WEST VIRGINIA CODE CHAPTER 48 ARTICLE 3

WV Legislature

§48-3-101. Right to sue to annul or affirm marriage.

(a) Except as otherwise provided in subsection (b) of this section, an action to annul or affirm a marriage is not maintainable unless one of the parties is a resident of this state at the time the action is commenced.

(b) Even if neither party is a resident of this state, an action to annul a marriage that was performed in this state is maintainable if the parties have not established a matrimonial domicile elsewhere.

WV Legislature

§48-3-102. Venue of actions for annulment or affirmation.

(a) If the respondent to an action for annulling or affirming a marriage is a resident of this state, the petitioner has an option to bring the action in the county in which the parties last cohabited or in the county where the respondent resides.

(b) If the respondent to an action for annulling or affirming a marriage is not a resident of this state, the petitioner has an option to bring the action in the county in which the parties last cohabited or in the county where the petitioner resides.

(c) If neither party is a resident of this state, the action must be brought in the county where the marriage was performed.

WV Legislature

§48-3-103. Voidable marriages.

The following marriages are voidable and are void from the time they are so declared by a judgment order of nullity:

(1) Marriages that are prohibited by law on account of either of the parties having a wife or husband of a prior marriage, when the prior marriage has not been terminated by divorce, annulment or death;

(2) Marriages that are prohibited by law on account of consanguinity or affinity between the parties;

(3) Marriages solemnized when either of the parties:

(A) Was mentally incompetent;

(B) Was afflicted with a sexually transmitted disease;

(C) Was incapable, because of natural or incurable impotency of the body, of entering into the marriage state;

(D) Was under the age of consent; or

(E) Had been, prior to the marriage and without the knowledge of the other party, convicted of a crime punishable by imprisonment in excess of one year under the applicable law of this state, another state or the United States;

(4) Marriages solemnized when, at the time of the marriage, the wife, without the knowledge of the husband, was with child by some person other than the husband.

WV Legislature

§48-3-104. Affirmation or annulment of marriage.

If a marriage is supposed to be void, or voidable, or any doubt exists as to its validity, for any of the causes set forth in section 3-103, or for any other cause recognized in law, either party may, except as provided in section 3-105, institute an action for annulling or affirming the marriage. Upon hearing the proofs and allegations of the parties, the court shall enter a judgment order annulling or affirming the marriage. In every case where the validity of a marriage is called into question, it is presumed that the marriage is valid, unless the contrary is clearly proved. If the court orders that the marriage is valid, the finding of the court is conclusive upon all persons concerned.

WV Legislature

§48-3-105. What persons may not institute annulment action.

An action for annulling a marriage may not be instituted:

(a) Where the cause is the natural or incurable impotency of body of either of the parties to enter the marriage state, by the party who had knowledge of such incapacity at the time of marriage;

(b) Where the cause is fraud, force or coercion, by the party who was guilty of such fraud, force or coercion, nor by the injured party if, after knowledge of the facts, he or she has by acts or conduct confirmed such marriage;

(c) Where the cause is affliction with a sexually transmitted disease existing at the time of marriage, by the party who was so afflicted if such party has subsequent to the marriage become cured of such disease, nor by the person who was not so afflicted if he or she after the curing of the afflicted person has by acts or conduct confirmed the marriage;

(d) Where the cause is the nonage of either of the parties, by the party who was capable of consenting, nor by the party not so capable if he or she has by acts or conduct confirmed the marriage after arriving at the age of consent; or

(e) Where the cause is lack of consent on the part of either of the parties, by the party consenting or bringing about the marriage;

(f) Where the cause is that either of the parties has been convicted of a crime punishable by imprisonment in excess of one year under the applicable law of this state, another state or the United States prior to marriage, by the other party if, after knowledge of such fact, he or she has cohabited with the party so convicted; or

(g) Where the cause is that the wife was at the time of marriage with child by some person other than the husband, by the husband, if after knowledge of the fact he has cohabited with the wife.

WV Legislature

§48-3-106. Relief ordered in annulment.

In an action for annulment, the court may order all or any portion of the final relief provided for in sections 5-603 through 5-614 and all or any portion of the temporary relief provided for in part 5, article 5 of this chapter.

WV Legislature

§48-3-107. Modification of order granting annulment.

Upon the petition of either party, the court may revise or alter an order entered in an action for annulment or make further orders, concerning the following matters:

(1) The support and maintenance of either spouse;

(2) The interest of one spouse in the property of the other spouse;

(3) The allocation of responsibility for the children of the parties; and

(4) The support of the children of the parties.

WV Legislature