

## **CHAPTER 14-04 ANNULMENT OF MARRIAGE**

### **14-04-01. Grounds for annulling marriage.**

A marriage may be annulled by an action in the district court to obtain a decree of nullity for any of the following causes existing at the time of the marriage:

1. That the party in whose behalf it is sought to have the marriage annulled was under the age of legal consent, as defined in section 14-03-02, or that such party was of such age as to require the consent of the party's parents or guardian and such marriage was contracted without such consent, unless, after attaining legal age, such party freely cohabited with the other as husband or wife.
2. That the former husband or wife of either party was living, and the marriage with such former husband or wife was then in force.
3. That either party was of unsound mind, unless such party, after coming to reason, freely cohabited with the other as husband or wife.
4. That the consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband or wife.
5. That the consent of either party was obtained by force, unless such party afterwards freely cohabited with the other as husband or wife.
6. That either party was at the time of the marriage physically incapable of entering into the marriage state, and such incapacity continues and appears to be incurable.
7. That the marriage was incestuous.

### **14-04-02. Action to annul - Limitations of time.**

An action to obtain a decree of nullity of marriage for causes mentioned in section 14-04-01 must be commenced within the periods and by the parties as follows:

1. For causes mentioned in subsection 1, by the party to the marriage who was married under the age of legal consent, within four years after arriving at the age of consent, or by the party's parents or guardian at any time before such party has arrived at the age of legal consent.
2. For causes mentioned in subsection 2, by either party during the life of the other, or by such former husband or wife.
3. For causes mentioned in subsection 3, by the party injured, or a relative or guardian of the party of unsound mind, at any time before the death of either party.
4. For causes mentioned in subsection 4, by the party injured, within four years after the discovery of the facts constituting the fraud.
5. For causes mentioned in subsections 5 and 6, by the injured party, within four years after the marriage.
6. For causes mentioned in subsection 7, by either party at any time.

### **14-04-03. Legitimacy of children.**

When a marriage is annulled, children begotten before the judgment are legitimate and succeed to the estate of both parents.

### **14-04-04. Custody of children.**

The court shall award the custody of the children of a marriage annulled on the ground of fraud or force to a party based upon the best interests and welfare of the child criteria set forth in chapter 14-09.

### **14-04-05. Effect of judgment.**

A judgment of nullity of marriage rendered is conclusive only as against the parties to the action and those claiming under them.