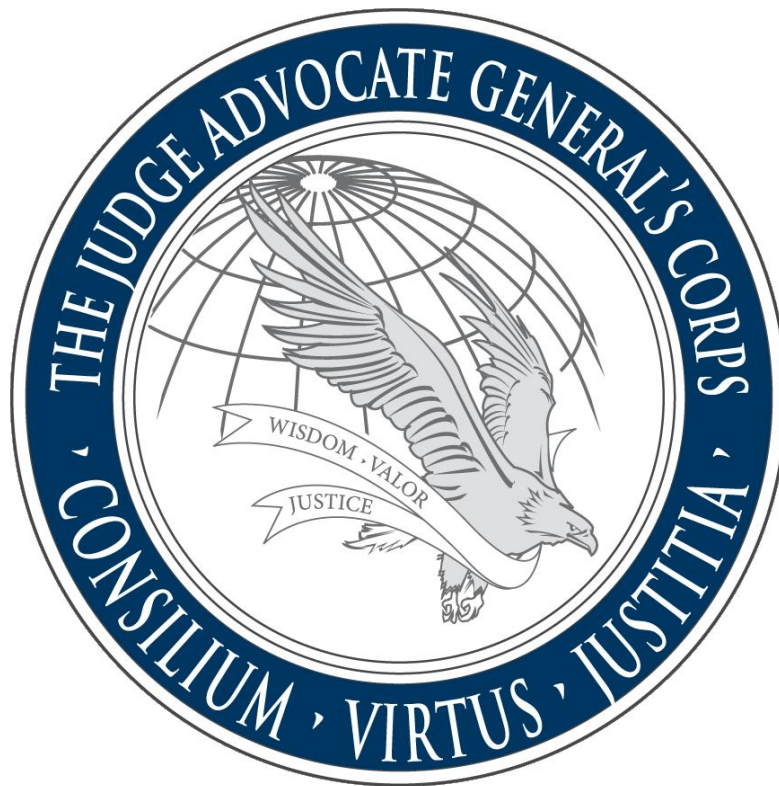


Marriage Annulment in Ohio



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Interim update: Annulment Proceedings during Coronavirus Pandemic (a/o 16 April 2020)

The situation is fluid and changes may occur that are not reflected in this update.

Courthouses in Ohio remain open for essential functions.

- What is deemed essential varies by county.
- Many Domestic Relations Courts in Ohio are hearing emergency petitions only.
- Helpful tips:
 - If preparing to file pro se (without an attorney representing you) call the clerk of courts in the county where you live:
 - To confirm hours,
 - Any new additional screening protocols to expect (e.g., questionnaire about recent travel, taking of temperature prior to entry), and
 - Availability of e-filing to help keep you and their staff safe and healthy.
 - If you have a hearing already scheduled:
 - If you have an attorney, call/email them to determine schedule impacts.
 - Call the domestic relations court in the county where the case was filed to determine when/how hearing will proceed.
 - If you want to find an attorney to represent you in a future proceeding, many law offices are still open but conducting consultations via video-conferencing or phone calls.

State (of Ohio) statute of limitations, time limitations and deadlines are tolled, or paused, retroactively from 9 March 2020 to a date TBD.

- For new cases, this will likely impact the time you have to initiate a lawsuit.
 - Statute of limitations refers to the time between learning of an event that gives rise to your petition for annulment and the time you have to file (e.g., if your consent to marriage was obtained by fraud, you have two years from the date you discover you were defrauded to seek annulment).
 - “Tolling” basically pauses this timeframe, so if your two years runs out while the courts have limited availability, you are likely still able to file once restrictions are removed. Caution: applicability of statute of limitations may be very fact dependent and you should consult an attorney for specific situations.

Marriage Annulment in Ohio

What is an annulment?

Under certain circumstances, a court can grant a marriage annulment, which means that the marriage is not only terminated, but legally treated as if it never took place.

What are these certain circumstances?

The circumstances under which a marriage is annulled are called "grounds." There are six grounds for an annulment. You may qualify for an annulment if, at the time of the marriage:

- You were under the age required for marriage (prior to 8 January 2019, males had to be 18 and females had to be 16; for marriages after 8 January 2019, both parties must be 18), and you did not cohabit with your spouse after attaining the legal age. This annulment action must be brought within two years after you attain the legal age for marriage.
- Either you or your spouse was already legally married and the spouse from the other marriage is still alive. This is also known as Bigamy. There is no time limit for bringing an annulment action based on the ground of Bigamy.
- Either you or your spouse had been declared by a judge to be incompetent, unless competency was later restored and you lived together afterward as spouses.
- The consent to marry was obtained by fraud of either you or your spouse, unless, after learning all of the facts, you lived together as spouses. (For example, consent may be obtained by fraud when a woman falsely tells her "significant other" that she is pregnant and that he is the father. Or, consent may be obtained by fraud when a spouse seriously misrepresents his/her identity or gender.) An annulment action based on fraud must be filed within two years after discovery of the facts that constitute fraud.
- The consent to marry of either you or your spouse was obtained by force (such as in a so-called "shotgun wedding"), unless afterward you lived together as spouses. This annulment action must be filed within two years of the date of the marriage.
- Your marriage was never consummated. This means that you and your spouse failed to have physical relations at any time following the marriage ceremony. Such an annulment action also must be filed within two years of the date of the marriage.

Can I get alimony if I file for an annulment?

No. The Ohio statute that provides for spousal support (previously known as alimony) does not apply to annulments.

Can I be awarded attorney fees if I file for an annulment?

Generally, attorney fees and court costs are not recoverable in US courts absent specific statutory authority. The main statute that allows a party to recover attorney fees does not apply to annulments. However, courts may award fees in civil cases where fraud is involved. Courts have awarded attorney fees to parties who have obtained an annulment on the grounds of fraud.

Do I need an attorney to file for an annulment?

All persons have the right to represent themselves in any case. However, because the grounds for annulment are complicated and the actions the court must take in annulment cases are not always clear, it would be in your best interest to hire an attorney.

How long can it take to get an annulment?

The length of time an annulment takes will depend on the circumstances. If you and your spouse can reach an agreement, your annulment can be completed within several months. If an agreement cannot be reached, and the case must be tried before the court, the case can last a year or more.

How can I decide whether to file for a divorce or an annulment?

You should consult an attorney who practices in the area of domestic relations, or the base legal office. If you have grounds for both divorce and annulment, you will want to consider the amount of property you have and the relief (financial compensation) you need. You can obtain certain types of relief through a divorce case that you probably cannot obtain through an annulment, such as attorney fees and spousal support. If the facts of your case indicate that you are likely to receive an award of attorney fees or spousal support, an action for divorce would give you access to these remedies while an annulment would not. Similarly, the equitable division of marital property possible through a divorce case may be a better option for you than an annulment if you have accumulated a great deal of marital property.

Will an annulment cost me more than a divorce?

Generally, no. In fact, since most grounds for annulment come up rather early in a marriage, there often is not as much work for the attorney to do. Otherwise, the attorney fees charged for an annulment should not be much different from fees charged for a divorce.

Source:

Ohio Bar Association, *Law You Can Use*, www.ohiobar.org

The information contained in this pamphlet is intended to provide you with a general overview of the law. It is not intended to be comprehensive, and should not be considered legal advice. If you have questions you should contact an attorney.

A military legal assistance attorney can provide guidance on these matters free of charge to all active duty personnel and their dependents along with reservists and guardsmen on federal active duty and their dependents. In addition, retired personnel, their dependents, and dependent survivors may also receive legal assistance to the extent personnel and facilities are available.

To schedule an appointment to discuss these or other legal matters you can contact the Wright-Patterson Air Force Base, 88th Air Base Wing Legal Assistance Office at (937) 257-6142, DSN 787-6142.

Additional information may be available on the Air Force Legal Assistance Website <https://aflegalassistance.law.af.mil> and the Armed Forces Legal Assistance Website <http://legalassistance.law.af.mil/>.

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