

Pauline Privilege

(Revised November 2001)

This information is intended to guide those who may wish to petition for the use of the pauline privilege. When two non-baptized persons marry, then later one of them is baptized, and if the unbaptized person is unwilling to be baptized and live in peace with the convert, the convert may enter into another marriage by virtue of the pauline privilege. The traditional application of the privilege is when the conversion happens after marriage and before the separation. However, if the required conditions (given below) are fulfilled, the privilege may be applied even if the conversion happens after the separation because the natural bond of marriage is presumed to endure. The following may help you determine if the pauline privilege applies, and how to introduce the case.

There are **three essential conditions for use of the Pauline Privilege**. These are of Divine Law. It must be morally certain that these conditions are present:

1. A marriage between two unbaptized persons which is presumed valid;
2. Only one of the parties is later validly baptized (either as a Catholic or a valid non-Catholic baptism);
3. The unbaptized party refuses to physically cohabit or peacefully cohabit with the baptized party “without offense to the Creator.”

It is only the party to the marriage who has received baptism who could invoke this privilege. The phrase “without offense to the Creator” may mean that the unbaptized party: refuses to allow the Catholic education of the children, tries to destroy faith of the baptized person or the children, tries to lead the baptized person into sin, quarrels, provocation, or makes conjugal life impossible. It also must be clear that the baptized person does not cause departure of the unbaptized person by some morally culpable unjust action after having received baptism.

The Pauline Privilege cannot be invoked:

1. If the unbaptized party (namely your former spouse) wishes to be baptized.
2. If the unbaptized party wishes to restore common life without offense to the Creator as explained above.
3. If it is not able to be proven with moral certainty that both parties were unbaptized at the time of the marriage ceremony and that the unbaptized party remains unbaptized.
4. If the baptized party has caused departure of the unbaptized person by some unjust behavior after baptism.

The unbaptized party is to be questioned, if possible. The local Ordinary can dispense from this questioning, or interpellation, if certitude can be had in other ways (e.g., testimony of reliable and knowledgeable third parties).

If, after careful consideration of the above information and discussion with the Petitioner, there seems to be reason to think the Pauline privilege may be invoked, the Petitioner is to do the following:

A. Documents

In addition to this form, obtain a Formal Case form from the priest. **Complete pages 2-6 of the Formal Case (Factual Information, Documents, and Narrative).**

B. Questions and Answers

On a separate paper transcribe the following questions and then provide complete answers after each question. (Type or write in ink on letter size paper.)

• **Questions Concerning the Petitioner**

1. Full current names, dates of birth and full addresses (mailing address, city, state, zip code, telephone numbers) of Petitioner's parents and brothers and sisters. If any of these persons are deceased, indicate this after their name.
2. Names and addresses of all churches attended by the parents of the Petitioner and the Petitioner with any frequency from birth until the final separation of the Petitioner and Respondent.
3. The baptismal status of the Petitioner's parents and what the Petitioner knows about the beliefs of the Petitioner's parents concerning infant baptism and the necessity of baptism for salvation.
4. Were any of the brothers or sisters of the Petitioner ever baptized? If so, why were they baptized and not the Petitioner?
5. Was the Petitioner ever seriously sick that he or she might have been baptized without knowing it? Please give the dates and specific details.

• **Questions Concerning the Respondent**

6. Full current names, dates of birth and full addresses (mailing address, city, state, zip code, telephone numbers) of the Respondent's parents, and brothers and sisters. If any of these persons are deceased, indicate this after their name.
7. Names and addresses (mailing address, city, state, zip code) of all Churches attended by the parents of the Respondent and the Respondent with any frequency before the final separation of the Petitioner from the Respondent.
8. The baptismal status of the Respondent's parents and what the Petitioner knows about the beliefs of the Respondent's parents concerning infant baptism and the necessity of baptism for salvation.
9. Were any of the brothers or sisters of the Respondent ever baptized? If so, why were they baptized and not the Respondent?
10. Was the Respondent ever seriously sick that he or she may have been baptized without knowing it? Please give the dates and specific details.
11. **Are you on speaking terms with the Respondent? Is the Respondent likely to participate in the process? Explain.**

C. Witnesses

You will need to provide a list of **witnesses** who can testify about: the non-baptism of the person of both parties to the marriage and the reasons for the breakup of the marriage.

For this purpose, write at the top of the "Petitioner's Witness List" [page 9 of the Formal Case Application] "Witnesses for Pauline Privilege Process." **Make copies, if needed, before filling in the witness information.** For each witness give the information requested: the full name and full address (mailing address, city, state, zip code, telephone numbers), their relationship to the Petitioner and/or Respondent. Indicate the date of birth for each witness and the year he or she came to know the Petitioner and/or Respondent.

Please Note: Keep a copy of the above information for your records in case anything is lost in the mail.

The pauline privilege has the advantage that it does not aim at proving the nullity of the marriage. The Respondent and witnesses might be more likely to cooperate if they know they will be asked about the baptismal status, rather than other questions usually part of a formal case. However, all of the conditions must be fulfilled. While no guarantees can be made, with good cooperation, this process may not take as long as the formal process. If it is not possible to use the pauline privilege, a formal case may be initiated.

Statement of the Petitioner - Pauline Privilege

I, _____, make the following statement of understanding concerning my
(Please print your current name)
petition for use of the pauline privilege in my marriage to _____.
(Please print your former spouse's current name)

By my signature below, I declare that I have read this statement and understand all that is contained in this statement.

I understand that:

- This is an exclusively religious matter and has no civil effects.
- There is no guarantee the final decision will be to allow me to enter another marriage.
- No guarantee can be given to me about the amount of time it will take to receive a final decision.
- If the pauline privilege may not be invoked, I may petition for a declaration of nullity (formal case), or possibly dissolution of the marriage in favor of the faith, if the conditions of this privilege are fulfilled.
- The decision of the Curia depends entirely on the merits of the case, based on the evidence presented, and the laws of the Catholic Church regarding the marriage and nullity of marriage.
- If, according to the laws of the Catholic Church, I am presumed to be bound to any other marriage, I cannot plan to marry in the Catholic Church, unless it is proven that I am not bound by any previous marriage.
- I should not date until it is clear that I am free to marry.
- I must not set a date for any future marriage (or convalidation) in the Catholic Church until a final decision is given by the Curia and no priest or deacon is to provide me with even a tentative date for a future marriage in the Catholic Church.
- I must follow the laws of the Catholic Church regarding freedom to marry to be received into the Church by baptism or profession of faith.
- If a declaration of nullity is given, the Curia may require professional counseling be successfully completed before a subsequent marriage in the Catholic Church will be permitted.
- I am obliged to observe confidentiality concerning the Curia proceedings.
- I am to ask my witnesses to cooperate with the Curia process, but I am not to discuss what they should say when they are questioned by the Curia.
- All information gathered in this matter is privileged for the use of the Curia of the Diocese of Lincoln in accord with the laws of the Catholic Church, and for no other reason.
- I am obliged to supply the Curia of the Diocese of Lincoln with documents, testimony, witnesses and any information that is requested.
- I understand I may request original documents be returned to me.
- I realize I have the responsibility to keep a copy of all the materials that pertain to my case, in the event anything pertaining to my case is lost in the mail or in any other way.
- I am obliged to refrain from calls to the Curia Office inquiring about the status of my case. I will contact my parish priest or advocate as needed.
- I will address written inquiries and correspondence to the Curia, including the case name (namely, my last [maiden] name - my former spouse's last [maiden] name), and the case number assigned.
- For reasons of confidentiality, no information about my case will be given to third parties (present spouse, fiancés, parents, family members, etc.) and they should not contact the Curia.
- I agree to cooperate fully with the Curia of the Diocese of Lincoln and to be bound by the policies of the same.

Signature of Petitioner _____ Date _____

Signature of Priest _____ Parish, City _____ (Seal)

Declaration Concerning Expenses - Pauline Privilege Case

I understand that the expenses incurred by the Curia of the Diocese of Lincoln are greater than the fees that are asked of me. I realize that the decision of the Curia is based on the merits of the case and that no case will be refused or the decision affected because of non-payment of fees. I have been informed the usual total fee for the pauline privilege process is \$100.00. I understand that when I have completed my application and petition, I am asked to pay the expenses as follows:

1. A \$25.00 non-refundable filing fee when my petition is submitted.
2. A \$25.00 payment at the time of the interview.
3. The balance of \$50.00 upon completion of the process. (Payment in installments is accepted.)
(All checks are to be made payable to "The Catholic Bishop of Lincoln.")

I agree to these Curia costs and accept the responsibility for full payment according to this policy of the Curia. If I need a reduction of fees for a serious reason, I will consult the priest who helps me present my petition and will indicate the reasons for a reduction of fees in writing when presenting my petition.

Signature of Petitioner _____ Date _____

Signature of Priest _____ Parish, City _____ (seal)

Instructions for writing a petition for use of the Pauline Privilege:

On one side of a letter size sheet of paper, type or write your petition according to the example below, beginning with the title. Supply the information in italics as appropriate for your case.

PETITION FOR USE OF PAULINE PRIVILEGE

I, (*your full name, including maiden name, if applicable*), residing at (*your full address*), was married to (*your former spouse's full name, including maiden name, if applicable*), who resides at (*your former spouse's full address*) on (*date of your marriage ceremony*) at (*place of the ceremony*) in (*city and state*), according to the laws of the State of (*state*) in the presence of (*title, if any, and name of the person who officiated at the ceremony*).

There was/were (#) child(ren) born to this marriage, namely: (*names and dates of birth of any children*). [Or, There were no children born to this marriage.]

Our marriage ended in divorce given by the (*name of court*) on (*date of decree*).

I was baptized (*religion of baptism and church of baptism*), in (*city, state*) on (*date*).

I ask the Curia of the Diocese of Lincoln to determine my right to use the pauline privilege according to the provisions of the law. I believe that both myself and (*name of your former spouse*) can be proven to have been non-baptized at the time we were married. I believe there is no hope for reconciliation. I believe that (*name of your former spouse*) has not been and does not wish to be baptized.

I would like to marry (*name of intended spouse*) according to the laws of the Catholic Church.

Given at (*city, state*), on (*today's date*).

(Petitioner's signature)