

HOW LONG DOES IT TAKE TO COMPLETE THIS PROCESS?

The amount of time it takes to process a case depends on many factors, but an average range is 9-12 months at the present time.

WHAT ARE THE USUAL TYPES OF CASES?

LACK OF FORM: A Catholic who enters a marriage that was not witnessed by a priest or deacon and two other witnesses, and who did not have a dispensation from this form, attempted a marriage that is invalid by the law itself. This can be so decreed by presenting the needed documentation.

PRIOR BOND (LIGAMEN): A person who enters marriage to someone who was previously validly married may have attempted an invalid marriage. This requires a modified formal process.

FORMAL: A person whose marriage is not invalid by the law itself is in a presumably valid marriage that must be proven to be otherwise. This requires the formal process outlined above.

WHAT ARE THE COMMON TYPES OF GROUNDS:

Grave Lack of Discretion of Judgment regarding essential matrimonial rights and duties to be given and received may be present if a person did not exercise sufficient foresight, insight, judgment, and/or if one suffers from inexperience, youth, various pressures, or immaturity at the time of marriage. The deficiency causing the lack of discretion of judgment must be grave and serious.

Inability to Assume the Essential Obligations of Marriage may be present if a person, for some psychological reason, lacks the personal resources to assume these obligations. Such may be the case with chemical dependency, serious personality disorders or mental illnesses, or other factors which seriously affect one's ability to fulfill these obligations.

Simulation may be present if a person held, at the time of consent, an intention against fidelity or permanence, or if a person did not offer the right to children, or if a person did not intend marriage as the Church understands marriage.

Error may be present if a person did not understand marriage as the Church understands it, or if a person was mistaken about a quality of another, which quality was essential to the person's decision to marry.

A marriage may be invalid if it can be proven that a **Condition** or **Force** or **Grave Fear** or **Fraud** determined the decision to marry.

WHAT ARE THE 'ESSENTIAL OBLIGATIONS' OF MARRIAGE?

While there can be no complete list of these obligations, one can gain an idea from the following qualities: a certain self-identity, a security with oneself, which enables one to know oneself and be able to communicate that to another; an ability to see the other as a separate person who has feelings and ideas and ways of being which are unique to that person; an ability to be a loving person, able to both give and receive; an ability to participate in the upbringing of children, i.e., in their moral, physical, educational, religious care; a genuine respect for the other which includes a willingness to enter

into a partnership of the "whole of life;" an ability to communicate with the other; etc.

WHAT IS THE STATUS OF CHILDREN?

The status of children is not affected by a Decree of Invalidity. Church law specifically protects the rights and status of children (Canon 1137 of the **Code of Canon Law**).

WHEN CAN A WEDDING DATE BE SET?

Since a person needing a Decree of Invalidity is not free to marry until such a decree is granted, **no wedding date may be set** until final word is received from the Tribunal. The Tribunal is not responsible for any consequences resulting from a party choosing to set a date prior to the final decision on the case.

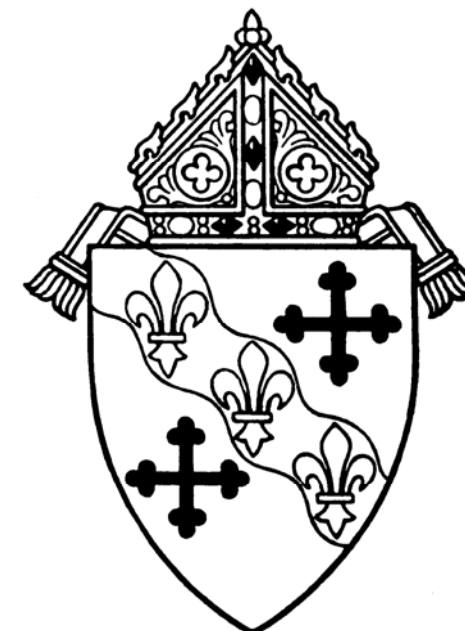
CAN A PERSON NEEDING A DECREE OF INVALIDITY ENTER THE RCIA PROCESS?

The Archdiocese of Dubuque has established guidelines regarding a person in the Rite of Christian Initiation of Adults process who may need a Decree of Invalidity. Please consult your parish for these guidelines.

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ARCHDIOCESE OF DUBUQUE METROPOLITAN TRIBUNAL



INFORMATION
On

**A DECREE
OF INVALIDITY**

A DECREE OF INVALIDITY

The Catholic Church, because it acknowledges marriage as a holy covenant that is entered into for life, holds that certain elements are essential to make the marriage valid. Marriage, according to the teachings of the Catholic Church, is an intimate, exclusive, and permanent partnership of a woman and a man, which exists both for the good of the spouses themselves and for the procreation and upbringing of children.

Everyone has a right to marry in a valid sacramental union, and it is the work of the Tribunal to ensure that right by making a study of and a determination about a marriage which is challenged by one of the parties. Should a decree of invalidity be granted, the persons then become free to enter a sacramental union in the Catholic Church.

Every marriage is presumed to be a valid marriage. Therefore, non-Catholics who marry according to the regulations of civil law enter presumably valid unions. If a divorced non-Catholic wishes to enter a marriage with a Catholic, any previous marriage(s) must be studied to determine whether that union was in fact valid and thus still binding.

A Decree Of Invalidity is a decree by a Tribunal which states that the marriage in question, because of some defect, was never actually a marriage as understood by Catholic Church law. Therefore, the persons who were parties to the initial bond are now free to marry in the Catholic Church. The Decree of Invalidity is a formal recognition that an element essential to marriage was missing **at the time of consent**.

The Decree Of Invalidity refers to the bond of marriage itself, and thus, if a Decree is issued, both parties become free to marry in the Catholic Church, because it is the bond that is declared invalid. It is not, then, a time of blaming or assigning fault of any kind. It is a study of the marriage bond itself as it was entered into and lived out by both parties in their specific circumstances.

A Decree of Invalidity does not say that there never was a relationship, or that there was no love, or that there was ill will on the part of either party when s/he entered marriage. Very often, what provides grounds for the decree is something of which neither party was aware, or of which awareness was decreased by other factors. Often it is only as the marriage progresses and behaviors escalate that people come to the realization that something was not “right.”

HOW DOES ONE OBTAIN A DECREE OF INVALIDITY

PETITION. To begin the process of a study of a marriage, a **PETITIONER** (the person who requests the study) visits with a Catholic parish minister and explains why s/he thinks there is a reason for a declaration of invalidity. The parish minister becomes the Petitioner’s **ADVOCATE** and will help the Petitioner complete the **PETITION**, which contains some background information and, briefly, the reasons why there might be grounds for a declaration of invalidity.

The Church requires that Petitions be accepted in the order in which they arrive at the Tribunal. Church law prohibits the Tribunal from moving a case forward on the docket, except for very serious extenuating circumstances.

CITATION. After determining whether it has judicial competence to hear the case, the Tribunal notifies the Petitioner and the **RESPONDENT** (former spouse) that the petition has been accepted. Both parties are informed of the suggested **GROUND**s (reasons for which a marriage might be declared invalid) and are asked to return a form indicating whether they have any objections to those grounds. **N.B.** One may object only to the grounds, not to whether the study of the marriage will proceed. Anyone has a right to petition for a study of his/her marriage. The other party is not free to stop the process, but is invited to participate in each step. The Respondent also is to indicate whether s/he wishes to participate in the process.

RIGHTS OF THE RESPONDENT. As a matter of justice, the Church provides that the Respondent has a right to be informed by the Tribunal that a petition has been made to study his/her former marriage. Very rarely (only when the Petitioner would be in danger of grave and imminent physical harm from the Respondent) would the Respondent not be contacted. The Respondent also has the right to participate in each step of the process.

TESTIMONY OF THE PARTIES. The Catholic parish minister (Advocate) helps the Petitioner with the testimony, which is in the form of a questionnaire. When that testimony is returned to the Tribunal, the Respondent (if s/he has agreed to participate) is asked to complete a similar questionnaire with the assistance of a Catholic parish minister in his/her geographical area.

COUNSELING RECORDS. If either party has had any counseling or medical treatment for mental or emotional problems, or for any chemical dependency issues, the release of those records to the Tribunal is requested.

These records are confidential to the Tribunal and are used only for the purpose of the study of the marriage.

WITNESSES. Witness testimony is extremely important in the consideration of a case. Each party is asked to name at least three persons who knew them before [or at the time] the wedding took place. The Tribunal contacts these witnesses by mail when the case is ready for active consideration.

DECISION. When all evidence is collected, the **DEFENDER OF THE BOND** gives an opinion on whether there is enough evidence and whether the procedures have been followed. The **JUDGE** studies the evidence, makes a decision and then writes a **SENTENCE**. This process completes the work of the **FIRST INSTANCE COURT**. However, every affirmative decision must be reviewed by a **SECOND INSTANCE COURT**. When two affirmative decisions have been issued, the parties are notified, as are the churches of Catholic baptism and the Catholic church of marriage.

WHAT IS THE COST? The Petitioner is responsible for the fees involved in a Petition for Invalidity, namely, \$450 for a formal case. This is only a portion of the cost of processing each case. If a professional evaluation is required, an additional fee is assignable to the party for whom it is required. Two or more cases for one Petitioner increases the cost. No person is ever denied the services of the Tribunal for lack of the ability to pay. A Petitioner may either arrange to send monthly payments, or have the fee reduced or waived (if there is proof of hardship). This, however, in no way affects the outcome of the case.