

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	12/11/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 1/22/2016

2. COMAR Codification

Title Subtitle Chapter Regulation

12 02 21 01 - .07

12 12 17 07

3. Name of Promulgating Authority

Department of Public Safety and Correctional Services

4. Name of Regulations Coordinator Telephone Number
George H Hall 410 339 5073

Mailing Address

300 E Joppa Road Suite 400B

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5. Name of Person to Call About this Document Telephone No.
Stephanie Coates 410 585 3301

Email Address

6. Check applicable items:

- New Regulations

- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: December 20, 2012.

- Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes - No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Stuart M.

Nathan, Assistant Attorney General, (telephone #410 585 3070) on December 11, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Stephen T. Moyer

Title

Secretary

Telephone No.

410 339 5000

Date

December 11, 2015

Title 12
DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONAL SERVICES

Subtitle 02 DIVISION OF CORRECTION

12.02.21 Inmate Marriage

Subtitle 12 PATUXENT INSTITUTION

12.12.17 Special Activities

Authority: Correctional Services Article, §2-109(c), Annotated Code of Maryland
Correctional Services Article, §4-208, Annotated Code of Maryland

Notice of Proposed Action

[]

The Secretary of Public Safety and Correctional Services proposes to repeal Regulation .01 under COMAR 12.02.21 and replace it with new Regulations .01 — .12; and repeal §§A. — E. under Regulation .07 under COMAR 12.12.17 and replace it with language indicating that Patuxent Institution will comply with regulatory language for inmate marriage established under COMAR 12.02.21.

Statement of Purpose

The purpose of this action is to Repeal existing language under COMAR 12.02.21 and replace the outdated language with current procedures detailing requesting, processing, and approving inmate marriages at a correctional facility; and repeal §§A. — E. under COMAR 12.12.17.07 and replace the text with language indicating that Patuxent Institution shall comply with COMAR 12.02.21 when confronted with a request for an inmate to marry.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Stephanie Coates, Director — Religious and Volunteer Services, Department of Public Safety and Correctional Services, 6776 Reisterstown Road Baltimore, Maryland 21215-2342, or call 410 585 3301, or email to , or fax to 410 764 4373. Comments will be accepted through February 21, 2016. A public hearing has not been scheduled.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 2016
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
No
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
No funding is required to implement or maintain the purpose of these regulations.
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
These are administrative changes that require no additional resources to implement or manage.
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
These are administrative changes that relate to the Department of Public Safety and Correctional Services only.
- G. Small Business Worksheet:

Attached Document:

Title 12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Subtitle 02 DIVISION OF CORRECTION

Chapter 21 Inmate Marriage

Authority: Correctional Services Article, §2-109(c), Annotated Code of Maryland

[.01 Request to Marry by an Inmate.

- A. An inmate who wishes to marry may discuss the inmate's intentions with an institutional chaplain.
- B. An inmate shall submit a marriage ceremony plan to the institutional chaplain for review. The institutional chaplain shall assist an inmate in the development of a ceremony plan.

C. The Commissioner shall ensure that a warden shall review the ceremony plan to ensure it is consistent with the following institutional security concerns:

- (1) Time;
- (2) Place;
- (3) Number of visitors; and
- (4) Manner of the ceremony.

D. The warden shall approve the conducting of the ceremony within the institution if the plan meets the requirements contained in §C of this regulation.

E. An inmate's classification counselor shall encourage an inmate in the family leave program who wishes to marry, to plan the marriage ceremony to take place while on an approved leave.]

.01 Purpose.

A. *The following regulations establish policy for the Department of Public Safety and Correctional Services (Department) concerning inmate marriage.*

B. *The following regulations establish procedures for:*

- (1) *Requesting to marry an inmate at a correctional facility;*
- (2) *Processing and approving a request to marry an inmate at a correctional facility; and*
- (3) *Arranging for and conducting the marriage ceremony.*

C. *These regulations are not intended to infringe upon an individual's statutory right to marry, but do govern how the legal right to marry may be exercised when the marriage involves an inmate confined in a Department correctional facility.*

.02 Definitions.

A. *In this chapter, the following terms have the meanings indicated.*

B. *Terms defined.*

(1) *"Business day" means a day of the week other than Saturday or Sunday or any other day that State offices are closed.*

(2) *"Correctional facility" has the meaning stated in Correctional Services Article, §1-101, Annotated Code of Maryland.*

(3) *Employee.*

(a) *"Employee" means an individual assigned to or employed by the Department in a full-time, part-time, temporary, or contractual position regardless of job title or classification.*

(b) *"Employee" includes:*

- (i) *An intern; and*
- (ii) *A volunteer.*

(4) *Inmate.*

(a) *"Inmate" means an individual who is actively or constructively detained or confined in a Department correctional facility.*

(b) *"Inmate" includes an individual referred to as:*

- (i) *A detainee;*
- (ii) *An offender;*
- (iii) *A prisoner; and*
- (iv) *A resident.*

(5) *"Marry" means the legal union of two individuals in matrimony.*

(6) *"Officiant" means an individual authorized by State law to legally marry individuals.*

.03 Eligibility.

A. *An inmate and the inmate's intended spouse shall comply with minimum requirements established by State and local statute and regulation concerning eligibility to marry.*

B. *An inmate may not marry:*

- (1) *An employee; or*
- (2) *Another inmate.*

C. *An inmate shall be mentally competent according to State law.*

.04 Inmate Records.

An individual planning to marry an inmate may request and be granted access to the inmate's correctional history according to procedures established elsewhere in COMAR for accessing inmate case records after the commitment to marry is agreed to by both the inmate and intended spouse.

.05 Requesting to Marry an Inmate at a Correctional Facility.

A. *The inmate and the inmate's intended spouse are required to independently submit a written request to marry.*

B. *A written request to marry under §A of this regulation shall be submitted to the inmate's managing official:*

- (1) *In a format established by the managing official that, at a minimum provides the following information:*

- (a) From the inmate, the:
 - (i) Inmate's name;
 - (ii) Inmate's identification number;
 - (iii) Inmate's facility and housing assignment;
 - (iv) Intended spouse's full name;
 - (v) Intended spouse's date of birth;
 - (vi) The date requested for the ceremony; and
 - (vii) The type of ceremony, for example, civil or religious;
 - (b) From the intended spouse, the intended spouse's:
 - (i) Full name;
 - (ii) Current address;
 - (iii) Current telephone number;
 - (iv) Date of birth;
 - (v) Social security number ;
 - (vi) Statement indicating that the intended spouse has reviewed or declines to view the inmate's correctional history; and
 - (vii) Correctional or law enforcement volunteer or employment history, if applicable; and
 - (2) At least 60 business days before the date requested for the ceremony.
 - C. If requested, a managing official may approve up to three sessions of pre-marital counseling involving the inmate, intended spouse, and approved officiant.
 - D. Only the managing official of the correctional facility where an inmate is requesting to marry may authorize an inmate to marry at the correctional facility.
 - E. A managing official may not require a chaplain or other religious leader under the authority of the managing official to participate in the inmate marriage process established under this chapter if the chaplain or other religious leader has a religious constraint.
- .06 Processing a Request to Marry and Inmate at a Correctional Facility.**
- A. Within 5 business days of receiving written requests to marry an inmate at a correctional facility from both, the inmate and the intended spouse, the managing official shall designate a member of the facility's staff to process the request to marry an inmate at the facility according to this chapter.
 - B. The individual designated (designee) under §A of this regulation shall:
 - (1) Review the requests from the inmate and intended spouse; and
 - (2) At a minimum:
 - (a) Establish that the:
 - (i) Commitment to marry is agreed to by both the inmate and intended spouse;
 - (ii) Marriage does not constitute a threat to security or operation of the facility; and
 - (iii) Marriage complies with requirements established under this chapter.
 - (b) Consider the following information:
 - (i) The inmate's criminal record to include information contained in related police reports and pre-sentence investigations;
 - (ii) The inmate's correctional adjustment history;
 - (iii) Compliance with the inmate's case plan;
 - (iv) The existence of detainers and pending charges for the inmate and intended spouse;
 - (v) The inmates physical and mental health;
 - (vi) If the inmate is a Patuxent inmate, from the Patuxent inmate's treatment team as to the inmate's mental competency; and
 - (vii) If the intended spouse had any involvement in correctional or law enforcement related services (volunteer or employment) that may have placed the intended spouse in contact with the inmate.
 - C. The designee processing a request under §A of this regulation shall:
 - (1) Review the information provided by the inmate and intended spouse, or additional information requested of the parties; and
 - (2) Determine if the requested marriage:
 - (a) Meets eligibility requirements established under Regulation .03 of this chapter;
 - (b) Meets minimum requirements established under §B(2)(a) of this regulation; and
 - (c) Would not pose a risk to security or the orderly operation of the facility based on the information considered under §B(2)(b) of this regulation.
 - D. If the designee determines that the inmate marriage does not meet minimum requirements under §C(2) of this regulation the designee shall:
 - (1) Prepare a written recommendation to deny the request;
 - (2) Include in the recommendation the basis for the recommendation; and
 - (3) Forward the recommendation to the managing official no later than 10 business days after being designated to process the request.

E. A managing official receiving a recommendation under §D of this regulation may:

(1) Accept the recommendation, in which case the managing official shall notify the designee to advise the inmate and intended spouse, in writing, that:

(a) The marriage ceremony will not be permitted at the correctional facility and the reasons; and

(b) Unless the inmate demonstrates significant change in the circumstances on which the denial is based as provided under §E(1)(a) of this regulation the managing official's decision is final with no opportunity for appeal; or

(2) Not accept the recommendation and advise the designee to continue to process the request:

(a) As submitted; or

(b) With modification to the original submission.

F. If the designee finds the request meets requirements under §C of this regulation or the managing official directs that the designee continue to process the request, with or without modification, under §E(2) of this regulation, the designee shall process the request as specified under Regulation .07 of this chapter.

.07 Authorization — Request to Marry and Inmate at a Correctional Facility.

A. The managing official's authorization to marry an inmate at the correctional facility is contingent upon receipt and approval of information required under this regulation.

B. A designee processing a request to marry an inmate that has met the conditions established under Regulation .06 of this chapter shall:

(1) Within 5 business days of determining that the request meets conditions established under Regulation .06 of this chapter the designee shall:

(a) Provide the inmate with a copy of an Inmate Marriage Information sheet; and

(b) Instruct the inmate on completing the Inmate Marriage Information sheet advising:

(i) That authorization of the request to marry an inmate at the correctional facility is predicated on receipt and approval of the information requested on the sheet;

(ii) The inmate shall complete or have the intended spouse complete the sheet and submit the completed sheet to the coordinator a minimum of 10 business days before the requested date of the ceremony;

(iii) The inmate and the intended spouse shall retain a copy of the completed sheet; and

(iv) The inmate or intended spouse shall provide the officiant named on the sheet a copy of the sheet.

(2) Advise the inmate that:

(a) The inmate, or the intended spouse, is responsible for expenses related to the marriage, for example, marriage license fee and expenses for the ceremony and officiant;

(b) The intended spouse is responsible for obtaining the marriage license in the county where the inmate's correctional facility is located;

(c) The intended spouse is responsible for providing a legally accepted copy of the marriage license to the coordinator (submitted with the completed Inmate Marriage Information sheet);

(d) A Department officiant may not participate in the arrangements for the inmate marriage and the intended spouse is responsible for obtaining the services of an officiant and notifying the coordinator in writing (included in the completed Inmate Marriage Information sheet);

(e) The intended spouse is required to obtain a list of items the officiant intends to use at the ceremony (included with the Inmate Marriage Information sheet);

(f) A maximum of four guests (identification information is required to be included in the Inmate Marriage Information sheet) may be permitted to attend the marriage ceremony based on:

(i) The intended spouse and officiant are not counted as guests; and

(ii) Any individual under 18 years old, including an infant, shall be counted as a guest;

(g) The intended spouse, officiant, and guests are required to comply with all policy and procedure and COMAR regarding visitors to the facility; and

(h) The maximum time permitted for conducting the marriage ceremony and post-ceremony visitation is two hours.

F. Upon receipt of the information required under §B of this regulation by the designee, the designee shall, as soon as possible after receipt, present the information to the inmate's managing official for review and authorization of the request to marry an inmate at the correctional facility.

G. A managing official shall review the information received in connection with the request to marry an inmate at the correctional facility and notify the designee that the information is:

(1) Acceptable and that authorization to marry the inmate at the correctional facility is granted; or

(2) Not acceptable and the request to marry an inmate at the correctional facility is denied.

H. If the request to marry an inmate at the correctional facility is denied under §G(2) of this regulation, the designee shall notify the inmate and intended spouse, in writing:

(1) Of the denial;

(2) Of the reason for the denial; and

(3) Unless the inmate demonstrates significant change in the circumstances on which the denial is based as provided under §H(2) of this regulation, the denial is final with no opportunity for appeal.

I. If the managing official authorizes a request to marry an inmate at the correctional facility, facility, as part of the authorization, the managing official may:

- (1) Limit the number of guests to less than four;*
- (2) Deny attendance of a specific requested guest;*
- (3) Reduce the time permitted for conducting the marriage ceremony and post-ceremony visitation;*
- (4) Deny the use of items to be used by the officiant;*
- (5) Approve the original date and time requested for the ceremony; or*
- (6) Establish an alternate date and time for the ceremony.*

.08 Arrangements for Inmate Marriage Ceremony.

A. When notified under Regulation .07 of this chapter of the managing official's authorization of a request to marry an inmate at the correctional facility, the designee shall finalize arrangements for conducting the ceremony.

B. The designee shall:

- (1) Notify the affected shift supervisor, or a designee, of the date and time of the ceremony;*
- (2) Arrange for entry to the facility of:
 - (a) The intended spouse;*
 - (b) Approved guests; and*
 - (c) Officiant, including approved ceremonial items;**
- (3) If appropriate, register the inmate's wedding ring with the facility property officer; and*
- (4) Arrange for approved post-ceremony visitation.*

C. After the ceremony is completed, the inmate or the inmate's spouse shall:

- (1) Immediately obtain a copy of the certificate of marriage signed by the officiant; and*
- (2) Within 5 business days of the date of the ceremony provide the designee with a copy of the court-approved certificate of marriage.*

D. Upon receipt of the court-approved certificate of marriage, the designee shall forward all documents related to the inmate's marriage to Case Management for inclusion in the inmate's base file.

.09 Non-Disciplinary Inmate Transfer — Subsequent to Approved Request to Marry an Inmate at the Correctional Facility.

A. If authorization to marry an inmate at a correctional facility has been granted and the involved inmate is transferred to a different Department correctional facility for non-disciplinary reasons, the inmate, if the inmate intends to continue with the plan to marry, is required to notify the managing official of the receiving correctional facility, as soon as possible after the transfer is completed, of the intent to marry.

B. A managing official notified under §A of this regulation shall:

(1) Obtain from the inmate's previous managing official documentation concerning the request and authorization to marry an inmate at the correctional facility; and

(2) Review the information obtained.

C. After review of the information concerning the request and authorization, the new managing official may, according to provisions established under this chapter:

(1) Overturn the previous managing official's authorization and deny the request to marry an inmate at the new correctional facility; or

(2) Modify the previous managing official's authorization.

D. Notifications and arrangements related to conducting the marriage ceremony at the receiving correctional facility shall be in accord with those established in this chapter.

.10 Disciplinary Inmate Transfer — Subsequent to Approved Request to Marry an Inmate at the Correctional Facility.

If an inmate who has been granted permission to marry at a correctional facility under this directive is transferred to a different Department correctional facility for disciplinary reasons, the inmate, if the inmate intends to continue with the plan to marry, is required to initiate a new request to marry at the correctional facility in accord with provisions of this chapter.

.11 Federal or Interstate Corrections Compact Transfer — Subsequent to Approved Request to Marry an Inmate at the Correctional Facility.

A. If an inmate who is housed in a Department correctional facility, but who is under federal or another state's jurisdiction requests to marry at the correctional facility, the inmate is required to:

(1) Comply with policy and procedure and statute and regulation concerning inmate marriage of the sending jurisdiction; and

(2) If the inmate is a federal detainee, obtain authorization from the United States Marshall and the prosecutor in the detainee's case.

B. If an inmate under §A of this regulation submits a request to marry at the correctional facility to a Department managing official, the managing official, or a designee, shall include contact with and input from the inmate's

responsible jurisdiction as part of processing the request to marry at the correctional facility as established under this chapter.

.12 Housing a Married Inmate.

A. If an individual, who is not in the custody of the Department and married to an inmate, is subsequently placed in the custody of the Department, the married couple may not be housed in the same dormitory or housing unit.

B. If a married couple, who at the time of the marriage is not in the custody of the Department, is subsequently placed in the custody of the Department, the married couple may not be housed in the same dormitory or housing unit.

Title 12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Subtitle 12 PATUXENT INSTITUTION

Chapter 17 Special Activities

Authority: Correctional Services Article, §4-208, Annotated Code of Maryland

.07 Inmate Request to Marry.

[A. An inmate who wishes to marry may discuss his or her intentions with the Institution chaplain and a member of the inmate's unit treatment team.

B. An inmate shall submit his or her marriage ceremony plan to the Institution chaplain for review. The Institution chaplain shall assist an inmate in the development of a marriage ceremony plan.

C. The Director shall ensure that the Warden reviews the ceremony plan to ensure that it is consistent with the following Institution security concerns:

- (1) Time;
- (2) Place;
- (3) Number of visitors; and
- (4) Manner of the ceremony.

D. The Warden shall approve the conducting of the ceremony within the Institution if the plan meets the requirements contained in § C of this regulation.

E. The chairman of the inmate's unit treatment team shall encourage an inmate in the leave program who wishes to marry to plan the marriage ceremony to take place while the inmate is on an approved leave.]

Patuxent Institution shall comply with provisions under COMAR 12.02.21 if an inmate at Patuxent Institution requests to marry.