

PETITION FOR ANNULMENT

An Annulment is a legal order stating that your marriage never existed.

A Divorce is a legal order ending a valid marriage.

These forms are to be used if you want to have your marriage annulled. In order to have your marriage annulled, you must be able to prove one of the grounds listed below.

1. You and your spouse are related as follows: brother/sister, parent/child, stepchild; grandparent/grandchild; aunt/nephew; uncle, niece;
2. You did not have the mental capacity to enter into a contract;
3. You were under the age of 16 when you entered into your marriage;
4. You were forced to enter into the marriage;
5. You were fraudulently induced to enter into the marriage;
1. Your spouse was married to another living spouse at the time you entered into the marriage.

The fact that you and your spouse have only been married for a very short time is not a proper ground for an annulment. If you do not satisfy one of the conditions listed above, then you must file a petition for divorce.

If there are children born or to be born from the purported marriage, then the general rule is that you cannot file a petition for annulment. If you and your spouse do have children, and you believe that you satisfy the requirements for an annulment, you should speak with an attorney.

It is advisable to have an attorney when filing legal papers to be sure that your rights are protected and that all the procedures are correctly followed. **Courthouse personnel are prohibited by state law O.C.G.A. § 15-19-51 from giving legal advice.** Different situations may require special procedures and courthouse personnel cannot advise you on how to proceed or what forms may be necessary in specific situations.

INSTRUCTIONS FOR FILING A PETITION FOR ANNULMENT

In Georgia, if you want to annul your marriage, you must file a Petition for Annulment in the Superior Court. After a court issues an Order of Annulment, you can remarry. Legally, it will be as if you were never married to that person.

You should seek the advice of an attorney when filing legal papers to be sure that your rights are protected and that all procedures are correctly followed particularly if:

- The case is contested and your spouse has a lawyer.
- You cannot locate your spouse to serve him or her with your papers.
- You or your spouse have a house, pension, or large amount of property or income.
- You think you will have difficulty obtaining documents from your spouse.

<input type="checkbox"/>	STEP 1:	Complete the Petition for Annulment
<input type="checkbox"/>	STEP 2:	Complete the Verification form to go with the Petition
<input type="checkbox"/>	STEP 3:	Attach other documents to your Petition
<input type="checkbox"/>	STEP 4:	Make two (2) copies
<input type="checkbox"/>	STEP 5:	Pay the filing fee
<input type="checkbox"/>	STEP 6:	File the forms
<input type="checkbox"/>	STEP 7:	Serve the original forms on the opposing party
<input type="checkbox"/>	STEP 8:	Request and appear at the scheduled conference or hearing.

HERE ARE THE DETAILED INSTRUCTIONS ON HOW TO FILL OUT THE FORMS:

STEP 1- Complete the attached sample form petition for annulment

Page 1: Fill in your name as Petitioner, and your spouse's name as Respondent. *Do not fill in where it says Civil Action No. The clerk will assign a*

number to your case when you file your complaint. Then write your name in after the word.

Paragraph 1: Subject Matter Jurisdiction

Check box (a) if you have been a resident of the State of Georgia for at least 6 months prior to filing your petition for Annulment.

Check box (b) if you are not a resident of the State of Georgia, but your spouse has lived in Georgia and in Chatham County for at least six months prior to your filing your petition for annulment. **If neither (a) nor (b) applies to you, then you cannot file for annulment in Chatham County.**

Paragraph 2: Venue

“Venue” is another name for county or district. When filing a petition, you need to make sure you are filing in the correct county. The general rule is that you file in the county where the opposing party lives.

Write your spouse’s name in the space next to “The Respondent’s name is”.

PLEASE READ ALL THE ANSWER CHOICES BEFORE CHECKING ANY BOXES.

Check box (a) if your spouse is a resident of Chatham County. Then follow the instructions below titled “Box (a) Section”.

Check box (b) if your spouse lives in another county in Georgia but lived in Chatham County within the last six (6) months **and** Chatham County was where you and your spouse were living at the time you separated **and** your spouse will not agree to receiving a copy of Petition for Annulment. Then follow the instructions below titled “Box (b) Section”.

Check box (c) if your spouse lives in another county in Georgia, **and** admits to receiving a copy of your Petition for Annulment, **and** agrees to Chatham County having jurisdiction. Then follow the instructions below titled “Box (c) Section”.

Check box (d) if your spouse is not a resident of the State of Georgia. Then follow the instructions below titled “Box (d) Section”.

BOX (a) SECTION:

Check box (1) if your spouse will agree to receiving a copy of your Petition for Annulment by signing an **Acknowledgment of Service** form. If your spouse signs the Acknowledgment of Service form, he/she will not need to be served by a sheriff. You will need to attach the Acknowledgment of Service form to your petition.

Check box (2) if your spouse will not sign an Acknowledgment of Service form, and you know where in Chatham County your spouse lives so that he/she can be

served with papers at his/her home. Write in your spouse's home address in the space provided.

Check box (3) if your spouse will not sign an Acknowledgment of Service form, and your spouse lives in Chatham County **but** you either do not know where your spouse in Chatham County, **or** if he/she will try to avoid service at his/her home. Then you can have the sheriff serve your spouse at his/her place of employment. If your spouse works in a county other than Chatham, then you must check the box below and write the name of the county where he/she works. You will then have to contact the Sheriff's Office in the county where your spouse works to have him/her served in that county. This is called service by "second original". Then write in your spouse's work address and the name of the county where he/she works in the space provided. **(For more information, see "Personal Service by Second Original" section in the Service Packet.)**

BOX (b) SECTION:

Check box (b) if your spouse does not live in Chatham County at the present time but did reside in Chatham County within the past six months **and** Chatham County was the county where you and your spouse were living at the time you separated. You can file in Chatham County but you will have to get the sheriff in your spouse's county serve him/her with a copy of your Petition for Annulment. This is called personal service by "second original". **(For more information, see Personal Service by "Second Original" section of the Service Packet.)**

Write in the space provided the name of the county in Georgia where your spouse is presently living. Then write your spouse's present address in the space provided.

BOX (c) SECTION:

Check box (c) if your spouse lives in another county in Georgia and will agree to receive a copy of your Petition for Annulment and agree to your case being heard in Chatham County. **Otherwise, you cannot file in Chatham County, and you will have to file your petition in the county where your spouse lives unless box (b) applies to your situation.**

BOX (d) SECTION:

Check box (d) if your spouse does not live in Georgia, but you live in Chatham County. Then check box (1), (2), (3), or (4).

Check box (1) if your spouse was formerly a resident of the State of Georgia.

Please note that your spouse must have had minimum contacts in Georgia in order for you to be able to file in Georgia. For example, if you and your spouse were married in Georgia, you would be able to file in Georgia. If you and your spouse were not married here and he/she lived in Georgia for a short time, you may not be able to file in Georgia. Please consult an attorney to make sure that you are filing in the correct county and state.

If you check box (1) then you will need to have the sheriff in the county where your spouse is living and serve him/her with a copy of your Petition for Annulment. This is called service by second original. **(For more information, see "Personal Service by Second Original" section of the Service Packet.)** Then write in the space provided the state where he/she is presently living.

- Check box (a) if you will have him/her served at home. Then write your spouse's home address in the space provided.
- Check box (b) if you will have him/her served at work. Then write your spouse's work address in the space provided.

Check box (2) if you do not know where your spouse is living. You must have searched thoroughly for his/her address. You will have to do an **Annulment by Publication**. This means that you will have to publish a notice in the county newspaper in the county where you are filing your petition. If you know the county in Georgia where the other side lives but do not know the exact address, you must file your petition in that county. If the other side lives in another state and you know the city/county, then you should file in your county and publish the notice in your county **and** in the legal newspaper in the city/county where the other side lives.

You must attach an **Affidavit of Publication and Diligent Search Where Respondent's Address Is Unknown** stating what efforts you have made to locate your spouse. **(For more complete instructions see the "Publication" section of the Service Packet.)** Since your annulment will be an annulment by publication, it will be limited to the issue of annulling your marriage. Any other issue cannot be addressed because Georgia does not have jurisdiction over your spouse.

Check box (3) if your spouse has never lived in Georgia. Since your spouse has never lived in Georgia, you can file in your county of residence. Write in the space provided the state where your spouse is currently living. You will have to do an Annulment by Publication since Georgia does not have jurisdiction over your spouse. To do an Annulment by Publication you must attach an **Affidavit of Publication Where Respondent is Non-Resident of Georgia** stating that your spouse is a nonresident of Georgia. **(For more complete instructions see the "Publication" section of the Service Packet.)** If it is an annulment by publication your issue such as child support will be limited to the issues of annulling your marriage. Any other issue cannot be addressed because Georgia does not have jurisdiction over your spouse.

Check box (4) if your spouse has signed an Acknowledgment of Service form. Attach this form to the petition.

Paragraph 3: Marriage

Check box (a) if you and your spouse have a marriage certificate. Write the date you and he/she entered into your purported marriage.

Check box (b) if you and your spouse are common law married. Write the date you and your spouse entered into your purported marriage in the space provided.

You are common law married if the following requirements are satisfied:

1. You and your spouse were able to enter into a contract at the time you established a common law marriage. (You were over the age of eighteen and mentally competent.)
2. You and your spouse actually entered into a contract of marriage meaning that you and your spouse agreed that you were married.
3. You and your spouse have had sexual intercourse.
4. All of the above were done before January 1, 1997.

Paragraph 4: Separation

Write in the space provided the date you and your spouse separated. (For example, the date you started living apart.)

Paragraph 5: Children

If you and your spouse have minor children, you cannot use these forms to file for an annulment. You should speak with an attorney.

Paragraph 6: Jointly Owned Property

Check box (a) if you and your spouse do not have any jointly owned property.

Check box (b) if you and your spouse have already divided your jointly owned property to your mutual satisfaction.

Check box (c) if you and your spouse have jointly owned property that needs to be divided by the Court. Provide the requested information and check the items that are jointly owned property.

Check box (d) if this is an annulment by publication.

Paragraph 7: Joint Debts

Check box (a) if you and your spouse do not have any joint debts.

Check box (b) if you and your spouse have joint debts. You should write the creditor's name on the first line and the amount you owe on the second line.

- If you want your spouse to pay all of the debts listed, circle "solely liable".
- If you want to share equally the responsibility of paying the debts, circle "jointly liable".
- If you want your spouse to pay only certain debts, check the line before the creditor's name that you want him/her to pay.

Check (c) if Georgia does not have personal jurisdiction over your spouse because you are serving your spouse by publication.

Paragraph 8: Temporary Alimony

You can request an award of temporary alimony, or you cannot request an award of permanent alimony.

Check box (a) if you want an award of temporary alimony. You should request a Rule Nisi (temporary) hearing if you are seeking an award of temporary alimony.

You can get a Rule Nisi from the Clerk's office.

Check box (b) if you do not want an award of temporary alimony.

Check box (c) if Georgia does not have personal jurisdiction over your spouse because you are serving your spouse by publication.

Paragraph 9: Restore Former Name

Write in the space provided the name you want restored to you. You cannot change your last name to a different name if it was not your former name. For example you can return to your maiden name or the last name of a former spouse if you previously had that name.

Paragraph 10: Grounds for Annulment

Check the reason(s) you are requesting this annulment. You can check more than one. You must be able to prove your grounds for annulment.

Summary of Requests in Annulment Action:

Check everything that you want the court to grant you.

You must request a RULE NISI (temporary hearing) if you are seeking an award of temporary alimony, property, and debts before any final determination. Forms to request a Rule Nisi are in the Clerk's office.

You should check box (a) to cover yourself just in case the other side does not agree.

If Georgia does not have personal jurisdiction over your spouse, you must check (d).

The court cannot make a decision concerning alimony(temporary), division of property, or division of debts. **You cannot check box (b) or box (c).**

After you have checked everything that you have requested, print your name and address in the space provided. Then sign and date in the space provided.

STEP 2- VERIFICATION

Complete the **Verification** form. The Verification is your sworn statement, under oath, that everything you stated in your petition is true and correct. Write your name as Petitioner, and your spouse's name as Respondent. **Do not fill in where it says Civil Action File No. The clerk will assign a number to your case when you file your complaint.** Then write your name in the space provided. **WAIT TO SIGN THE VERIFICATION FORM IN FRONT OF THE NOTARY PUBLIC.** Most libraries and banks have a notary on staff and will notarize your document for a fee.

STEP 3- OTHER COURT DOCUMENTS

In addition to the **Petition for Annulment and Verification** form, you will need to attach additional forms to your petition which are provided the clerk's office as follows:

1. Two (2) original summons
2. Automatic Domestic Standing Order (*provided by the clerk at the time of filing*)
3. Sheriff's Entry of Service Form

You may also have these forms attached to your petition for annulment:

1. Poverty Affidavit (*if you are low income and eligible to have your filing fee waived because you cannot afford it*)
2. Notice of Publication (*if your annulment must be served by publication*)
3. Waiver of Venue or Waiver of Jurisdiction
4. Acknowledgment of Service
5. Financial Affidavit

STEP 4- FILING FEE

The filing fee is **\$80.00***. You also have to pay to have the other side served for service. The cost for a sheriff to serve your petition on the other side is **\$25.00*** for each address where the sheriff attempts service. If you must serve the other side by publication, the cost is approximately **\$80.00*** in addition to the \$80.00 filing fee. You must pay the fees to the clerk when you file your petition. If you cannot pay these fees, you may file a **Poverty Affidavit** asking the Court to relieve you from paying the fees. **Please note that the request is not automatically granted by the judge. You will be asked questions to help with the evaluation of your request.**

***Fees subject to change. Please check with the Clerk's Office.**

STEP 5- FILING YOUR FORMS

You should make two (2) copies of all of your documents. Attach one (1) original **Summons** to your **original** documents. Attach one (1) original Summons and **Sheriff's Entry of Service** form to one (1) of your **copies**. Give the clerk your original document and copies. The clerk will assign a number to your case and will write in the number on your documents. The clerk will then stamp your documents to show that your petition has been filed and will give you your copy for your records. The original will remain with the court. The other copy will be given to the sheriff to have served on your spouse unless he/she has signed an **Acknowledgment of Service** form or it is being served by publication.

STEP 6- SERVICE

Personal Service is generally required. See "How to Serve" for instructions on serving your spouse with a copy of your petition for annulment.

STEP 7-HEARING/CONFERENCE

You will be notified of the date of your hearing/conference after you file your petition.

You may request a Rule Nisi(temporary hearing) to have the judge make decisions about your petition on a temporary basis before your case is set for a final hearing. **If you are requesting a Rule Nisi hearing, please follow the following instructions to fill out the Rule Nisi form:**

1. Fill in your name where it says "Petitioner".
2. Fill in the other side's name where it says "Respondent".
3. Do not fill in the "Civil Action File No.". The clerk will fill in the information for you.
4. Fill in "Petition for Annulment" on the first blank. The clerk will fill in the rest of the information.

You will need to prepare to present your case before the judge before you attend any hearing.

**IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA**

Petitioner: _____

vs.

Respondent: _____

§
§
§
§
§
§
§

Civil Action No. _____

PETITION FOR ANNULMENT

I, _____, representing myself, state that:

1. **Subject Matter Jurisdiction:** I am the Petitioner in this action, and *(check (a) or (b))*

- a) I have been a resident of the State of Georgia for more than six (6) months prior to filing this action.
- b) I am not a resident of the State of Georgia, but the Respondent has been a resident of the State of Georgia and a resident of Chatham County for at least six (6) months prior to my filing of this action.

2. **Venue and Service:**

The Respondent's name is _____.
(Check (a), (b), (c), or (d))

- a) The Respondent is a resident of Chatham County and is subject to the jurisdiction of this Court. *(Check (1), (2), or (3))*
 - 1) The Respondent has consented to the jurisdiction of this Court and has acknowledged service of process and jurisdiction of this Court.
 - 2) The Respondent may be served at Respondent's residence address of _____.
 - 3) The Respondent may be served at Respondent's work address of _____ . The Respondent works in _____ County and shall be served by second original.
- b) The Respondent is a resident of _____ County, State of Georgia, but Respondent and I lived together in Chatham County at the time we separated. Respondent has only moved from Chatham County within the past six months from the date of this filing, and I am a resident of Chatham County. The Respondent shall be served by second original at his home/work address of _____.

- c) The Respondent is a resident of _____ County, State of Georgia, and I live in Chatham County. The Respondent has consented to jurisdiction of this Court and has acknowledged service of process and jurisdiction of this Court.
- d) The Respondent is not a resident of the State of Georgia, but I am resident of Chatham County and *(Check (1), (2), or (3))*,
 - 1) The Respondent was formally a resident of the State of Georgia and presently is a resident of the State of _____. Respondent may be served by second original pursuant to the Long Arm Statute, OCGA §9-10-91(5). *(Check (a) or (b))*
 - a) The Respondent may be served at Respondent's address of _____.
 - b) The Respondent may be served at Respondent's work address of _____. The Respondent works in _____ County and shall be served by second original.
 - 2) The Respondent's whereabouts are unknown to me as shown by my Affidavit of Due Diligence attached hereto and incorporated by reference, marked Exhibit "A". The Respondent shall be served by notice of publication as is provided by law in the case of those who cannot be found within the State pursuant to OCGA§9-11-4(e).
 - 3) The Respondent has never resided in the State of Georgia and currently resides in the State of _____. The Respondent shall be served by publication as si provided by law in the case of those who cannot be found within the State pursuant to OCGA§9-11-4(e).
 - 4) The Respondent has consented to the jurisdiction of this Court and has acknowledged service of process and jurisdiction of this Court.

3. **Date of Purported Marriage:** (check (a) or (b))

- a) The Respondent and I entered into a purported marriage on _____.
- b) The Respondent and I have lived together in a purported common law marriage before January 1, 1997 as of _____.

4. **Date of Separation:**

The Respondent and I separated on _____ and since that date have continuously lived together in a state of separation.

5. There are no children of this marriage.

6. **Jointly Owned Property:** *(check (a), (b), (c), or (d))*

- a) Respondent and I have no jointly owned property.

- b) Respondent and I have already divided our jointly owned property to our mutual satisfaction.
- c) Respondent and I have the following jointly owned property that I have checked, and I am asking the Court to equitably divide this property:
 - _____ house located at _____
 - _____ pension- mine: _____, Respondent: _____
 - _____ motor vehicle- model/year: _____
 - _____ furniture _____
 - _____ bank accounts and investments _____
 - _____ other _____
- d) The issue of the division of jointly owned property cannot be decided in this action because Georgia does not have personal jurisdiction over spouse.

7. **Joint Debts:** *(check (a) or (b))*

- a) Respondent and I have no outstanding joint debts
- b) Respondent and I have the following outstanding joint debts and he/she should be: (circle appropriate response) solely liable for payment of these debts / jointly liable for the payment of these debts / responsible for payment of the debts that I checked:

Creditor	Balance
_____	_____
_____	_____
_____	_____
- c) The issue of the division of joint debts cannot be decided in this action because Georgia does not have personal jurisdiction over the Respondent.

8. **Temporary Alimony** *(check a, b, or c)*

- a) I am seeking an award of temporary alimony
- b) I am not seeking an award of temporary alimony
- c) The issue of temporary alimony cannot be decided in this action because Georgia does not have personal jurisdiction over Respondent.

9. **Restore Former Name.**

My former name is _____ and I request that it be restored to me.

10. **Grounds for Annulment**

The grounds for annulment are as follows: *(check all that apply)*

All of the following grounds require proof:

- a) Intermarriage. The Respondent and I are related as follows:

Father/Daughter
Father/stepdaughter
Mother/son
Mother/stepson
Grandparent/grandchild
Aunt/nephew
Uncle/niece
Brother/sister

- b) Mental Incapacity. I did not have the mental capacity to enter into a marriage when we married because _____
_____.
- c) Under age. I was under the age of 16 when I entered into the purported marriage with the Respondent. The Respondent and I entered into purported marriage on _____. I am _____ years old and my date of birth is _____.
- d) Bigamy. The Respondent has a living spouse of an undissolved marriage as follows: _____.
- e) Force, menace, duress, in obtaining the purported marriage. I entered into this marriage against my will as a result of _____
_____.
- f) Fraud. I was fraudulently induced to enter into the purported marriage as follows: _____
_____.

FOR THESE REASONS, I request (*check all that apply*):

- That a Rule Nisi be issued directing the Respondent to show cause why my prayers should not be granted;
- An award of the jointly owned property listed in paragraph 6;
- Respondent to pay the joint debts listed in paragraph 7;
- That all issues of division of property and debts be held in abeyance until such time as this court has personal jurisdiction over the Respondent;
- A change back to my former name _____;
- That the purported marriage between the parties be annulled ab initio;
- Respondent be served with a copy of my Petition for Annulment; and
- Any other appropriate relief.

This _____ day of _____, 200__.

signature

Name: (print or type): _____

Address: _____

Telephone: () _____

**IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA**

Petitioner,)
))
v.) Civil Action No. _____
))
Respondent.))

VERIFICATION

I, _____, personally appeared before the undersigned Notary Public, and say under oath that I am the (circle one) *Petitioner* / *Respondent* in the above-styled action and that the facts stated in the _____ are true and correct.

This the ____ day of _____, 20__.

Signature (*sign in front of notary*)
Name: _____
Address: _____

Telephone: _____

Sworn to and subscribed before me this ____ day of _____, 20__.

Notary Public,
State of Georgia, County of _____
My commission expires on _____.

**IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA**

Petitioner,)
)
)
v.) Civil Action No. _____
)
)
Respondent.)

ACKNOWLEDGMENT OF SERVICE

The undersigned Respondent hereby acknowledges service of the above Petition for _____ and states that (s)he has received a copy of said Petition, and Respondent hereby waives any and all further notice, service and issuance of process.

(Check the box below if you are a resident of Georgia but do not live in Chatham County.)

WAIVER OF VENUE--RESPONDENT'S AFFIDAVIT

I, _____ am the named Respondent in the above-styled case, which is a Petition for _____ . After being duly sworn, I state the following:

1. I am a resident of _____ County in the State of Georgia, and that Petitioner is a resident of Chatham County, Georgia.
2. I have been informed that I have a constitutional right to a trial by judge or jury in the county of my residence, and that I expressly **waive my right** to venue in the County of my residence, and consent to venue and personal jurisdiction in Chatham County Superior Court.

This the _____ day of _____, 20__.

Respondent's signature, pro se (sign in front of notary)
Respondent's address: _____

Respondent's telephone: _____

Sworn to and subscribed before me this _____ day of _____, 20__.

Notary Public,
State of Georgia, County of _____,
My commission expires on _____.

**IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA**

Petitioner,)
))
))
v.) Civil Action No. _____
))
))
Respondent.))

RULE NISI

The foregoing _____ having been read and filed, the (circle one) *Petitioner / Respondent* is ORDERED to show cause before the Honorable _____ on the ____ day of _____, 20__ at __.m. in Courtroom _____ why the prayers of (circle one) *Petitioner / Respondent* should not be granted.

This the ____ day of _____, 20__.

Deputy Clerk