

FREQUENTLY ASKED QUESTIONS

If you have a question regarding nullity, please contact the Tribunal Office: (903) 266-2172

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1. What is marriage?

Marriage is an intimate community of life and love between a man and a woman which is directed toward the good of the spouses and the procreation and education of children. By God's design, marriage is both permanent and exclusive.

2. Is every marriage a sacrament?

No. Although every valid marriage reflects God's design, not every marriage is a sacrament. To be a sacrament, both partners to the marriage must be baptized in a Christian denomination (Catholic, Orthodox, and Protestant).

3. Is every marriage valid?

Although not every marriage is a sacrament, every marriage is presumed to be valid. This presumption, however, is open to contrary proof. As a matter of fact, not every marriage is valid.

4. What is a declaration of nullity?

A declaration of nullity is a statement, made after a careful study by the Church, that a particular broken marriage was not valid.

5. What are some reasons that a marriage may be invalid?

A marriage can be declared invalid if it can be proven that something essential was missing at the time of consent. A valid marriage is freely entered by mature persons who understand and have the ability to assume the essential rights and responsibilities of marriage. If one or both parties lacked the necessary freedom, understanding, intentions, or ability, the marriage is invalid.

If a marriage involves at least one Catholic, it must be celebrated in the presence of an authorized deacon or priest and two witnesses (This norm, however, may be dispensed). A marriage celebrated without the authorized deacon or priest and two witnesses (if no dispensation has been given) is invalid.

It must be stated that a declaration of nullity does not intend to put blame for the broken marriage or its invalidity on either party. A declaration of nullity is simply a statement that, for whatever reason, a particular marriage was never valid from the very beginning.

6. Who may petition?

Either partner to a broken marriage may petition the Church to study the former union in the hope of obtaining a declaration of nullity.

7. How does one contact the tribunal?

One may contact the tribunal directly or through any priest or any pastoral minister in the parish.

8. What must one do to petition for a declaration of nullity?

After the initial contact, the person seeking the declaration of nullity (called the Petitioner) will be asked to complete a form telling about the marriage in question. The form consists of two sections, namely, the petition or libellus (the reasons you feel your marriage is invalid) and a questionnaire.

9. What happens next?

The form is reviewed by the tribunal staff to see whether grounds for nullity can be determined. When needed, the petitioner will be asked to answer possible ground specific questionnaire so that more detailed testimony can be given. Based on these responses, grounds are determined and the case is accepted. At this time the former spouse (called the Respondent) is contacted and given the opportunity to co-operate with the study. This is a crucial step in the process because the law of the Catholic Church is clear that the rights of both parties must be protected in marriage nullity cases. In addition, because the tribunal wishes to obtain a clear picture of the former marriage so that it can give a fair and accurate decision, the cooperation of the former spouse is very important since he or she can add much to that picture.

10. What if the former spouse will not cooperate?

The former spouse may choose not to exercise his or her right to participate in the process. If this is the case, the study of the marriage will continue after having appointed an advocate to represent the absent respondent to ensure his/her right of defense.

11. What if the former spouse cannot be located?

Because the issue of validity of the marriage affects both spouses, a diligent investigation will be made to locate the former spouse. If the former spouse cannot be located, the petitioner should submit a letter to the tribunal detailing the reasons why and the steps that were taken to locate the former spouse. If the former spouse cannot be found after all reasonable attempts have been made, the study of the marriage can begin.

12. Who may serve as witnesses and what is their role?

Since marriage is never a completely private affair between two persons, the law of the Church requires that the petitioner name witnesses who will be contacted by the tribunal to shed light on the marriage. The respondent also has the right to name witnesses.

Witnesses are extremely important. Before they are suggested to the tribunal, the party must determine their willingness to cooperate and their knowledge of the dynamics of the former marriage. Witnesses should be persons who knew the couple well before and during the marriage. They may be friends, family members, etc. Witnesses will be contacted by mail by the tribunal and asked to answer some questions about the marriage. Sometimes, the witnesses will be asked to answer possible ground specific questionnaire for more details. Their prompt response is crucial if the study of the marriage is to occur in a timely fashion.

13. Who decides whether the marriage is valid or invalid?

Whether or not the marriage is valid or invalid is normally decided by a panel of three judges – persons who are experts in marriage law. Due to a shortage of such personnel, however, in most instances the decision is made by a single judge who is a priest.

14. What happens if an affirmative decision is given?

If an affirmative decision is given, the parties will then be able to enter a new marriage. If there is an appeal by either party or by the defender of the bond, the case will be reviewed by the Court of Appeal, the Archdiocesan Tribunal of Galveston Houston. If the affirmative decision is ratified, the parties will then be able to enter a new marriage. If the affirmative decision is overturned, the parties may not enter a new marriage in the Church. If there is a further appeal, the case will then finally be reviewed by the Roman Rota. If the affirmative decision is ratified by the Roman Rota, the parties will then be able to enter a new marriage. If the affirmative decision is overturned by the Roman Rota, the parties may not enter a new marriage in the Church. The parties, however, have the right to reopen the case for another study of the marriage on a new ground with additional proofs.

15. What happens if a negative decision is given?

If a negative decision is given, the parties have the right to seek another study of the marriage by the Court of Appeal of the Archdiocesan Tribunal of Galveston Houston. Their desire for such a review is made known to the tribunal in Tyler. If the negative decision is upheld, the parties may not enter a new marriage in the Church. If the negative decision is overturned, however, the parties will then be able to enter a new marriage. If there is a further appeal, then, the case will then finally be reviewed by the Roman Rota. If the negative decision is upheld by the Roman Rota, the parties may not enter a new marriage in the Church. If the negative decision is overturned, the parties will then be able to enter a new marriage. The parties, however, have the right to reopen the case for another study of the marriage on a new ground with additional proofs.

16. From start to finish, how long does the process take?

There is no definite answer to this question. Much depends upon the work load of the tribunal, the quality of testimony from witnesses and the speed with which they cooperate, etc.

Even though the canonical timeline for the first instance cases is one year, our tribunal takes about 6 months for the entire process.

17. When may a date be set for a new marriage?

A date may be set for a new marriage only after an affirmative decision has been granted by the Tyler Tribunal and the parties have been notified of this decision. Before that time, there is no assurance that the declaration of nullity will be granted. In addition, there is often a requirement placed on a party that he or she is to receive either psychological or pastoral counseling before entering into another marriage.

18. Does a declaration of nullity have any civil effects?

Absolutely not. A declaration of nullity is exclusively religious in scope. It is concerned only with the status of persons in the Church.

Before a person may approach the tribunal to begin the process for a declaration of nullity, however, the couple must have obtained a civil divorce. The Church will not consider such proceedings before that time.

19. Does a declaration of nullity affect the status of children born to the broken marriage?

Absolutely not. Children born to a marriage which later is declared invalid are considered legitimate in every way. Besides, it is against the practice of the Church to judge children in the light of their parents' marital status, whether that union be valid or invalid.

20. Is it possible to dissolve a valid marriage?

1. **Pauline Privilege** – The marriage of two unbaptized persons for which a divorce has been granted may –under conditions which include the petitioner seeking baptism and the other party not wishing to receive baptism – be recognized by the local bishop as dissoluble. Under these circumstances (the “Pauline Privilege” situation which is based on St. Paul’s instructions in 1 Corinthians 7: 12-16) the now-baptized petitioner is free to enter a marriage which itself dissolves the previous marriage.

Tyler Tribunal handles this type of case and grants the decree of dissolution.

2. **Petrine Privilege** – The marriage of one baptized person and one non-baptized person for which a divorce has been granted, the original non-sacramental marriage can be dissolved by the Pope. The dissolution is granted in favor of faith of the person who now enters into a new sacramental marriage or in favor of the faith of the new Catholic spouse.

Likewise, if the original non-sacramental marriage became sacramental by subsequent baptism of the non-baptized spouse and there was no consummation after the baptism, such marriage can also be dissolved by the Pope for the same reason of the favor of faith.

Note: if either the party who petitions for the favor or the new prospective marriage partner is responsible for the breakup of the first marriage, the favor will not be granted.

Tyler Tribunal prepares these kinds of cases for forwarding to Rome for the decision.

3. **Non-Consummation** – Consummation is the first act of sexual intercourse between a man and a woman performed willingly and mutually, after entering a valid marriage. A non-consummated marriage between baptized persons or between a baptized party and a non-baptized party for which a divorce has been granted, such non-consummated marriage can be dissolved by the pope for a just cause, either by both parties requesting it or by one of them, even if the other party is opposed.

There must be proof of the existence of a just cause for granting the dissolution. Just cause for granting the dispensation include possible existence of antecedent impotence, irreconcilable discord, contagious disease contracted discovered after the marriage, desertion, partial proof that the marriage was invalid for lack of consent.

Tyler Tribunal prepares this kind of case for forwarding to Rome for the decision.

21. Is there a fee?

Canon law requires every diocese to staff and maintain a tribunal office. As in any court of law, there are court costs. The Bishop's Appeal now subsidizes the tribunal over \$100,000 each year to provide for this most important ministry. The diocese spends approximately \$1,500 to process a formal case petition. Costs arise from staff salaries, medical insurance, priest stipends, continuing education, office utilities, equipment supplies, phone, postage, and general office maintenance.

We ask you a \$25 filing fee be submitted with your petition. An additional donation would be greatly appreciated to help defray these diocesan expenses. It must be stressed, however, that this court administers justice regardless of the filing fee or additional donation. No one should delay petitioning for a declaration of nullity because of money concerns.