

The Episcopal Diocese of Chicago



Application

for Judgment as to Marital Status

in the Eyes of the Church

General Introduction

This document is

- ▶ required for persons seeking remarriage after a divorce or a blessing on a remarriage which occurred after a divorce.
- ▶ intended to be completed by the Member of the Clergy, the Petitioner and the Intended Spouse (if any) together.
- ▶ not, in and of itself, a sufficient format for pre-marital counseling. Rather, it is intended to be only one piece of a much larger conversation about relationships; their failures, successes and spiritual meanings.

Name of Petitioner _____

Name of Former Spouse _____

Name of Intended Spouse (if any) _____

Date of Proposed Wedding (if any/or date it already occurred) _____

Member of the Clergy _____ Parish _____

Parish Address _____

Instructions for the Clergy

This application is to be used in the following circumstances [check one only]:

- To *solemnize* (i.e., preside at) a subsequent marriage when at least one of the parties to the proposed subsequent marriage has been previously married and the person to whom she or he was formerly married is still living.

This means that if a divorced person wants to marry again and his or her former spouse is still living, this form must be completed. If the person's former spouse died (while they were married or after they were divorced) this form does not need to be completed as death terminates the marriage. When a person has more than one former spouse, this form need only be completed for a judgment as to the last marriage. You should, however, explore together the relational dynamics of the other marriages in your pre-marital counseling sessions. The member of the clergy should see the divorce decree for each former marriage. The Church counsels continued concern for all former spouses and all children of those marriages. Make certain to document the other marriages in the written clergy statement.

- To *bless* a subsequent marriage when that marriage has already been performed and where at least one of the parties to that subsequent marriage has been previously married and the person to whom he or she was formerly married is still living.

If a divorced person has married again and the couple now seek a blessing of their marriage, this form must be completed. As above, however, this applies only to re-married persons with living former spouses.

- To seek a determination of marital status in the eyes of the Church for a divorced person who is not and at this time does not desire to be married.

What The Canons Say

CANON 18: Of the Solemnization of Holy Matrimony

Sec. 1. Every Member of the Clergy of this Church shall conform to the laws of the State governing the creation of the civil status of marriage and also to the laws of this Church governing the solemnization of Holy Matrimony.

Sec. 2. Before solemnizing a marriage the Member of the Clergy shall have ascertained:

- (a) That both parties have the right to contract a marriage according to the laws of the State.
- (b) That both parties understand that Holy Matrimony is a physical and spiritual union of a man and a woman, entered into within the community of faith, by mutual consent of heart, mind, and will and with intent that it be lifelong.
- (c) That both parties freely and knowingly consent to such marriage without fraud, coercion, mistake as to identity of a partner, mental reservation.
- (d) That at least one of the parties has received Holy Baptism.
- (e) That both parties have been instructed as to the nature, meaning and purpose of Holy Matrimony by the Member of the Clergy, or that they have both received such instruction from persons known by the Member of the Clergy to be competent and responsible.

Sec. 3. No Member of the Clergy of this Church shall solemnize any marriage unless the following procedures are complied with:

- (a) The intention of the parties to contract marriage shall have been signified to the Member of the Clergy at least thirty days before the service of solemnization *Provided*, that

for weighty cause this requirement may be dispensed with if one of the parties is member of the Congregation of the Member of the Clergy, or can furnish satisfactory evidence of responsibility.

In case the thirty days' notice is waived, the Member of the Clergy shall report such action in writing to the Bishop immediately.

- (b) There shall be present at least two witnesses to the solemnization of marriage.
- (c) The Member of the Clergy shall record in the proper register date and place of the marriage, the names of the parties and their parents, the age of the parties, their residences, and their Church status; the witnesses and the Member of the Clergy shall sign record.
- (d) The Member of the Clergy shall have required that the parties sign the following declaration:
- (e) "We, A.B. and C.D., desiring to receive the blessing of Holy Matrimony in the Church, do solemnly declare that we h marriage to be a lifelong union of husband and wife as it is set forth in the Book of Common Prayer,
- (f) "We believe that the union of husband and wife, in heart, body, and mind, is intended by God for their mutual joy; for the help - comfort given one another in prosperity and adversity; and, when it is God's will, for the procreation of children and their nurture in knowledge and love of the Lord.
- (g) "And we do engage ourselves, so far as in us lies, to make utmost effort to establish this relationship and to seek God's help thereto."

Sec. 4. It shall be within the discretion of any Member of the Clergy this Church to decline to solemnize any marriage.

CANON 19: Of Regulations Respecting Holy Matrimony Concerning Preservation of Marriage, Dissolution of Marriage, a Remarriage

Sec. 1. When marital unity is imperiled by dissension, it shall be the duty of either or both parties, before contemplating legal action, to lay the matter before a Member of the Clergy; and it shall be the duty of such Member of the Clergy to labor that the parties may be reconciled.

Sec. 2(a) Any member of this Church whose marriage has been annulled or dissolved by a civil court may apply to the Bishop or Ecclesiastical Authority of the Diocese in which such person is legally canonically resident for a judgment as to his or her marital status in the eyes of the Church. Such judgment may be a recognition of the nullity or of the termination of the said marriage; *Provided*, that no such judgment shall be construed as affecting in any way the legitimacy of children or the civil validity of the former relationship.

(b) Every judgment rendered under this Section shall be in writing and shall be made a matter of permanent record in the Archives of the Diocese.

Sec. 3. No Member of the Clergy of this Church shall solemnize the marriage of any person who has been the husband or

wife of any other person then living, nor shall any member of this Church enter into a marriage when either of the contracting parties has been the husband or the wife of any other person then living, except as hereinafter provided:

- (a) The Member of the Clergy shall be satisfied by appropriate evidence that the prior marriage has been annulled or dissolved by a final judgment or decree of a civil court of competent jurisdiction.
- (b) The Member of the Clergy shall have instructed the parties that continuing concern must be shown for the well-being of the former spouse, and of any children of the prior marriage.
- (c) The Member of the Clergy shall consult with and obtain the consent of the Bishop of the Diocese wherein the Member of the Clergy is canonically resident prior to, and shall report to that Bishop, the solemnization of any marriage under this Section.
- (d) If the proposed marriage is to be solemnized in a jurisdiction other than the one in which the consent has been given, the consent shall be affirmed by the Bishop of that jurisdiction.

Sec. 4. All provisions of Canon 1. 18 shall, in all cases, apply.

What The Clergy Should Do

Please check the following as you, the petitioner and the intended spouse (if any) engage each one of the activities listed. This check list will serve to document completion of these tasks (the first 4 apply to all marriages, the last 5 to remarriages):

- I have determined that at least one of the parties has received Holy Baptism.
Or The Petitioner does not desire to be married at this time.
- I have obtained the intention of the parties to marry at least thirty (30) days before the intended service of solemnization [unless there is compliance with Section 3(a) of Canon 18 reproduced above].
Or The Petitioner does not desire to be married at this time.
- I have determined that both parties to the subsequent marriage freely and knowingly consent to the subsequent marriage without fraud, coercion, mistake as to identity of a party, or mental reservation.
Or The Petitioner does not desire to be married at this time.
- I have instructed both parties as to the nature, meaning and purpose of Holy Matrimony or have determined that both parties have received such instruction from persons known to be to be competent and responsible.
Or The Petitioner does not desire to be married at this time.
- I have examined a copy of each civil decree of divorce or annulment involved.
- I have determined that at least six (6) months have elapsed since the most recent divorce or annulment (may be shortened for reasonable cause as determined by the Member of the Clergy).
- I have determined that no other Member of the Clergy in this Church has refused to bless the subsequent marriage of the parties, unless explained in my written Clergy Statement.
Or The Petitioner does not desire to be married at this time.
- I have counseled with the divorced party to determine the relational dynamics of the previous marriage and—if a subsequent marriage is contemplated or has already occurred—to assess the possibilities of the subsequent marriage.
- I have instructed the divorced party that continuing concern must be shown for the well being of the former spouse and all children of the previous marriage. I have determined to my own satisfaction that the divorced party has made provision for these responsibilities.

What The Clergy Should Write

Please complete the following as your written Clergy Statement.

How long and in what capacity have you and the Petitioner known each other?

How long and in what capacity have you and the Intended Spouse (if any) known each other?

During the time that you have known the Petitioner and the Intended Spouse (if any), approximately how often have they attended public worship?

If neither party is a member of the Episcopal Church, why do you wish to preside at this wedding?

In the case of a proposed subsequent marriage, has another Episcopal Priest refused to bless the proposed marriage? If so, describe your attempts to contact that priest and discuss his or her reasons for refusing to do so.

On the next page, explain why the former marriage failed and, in the case of a proposed subsequent marriage, why you think the cause of that failure is not being carried into this proposed subsequent marriage. Use the back of this form and additional pages as necessary.

How do you feel about this petition?

Member of the Clergy

Instructions for the Petitioner

Information About Me

Last Name _____ First _____ Middle _____

Birthdate _____ Baptized? Yes No

If baptized, in what faith tradition? _____

Date of confirmation or reception in the Episcopal Church _____

Information About My Former Marriage

Name of parties in the Former Marriage:

Wife _____ Husband _____

Date of Former Marriage _____

Place where Former Marriage was performed (complete only one):

Church (give name) _____

Home (give city & county) _____

Civil Court (give county) _____

Information from Divorce Decree

Location of court granting divorce _____

Date of divorce decree _____

Information About My Subsequent Marriage

I want the Bishop of Chicago to know the following (check only one):

I do not desire a subsequent marriage at this time.
Sign below and skip the rest of this application.
_____ Date _____

I desire a subsequent marriage to:
Last Name _____ First _____ Middle _____
Baptized? Yes No
Length of time we have known each other _____
Length of time we have been considering marriage _____

My subsequent marriage has already occurred. I am married to:
Last Name _____ First _____ Middle _____
Baptized? Yes No
Date of marriage _____
Place of marriage _____

Our Declaration of Intent

We, _____ and _____,
desiring to receive the blessing of Holy Matrimony in the Church, do solemnly declare that we hold marriage to be a lifelong union of husband and wife as it is set forth in the Book of Common Prayer. We believe that the union of husband and wife, in heart, body, and mind, is intended by God for their mutual joy; for the help and comfort given one another in prosperity and adversity; and, when it is God’s will, for the procreation of children and their nurture in the knowledge and love of the Lord. And we do engage ourselves, so far as in us lies, to make our utmost effort to establish this relationship and to seek God’s help thereto.

Petitioner

(Intended) Spouse