

ABOUT ANNULMENTS

DIVORCE IS PAINFUL

Divorce is painful! It *does not mean* the divorced person is no longer part of the Church. The divorced person is encouraged to attend Mass, receive the Sacraments and participate in parish life just like always. The Church needs to be a place of strength and healing. We want to be that for our divorced members. I hope you take the time to read the following material and ponder it. If this is the right time for you, perhaps you will contact your parish priest or another priest of *your Diocese* to talk more about the process. It may take time for that to happen. Accept the following words as information. Know that you are loved and cared for, and that we stand ready to help you deal with the transitions you are facing. The Church is *your home*. We are here *for you*. Don't forget that!

When a couple marries, they intend to stay together for life. Their future hopes and dreams are very much linked together. As time goes on, they can find that Marriage is very difficult indeed. They can grow apart over the course of time, to the point that one or both of the partners no longer work on the Marriage commitment. Divorce can be the result. The Catholic Church teaches that once a Marriage is a Sacramental Marriage, there may never be another, unless one of the partners should die. The Annulment Process is an investigation to determine whether the Marriage was a Sacrament from the very first day.

Marriages don't fail because couples want them to. They fail for very *real* reasons. The annulment process looks at those reasons and tries to determine if there were signs of them from the beginning. The Catholic Church expects certain qualities and capabilities to be present in those getting married. These need to be present in order for the marriage to be *Sacramental* and valid in the eyes of the Catholic Church.

An Annulment *does not say* there was never a marriage or that children born of the union are illegitimate. It simply deals with the *Sacramental* character of the marriage. If an Annulment is granted, that means the person would be free to marry within the Catholic Church. The following information is provided by the Marriage Tribunal Office of the Diocese of Hamilton. I hope you find it enlightening and helpful.

MARRIAGE

The Catholic Church teaches:

1. That Marriage is a covenant by which a man and a woman establish between themselves a partnership for the whole of their life together.
2. Christian Marriage by its nature is ordered toward the good of the spouses and the procreation and education of offspring.
3. This covenant between baptized persons has been raised by Christ to the dignity of a sacrament.

Jesus Christ taught us that true marriage is indissoluble. The Catholic Church does not recognize divorce or second marriages.

DECLARATION OF NULLITY

A declaration of nullity within the Catholic Church is a decision that a given marriage lacked one of the essential elements listed above from the beginning and was therefore not a sacramental marriage. It is a judgment that one or both of the parties did not give proper consent to marriage. This judgment is reached through a full and careful inquiry into the history of the individuals and the marriage. A marriage is presumed to be valid unless proven otherwise.

A declaration of nullity within the Catholic Church has not effects whatsoever in civil law. It does not affect in any manner the legitimacy of children.

PRELIMINARY INVESTIGATION

The annulment process is most often initiated by meeting with the local parish priest or pastoral associate who will assist you in completing a preliminary investigation form. [A preliminary investigation form can also be requested directly from the Tribunal Office.] The completed form is then sent to the Tribunal Office and the priest who is the Presiding Judge will contact you within a couple of weeks to inform you that your case has been accepted, or that further information is required. If the case is accepted you will be informed of the grounds on which the case is being tried.

INTERVIEW

You will be asked to come to the Tribunal office for a personal interview with a member of the staff. Its purpose is to obtain information on which to base a decision regarding the possible nullity of your marriage. The interview will focus on your life history, that of your former spouse, your courtship, decision to marry, marriage, divorce and

current circumstances. Although it may be unpleasant to relive this difficult period of your life, be assured that we understand this and will assist you as best we can. You will meet with only one person for your interview.

Your careful preparation for the interview by reviewing major factors of your life history and marriage with attention to dates will enable you to utilize the interview constructively. Look at the interview as your opportunity to present your understanding of yourself, your partner, your marriage and divorce.

NOTIFICATION OF FORMER SPOUSE

[The former spouse of the person who submits a petition for a formal marriage case is known as a respondent.] Your former spouse will be notified that you have filed a petition and will be offered an opportunity to testify. It is most helpful if both parties provide testimony. However if he or she chooses not to be involved in the process, this will ordinarily not jeopardize the final decision. If at all possible, you will be expected to provide the name and address of your former spouse. If that is not possible, you will be asked to provide the most current information you have regarding his or her whereabouts, and an attempt will be made to locate the respondent.

It is necessary that a former spouse be contacted in all cases if at all possible. Every effort must be made to give the respondent the right to participate in the process.

WITNESSES

Supporting witnesses are required. Usually two are sufficient. Witnesses are very important and should be selected with care. As far as possible, select witnesses who have knowledge of our, your former spouse and marriage by their personal observation. It is preferable that they knew you before the marriage and during the early years of your marriage, not only toward the end of it. It is important too that witnesses are willing to share the information they have openly, and it is important that they be able to express themselves clearly about what they saw, heard and knew. Friends and relatives are acceptable witnesses. Whenever possible, we would like to see witnesses on the same day we see you. If witnesses live at a far distance or are simply unable to come to our office, other arrangements will be made.

PROFESSIONAL REPORTS

If you received counselling or other psychological services before, during or after your marriage, a report from the professional providing the service may be of help in understanding you and your marriage. Such reports would be requested only with your written permission.

DECISION

A decision in the Court of First Instance will be rendered as soon as possible. You will be informed of the decision, and will be offered the opportunity to review the decision, if you wish, at the Office of the Tribunal.

APPEAL

All cases receiving an affirmative decision in the Court of First Instance must by (Canon) law be appealed to an Appellate Court. Cases receiving a negative decision can be appealed by the petitioner. The ordinary Appellate Court of the diocese of Hamilton is in Ottawa. The Appellate Court must either ratify the decision of the court of First Instance or initiate a new trial.

LENGTH OF TIME REQUIRED TO COMPLETE A CASE

Ordinarily a case is completed approximately twelve months from the date it is accepted by the Tribunal Office. However it may take longer if there is a delay in obtaining the necessary materials.

FEE

The major expense of processing a marriage case is subsidized by the Diocese of Hamilton. Depending on their financial ability, those benefiting from the services of the tribunal are asked to make a donation towards costs when the process is complete.