

815.22 VOIDABLE MARRIAGE (ANNULMENT) - ISSUE OF MARRIAGE OF
PERSON UNDER 16 - DEFENSE OF PREGNANCY OR LIVING CHILDREN.¹

The (*state number*) issue reads:

"[Is (*name wife*) now pregnant] [Has a child who is now living been
born to (*name spouses*)]?"

You will answer this issue only if you have answered the (*state
number*) issue "Yes" in favor of the plaintiff.²

On this issue the burden of proof is on the defendant. This means
that the defendant must prove, by the greater weight of the evidence,
that [(*name wife*) is now pregnant] [a child who is now living has been
born to (*name spouses*)].³

Finally, as to this (*state number*) issue on which the defendant has
the burden of proof, if you find by the greater weight of the evidence that
[(*name wife*) is now pregnant] [a child who is now living has been born to
(*name spouses*)], then it would be your duty to answer this issue "Yes" in
favor of the defendant.

If, on the other hand, you fail to so find, it would be your duty to
answer this issue "No" in favor of the plaintiff.

1. See N.C. Gen. Stat. § 51-3. There is no policy reason why this defense would
not also apply to an underaged person between 16 and 18 years of age. See N.C.P.I.-Civil
815.23.

2. This issue is to be considered only where the issue of the marriage of a person
under 16 (N.C.P.I.-Civil 815.20) has been answered affirmatively in favor of the plaintiff.

3. In the event the wife has given birth to a now living child, there may be a
paternity issue, in which case it will be necessary to use N.C.P.I.-Civil 815.75.