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Annulment – 11 Reasons for Annulment in Virginia

An annulment in Virginia is different from a divorce. A divorce is the end to a valid marriage. An annulment is the end to an invalid marriage. There are 11 reasons for annulment.

(1) No marriage license - Code of Virginia §20-13. This is voidable - Code of Virginia §20-89.1.

(2) Bigamy - Code of Virginia §20-38.1(a)(1). This is void without decree - Code of Virginia §§20-43 & 20-45.1(a).

(3) Incest - Code of Virginia §§20-38.1(a)(2) & (3). This is void without decree - Code of Virginia §20-45.1(a).

(4) Underage (*i.e.*, between 16 & 18 and did not have parental consent, or under 16 and no pregnancy and did not have parental consent) - Code of Virginia §20-45.1(a). This is void without decree - Code of Virginia §20-45.1(a).

(5) Lacked capacity to consent due to mental incapacity or infirmity - Code of Virginia §20-45.1(b). This is voidable - Code of Virginia §20-45.1(b).

(6) Fraud or duress - Code of Virginia §20-89.1(a). This is voidable - Code of Virginia §20-89.1(a).

(7) Impotency at marriage - Code of Virginia §20-89.1(b). This is voidable - Code of Virginia §20-89.1(a).

(8) Prior felony conviction unknown to spouse - Code of Virginia §20-89.1(b). This is voidable - Code of Virginia §20-89.1(a).

(9) Wife pregnant at marriage, not by husband & unknown by husband - Code of Virginia §20-89.1(b). This is voidable - Code of Virginia §20-89.1(a).

(10) Husband fathered a child at marriage, not by wife & unknown by wife - Code of Virginia §20-89.1(b). This is voidable - Code of Virginia §20-89.1(a).

(11) Prior prostitution unknown to spouse - Code of Virginia §20-89.1(b). This is voidable - Code of Virginia §20-89.1(a).

What if I do not have one of these 11 reasons?

If you do not have one of these 11 reasons, you cannot get an annulment in Virginia. You would have to get a divorce instead.

What is the difference between an annulment and a divorce?

An annulment in Virginia is different from a divorce. A divorce is the end to a valid marriage, while an annulment is the end of an invalid marriage. A court may grant an annulment when there is a legal reason the marriage shouldn't have ever existed. If there is a reason your marriage should have been invalid from the beginning, you may be eligible to have your marriage annulled.

What type of fraud would allow a marriage to be annulled?

For fraud to be a legal ground to annul a marriage, the fraud must be bad enough that there would not have been a marriage without it. Fraud such as lies about age, health, wealth, and prior marriages aren't enough to have a marriage annulled. Annulments have been granted for the following frauds in Virginia: lying about a venereal disease, lying about religious beliefs, and hiding pregnancy by another person.

What type of duress would allow a marriage to be annulled?

For an annulment to be granted because of duress, a spouse must have been coerced or threatened at the time of the marriage.

What type of underage marriages can be annulled?

The legal age for marriage in Virginia is 18, with certain exceptions. Marriage is legal at age 16 with the consent of a parent or guardian. If a woman is under 16 and pregnant, a marriage is legal with consent of a parent or guardian. Marriage of a girl over 14 is allowed to prevent a statutory rape conviction in Virginia. If any of these exceptions are met at the time of marriage, the marriage won't be annulled because a spouse was underage.

What is the effect of an annulment?

An annulment of your marriage means that you and your former spouse were never legally married. Unlike many other states, in Virginia, a judge can't order spousal support (alimony) or property division after an annulment like a judge can in a divorce. The judge can, however, still decide child custody, child visitation and child support. Children of annulled marriages are considered legitimate, meaning they can inherit from either parent, and they have the right to be financially supported by both parents.