

DIOCESE OF COLORADO SPRINGS

PROCEDURES FOR MARRIAGE ANNULMENTS

INTRODUCTION:

The institution of marriage, by which a man and a woman become one in a partnership of the whole of life, was established by God. Moreover, the marriage covenant between two baptized persons has been raised by Christ the Lord to the dignity of a sacrament. So sacred is the bond of marriage that Christ Himself declared that what God has joined together no one is to divide. When a man and a woman exchange consent to marry, when they say, "I do," they agree to enter that perpetual and ever faithful bond of marriage which is directed to their own well being, and to the procreation and education of children.

Sadly, however, the life of a marriage can be a fragile thing. Divorce has become one of the familiar events of our day. Many marriages are not successful in spite of good intentions of the spouses. This is true even when a family has been established, and the marriage has lasted for many years. The Church attempts always to be as sensitive and understanding as possible to the stress and pain that all this brings to people. The Office of the Tribunal of the Diocese of Colorado Springs exists largely to help all those who are divorced and who now seek a clarification of their status in the Church.

Once a marriage is entered into between any two persons (Catholic, Protestant, or non-Christian), it is presumed to be a valid and binding union until the contrary can be proven. And as long as a person is bound to a previous valid marriage, the Church does not permit a second marriage to take place. The Church has established certain procedures by which persons can attempt to prove that a previous marriage was not valid or binding, thereby assuring that they are free to marry according to the rites of the Church. This usually involves those persons who seek to marry in the Church, but have been previously married. However, others too may need the assistance of the Tribunal. For example, divorced Catholics may want to settle the status of a previous marriage that ended in divorce even though they have no immediate plans to remarry.

There are many misconceptions about what an annulment or declaration of nullity is within the Catholic Church. The following information is an attempt to answer the most frequently asked questions about annulments.

WHAT IS AN ANNULMENT OR DECLARATION OF NULLITY?

An annulment is an official statement by a Church court that a marriage relationship fell short of at least one of the elements seen as essential for a binding union. This process does not deny that a real relationship existed, nor does it imply that the relationship was entered with ill will or moral fault. It is a simple recognition, informed by Church law on marriage and the actual experience of marriage by a couple that a very important element was lacking in the union that made conjugal life untenable.

In other words, a declaration of nullity states that, according to Church law, a given marriage was not valid (and therefore not binding) at the time a couple spoke their marriage vows. A person asks the Office of the Tribunal to look at a previous marriage which has ended in divorce, and, if possible, to issue a declaration that this previous marriage no longer binds either party to the union.

In no way should this process be thought of as a type of "Catholic Divorce." A declaration of nullity states that a marriage was invalid from the beginning. A civil divorce, on the other hand, asserts that a marriage, valid or not, is dissolved.

The Catholic Church does not grant divorces. Neither is an annulment a statement that a marriage never existed civilly. Rather, it is a determination that certain conditions were present at the time the marriage was entered that made it an invalid union according to Catholic Church teaching. The civil effects and recognition of that marriage remain intact and unchanged.

WHO REQUIRES AN ANNULMENT?

Generally speaking, anyone who wishes to be married in the Catholic Church and has been involved in a previous union, regardless of religious affiliation, may not do so without obtaining an annulment of the first bond. Almost always, a person seeking an annulment is someone who has been married, is now divorced and wishes to marry again, within the Catholic Church.

Divorced people, no matter what their religious affiliation, have a carefully-protected right in this Church to ask the Church to determine whether or not their previous marriage was valid. If they are not of the Catholic faith, they seek this generally because they wish to remarry, and the intended spouse is a Catholic who wants the marriage to be recognized by the Catholic Church. We respect the vows of marriage of all people, no matter what their religious affiliation is. Members of the Catholic Church, however, are bound to have their marriage recognized by the Church. This is why members of other churches must often go through an annulment process before they can marry someone in the Catholic Church.

WHO MAY APPLY?

Anyone who has a real residence in the Roman Catholic Diocese of Colorado Springs or anyone whose first marriage took place within the geographical territory occupied by the Diocese of Colorado Springs or who has requested another Archdiocese or Diocese to transfer their case to the Diocese of Colorado Springs and both dioceses have agreed on this procedure, may apply for an annulment. These requirements are necessary so that the court may have "competence" and "jurisdiction" to handle the case.

DOES IT HAVE ANY CIVIL EFFECTS?

The process of an ecclesiastical annulment concerns only the laws of the Catholic Church. Such matters on the legitimacy of children, child support, visitation privileges, etc., all of which are settled by civil action, are not changed in any way whatsoever by the annulment process.

WHY IS THE CHURCH INVOLVED IN THIS PROCESS?

The church is involved in this process to assist people in entering into the fullest possible sacramental relationship with Christ in the community of the Catholic Church. The Church recognizes that we are all human and sometimes unwittingly make mistakes and wrong decisions. In line with the healing graces proclaimed by Christ, the Church uses this annulment process as the embodiment and the presence among men of the Lord's reconciling power.

Also, this procedure is used as a safeguard for the sacramentality of marriage, to preserve and uphold the values of Christian marriage wherever they are found. The Church maintains that marriage and family life are the cornerstones of society and endeavors to do her best to proclaim this to her members and to the world. So, the Church does not take the matter of marriage or the matter of annulment lightly—the process under discussion ensures this.

WHAT DO I DO IF I WANT TO INITIATE ANNULMENT PROCEEDINGS?

It is recommended that you contact your parish pastor first to discuss the matter. Based on the facts and information presented at that time, the pastor may, in turn, direct you to contact the Diocese of Colorado Springs' Office of the Chancery (Office of the Tribunal) to obtain and initiate the required paperwork.

It is essential that you complete the required paperwork as carefully and completely as possible. Before submitting the paperwork to the Office of the Tribunal, you may wish to make a copy of the paperwork for your retention. You should then submit your application of petition (with marriage certificate and civil divorce/dissolution decree) to the Tribunal for processing and review. That material that you furnish them will provide them with a broad overview of your marriage and give them the information upon which to base a decision. If any additional information or documents is found to be needed, they will contact and inform you directly. You are asked to compile and submit the requested, additional information, as soon as possible. If there are medical records pertinent to the court's investigation, you may be asked to sign necessary release forms. Once the entire material is received by the Office of the Tribunal, you will be notified of their initial decision (e.g., whether to accept it or not).

WHAT DOCUMENTS ARE REQUIRED (AS A MINIMUM):

The following documents are required to begin a case:

- Copies of the baptismal certificates of all Catholic parties involved.
- A copy of the civil marriage license.
- A copy of the church marriage certificate.
- A copy of the divorce decree certified or signed by the Judge.

IF MY CASE IS ACCEPTED, WHAT NEXT?

Because marriage is a mutual covenant and two people are involved in it, the respondent (e.g., the former spouse) must be informed of the proceedings and be given an opportunity to offer his/her views of the marriage. If they choose not to cooperate, this does not stop the proceedings, but it is much better if they agree to assist and cooperate with the process. Every effort must be expended to ensure the respondent's rights are not violated, as the other principal party of the marriage, as the court is also interested in their observations.

You are then requested to furnish a list of witnesses and to contact them before you submit the list as to their willingness to cooperate with the court's process. These witnesses may be parents, family, or friends – anyone knowledgeable as to the circumstances of the marriage and of the personalities who entered the union under investigation. An annulment is concerned with the relationship from the beginning to end, so anyone who can give information on the total relationship or part of it may be considered as a witness.

COURT PROCEEDINGS:

When all of the necessary information has been gathered, the facts of the case are forwarded to the “Advocate”, who is a court appointed officer (generally a priest), who composes his arguments as to why the annulment should be granted. These are then forwarded to the Defender of the Bond (who is generally a priest) to whom the upholding of the bond of marriage has been entrusted. If he has objections to the case under investigation, he brings these forward to the court. Finally, the case with the observations of the Advocate and the Defender of the Bond is presented to the Judge, who renders the decision in the case.

If the Defender of the Bond objects to the Judge’s decision, he may appeal to a higher court. In the Diocese of Colorado Springs, the next level or higher court is located in the Archdiocese of Denver.

A marriage may not be celebrated in the Church until the Diocese of Colorado Springs’ policy on marriage preparation has been completed. Church Law forbids marriage until 10 days have elapsed from the receipt of the decision or Decree of Nullity (annulment).

Note all information gathered in these proceedings is confidential and will not be released for the use of any other person or agency, except for those individuals involved in the Tribunal process.

DOES THE TRIBUNAL EVER DENY AN ANNULMENT?

Yes. Some cases are given a negative decision; that is, the judge decides that the marriage was a valid and binding union. If this should happen, you will be notified of that decision by the Tribunal. You would then have the option of appealing the decision to either the Appellate Court in the Archdiocese of Denver or the Roman Rota. The Roman Rota is the Supreme Court of the Church for marriage cases (among other things), situated in the Vatican.

HOW LONG DOES IT TAKE?

At the present time in the Diocese of Colorado Springs, a case can take up to one year from beginning to end. There are variables involved in each case which either hasten or lengthen the period of time involved. These are: (1) The availability of Tribunal staff and, (2) The speed with which witnesses return their depositions. Because of these variables, no definitive time commitments may be given by anyone in the Tribunal or at the parish level.

On no account may definitive plans for a subsequent marriage be made without the final Decree of Nullity being issued.

WHAT DOES IT COST?

The Tribunal requests a monetary donation at the completion of a case. This will be discussed by the Tribunal staff with the petitioner during their first visit/discussion. This is an opportune point at which to emphasize that the monetary donation is not a consideration in whether or not a case is heard by the Tribunal. It is not the intention or wish of the diocese’s Tribunal to impose financial hardships on anyone. If someone cannot afford to make the donation, his/her case will proceed normally. If necessary, one may also pay in installments, if this

is more convenient. The donation is used to assist in defraying the secretarial and office costs in processing a case.

CLOSING REMARKS:

Once the required documents are submitted to the Tribunal, please know that as your application progresses, you will be informed accordingly. Frequent calls to the parish office or Office of the Tribunal requesting the “status” of the case are discouraged.

If you have any further questions, please contact your parish priest or the Office of the Tribunal directly at (719) 636-2345 and speak to one of the staff members who can assist you.

No wedding date must be set until an affirmative decision has been rendered.

The annulment process requires the following:

- A) The petitioner contacts his/her parish priest or a Tribunal Staff Member in order to petition and begin the annulment procedure.
 - 1) The petitioner needs to present the following documents at the time of the application:
 - a) Baptismal certificate of self and of former spouse.
 - b) Certificate of marriage.
 - c) Divorce decree (Final Judgment).
 - d) Current address of former spouse.
 - e) Monetary donation for processing.
 - 2) The petitioner has a tape recorded preliminary interview (conducted by a parish priest, deacon, parish minister or a Tribunal Staff Member) -OR- Writes a narrative that covers in depth the following factual information about the petitioner and his/her former spouse:
 - a) Description of childhood and home life of self and former spouse. Alcoholism or chemical addiction in family background?
 - b) Description of dating process and maturity of self and former spouse.
 - c) Description of how the decision to marry was reached.
 - d) Description of ability to communicate and resolve conflicts.
 - e) Description of problems that developed in the marriage and when they began.
 - f) Description of attempted solutions to the problems.
 - g) Description of performance of roles of husband/wife, father/mother.
 - h) Description of how the decision to divorce was reached.
- B) When there are ground(s) for a declaration of nullity, the Tribunal will contact both, the petitioner and the respondent.
- C) Prior to the formal hearing you, the petitioner, must complete and return the witness list. Witnesses include 2-3 adult people who knew you prior to and during your marriage and can give the Tribunal information about the marriage. At the time of the formal hearing you, the petitioner, must bring these witnesses in with you. A witness can be a brother, sister, parent, friend, co-worker, neighbor or a member of the wedding party. Witnesses should not all be relatives. At the formal hearing, the petitioner and the witnesses will be questioned privately and information obtained in the interview will not be shared with anyone except the members of the Court.
- D) If the petition comes to formal hearing the following will occur:
 - 1) All testimony is gathered and sent to the Court Members.
 - 2) Advocate and the Defender of the Bond present their briefs to the Judge.
 - 3) Judge(s) renders a decision.

- 4) Both the petitioner and the respondent have the right to appeal the decision of the Court of First Instance.
- 5) Judge's decision is sent to Appeal Court located in the Archdiocese of Denver, the Court of Second Instance.
- 6) When decision is returned from Appeal Court, the Court of Second Instance, the petitioner and the respondent will be notified of decision.

The average length for the Tribunal to process a petition can be up to 12 months. No wedding date can be set until an affirmative decision has been rendered.

If you have additional questions about annulment procedures, contact the Diocese of Colorado Springs' Office of The Tribunal at (719) 636-2345.