

### Divorce versus Annulment

*by Brette McWhorter Sember, JD*

There is a lot of confusion about the difference between a divorce and an annulment. There is also confusion between a legal annulment and a religious annulment.

A divorce is a legal end to the marriage -- deciding all issues involved in the closure of the marriage and often assigning fault to one of the parties for the end of the marriage. The end result of a divorce is dissolution of the marriage. An annulment is also an end to the marriage and entails all the decisions a divorce involves if needed -- property and debt division, custody, [child support](#), and alimony. However, an annulment is a legal determination that the marriage was never valid in the first place.

An annulment determines that the marriage was not legal or valid when it was entered into and therefore never truly legally existed. The annulment legally erases the [marriage](#), as if it never was. One important thing to note is that if you had children together during the marriage, the children are still considered to be legitimate -- conceived in and born into a legal marriage and legal child of both of you. Annulments are more common with very short marriages, where one or both parties realizes rather quickly that a mistake was made, but it is certainly not unheard of for a much longer marriage to end in annulment. Alimony cannot be awarded in a judgment of annulment, since the court is deciding there was no legal marriage to begin with.

Annulments are not available because you've changed your mind, aren't happy, feel you made a bad decision, are abused by your spouse, or feel you've been treated unfairly. There has to be a legal basis for determining the marriage was not valid. In most states, the legal process for an annulment is much like that for a divorce. Similar papers are filed and similar hearings are held. An annulment can be contested, just as with a divorce. However, annulments are often agreed upon by both parties, and since they usually happen very early in a marriage, the process is generally quick and easy. Annulments are not very common, but a lot of people seem to think they ought to be able to get one. In fact, an annulment is really the exception to the rule and very few people actually do get them.

#### Reasons for Annulment

Each state has its own requirements for granting an annulment, but usually include the following:

- One spouse was underage at the time of the marriage
- One spouse misrepresented him- or herself to the other in some significant way (this often involves fraud of some kind)
- One spouse was mentally ill at the time of the marriage
- One spouse is unable or unwilling to consummate the marriage

- The parties are related to each other in a way that prevents marriage in that state
- One spouse was already married to someone else at the time of the marriage
- One spouse concealed or withheld important facts, such as having a disease, having previous [children](#), being infertile, and so on.

### Religious Annulment

A legal annulment is one granted by the court. It decides that legally there is no marriage. Once the marriage is annulled, you are a single person who has never technically been married. A religious annulment is entirely different. Religious annulments are granted by your religious institution. They have separate requirements and processes. Some people get a legal divorce and then seek a religious annulment so that they will be able to marry again in their church or temple. It is not always possible to obtain a religious annulment, so it is best to consult with your priest, rabbi, or other religious authority to learn what the requirements and steps are.

Perhaps the most important thing to understand about an annulment is that it can't undo the pain or hurt you have suffered. Even if your marriage is deemed legally or religiously void, it was real while you lived it, and the only way to deal with the pain is to cope with it directly.

*Excerpted from The Complete Divorce Handbook (Sterling) by Brette McWhorter Sember, JD.*  
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