

CAN I GET AN ANNULMENT IN VIRGINIA?

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The number of calls that I receive asking whether a person can get an annulment is astonishing. The usual reasons given are that they have been married less than one year or are in the military or never "really" wanted to get married. These do not form the basis for an annulment of a properly performed marriage in Virginia.

A marriage can be annulled because it is void under VA Code Section 20-38.1 and/ or because it is voidable under VA code Section 20-89.1.

Grounds for Annulment:

No license/solemnization - the marriage was performed without the required license.

Bigamy - the marriage was entered into prior to the dissolution of an earlier marriage of one of the parties.

Incest - the marriage was between relatives forbidden to marry. Note: In Virginia, first cousins CAN marry.

Lack of capacity-mental infirmity - either of the parties lacked capacity to consent to the marriage at the time it was performed because of mental incapacity or infirmity.

Fraud or duress - fraud must be materially affecting the essentials of the marriage.

Impotence - natural or incurable impotence existing at the time of entering into the marriage contract (and the other party did not know it).

Felony conviction - either party, without knowledge of the other, had been convicted of a felony prior to the marriage.

Pregnancy by third party - at the time of the marriage, the wife, without the knowledge of the husband, was with child by a person other than the husband.

Pregnancy of a third party - the husband, without the knowledge of the wife fathered a child born to a woman other than his wife within 10 months after the marriage was solemnized.

Prior prostitution - either party, without the knowledge of the other, had been a prostitute prior to the marriage.

If the marriage does not meet one of the above then you must obtain a divorce regardless of the length of the marriage, whether you are a service member or any of the other things that you have been told.

