

THE EPISCOPAL DIOCESE OF UPPER SOUTH CAROLINA

**POLICY ON PETITIONS FOR
MARTIAL JUDGMENTS**

EFFECTIVE SEPTEMBER 1, 2022

**THE RIGHT REVEREND DANIEL P. RICHARDS
IX BISHOP OF THE EPISCOPAL DIOCESE OF
UPPER SOUTH CAROLINA**



THE EPISCOPAL DIOCESE OF UPPER SOUTH CAROLINA OFFICE OF THE BISHOP

September 1, 2022

Dear Clergy,

The foundation of the relationship between a bishop and the clergy in his or her diocese is trust. As priests, you are called to work as faithful pastors and teachers, together with your Bishop and fellow presbyters to build up the family of God. We each have to trust each other that each will do what God has empowered us to do and is calling us to do, and that we will each perform our due diligence as clergy under the canons.

In this diocese, the permission of the bishop is required anytime you seek to celebrate and bless the marriage of a divorced person or bless the civil marriage of a divorced person. As a priest seeking to solemnize the marriage of one previously divorced, it is incumbent upon you to perform the due diligence required, including consulting the requirements of the canons. However, due diligence is about more than just ticking off canonical boxes.

Due diligence also requires getting to know those seeking to be remarried in the Church: meeting with them personally and extensively, listening to their stories, counseling them, possibly referring one or both for professional assistance, evaluating the health of their relationship in light of their healing, and walking through a landscape of pain and regret with them, preparing them for a hoped-for brighter tomorrow. Marriage is explicitly described as life-long, intended as part of the redeeming work of Christ. You know the greatness of the vocation of vows and the responsibility we have to prepare those in our care for their life before God.

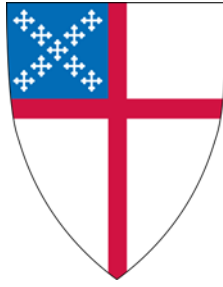
It is because I trust you, my clergy, that I am willing to issue a Marital Judgment after receiving a signed statement from you that you have performed your due diligence, that you see no impediment to solemnizing the marriage, and requesting my approval to do so.

Following this letter, you will find some resources to assist you in performing your due diligence. Please review them carefully and thoroughly, and utilize them appropriately. You will also find the form statement that you will submit to me once you have performed your due diligence, requesting permission to solemnize the marriage.

I hope this letter clarifies this process and my expectations going forward. Blessings on your ministry.

A handwritten signature in blue ink that reads "Daniel P. Richards".

The Rt. Rev. Daniel P. Richards,
IX Bishop of The Episcopal Diocese of Upper South Carolina



The Canons on Remarriage in The Episcopal Church

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 or 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.

Title I, Canon I.19.2(a)

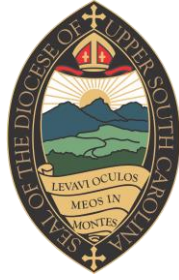
Every judgment rendered under this Section shall be in writing and shall be made a matter of permanent record in the Archives of the Diocese.

Title I, Canon I.19.2(b)

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 or the Bishop of the Diocese in which the Member of the Clergy is licensed to officiate 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.

Title I, Canon 1.19.3(a-d)



THE EPISCOPAL DIOCESE OF UPPER SOUTH CAROLINA

Guidelines for Securing a Martial Judgment for Remarriage in the Church

1. A waiting period of six months is required between the date of the final divorce decree of the most recent marriage and an application for a new marriage. An exception is made where evidence of one or more years of legal separation exists.

The issue here is not time. The issue is psychological closure and emotional healing and distance. Other factors to be considered are evidence that a divorced spouse has remarried, and/or evidence that obtaining the final divorce decree was mired in litigation and other complexities. Exceptions to this requirement may be granted for weighty cause.

2. At least sixty (60) days are required between the initial visit to the priest and the proposed wedding date.

This allows ample time for performing due diligence, fact-gathering, obtaining copies of divorce decrees, required premarital counseling, and obtaining the Bishop's consent. In case of serial marriages (more than one divorce), it should be determined whether a marital judgment was obtained prior to the second marriage.

3. In this diocese, the Bishop will not accept an application for judgment and consent made less than thirty (30) days prior to the proposed wedding date. This time span is not a requirement of the Canons, but gives the Bishop time to make judgment in writing.
4. Canon 18 (Of the Solemnization of Holy Matrimony), Section 2(d), provides that, "at least one of the parties has received Holy Baptism." That is interpreted as meaning that any baptized Christian may be married in The Episcopal Church. However, Canon 19, relating to remarriage, provides (in part) that "Any member of this church . . . may apply to the Bishop . . . for a judgment as to his or her marital status . . ." This seems to indicate that at least one of the parties in the proposed marriage must be an active, contributing member of The Episcopal Church and, if possible, of the parish church in which the couple plans to be married.

The question out of which this guideline develops in this: Are priests willing to engage in the application process and counsel couples who wish to be married in the Church, without at least one of the parties being an active member of The Episcopal Church? For the couple, this is a question of commitment to Jesus Christ and the Church. For the priest, this is a question of the stewardship of his or her time.

5. It is expected that divorced Roman Catholics, who intend to remain Roman Catholics, talk with their own priest about marriage in the Roman Catholic Church and hear specifically how that communion views an upcoming marriage that takes place outside the Roman Catholic fold. If neither partner is an Episcopalian, the priest must give this serious consideration before he or she commits to solemnizing the marriage. The concern here is for the distinction between the Church as a venerable institution which is being used for social purposes and image, and the Church as a historic community of faith which sacramentally and spiritually nurtures and sustains a couple throughout their Christian marriage.

Items For Discussion between The Priest and Couple

1. In the judgment of the priest, has there been a reasonable amount of time for healing between the time of the broken relationship and the new one?

While this may be difficult to assess, particularly with regard to lingering pain, anger and frustration with court settlements, an evaluation must be made of the effect of time on the divorced person(s) and their ability to go on with their lives.

2. What evidence of caring is present in the behavior of the divorced person toward his or her children and the former spouse, and toward the prospective spouse and his or her children?

This concern is a larger development of Title I, Canon 19, Sec. 3(b) and reflects the full scope of responsibility all parties have to the well-being of others.

3. What is the level of integrity in communication between the prospective partners and with the priest?

This integrity of communication is particularly important as a divorced spouse reflects upon his or her own part in the breakdown of the previous marriage. Integrity of communication is also important in any discussion of the place of the Church, in particular, the place of The Episcopal Church, in the life of this couple.

4. What is the level of commitment to the Church of each of the partners in this relationship?

We are concerned here for the value of the Church in married life, and the potential of the married couple to become active, contributive participants in parish life.

5. If either partner in the prospective marriage is a divorced Roman Catholic, what is the intention of the new partnership for Church life?

All Episcopal priests and Bishops have had the experience of being asked to marry couples where one partner is clearly and avowedly Roman Catholic. They may be seeking marriage in The Episcopal Church to avoid meeting the standards of the Roman Catholic communion, or they may have been inactive in the Roman Catholic Church, or they may have some disagreements with the doctrine and discipline of that communion.

We are reminded that The Episcopal Church is also the one, holy, catholic and apostolic Church with an historic Episcopate, which understands marriage at the hands of an ordained priest to be a true, valid and efficacious sacrament before God and the whole Church. Any Roman Catholic, regardless of upbringing, family ties and other sensitivities, who desires to be married again, but in The Episcopal Church, must become an Episcopalian before he or she receives the blessing of the Church upon their marriage.

If, however, the other partner is Episcopalian and marriage in the Church is otherwise appropriate for that other partner, and the Roman Catholic wishes to remain true to that branch of the Church, other pastoral considerations may take preference. At a minimum, the Roman Catholic should be requested to consult with his or her priest – or at least some Roman Catholic priest to ensure that he or she understands the full implications of being remarried in The Episcopal Church without having utilized the Roman Catholic process for annulment. If the Roman Catholic is not active in his or her church at all, the Episcopal priest involved may want to consider consultation with the appropriate Roman Catholic priest.

Further Considerations: Professional Counselors and Sacramental Reconciliation

In preparing someone for marriage, a priest deals with three basic questions:

1. Does the couple know what a Christian marriage is? This may lead to some teaching about sacraments, and questions such as: Are they open to God's grace? Are they presently opening themselves to that grace individually and together, through worship, prayer, reflection together on Scripture, etc.? Where do they presently experience God? Do they expect their marriage to lead them to deeper knowledge of and commitment to God? In what ways do they want and expect their marriage to be "a sign of Christ's love to this sinful and broken world"? Even when they have not considered such questions and have no ready answers, raising the questions with them can help them reflect on the nature of Christian marriage.
2. Do they intend such a marriage? The Declaration of Intention is one way of asking that, as well as the questions in the previous paragraph. This often involves some judgment on the priest's part, but it usually does not require very subtle discrimination.

3. Are they capable of contracting such a marriage? This is often the most difficult consideration. It is often difficult to make a judgment about this, and a judgment in the negative is usually very difficult for the couple to accept. There are many circumstances which stand in the way of covenanting such a marriage, and many of them are outside the expertise of the priest.

If there was a previous marriage, the priest can ask about the circumstances of the breakup of that marriage, looking for clues that there is a behavioral pattern which would inhibit a new relationship. One can ask about the present relationship with the former spouse, and about how the intended spouse views that relationship. One can talk with them about the five areas which are most often presented as issues in marriage counseling, and see how they react and how they talk about them with each other. One can also look for the gifts they bring to the relationship, and how they complement one another in their strengths.

But the skills and training of the average priest are often limited in this area. This is where professional counselors can be helpful. They have assessment tools available to them, they understand the pathologies possible in relationships, and they have a role which may allow them to say to the couple things which the priest, because of family relationships, may find it awkward to say. They can ask the hard questions, and say the hard things.

When such a referral is undertaken, the priest can clearly specify what is being requested from the counselor. A signed Release of Information form should be sent to the counselor along with the referral so that the counselor can confer with the priest openly about problem areas or request more information.

Finally, in cases where the divorced party seems to be experiencing guilt related in any way to the breakup of the previous marriage and family, the priest should consider discussion and recommendation of the sacrament of Reconciliation of a Penitent (Confession and Absolution), Book of Common Prayer, p. 447.



**THE EPISCOPAL DIOCESE OF UPPER SOUTH CAROLINA
PETITION FOR A MARITAL JUDGMENT**

**To: The Rt. Rev. Daniel P. Richards
IX Bishop of The Episcopal Diocese of Upper South Carolina:**

Pursuant to Title I, Canon 1.19.3, I hereby request your permission to solemnize the marriage of:

_____ and _____

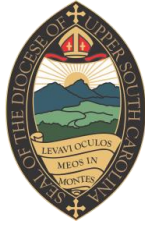
On _____
(date)

at _____
(location)

I hereby certify the following:

1. I have performed my due diligence as specified in the Policy on Petitions for Marital Judgments dated September 1, 2022; and
2. I have reviewed the appropriate evidence that the prior marriage has been annulled or dissolved by a final judgment or decree of a civil court of competent jurisdiction; and
3. I 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; and
4. The parties have participated in pre-marital counseling appropriate to their situation and have signed the required Declaration of Consent; and
5. I can find no impediment to solemnizing their marriage and am ready to do so with your permission.

Signature: _____ Date: _____



**THE EPISCOPAL DIOCESE OF UPPER SOUTH CAROLINA
PETITION FOR A MARITAL JUDGMENT
INFORMATION PAGE**

FIRST PERSON

Name: _____

Address: _____

Occupation: _____ Religious affiliation: _____

Number of Previous Marriages: _____ Number of Children from Previous Marriages _____

Date Last Marriage was Dissolved: _____

SECOND PERSON

Name: _____

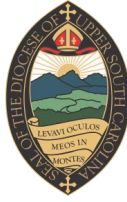
Address: _____

Occupation: _____ Religious affiliation: _____

Number of Previous Marriages: _____ Number of Children from Previous Marriages _____

Date Last Marriage was Dissolved: _____

*Please mail the Petition and this Information Page to
The Rt. Rev. Daniel P. Richards
Diocesan House
1115 Marion Street
Columbia, SC 29201*



**THE EPISCOPAL DIOCESE OF UPPER SOUTH CAROLINA
OFFICE OF THE BISHOP**

APPROVAL OF A PETITION FOR A MARITAL JUDGMENT

To: The Rev. _____

I hereby recognize the legal termination of the previous marriage(s) and, pursuant to Title I, Canon 1.19.3, I hereby grant you permission to solemnize the marriage of:

_____ and _____

On _____
(date)

at

(location)

Granted this _____ day of _____, 20____.

The Rt. Rev. Daniel P. Richards
IX Bishop of The Episcopal Diocese of Upper South Carolina