

## ***What is an annulment of marriage?***

Some marriages are not valid--that is, they do not meet all of the requirements of the law for a legitimate marriage. (For more information about what makes a marriage valid, see LawHelpNew Mexico topic "Marriage".) An annulment is the official court document that says the marriage was not valid.

## ***When can a marriage be annulled?***

When a marriage is invalid, one of the partners can ask the court to annul the marriage. If your marriage is annulled, the law treats you (in most ways) as if you have never been married to the other person.

A marriage can be annulled if it is "void" or if it is "voidable". A void marriage is one that is against public policy--such as the marriage of very close relatives or marriage in which one of the partners is legally married to someone else. A void marriage is said to be legally impossible, and can always be annulled.

A voidable marriage is one that does not meet all the requirements of the law, but one that the law will recognize anyway if neither one of the spouses objects. For example, someone who is too young to marry legally becomes an adult, and decides

to remain in the marriage. This person "ratifies" the marriage, making it valid. In another example, a man may learn after he marries that his wife was pregnant with the child of a different father at the time of the marriage. The man can choose to annul the marriage for that reason. If he decides to treat the child as his own, however, giving the child love and support, he makes the voidable marriage valid.

It can be difficult to determine whether a voidable marriage has become valid; it is important to get legal advice based on all of the facts of your situation.

## ***What are the grounds for annulment in New Mexico?***

New Mexico offers three grounds for annulment:

- **Incest.** This includes marriages between parents and children, grandparents and grandchildren, brothers and sisters, and half-brothers and half-sisters. Marriages between aunts and nephews and uncles and nieces are also considered incestuous.
- **Marriages between children or a child and an adult.** Children under the age of 16 cannot marry, and children between 16 and 18 years old can marry only if a

parent approves. Marriages involving anyone under sixteen can always be annulled, at least until the child becomes an adult and decides to remain in the marriage. If the child is between age 16 and 18, and the child's parent has not given permission, that marriage can also be annulled. In certain circumstances, the court may authorize a marriage even if a parent does not.

- **One of the partners is already married.**

If one of the partners is already married to someone else, the later "marriage" is void. It can be difficult in court to prove that someone is already married. To do this, you need to show that the marriage occurred, and that there has not been a divorce or death that ended the marriage.

In the future, New Mexico may accept grounds for annulment that other state courts have adopted. These grounds might include fraud (one of the partners lies to the other about something important to the marriage), insanity and incapacity (someone is not mentally able to decide to get married), and duress (someone is forced to get married).

### ***Is it possible to get an annulment if there are children from the marriage?***

In some cases, such as when there is incest or one partner is already legally married to someone else, the current marriage is void. It can be annulled, even if there are children. The children are entitled to financial support from the parents, and both parents are entitled to have reasonable amounts of time with the children.

### ***What happens to community property and debts in an annulment?***

Community property and community debts are divided equally, just as they are in a divorce. (**For more information, see LawHelpNewMexico topic "Divorce".**)

### ***How long does it take to get an annulment?***

The time varies, depending on how long it takes for the other spouse to get official notice of the case, whether there are children, and whether there is property or debt. The time period can be from a few days to several months. In some cases, the other spouse may argue that the marriage is legal. If a court agrees, the person who wants to end the marriage must seek a divorce.

## ***How do I get an annulment?***

You must file a petition in court. The petition must give one of the reasons that the law allows for annulment. Your “spouse” is entitled to formal court notice that you have filed the petition. The court will then hold a hearing. If the court agrees that your marriage is invalid, it will allow the annulment.

## ***Where do I file for an annulment?***

In New Mexico, the district court handles annulments. However, you must be a resident of the state for at least six months before you can start your annulment case in this state.