STATE OF IOWA DEPARTMENT OF CORRECTIONS
POLICY AND PROCEDURES

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Subject: MARRIAGES
PREA Standards: N/A
Responsibility: Nick Lamb
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Authority:

1. PURPOSE

To outline procedures that shall be used to evaluate and process incarcerated individuals' requests to be married in Iowa Department of Corrections (IDOC) institutions.

2. POLICY

The IDOC may allow an incarcerated individual to be married while in custody following incarcerated individual payment of all security costs.

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3. DEFINITIONS - As used in this document:

A. Immediate Family - An incarcerated individual's spouse, mother, father, sister, brother, child, grandparent, grandchildren, established legal guardian, or other

who acted in place of parents and step or half-relation if the step or half-relation and the incarcerated individual were raised as cohabitating siblings.

B. Chaplain/designee - Institution staff/volunteer who provides religious counsel.

4. PROCEDURES

A. Marriage

1. The marital status, designated upon admission from the Pre-sentence Investigation (PSI) or Personal History Data Sheet, shall be considered the marital status of an incarcerated individual during the incarcerated individual's incarceration.

2. Marital status can be changed only by an authorized judicial representative or by a qualified or authorized cleric in accordance with **Iowa Code Section 595.10**, or by legal dissolution of marriage by a district court in accordance with **Iowa Code Section 598.2**.

3. If it is determined that the initial source which was used to designate marital status was inaccurate or falsified, the Warden or designee may correct the marital status listed in the incarcerated individual's file.

4. If an incarcerated individual requests change of marital status derived from above "1", the incarcerated individual must provide proof of marital status. This information shall be verified by staff.

B. Common Law Marriages

1. IDOC shall recognize common-law marriages. For a common-law marriage to be recognized, the following criteria must exist:

   a. Present intent and agreement to be married;

   b. Continuous cohabitation prior to the incarcerated individual's incarceration; and

   c. Public declaration that the parties are common-law married;

   Note: The burden of proof of all three criteria lies with the party or parties asserting the existence of a common-law marriage.

2. Items of proof which may be presented:

a. Notarized declaration by both parties which publicly declares them common-law married.

b. Items that show intent or agreement which would indicate a marriage relationship rather than just a sleeping arrangement such as leases, bills, tax receipts, joint checking accounts, etc.

3. Where proof of common law status is provided Warden/designee shall change the marital status of designation in Iowa Corrections Offender Network (ICON).

C. Marriage Applications

1. The incarcerated individual is responsible to make written application to his/her Counselor.

2. The non-incarcerated intended spouse must be on the incarcerated individual's approved visiting list.

   Note: A one-time special visit may be granted by the Warden of the facility for the future spouse if the prospective spouse clears background and poses no safety or security threat to the facility on a case-by-case basis.

3. The Counselor/Chaplain/designee may assist the incarcerated individual in preparing the required documents.

4. The non-incarcerated intended spouse shall obtain the needed tests, license, and make all other arrangements.

5. The Counselor/Chaplain/designee shall work with the incarcerated individual to assist him or her in preparing the following:

   a. A marriage application form **(IS-SS-02 F-1** *Marriage Application (Incarcerated Individual)***)**.

   b. Iowa DOC *Consent to Release Information* **(AD-CR-04 F-2)**

      Note: The incarcerated individual must sign the *Consent to Release Information form* before confidential information can be released.

6. The marriage application form for the intended spouse shall be sent or given to the intended spouse or filled out in the presence of the Counselor/Chaplain/designee (**IS-SS-02 F-3** *Marriage Application*

(Spouse)). This form must be filled out and returned before the Warden shall consider giving approval for the marriage procedure.

7. Upon receipt of both marriage application forms **(IS-SS-02 F-1 and F-3),** the Counselor shall complete **IS-SS-SS F-2** and forward all material to the Chaplain/Designee who will then forward to Warden/Designee.

D. Pre-Marriage Consultation

1. To receive consideration for marriage, an incarcerated individual and the intended spouse are required to participate in a consultation session with the Warden/designee.

2. The incarcerated individual must demonstrate to the Warden/designee that both parties meet all legal qualifications for marriage. The burden of proof is on the incarcerated individual to gather this information. The intended spouse must be on the incarcerated individual's approved contact visiting list and must be at least eighteen years of age.

3. Once the institution staff has affirmed that the prospective marriage is consistent with state laws and court orders the matter shall be referred to the Warden for review and approval. If the Warden concludes that a proposed marriage presents a serious threat to public safety or to the safety and security of the institution, the marriage shall not be approved at the institution.

E. Marriage Ceremony Procedure

1. The intended party shall arrange for the officiating magistrate or minister. The name of the officiating magistrate or minister must be provided to the Warden at least five days prior to the scheduled ceremony.

2. Witnesses for the incarcerated individual must be on the approved visiting list or an incarcerated individual approved by the Warden.

3. At the discretion of the Warden or designee, immediate family members may be allowed to attend the ceremony if they are on the incarcerated individual's visiting list or approved for attendance at the ceremony by the Warden.

4. All expenses, including security provided by the institution, shall be borne by the parties being married.

5. There shall be no special visiting privileges permitted in connection with or after any wedding ceremony.

6. All marriage procedures shall be completed in compliance with the **Code of Iowa, Chapter 595.**

7. All marriage ceremonies which take place at an institution shall take place in the visiting room, or in an area approved by the Warden. These shall take place during normal visiting hours, or as approved by the Warden, and shall be counted as a visit.

8. Attire of any incarcerated individual, participant or visitor for the ceremony shall meet the standards for dress as found in **Iowa Administrative Code 201-20.**

9. Traditional wedding amenities such as music, flowers, beverages, food, etc., other than refreshments routinely available in the visiting room, shall not be permitted.

10. If the institution provides photograph services in the visiting room, as a part of its visiting program, a maximum of five pictures, approved by the institution, may be purchased by the incarcerated individual.