§ 140. Action for judgment declaring nullity of void marriages or annulling voidable marriage. (a) Former husband or wife living. An action to declare the nullity of a void marriage upon the ground that the former husband or wife of one of the parties was living, the former marriage being in force, may be maintained by either of the parties during the life-time of the other, or by the former husband or wife.

(b) Party under age of consent. An action to annul a marriage on the ground that one or both of the parties had not attained the age of legal consent may be maintained by the infant, or by either parent of the infant, or by the guardian of the infant's person; or the court may allow the action to be maintained by any person as the next friend of the infant. But a marriage shall not be annulled under this subdivision at the suit of a party who was of the age of legal consent when it was contracted, or by a party who for any time after he or she attained that age freely cohabited with the other party as husband or wife.

(c) Party a person with a developmental illness or person with a mental illness. An action to annul a marriage on the ground that one of the parties thereto was a person with a developmental disability may be maintained at any time during the life-time of either party by any relative of a person with a developmental disability, who has an interest to avoid the marriage. An action to annul a marriage on the ground that one of the parties thereto was a person with a mental illness may be maintained at any time during the continuance of the mental illness, or, after the death of the person with a mental illness in that condition, and during the life of the other party to the marriage, by any relative of the person with a mental illness who has an interest to avoid the marriage. Such an action may also be maintained by the person with a mental illness at any time after restoration to a sound mind; but in that case, the marriage should not be annulled if it appears that the parties freely cohabited as husband and wife after the person with a mental illness was restored to a sound mind. Where one of the parties to a marriage was a person with a mental illness at the time of the marriage, an action may also be maintained by the other party at any time during the continuance of the mental illness, provided the plaintiff did not know of the mental illness at the time of the marriage. Where no relative of the person with a developmental disability or person with a mental illness brings an action to annul the

marriage and the person with a mental illness is not restored to sound mind, the court may allow an action for that purpose to be maintained at any time during the life-time of both the parties to the marriage, by any person as the next friend of the person with a mental illness or person with a developmental disability.

(d) Physical incapacity. An action to annul a marriage on the ground that one of the parties was physically incapable of entering into the marriage state may be maintained by the injured party against the party whose incapacity is alleged; or such an action may be maintained by the party who was incapable against the other party, provided the incapable party was unaware of the incapacity at the time of marriage, or if aware of such incapacity, did not know it was incurable. Such an action can be maintained only where an incapacity continues and is incurable, and must be commenced before five years have expired since the marriage.

(e) Consent by force, duress or fraud. An action to annul a marriage on the ground that the consent of one of the parties thereto was obtained by force or duress may be maintained at any time by the party whose consent was so obtained. An action to annul a marriage on the ground that the consent of one of the parties thereto was obtained by fraud may be maintained by the party whose consent was so obtained within the limitations of time for enforcing a civil remedy of the civil practice law and rules. Any such action may also be maintained during the life-time of the other party by the parent, or the guardian of the person of the party whose consent was so obtained, or by any relative of that party who has an interest to avoid the marriage, provided that in an action to annul a marriage on the ground of fraud the limitation prescribed in the civil practice law and rules has not run. But a marriage shall not be annulled on the ground of force or duress if it appears that, at any time before the commencement of the action, the parties thereto voluntarily cohabited as husband and wife; or on the ground of fraud, if it appears that, at any time before the commencement thereof, the parties voluntarily cohabited as husband and wife, with a full knowledge of the facts constituting the fraud.

(f) Incurable mental illness for five years. An action to annul a marriage upon the ground that one of the parties has been incurably mentally ill for a period of five years or more may be maintained by or on behalf of either of the parties to such marriage.