



### **Instructions for Submitting a Petition for a Radical Sanation (*Sanatio in Radice*)**

Canons 1161–1165 of the Code of Canon Law provide the universal law governing the *sanatio in radice* (literally, healing at the root) of an invalid marriage. Canon 1161 states:

§1. The radical sanation of an invalid marriage is its convalidation without the renewal of consent, which is granted by competent authority and entails the dispensation from an impediment, if there is one, and from canonical form, if it was not observed, and the retroactivity of canonical effects.

§2. Convalidation occurs at the moment of the granting of the favor. Retroactivity, however, is understood to extend to the moment of the celebration of the marriage unless other provision is expressly made.

§3. A radical sanation is not to be granted unless it is probable that the parties wish to persevere in conjugal life.

A radical sanation of an invalid marriage is the convalidation of the marriage without the renewal of consent. The favor is granted by competent ecclesiastical authority, which includes the dispensation from any binding ecclesiastical law impediment(s) and from the observance of canonical form, if applicable.

A radical sanation differs from the simple convalidation of a marriage (cc. 1156–1160) in that, in the latter, the former marriage ceremony is recognized as (1) invalid (because of an undispensed impediment, a defect of consent, or a defect of form) or (2) non-existent (because of a lack of canonical form) and a new consent is exchanged. While the simple convalidation of an invalid marriage (or, the case of a non-existent marriage, a marriage regularization) is preferred over a radical sanation, it can happen that one party to the marriage will not give renewed consent. If, during the conversation with the spouses, the pastoral minister has reason to suspect that one party will not elicit/express new marital consent (i.e., make a new decision to marry), as required by law for the validity of the simple convalidation or regularization, then it is appropriate to petition for a radical sanation.

#### **REQUIREMENTS FOR GRANTING THE *SANATIO IN RADICE***

The following conditions are required for the diocesan bishop to grant the *sanatio in radice* validly and lawfully. The pastoral minister is to ascertain the presence of these conditions in conversation with the parties.

- a) The naturally sufficient consent, expressed at the time of the attempted (civil) marriage by each party, still perdures, that is, the consent was sufficient to effect marriage (see cc. 1057 and 1107) and was not subsequently withdrawn by one of the parties (e.g., the man or woman subsequently wanted out of the marriage) (see c. 1162).
- b) The union is stable now; i.e., there is no probable danger of divorce (e.g., neither party is looking for some “magical fix” to stabilize a shaky union) (c. 1161 §3).

## TYPES OF MARRIAGES THAT CAN BE SANATED

A marriage can be invalid due to a defect of consent, an undispensed impediment, or a defect or lack of canonical form, but only marriages with an undispensed impediment or defect or lack of form can be sanated.

*Defect of consent.* “A marriage cannot be radically sanated if consent is lacking in either or both of the parties, whether the consent was lacking from the beginning or, though present in the beginning, was revoked afterwards” (c. 1162 §1).

*Undispensed impediment(s).* The *sanatio in radice* grants the dispensation from ecclesiastical law impediments not dispensed at the time of consent and only those impediments of natural law or divine positive law that have ceased. The ecclesiastical authority competent to senate undispensed impediments differs by the impediment.

Diocesan Bishop or Holy See	Holy See	No <i>Sanatio</i> Possible
<ul style="list-style-type: none"> <li>• Insufficient Age (c. 1083)</li> <li>• Disparity of Cult (c. 1086)</li> <li>• Consanguinity in the Third Degree or Higher in the Collateral Line (c. 1091)</li> <li>• Affinity (c. 1092)</li> <li>• Public Propriety (c. 1093)</li> <li>• Adoption (c. 1094)</li> </ul>	<ul style="list-style-type: none"> <li>• Prior Bond (“ligamen”) (c. 1085)</li> <li>• Holy Orders (c. 1087)</li> <li>• Public Perpetual Vow of Chastity in a Religious Institute (c. 1088)</li> <li>• Crime (c. 1090)</li> </ul>	<ul style="list-style-type: none"> <li>• Impotence (c. 1084)</li> <li>• Consanguinity in the Direct Line or Second Degree in the Collateral Line (c. 1091)</li> </ul>

Table 1. Impediments and the Authority Competent Grant the *Sanatio in Radice*.

*Defect or Absence of Canonical Form.* The canonical form of marriage is required for the validity of marriages involving at least one Catholic (c. 1108). Canonical form is *defective* if the marriage was celebrated

- in the presence of a priest or deacon and two witnesses, but the sacred minister lacked delegation to assist at the marriage.
- in the presence of a delegated priest or deacon, but only one witness was present.
- in the presence of a delegated priest or deacon and two witnesses, but the sacred minister did not ask for and/or receive the consent of both parties.

Canonical form is *absent* or lacking if the marriage was celebrated with no priest or deacon present and no dispensation from canonical form was granted.<sup>1</sup>

## REQUIRED DOCUMENTATION FOR PETITIONING FOR A *SANATIO IN RADICE*

<sup>1</sup> Technically, such marriages are not invalid. Rather, they are non-existent because they do not exist in the eyes of the Church. As the Apostolic Signatura clarified on December 17, 2007: “Can. 1160 refers to the convalidation of a marriage contracted invalidly because of a defect in the canonical form. The prevailing doctrine does not consider said canon to regard also an attempted civil marriage or one attempted in a non Catholic rite, in those cases in which at least one party was bound to the canonical form” (*Roman Replies and CLSA Advisory Opinions 2008*, 54–56). Parties coming to the Church to marry in canonical form now are understood to regularize their marriage rather than convalidate it.

The following documents are required to petition for a *sanatio in radice*:

1. Petition for a Radical Sanation. With the assistance of a priest, deacon, or pastoral minister, at least one of the parties completes the fillable pdf document available on the diocesan website.
  - The completion of Forms A and B and petition for dispensations/permissions is not needed because the *sanatio* petition includes the essential elements in it.
  - The completed document must be printed and then signed by at least one of the parties, though preferably by both. Petitions lacking the signature of at least one party will not be accepted, except as noted below in n. 6.
2. Affidavit of Support of a Petition for a Radical Sanation. The priest or deacon completes the fillable pdf affidavit based on what the parties have stated in the petition and information he has learned in his conversation with them. The completed document must be printed and then signed by the priest or deacon.
3. A copy of the civil marriage license of the marriage to be sanated.
4. A recently issued certificate of baptism or reception into full communion of the Catholic Church for the Catholic party/ies. The certificate is to include all notations of other sacraments received.
5. *If one or both parties had a previous marriage*, the Supplemental Documentation of Previous Marriages for Parties Petitioning for a Radical Sanation is to be completed.
  - Please provide a copy of the final decree of an ecclesiastical declaration of nullity/dissolution for each prior marriage or a proof of death of the prior spouse.
  - If a party has more than two prior marriages, complete the same form again, marking the marriages as 3, 4, etc.
  - The completed document must be printed and then signed by at least one of the parties.
6. *If a priest or deacon lacked delegation to assist at the marriage*, then the sacred minister himself or one assigned to the parish where the marriage was celebrated can petition *ex officio* for the sanation of the marriage. In this case alone, the priest or deacon completes the Petition for a Radical Sanation for a Marriage Lacking Delegation for the Assisting Priest or Deacon. The completed form is printed and signed by the sacred minister. Copies of the civil marriage license and certificates of baptism or reception into full communion of the Catholic Church for the Catholic party/ies are to be included in the packet.
7. A \$100 filing fee. (Checks can be made payable to: Roman Catholic Bishop of Stockton.) In the case of petitions submitted where the sacred minister lacked delegation, it is expected that the parish of marriage—and not the parties themselves—will pay the filing fee.

When the petition and accompanying documents have been gathered, the entire packet is sent to the Tribunal. Packets missing any of the required documents will be returned to the parochial minister.

As a favor, the radical sanation can be granted without the knowledge of one or both parties. Generally, the Catholic spouse makes the petition so that he or she can return to the sacraments. Ideally, the other spouse will cooperate in providing the requested information, but even if he or she does not participate, the petition can proceed based on the responses given by the petitioner.

Questions concerning the radical sanation of a marriage can be directed to the Judicial Vicar, who serves as the Bishop of Stockton's delegate for these matters: [judicialvicar@stocktondiocese.org](mailto:judicialvicar@stocktondiocese.org).