

**WEST VIRGINIA LEGISLATURE**  
**EIGHTY-FIRST LEGISLATURE**  
**REGULAR SESSION, 2014**



**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 58**

(SENATORS COOKMAN, MILLER, PLYMALE AND FITZSIMMONS,  
*ORIGINAL SPONSORS*)

[PASSED MARCH 5, 2014; IN EFFECT NINETY DAYS FROM PASSAGE.]

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AN ACT to amend and reenact §48-3-103 and §48-3-105 of the Code of West Virginia, 1931, as amended, all relating to domestic relations law generally; clarifying that conviction of an offense punishable by incarceration for one year or more prior to the marriage and without the knowledge of the other party constitutes a basis for voiding a marriage; clarifying that a party to a marriage who was unaware at the time of the marriage that his or her spouse had previously been convicted of an offense punishable by incarceration for one year or more may not institute an annulment action if he or she cohabited with that spouse after becoming aware of the conviction; clarifying grounds for voiding marriages; and modifying and removing certain language related to voiding of marriages.

*Be it enacted by the Legislature of West Virginia:*

That §48-3-103 and §48-3-105 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 3. PROPERTY, RIGHTS AND LIABILITIES OF  
MARRIED WOMEN; HUSBAND AND  
WIFE.**

**§48-3-103. Voidable marriages.**

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

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

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

9           (3) Marriages solemnized when either of the parties:

10          (A) Was mentally incompetent;

11          (B) Was afflicted with a sexually transmitted disease;

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

14          (D) Was under the age of consent; or

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

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

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

1           An action for annulling a marriage may not be instituted:

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

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

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

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

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

24          (f) Where the cause is that either of the parties has been  
25 convicted of a crime punishable by imprisonment in excess  
26 of one year under the applicable law of this state, another  
27 state or the United States prior to marriage, by the other party

28 if, after knowledge of such fact, he or she has cohabited with  
29 the party so convicted; or

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman Senate Committee*

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*Chairman House Committee*

Originated in the Senate.

In effect ninety days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this  
the ..... Day of ....., 2014.

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*Governor*