

Michigan Marriage Annulment

For many, when a marriage ends, divorce is the only option. However, in some limited instances an annulment is a proper alternative anybody contemplating the end of their marriage would do well to consider whether an annulment is appropriate.

Process of Annulment

In most ways, the process for procuring an annulment mirrors that of a divorce, with the filing of a petition and various hearings meant to deal with property division and custody of children, if any. However, unlike a divorce, which has very specific jurisdictional, residency and waiting periods before a divorce can be granted, there are no such limitations on an annulment.

Grounds

The grounds for divorce vary from state to state. Some states require the fault of a spouse be established before a divorce can be granted, whereas many other states, like Michigan, are no-fault states and require no reason for divorce as a prerequisite to a divorce. Annulment, though, is never a no-fault proposition and can only be granted when certain grounds exist. These include when one of the spouses was already legally married to another at the time of the current marriage; when the spouses are close blood relations; one spouse was not of proper age to marry; one spouse lacked mental competence to consent to marriage; fraud or duress; and sterility/impotency, but only in limited circumstances.

Effect of Annulment

While a divorce simply ends the bonds of matrimony, an annulment goes further and erases the marriage altogether, as if it never happened in the first place. This is achieved because the premise of an annulment is that at the time of the marriage some legal defect existed that prevented a proper marriage from forming. In this way an annulment may be a way around a divorce the stigma or embarrassment of divorce, especially if one has religious or moral objections to divorce. It may also be an option for a person who was receiving spousal support prior to the current marriage and who wishes to reinstate the prior support; in some cases an annulment gives rise to a renewed right to that support.

Defenses and Ratification

Clearly, any factual ground alleged in the petition for annulment can be challenged, specifically the factors necessary to prove impotence, nonage, or prior marriage of a spouse. Additionally, while some marriages are automatically void

when an annulment is sought, some are merely voidable and the granting of the annulment can be prevented by the subsequent actions of the spouses. For instance, if one proves the spouses to be close blood relation, the marriage will be voided, no matter the actions of the spouses. However, where a marriage is challenged for non-age, if the couple carries on as husband and wife after the age of consent has been reached, the marriage can be ratified by these actions and therefore, rendered annulment proof.

Effect of Annulment on Children

While an annulment treats the marriage as never having occurred, children born during the annulled marriage are nevertheless considered legitimate.

Warning

Nothing in this article can replace the personal advice with a qualified attorney.

Michigan Compiled Laws 551.103, 552.1, 552.3, 552.30, 552.39