This PATHFINDER is not intended to be legal advice. If you need legal advice or assistance drafting legal documents, you must hire a private attorney.
Law Library staff **cannot** assist you in drafting legal documents.

ANNULMENTS

Black's Law Dictionary (10th ed. 2014) provides these two definitions for Annulment:

1. The act of nullifying or making void; voidance.
2. A judicial or ecclesiastical declaration that a marriage is void.

- **An annulment establishes that the marital status never existed.**
- Annulment and divorce are fundamentally different: an annulment renders a marriage void from the beginning, while divorce terminates the marriage as of the date of the judgment of dissolution.
- Although a marriage terminated by annulment is considered never to have occurred, under modern ecclesiastical law and in most states today a child born during the marriage is not considered illegitimate after the annulment.

There are two kinds of annulments in Pennsylvania:

- **Civil annulments** are usually granted by the Court of Common Pleas.
  - Marriages must be void or voidable based on the grounds for annulment. *See the reverse of this Pathfinder for the Grounds for Annulment in Pennsylvania.*
  - Annulment cannot be by mutual consent. Annulments usually require a hearing or trial to prove the grounds to the court.
  - **A short term of a marriage is NOT grounds for civil annulment.**
  - For more information on **civil annulments** under Pennsylvania law you may read the following sources available in the Law Library:
    - **Purdon's Pennsylvania Consolidated Statutes Annotated.** The laws about and the grounds for annulments are in Domestic Relations Title 23 Pa. C.S.A. §§ 3303 et seq.
    - **Summary of Pennsylvania Jurisprudence, 2d**, Family Law, Volume 15 § 4:81 and following.
    - **Pennsylvania Law Encyclopedia, 2nd Edition** under the subject Husband & Wife in volume 26 § 13 & 14.
    - **Pennsylvania Family Law Practice and Procedure, Seventh Edition.** West's Pennsylvania Practice Series. Volume 17, Chapter 4, Annulment.

- **Religious annulments**, or decrees of marital nullity, are defined as *"a formal judgment by a church court, that, although the marriage rite was lawfully celebrated, the consent exchanged between the parties did not give rise to the permanent bonds of marriage."* A religious decree of marital nullity must follow **a completed civil divorce** and is granted by the Tribunal of the Roman Catholic Church.
  - If you would like more information on the Catholic annulments, visit the Allentown Diocese Web site at http://www.allentowndiocese.org/about/tribunal/annulment-faq or please call the Allentown Tribunal at 610-434-3200.

23 Pa.C.S.A. § 3304 Grounds for annulment of void marriages

(a) General rule.--Where there has been **no confirmation by cohabitation** following the removal of an impediment, the supposed or alleged marriage of a person shall be deemed void in the following cases:

(1) **Where either party at the time of such marriage had an existing spouse** and the former marriage had not been annulled nor had there been a divorce except where that party had obtained a decree of presumed death of the former spouse.

(2) **Where the parties to such marriage are related** within the degrees of consanguinity prohibited by section 1304(e) (relating to restrictions on issuance of license).

(3) Where either party to such marriage was **incapable of consenting** by reason of insanity or serious mental disorder or otherwise lacked capacity to consent or did not intend to consent to the marriage.

(4) Where either party to a purported **common-law marriage was under 18 years of age**.

(b) Procedures.--In all cases of marriages which are void, the marriage may be annulled as set forth in section 3303 (relating to annulment of void and voidable marriages) or its invalidity may be declared in any collateral proceeding. **Credits** 1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days.

23 Pa.C.S.A. § 3305 Grounds for annulment of voidable marriages

(a) General rule.--The marriage of a person shall be deemed voidable and subject to annulment in the following cases:

(1) Where either party to the marriage was **under 16 years of age unless the marriage was expressly authorized by the court.**

(2) Where either party was **16 or 17 years of age and lacked the consent of parent** or guardian or express authorization of the court and has not subsequently ratified the marriage upon reaching 18 years of age **and an action for annulment is commenced within 60 days after the marriage ceremony.**

(3) Where either party to the marriage was under the **influence of alcohol or drugs and an action for annulment is commenced within 60 days** after the marriage ceremony.

(4) Where either party to the marriage was at the time of the marriage and still is **naturally and incurably impotent** unless the condition was known to the other party prior to the marriage.

(5) **Where one party was induced to enter into the marriage due to fraud, duress, coercion or force attributable to the other party and there has been no subsequent voluntary cohabitation** after knowledge of the fraud or release from the effects of fraud, duress, coercion or force.

(b) Status of voidable marriage.--In all cases of marriages which are voidable, either party to the marriage may seek and obtain an annulment of the marriage but, until a decree of annulment is obtained from a court of competent jurisdiction, the marriage shall be valid. The validity of a voidable marriage shall not be subject to attack or question by any person if it is subsequently confirmed by the parties to the marriage or if either party has died. **Credits** 1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days.