

Annulments -- **READ this FIRST!**

Few people who want an annulment actually qualify for one. Before filing the forms (and paying the fee), read the Texas laws about annulment.

SUBCHAPTER B. GROUNDS FOR ANNULMENT

Excerpt Source: Texas Family Code, 2008, chapter 6. Read the entire chapter at

<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.6.htm#6.102>

§ 6.102. ANNULMENT OF MARRIAGE OF PERSON UNDER AGE 18.

(a) The court may grant an annulment of a marriage of a person 16 years of age or older but under 18 years of age that occurred **without parental consent or without a court order** as provided by Subchapters B and E, Chapter 2.

(b) A petition for annulment under this section may be filed by:

- (1) a next friend for the benefit of the underage party;
- (2) a parent; or
- (3) the judicially designated managing conservator or guardian of the person of the underage party, whether an individual, authorized agency, or court.

(c) A suit filed under this subsection by a next friend is barred unless it is filed within 90 days after the date of the marriage.

§ 6.103. UNDERAGE ANNULMENT BARRED BY ADULTHOOD.

A suit to annul a marriage may not be filed under Section 6.102 by a parent, managing conservator, or guardian of a person after the 18th birthday of the person.

§ 6.104. DISCRETIONARY ANNULMENT OF UNDERAGE MARRIAGE.

(a) An annulment under Section 6.102 of a marriage may be granted at the discretion of the court sitting without a jury.

(b) In exercising its discretion, the court shall consider the pertinent facts concerning the welfare of the parties to the marriage, including whether the female is pregnant.

§ 6.105. UNDER INFLUENCE OF ALCOHOL OR NARCOTICS.

The court may grant an annulment of a marriage to a party to the marriage if:

- (1) at the time of the marriage the petitioner was under the influence of alcoholic beverages or narcotics and as a result did not have the capacity to consent to the marriage; and
- (2) **the petitioner has not voluntarily cohabited with the other party to the marriage since the effects of the alcoholic beverages or narcotics ended.**

§ 6.106. IMPOTENCY.

The court may grant an annulment of a marriage to a party to the marriage if:

- (1) either party, for physical or mental reasons, was permanently impotent at the time of the marriage;
- (2) the petitioner did not know of the impotency at the time of the marriage; and
- (3) **the petitioner has not voluntarily cohabited with the other party since learning of the impotency.**

§ 6.107. FRAUD, DURESS, OR FORCE.

The court may grant an annulment of a marriage to a party to the marriage if:

- (1) the other party used fraud, duress, or force to induce the petitioner to enter into the marriage; and

- (2) **the petitioner has not voluntarily cohabited with the other party since learning of the fraud or since being released from the duress or force.**

§ 6.108. MENTAL INCAPACITY.

(a) The court may grant an annulment of a marriage to a party to the marriage on the suit of the party or the party's guardian or next friend, if the court finds it to be in the party's best interest to be represented by a guardian or next friend, if:

- (1) **at the time of the marriage the petitioner did not have the mental capacity to consent to marriage or to understand the nature of the marriage ceremony because of a mental disease or defect; and**
- (2) **since the marriage ceremony, the petitioner has not voluntarily cohabited with the other party during a period when the petitioner possessed the mental capacity to recognize the marriage relationship.**

(b) The court may grant an annulment of a marriage to a party to the marriage if:

- (1) at the time of the marriage the other party did not have the mental capacity to consent to marriage or to understand the nature of the marriage ceremony because of a mental disease or defect;
- (2) at the time of the marriage the petitioner neither knew nor reasonably should have known of the mental disease or defect; and
- (3) since the date the petitioner discovered or reasonably should have discovered the mental disease or defect, the petitioner has not voluntarily cohabited with the other party.

§ 6.109. CONCEALED DIVORCE.

(a) The court may grant an annulment of a marriage to a party to the marriage if:

- (1) the other party was divorced from a third party within the 30-day period preceding the date of the marriage ceremony;
- (2) at the time of the marriage ceremony the petitioner did not know, and a reasonably prudent person would not have known, of the divorce; and
- (3) since the petitioner discovered or a reasonably prudent person would have discovered the fact of the divorce, the petitioner has not voluntarily cohabited with the other party.

(b) A suit may not be brought under this section after the first anniversary of the date of the marriage.

§ 6.110. MARRIAGE LESS THAN 72 HOURS AFTER ISSUANCE OF LICENSE.

(a) The court may grant an annulment of a marriage to a party to the marriage if the marriage ceremony took place in violation of Section 2.204 during the 72-hour period immediately following the issuance of the marriage license.

(b) A suit may not be brought under this section after the 30th day after the date of the marriage.

Cause Number: _____
(The Clerk's office will fill in the Cause Number and Court Number when you file this form.)

IN THE MATTER OF THE MARRIAGE OF

Petitioner: _____
Print first, middle and last name of the spouse filing for annulment.

In the _____
(Court Number)

And

District Court County Court of:

Respondent: _____
Print first, middle and last name of other spouse.

_____ County, Texas

Original Petition to Annul Marriage

Print your answers.

Parties

My name is: _____
First Middle Last

I am the **Petitioner**. I am filing this Original Petition to Annul Marriage.

The last three numbers of my driver's license number are: ____ ____ _____. My driver's license was issued in (State) _____.
or I do not have a driver's license number.

The last three numbers of my social security number are: ____ ____ _____.
or I do not have a social security number

My spouse's name is: _____
First Middle Last

My spouse is the **Respondent**.

1. Discovery Level

The discovery level in this case, if needed, is level 2.

2. Jurisdiction

(Check all boxes that apply.)

- My spouse and I were married in Texas.
- I live in Texas.
- My spouse is lives in Texas.

3. Marriage

My spouse and I got married on: _____
Month Day Year

4. Grounds

At the time of the marriage: *(Check one box.)*

- I was under the influence of alcoholic beverages or narcotics, and as a result did not have the capacity to consent to the marriage. I have not voluntarily lived with the Respondent since the effects of the alcoholic beverages or narcotics ended.
- Either the Respondent or I, for physical or mental reasons, was impotent (unable to have sexual intercourse). I did not know of the impotency at the time of the marriage and I have not voluntarily lived with the Respondent since learning of the impotency.
- Respondent used fraud, duress, or force to induce me to marry and I have not voluntarily lived with the Respondent since learning of the fraud or being released from the duress or force.
- I did not possess the mental capacity to consent to marriage or to understand the nature of the marriage ceremony because of a mental disease or defect. Since the marriage ceremony, I have not voluntarily lived with the Respondent during a period when I possessed the mental capacity to recognize the marriage relationship.
- Respondent did not possess the mental capacity to consent to marriage or to understand the nature of the marriage ceremony because of a mental disease or defect. At the time of the marriage, I did not know of the Respondent's mental disease or defect and I have not voluntarily lived with the Respondent since I discovered the Respondent's mental disease or defect.
- Respondent concealed a divorce that took place within the 30 day period before the marriage ceremony. At the time of the marriage ceremony I did not know about the divorce and I have not lived with the Respondent since I found out about the divorce. It has been less than 1 year since the marriage occurred.
- The Respondent and I were married less than 72 hours after the marriage license was issued. A court did not sign an order waiving the 72 hour waiting period and none of the exceptions set out in Texas Family Code Section 2.204 (b) apply. (At the time of the marriage, I was not a member of the U.S. armed forces on active duty, I did not perform work for the U.S. Department of Defense as an employee or under a contract with the Department, and I did not seek a waiver based upon completion of a premarital course as set out in Section 2.204 (b) (4).) And, it has been less than 30 days since the marriage took place.

5. No Child of Marriage

No child was born or adopted during our marriage and none is expected.

6. Property

No community property was accumulated by the parties during the marriage other than personal effects, which should be awarded to the person having possession.

7. Confirmation of Name

(Check all boxes that apply.)

- Petitioner's name before the ceremony was:

_____.

(Print) First

Middle

Last

This former name should be confirmed by the Court as his/her lawful name.

- Respondent's name before the ceremony should be confirmed by the Court as his/her lawful name.

_____.

(Print) First

Middle

Last

This former name should be confirmed by the Court as his/her lawful name.

8. Protective Order Statement

Protective Order Against my SPOUSE

(Check one box and fill in the requested information, if applicable.)

- I **do not** have a Protective Order against my spouse and I have not asked for one.
- I **have** filed paperwork at the courthouse asking for a Protective Order against my spouse, but a judge has not decided if I should get it. I asked for a Protective Order on _____ in _____ County. The case number is _____.

Date Filed

Name of County

- I **do have** a Protective Order against my spouse. I got the Protective Order on _____ in _____ County,

_____.

Date Ordered

Name of County

Name of State

The case number for the Protective Order is _____.

Protective Order Against ME

(Check one box and fill in the requested information if applicable.)

- My spouse **does not** have a Protective Order against me and has not asked for one.
- My spouse **has** filed paperwork asking to get a Protective Order against me, but a judge has not decided if my spouse will get it. My spouse asked for a Protective Order on _____ in _____ County. The case number is _____.

Date Filed

Name of County

- My spouse **does have** a Protective Order against me. The Order was made on _____ in _____ County,

_____.

Date Ordered

Name of County

Name of State

The case number for the Protective Order is _____.

Note: You MUST attach a copy of **any** protective order issued for you against your spouse **or** issued for your spouse against you, no matter when the protective order was issued.

9. Notice to My Spouse

(Check one box.)

Your spouse has the legal right to be notified that you have filed for annulment of your marriage.

- I will have a sheriff, constable, or process server give a copy of this Petition to my spouse here:

Street Address

City

State

Zip

If this is a work address, name of business: _____

I ask the clerk to issue citation. I understand that I will need to **pay the fee** (or file the form to show the Court that I am unable to pay the fee) and **arrange for service** by a sheriff, constable or process server.

- Do not send a sheriff, constable, or process server to give a copy of this Petition to my spouse, at this time. I think my spouse will sign a Waiver of Service, or file an Answer.

10. Prayer

I ask the Court to grant my annulment. I also ask the Court to make the other orders I have asked for in this Petition and any other orders to which I am entitled.

Petitioner's Name

Date

→ _____

Petitioner's Signature

()

Phone

Mailing Address

City

State

Zip

I understand that I must notify the Court, my spouse and my spouse's attorney (if my spouse has an attorney) in writing if my mailing address changes during these proceedings.

WARNING: By signing this form, you give up all your legal rights in this case. Do not sign it if you want to know what the court will order in your case. You can waive your right to be served, but keep your other rights, by filing an *Answer* instead. You can find an *Answer* form at www.FreeTexasForms.org with the Annulment forms.

Instructions: If you decide to use this *Waiver of Service* form:

- Make sure the Petitioner has already filed a *Petition for Annulment* with the court. Do not sign this *Waiver of Service* until after the *Petition* is filed and you have been given a copy. If you sign it before the *Petition* is filed, it must be redone. The official court stamp on the *Petition* will tell you when it was filed.
- Fill out the *Waiver of Service* completely. You MUST include your address.
- Sign the *Waiver of Service* in front of a notary.
- Give the *Waiver of Service* to the Petitioner or file it in the clerk's office.

Print court information exactly as it appears on your *Petition*.

Cause Number: _____

IN THE MATTER OF THE MARRIAGE OF

In the: (Check one.)

Petitioner: _____ District Court County Court of:
(Print first, middle and last name of the spouse filing for annulment.) (court number)

And

Respondent: _____ County, Texas
(Print first, middle and last name of other spouse.)

Waiver of Service – Annulment

The person who signed this affidavit appeared, in person, before me, the undersigned notary, and stated under oath:

"I am the Respondent in this case.

"My name is: _____
First Middle Last

"My mailing address is: _____
Mailing Address City State Zip

"My phone number is: (_____) _____ - _____.

"The last three numbers of my driver's license number are: ____ ____ _____. My driver's license was issued in (State): _____.

Or I do not have a driver's license number.

"The last three numbers of my social security number are: ____ ____ ____.

Or I do not have a social security number.

"I have been given a copy of the *Petition for Annulment* filed in this case. I have read the *Petition for Annulment* and understand what it says.

"I understand that I have the right to be given a copy of the *Petition for Annulment* and official notice of this case by a constable, sheriff or other official process server. This process is called *issuance and service of citation*. I do not want to be given official notice. I give up my right to *issuance and service of citation* in this case and enter my appearance in this case for all purposes.

"I also give up my right to be notified of any and all hearings in this case.

"I agree that a Judge or Associate Judge in the county and state where this case is filed may make decisions about my annulment, even if the annulment should have been filed in another county. I do not want a court reporter to make a record of the testimony in this case.

"I understand that I must let the Court, my spouse and my spouse's attorney(if my spouse has an attorney) know in writing if my mailing address or phone number changes during this case

"If I am in the military, I waive all rights, privileges, and exemptions I may have under the Servicemembers Civil Relief Act in this case, including having a lawyer appointed to represent me.

Prior to the marriage ceremony, my full name was:

PRINT *First* *Middle* *Last*

This former name should be confirmed by the Court as my lawful name.

"I agree that the judge may make decisions about my annulment without further notice to me."

Do not sign until you are in front of a Notary



Respondent's signature

Notary fills out below

State of Texas, County of _____
(Print the name of county where this affidavit is notarized.)

Sworn to and subscribed before me, the undersigned Notary, on this date: _____

by _____
(Print the first and last names of the Respondent who is signing this affidavit.)

I, the Notary Public, who signature appears below, certify that I am not an attorney in this case.

(Notary's seal here)



Notary's signature

Cause Number: _____
(Print cause number and court number exactly as it appears on the Original Petition for Annulment.)

IN THE MATTER OF THE MARRIAGE OF

Petitioner: _____ In the _____
Print first, middle and last name of the spouse filing for annulment. (Court Number)

And District Court County Court of:

Respondent: _____ County, Texas
Print first, middle and last name of other spouse.

Respondent's Answer to Petition for Annulment

(Print your answers)

My name is: _____
First Middle Last

I am the Respondent in this case.

The last three numbers of my driver's license number are: ____ ____ ____ . My driver's license was issued in (State) _____ .

Or I do not have a driver's license number.

The last three numbers of my social security number are: ____ ____ ____ .

Or I do not have a social security number

1. General Denial

I enter a general denial. I want to be notified of all hearings in this case.

However, if my spouse and I reach an agreement and I sign the Decree of Annulment, I agree that the Judge can finalize this case without my getting notice of the hearing and without my coming to Court.

2. Contact Information

My mailing address is: _____
Mailing Address City State Zip

My phone number is: (____) _____ - _____ .

I understand that I MUST notify the Court, my spouse and my spouse's attorney (if my spouse has an attorney) in writing if my mailing address or phone number changes during this case.

I understand that, unless I notify my spouse and my spouse's attorney (if my spouse has an attorney) in writing of changes to my address, all information about this case, including the date and time of hearings, will be sent to me at the address on this form.

3. Confirmation of Prior Name

Prior to the marriage ceremony, my full name was:

PRINT First Middle Last

This former name should be confirmed by the Court as my lawful name.

4. Prayer

I ask the Court for general relief.



Respondent's signature

Date

Certificate of Service

I swear that a true copy of this document was given to my spouse and my spouse's attorney (if my spouse has an attorney) in person, by fax, or by certified mail (return receipt requested).

I understand that I must give copies of any papers I file with the Court to my spouse and my spouse's attorney (if my spouse has an attorney) in person, by fax, or by certified mail (return receipt requested).



Respondent's signature

Date

Cause Number: _____

IN THE MATTER OF THE MARRIAGE OF

Petitioner: _____
Print first, middle and last name of spouse filing for annulment.

In the _____
(Court Number)

And

District Court County Court of:

Respondent: _____
Print first, middle and last name of other spouse.

_____ County, Texas

Decree of Annulment

A hearing took place today, and the following people were present. There was no jury as neither party asked for one.

1. Appearances

Petitioner

The Petitioner's name is: _____
First Middle Last

The Petitioner represented him/herself and is the *(check one)*: Husband. Wife.

(Check one box.)

- The Petitioner **was present**, representing him/herself, and has agreed to the terms of this Decree of Annulment.
- The Petitioner **was not present** but has signed below, agreeing to the terms of this Decree of Annulment.

Respondent

The Respondent's name is: _____
First Middle Last

The Respondent is the *(check one)*: Husband. Wife.

(Check one box.)

- The Respondent **was present**, representing him/herself, and agrees to the terms in this Decree.
- The Respondent was **not present** but was served, filed an Answer, or signed a Waiver of Citation, and: *(Check all that apply.)*
 - has signed below, agreeing to the terms in this Decree of Annulment.
 - agreed in the Waiver that the judge can finalize the annulment, without giving the Respondent notice of this hearing.
 - has defaulted. The Petitioner has filed a Certificate of Last Known Address and an Affidavit of Non-Military Status.

2. Record

A Court reporter: *(check one)*

- did not record today's hearing because the parties and judge agreed not to make a record.
 recorded today's hearing.

3. Jurisdiction

The Court received evidence and finds that it has jurisdiction over this case and the parties, that the residency and notice requirements have been met, and that the Petition meets all legal requirements.

4. Findings

The Court finds the material allegations (grounds for annulment) in the Original Petition to Annul Marriage are true and that the marriage should be annulled.

The Court finds that no child was born to or adopted by Petitioner and Respondent, and no child is expected.

The Court finds that Petitioner and Respondent did not accumulate any community property during the marriage, other than personal effects.

5. Annulment Granted

IT IS ORDERED that the marriage between Petitioner and Respondent is null and void.

6. Property

IT IS ORDERED that Petitioner take as his or her sole and separate property all the property that is presently in Petitioner's possession and that Respondent take as his or her sole and separate property all the property that is presently in Respondent's possession.

7. Name Confirmation

IT IS ORDERED that the name of *(check one)*: Petitioner Respondent is the name used before marriage, as it appears below:

First

Middle

Last


8. Court costs

The Petitioner shall pay for his/her court costs; the Respondent shall pay for his/her court costs.

9. Other Orders

The court has the right to make other orders, if needed, to clarify or enforce the orders above. Any orders requested that do not appear above are denied.

Date of Judgment



Judge's signature

Approved as to Form and Substance:

By signing below, the Petitioner agrees to the form and substance of this decree of annulment.

_____	()
<i>Petitioner's Name (print)</i>	<i>Phone number</i>
→ _____	_____
<i>Petitioner's Signature</i>	<i>Date</i>
<i>Mailing Address:</i> _____	

By signing below, the Respondent agrees to the form and substance of this decree of annulment.

_____	()
<i>Respondent's Name (print)</i>	<i>Phone number</i>
→ _____	_____
<i>Respondent's Signature</i>	<i>Date</i>
<i>Mailing Address:</i> _____	
