

Asking the Courts to Consider an Annulment in Colorado

1 - What is an annulment?

In Colorado, an annulment is called a "Declaration of Invalidity".

When a marriage is annulled, or declared 'invalid', it is as if the marriage never existed. Marriages are declared invalid as of the date of the (attempted) marriage. C.R.S. 14-10-111 (5).

2 - How long do I have to live in CO before I can file for an annulment?

If you were married when living outside of Colorado, you (or your spouse) must live in Colorado for at least 30 days before an annulment action can be filed. But if you were married in Colorado, you can file an annulment action without any waiting period of residency requirement. C.R.S. 14-10-111 (7).

3 - How do the courts decide whether a marriage can be annulled, or not?

Here are the reasons a court can use to declare a marriage invalid, along with the time limits to file for annulment based upon each reason.

- **Consent:** A party to the marriage lacked the capacity (ability) to consent/agree to the marriage, either due to a mental condition or due to the influence of alcohol, drugs, etc. An annulment action must be filed within six months of learning that one of the parties lacked the ability to consent to the marriage.

- **Consummation:** A party lacked the physical capacity (ability) to consummate the marriage (have sexual intercourse), and the other party didn't know this at the time of the marriage. An action must be filed within one year after a party learns the other party is physically unable to consummate the marriage (have sexual intercourse).
- **Age:** A party was underage and did not have the consent of a parent or guardian, or the court. The underage party or their parent or guardian must file within two years of the marriage.
- **Fraud or Misrepresentation:** A party entered into the marriage based upon a fraudulent act or representation (for example, a trick or lie) of the other party, and this fraudulent act or representation is central to, or a main reason for, the marriage. An action must be filed within six months of becoming aware of the fraudulent act.
- **Duress:** One or both parties entered into the marriage under “duress” (for example, under force or threat) by the other party, or by a third person (“shotgun weddings”). An action must be filed within six months of becoming aware of the duress.
- **Jest or Dare:** A party entered into the marriage as a jest (joke) or dare. An action must be filed within six months of becoming aware of the joke or dare.
- **Illegality:** The marriage is against the law for one of the following reasons: one party is still married to someone else, the parties are blood relatives, or the marriage was illegal where it was entered into. C.R.S. 14-10-111 (1)-(3)

4 - Who can start an annulment action?

An annulment action can be brought by a variety of parties – depending on the reason for the annulment, including:

- either party to the “marriage”
- the (other) legal spouse
- the parents of an underage party
- the state
- or the children of either party

If there is a death of one of the parties, an action can be filed at any time before the death of either party, or before the final settlement of the estate of either party after that party’s death. C.R.S. 14-10-111(3)

5 - How do I file for an annulment?

- In general, you must file in District Court in the county where the other party lives. You don't have to file in the county where the marriage took place.
- The other party to the marriage must be served (the court papers must be delivered to that person by process server, third-party, or Sheriff's Office, or the other party must sign a Waiver of Service), and the other party has twenty-one days (if served in Colorado) or thirty-five days (if served in another state) to respond.

The Colorado State Judicial website has annulment forms and instructions, [click here](#). Carefully read the court instructions to see exactly which forms are required in your case.

In general, to request an annulment from the court, you will have to complete and file:

- Case Information Sheet
- Petition for Declaration of Invalidity of Marriage, and
- Summons, and
- Request a waiver of the court fee ([click here](#)), or pay a filing fee

All the forms and instructions for this process can be found [here](#).

6 - What if we need the court to make a decision about children or property?

The rules for property settlement, maintenance (spousal support/alimony), allocation of parental responsibilities (custody), and child support are the same as in an action for dissolution of marriage (divorce). Orders about all these issues can be obtained as part of an action to declare a marriage invalid. [C.R.S. 14-10-111 \(6\)](#)

Courts will make an effort to protect innocent spouses and children in annulment actions in which property division, maintenance, and children are involved. As in divorce actions, the property and maintenance (alimony) division must be fair to both parties.

In general, if property is bought during the marriage, the court will figure out its value as of the date the marriage is declared invalid by court decree and divide that value between the parties fairly and equitably (which does not necessarily mean exactly equal).

However, if one party fraudulently induced the other party to marry, the fraudulent party will be given only their financial contribution to any marital property and will not be awarded maintenance. In re Marriage of Joel, 2012 COA 128 (Colo. Ct. App. 2012).

7- What else can the court decide in an annulment?

- The court can also grant a party a name change (as they can in a divorce).

8 - What can I do if I am a victim of domestic violence?

There are no automatic protective orders in effect in an action to obtain an annulment. If you are in danger, you may want to file a separate request for a Civil Protection Order for yourself. For more information about protection orders, go to the information about temporary protection orders [on this website here.](#)

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