



TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

NUMBER: AD-03.42 (rev. 1)

DATE: July 28, 2015

PAGE: 1 of 10

SUPERSEDES: AD-03.42
January 13, 2015

ADMINISTRATIVE DIRECTIVE

SUBJECT: OFFENDER MARRIAGES

AUTHORITY: Tex. Fam. Code §§ 2.001-2.012, 2.202; Tex. Gov't Code §§ 493.001, 493.006, 494.002; ED-02.04, "Texas Department of Criminal Justice Fundraising;" AD-03.72, "Offender Property;" TDCJ *Visitation Plan*

American Correctional Association Standards 4-4293 and 4-4498

APPLICABILITY: Texas Department of Criminal Justice (TDCJ)

POLICY:

The Texas Department of Criminal Justice (TDCJ) shall permit offenders to be married on TDCJ property or contracted facilities. Each warden shall ensure proper procedures are in place to provide for the safety and security of staff, offenders, property, and the public.

DEFINITIONS:

"Officiant" is a person authorized to perform a marriage and includes: a licensed or ordained Christian minister or priest; a Jewish rabbi; a person who is an officer of a religious organization and who is authorized by the organization to perform a marriage; a justice of the supreme court, judge of the court of criminal appeals, justice of the courts of appeals, judge of the district, county, and probate courts, judge of the county courts at law, judge of the courts of domestic relations, judge of the juvenile courts, retired justice or judge of those courts, justice of the peace, retired justice of the peace, judge of a municipal court, retired judge of a municipal court, or judge or magistrate of a federal court of this state; and a retired judge or magistrate of a federal court of this state. Tex. Fam. Code § 2.202. TDCJ employees, contract employees, and volunteers shall not be permitted to perform the marriage of an offender on TDCJ property or contracted facilities.

"Workdays" are Monday through Friday, excluding state and national holidays for which TDCJ administrative offices are closed, and days when offices are closed at the direction of the executive director, such as for adverse weather.

PROCEDURES:

I. Marital Status

- A. The marital status designated by the offender at intake shall be considered the marital status of an offender during the offender's incarceration. The marital status shall only change when adding a spouse due to marriage or removing a spouse due to a death or divorce.
- B. A common law marriage is when a couple agrees to be married and after agreement live together and represent to others that they are married. Procedures and forms that may be used to prove common law marriage are provided in the *TDCJ Visitation Plan*. Common law marriage can only be accomplished prior to an offender's incarceration. The TDCJ may require additional paperwork to prove that a couple actually lived together prior to incarceration.
- C. The TDCJ shall only recognize proxy marriages performed in states that permit proxy marriage to an incarcerated offender.
- D. In order for a new spouse to be substituted for a currently listed spouse on the Family Tracking Page or the offender's approved Visitors List, a death certificate or divorce decree must be submitted to the unit inmate records supervisor.

II. Participant Requirements

A. Officiant

- 1. An individual seeking to perform a marriage on TDCJ property or contracted facilities shall complete the Application of Person Requesting to Perform a Marriage (Attachment A) and submit it to the Access to Courts headquarters at least one week prior to the scheduled marriage date.
- 2. Once authorization is granted, the individual shall be eligible to perform a marriage on any TDCJ facility for one calendar year.

B. Non-Incarcerated Intended Spouse

- 1. The non-incarcerated intended spouse shall:
 - a. Obtain the required licenses and bring to the unit the day of the marriage;
 - b. Arrange for the officiant;
 - c. Be responsible for any payment to the officiant; and

d. Make all other necessary arrangements.

2. Former employees and ex-offenders who desire to marry a currently incarcerated offender shall be reviewed for admittance based on the TDCJ *Visitation Plan*.

C. Offender

1. The offender requesting to get married on a scheduled offender marriage day must be eligible for visits in accordance with the TDCJ *Visitation Plan*.

2. The offender shall submit an Inmate Request to an Official (I-60) to request a marriage on TDCJ property or a contracted facility. The request shall be submitted to the unit access to courts supervisor or designee and shall include:

a. The non-incarcerated intended spouse's name; and

b. The name of the officiant who will be performing the marriage.

III. Review of Request

A. Access to Courts

1. The access to courts supervisor or designee shall complete their portion of the Offender Marriage Verification Worksheet (Attachment B) and:

a. Review the I-60 for completeness;

b. Confirm the request was received at least seven days prior to the unit scheduled offender marriage dates;

c. Confirm that the requested officiant is currently approved or has provided documentation to prove that the officiant is a person authorized to perform a marriage under Texas law; and

d. Approve or deny the request.

2. If the access to courts supervisor or designee denies the request, the request shall be forwarded to the warden's office for concurrence prior to notifying the offender.

3. If the access to courts supervisor or designee approves the request, the request shall be forwarded to the inmate records supervisor.

B. Inmate Records

1. The inmate records supervisor shall complete their portion of the Offender Marriage Verification Worksheet and:
 - a. Review the offender's Family Tracking Page and approved Visitors List to confirm that the offender is not currently married;
 - b. Confirm that the proposed spouse is currently on the approved Visitors List for the offender and is at least 18 years of age; and
 - c. Approve or deny the request.
2. If the non-incarcerated intended spouse is not on the offender's approved Visitors List, the request shall be denied.
3. If the inmate records supervisor denies the request, the request shall be forwarded to the warden's office for concurrence prior to notifying the offender.
4. If the inmate records supervisor approves the request, the request shall be forwarded to the warden for final approval.

C. Warden

1. The warden shall review the request and approve or deny the marriage request on the Offender Marriage Verification Worksheet.
2. If the warden denies the request, the offender shall be notified of the reason the request was denied.
3. If the warden approves the request, the request shall be forwarded to the unit chaplain for placement on the offender marriages schedule. Once approved by the warden, the marriage shall be scheduled on the next available date; however, marriages may be rescheduled due to unforeseen circumstances with the approval of the warden.

IV. Offender Marriages on TDCJ Property

- A. Each unit shall provide two non-visitation workdays per month for offenders to be married in the visitation area of the offender's assigned unit. Any exceptions shall be made on a case-by-case basis as authorized by the warden.
- B. The warden shall designate correctional staff to be present for the duration of the marriage.
- C. The unit chaplain shall be responsible for scheduling all offender marriages on the unit and shall provide the warden with a list of all offenders scheduled to be married each specified day for final approval.
- D. Offender marriages shall not take place in the chapel. Offender marriages shall take place in the visitation area or in an area approved by the warden, based on the offender's contact or non-contact visitation eligibility status, during non-visitation hours at times designated by the warden. Offender marriages shall be scheduled for no more than 30 minutes each.
- E. There is no requirement for a witness at the marriage. The marriage event shall be limited to the offender, non-incarcerated intended spouse, and the officiant.
- F. There shall be no special visiting privileges permitted in connection with or immediately after any marriage. However, if the offender is contact visit eligible, holding hands shall be permitted during the process, along with a brief embrace and kiss at the end of the process.
- G. Marriage between currently incarcerated offenders shall not be permitted.
- H. Attire of the offender, non-incarcerated intended spouse, and officiant shall be in accordance with the *TDCJ Visitation Plan*.
- I. The officiant may bring in one book or document.
- J. Only items approved in accordance with the *TDCJ Visitation Plan* shall be permitted to be brought in by the officiant or the non-incarcerated intended spouse.
- K. Non-incarcerated intended spouses may not bring in a wedding ring to be exchanged with the offender during the marriage. Offenders are only allowed a wedding ring at the time of intake in accordance with AD-03.72, "Offender Property."

- L. The offender's spouse may purchase photographs after the marriage. Funds from the sale of photo fundraising shall be handled in accordance with ED-02.04, "Texas Department of Criminal Justice Fundraising."
- M. Upon completion of the marriage the spouse shall exit the facility.
- N. The I-60 and Offender Marriage Verification Worksheet shall be placed in the offender's classification folder.
- O. The inmate records supervisor shall change the visitor's status on the Family Tracking Page and the approved Visitors List after completion of the marriage.

Brad Livingston*
Executive Director

* Signature on file