

<p style="text-align: center;">GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures</p>		
Policy Name: Diagnostics: Validation of Common-Law Marriage for Visitation Purposes		
Policy Number: 220.06	Effective Date: 3/27/2020	Page Number: 1 of 3
Authority: Commissioner	Originating Division: Facilities Division	Access Listing: Level I: All Access

I. Introduction and Summary:

The Facilities Division will use a standard process for offenders to establish the validity of a Common-Law Marriage. A Common-Law Marriage validated in this way will be recognized for visitation purposes and any other applicable situations during an offender's incarceration, unless something occurs to invalidate or nullify the relationship. This process should be accomplished during the diagnostic phase of incarceration.

II. Authority:

- A. O.C.G.A. §§ 16-6-20, 19-3-1, 19-3-1.1, 19-3-2, 19-3-3, and 19-3-4;
- B. GDC Standard Operating Procedures (SOPs): 220.05 Diagnostic Reception, Orientation, and Processing; 227.05 Visitation of Offenders; and
- C. ACA Standard: 5-ACI-5A-01 (ref. 4-4285).

III. Definition:

Common-Law Marriage - A legal framework in a limited number of jurisdictions where a couple is legally considered married, without that couple having formally registered their relationship as a civil or religious marriage.

IV. Statement of Policy and Applicable Procedures:

- A. The following procedures will be used to establish the validity of a Common-Law Marriage, established before January 1, 1997, between an offender and a member of the public:
 - 1. During the diagnostic phase of incarceration, an offender who claims a Common-Law Marriage will be given the opportunity to establish the validity of the relationship;
 - 2. Such opportunity will be provided during orientation at the diagnostic center or probation center;

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3. Common-Law Marriage will be explained to the orientation group at the diagnostic center or probation center (Attachment 1: Explanation of Common-Law Marriage);
- B. Explanation of Common-Law Marriage and Affidavit of Common-Law Husband/Wife:
1. Attachments 1 (Explanation of Common-Law Marriage) and 2 (Affidavit of Common-Law Husband/Wife) will be given to an offender who claims a Common-Law Marriage;
 2. A notary public will be made available as a witness for the offender to sign the appropriate affidavit for the Attachment 2: Affidavit of Common-Law Husband/Wife form;
 3. At the offender's expense, the offender will mail the other affidavit to his or her common-law spouse;
 4. It is the responsibility of the common-law spouse to obtain a notary public to witness his or her signing of the affidavit;
 5. The common-law spouse must mail the signed and notarized affidavit back to the offender;
 6. The offender will return his or her spouse's signed affidavit to the offender's counselor;
 7. After both signed and notarized affidavits have been received, the facility/center will add the common-law spouse to the offender's visitation list, according to procedures described in SOP 227.05, Visitation of Offenders;
 8. Offenders may not claim both a Common-Law Marriage and a conventional marriage; and
 9. Such claim would violate state law prohibiting bigamy (O.C.G.A. §§ 16-6-20 and 19-3-2).

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V. Attachments:

Attachment 1: Explanation of Common-Law Marriage
Attachment 2: Affidavit of Common-Law Husband/Wife

VI. Record Retention of Forms Relevant to this Policy:

Attachment 1 shall be utilized per the SOP until such time it is revised or becomes obsolete. Upon completion, Attachment 2 shall be retained in the offender's institutional file.