

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.

- STEP 1:** Complete the Petition for Annulment
- STEP 2:** Complete the Verification form to go with the Petition
- STEP 3:** Attach other documents to your Petition
- STEP 4:** Make two (2) copies
- STEP 5:** Pay the filing fee
- STEP 6:** File the forms
- STEP 7:** Serve the original forms on the opposing party
- STEP 8:** Request and appear at the scheduling 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 File No. The clerk will assign a number to your case when you file your complaint.*** Then write your name in after the word Al@.

Paragraph 1: Subject Matter Jurisdiction

Check box (a) if you have been a resident of the State of Georgia for at least six 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 _____ 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 here in Fulton County.**

If you require materials in alternate format, please notify the Family Law Information Center as soon as possible.

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 _____ 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 _____ County within the last six (6) months **and** _____ 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 _____ 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 _____ 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 _____ County **but** you either do not know where your spouse lives in _____ 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 _____ 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

If you require materials in alternate format, please notify the Family Law Information Center as soon as possible.

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 _____ County at the present time but did reside in _____ County within the past six months **and** _____ County was the county where you and your spouse were living at the time you separated. You can file in _____ 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 _____ County. **Otherwise, you cannot file in _____ 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 _____ 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.

If you require materials in alternate format, please notify the Family Law Information Center as soon as possible.

\$ 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

If you require materials in alternate format, please notify the Family Law Information Center as soon as possible.

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 require materials in alternate format, please notify the Family Law Information Center as soon as possible.

\$ 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. If your case has been assigned to the Family Division of _____ County, you will be assigned a 30-day conference date with the court, and the issue of temporary alimony may be resolved there. If your case **is not** assigned to the Family Division, you should request a Rule Nisi (temporary) hearing if you are seeking an award of temporary alimony. ***(The Clerk's Office will let you know if your case has been assigned to the Family Division.)***

You can get a Rule Nisi from the Family Law Information Center.

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.

If your case has been assigned to the Family Division of _____ County, you will be assigned a 30-day conference date with the court, and the issues may be resolved there. A mediator will be available to help you and the other side come to an agreement. If you cannot agree, you may want to request a hearing at that time.

If you require materials in alternate format, please notify the Family Law Information Center as soon as possible.

If your case **is not** assigned to the Family Division, you must request a RULE NISI (temporary hearing) if you are seeking an award of temporary alimony, property, and debts before any final determination. ***(The Clerk's Office will let you know if your case has been assigned to the Family Division.)*** Forms to request a Rule Nisi are located in the Family Law Information Center.

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. The Family Law Information Center also has a notary public on staff that will notarize your documents free of charge.

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 in The Family Law Information Center such as:

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

If you require materials in alternate format, please notify the Family Law Information Center as soon as possible.

4. Acknowledgment of Service
5. Financial Affidavit

STEP 4- FILING FEE

The filing fee is **\$65.00***. 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 \$65.00 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 when you file your petition. ***The Clerk's Office will inform you if your case is assigned to the Family Division.***

If your case is assigned to the Family Division, you will be directed to the Family Division Administrative Office for a 30-day scheduling conference date. There will be mediators available at the 30-day conference to help you and the other side come to an agreement.

If your case is not assigned to the Family Division, you may request a Rule Nisi (temporary hearing) to have the judge make decisions about your petition on a

If you require materials in alternate format, please notify the Family Law Information Center as soon as possible.

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.