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**- New York Annulment FAQ's -**

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**1. What is an annulment?**

**A man and woman must be legally capable of entering into a valid marriage. If the parties are under a disability the marriage can be Annulled, that is, it can be voided.**

**2. What are the grounds for annulment?**

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- **If either spouse is incurably incapable of having sexual intercourse, the marriage may be annulled.**
- **Both parties must be over the age of 18 years. A marriage between persons under the age of 18 years may be annulled, at the discretion of the Court, if the spouse under 18 wants an annulment.**
- **If, after marriage, either partner becomes incurably insane for five years or more, the marriage can be annulled. However, the sane spouse may be required to support the insane spouse for life.**
- **The parties must knowingly consent to the marriage. It may be voided if either spouse consents to marry as a result of the force or duress of the other spouse; or either spouse cannot understand the nature, effect and consequences of marriage.**
- **The marriage may be annulled where the consent was obtained by fraud, provided the fraud was such that it would have deceived an ordinarily prudent person and was material to obtaining the other party's consent. The fraud must be such as to go to the essence of the marriage contract. Only the injured spouse can obtain the annulment on lack of consent.**

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**3. What is a declaration of nullity of a void marriage?**

**Certain marriages are void (not recognized) when between ancestor and descendant, brother and sister, uncle and niece, aunt and nephew; someone already married whose marriage was not terminated or dissolved.**

**4. What rights do I have if my marriage is void?**

**If the man and woman come within the exceptions above, the marriage is void and a declaration of the nullity of a void marriage may be obtained in the Supreme Court. The effect of**

**such a declaration is to legitimize the children and to dissolve the marriage as a matter of public record, and to provide for support, maintenance, equitable distribution of marital property, insurance, custody, visitation, determination of separate property, counsel fees etc.**

- 5. Is there a difference between an annulment, a divorce and a declaration of the nullity of a void marriage?**

**As a practical matter, no. In any of these actions the marriage is legally dissolved as a matter of public record and the court can award the same relief.**

- 6. Is it difficult to get an annulment or declaration of nullity?**

**Yes. It involves a higher degree of proof and many times corroborative evidence from other witnesses is required to establish grounds.**