

Annulment:

There are six grounds that a couple or an individual may assert in order to obtain an annulment in Georgia. The grounds for annulment in Georgia are as follows:

1. intermarriage between the parties, such intermarriage between a father and daughter;
2. one of the parties is under 16 years of age;
3. one of the parties did not have sufficient mental capacity at the time of the marriage;
4. one of the parties was committing bigamy, meaning one spouse was married to someone else at the time of the marriage;
5. force, menace, or duress was used in obtaining the marriage; and
6. fraud.

See O.C.G.A. §§ 19-3-3 to 19-3-5.

Although the first four grounds are relatively self explanatory, the later two grounds deserve more explanation. An example of a marriage procured by force, menace, or duress would be if one party intimidates the other party into marriage with a threat of death or physical bodily harm. It is more difficult, however, to exemplify what type of fraudulent behavior would result in the annulment of a marriage. Georgia case law and statutory law provides some guidance. "To constitute an actual contract of marriage, the parties must consent thereto voluntarily without any fraud practiced upon either. Drunkenness at the time of marriage, brought about by art or contrivance to induce consent shall be held as fraud." O.C.G.A. 19-3-4. Additionally, "all contracts or bonds made to hinder or to force marriage are deemed fraudulent and void." O.C.G.A. 19-3-7.

Additionally, Georgia case law suggests that if a husband is induced to marry after being told by his wife that she was pregnant with his child, when in fact the child is not his, this may be sufficient for annulment based on fraud. See *Reynolds v. Reynolds*, 153 Ga. 490 (1922).

Annulments are only granted by Georgia courts if one of the six grounds outlined above are present. Please note that although it may be possible to obtain an annulment in other states on the ground that the parties did not consummate the marriage, this is not a grounds for annulment in Georgia. Additionally, under most circumstances, even if one of these grounds is present, if the parties seeking an annulment had children during the

course of the marriage, that couple must seek a divorce instead of an annulment because Georgia courts will not grant an annulment if there are children born during the marriage. O.C.G.A. § 19-4-1.