Annulments

People often think that annulments can be used to “cancel” any very short marriage. In California, however, annulment is totally unrelated to the length of the marriage. It’s only available when the marriage itself is legally invalid. It’s also actually harder to get than a regular divorce, although it can be quicker.

Incestuous or bigamous marriages are “void,” since they are illegal. A few other categories of marriages are “voidable.” If the marriage took place when one spouse was under 18, of unsound mind, or permanently “physically incapable of entering into the marriage state” (that is, unable to have sex), it can be annulled. If a missing-or-presumed-dead spouse shows up after the marriage, any of the three parties can petition for annulment. If consent of one spouse was obtained by fraud or force, the innocent spouse can seek an annulment.

Fraud may seem promising. Unfortunately, “she was sweet before we married, but then turned into a witch” doesn’t count (#) as fraud. Most of the cases of fraud involve sex, fidelity and procreation. For instance, fraud has been found when a spouse never intended to consummate the marriage, or falsely claimed to be fertile. In one case, the court found fraud when, at the time of marriage, the husband fully intended to continue his ongoing affair with his wife’s sister. *In re Marriage of Ramirez,* 165 Cal.App.4th 751 (2008).

A spouse who hides a drunken, lazy, slovenly true nature until after the wedding isn’t committing fraud. In re Marriage of Johnston, 18 Cal. App. 4th 499 (1993). Even outright lying about one’s ability to support a family doesn’t count as fraud. Marshall v. Marshall, 212 Cal. 736 (1931).

So, it’s very rare to meet the conditions for annulment. It’s also a bit more complicated than a regular divorce, since you may need to give the judge evidence that the marriage is invalid. The main practical advantage is that annulment becomes final as soon as the judge signs the order; a standard divorce has a six-month minimum wait. It can also be important to someone to erase the marriage completely, for personal, legal, or religious reasons. Unless you have a very good reason, it’s probably easier to get a divorce.