



**Declaration of
Invalidity of Marriage**

(Formerly known as Annulment)

DISCLAIMER—PLEASE READ

This packet of information was prepared to answer general questions and give basic advice about the law in Illinois. This packet may or may not also include forms that you can use. When reading this packet or using the forms, keep in mind that the advice, information and forms were created to assist readers with general issues, not specific situations, and as such does not replace the advice or representation of an attorney licensed to practice in the State of Illinois. Because of this and because of unanticipated changes in the law, the School of Law at Southern Illinois University and the person, institution, or agency who gave this packet make no claim as to whether the use of this packet will achieve the result you desire and disclaim any responsibility for the consequences of any form prepared or action taken in reliance upon the information in this packet. If you are concerned or do not understand whether this packet will be of assistance to you or will apply to your specific situation, you should talk to an attorney who is licensed to practice in the State of Illinois. If you have any questions about this disclaimer, call the **Self Help Legal Center**.

The Declaration of Invalidity of Marriage is rarely used in Illinois because the grounds are more difficult to prove than in a Dissolution of Marriage and are strictly interpreted by Illinois courts.

Nevertheless, the following circumstances are considered grounds for the declaration of invalidity of marriage as set out in 750 ILCS 5/301:

- A party lacked capacity to consent to the marriage at the time of the marriage ceremony, either because of mental incapacity or infirmity or influence of alcohol, drugs or other incapacitating substances, or a party was induced to enter into a marriage by force or duress or by fraud involving the essentials of marriage;

-Any action under this section must be brought no later than 90 days after the person learns of the described condition, but not after the death of the spouse.

- A party lacks the physical capacity to consummate the marriage by sexual intercourse and at the time of the marriage ceremony the other party did not know about the incapacity;

-An action must be started no later than a year after learning of the condition that is the basis for the action, but never after the death of either spouse.

- A party was aged 16 or 17 years and did not have the consent of the his or her parents or have consent from a guardian or judicial consent;

-Declaration of Invalidity of the marriage may be sought by the under aged party, or his or her parent or guardian, before the person reaches the age of marrying without consent, but never after the death of either spouse.

- The marriage is “prohibited”;

-Suit may be brought up to three years **after** the death of the first party to die by either party, the legal spouse in the case of bigamy, the State’s Attorney.

Children that are born or adopted of a marriage declared invalid or children whose parents marry after their birth are the lawful children of the parties.

©SOUTHERN ILLINOIS UNIVERSITY
SCHOOL OF LAW
SELF HELP LEGAL CENTER

June 2008