Marriage Status and the *Rite of Christian Initiation of Adults*

Excerpt from

Office for Tribunal Services, Diocese of Springfield in Illinois

Pastoral Manual

Dissolutions of marriage; declarations of nullity of marriage

January 2012 Edition

A service supported by the Annual Catholic Services Appeal

Pages 57-59:

**APPENDIX I:**

**PASTORAL PROTOCOL WHEN WORKING TO REGULARIZE A PERSON’S MARRIAGE STATUS**

*The following is adapted from a 2007 letter by Fr. Kevin Laughery and Mr. Eliot Kapitan regarding issues of establishing freedom to marry, with a particular focus on persons engaged in processes of Christian initiation. This is essentially a more concise discussion of the matters treated above in this manual.*

Over the years, people in pastoral work have noted an intertwining of the process of Christian initiation and the effort to have people declared free to marry under Catholic Church law through tribunal processes completed prior to initiation. We, too, note this connection; therefore we consider it very important to issue a joint statement on necessary steps to be taken when addressing the needs of those who seek to enter the Catholic Church.

Many of our parish RCIA processes still operate under an "academic-year" expectation. People identify themselves as inquirers in the fall, and all such people, baptized or unbaptized, with or without a regular or regularized marriage status according to Church law, tend to be encouraged either to expect or to assume that they will be baptized or received into the Catholic Church the very next Easter. It is of the greatest importance that we move away from this expectation/assumption. The Rite of Christian Initiation of Adults calls for this consistent parish practice: that inquirers, catechumens, and candidates will be at different stages and that they are not assumed to be within one "class" [see RCIA, nos. 5, 76, 400, 401, and 473]. In carrying out the directives of the RCIA, we must recognize a distinction between the baptized seeking to be received into the full communion of the Catholic Church (and whose reception is not necessarily connected with an Easter Vigil but ordinarily with Sunday), and the catechumens who are generally expected to be baptized during an Easter Vigil [see RCIA, no. 207 and NSUSA, nos. 14, 26, and 30-34]. Further, we keep in mind the directive of the RCIA that catechumens undergo a catechesis of at least one full year (for a year of training and formation accommodated to the liturgical year constitutes a suitable and complete catechesis) [see RCIA, no. 75 and NSUSA, no. 6]. The election of catechumens is the Church’s liturgical way of affirming the readiness of each person for Christian initiation and that nothing stands in the way of celebrating the Easter sacraments. It is expected that marriage situations are regularized prior to the parish rite of sending and, thus, the diocesan Rite of Election.
If an inquirer’s marriage situation is irregular, this can be found out only by interviewing the inquirer as soon as possible. Therefore every inquirer must be interviewed as soon as interest in joining the Catholic Church is declared. The interview must cover the marriage history of the inquirer and his/her current civil spouse. If the inquirer’s marriage situation is regular, this fact is definitely known (and the interviewer has obtained the necessary information about the existing marriage for eventual entry as a notation in the parish register of baptisms and receptions into the Catholic Church). At times it may be discovered that, although civilly-married parties are otherwise free to marry, the marriage may involve a Catholic and the marriage was not celebrated under canonical form nor was the Catholic dispensed from canonical form; in such a case it will be necessary to have the marriage convalidated, either by radical sanation (preferred) or simple convalidation. If the inquirer is unmarried and free to marry, this fact is likewise established. If the inquirer is not civilly married and is bound to a marriage which has ended in divorce (with the spouse remaining alive), it must be made clear to the inquirer that, if the marriage situation is not canonically resolved at the time of initiation into the Catholic Church, the parish register entry will include a notation regarding the marriage to which the inquirer is bound. If the inquirer or his/her current civil spouse is bound to a prior marriage, tribunal processes are to be initiated immediately (assuming that the party has a case).

The people of the tribunal of our diocese make every effort effectively to serve people who are involved in Christian initiation of adults and who find themselves needing to regularize their marriage status. It must be recognized, however, that there is no freedom to marry unless and until tribunal processes are completed, with a dissolution or declaration of nullity of each prior marriage as the result.

Here is a description of the kinds of cases processed in the tribunal, with approximate time frames for completing them (although individual cases may vary widely timewise):

Pauline dissolution: Both parties unbaptized when they enter a presumably valid marriage (usually, the first marriage for each party). Petitioner, seeking Christian (not necessarily Catholic) baptism and entry into a new marriage (there must be an intended spouse), petitions to have the Pauline conditions recognized by Church authority. Respondent must be able to be contacted and given questions regarding current baptismal status and interest in restoring the marriage. If respondent remains unbaptized and does not wish to restore the marriage, conditions exist for the Pauline dissolution, which is effected not through an action of Church authority but by the very act of entering the new marriage. If either party attended church or Sunday school, these churches are contacted to verify whether there is a record of party’s having been baptized. There must be two witnesses (preferably parents) for each party to prove the fact of non-baptism. The instruction process obviously takes a number of weeks. The recognition of the existence of Pauline conditions is made by the local ordinary.

Petrine dissolution: One party certainly unbaptized throughout the course of common life, petitioner not the exclusive or prevalent cause of the break-up, intended spouse was not instrumental in the break-up. (There must be an intended spouse.) Once a petition and accompanying documents are received, parties, intended spouse and witnesses to party’s non-baptism (preferably parents) are contacted and given questions to answer. If the unbaptized party attended church or Sunday school, these churches are contacted to verify whether there is a record of party's having been baptized. Once this instruction process is completed (and this can take two to three months), the petition is forwarded to the Congregation for the Doctrine of the Faith in Rome. The Pope declares that conditions exist for the proposed marriage to dissolve the previous one. Petrines tend to come back from Rome after about six months; our tribunal is notified by fax.
Declaration of nullity by reason of prior marriage bond (ligamen): By the natural law, a person who is bound to a marriage cannot enter another marriage. A person can petition for a declaration of nullity of a marriage by reason of ligamen if it can be proved that there was a prior marriage (of either party, but in most cases that of the respondent) which can be upheld as presumably valid in accord with the dictum "Marriage enjoys the favor of the law" (canon 1060). In order to uphold this marriage, we must know whether or not the parties to that marriage were Catholic and thus bound to Catholic canonical form. Also, it must be established that the parties to the marriage to be upheld were free to marry (usually, this means it had to be the first marriage for both parties). Ligamens can be very straightforward, but they can easily present complications, especially when the "co-respondent" (other party in the previous marriage) has died. Once the documents are assembled and the necessary information is known (and the petition itself collects this information), the judge can sort out the situation and determine whether or not there was a prior bond which impeded the marriage in question from ever coming to be. The speed of processing depends on the completeness of the information presented.

Declaration of nullity by reason of the non-observance of Catholic canonical form: If one party to a marriage was Catholic (see p. 27), and the matter of the Catholic's requirement to celebrate marriage under Catholic canonical form was not observed (either by a Catholic wedding or by being dispensed from canonical form), the nullity of this marriage can be declared. The crucial probative document is the Catholic's certificate of baptism or reception into full communion. Such cases are processed very quickly.

Declaration of nullity by reason of defective consent: Valid consent, coming forth from the parties and from no other source, makes marriage. Consent is an act of the will by which the parties, having sufficiently discerned practically the demands of marriage as a "community of the whole of life," freely and unconditionally consent to enter marriage, an institution of natural law, ordered toward the good of the spouses and the procreation and upbringing of children, and characterized especially by the exchange of rights to permanence, fidelity, and the possibility of children. Many factors can invalidate marriage consent. Possible invalidity is examined through a "formal trial" which involves the notification of the other party and the recognition of his/her right to participate in this process, and the questioning of witnesses who are to corroborate the account given by the petitioner. Preparation of the petition can take two to three months prior to submitting the case to the tribunal. A decision is reached in the local tribunal. If the decision is affirmative, there is an automatic review at the appellate level in Chicago. From the time of submitting the petition to the ratification of an affirmative decision in Chicago, one can expect eight to ten months to pass. In this "formal trial" there are numerous required time periods provided for the parties to exercise their rights and for the intervention of the defender of the bond. These built-in periods required by law necessarily lengthen the process. Petitioners should be told to expect a total time of one year for processing.

It should be clear that petitioners and their civil spouses will want answers about the sort of case they should present and the expected time to be allowed. We stress again that it is necessary to begin providing answers as soon as we are able. The people of the Office for Tribunal Services are very happy to answer any questions which may arise.