

RCW 26.09.040 Petition to have marriage or domestic partnership declared invalid or judicial determination of validity—Procedure—Findings—Grounds—Legitimacy of children.

(1) While both parties to an alleged marriage or domestic partnership are living, and at least one party is resident in this state or a member of the armed service and stationed in the state, a petition to have the marriage or domestic partnership declared invalid may be sought by:

(a) Either or both parties, or the guardian of an incompetent spouse or incompetent domestic partner, for any cause specified in subsection (4) of this section; or

(b) Either or both parties, the legal spouse or domestic partner, or a child of either party when it is alleged that either or both parties is married to or in a domestic partnership with another person.

(2) If the validity of a marriage or domestic partnership is denied or questioned at any time, either or both parties to the marriage or either or both parties to the domestic partnership may petition the court for a judicial determination of the validity of such marriage or domestic partnership.

(3) In a proceeding to declare the invalidity of a marriage or domestic partnership, the court shall proceed in the manner and shall have the jurisdiction, including the authority to provide for maintenance, a parenting plan for minor children, and division of the property of the parties, provided by this chapter.

(4) After hearing the evidence concerning the validity of a marriage or domestic partnership, if both parties to the alleged marriage or domestic partnership are still living, the court:

(a) If it finds the marriage or domestic partnership to be valid, shall enter a decree of validity;

(b) If it finds that:

(i) The marriage or domestic partnership should not have been contracted because of age of one or both of the parties, lack of required parental or court approval, a prior undissolved marriage of one or both of the parties, a prior domestic partnership of one or both parties that has not been terminated or dissolved, reasons of consanguinity, or because a party lacked capacity to consent to the marriage or domestic partnership, either because of mental incapacity or because of the influence of alcohol or other incapacitating substances, or because a party was induced to enter into the marriage or domestic partnership by force or duress, or by fraud involving the essentials of marriage or domestic partnership, and that the parties have not ratified their marriage or domestic partnership by voluntarily cohabiting after attaining the age of consent, or after attaining capacity to consent, or after cessation of the force or duress or discovery of the fraud, shall declare the marriage or domestic partnership invalid as of the date it was purportedly contracted;

(ii) The marriage or domestic partnership should not have been contracted because of any reason other than those above, shall upon motion of a party, order any action which may be appropriate to complete or to correct the record and enter a decree declaring such marriage or domestic partnership to be valid for all purposes from the date upon which it was purportedly contracted;

(c) If it finds that a marriage or domestic partnership contracted in a jurisdiction other than this state, was void or voidable under the law of the place where the marriage or domestic

partnership was contracted, and in the absence of proof that such marriage or domestic partnership was subsequently validated by the laws of the place of contract or of a subsequent domicile of the parties, shall declare the marriage or domestic partnership invalid as of the date of the marriage or domestic partnership.

(5) Any child of the parties born or conceived during the existence of a marriage or domestic partnership of record is legitimate and remains legitimate notwithstanding the entry of a declaration of invalidity of the marriage or domestic partnership. [2008 c 6 s 1007; 1987 c 460 s 4; 1975 c 32 s 2; 1973 1st ex.s. c 157 s 4.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.