

## **Prenuptial Investigation Reference Guide**

### **Marriage Impediments**

1. Impediments of Divine Natural Law that cannot be dispensed by anyone:
  - a) **Impotence:** Antecedent and perpetual incapacity of groom/bride to perform a complete conjugal act, i.e., marital sexual intercourse. Sterility or the inability to impregnate or to conceive is not an impediment.
  - b) **Prior Bond:** (*Ligamen*) A person with a prior bond cannot marry again as long as the first spouse is living since the marriage is presumed valid. If a decree of declaration of nullity or a dissolution is granted by a Catholic Tribunal, then the person could be free to marry.
  - c) **Consanguinity:** Blood relationships in the direct line, any ancestor and descendant, i.e. parent, grandparent, etc., or in the second degree of the collateral line, i.e. brother and sister, legitimate, natural, or adoptive.
  
2. Impediments of Ecclesiastical Law that a diocesan bishop or local ordinary may dispense:
  - a) **Disparity of Worship/Cult:** Is required for a marriage between a Catholic and a non-baptized person.
  - b) **Perpetual Vow of Chastity:** If the person is a member of a religious institute of diocesan right, not pontifical right.
  - c) **Abduction:** A marriage between a man and a woman whom he abducts or detains in order to marry.
  - d) **Consanguinity:** Blood relationships in the collateral line (e.g. brother, sister, cousins, aunts, uncles, etc.).
  - e) **Affinity:** Marrying someone who became a relative of the person through a valid marriage to some family member and is now free to marry, never in the direct line, in any degree.

- f) **Public Propriety:** A man/woman cannot marry a woman/man related by consanguinity in the first degree of the direct line to the woman/man he/she lived with together in an invalid marriage or in a notorious or public concubinage.
3. Impediments of Ecclesiastical Law that only the Holy See may dispense:
- a) **Sacred Orders:** those who have been ordained deacon, priest or bishop.
  - b) **Perpetual Vow of Chastity:** In a religious institute of pontifical right.
  - c) **Crime:** Murdering one's spouse or someone else's in view of marriage, or any mutual physical or moral action that causes the death or either's spouse to marry the surviving spouse.

### **Pastoral Notes Concerning Marriage**

#### Reception of Sacraments of Initiation Prior to Marriage

A marriage is sacramental when both spouses are baptized validly. A marriage between a baptized person and an unbaptized person (or between two unbaptized persons) is not a sacrament, but presumed to be valid. A prior marriage of two non-Catholics is also presumed to be valid.

- a) Baptism of at least one of the spouses is required.
- b) Confirmation prior to marriage is highly encouraged, if possible, but not required.
- c) Eucharist and Penance reception is to be encouraged.

## Types of Marriage Ceremonies from the Order of Celebrating Matrimony:

### **Celebration of Marriage**

- a) ***During Mass***: Normally for two Catholics. May also be for a Catholic and a validly baptized non-Catholic provided that, according to the general law, Holy Communion is not given to the non-Catholic.
- b) ***Outside Mass***: Always for a marriage between a Catholic and an unbaptized person. (Only use the rite for unbaptized.)

### ***Other Important Information***

#### **Rite**

If the groom and/or bride are Eastern Catholic, please contact the Tribunal. Only a priest may officiate at the wedding of an Eastern Catholic.

#### **Canonical Form**

- a. Those marriages are valid which are contracted before the local ordinary or pastor (or a priest or deacon delegated by either of them) and two witnesses. (c. 1108) In the Archdiocese of Atlanta, the faculty has been granted to parochial vicars and deacons to assist at marriages within the boundaries of the parish to which they are assigned.
- b. In addition to the priest or deacon who serves as an authorized witness, at least two additional witnesses are essential for a valid celebration of marriage. The only function of the two witnesses is to attest to the fact that the marriage was legitimately celebrated. Therefore, there is no requirement that either of the witnesses be Catholic or baptized.

## **Dispensation/Permission/Delegation**

Obtain any permission or dispensation from the Catholic bishop in whose diocese the Catholic groom/bride lives, regardless of where the marriage ceremony will occur. Delegation is required for VALIDITY. *Please keep record in the file.*

- If a Catholic is marrying a non-baptized person, obtain a dispensation from Disparity of Worship/Cult.
- If a Catholic is marrying a (validly) baptized non-Catholic, obtain a permission for a Mixed Marriage.
- If officiating at a marriage of two Catholics and neither is your parishioner, obtain permission from the Catholic's proper pastor.
- If officiating at a marriage outside your assigned parish, obtain delegation from that pastor, associate pastor, or local Ordinary.

## **Documents**

- a) For a baptized Catholic, obtain a recent Baptismal certificate (or Profession of Faith certificate if applicable) issued within the last 6 months, with any sacramental notations listed.
- b) For a (validly) baptized non-Catholic, obtain proof of baptism.
- c) For anyone with a prior marriage whose spouse died, obtain a certificate of death. If applicable, obtain a copy of decree of declaration of nullity/dissolution granted by a Catholic Church tribunal.

## **Marriage File**

The marriage file is stored normally in the parish where the marriage with canonical form occurred (other situations may arise, i.e. the marriage takes place at a university chapel, hospital, etc.). When the marriage ceremony occurred with a

dispensation for lack of canonical form, the marriage file is stored in the parish where the prenuptial investigation and the request for dispensation from canonical form occurred. If the marriage ceremony is to occur outside the Archdiocese, the marriage file is to be sent to the Chancery.

### **Nihil Obstats**

- If the prenuptial documents are prepared in the Archdiocese of Atlanta for a Catholic residing here, the full prenuptial file is submitted to the Archdiocesan Tribunal so proper permissions and/or dispensations may be granted.
- For weddings within the United States, these submissions should be made at least **60 days** before the wedding.
- For weddings outside of the United States, these submissions should be made at least **90 days** before the wedding.
- The prenuptial file, with the requisite *nihil obstat* or *visum* is then forwarded to the Chancery of the diocese where the wedding will take place with instructions to forward the file to the local parish where the wedding is scheduled. The preparing cleric or parish minister should include the addresses of the parish and the (arch) diocese where the marriage will take place.

### **Ecumenical and Interfaith Marriage**

- The Pastor may permit couples to prepare for marriage through programs and counseling done at a non-Catholic Church. Duplication of efforts is to be avoided in fulfilling the requirements of the Catholic Church, but the Catholic pastor must ensure that couples are instructed about Catholic teaching regarding the sacramentality of marriage; marriage as a covenant; and the essential qualities of marriage: permanence, faithfulness, and openness to life.
- In order for the appropriate permission or dispensation to be granted, a Catholic who wishes to enter a marriage with a baptized non-Catholic or a non-baptized person, must be

instructed about his/her obligation to do all in his/her power to remove dangers of falling away from the faith and to do all in his/her power to have all the children baptized and brought up in the Catholic Church. The Catholic must agree to these “promises” orally or in writing; and the non-Catholic is to be informed of these promises and the obligations of the Catholic spouse.

- At times circumstances may dictate that a dispensation from the canonical form of marriage would be appropriate. These would include:
  - The need to avoid family alienation
  - To recognize significant relationship/friendship with non-Catholic Minister
  - To permit marriage in a church or other place of particular importance to the non-Catholic.

### **Prohibition of Duplicate Ceremonies**

1. In the case of a mixed marriage, it is forbidden to have other religious celebration of the same marriage to give or renew matrimonial consent before or after the canonical celebration. Likewise, there is not to be a religious celebration in which the Catholic who is assisting and a non-Catholic minister together, using their own rites, ask for the consent of the parties. (c. 1127, §3)
2. This canon is very important since it touches on the validity of the sacrament. While pastoral practice must manifest sensitivity to “ecumenical marriages,” this sensitivity will amount to nothing if the solution chosen for involving a Catholic priest or deacon and a non-Catholic minister in a celebration of marriage result in an invalid celebration. One minister must receive the consent of both parties. If that minister is non-Catholic, a

dispensation from canonical form is required even if the Catholic minister is to be present for the celebration.

### **Role of a Priest/Deacon in a Non-Catholic Church**

- a. With the previous authorization of the archbishop or his delegate, and if invited to do so, a priest or deacon may attend or participate in some way in the celebration of mixed marriage situations where the dispensation from canonical form has been granted.
- b. In this case there may be only one ceremony in which the presiding minister receives the marriage vows from both parties.
- c. At the invitation of the minister, the priest or deacon may offer other appropriate prayers, read from scripture, give a brief exhortation and bless the couple.

### **Role of a Non-Catholic Minister in the Catholic Church**

- a. Upon request of the couple, the local ordinary may permit the priest to invite the minister of the non-Catholic party to participate in the celebration of the marriage, to offer prayers, to read from scripture, give a brief exhortation and bless the couple.
- b. In this case there may be only one ceremony in which the priest/deacon receives the marriage vows from both parties.

## **Validation of Marriage**

The two types of convalidation of a marriage are:

- 1) renewal of consent; or
- 2) radical sanation (canons 1156-1165).

## **CONVALIDATION**

Canon 1160 requires for the convalidation of a marriage invalid because of a defect of form that the marriage be contracted anew according to the canonical form. An act of consent that is both materially and formally distinct from the original consent can only be a new act of the will. It is highly unlikely, if not psychologically impossible, that a person will elicit such a new act of the will unless he or she is aware that the marriage may be invalid. Since neither ignorance nor error prevents invalidating laws from having their effect (c.15§1), many non-Catholics in invalid marriages with Catholics and non-practicing or ill-informed Catholics do not in fact, and perhaps cannot, effect the simple convalidation of their marriages. If that is the situation, then a radical sanation is recommended.

- I. The preparation for a validation should normally follow the pattern and timeline as the standard marriage preparation. This is at the discretion of the cleric.
- II. It is recommended that couples who are already married outside the Church participate in one of the following:
  - a) an approved pre-marriage program,
  - b) an approved marriage enrichment program,
  - c) marital counseling and evaluation.



## **RADICAL SANATION**

A *Sanatio in Radice* is a canonical procedure to recognize a naturally valid consent as also valid in the canonical forum. It is a pastoral tool to assist persons married without the canonical form of marriage to return to the sacraments by recognizing the validity of their marital consent, without having to have it renewed according to the required canonical form. It is granted by the bishop or his delegate. The application and required documentation are to be sent to the Tribunal.

The following four conditions must be present in order for the *sanatio* to be granted.

- I. The couple must now be free to marry. This is true even if previously they were not free to marry (i.e. one had been married before, but now the former spouse has died or that marriage has been annulled or dissolved by the Church).
- II. One party to the marriage must be absolutely unwilling to express a new marital consent in the proper canonical form; and/or, one or both parties does not recognize the present marriage as invalid and therefore requiring a new consent for its validity (i.e. they believe they are in a valid marriage but they need the blessing of the Church to receive the sacraments).
- III. It must be clear (even if only from the fact of continued marital life) that they did consent to marriage when they first began this marital union, and that this consent continues to this day.
- IV. A pastoral reason should be evident for the granting of the *sanatio*, in the judgment of the priest/deacon who presents the case.

Feast of the North American Martyrs  
October 19, 2023

