



Annulment Research Guide

A Research Guide for a North Dakota State Civil Court Process

The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in North Dakota state courts.

The information provided in this research guide isn't a complete statement of the law. This information is intended as a starting point for your legal research into annulment. The information provided in this research guide **isn't** intended for legal advice and **can't** replace the advice of a lawyer licensed to practice law in North Dakota.

The self-represented individual must make all decisions about how to proceed.

References to non-ND Legal Self Help Center resources are included for your convenience only. Including these references doesn't mean the ND Legal Self Help Center endorses, warrants, or accepts responsibility for the content or uses of the resource. **Use at your own risk.**

No Annulment Forms Available

Neither the North Dakota Legal Self Help Center **nor** the North Dakota Court System have forms or instructions available for Annulment.

If you represent yourself, you create your own annulment legal documents, or retain a lawyer to create the legal documents for you. **If want to find a lawyer to represent you or prepare your annulment legal documents,** go to Pages 7 and 8 for all of the lawyer resources available through the North Dakota Legal Self Help Center.

Overview of Annulment

What is an annulment?

An annulment is a civil court process to declare that a marriage never happened. If a North Dakota state district court judge annuls a marriage, the marriage is void. Void means the marriage isn't valid or legally binding. In other words, the marriage didn't happen.

Can I get an annulment because I've only been married a short time?

No. Annulment isn't based on the length of your marriage alone.

When can a North Dakota state district court judge annul a marriage?

The grounds (reasons) for annulling a marriage and the deadlines for requesting the annulment are as follows:

- When a spouse was a minor (under 18 years of age) at the time of the marriage and couldn't give legal consent. The annulment court process must be started by the minor spouse within 4 years of turning 18 years of age, or by the parents or guardian of the minor spouse before turning 18 years of age.
- When a spouse was legally married to someone else at the time they married their current spouse. The annulment court process must be started during the lifetime of either spouse.
- When either spouse was of unsound mind at the time of the marriage. However, an annulment may not be possible when the spouses freely lived together after the marriage. The annulment court process must be started at any time before the death of either spouse.
- When consent to marry was obtained by fraud. However, an annulment may not be possible when the spouses freely lived together after discovery of the fraud. The annulment court process must be started within 4 years of discovery of the fraud.
- When consent to marry was obtained by force. However, an annulment may not be possible when the spouses freely lived together after the marriage. The annulment court process must be started within 4 years after the marriage.
- When either spouse was physically unable to enter into the marriage state at the time of the marriage, and the incapacity continues and appears to be incurable. The annulment court process must be started within 4 years after the marriage.
- When the marriage is [incestuous](#). The annulment court process must be started at any time by either spouse.

What is considered an [incestuous](#) marriage?

The following marriages are incestuous and void (not legal):

1. Marriage between parents and children, including grandparents and grandchildren of every degree.
2. Marriage between brothers and sisters of half as well as whole blood.

3. Marriage between uncles and nieces of half as well as whole blood.
4. Marriage between aunts and nephews of half as well as whole blood.
5. Marriage between first cousins of half as well as whole blood.

This applies to illegitimate as well as legitimate children and relatives.

Do we have to agree to the annulment?

No. The spouses aren't required to agree to get an annulment. Either spouse can ask the court for an annulment.

The judge assigned to the annulment case decides whether the spouse who asked for an annulment proved one or more of the grounds (reasons).

If the judge annuls our marriage, are our children considered illegitimate?

No. The children resulting from the marriage before the annulment judgment is signed by the judge are considered legitimate.

The parents have the same rights and responsibilities to the children as if the marriage was still in effect. If the parent(s) die without a will, the children are heirs under the [intestacy laws](#) of North Dakota.

Can the judge award residential responsibility (custody) and/or parenting time (visitation) if the judge annuls our marriage?

Yes. The judge awards residential responsibility (custody) and/or parenting time (visitation) of the children of a marriage annulled on the ground of fraud or force based on the best interests and welfare of the children.

I got an annulment through my church. Can I register my church annulment with a North Dakota state district court for recognition?

No. Church annulments **aren't** the result of a state court or tribal court process, so church annulments can't be registered with a North Dakota state district court for recognition.

This means a church annulment **doesn't** affect anything required to be determined by civil law such as residential responsibility (custody), parenting time (visitation), division of property and debt, spousal support, restoring a maiden name, etc.

I don't know where my spouse is. Can I serve my spouse by publication?

Yes. If you can't find your spouse, you can serve the annulment action by publication in a newspaper.

See [Rule4\(e\) of the North Dakota Rules of Civil Procedure](#) for information on serving by publication in a newspaper. You may also want to review the [Instructions for Declaration for Service by Publication](#). (These instructions are for publication in a divorce, but the process is similar to publication to start an annulment action.)

Legal Research Resources

North Dakota Statutes Related to Annulment

(North Dakota statutes are in the [North Dakota Century Code \(NDCC\)](#). The North Dakota Century Code contains the laws enacted by the North Dakota Legislature and signed by the Governor.)

[North Dakota Century Code Chapter 14-03](#) contains laws related to a marriage contracts.

You may find the following Sections of Chapter 14-03 of interest, as they relate to marriage.

- [North Dakota Century Code Section 14-03-01](#): **What constitutes marriage – Spouses defined.**
- [North Dakota Century Code Section 14-03-02](#): **Lawful age for marriage.**
- [North Dakota Century Code Section 14-03-03](#): **Void marriages.**

[North Dakota Century Code Chapter 14-04](#) contains laws related to annulment of marriage.

- Review the entire Chapter.

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North Dakota Case Law:

(When the decision of a case is appealed from a North Dakota state district court to the North Dakota Supreme Court, the Supreme Court writes their opinion to explain how and why they interpreted the laws or rules to decide the appeal the way they did. The opinions are case law and are followed by North Dakota courts deciding later cases with similar facts and issues.)

You may research case law related to annulment using the print version of the North Dakota Century Code. Case law summaries are located directly after the text of the Century Code Section.

To view the full text of the opinion, go to ndcourts.gov/supreme-court/opinions. Enter the case name or case citation.

North Dakota Court Rules:

([Court rules](#) govern how a dispute makes its way to state court and how the dispute is conducted. All of the court rules are found online.)

At minimum, review the following:

- [North Dakota Rules of Civil Procedure](#)
- [North Dakota Rules of Court](#)
- [North Dakota Rules of Evidence](#)

Laws Constantly Change Through Legislation and Court Decisions.

To determine how a law or rules applies to your situation, review the applicable law or laws, court rules, and court decisions.

Only a lawyer licensed to practice in North Dakota who has agreed to represent you can give you legal advice. Legal advice includes interpreting how the laws and rules apply to your situation.

Library Resources *(not all legal resources are available online)*

ODIN is a shared library database of many North Dakota academic, public, state agency, and special libraries. Search ODIN for resources that may be available in a North Dakota library near you. (polaris.odinlibrary.org)

If the book is available for interlibrary loan through ODIN, ask the librarian or library staff of your local North Dakota library how to request the book.

Following is a selection of library resources on ODIN that may be of interest to you:

- **A Short & Happy Guide to Evidence**, Beckman, Sydney A., 2018.
- **Family Law in a Nutshell**, Myers, John E. B., Eighth Edition, 2022.
- **Nolo's Essential Guide to Child Custody & Support**, Doskow, Emily, Third Edition, 2015.
- **Represent Yourself in Court: Prepare & Try a Winning Civil Case**, Paul Bergman & Sara J. Berman, Tenth Edition, 2019.
- **North Dakota Century Code Annotated**, Lexis Nexis, Creation Date c1959 – present.
- **North Dakota Court Rules Annotated**, Lexis Nexis, Creation Date c1990 – present.

Other Legal Research Resources

[How to Research a Legal Problem: A Guide for Non-Lawyers](#), American Association of Law Libraries. (aallnet.org)

General-Use Template Forms

The North Dakota Legal Self Help Center **doesn't** have forms or instructions available for annulment.

If you decide to represent yourself, you create your own legal documents. You're responsible for the information on the documents you file with the court.

Although the ND Legal Self Help Center doesn't have forms or instructions for Annulment, General-Use template forms are available at ndcourts.gov/legal-self-help/general-use-forms.

If you need assistance creating your legal documents, consult a lawyer licensed to practice in North Dakota.

Ask the lawyer about Limited Legal Representation. Lawyers licensed to practice in North Dakota may agree to help you with part of your civil action, such as preparing legal documents, while you handle the rest of the action.

You and the lawyer must agree in writing to Limited Legal Representation.

Lawyer Resources & Limited Legal Representation

You're not required to hire a lawyer to bring a civil case in North Dakota State District Court. If you decide to represent yourself, you must follow all of the rules, laws and procedures a lawyer is required to follow.

Go to ndcourts.gov/legal-self-help/finding-a-lawyer for more information about how to find a lawyer.

Lawyer Resources

You may find the following options of interest:

- **Legal Services of North Dakota** is a non-profit organization, providing free legal assistance to North Dakota residents in a variety of matters based on income. Legal Services of North Dakota can also determine whether an applicant meets the income requirements for the Volunteer Lawyers program that offers low-cost legal assistance based on income. The phone number is (800) 634-5263 and the website is lsnd.org.
- The **State Bar Association of North Dakota** provides a lawyer referral service to match paying clients in need of legal services with lawyers. The phone number is (866) 450-9579 and the website is sband.org. The cost is \$30.00 for a 30 minute consultation with a lawyer.
- **Dakota Plains Legal Services** is a non-profit legal services organization that provides free legal assistance to low-income individuals, older Americans and veterans. Dakota Plains Legal Services (DPLS) has eight offices and serves communities across South Dakota and North Dakota, including nine tribal nations. DPLS is committed to increasing access to justice with quality legal assistance. Contact information is available on the DPLS webpage of dpls.org.
- **For a list of all lawyers who are licensed to practice in North Dakota**, go to the North Dakota Supreme Court website at ndcourts.gov/Lawyers.

Limited Legal Representation

Lawyers licensed to practice in North Dakota may provide Limited Legal Representation in civil cases. Limited Legal Representation (sometimes called "unbundling") is a way a lawyer can help you with part of your case while you do the rest of your case.

You pay for the part of the case the lawyer handled.

Limited legal representation examples:

- You may want a lawyer to give you an expert opinion about your options, or your legal rights and responsibilities;
- You can consult with a lawyer to prepare or review your legal documents, but attend hearings yourself;
- You can represent yourself through the whole case, and periodically consult with a lawyer who can coach you on the law, procedures and strategy;
- You can do the preparation yourself and hire a lawyer just to make court appearances for you.

You and the lawyer must agree in writing to Limited Legal Representation.

North Dakota Free Legal Answers

This civil legal program is a partnership of the American Bar Association and the State Bar Association of North Dakota.

The purpose of the program is to provide free answers to **specific** civil legal question to low-moderate income North Dakotans who submit their questions online. Anonymous volunteer attorneys answer your question, but can't represent you.

Go to nd.freelegalanswers.org or information about the program, the online application, and, if you qualify, ask your civil legal question.

This program **doesn't** provide any assistance with criminal legal questions.