

1.5.F.1 Marriage of an Inmate

I Policy Index:



Date Signed: 12/10/2019
Distribution: Public
Replaces Policy: 5F.4
Supersedes Policy Dated: 12/27/2018
Affected Units: All Institutions
Effective Date: 12/10/2019
Scheduled Revision Date: December 2020
Revision Number: 19
Office of Primary Responsibility: DOC Administration

II Policy:

Unless legitimate penological interests dictate otherwise, inmates shall be permitted to marry during incarceration. Inmates are not permitted to marry other incarcerated individuals or any individual who is not eligible for the inmate's approved visit list.

III Definitions:

Staff Member:

For the purposes of this policy, a staff member is any person employed by the DOC, full or part time, including an individual under contract assigned to the DOC, an employee of another state agency, authorized volunteers and student interns assigned to the DOC.

IV Procedures:

1. DOC Participation:

- A. The requesting inmate will submit a written request to the Warden or designee at least 60 days prior to the proposed marriage ceremony date. The inmate must be legally eligible to marry.
 1. The request will include the full name of the spouse, date of the marriage ceremony and name of the individual performing the ceremony.
 2. The Warden or designee will approve or deny the request. Requests that pose a threat to the security or good order of the institution will be denied.
 3. The Warden or designee may offer an alternative date and/or time for the marriage ceremony to accommodate and/or preserve legitimate penological interests of the DOC.
 4. The Warden or designee will notify the inmate in writing of the decision to grant, deny or modify the requested ceremony.
 5. The inmate and intended spouse are responsible for properly securing the marriage license, consistent with state law.

- a. SDCL § [25-1-10.1](#)- To obtain a marriage license, each applicant shall sign the 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.
- B. The inmate and intended spouse shall accept full financial responsibility for all expenses related to the marriage, i.e. clergy fee, marriage license fee. The Warden shall not permit state funds to be used for the marriage of an inmate, except those indirect funds inherent in providing a place and supervision of the marriage ceremony.
- C. Inmate marriages shall be conducted in accordance with all applicable laws, rules and regulations.
- D. The DOC and its staff shall not:
 1. Transport inmates from the institution for the purposes associated with the marriage, to include obtaining applying for a marriage license.
 2. Grant exception, supersede or circumvent DOC policy, rules or directives to accommodate the marriage or marriage ceremony.
 - a. The individual entering the institution to solemnize the marriage must be on the inmate's approved visiting list (See DOC policy 1.5.D.1 [Inmate Visiting](#)). Chaplains who are trained volunteers (issued a pink DOC ID) may not perform marriage ceremonies for inmates, unless an exception is granted by the Warden or designee.
 - b. The intended spouse must be on the inmate's approved visit list (See DOC policy 1.5.D.1 [Inmate Visiting](#)).
 - c. 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.
- E. If, by action of the DOC, any approved inmate marriage is denied, halted or suspended by staff, the reason for such action shall be documented and forwarded to the Director of Prison Operations.
- F. South Dakota inmates in the custody of an out-of-state corrections authority (including Interstate Compact inmates) are subject to the receiving/holding state's statutes, rules and/or policies pertaining to inmate marriages.
- G. Inmates may not marry while on Temporary Absence status (TAP), while in the temporary custody of another authority, or while accessing the community through a furlough, work release, hospitalization, Community Transition Program (CTP) or other status. An exception may be granted by the Warden.

V Related Directives:

SDCL § [25-1-10.1](#)

DOC policy 1.5.D.1 – [Inmate Visiting](#)

VI Revision Log:

December 2002: Revised policy statement to include term while incarcerated.

July 2003: Changed signature block.

November 2004: **Revised** the policy statement. **Added** language that limits what activities the DOC will allow.

December 2005: No changes made.

January 2007: **Updated** the name of policy 1.5. D.1. **Added** a definition of employee. **Revised** the section on DOC Participation.

January 2008: No changes made.

December 2008: **Revised** formatting of policy in accordance with DOC policy 1.1. A.2. **Added** off the complex in ss (A1 of DOC Participation. **Replaced** title of DOC policy 1.5.D.1 to Inmate Visits in ss (A2) and section V, as well as referenced DOC policy in section V.

December 2009: **Revised** title of DOC policy 1.5. D.1. **Added** hyperlinks.

December 2010: **No Changes**

March 2012: **Deleted** "cannot assist in an inmate marriage" and **Replaced** with "shall not" and **Added** "any duties that may assist or help facilitate the marriage of an inmate outside of their regularly assigned duties. The DOC and its employees shall not help or assist" and **Added** "but not limited to the following;" to Section 1. A. Deleted "complex" and **Replaced** with facility for the purpose of the marriage." to Section 1 A. 1. **Deleted** "Prepare" and **Replaced** with "Granting exceptions to" and **Deleted** "outside of" and **Replaced** with "for the purpose of the marriage or making exceptions to" in Section 1 A. 2.

January 2013: **Added** C. to Section 1.

December 2013: **Reviewed** with no changes.

December 2014: **Added** "Unless legitimate penological interest would dictate otherwise" and **Added** "(does not include marriage to another inmate)" and **Added** "provided all legal and departmental requirements are met" and **Added** "The marriage may not pose a threat to the safety and security of a facility, staff the public or other inmates" in the policy statement. **Added** "The marrying couple are responsible for all costs associated with the marriage" in Section 1 A. **Added** a. to section 1 A. 2.

June 25, 2015: **Deleted** "(does not include marriage to another inmate)" and **Deleted** "all legal and departmental requirements are met" and **Deleted** "South Dakota law" and **Replaced** with "any legal restrictions" **Added** "Inmates will not be permitted to marry other incarcerated individuals, or those on parole supervision/suspended sentence" and added "or the protection of" in the policy statement. **Added** new A. 1.-4. **Deleted** "The DOC and its staff shall not incur any expense associated with an inmate marriage" and **Added** "shall accept full financial responsibility" **Added** "The Warden may not permit state funds to be used for the marriage of an inmate except those inherent in providing the place and supervision of the event and **Deleted** "Staff will not perform any duties that assist or facilitate the marriage of an inmate, outside regularly assigned duties, i.e. supervision of inmates" in Section 1 B. **Added** "or obtain marriage license" in Section 1 C. 1. **Added** "supersede or change any policies, procedures or operational memorandums governing inmate visitation" in Section 1 C. 2. **Added** "the institutional chaplain may not perform marriage ceremonies for inmates" in Section 1 C. 2. A. **Deleted** "DOC" and **Replaced** with "Warden" in Section 1 D. **Added** new E. to Section 1. **Added** G. to Section 1.

December 2015: **Deleted** "change" and **Replaced** with "circumvent" in Section 1 C. 2. Added "or have a clergy card" and **Added** "unless an exception is granted by the Warden" and **Added** "or allow or permit any activity associated with the marriage of an inmate if there is reason to believe the activity violates policy, law or may be detrimental to inmates, staff or the security and/or good order of the institution" in Section 1 C. 2. **Deleted** "the protection of" in Section 1 E. **Added** "(including Interstate Compact inmates)" to Section 1 F.

December 2016: **Deleted** D. in Section 1. **Deleted** due to the marriage presenting a threat to the security or good order of the institution, staff, other inmates or the penological interests of the institution, the perceived threats" in Section 1 E.

December 2017: **Reviewed** with no changes.

December 2018: Language and structure changes. **Added** C. to Section 1. **Added** "Requests that pose a threat to the security or good order of the institution will be denied" in Section 1 A. 2. **Added** a. to Section 1 A. 4.

December 2019: Minor language changes.

Mike Leidholt (original signature on file)

Mike Leidholt, Secretary of Corrections

12/10/2019

Date