Timeline of Marriage Canons in the Episcopal Church

(note: 19th c. secular law required fault to be proved in order to obtain divorce)

1808: General Convention (GC) passed joint resolution: prohibited remarriage after divorce except in cases of adultery. (Matthean exception)

1868: GC adopts canon prohibition of remarriage except in cases of adultery or for those once divorced to be reunited.

1877: GC repealed existing marriage canon and enacted new:
   • any marriage “otherwise than as God’s Word doth allow” unlawful
   • prohibition on the marriage of any divorced person whose spouse is alive, if divorced for cause arising after marriage, and retains the Matthean exception or divorced spouses seeking to reunite;
   • prevented reception of a person not married according to the Word of God and the discipline of this Church into Baptism, Confirmation, or Holy Communion without the “godly judgment” of the bishop, except for a penitent person in imminent danger of death;
   • required referral of the facts of any remarriage to the bishop. The bishop was to investigate then deliver a judgment. No guidelines are given for entering judgment;
   • applies the new canon only prospectively as to any penalties they attach.

1883: GC appoints joint cmte to study marriage

1886: report asking for easier course for separation, noting the ease of entering into such contracts. It noted that children as young as 12 could marry without consent or witnesses. Proposed but defeated:
   • Setting 18 as the minimum age to marry without parental consent;
   • Requiring solemnization to occur in the presence of at least two witnesses personally acquainted with both parties;
   • Requiring clergy to keep a register of marriages recording certain facts, and signed by the parties, at least two witnesses, and the minister;
   • Setting the law of the Church concerning divorce as that contained in Matthew 5:32 and 19:9, Mark 10:1, and Luke 16:18;
   • Prohibiting divorce except for adultery or fornication, with the unfaithful spouse prohibited from marrying again during the lifetime of the innocent spouse;
   • Subjecting clergy who violate the canon to ecclesiastical trial and admonition for a first offense and suspension or deposition for repeat offenses
   • Barring spouses from receiving Holy Communion for violating the canon except upon repentance and after separation from the new spouse.

1889: the above proposal was rejected by GC

1892: the above proposal was rejected by GC

1895: the above proposal was rejected by GC

1898: the above proposal was rejected by GC

1904: GC narrowly passed a revision after 4 days of debate, a compromise between those who wanted to drop or keep the adultery exception
   • required ministers to observe civil law
   • required the presence of at least two witnesses and the recording in the proper register of the name, age, and residence, signed by the parties, the minister, and at least two witnesses.
• prohibited the minister from officiating at the marriage any person who was divorced from a living spouse, except after adultery. Adding a one-year waiting period and presentation of the divorce decree and record with “satisfactory evidence” touching on the facts of the case” to the bishop, along with evidence that the opposing spouse was personally served or appeared in court. The bishop, after taking legal advice, declared in writing his judgment. Gives minister discretion to decline to solemnize any marriage.
• Authorized any minister to refuse the ordinances of Holy Baptism, Confirmation, or Holy Communion to anyone who has been married “otherwise than as the Word of God and discipline of this Church allow” until godly judgment received from bishop, except to a penitent person in danger of death.

1910: efforts to drop adultery exception continued and were referred to a joint cmte on marriage.

1913: efforts to drop adultery exception continued and were referred to a joint cmte on marriage.

1916 joint cmte report argued for pastoral discretion of the minister and bishop as to whether to exclude those remarried from the sacrament. Failed.

1919: pastoral discretion failed again.

1922: GC rejects remarriage when either former spouse is alive
1925: GC considered and rejected ‘annulments’ by bishop; considered and rejected allowing remarriage of either party with no need for Matthean exception. Matthean exception survived.

1931: Joint Commission on Marriage and Divorce, presented and convention adopted:
• stated that clergy instruct their congregations, both publicly and privately, on the nature and responsibilities of Holy Matrimony, and the mutual love and forbearance required.
• retained the 1904 admonition that ministers conform to civil law, and added admonition to conform to church law.
• expanded to five the list of conditions for marriage: including verifying that the parties had a right to contract a marriage under church law; instructing the parties on “the nature of Holy Matrimony, its responsibilities, and the means of grace which God has provided through His Church”; and requiring the parties to give the minister at least three days’ notice of their intent to marry. Requirements for at least two witnesses and entry into the parish register were retained.
• new requirement that the parties to an imperiled marriage must present the matter to the minister who has “the duty … to labor that the parties may be reconciled.”
• retained the 1904 process and expectations for the remarriage of the divorced.
• added new provisions and conditions for the annulment/dissolution for these reasons: relationship by blood within the prohibited degree (consanguinity within first cousins); absence of free consent; mistake as to the identity of either party; mental deficiency affecting exercise of intelligent choice; insanity of either party; failure of a party to reach puberty; undisclosed impotence, venereal disease, or facts making the marriage bigamous.
• Allowed ecclesiastical court ruling as alternative to bishop’s ruling; no judgment was to be construed as addressing the legitimacy of children or the civil validity of the relationship.
• retained the 1904 provision for excluding from the sacraments persons not married “according to the word of God and discipline of this Church” and the process for review by the bishop.
• Added additional process for admitting persons married by civil authority or “otherwise than as this Church provides” to the sacraments, by judgment by the bishop or ecclesiastical court.

1934: GC modified 30 days notice to allow minister to waive for weighty cause & report to bishop
1937: Joint Cmte: church & public are ignoring the teachings. noted 3 issues:

• Some are slow to make changes, foreseeing difficulties and dangers and hence voting for the status quo.
• Others want to prohibit remarriage or the blessing of a remarriage of divorced persons, a strategy that has failed.
• Still others want to adopt annulment as done in the Eastern Orthodox and Roman churches, observing that “[t]o most Anglicans and Protestants this seems nothing but divorce under another name. In either case it ‘puts asunder’ those whom, to all appearances and understanding ‘God hath joined together.’ ”

Two minor changes to the impediments section of the canon which were adopted, adding “[l]ack of free and legal consent of either party” and “[i]mpotence or sexual perversion of either party undisclosed to the other.”

1940: rejected revisions

1943: rejected revisions, reorganized canons

1946: GC eliminated prohibition of the remarriage of divorced persons. Marriages annulled or dissolved by a civil court could petition bishop for permission to be married. 1 year wait, 30 days notice. Bishop had to be satisfied of the intent for a “true Christian marriage” and if so, refer to council of advisers or diocesan court

some bishops only considered impediments which arose before the marriage; others recognized causes arising after marriage.

only one party must be baptized

spike in divorces from 1945-47 up to 43%.

1949: removed referral by bishop to council or court; added requirement for judgment in jurisdiction of new marriage

1958: defeat of annulment

divorce rate levels off at 24%

1970: defeat of shortening 1 year waiting period

1973: 30-40 marriage resolutions submitted, 2 special cites, proposed changes which were adopted by considerable majorities:

repealed language giving minister authority to withhold sacraments from someone “married otherwise than as the word of God and discipline of the church”

repealed existing marriage canons and adopted:

• retained requiring clergy to conform to civil and church law
• required clergy to meet the conditions and follow the procedures in solemnizing any marriage. The list of impediments to marriage was eliminated in an effort to move clergy from a legalistic evaluation of the marriage to a more pastoral approach emphasizing the nature of Christian marriage. The clergy were required to instruct and ascertain the understanding of the parties that
marriage is a physical and spiritual union entered into in the community of faith by mutual consent of heart, mind, and will intending to be a lifelong commitment. Further, the parties must satisfy the minister that they are entering into marriage without fraud, coercion, mistaken identity, or mental reservation.

- procedures requiring 30 days’ notice to the minister, presence of at least two witnesses, and recording the marriage in the proper register were retained, as was the requirement that the couple sign the “Declaration of Intent” contained in section 3(d), which was first introduced into the canon in 1949. The Declaration of Intent was connected to the required instruction, but it sounded, in fact, more like a confessional statement expressed as the couple’s “understanding” of Christian marriage.
- retained the clergy’s discretion to decline to perform any marriage.
- addressed the duty of the parties and the minister to attempt reconciliation in the face of imperiled marriage unity before filing legal action.
- allowed a party who wished to remarry after receiving a civil decree of annulment or dissolution to petition the bishop or ecclesiastical authority for a judgment of nullity or termination. The requirements for this permission were streamlined from earlier versions. Reliance on a civil decree of annulment or dissolution continued.
- set out procedures for the minister to follow in preparation for solemnizing the marriage of a party who was previously married to a living spouse. As revised, section 3 made clear that divorced persons could remarry in the Church, and set out the simplified procedures for ministers to follow and obtain the bishop’s consent.
- makes canon applicable to all remarriages

1970s: no-fault secular divorce; divorce rates jump from 33%-50% between 1970 - 1985

1980s: equitable distribution of property becomes norm in civil law

1979: clarified that licensed ministers consulted with & reported to their bishop of canonical residency

2000: amended duty of clergy to foster reconciliation to “if possible” and imposed additional duty to “act first to protect and promote safety”; amended so clergy can report to either bishop who licensed or bishop of canonical residency
TIMELINE OF SAME-SEX BLESSING LITURGY IN THE EPISCOPAL CHURCH

1976: Resolutions A69 & A71 passed supporting same-sex relationships and legal rights; resolution on ordination deferred

1977: HoB overwhelmingly adopts statement condemning homosexuality, barring ordination, and forbidding blessings of marriages

1979: 15 resolutions relating to homosexuality. no ‘practicing homosexual’ or heterosexual engaging in extramarital sex should be ordained, though LGBT persons have “equal claim” on the love, acceptance, and pastoral concern of the church.

1982: convention reaffirms ’76 & ’79: homosexuals are “children of God” and entitle dot ful civil rights.

1985: convention urges each diocese to dispel prejudices and provide pastoral support. HoB approves, but HoD rejects canon forbidding discrimination in ordination process.

1988: Bishop Spong (Newark) approves policy offering blessing on homosexual couples

convention decries violence again LGBT persons, commits to dialogue about sexuality.

ordinations of gay and lesbian priests continues

1994: Bishops ask church to “uphold an ideal of lifelong faithful unions” for both hetero & homosexual couples

1995: diocese of Washington declares that gays and lesbians who live together in monogamous relationships should be “honored”

priest inhibited after blessing gay relationship

1996: National Consulation of Episcopalians on Same-Sex Unions authors “A Rite for the Celebration of Commitment to a Life Together.”

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2009: convention calls for development of a rite for blessing same-sex unions and allowing bishops “pastoral response”

2012: rite approved for blessing same-sex unions, subject to the approval of the diocesan bishop