



## ***Mitis Iudex Dominus Iesus-5 Years Out***

### **FAQ's**

#### **What is the marriage Nullity Process?**

The marriage Nullity Process is a Church examination of a marriage that has civilly ended in order to determine if the marriage was null due to a defect of consent at the time of the exchange of vows. This examination is accomplished through the participation of parties and witnesses in a procedure established in canon law, the law of the Church.

#### **1. Why did Pope Francis change the marriage Nullity Process in 2015?**

The salvation of souls has always been the supreme law of the Church. “For this reason,” as *Mitis iudex* notes, all its institutes, “ought to incline towards the goal of communicating divine grace and ought to continually favor, according to the gifts and mission of each, the good of the faithful inasmuch as this is the essential goal of the Church” with this in mind, the Holy Father decided to change the Nullity Process.

#### **2. How did the Nullity Process change?**

There were three major changes that affected the processing of a case. The areas changed included: competency of tribunals, the requirement of a second review, and the introduction of a briefer, streamlined process.

#### **New rules regarding the ability of a particular tribunal to accept a case (tribunal competence).**

##### **A. What is tribunal competence?**

Competence is the ability, by canon law, for a specific tribunal to process a nullity case. The law has been simplified so that a tribunal can hear a case, without the consent of another tribunal, if:

1. The marriage took place in that diocese
2. Either the petitioner or respondent lives in the diocese
3. Most of the evidence (i.e. witnesses) is located in the diocese



**The elimination of the requirement for a second review of the case when there is an affirmative judgment.**

**A. What is the law regarding affirmatives in first instance?**

Under the revised law, if after notification, neither party to the case or the defender of the bond appeals an affirmative decision within the time frame allowed (15 working days; not counting weekends or holidays) the case is considered complete.

**A more streamlined process, applicable in certain cases.**

**A. How long does the current process take?**

Every marriage is as unique as the people themselves. In each case, the questioning of the parties, gathering information from witnesses, collecting evidence and applying the procedural steps of the current process all takes time. In the Archdiocese of Milwaukee we say that a case, with few complications, can be decided within a year from the time of the deposition of the parties. This is an estimate and a wedding date should never be set until and only if an affirmative decision, with no restriction, is given.

**B. What is the new shorter process?**

Certain procedural steps have been amended without compromise to the theology of marriage, the law or the integrity of the process.

**C. Who qualifies for the shorter process?**

Three strict qualifications apply:

1. Both spouses must consent by signature, to the process.
2. The facts surrounding the case must be obvious according to the marriage law of the Church.
3. All the facts that support the criteria of nullity (proofs) such as documents and the testimony of parties and witnesses must be readily accessible and available. Even with this, the time necessary will vary from case to case. Once collected, the acts of the case are submitted to the Archbishop for a decision.



### **3. Why is it important for both spouses to consent to the shorter process?**

This requirement helps protect the right of both spouses to defend the validity of their marriage. There is a common misconception that if both spouses agree that the marriage is null, a declaration of nullity is somehow automatic or guaranteed. This has never been true, and the new law does not change that. The facts of the case, and not the spouses' agreement or disagreement on the matter, determine whether the marriage has been proven null.

### **4. How does the shorter process work?**

First, a party (or one of them with the consent of the other) must submit a petition for a Declaration of Nullity, which in addition to all the information normally contained in a petition, has to demonstrate *why* the Briefer Process could be used, i.e., *why* the nullity of the marriage is manifest and also *how* it will be proven by readily available evidence. There is no guarantee that a case will qualify for the Briefer Process.

If, through examination of the facts, the Judicial Vicar determines that the case might qualify for the Briefer Process, the application will be shared with the respondent and their signature secured. The Judicial Vicar then issues a decree stating the grounds in the case, nominating an instructor (an official in charge of gathering the evidence) and an assessor (an official in charge of advising the Archbishop). To confirm facts, appointments may be scheduled for the petitioner (and the respondent) to come to the tribunal and give further information regarding the marriage; information is also gathered from witnesses. The Defender of the Bond and the parties then have 15 days to present additional information. After this, the case is presented to the Archbishop for judgment.

If, based on all the evidence presented, the Archbishop reaches moral certitude that the marriage is null, he can issue a sentence declaring the nullity of the marriage. If he is not morally certain, the case is admitted to the Ordinary Process. Appeal against the Archbishop's decision can be made by either party or the Defender of the Bond within 15 days after notification of the parties.

Please remember that in this process, like the Ordinary Process, there is no guarantee of an affirmative decision. So, like the Ordinary Process, a marriage in the Catholic Church should NOT be scheduled, even tentatively, until an affirmative decision, free from restriction, is issued.



#### **5. How long does the shorter process take?**

The law allows up to 30 days to review and admit a petition. Another 30 days is allocated to confirming the facts of the case. The law also allows 30 days for writing the sentence. The sentence cannot be acted on until the window for appeal has passed, another 15 days (not counting weekends and holidays). In all, that's approximately 120 days from start to finish, not counting the possibility of delays.

#### **6. A change in the approach to assessing tribunal expenses.**

Pope Francis did not eliminate all administrative fees, but he said that the process should be gratuitous whenever that can be done without harming the rights of tribunal workers to a just wage.

He has two reasons for this. First, he wants to make sure that no one is ever discouraged from exercising their rights due to cost. In the Archdiocese of Milwaukee there is an administrative fee; half of this fee is covered by the Catholic Stewardship Appeal. As always, a partial reduction or total waiver of the fee is possible and has always been granted liberally to anyone in need. Pope Francis does not want the misconception about expense to be an obstacle. Second, he wants to be sure that tribunals are immune from the misconception that declarations of nullity can be "bought" or "sold."

Feel free to call or email the tribunal with general questions or questions about a specific case and we will respond as quickly as we are able, but please be patient. If there is a case pending, trust *us* to contact to *you* if these changes in the law will have an important bearing on the case.

Thank you!