

Annulment/Divorce FAQ

What is an Annulment?

What is commonly referred to as an “annulment” is more accurately called a “declaration of nullity”. A declaration of nullity states that a marriage was null and void from the moment of its inception in a sacramental sense. It obviously cannot “undo” a marriage or the good intentions of the spouses at the time of the wedding. What it does do is acknowledge that there were elements present at the time of the wedding that prevented a permanent, sacramental bond to form in the marriage. It is perhaps easiest to make an analogy to a contract. Even though two parties enter a contract and may even sign a written agreement, there is always a possibility that elements were present that could nullify a contract. That is also the case with the marriage covenant, sometimes referred to as a marriage contract (although in the religious sense, we prefer the term “covenant”).

Does an annulment make the children from the marriage illegitimate?

No, it does not. If you look at the word “illegitimate”, you find the root “legit” from the Latin word “les, legis”, meaning “Law”. In other words, an “illegitimate” child is one born outside of a legal marriage. Despite a declaration of nullity, a *legal* marriage still existed. Canon Law (the law of the Catholic Church) states: “The children conceived or born of a valid or putative marriage are legitimate.” A “putative” marriage is one in which both husband and wife enter into in good faith with the intention of marriage, even if it is later annulled. The notion of “legitimacy” is for the most part an outdated idea; it largely deals with inheritance rights and in some cases citizenship for those born outside the country. A Church annulment will not affect these situations.

Why should I get an annulment?

A divorce is a legal civil declaration that a marriage has ended. The Catholic Church does not recognize divorces, primarily due to the teachings of Jesus in the Scriptures: “Whoever divorces his wife causes her to commit adultery, and whoever marries a divorced woman commits adultery (Matthew 5:32)” and “What God has joined together, no human being must separate (Mark 10:9)”. Therefore, the Church does not believe that a valid, sacramental marriage can be ended with a divorce. Therefore, civilly divorced individuals are still held as sacramentally married in the Church. They are, therefore, not permitted to “remarry” in the Church, as one cannot be married to more than one person. A declaration of nullity, however, is different. It doesn’t declare a marriage to have ended; rather, it declares a marriage to be invalid from the moment of its inception (when the vows were exchanged during the wedding). The difference between a divorce and a declaration of nullity may seem to be a distinction without a difference, mainly because the end result is the same; but for the Church it is a vital and important distinction because it allows for a couple to separate in such a way that stays faithful to the teachings of Jesus, and this is what we are all about, being faithful to Jesus Christ.

This does not mean that all divorced individuals should seek an annulment. If a divorced man or woman does not wish to marry, then there really is no reason to get an annulment. In some cases, the other spouse will seek an annulment; in these cases, both parties, husband and wife, are free to marry if the marriage is declared null.

Can a divorced person receive Holy Communion?

Yes. Since a divorced person is still considered to be sacramentally married in the Catholic Church unless a declaration of nullity is granted, there is no reason for them to stop going to Communion at Mass. As is always the case, if one is aware of a serious (mortal) sin on one's conscience, one should go to Confession as soon as possible before receiving Holy Communion.

If one is remarried outside the Catholic Church, this is a different situation. Catholics are bound to marriage only in the Catholic Church. If one of the spouses is not Catholic, permission can be granted by the bishop for the couple to be married outside of the Catholic Church. Since marriage is almost always considered to be a public institution, being married outside of the Church is a public stance against Church teaching and thus must be remedied before receiving Holy Communion. A priest or deacon can help the couple remedy the situation, usually by exchanging vows in front of two witnesses (called a "convalidation"). If for some reason the couple does not wish to have a convalidation, the bishop can recognize the original vows the couple exchanged as valid marriage vows (this is called a "radical sanation").

If one is divorced and remarried outside the Catholic Church, a declaration of nullity must be obtained before having the marriage recognized and thus returning to Holy Communion. This is often a frustrating situation because it takes time for the process to complete. Remember that we are bound to the teachings of Jesus regarding divorce, and the teachings of St. Paul, who teaches the necessity of unity with the Church before receiving Holy Communion (1 Cor 11:27-29). We must respect these teachings and thus the process is necessitated.

Are divorced people excommunicated?

No. Divorced people are NOT excommunicated from the Church. They are encouraged to live a full and sacramental life in the Church just as any other member of the Church. The Church recognizes that divorced people usually enter into marriage with good intentions to live the married life in such a way that is consistent with the teachings of Jesus Christ.

According to the 1917 Code of Canon Law, Catholics who divorced and remarried without an annulment could be excommunicated if they were warned by their bishop and they did not fix their situation. In 1977, these Church laws were removed by Pope Paul VI. In 1983, a new Code of Canon Law was promulgated by Pope John Paul II, and the new Code contains no provision for excommunication for the divorced and remarried. So, sometimes you may hear of people who were "excommunicated" for being divorced. None of those laws are in force today in the Catholic Church.

Why do I have to open old wounds in order to get an annulment?

In many cases, a divorce is a painful, humiliating process. The Church does not want to open old wounds about who was at fault and the difficult circumstances that led to your divorce. An annulment seeks to get to the root cause of the problems in the marriage. Sometimes, this is a healing process. It is certainly our hope that an annulment pursued prayerfully in good conscience can deepen your faith and lead you to a better understanding of why your marriage ended the way that it did.

Will my ex-spouse be allowed to see what I submit for my annulment?

In every annulment case, both spouses have the right to defend the marriage. That can only be done if there is access to the evidence and testimony of witnesses. Therefore, your ex-spouse is allowed to see everything that is submitted for an annulment.

Isn't the Church being too strict in requiring all this work to get an annulment?

Couples who enter into marriage do so freely and without condition. They make these vows before God in front of a priest/deacon and the people of God in a sacred place. Marriage vows are so sacred that they are the actual form of a Sacrament. No couple takes these vows lightly on their wedding day, and neither does the Church. In fact, the Church views these vows so sacred that they can't simply be broken by a decision of the Church or Church authority. Rather, they must be determined to be invalid. This requires a detailed and careful process. Note that other sacred vows (for example, the promises priests make at their ordination) can only be dispensed by a similar process. Don't think of the Church as an overbearing and difficult father or mother, but rather as a guardian of the tradition and guarantor of the purity of the teachings of Jesus Christ.

How do I get an annulment?

At St. Paul's, contact one of our priests to start the process of an annulment. After you meet with a priest, it can be determined how to go forward to petition the Marriage Tribunal for a declaration of nullity.

What if I got married outside the Catholic Church?

All Catholics are bound to be married inside a Catholic Church by a priest or deacon, unless the bishop has given permission otherwise (this is officially called a "dispensation from form"). If you are a baptized Catholic and were married outside of the Catholic Church and are now divorced, your marriage can usually be declared null through a simple process of proving that you were Catholic at the time of the wedding (this is done by providing a baptismal certificate from the parish where you were baptized (this does not have to be the original certificate; a new one can and should be issued by your parish of baptism)), and that you were married outside the Catholic Church (legal proof of marriage). This is often called a "Lack of Form" or "Absence of Form" case.

Sometimes, non-Catholic Christians must get an annulment if they are divorced and are seeking to marry a Catholic, even if the marriage was outside of the Catholic Church. This is because non-Catholics are not required to follow the Church laws regarding marriage, and thus their weddings are recognized as valid sacramental marriages regardless of how they were married.

How do I prove my marriage was null?

First, speak to a priest or deacon so that the facts of the case can be determined to find the course for your situation. If it is decided that a declaration of nullity must be sought, then this is designated as a formal case and the ordinary process must begin. As part of this process, reasons (called “grounds”) are sought to determine what was wrong at the time the vows were exchanged that invalidated the marriage. Both parties are investigated so that the absence of certain necessary qualities of a valid marriage is determined.

The “grounds” (or reasons) for invalidity include:

- Lack of Discretion. One or both partners may have failed to exercise sufficient discretion, foresight, or judgment due to inexperience, youth, immaturity, or pressure at the time of marriage.
- Inability to Assume the Obligations of Marriage. One or both partners may not have been able to assume the obligations and responsibilities of marriage due to psychological problems, chemical dependency, serious personality disorders or mental illness.
- An Attempt to Deceive (“Simulation”). One or both partners may have entered the marriage without honestly intending to honor the expectations of fidelity, permanence, right to children, or to marry as the church understands marriage.
- Misunderstanding or Error. One or both partners may not have fully understood how the Catholic Church understands marriage or may have misunderstood their own or their partner's ability to live that kind of marriage.

When Should I Petition for an Annulment?

It is not possible to petition for an annulment until a civil divorce has been finalized. After that, it depends upon the individual(s) involved. Some persons choose to petition for an annulment relatively soon after the divorce. This is helpful because witnesses are more readily available and because the process of obtaining a Decree can be part of the individual's healing process. In some cases, a Decree of Invalidity brings closure to the previous marriage and enables an individual to "move on." Other persons prefer to wait until the pain of the divorce experience subsides and/or they are interested in the possibility of remarriage. There are two dangers to waiting too long: one is that witnesses to the first marriage may be more difficult to contact or may have more difficulty remembering information which would favor the Decree; the second is the possibility that re-marriage will have to be postponed until the Decree process is completed.

What Is the Cost of an Annulment?

Because an annulment is a Church process that has spiritual consequences and affects the life of faith, there is no charge for an annulment in the Diocese of Toledo. However, there are many costs for the annulment, considering the time and expertise of the Tribunal staff and judges. The estimated costs are around \$2,000. The Tribunal asks that you consider a donation of half of that cost if you are able. Note that donations will not affect the outcome of your case.

How long does it take to get an Annulment?

It takes as long as the process requires. One shouldn't expect a decision to be made in a case in less than a year, and sometimes cases can take longer. There are many variables that can affect the length of a case. If witnesses do not submit their testimony in short order, the case can be delayed indefinitely. It is important that everyone involved in your case responds promptly in order to keep the process moving efficiently. It is often the case that the Respondent does not choose to respond to the paperwork sent to them in the mail. There is a mandatory waiting period for them to submit their testimony in order to give them adequate time to respond. However, if they delay too long, the case will continue without their testimony.

How We Can Help

The Staff at St. Paul parish are eager to encourage and support our brothers and sisters who are separated, divorced, or remarried. We offer a variety of opportunities for Catholics who are seeking spiritual and emotional healing following a divorce and for those interested in participating as fully as possible in the spiritual and sacramental life of the Catholic faith community. These include:

- An opportunity to explore the possibility of seeking a Decree of Nullity.
- Private spiritual or personal counseling.
- Continuing opportunities for adult faith formation, education, and spiritual growth.

If you or someone you know is a divorced Catholic who is interested in discussing their relationship to, or participation in, the Catholic Church, please call the Parish Office at 419-668-6044 and ask for Fr. Recker (or email arecker@stpaulchurch.org) or Fr. Michael Bialorucki (or email fmichael@stpaulchurch.org).

If you are seeking an annulment, we encourage you to visit the Tribunal website for the Diocese of Toledo, which has the most updated and comprehensive information on applying for an annulment. Visit <https://toledodiocese.org/tribunal-annulments> .