



Diocese of Erie

Office of Matrimonial Concerns and the Tribunal

Concerning Issues: Impediments to Marriage

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Marriage Impediments

A diriment impediment is some fact or condition that prevents a person from marrying validly. The word *diriment* comes from the Latin *dirimere* which means to terminate. A dispensation is the relaxing of a law in a particular case given by someone who has the power to dispense. If a marriage should be contracted without a dispensation from a diriment impediment, the marriage is invalid. Impediments can be classified as those which come from divine law (which bind all people and cannot be dispensed) and those which come from ecclesiastical law (which bind only Catholics and those who marry Catholics and can be dispensed). Divine law impediments include impotence (c. 1084), prior bond (C. 1085), and consanguinity in the direct line or in the second degree of the collateral line (c. 1078 §3 and 1091 §4).

Most ecclesiastical impediments can be dispensed by the local Bishop. However, the Holy See has reserved two to itself: (1) in cases when a party is in sacred orders or has taken a public perpetual vow of chastity in a religious institute of pontifical right (cc. 1078, §2, 1°, 1087, and 1088); or (2) when one of the parties had incurred the canonical crime arising from the intentional killing of a spouse in order to clear the way for a new marriage (cc 1090 and 1078, §2, 2°).

In the following cases, requests for dispensations are addressed to the Diocesan Bishop where the Catholic party has a residence. If both parties are Catholic, the request can be made to the bishop of either party:

- A. Age (Canon 1083): When the groom has not completed his 16th year or the bride her 14th year.
- B. Disparity of Worship (Canon 1086): This is dealt with more fully in the next article.
- C. Abduction (Canon 1089): When a woman has been abducted or detained in order to contract marriage.
- D. Consanguinity (Canon 1091): In the collateral line in the third and fourth degree,
- E. Affinity (Canon 1092): When a person wishes to marry anyone related to a deceased spouse by blood in the direct line.
- F. Public Propriety (Canon 1093): When a person wishes to marry the parent, sibling or child of a common law spouse or concubine.
- G. Adoption (Canon 1094): When the parties are related in the direct line or the second degree of the collateral line by a legal relationship arising from adoption.

Disparity of Cult

The most common impediment occurs when a Catholic wishes to marry an unbaptized person. As part of the pre-nuptial investigation, the priest or deacon must establish the baptismal status of both parties. If one of the parties is unbaptized, a dispensation for Disparity of Cult must be requested. This can be found on the last page of the M-A Form. The request must include the canonical reason as well as the promises of the Catholic party (see April 2014 *Concerning Issues*). If there is a doubt as to whether the non-Catholic was baptized, the priest or deacon should request permission for Mixed Religion as well as a dispensation from Disparity of Cult as a precaution.

Often-Asked Canonical Question

Does the Church still publish banns? If so, is a dispensation from doing so required?

The Church's universal law does not require marriage banns, but leaves such regulations to the episcopal conference (C 1067). The USCCB has left it to each diocese to establish its own norms governing the publication of marriage banns. The Diocese of Erie never established particular norms and the practice that was in place under the 1917 Code continued.

The practice was to publish the banns for marriages involving two Catholics who were marrying for the first time. The purpose was to give public notice of the pending marriage over a three week period as a means of establishing the parties' freedom to marry. Banns were not published if a party was entering a second marriage after receiving an annulment, for a mixed marriage or for a convalidation. Even though the banns were not to be published, these situations all required a dispensation from their publication.

The publication of banns is often viewed as a social announcement rather than an investigative tool. Catholics who are marrying non-Catholics are often offended that their banns are not being published. In present culture, it is questionable whether the publishing of banns in the church bulletin is really an effective means of establishing freedom to marry. Rather, the pre-nuptial investigation seems to be an adequate method for doing this.

Taking all of this into consideration, **Bishop Persico has determined that there is no need to establish diocesan norms for the publication of banns. Consequently, it is no longer necessary to request a dispensation from the publishing of banns for any wedding.** Pastors are free to announce upcoming weddings in the church bulletin if they wish to do so.

Welcome Cindy D



Cindy DeCoursey is joining the Office of Matrimonial Concerns and the Tribunal as our new Administrative Assistant. Cindy has worked for the Diocese of Erie for the past 14 years most recently in the Office of Communications. A member of Holy Rosary Parish, Cindy has been married to Mel for 36 years and has two children and three grandchildren. She enjoys crafts, especially working with beach glass. Her artistry is evident in the lovely displays she creates in the main foyer at St. Mark's Center. Cindy will be working with Cindy Mangiaracina who has been with us for 17 years. The 'two Cindys' will likely come to be called Cindy M and Cindy D!