

1.5.F.1 Marriage of an Inmate

I Policy Index:



Date Signed: 03/30/2016
Distribution: Public
Replaces Policy: 5F.4
Supersedes Policy Dated: 07/02/2015
Affected Units: Institutions
Effective Date: 03/31/2016
Scheduled Revision Date: December 2016
Revision Number: 15
Office of Primary Responsibility: DOC Administration

II Policy:

Unless legitimate penological interest would dictate otherwise, inmates shall be permitted to marry during incarceration, provided the marriage does not conflict with any legal restrictions, Department of Corrections (DOC) policy or institutional operational memorandums (OMs). Inmates will not be permitted to marry other incarcerated individuals or those on probation/parole or suspended sentence supervision. The proposed marriage may not present a threat to the security or good order of an institution or the protection of staff, the public or other inmates.

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 his/her designee at least 60 days prior to the proposed date of the marriage.
 1. The request will include the name of the proposed spouse, date of the marriage and name of the individual performing the marriage.
 2. The Warden or his/her designee will set the approved date, time and place of the marriage, provided the marriage does not compromise the legitimate penological interests of the institution.
 3. The Warden or his/her designee will notify the inmate in writing if the marriage is denied.
 4. The inmate and proposed spouse are responsible for securing the marriage license.

- B. The marrying couple shall accept full financial responsibility for all expenses related to the marriage process, i.e. clergy fee, marriage license fee. The Warden may not permit state funds to be used for the marriage of an inmate except those inherent in providing the place for the marriage to take place and supervision of those attending the marriage.
- C. The DOC and its staff shall not:
 - 1. Transport inmates off the facility for the purpose of the marriage or to obtain a marriage license.
 - 2. Grant exception, supersede or circumvent any DOC policy, procedure or operational memorandum or security standard to accommodate the marriage of an inmate 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.
 - a. An authorized individual entering the facility to solemnize the marriage must be on the inmate's approved visiting list or have a clergy card (See DOC policy 1.5.D.1 [Inmate Visiting](#)). The institutional chaplain may not perform marriage ceremonies for inmates, unless an exception is granted by the Warden.
 - 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 normal inmate visit hours.
- D. The Warden will not allow any activity associated with the marriage of an inmate that presents a threat to the security or good order of the institution, staff or other inmates.
- E. If marriage of an inmate is denied, halted or suspended 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 shall be documented by staff and forwarded to the Director of Prison Operations.
- F. South Dakota inmates housed in an out-of-state facility (including Interstate Compact inmates) are subject to the receiving/holding state's statutes, rules and/or policies pertaining to inmate marriages while in the custody of the out-of state facility.
- G. Inmates may not marry while on Temporary Absence status (TAP), while in the temporary custody of another authority or while in the community on furlough, work release or other status.

V Related Directives:

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.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

03/30/2016

Date