

ANNULMENT DATAPACK

Dear Prospective Family Law Client:

We understand that you are seeking an **annulment of your marriage**. Though an annulment is not usually as complex as the dissolution of a long-term marriage, many of the elements and steps required are similar, if not the same. The end result, however, is quite different in that an annulment treats the marriage as though it never happened.

For some people, divorce carries a stigma and they would rather their marriage be annulled. Others want an annulment because it may be make it possible for them to remarry within their faith. In such instances, a *religious annulment* may also be required. You need to consult with your minister, priest, rabbi or imam if you have questions on that point.

An issue to consider in deciding whether to seek an annulment or a divorce is that, in some cases, if there is an annulment, there can be no duty of spousal support ("maintenance" or "alimony") since the parties were "never married".

Kentucky law permits the annulment of a marriage only in certain very specific circumstances:

1. If the marriage was obtained by *force or fraud* [KRS 402.030(1)]; **OR**
2. If the parties are *more closely related by blood than second cousins* [KRS 402.010(1)] (considered incest in Kentucky); **OR**
3. If one of the parties has been *adjudged mentally disabled* by a court of competent jurisdiction [KRS 402.020(1)(a)]; **OR**
4. If one of the parties has a *husband or wife living*, from whom the person marrying has not been divorced [KRS 402.020(1)(b)]; **OR**
5. If the subject marriage was *not solemnized or contracted in the presence of an authorized person or society* [KRS 402.020(1)(c)]; **OR**
6. If *one party was under eighteen (18) but over sixteen (16) years of age* at the time of the marriage, and the marriage was *without the consent* required by KRS 402.020(1)(f) and has *not been ratified by cohabitation after that age* [KRS 402.030(2)]; **OR**
7. If *one party was under sixteen (16) years of age* at the time of the marriage, if the marriage was not conducted with the permission of a District Judge as required by KRS 402.020(1)(f)(3) in the form of a *written court order*, and if the marriage has not been ratified by *cohabitation after the person reached eighteen (18) years of age* [KRS 403.030(3)].

Fraud is the most frequently cited basis for filing a Petition for Annulment. Such an element would include:

- One spouse failing to disclose to the other spouse critical information about important matters such as a previous marriage or a criminal record;
- A spouse's desire to have or to not have children which is inconsistent with the other spouse's desires and understanding;
- A spouse lying about his or her capacity to have children;
- A party lying about his or her having reached the age of consent
- A party lying about his or her degree of blood relationship to the other spouse;
- A spouse concealing an addiction to alcohol or drugs;
- A spouse failing to disclose the existence of children from a prior relationship;
- A spouse failing to disclose a sexually transmitted disease or impotency;
- A spouse's refusal or inability to consummate the marriage (*i.e.*, having sexual intercourse with the other spouse);
- Etc.

Most annulments take place after a marriage of a very short duration -- a few weeks or months, so there are usually no assets or debts to divide, or children for whom custody, visitation and child support are a concern.

There are specific time limits which must be satisfied. One must file for annulment within 90 days of discovering that grounds for an annulment exist. That's not within 90 days of the marriage, but within 90 days of discovering, for instance, that your spouse is a bigamist.

Your case will require an initial personal consultation so that we can understand the facts of your case and advise you on your rights and duties. We can provide you with an initial consultation for \$200, after which we should be able to give you a good idea of what to expect in your annulment action.

Before we can begin representing you, we require (1) a signed contract which explains our respective obligations and (2) a legal engagement fee, the size of which can only be determined after our initial consultation and will be based on our estimation of the amount of time needed to resolve your case.

Though some of the questions or situations set out in the enclosed **Annulment Datapack** may not apply to your situation, your effort to fill it out and to provide us with copies of any information or documents pertinent to this matter (including copies of all prior court papers, marriage license or application, proof of essential elements such as fraud, etc.) will go a long way to help us quickly evaluate your family law situation and to contain your legal expense.

Any information provided by you will, of course, be kept confidential and you are under no obligation until we each execute a written Engagement Agreement.

Very truly yours,

JAMES K. MURPHY
RUTH J. WILKERSON
WILLIAM L. HOGE, III
Attorneys at Law

This is an advertisement.



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Attorneys at Law

Concentrating in Family Law Representation
throughout Greater Metropolitan Louisville

THIS IS AN ADVERTISEMENT.

Email: HogePartners@DivorceInKentucky.com

Website: DivorceInKentucky.com

Hoge Partners, PLLC is the successor to Hoge & Associates, a law practice with a four-decade history of providing legal services throughout Metropolitan Louisville, including Jefferson, Oldham, Hardin and Bullitt Counties.

JAMES K. MURPHY

Jim Murphy is the Managing Partner of **Hoge Partners, PLLC**. He began practicing law in Kentucky in 1993. He graduated *magna cum laude* from Washington & Lee University and *cum laude* from the Lewis School of Law at Washington & Lee University.

Prior to joining Hoge & Associates in 2014, Jim's practice with another Louisville firm focused in commercial transactions, real estate and business. Since then, he has refocused his practice on Family Law matters with a special emphasis on associated business and real estate factors. Jim's caseload includes a variety of Family Law matters including domestic violence actions and criminal defense in child support matters as well as processing divorces, child support, child custody and post-divorce litigation. He also has significant appellate experience.

RUTH J. WILKERSON

Ruth Wilkerson is a Partner of **Hoge Partners, PLLC**. She has been practicing law in Kentucky since 2010. A graduate of Transylvania University in Lexington, Kentucky and the Appalachian School of Law in Grundy, Virginia, Ruth has a varied legal background which included estate planning, workers compensation, personal injury litigation, employment law, civil rights discrimination and sexual harassment.

Ruth has focused on Family Law matters since joining the firm in 2014. She handles both contested and uncontested divorce actions, post-divorce litigation, modifications of child support and maintenance/alimony, disputed parenting matters such as visitation schedules and primary residence, adoption proceedings, child custody and domestic violence proceedings.

WILLIAM L. HOGE, III

Bill Hoge has been practicing law in Louisville since 1972 and focused on Family Law for better than half of that period. He retired from active practice in 2017. Bill remains of counsel to the firm of **Hoge Partners, PLLC**, providing advice and guidance to attorneys Jim Murphy and Ruth Wilkerson and handling a limited number of cases. He is still a Fellow of the American Academy of Matrimonial Lawyers and formerly served as the Chair of the Family Law Sections for both the Kentucky Bar Association and the Louisville Bar Association. The majority of Mr. Hoge's legal career has been dedicated to Family Law and being of service to people going through the divorce process in Kentucky, individuals needing assistance with post-divorce matters (child support, custody, visitation, etc.), victims of domestic violence, international parental abductions and others situations relating to Domestic Relations law.

ANNULMENT DATAPACK

Please Print

Today's Date: _____

YOUR **FULL** LEGAL NAME:

 {First Name} {Middle Name} {Last Name} {Jr., Sr., etc.}

PRESENT ADDRESS:

 {Street Address or P. O. Box}

 {City} {County} {State} {Zip}

How long at the above address? _____

TELEPHONE:

Home -- _____ Work -- _____

Mobile Phone -- _____

E-MAIL ADDRESS:

*THE SPACE BELOW IS FOR OFFICE USE ONLY
 Please complete the remaining pages of this form*

Date of Initial Interview: _____ Interviewed by: _____

Engagement Agreement signed? _____ Date Signed: _____ Engagement Fee Paid: \$ _____

Initial Documents Required: _____ Draft *Petition for Annulment of Marriage*
 Service by: Sheriff Certified Mail Other: _____
 _____ Draft Response to Petition for Annulment of Marriage

Initial Motions: _____ Motion for Temporary Restraining Order with Client's Affidavit
 _____ Outline for Petition for EPO/DVO
 _____ Other: _____

Discovery: _____ Interrogatories _____ Request for Admissions
 _____ Request for Production of Documents
 _____ Notice of Deposition of _____

Scheduled Execution Date: _____ BY VIDEO OR COURT REPORTER?
 Other: _____

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How did you learn about us?

- Referral from another attorney: _____
- Personal referral from: _____
- Our website at www.DivorceInKentucky.com
- Other: _____

PERSONAL INFORMATION ON YOU

YOUR AGE ON LAST BIRTHDAY: _____

MAIDEN NAME (if Wife): _____

YOUR DATE OF BIRTH: _____ RACE*: _____
* Required for State's Vital Statistics Form

SOCIAL SECURITY NUMBER: _____ - _____ - _____

YOUR PLACE OF BIRTH: _____

YOUR OCCUPATION: _____

YOUR EMPLOYER: _____

NATURE OF INDUSTRY: _____

RESIDENT OF KENTUCKY SINCE: _____

PREVIOUS ADDRESS: _____

How long at that address? _____

NUMBER OF TIMES MARRIED: _____

PERSONAL INFORMATION ON YOUR SPOUSE

SPOUSE'S FULL LEGAL NAME: _____
{First Name} {Middle Name} {Last Name} {Jr., Sr., etc.}

MAIDEN NAME (if spouse is Wife): _____

SPOUSE'S PRESENT AGE: _____

SPOUSE'S DATE OF BIRTH: _____ RACE*: _____
* Required for State's Vital Statistics Form

PLACE OF BIRTH: _____

SPOUSE'S SOCIAL SECURITY NUMBER: _____

SPOUSE'S TELEPHONE NUMBER: _____

SPOUSE'S PRESENT ADDRESS: _____

How long at that address? _____

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PREVIOUS ADDRESS: _____

How long at that address? _____

SPOUSE'S OCCUPATION: _____

NATURE OF INDUSTRY: _____

SPOUSE'S EMPLOYER: _____

SPOUSE'S EMPLOYER'S ADDRESS: _____

RESIDENT OF KENTUCKY SINCE: _____

NUMBER OF TIMES MARRIED: _____

YOUR MARRIAGE

MARRIAGE:

DATE OF MARRIAGE: _____

WHERE WERE YOU MARRIED? _____
{City} {County} {State}

WAS A **PRE-NUPTIAL AGREEMENT** EXECUTED OR DRAFTED PRIOR TO THE MARRIAGE?
 Yes No **If YES, please provide us with a copy of that document.**

DATE OF LAST SEXUAL RELATIONS WITH YOUR SPOUSE: _____

HAS THERE BEEN ANY **DOMESTIC VIOLENCE** BETWEEN THE PARTIES DURING THE MARRIAGE?
 Yes No

If yes, please explain: _____

Are any DVOs currently in effect? _____

SEPARATION:

DATE OF SEPARATION: _____

Note: The legal definition of the word "separation" refers to the date that one party left the marital home and took up residence elsewhere. A "separation" can include married parties living in the same house, so long as they are not engaging in sexual intercourse with each other. **The resumption of sexual relations between the parties can result in a delay or complication of the annulment process.** [KRS 403.170(1): *No decree shall be entered until the parties have lived apart for 60 days. Living apart shall include living under the same roof without sexual cohabitation.*]

CIRCUMSTANCES OF SEPARATION: _____

CHILDREN OF THE MARRIAGE

Is there any possibility the Wife is currently pregnant? _____

Number of children (regardless of age) born of this marriage: 0 1 2 3 4 5 ____

Name: _____

Name: _____

Date of birth: _____ Present Age: _____

Date of birth: _____ Present Age: _____

Child's Social Security Number: _____

Child's Social Security Number: _____

Place of residence: _____

Place of residence: _____

Child lives there with: _____

Child lives there with: _____

Child has lived there since: _____

Child has lived there since: _____

Previous residence: _____

Previous residence: _____

Child lived there with: _____

Child lived there with: _____

Dates child lived at that address: _____

Dates child lived at that address: _____

Child's present school: _____ Grade: _____

Child's present school: _____ Grade: _____

With which parent does this child wish to live? _____

With which parent does this child wish to live? _____

IF YOU HAVE MORE THAN TWO CHILDREN FROM THIS MARRIAGE, PLEASE CONTINUE ON A SEPARATE SHEET.

Child Custody, Support and Parenting Schedules

Have you and your spouse made any arrangements or agreements concerning custody, parenting schedules or support of the children? If so, please describe.

Do you wish to seek child support from your spouse? _____

Has any minor child of this marriage ever been involved in a custody dispute? If so, please give details.

Does anyone besides you and your spouse have any custody claim on any minor child of this marriage? If so, please identify.

Please state who (IN YOUR OPINION) is best suited to have custody of the children and briefly explain your position.

What **parenting schedule** (if any) are you and your spouse utilizing at the present time?

ANNULMENT

On what grounds are you seeking an annulment? [Check one of the following]

- Marriage was obtained by **force or fraud** [KRS 402.030(1)]
- Incest** or being more **closely related by blood** than second cousins [KRS 402.010(1)]
- Mental deficiency or disability** of one or more parties [KRS 402.020(1)(a)]
- Bigamy** (one of the parties has a *husband or wife living*, from whom he or she has not been divorced) [KRS 402.020(1)(b)]
- Marriage not solemnized** or contracted in the presence of an authorized person or society [KRS 402.020(1)(c)]
- One or both of the parties was under 18 but over 16 at the time of the marriage, and the marriage was without parental consent** and has not been ratified by cohabitation after the age of 18 [KRS 402.030(2)]
- One or both of the parties was under 16 at the time of the marriage and the marriage was not conducted with the permission of a District Judge in the form of a written court order**, and if the marriage has not been ratified by cohabitation after the underage person reached 18 years of age [KRS 403.030(3)]
- Other: _____

Please explain in detail the essential element(s) checked above which you feel entitles you to an annulment of your marriage under Kentucky law. For instance, if you checked "**Fraud**" above, explain how the fraud happened and all the pertinent details.

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RESTORATION OF MAIDEN NAME

Does the Wife want her maiden name restored? Yes No Unknown

PRIOR MARRIAGES OF THE PARTIES

Have you or your spouse had any prior marriages? If so, please indicate how such marriage(s) ended [death, divorce, annulment, etc.].

Were any children born as a result of those prior marriages? _____

Children born to which spouse? _____

Who has custody of these children? _____



ATTORNEY'S NOTES

Please return completed Datapack to:

HOGE PARTNERS, PLLC

Suite 400 SOUTH, First Trust Centre

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Louisville, Kentucky 40202

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If you have questions, please call us at (502) 583-2005.

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