

TITLE 32
DOMESTIC RELATIONS

CHAPTER 5
ANNULMENT OF MARRIAGE

32-501. GROUNDS OF ANNULMENT. A marriage may be annulled for any of the following causes, existing at the time of the marriage:

1. That the party in whose behalf it is sought to have the marriage annulled was under the age of legal consent, and such marriage was contracted without the consent of his or her parents or guardian, or persons having charge of him or her; unless, after attaining the age of consent, such party for any time freely cohabits with the other as husband or wife;

2. That the former husband or wife of either party was living, and the marriage with such former husband or wife was then in force;

3. That either party was of unsound mind, unless such party, after coming to reason, freely cohabited with the other as husband or wife;

4. That the consent of either party was obtained by fraud, unless such party afterward, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband or wife;

5. That the consent of either party was obtained by force, unless such party afterwards freely cohabited with the other as husband or wife;

6. That either party was, at the time of marriage, physically incapable of entering into the married state, and such incapacity continues, and appears to be incurable.

[(32-501) 1874, p. 639, sec. 4; R.S., sec. 2450; reen. R.C. & C.L., sec. 2640; C.S., sec. 4620; I.C.A., sec. 31-501.]

32-502. ACTION TO ANNUL -- PARTIES AND LIMITATIONS. An action to obtain a decree of nullity of marriage, for causes mentioned in the preceding section, must be commenced within the periods and by the parties as follows:

1. For causes mentioned in subdivision one; by the party to the marriage who was married under the age of legal consent, within four (4) years after arriving at the age of consent; or by a parent, guardian, or other person having charge of such nonaged male or female, at any time before such married minor has arrived at the age of legal consent;

2. For causes mentioned in subdivision two; by either party during the life of the other, or by such former husband or wife;

3. For causes mentioned in subdivision three; by the party injured, or relative or guardian of the party of unsound mind, at any time before the death of either party;

4. For causes mentioned in subdivision four; by the party injured, within four (4) years after the discovery of the facts constituting the fraud;

5. For causes mentioned in subdivision five; by the injured party, within four (4) years after the marriage;

6. For causes mentioned in subdivision six; by the injured party, within four (4) years after the marriage.

[(32-502) R.S., sec. 2451; reen. R.C. & C.L., sec. 2641; C.S., sec. 4621; I.C.A., sec. 31-502.]

32-503. LEGITIMACY OF CHILDREN. When a marriage is annulled for any reason, other than for fraud in that the wife is pregnant with the child of a man other than the husband, children begotten before judgment are legitimate and succeed to the state [estate] of both parents. The court may at the time of granting the annulment or at any future time, make necessary orders for the support of said child or children as the circumstances and surroundings of the parents may require.

[(32-503) R.S., sec. 2452; reen. R.C. & C.L., sec. 2642; C.S., sec. 4622; I.C.A., sec. 31-503; am. 1955, ch. 261, sec. 1, p. 629.]

32-504. CUSTODY OF CHILDREN. The court must award the custody of the children of a marriage annulled on the ground of fraud or force to the innocent parent, and may also provide for their education and maintenance out of the property of the guilty party.

[(32-504) R.S., sec. 2453; reen. R.C. & C.L., sec. 2643; C.S., sec. 4623; I.C.A., sec. 31-504.]

32-505. CONCLUSIVENESS OF JUDGMENT. A judgment of nullity of marriage rendered is conclusive only as against the parties to the action and those claiming under them.

[(32-505) R.S., sec. 2454; reen. R.C. & C.L., sec. 2644; C.S., sec. 4624; I.C.A., sec. 31-505.]