was defrauded learns of the fraud and consents to sexual consummation. The consent after "wrongdoing" essentially waives any right to complain about the wrongdoing and the voidable marriage becomes a valid marriage. It can only be undone by a dissolution of marriage.

Such pretend marriages as these ...are contrary to public policy and are without the sacred elements on which the estate of matrimony is founded. The courts should not hesitate to annul such marriages at the behest of either party on clear and unequivocal proof that the purported marriage was so entered into and that marriage status was never consummated by any cohabitation.

A marriage may be annulled for any cause which has prevented the parties from contracting a valid marriage. The invalidity of a marriage may arise from (1) a want of legal capacity to contract, or statutory prohibition against the type of marriage in question, (2) a want of mental capacity to contract, (3) a lack of actual consent to contract, (4) a consent wrongfully procured by force, duress, fraud or concealment, and (5) a lack of physical capacity to consummate. (**Sack v. Sack**, 184 So. 2d 434, Fla. 1996)