

Do I Qualify for An Annulment?

Understanding the proper method for terminating a marriage is very important. There are two methods of judicially terminating a marriage. The first method is an annulment (properly known as Nullity). The second method is a divorce (Dissolution of Marriage). This guide will provide a brief synopsis of when an annulment is proper. For a more thorough explanation of the grounds necessary for a Nullity of Marriage or Dissolution of Marriage, please see the *California Family Code*, and the California Judicial Branch's website at: www.courts.ca.gov.

When is an Annulment of Marriage Proper?

An annulment is the proper form of ending a marriage where the validity of the marriage is in doubt. This essentially means that at the time the two parties entered into their marriage there were circumstances present that made the marriage invalid. The resulting marriage is then either void or voidable. A void marriage is invalid, per se. That means that the marriage is invalid regardless of the wishes of the parties. A voidable marriage is valid until it is judicially declared to be a nullity.

The following is a brief overview of the various circumstances resulting in a void or voidable marriage:

- Circumstances resulting in a Void Marriage:
 - Marriage between individuals who are too close of a blood relation.
 - Bigamous or Polygamous marriages.
- Circumstances resulting in a Voidable Marriage:
 - Any party to the marriage lacked capacity to consent to the marriage due to age.
 - Exception: After attaining the age consent, the party who had lacked capacity freely cohabitates with the other party as his or her spouse.
 - Entering into a second marriage while married to a spouse whom that party believes to be dead.
 - Entering into a second marriage while married to a spouse whose whereabouts are unknown and the party entering into the second marriage does not know whether the spouse is alive or dead for a period of at least five successive years prior to the second marriage.
 - Any party was found of unsound mind when entering the marriage.
 - Exception: The party claiming unsound mind returns to reason and then freely chooses to cohabitate with the other party as his or her spouse.
 - Any party's consent to the marriage was obtained via fraud.
 - Exception: The party learns the full facts of the fraud and then freely chooses to cohabitate with the other party as his or her spouse.
 - Any party's consent to the marriage was obtained via force.
 - Exception: The party whose consent was obtained through force freely cohabitates with the other party as his or her spouse.
 - Both parties were, at the time of the marriage, physically incapable of entering into the marriage state, and that incapacity continues, and appears to be incurable.