

KERN COUNTY SHERIFF'S OFFICE

Detentions Bureau Policies and Procedures

TITLE: INCARCERATED PEOPLE MARRIAGES

G-900

EFFECTIVE:	REVIEWED:	REVISED:	UPDATED:
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REFERENCE: Penal Code Section 2601, 1170; Family Code Sections 400, 402, 426(d) California Evidence Code Sections 970 (et seq.)

POLICY

It is the policy of the Kern County Sheriff's Office to allow incarcerated people to marry while incarcerated in its facilities in accordance with current State of California statutes. The Kern County Sheriff's Office neither encourages nor discourages in-custody marriages.

The Sheriff's Office will make reasonable accommodations for those who are legally able to become married in accordance with California law.

DEFINITION(S):

For the purpose of this policy, the following definitions shall apply:

Marriage Officiant: A person able to perform marriage ceremonies as defined in California Family Code, Section 400 (See Attachment C).

Contract Incarcerated Person: Any incarcerated person who is contractually held in custody for another agency.

DIRECTIVE #1

The following provisions shall apply to any marriage between an in-custody incarcerated person and their out-of-custody intended spouse:

- Requests to marry shall be submitted in writing at least seven days prior to the marriage ceremony;
- All fees, including, but not limited to, the marriage license, are to be paid in advance to the County of Kern;

- Incarcerated people may not marry another incarcerated person;
- All marriage arrangements, including securing the marriage license, obtaining the availability of the designated Marriage Officiant, and any related fees, are the responsibility of the incarcerated person and or their intended spouse;
- Incarcerated people may not participate in any marriage ceremony while on suicide watch;
- The Sheriff's Office has the right to refuse any marriage ceremony that could compromise the safety and security of the facility, staff, or incarcerated people;
- The Section Manager shall be responsible for making any determination of marriage refusal;
- In the event of an emergency the visit may be canceled or postponed by the facility without prior notice.

DIRECTIVE #2

Except as otherwise specifically detailed in this policy, staff shall not assist an incarcerated person, or any person wishing to become married to an incarcerated person, in facilitating an incarcerated person marriage.

Procedure A: Requests for In-Custody Marriage Information

Any incarcerated person who would like to become married while in custody will be instructed to submit a request for in-custody Marital Information using an Incarcerated person Request Form.

All incarcerated person requests for in-custody marital information will be forwarded to the respective facility administrative sergeant.

- Upon receiving such a request, the facility administrative sergeant, or their designee will provide the incarcerated person with an in-custody Marital Information form (attachment A);
- If an out-of-custody individual contacts facility administration inquiring about becoming married to an incarcerated person, the facility administrative sergeant will make an in-custody marital information form available to the out-of-custody contact;
- The in-custody marital Information form will also be available to the public on the KCSO web site.

Procedure B: Processing the Incarcerated Person Marriage Request

Upon receiving a marriage request from an incarcerated person's out-of-custody intended spouse, the facility administrative sergeant or their designee will verify the contract status of the incarcerated person (ICE, US Marshall, etc.).

DIRECTIVE B-1: County incarcerated person marriage requests**The facility administrative sergeant or their designee will:**

Verify any conflicts of interest (victim/witness relationship in a criminal case etc.) by checking the incarcerated person's information in JMS and CLETS;

- Enter the incarcerated person's court case numbers in JMS function DADSP to determine if the intended spouse is listed as a "B" defendant;
- Enter the incarcerated person's name, sex, and DOB in CLETS using function RO to determine if the intended spouse has a current protective order against the incarcerated person;
- If deemed appropriate, contact other departments and/or agencies (District Attorney's Office etc.) to identify any verifiable conflicts of interest (victim/witness relationship in a criminal case etc.);
- Advise the section manager of the request and forward any related documents and supporting information to them.

DIRECTIVE B-2: Contract incarcerated person marriage requests

All contract incarcerated person marriage requests will be processed by the federal liaison sergeant.

The federal liaison administrative sergeant or their designee will:

- Contact the agency for which the incarcerated person is being held to obtain an approval or denial for the marriage;
- If the agency approves the marriage, complete the verification process listed in Directive B-1 above;
- Note the approval or denial, including the name and title of contract agency representative, on the incarcerated person request form;

Note: If the contract agency provides additional documentation of their approval or denial, the documentation shall be placed in the incarcerated person file.

- Ensure that the incarcerated person and out-of-custody intended spouse are notified in the event that the contract agency denies the marriage request;
- Advise the section manager of the request and forward any related documents and supporting information to them.

The Section Manager will:

- Review the marriage request and any supplemental information;
- Approve or deny the marriage request;
- If the marriage request is **approved**, complete a Notice of Incarcerated Individual Form (attachment B), verifying the in-custody status of the incarcerated person intending to become married;
- If the marriage request is **denied**, complete a written response documenting the decision;

Note: An incarcerated person may only be denied the right to marry as is reasonably related to legitimate governmental interests which can be clearly substantiated and articulated.

- Forward the completed form to the facility administrative sergeant.

Procedure C: Approved Incarcerated Person Marriage Requests

If a request for incarcerated person marriage has been approved, the out of custody intended spouse will need to provide the completed Notice of Incarcerated Individual form (Attachment B) to the Kern County Clerk's Office.

The facility administrative sergeant will:

- Notify the incarcerated person and out of custody intended spouse of the section manager's decision;
- Provide the completed Notice of Incarcerated Individual form to the intended spouse either in person or via U.S. Mail;

- Arrange for the incarcerated person to sign the “Affidavit of Inability to Appear and the Request for Issuance of a Marriage License” in the presence of the intended spouse and a notary.

Procedure D: Incarcerated Person Marriage Ceremonies

Upon completion of the necessary requirements detailed in the in-custody Marital Information form (attachment A) by the out-of-custody intended spouse, the facility administrative sergeant or their designee will:

- Coordinate with all parties to arrange for the incarcerated person to participate in the marriage ceremony;
- Requests to marry shall be submitted in writing to the facility administrative sergeant at least seven days prior to the requested marriage ceremony date;

If necessary, staff shall assist with moving any official marriage documents between the incarcerated person and their visitors.

The following shall apply to any in-custody incarcerated person marriage ceremony:

- Any marriage ceremony shall be non-contact;
- A marriage ceremony may not be performed by the jail chaplain or chaplaincy volunteers;
- Marriage Officiants are only allowed to bring their paperwork necessary to complete the marriage ceremony, marriage license, notary book, pen, etc.;
- Marriage Officiants are not allowed to conduct notary services other than those necessary during the marriage ceremony;

Note: Government Code 8224(a) prohibits the notary public who has authenticated the signature of the person who is unable to physically appear in person at the County Clerk’s Office from also being the person solemnizing the marriage.

- Flowers or other ceremonial decorations are not permitted;
- Exchanges of rings or other symbolic exchanges are not permitted;
- Ceremonies may be civil or religious, but no religious rites beyond readings are permitted;

- Persons permitted to participate in the ceremony are subject to search on jail grounds;
- Cameras, audio, or video recording are not permitted. Any violation of this rule will subject visitors to immediate removal from the jail grounds and cancellation of the marriage process;
- Media coverage of the marriage ceremony is not permitted;
- Only jail clothing is allowed for the incarcerated person getting married;
- Any inappropriate behavior during the ceremony or the visit period thereafter will be cause for immediate termination of the ceremony;
- Persons permitted to participate in the ceremony are limited to the incarcerated person, their intended spouse, the Marriage Officiant, and one witness. If an interpreter is necessary for translation of the service, the interpreter shall also serve as the required witness. The interpreter may be chosen by the couple and accompany the intended spouse at the ceremony;
- Marriage ceremonies shall occur during normal facility visiting times. A marriage ceremony will count as one hour of visiting time. Incarcerated people must have one hour of visiting time available for the week;
- Marriage ceremonies shall take place within a preselected attorney visiting room within any secure non-contact facility (Pre-Trial, CRF, Max-Med);

Note: An incarcerated person housed at the Minimum facility will be temporarily transferred to either the Max-Med or Pre-Trial facility for facilitation of their marriage ceremony. Marriage ceremonies for minimum incarcerated people shall occur within the visiting hours of the designated facility. Following the ceremony, the incarcerated person will be immediately returned to the Minimum facility;

- Incarcerated people shall remain within the secure confines of the facility at all times (except in cases of temporary Minimum incarcerated people transfers to Max-Med or Pre-Trial).