

ABSENCE OF CANONICAL FORM

(Revised January 2016)

General Information for Petitioner

To the Petitioner,

The priest who is assisting you should have given you pages 1-4. If the priest mistakenly gave you pages 5-8 please return those pages to the priest.

Catholics are bound to follow the laws of the Catholic Church concerning the “form” for the celebration of marriage. If a Catholic does not follow these laws, the marriage may be invalid for this reason. The Tribunal conducts the process investigating the nullity. The nullity of such a marriage is proven by documents together with the testimony of the Petitioner and, if needed, witnesses.

It is the policy of the Diocese of Lincoln that one may not petition for a declaration of nullity until one year has passed since the final decree of divorce (or civil annulment) was signed by the judge. For example, if the divorce decree was given on November 1, 2010 according to the laws of the State of Nebraska it would not be final for six months (or May 1, 2011). You may not begin this process for another six months or until November 1, 2011.

You will need to supply a current mailing address for your former spouse. When you have presented your petition, your former spouse is contacted by the Tribunal and informed of the process. (Your address is not given to your former spouse.) If there is a serious reason why your former spouse cannot be contacted, please explain fully on the form.

1. DOCUMENTS

Since documents are essential to this process, you will need to gather the following:

a. A baptism certificate for each Catholic of the marriage. This must be recently issued (in the last 6 months) and indicate all notations in the baptismal register. You are to request the certificate from the Church of baptism of the Catholic party. When you write to the Church, supply the full (maiden) name of the Catholic whose certificate you will request, (if possible, give the name of the parents), the person’s date of birth, the (approximate) date of baptism, and ask for “All notations” or an indication of “No notations” if there are none. Indicate that you are requesting the certificate because you are petitioning for a declaration of nullity in the Catholic Church. It is good to include a self-addressed, stamped envelope with your request. Talk to the priest who assists you with this case if you have difficulties obtaining a Catholic baptism certificate.

A certificate of profession of faith is needed if the Catholic was baptized in another Christian denomination and later received into the Catholic Church by profession of faith. A certificate of profession of faith is obtained in the same way as described above for a baptism certificate except you ask for a certificate of profession of faith.

b. Marriage license. Obtain a certified copy of the civil marriage license with the seal of the issuing agency. It is most desirable to obtain the **“License and Certificate of Marriage - application and return”** if possible. You will need to pay the processing fee and follow the policies of the issuing agency. (In Nebraska contact the Department of Health and Human Services.)

c. Divorce Decree. An authentic or certified copy of the divorce decree is needed. This must be valid and final. It must be signed by the judge and bear the seal of authenticity of the clerk of the court which issued the decree. If you already have a copy of the divorce decree that meets the above criteria you do not need to get another. (In Nebraska contact the Department of Health and Human Services.)

If you wish to have the original copy of any of the documents you submit returned to you after they have been sent to the Tribunal, please indicate this in writing.

2. NARRATIVE

To assist the Tribunal in evaluating your petition you are to write a narrative concerning the marriage in question. **Please type, print, or write legibly in ink.** Though questions are posed in the outline, your narrative should be in complete sentences and in paragraph form and should be understandable to a first time reader who is unfamiliar with your story. Please take a draft of your narrative to the priest for review.

The length of the narrative is not predetermined, **but complete and detailed information about you and your former spouse before and during the marriage should reveal clearly to a reader unfamiliar with your story not only the factual events and when they happened, but also why they occurred.** Be completely honest. Do not omit negative aspects, even about yourself. Your statements may be written factually but diplomatically, especially if they concern your former spouse. Clearly distinguish what happened before the wedding day from the things that happened after the wedding

a. Introduction

State your name and complete address and give the same information for your former spouse. Who was the Catholic at the time of the ceremony, you or your former spouse? Did the Catholic ever leave the Church formally and join another Church? Before the wedding, did the Catholic party at any time ever declare in writing to the local Ordinary (the Catholic Bishop or someone serving for the Bishop) or to the Catholic party's proper Catholic priest or pastor in writing his or her intention to leave the Catholic Church? Explain fully indicating who could be a witness about this. Write about the practice of religion for each of you. What religious practice did each of you have growing up before you married? How frequently did you attend church? What churches did you attend? Indicate the same for each of you during the marriage.

b. Concerning You And Your Former Spouse Before The Marriage

- i. **Your family background:** Write about the members of your family, problems in family of origin, (abuse, alcohol, drugs, etc.), problems in your youth, divorces in your family, your view of marriage, your educational background, religious instruction, job experiences, other relationships before marriage, and their effects on you.
 - ii. **Your former spouse's family background** – answer the same questions as above.
- When did each of you graduate from high school and/or college?
 - Describe the first meeting (age of both parties, when, where).
 - What was the length and frequency of dating? Were there separations or breakups during courtship?
 - Were there any significant problems during dating?
 - Was there a formal engagement? When? How long before marriage? Were there any unusual circumstances or motivations or pressures to marry?
 - Were there any hesitations about entering into marriage?
 - Was there any opposition to the courtship? Was there any opposition to the engagement?
 - Was there cohabitation or sexual activity before marriage? What effect did this have on marriage plans?
 - What was the attitude of both parties before marriage towards divorce, possibility of remarriage, fidelity, attitudes and openness towards children, plans about having or avoiding children in marriage?
 - How much and how often did you and your former spouse drink or use drugs before marriage? Did this cause any problems?
 - Was there a pregnancy before the wedding? Explain the effect it had on marriage plans.
 - Was there a prenuptial agreement? Explain.
 - Were there any last minute disagreements? Anything else about the time before marriage?

c. The Celebration Of Marriage

- Did you ever attend any Church marriage preparation? How did it go? Were there any problems or disagreements in preparing for marriage or the marriage arrangements?
- What was the date of wedding? What were the ages of you and your former spouse on the wedding day?
- Were there any problems on the honeymoon?
- What were happy events during the marriage?

d. The Decline Of The Marriage And The Divorce

- When did serious problems first begin and what were the problems?
 - i. Concerning your former spouse:** Were there problems with: drinking? drugs? verbal or physical abuse? use of money? parents? jobs? the sexual relationship in marriage? fidelity? communication? religion? commitment?
 - ii. Concerning yourself:** answer the same questions as above.
- When did the first separation take place? How many separations were there? When? What was the cause of the final separation? Was any counseling sought or received by either party? With whom? When? What outcome?
- When was divorce first discussed?
- When did you last live together as husband and wife?
- Who petitioned for the divorce?
- Date and place of the divorce.
- Give the names and dates of birth of any children. Have they been baptized/reared in a religion? If so, in what religion?
- If there were no children born, indicate why (medical reasons? deliberate decision? on whose part?).
- Give the names and dates of birth of any other children born to you or your former spouse indicating the other parent.

e. Conclusion

- When was the final separation? •Who or what caused the final separation?
- Do you have anything else to add that has not been asked about above?
- Number and initial every page. Sign and date your narrative at the end.

3. WITNESSES

On a separate page or at the end of your narrative, you must submit the names and complete mailing addresses of at least two witnesses. **These witnesses must be knowledgeable, especially about the religious affiliation of the Catholic party at the time of the marriage ceremony.** The witnesses must also be willing to give testimony when contacted by letter by the Tribunal office. It is preferable that the witnesses be Catholic. In view of this, you may wish to inform the witnesses that they may be contacted by the Tribunal office soon after the case arrives at the Tribunal. Ask them to tell the truth and give testimony. Do not say anything about what they will be asked or what the witnesses should say.

If you cannot provide a current address for your former spouse, the witnesses listed will be contacted and you would also need to give the complete names and addresses of an additional two or more persons, not related to you, who have known you for several years and can witness to your credibility and honesty.

4. FACTS Please complete the Facts section on page 4 of this form.

5. INTERVIEW

When you have gathered the necessary documents, drafted your narrative, and completed your witness list, the priest will interview you under oath. You will be asked to sign the petition and date it. You will also be asked to read a statement concerning the policies of the Tribunal and sign that you understand that statement.

The Tribunal cannot guarantee in advance whether a declaration of nullity will be given or how long this will take as this depends on the merits of the case and other factors beyond the control of the Tribunal, such as the participation of witnesses. You may not set a date to marry in the Catholic Church until it is proven that you and your intended spouse are free from the bonds of any previous marriage.

If you have a question about your case, contact the priest who helped you present your petition or write a letter to the Tribunal giving your (maiden) name, the (maiden) name of your former spouse, your address, your questions and sign/date your letter.

Please know that the Tribunal staff is pleased to be of service to you in this matter. We will pray for you and wish you the peace and happiness of our Lord Jesus Christ.

Sincerely,

The Tribunal Staff

FACTS

PLEASE PRINT or WRITE LEGIBLY IN INK

FULL NAME OF PETITIONER: _____

Concerning the parties of the marriage in question:

Man

Woman

_____	Present legal name	_____
First, middle, and last names		First, middle, and last names
_____	Maiden name	_____
_____	Present mailing address	_____
_____	City/State/Zip	_____
_____	Home phone	_____
_____	Work phone	_____
_____	Cell phone	_____
_____	Email address, optional	_____
_____	Date of birth	_____
_____	Date of baptism	_____
_____	Church of baptism	_____
_____	Address of Church of baptism	_____
_____	City/State/Zip	_____
_____	Date of Profession of Faith if applicable	_____
_____	Religion at time of wedding	_____
_____	Present religion	_____

Information concerning the marriage in question:

Date of the ceremony (month, day, year) _____

Place of the ceremony (city, state) _____

If in a church, name of church _____

Who officiated? (title, name) _____

Date of final separation (month, year) _____

Date of final divorce decree (date signed by judge) _____

Place of divorce decree (county, state) _____

Has your former spouse remarried? When? _____

Children born of this marriage: (Give names and dates of birth. Also list children from previous marriages, adopted children, or other dependents.) _____

ABSENCE OF CANONICAL FORM

(Revised August 2011)

PRIEST'S PAGES

If you are the petitioner and the priest mistakenly gave you pages 5-8, please give them back to the priest.

Dear Father,

Give pages 1-4 to the petitioner to complete. When the petitioner has completed everything requested on those pages, he or she is to show all the materials to you. Please review the checklist below to make sure everything has been done. Take the testimony of the petitioner (pages 6-7) and complete page 8 with the petitioner:

Checklist:

1. Original documents should be submitted. If there is a serious reason why an original document is not submitted, the priest is to write on the copy he has made from the original "*concordat cum originali*" or "I have seen the original and this is a true copy," and date, sign or initial it.

(See page 1 for details regarding documents.)

Baptism certificate of Catholic parties

(If the marriage involved an Eastern Rite Catholic or Oriental Catholic, please call the Tribunal office.)

Marriage license

Divorce Decree

Other Documents when applicable, e.g., change of name, adoption documents, etc.

2. Narrative The priest who helps the petitioner must review a draft of the narrative to make sure it makes sense and ask any clarifying questions which are to be incorporated into the draft.

3. List of witnesses For Absence of Canonical Form cases, witnesses must be knowledgeable about the religious affiliation of the Catholic (whether or not the Catholic left the Church by a formal act, if applicable) and where the wedding was held (that it was never held in the Catholic Church). Witnesses will only be contacted as needed. A character witness list may also be included. See petitioner form for instructions.

4. Facts (page 4) and Priest's pages (pages 5-8).

5. **A letter with your observations** Your comments on:

the pastoral situation of the petitioner, and intended, if any;

any relevant information about the Catholic leaving the Catholic Church by a formal act;

the children and their education in the faith;

other comments for the benefit of the Tribunal;

The priest is to ask the petitioner the following questions and write (in ink) the answers given by the petitioner. If additional space is needed, please write on a separate page with a reference to the number of the question.

INTRODUCTORY QUESTIONS

1. **Administer the oath :** *Do you swear to tell the truth, the whole truth, and nothing but the truth in answering these questions, so help you God?* _____

2. The priest is to read back to the petitioner the Facts, page 4.

Is this information, as read, correct? _____ If not, make corrections.

If it is not possible to provide an address for the respondent, please explain fully.

3. Please list chronologically all the marriages you have contracted in your entire life, regardless of where the ceremony was held. **For each marriage give all of the following information:**

The full (maiden) name of the person you married, the date of the ceremony, and the place of the ceremony.

First _____

Second _____

Third* _____

*Include information for any additional marriages on a separate page, if applicable.

4. If the petitioner had more than one marriage: Which marriage is being considered in this petition for a declaration of nullity due to absence of form? _____

5. Do you **now** wish to enter into another marriage? _____ or convalidate your present union? _____

6. Who is your intended spouse? _____

The priest will ask if the intended spouse has any previous marriages. He must advise the petitioner that, until proven otherwise, the intended spouse is considered to be bound to any previous marriage.

PARTICULAR QUESTIONS concerning the marriage in question:

7. On the date of the wedding, was at least one party of this marriage baptized Catholic? _____

If so, who? _____

8. Was the Catholic party reared and educated in the Catholic Faith? _____

9. Did you or your former spouse ever talk to a Catholic priest or deacon about having this marriage in a Catholic Church? If so, what was done?

10. Was permission ever obtained from Catholic Church authorities to marry before a non-Catholic minister, rabbi, judge, or magistrate? _____ If yes, give the details. The priest is to explain the meaning of this question, if necessary.

11. Was the marriage ever “blessed” or convalidated by a priest (Catholic or Orthodox) at a later date? _____

If yes, when? Explain. _____

12. Was a “*sanatio in radice*” or “sanation” ever granted to this marriage? _____

If so, where (what Diocese)? _____ When? _____

13. Before the wedding did the Catholic party ever leave the Catholic Church by a formal act or join another religion or profess to be an atheist? _____ If the answer is yes, please stating when and where this happened and indicate who can be witnesses regarding this, giving their names and complete addresses.

14. Before the wedding, did the Catholic party at any time ever declare in writing to the local Ordinary (the Catholic Bishop or those equivalent in law) or to the Catholic party’s proper Catholic pastor in writing his or her intention to leave the Catholic Church? _____

If the answer is yes, please state when and where, the name of the Bishop, pastor, or Church and a complete explanation.

15. Does your narrative fully explain the problems in the marriage and what brought about the final separation? _____

16. Were any children born of this union? _____ Any adopted children or other dependents? _____

Do you have children by another union? _____ Explanation should be in narrative or on another page.

If yes to any of these questions, give the names and dates of birth indicating the parents of each child in the space below:

17. Who has custody of the children? _____

18. Are the civil obligations (child support, etc.) towards the children being fulfilled? _____

If no, please explain who is delinquent, amount, and any legal action taken.

19. Were the children baptized in the Catholic Church? Are the children being educated in and practicing the Faith? _____

If no, explain. If Catholic, what are you doing with regard to the education of the children in the Catholic Faith?

The priest is to read back to the petitioner the recorded testimony as written above and then ask:

20. Do you swear/affirm, before Almighty God, that your answers to these questions are the truth? _____

Signature of Petitioner

Date

Petition for Decree of Absence of Canonical Form

I, _____, the undersigned petitioner,
Please print the full name: first, middle, (maiden), last
hereby request the Tribunal of the Diocese of Lincoln to investigate my marriage to

Please print the full name: first, middle, (maiden), last of the former spouse
based on the testimony and information I have supplied herein and according to the laws of the Catholic Church. If the law and the facts warrant such a decision, I ask that this marriage be declared null from the beginning on the grounds of Absence of Form. By my signature below I swear that I have told the truth in my testimony.

Signature of Petitioner

Date

Place (city, state)

Statement of the Petitioner

By my signature below I declare that I understand the following:

+ This process is a religious matter and has no civil effects. + All information gathered is for use by the Tribunal in accord with the laws of the Catholic Church. + The process seeks to discover the truth about the parties on their wedding day. + There is no guarantee whether the Tribunal will declare this marriage null. + The length of the process varies depending upon a number of factors, including the time it takes for witnesses to reply if the witnesses are contacted. + The decision will be based on the evidence presented and the laws of the Catholic Church. + I understand that the Catholic Church considers me to be bound to this marriage unless it is proven otherwise. + I may not set a date for marriage in the Catholic Church unless it is proven that I am free to marry. + I will keep a copy of the materials I submit in case anything is lost in the mail or in any other way.

Signature of Petitioner

Date

Place (city, state)

Signature of Priest

Parish

(Seal of Church)