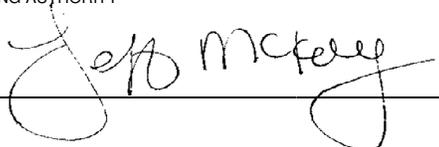


 <p style="text-align: center;">STATE OF NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION</p> <p style="text-align: center;">DIRECTIVE</p>	TITLE		NO. 4201
	Marriages During Confinement		DATE 3/15/2012
SUPERSEDES DIR #4201 Dtd. 6/2/2008	DISTRIBUTION A B	PAGES PAGE 1 OF 3	DATE LAST REVISED
REFERENCES (Include but are not limited to)	APPROVING AUTHORITY 		

I. POLICY: A major Departmental objective is to foster ties to the community that will help create stability in the inmate's personal life. The Department recognizes that a marriage can assist in creating that personal stability. Accordingly, the Department will provide appropriate assistance to inmates who wish to become married. The Department also recognizes that a person's confinement will in itself present impediments and difficulties to the contracting of a marriage during that period of confinement.

The purpose of this directive is to outline the responsibilities of the inmate and the intended spouse and the obligations of the Department to ensure that an intended marriage is legally acceptable.

II. LEGAL PREREQUISITES: Any inmate may marry providing there are no legal impediments to the marriage. Legal impediments may fall into the following areas:

A. Age: In accordance with New York State Law, all persons making an application for a marriage license must be 18 years of age or older. Those who are under age must submit the written consent of both parents, or of one parent if the whereabouts of the other parent has been unknown for a period of one year, or of a legal guardian. Persons under the age of 16 years must obtain the written approval of a Justice of the Supreme Court or a Judge of the appropriate Family Court as stipulated in Section 15 of the Domestic Relations Law.

B. Competency: Both parties must be mentally capable of consenting to the marriage.

C. Prior Marriages: All prior marriages must be legally dissolved. It is solely the responsibility of the inmate and the intended spouse to secure documented proof that any prior marriages to which they have been party have been legally dissolved.

The Superintendent will not permit any marriage to take place until the inmate and the intended spouse have procured a valid marriage license.

D. Inmate Status: When two persons are both confined in New York State Correctional Facilities they will not be permitted to marry until at least one of them has been released from such confinement.

E. Order of Protection: When a valid Order of Protection exists, which instructs the offender to "stay away from" the person he or she is seeking to marry, this shall preclude the inmate and protected person from visiting with each other and, therefore, preclude marriage for the duration of the Order of Protection. It is the responsibility of the Offender Rehabilitation Coordinator during the initial marriage interview to verify with both the inmate and the intended spouse that no Order of Protection, including a "stay away from" order is in effect. If it is learned an Order of Protection is in effect, but not on file with the Department, the Offender Rehabilitation Coordinator is to make all reasonable efforts to obtain a copy of the Order and update the Security Classification Guideline per established procedures.

III. ADMINISTRATIVE IMPEDIMENTS

A. Inmate Status: An inmate may not marry another inmate.

B. Disciplinary Status: The Superintendent is authorized to prohibit the marriage of an inmate during the period that the inmate is confined pursuant to the disposition of a Superintendent's or disciplinary hearing.

C. Threat to Safety and Security: If, in his/her judgment, the Superintendent concludes that a proposed marriage presents a serious threat to the safety and security of the facility, the marriage may be prohibited until such time as the threat is resolved.

IV. PROCEDURES

A. Notice to the Superintendent

1. To ensure mutual agreement, the inmate and the intended spouse shall write to the Superintendent expressing an intent to marry.
2. The notices are to be recorded and filed in the inmate's Guidance File.
3. The Superintendent shall designate an Offender Rehabilitation Coordinator to be responsible for processing the request, interviewing the inmate and intended spouse, ensuring that the inmate has a valid marriage license and that administrative requirements have been fulfilled.

B. Offender Rehabilitation Coordinator's Interviews

1. The Offender Rehabilitation Coordinator shall conduct an initial interview with the inmate to explain the entire marriage procedure emphasizing that while the Department will assist the inmate, the primary responsibility for making all arrangements and securing the necessary documents rests with the inmate and the intended spouse.
2. The Offender Rehabilitation Coordinator shall explain that the Temporary Release Program and the Family Reunion Program operate independently of the marriage process and any applications or arrangements for those programs are likewise the responsibility of the inmate. An inmate who wishes to be married while on Temporary Release must conform to the procedures delineated in the Directive and also in the Temporary Release Manual of Rules and Regulations.
3. The Offender Rehabilitation Coordinator shall examine the inmate's entire Guidance File, including the Pre-sentence Report, paying particular attention to information that may present legal impediments to a marriage (e.g. the existence of a previous marriage or a valid Order of Protection).
4. Subsequently, the Offender Rehabilitation Coordinator shall interview the intended spouse at the facility to explain the marriage process and the complications imposed by the inmate's confinement in a correctional facility. In the course of this interview, the Offender Rehabilitation Coordinator should advise the intended spouse to discuss with the inmate the circumstances surrounding his/her incarceration. The Offender Rehabilitation Coordinator shall inform the intended spouse of the inmate's parole eligibility date, conditional release date, and maximum expiration of sentence date.
5. If the intended spouse refuses to participate in the Offender Rehabilitation Coordinator's interview, the Offender Rehabilitation Coordinator shall explain that the interview is a part of the total procedure for processing marriage requests.

The participation of the intended spouse shall be encouraged; however, a refusal to participate shall not be grounds for disallowing the marriage.

C. Application for Marriage License

1. The inmate and the intended spouse must appear before a town or county clerk to apply for a marriage license. A marriage license is valid for 60 days from its date of validation.
2. In some facilities, an official at the facility is designated a town clerk. In such cases, this person shall receive the application for the marriage license.
3. At other facilities, the Offender Rehabilitation Coordinator or Head Clerk shall make every effort to get the local town or county clerk to either visit the facility or to designate a deputy in the (Facility) community for the completion of the license application form.
4. An inmate may choose to coordinate the application for a marriage license with a scheduled Temporary Release Application if eligible under the guidelines of the Temporary Release Program. However, the inmate must conform to all the requirements of this Directive, including, but not limited to prior notification to the Superintendent, and participation in counseling (Sections IV-A and B).
5. Under no circumstances will an inmate be allowed to proceed to the town or county clerk's office under escort by Department personnel.

6. The responsibility to determine whether a marriage can be contracted under the law rests with the town or county clerk. The license issuing agency reviews competency and questions both parties regarding the legal dissolution of prior marriages.

D. Solemnization of the Marriage

1. A marriage, whether it takes place in the facility or in the community, must be solemnized by either:
 - a. A clergy person or minister of any religion or a leader of the Society for Ethical Culture licensed to perform marriages in New York State;
 - b. A justice or judge of a court of record or of a municipal court, or a police justice of a village or town; or
 - c. Others as indicated in the Domestic Relations Law (section 11, 11a).
2. If the marriage ceremony takes place within the facility, the inmate and the intended spouse may select two individuals to serve as witness, e.g., employees who are willing, inmates (not in disciplinary confinement or confined to a BHU Unit), relatives, and friends. Ceremonies held in the facility will only be allowed to take place in an area designated by the Superintendent.
3. The ceremony will be limited to the participating partners, the official solemnizer, and two witnesses who may be selected according to the inmate's wishes.
4. If the marriage is to be solemnized in the facility by someone other than the Facility Chaplain, the assigned Offender Rehabilitation Coordinator should assist the inmate in recruiting the clergy person, minister or civil official chosen to perform the ceremony.
5. If a Facility Chaplain officiates at the ceremony, he or she may not accept any fee or honorarium.
6. There must be an interval of 24 hours between the date that the marriage license is issued and the date of the marriage ceremony. (Domestic Relations Law, Section 13-b)

E. Responsibility for Expenses Incurred

The marriage license fee and other expenses incurred for solemnization of the marriage shall be the responsibility of the inmate and the intended spouse.

- F. The Offender Rehabilitation Coordinator assigned will notify the Superintendent in writing, upon completion of the solemnization of the marriage providing the information required in Section G below.

G. Notification of Marriage to Central Office

The Director of Ministerial and Family Services shall be advised in writing by the Superintendent of the various facts concerning the marriage ceremony, i.e., names and addresses of partners, date of ceremony, name and address of the place where the ceremony occurred, witnesses, and officiating Chaplain or clergy person, or civil official.