



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		POLICY NUMBER 500-16	PAGE NUMBER 1 OF 3
		DISTRIBUTION: Public	
		SUBJECT: Marriage of an Offender	
RELATED STANDARDS:	None	EFFECTIVE DATE: July 01, 2023	
		SUPERSESION: 03/01/2023	
DESCRIPTION: Offender Management	REVIEW MONTH: June	 <b>KELLIE WASKO</b> <b>SECRETARY OF CORRECTIONS</b>	

## I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) to permit offenders to marry during incarceration unless legitimate penological interests dictate otherwise. Offenders are not permitted to marry other incarcerated individuals or any individual who is not eligible for the offender's approved visit list.

## II. PURPOSE

The purpose of this policy is to establish guidelines and procedures for offender marriages while incarcerated.

## III. DEFINITIONS

None.

## IV. PROCEDURES

### 1. Procedures for the Initiation of Offender Marriages:

#### A. Eligibility

1. All offenders must request to marry.
2. An offender may not marry another offender.
3. Offender must be eligible for Class I (contact) visits. Additionally, the offender's intended spouse must be approved and on the offender's visit list for Class I (contact) visits. Any witnesses that are attending must also be on the offender's visit list and approved for Class I (contact) visits. See DOC policy 300-23 – *Offender Visiting* for more information regarding offender visits.
4. South Dakota offenders in the custody of an out-of-state corrections authority (including Interstate Compact Offenders) are subject to the receiving/holding state's statutes, rules, and/or policies pertaining to offender marriages.

#### B. Request to Marry:

1. A written request for marriage must be sent to the warden or designee at least sixty (60) days prior to the proposed marriage date. An *Offender Marriage Request* (see attachment #1) must be obtained from unit staff by the offender. The offender will complete the offender section of the form and mail it to his/her intended spouse. The offender's intended spouse will complete the appropriate section of the form, sign it, and submit it to the warden.
2. There will be two dates, one in April and one in October, to solemnize the marriages. These dates will not be determined until at least one (1) written marriage request has been received by the respective warden. Deadlines to submit "Offender Marriage Request" forms are as follows: February 1st for April marriages and

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August 1st for October marriages. Marriages will typically be scheduled during regular visit hours and take place in the visit room or other area of the institution normally accessible to the public.

C. Staff Assistance:

1. DOC and its staff shall not transport offenders from the institution for any purposes associated with the marriage and/or solemnization.

**2. Prerequisite:**

A. Documentation and Associated Costs:

1. The offender and intended spouse are responsible for properly securing the marriage license, consistent with South Dakota state law.
2. It is the responsibility of the offender and their intended spouse to ensure all documentation is completed.
3. The offender and intended spouse are responsible for all financial expenses related to the marriage, i.e., officiant fee, marriage license fee. The warden will not permit state funds to be used for the marriage of the offender, except those indirect funds inherent to providing a place and supervision of the marriage solemnization.

B. Marriage License

1. To obtain a marriage license, each applicant shall sign the marriage license application in person in the presence of the register of deeds or in the presence of a person duly appointed by the register to act in the register's behalf. SDCL § 25-1-10.1. Signing of the marriage license by the intended spouse, will be done during the application process in the Register of Deeds' office. Signing of the marriage licenses by the offender, the person solemnizing, and the witnesses, will be done at the time of either the April or October solemnization dates.
2. Any marriage license issued shall become void unless the marriage is solemnized within ninety (90) days following issuance. SDCL § 25-1-24.

**3. Solemnization:**

- A. The marriage must be solemnized, authenticated, and recorded. SDCL § 25-1-29.

- B. Marriage may be solemnized by a justice of the Supreme Court, a judge of the circuit court, a magistrate, a mayor, either within or without the corporate limits of the municipality from which the mayor was elected, or any person authorized by a church to solemnize marriages. SDCL § 25-1-30.

- C. Pursuant to SDCL § 25-1-32, the person solemnizing a marriage shall ascertain by personal knowledge or by requesting a photographic identification before performing the marriage solemnization

1. The identity of the parties.
2. Their real and full names and places of residence, and
3. The names and places of residence of the two (2) witnesses.

- D. Any financial compensation paid to the person performing the solemnization is the responsibility of the offender or the offender's intended spouse. Employees and volunteers with DOC are not allowed to perform marriage solemnization. No offender may officiate at the wedding of another offender, regardless of the credentials possessed.

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- E. The individual entering the institution to solemnize the marriage must be on the offender's approved visiting list. An exception to this rule is if the officiant will be provided as part of the April or October solemnization date through the county where each marriage is taking place. If the officiant is an official with the State, County, or Municipality, and as part of their job duties are allowed to solemnize marriages according to SDCL § 25-1-30, the warden or their designee can allow the individual access to the institution for the sole purpose of solemnizing the marriage.
- F. Clothing worn by offenders during the solemnization must be in accordance with DOC policy.
- G. The offender is allowed a total of two (2) witnesses, not including their intended spouse. The witnesses must be on the offender's approved visit list.
1. No offenders will be allowed as guests at the solemnization.
  2. The maximum number of visitors allotted for the solemnization will be four (4) persons. Visitors shall include the offender's intended spouse, two witnesses and the officiant if the offender is using an officiant not provided by the county.
- H. Conjugal visits are not allowed at SD DOC facilities (See ARSD 17:50:02:04).
- I. If, by action of the DOC, any approved offender's marriage is denied, halted, or suspended by staff, the reason for such action shall be documented and forwarded to the director of Prison Operations. As soon as possible after any approved marriage is denied, halted, or suspended, the DOC will notify the Register of Deeds of the change.

## V. RESPONSIBILITY

The director of Prisons is responsible for the annual review and revision as needed for this policy.

## VI. AUTHORITY

SDCL § 25-1-10.1

## VII. HISTORY

June 2023 - Renumbered from 1.5.F.01 to 1.3.D.05

March 2023

March 2021

December 2019

December 2018

December 2017

December 2016

December 2015

June 2015

December 2014

December 2013

January 2013

## ATTACHMENTS *(\*Indicates document opens externally)*

1. Offender Marriage Request\*
2. DOC Policy Implementation / Adjustments

## OFFENDER MARRIAGE REQUEST

**The offender must complete the first section of the form and send it to their intended spouse. After completing the intended spouse section, the intended spouse must submit this form to the appropriate warden of the designated facility within the South Dakota Department of Corrections.**

**To be completed by the offender submitting this request:**

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

DOC #: \_\_\_\_\_ Facility: \_\_\_\_\_ Housing Unit: \_\_\_\_\_

*I wish to marry the person listed below:*

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

Intended Spouse Gender (Circle One): Male – Female

Street Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_

Phone Number: (\_\_\_\_\_) \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Offender Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**To be completed by the offender's intended spouse:**

We met on (month/day/year) \_\_\_\_\_ at (location) \_\_\_\_\_

The number of visitors allowed for the marriage ceremony and the rules for visitors will be in accordance with DOC policy 300-23 entitled "Offender Visiting" and DOC policy 500-16 entitled "Marriage of an Offender." Any special request for someone to attend who is not on the offender's visiting list must be made to the facility warden. Any such request is not guaranteed to be approved.

Preferred Month of Marriage Solemnization Scheduled by the Facility (Circle One): April – October

*You will be scheduled for the next solemnization based on the date of this request and above-selected month.*

The person performing the marriage solemnization will be: Name: \_\_\_\_\_ Telephone

Number: \_\_\_\_\_ Street Address: \_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_ Email Address: \_\_\_\_\_

County Issuing Marriage License: \_\_\_\_\_

I understand that my intended spouse is serving a total sentence of \_\_\_\_\_ years for the crime(s) of \_\_\_\_\_

I understand that my intended spouse is incarcerated at \_\_\_\_\_. I know that he/she may be transferred to another facility at any time. I declare that I am of legal age and am legally eligible to be married.

I have read DOC policy 500-16 entitled "Marriage of an Offender" and realize that all aspects of the marriage process and the solemnization of the wedding will be conducted according to this procedure.

Intended Spouse Signature: \_\_\_\_\_

Date: \_\_\_\_\_ Best Contact Phone Number: (\_\_\_\_\_) \_\_\_\_\_