

\*\*\*These forms are not a substitute for legal advice.\*\*\*

*By law, no member of the Law Library staff may give any patron legal advice.*

Accordingly, staff may not interpret legal materials for patrons, advise them as to how the law might apply to their particular situation, or assist them in preparing and filling out legal forms of any kind. Staff can provide patrons legal assistance by directing them to topical print materials, sections, and subject headings that might be helpful in answering a particular question.

## PROCEDURES FOR ANNULMENT

This form packet contains these documents:

1. Original Petition for Annulment of Marriage
2. Waiver of Citation
3. Order Setting Hearing Date
4. Certificate of Service
5. Decree of Annulment
6. Sample Prove Up

**\*\*\*DO NOT FILE THIS ENTIRE PACKET\*\*\***  
**\*\*\*FOLLOW ALL INSTRUCTIONS IN ORDER\*\*\***

### Steps to Follow:

1. Prepare the **Original Petition for Annulment of Marriage**. If the form provided fits your set of circumstances you may use it as a “fill in the blank.” If these forms do not fit your set of circumstances, you may re-type or re-write the forms, changing them to fit your set of circumstances, using the forms as a format to follow deleting that which does not apply and adding that which does apply. You will be assigned a case number and court when you file the Petition. *It is perfectly all right to hand-write the forms.*
2. Make **two** additional copies of the prepared Petition to take with you when you file.
3. File **all three copies** of the **Original Petition** in the District Clerk’s office of the county in which you reside. If you reside in Collin County, file it with the District Clerk’s office on the first floor of the courthouse located at 2100 Bloomdale Drive in McKinney. You will be expected to pay a filing fee to the Clerk at this time. **DO NOT** file this entire packet of papers - **ONLY** file the copies of the Original Petition for Annulment!!! **Do not sign the Waiver of Citation at this time.** It must be signed by the other party and filed **after** the Original Petition is filed with the Clerk.
4. Give the **Waiver of Citation** to the other party along with a copy of the Petition that has been stamped “filed” by the District Clerk. The other party should sign the Waiver of Citation in front of a Notary Public. File the signed Waiver in the District Clerk’s office at least 10 days prior to the date of your hearing.

- 5. If the other party will not sign the Waiver**, then you must have him/her served by a Constable; the District Clerk's office can arrange this for you. Once the other party has been served, they must then file a written answer with the clerk by 10:00am on the Monday next following the expiration of twenty days after they were served by the Constable. After this time period has elapsed, contact the District Clerk's office to ask whether the other party has filed a written answer.
- 6. If a written answer has not been filed by the other party**, then you may call the court that you have been assigned to and request a hearing date to "prove up" your divorce.
- 7. If a written answer has been filed by the other party**, then you must present the District Clerk with the [Order Setting Hearing Date](#) form. The Clerk will arrange to get a hearing date set for you. Send a certified copy (a copy stamped by the Clerk) of the Order Setting Hearing Date to the other party via certified mail, return receipt requested. This constitutes giving the other party notice of when the hearing will take place. Complete the [Certificate of Service](#) form and attach the completed return receipt to it. File these with the District Clerk.
- 8. Prepare the [Decree of Annulment](#)**, changing it to fit your set of circumstances. This document is not filed. Instead, you take it to court for the judge to sign. Make sure that it reflects the issues that you are concerned with now and in the future. Mark through what does not apply to your set of circumstances. *Decrees are court orders; once they are signed by a judge, they require a hearing to be changed.* Make sure that the document represents your facts.
- 9. Make two additional copies of the prepared Decree to take with you to the hearing.**
- 10. On your hearing date**, bring all three copies of your prepared Decree with you to court. Give these papers to the District Clerk; the Clerk will arrange to take your file up to the courtroom. Once you have given your papers to the Clerk, go to the courtroom to which you have been assigned and wait for the Bailiff to open the room. Check in with the Bailiff to let him/her know that you are there to prove up your annulment.
- 11. At the hearing**, to prove up your annulment, you will state the facts of your petition as shown on the Sample Prove Up sheet. The judge will not help or ask questions. Give the judge the Decree of Annulment to sign. If you feel that you will be nervous, sit in on a few cases to observe other prove ups before you go before the judge yourself.

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Case No. \_\_\_\_\_

**In the Matter of  
The Marriage of**

\_\_\_\_\_  
[Petitioner's name]

**And**

\_\_\_\_\_  
[Respondent's name]

**In the District Court**

**Collin County, Texas**

\_\_\_\_\_ **Judicial District**

**ORIGINAL PETITION FOR ANNULMENT OF MARRIAGE**

**I. Discovery Level**

Discovery in this case is intended to be conducted under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

**II. Parties**

This suit is brought by \_\_\_\_\_ [petitioner's name], the last three digits of Social Security number (if issued) are \_\_\_\_\_, last three digits of driver's license number (if issued) are \_\_\_\_\_, Petitioner. Respondent is \_\_\_\_\_ [respondent's name].

**III. Jurisdiction**

*[Select all of the following that apply by placing a check mark.  
Mark through that which does not apply.]*

\_\_\_\_ 1. \_\_\_\_\_ [petitioner's name] and \_\_\_\_\_ [respondent's name] were married in Texas.

\_\_\_\_ 2. \_\_\_\_\_ [name of party] is domiciled in Texas.

**IV. Service**

Process may be served upon Respondent at:

*[Select one of the following by placing a check mark.  
Mark through that which does not apply.]*

\_\_\_\_ 1. Respondent's residence at:

\_\_\_\_\_  
[address].

\_\_\_\_ 2. Respondent's place of employment at:

\_\_\_\_\_

[address].

\_\_\_\_\_ 3. No service is necessary at this time due to Waiver of Citation signed and filed.

**V. Protective Order Statement**

[Select one of the following by placing a check mark.  
Mark through that which does not apply.]

\_\_\_\_\_ 1. No protective order under Texas Family Code § 6.504 or Family Code Subtitle B, Title 4 is in effect between or pending with regard to Petitioner and Respondent.

\_\_\_\_\_ 2. An application for a protective order under Texas Family Code § 6.504 or Family Code Subtitle B, Title 4 with regard to Petitioner and Respondent is pending in cause number \_\_\_\_\_ [case no.] before the \_\_\_\_\_ [name & designation of court] Court of \_\_\_\_\_ [name of county] County, Texas. A copy of the application for protective order is attached and incorporated by reference for all purposes.

\_\_\_\_\_ 3. A protective order issued under Texas Family Code § 6.504 or Family Code Subtitle B, Title 4 is in effect between Petitioner and Respondent in cause number \_\_\_\_\_ [case no.] before the \_\_\_\_\_ [name & designation of court] Court of \_\_\_\_\_ [name of county] County, Texas. A copy of the protective order \_\_\_\_\_ [is attached and incorporated by reference for all purposes OR is not available at this time and a copy of the order will be filed with the Court before any hearing].

**VI. Grounds**

[Select one of the following by placing a check mark.  
Mark through that which does not apply.]

\_\_\_\_\_ 1. *Underage.*  
At the time of the marriage, Petitioner was \_\_\_\_\_ [age] years of age. The marriage was performed without parental consent or a court order granting permission to marry, as required by law. *(Note: a suit filed under this subsection must be filed within 90 days after the date of the marriage.)*

\_\_\_\_\_ 2. *Under the influence of alcohol or narcotics.*  
At the time of the marriage, Petitioner was under the influence of \_\_\_\_\_ [alcoholic beverages OR narcotics], as a result of which \_\_\_\_\_ [he/she] did not have the capacity to consent to the marriage. Petitioner has not voluntarily cohabited with Respondent since the effects of the \_\_\_\_\_ [alcoholic beverages OR narcotics] ended.

\_\_\_\_\_ 3. *Impotency.*  
At the time of the marriage, Respondent was permanently impotent. Petitioner did not

know of Respondent's impotency at the time of the marriage and has not voluntarily cohabited with Respondent since learning of the impotency.

\_\_\_\_\_ 4. *Fraud, duress, or force.*

Respondent used \_\_\_\_\_ [fraud *OR* duress *OR* force] to induce Petitioner to enter into the marriage, and Petitioner has not voluntarily cohabited with Respondent since \_\_\_\_\_ [learning of the fraud *OR* being released from the duress or force].

\_\_\_\_\_ 5. *Mental incompetence of Petitioner.*

At the time of the marriage, as a result of mental \_\_\_\_\_ [disease *OR* defect], Petitioner did not have the mental capacity to consent to marriage or to understand the nature of the marriage ceremony. Since the marriage ceremony, Petitioner has not voluntarily cohabited with Respondent during any period when Petitioner possessed the mental competency to recognize the marriage relationship.

\_\_\_\_\_ 6. *Mental incompetence of Respondent.*

At the time of the marriage, as a result of mental \_\_\_\_\_ [disease *OR* defect], Respondent did not have the mental capacity to consent to marriage or to understand the nature of the marriage ceremony. At such time, Petitioner neither knew nor reasonably should have known of Respondent's mental \_\_\_\_\_ [disease *OR* defect]. Since Petitioner discovered, or reasonably should have discovered the Respondent's mental \_\_\_\_\_ [disease *OR* defect], Petitioner has not voluntarily cohabited with Respondent.

\_\_\_\_\_ 7. *Concealed divorce.*

Respondent was divorced from \_\_\_\_\_ [name of previous spouse] on or about \_\_\_\_\_ [date], which date is within a 30-day period preceding the day of the marriage ceremony between Petitioner and Respondent. At the time of the marriage ceremony, Petitioner did not know, and a reasonably prudent person would not have known, of the divorce. Since Petitioner discovered, or a reasonably prudent person would have discovered, the fact of the divorce, Petitioner has not voluntarily cohabited with Respondent. . ***(Note: a suit may not be filed under this subsection after the first anniversary of the date of the marriage.)***

\_\_\_\_\_ 8. *Marriage within 72 hours after license issued.*

Petitioner and Respondent were married on \_\_\_\_\_ [date] at \_\_\_\_\_ [time]. The license for the marriage was issued on \_\_\_\_\_ [date] at \_\_\_\_\_ [time], less than seventy-two hours before the marriage. At the time of the marriage, neither Petitioner nor Respondent was a member of the U.S. Armed Forces on active duty, and no court order permitting the marriage within the seventy-two-hour period had been issued. ***(Note: a suit may not be filed under this subsection after the 30<sup>th</sup> day after the date of the marriage.)***

**VII. No Children of Marriage**

There are no children of the marriage under 18 years of age and none are expected.

**VIII. Property**

*[Select one of the following by placing a check mark. Mark through that which does not apply.]*

\_\_\_\_\_ 1. No community property was accumulated by the parties during the marriage other than personal effects, which should be awarded to the person having possession.

\_\_\_\_\_ 2. The parties during their marriage accumulated property that should be divided in an equitable manner by the Court.

*[Select the following section, if applicable, by placing a check mark next to "IX. Name Change Request." Mark through the section completely if it does not apply.]*

\_\_\_\_\_ **IX. Name Change Request**

Petitioner requests a change of \_\_\_\_\_ [Petitioner's OR Respondent's] name to \_\_\_\_\_ [state first, middle, and last name as it should appear on the Decree of Annulment].

**X. Prayer**

- 1. Petitioner prays that Respondent be cited to appear and answer this petition.
- 2. Petitioner prays that the Court annul the marriage of Petitioner and Respondent.
- 3. Petitioner prays for general relief.

Respectfully submitted,

\_\_\_\_\_  
[Petitioner's name]

\_\_\_\_\_  
[Typed or printed name]

\_\_\_\_\_  
[Address & telephone no.]

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Case No. \_\_\_\_\_

**In the Matter of  
The Marriage of**

\_\_\_\_\_  
[Petitioner's name]

**And**

\_\_\_\_\_  
[Respondent's name]

**In the District Court**

**Collin County, Texas**

\_\_\_\_\_ **Judicial District**

**WAIVER OF CITATION**

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_ [respondent's name] who, being by me duly sworn upon \_\_\_\_\_ [his/her] oath stated:

1. "I \_\_\_\_\_ [respondent's name] am the Respondent in the above entitled and numbered cause. My mailing address is:  
\_\_\_\_\_

2. "I have been given a copy of the Original Petition for Annulment of Marriage that has been filed in this cause.

3. "I have read it and understand it.

4. "I hereby enter my appearance in this cause for all purposes and waive the issuance and service of process. The last three digits of my Social Security number (if issued) are \_\_\_\_\_, the last three digits of my driver's license number (if issued) are \_\_\_\_\_.

5. "I agree that the petition may be amended and that the cause may be taken up and considered by the Court without further notice to me.

6. "I further waive the making of a record of testimony in this cause.

7. "I agree that this case may be considered and adjudicated by the Referee or Master assigned to this Court or to this case by the Court, or by the Court.

8. "I hereby agree and consent to the entry of a decree in this case."

SIGNED on \_\_\_\_\_ [date].

\_\_\_\_\_  
[Respondent's signature]

\_\_\_\_\_  
[Typed or printed name]

THE STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Signed under oath on \_\_\_\_\_ [date], before me, the undersigned authority, personally appeared \_\_\_\_\_ [respondent's name], personally known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed it for the purposes and consideration expressed therein.

\_\_\_\_\_  
[Notary Public's signature]

\_\_\_\_\_  
[Typed or printed name]

Notary Public in and for the State of Texas  
My commission expires: \_\_\_\_\_

Case No. \_\_\_\_\_

**In the Matter of  
The Marriage of**

\_\_\_\_\_  
[Petitioner's name]

**And**

\_\_\_\_\_  
[Respondent's name]

**In the District Court**

**Collin County, Texas**

\_\_\_\_\_ **Judicial District**

**ORDER SETTING HEARING DATE**

IT IS ORDERED that the hearing on the Petition be set for \_\_\_\_\_ o'clock on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ in the courtroom of the \_\_\_\_\_ Judicial District Court, in the County of Collin in McKinney, Texas.

SIGNED this the \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Judge Presiding

**CERTIFICATE OF SERVICE**

I certify that a true copy of the above Order Setting Hearing Date has this day been sent by certified mail, return receipt requested to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Typed or Printed Name]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
[Address and Telephone No.]

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Case No. \_\_\_\_\_

**In the Matter of  
The Marriage of**

\_\_\_\_\_  
[Petitioner's name]

**And**

\_\_\_\_\_  
[Respondent's name]

**In the District Court**

**Collin County, Texas**

\_\_\_\_\_ **Judicial District**

**DECREE OF ANNULMENT**

On \_\_\_\_\_ [date], the Court heard this case.

**Appearances**

\_\_\_\_\_ [petitioner's name], Petitioner, who resides at:

\_\_\_\_\_  
[address], last four digits of Social Security Number \_\_\_\_\_ [last 4 digits of  
petitioner's Social Security no.] and driver's license number \_\_\_\_\_ [petitioner's  
driver's license no.], appeared in person.

*[Select one of the following by placing a check mark.  
Mark through that which does not apply.]*

\_\_\_\_\_ **1.** \_\_\_\_\_ [respondent's name], Respondent, who  
resides at:

\_\_\_\_\_  
[address], last four digits of Social Security Number \_\_\_\_\_ [last 4 digits of  
respondent's Social Security no.] and driver's license number \_\_\_\_\_  
[respondent's driver's license no.], appeared in person.

\_\_\_\_\_ **2.** \_\_\_\_\_ [respondent's name], Respondent, who  
resides at:

\_\_\_\_\_  
[address], last four digits of Social Security Number \_\_\_\_\_ [last 4 digits of  
respondent's Social Security no.] and driver's license number \_\_\_\_\_  
[respondent's driver's license no.], although duly and properly cited, did not appear and wholly  
made default.

\_\_\_\_\_ **3.** \_\_\_\_\_ [respondent's name], Respondent, who  
resides at:

\_\_\_\_\_  
[address], last four digits of Social Security Number \_\_\_\_\_ [last 4 digits of  
respondent's Social Security no.] and driver's license number \_\_\_\_\_

[respondent’s driver’s license no.], waived issuance and service of citation duly filed and did not otherwise appear.

**Findings**

No jury having been demanded, all matters in controversy, including questions of fact and of law, were submitted to the Court.

After examining the pleadings and considering the evidence and arguments of counsel, the court finds that the court has jurisdiction over the parties and subject matter and that the material allegations in the petition for annulment are true.

IT IS THEREFORE ORDERED that:

1. The marriage of \_\_\_\_\_ [petitioner’s name] and \_\_\_\_\_ [respondent’s name] is annulled.

2. The following property shall be the separate property of Petitioner, and Respondent is hereby divested of all right, title, and interest in this property:

*[Note: When listing and describing property, assets, etc., be very specific.*

*For example, provide the full legal description of real property, provide full bank names, list account numbers, provide the last four digits of credit cards, etc.]*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The following property shall be the separate property of Respondent, and Petitioner is hereby divested of all right, title, and interest in this property:

*[Note: When listing and describing property, assets, etc., be very specific.*

*For example, provide the full legal description of real property, provide full bank names, list account numbers, provide the last four digits of credit cards, etc.]*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The parties’ debts and other financial obligations shall be discharged as follows:

*[Specify.]*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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[Select the following section, if applicable, by placing a check mark next to "Name Change for Petitioner or Respondent." Mark through this section completely if it does not apply.]

\_\_\_\_\_ 5. Name Change for Petitioner or Respondent

The Court finds that \_\_\_\_\_'s [Petitioner *OR* Respondent] name prior to her marriage to \_\_\_\_\_ [Petitioner *OR* Respondent] was \_\_\_\_\_ [name], and that the same should be restored to her.

IT IS ORDERED AND DECREED that \_\_\_\_\_'s [Petitioner *OR* Respondent] name is changed to: \_\_\_\_\_ [name].

6. Costs of this suit are taxed against \_\_\_\_\_ [Petitioner *OR* Respondent].

7. All other relief not expressly granted is denied.

SIGNED on \_\_\_\_\_ [date].

\_\_\_\_\_  
JUDGE PRESIDING

**SAMPLE PROVE UP – ANNULMENT**

Good morning, Your Honor. My name is \_\_\_\_\_ [your name]. I am here to prove up an Annulment.

I was married to \_\_\_\_\_ [name of spouse] on \_\_\_\_\_ [date of marriage].

*[Select one of the following.]*

- 1. The marriage took place in Texas.
- 2. I am/My spouse is domiciled in Texas.

At the time of the marriage,

*[State the grounds for annulment as stated in your Petition.]*

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There were no children born during the period of this marriage.

There were no adopted children. \_\_\_\_\_ [I am not OR My wife is not] now expecting a child.

There are no court-ordered conservatorships, guardianships, or other court-ordered relationships.

*[Select one of the following.]*

- 1. No community property was accumulated by the parties during the marriage other than personal effects.
- 2. The parties during their marriage accumulated property that should be divided in an equitable manner by the Court.

I ask the Court to grant me an annulment.

That is all I have, Your Honor.