

## Practice Advisory Facilitating Marriages in Immigration Detention<sup>1</sup>

June 30, 2026

### I. Introduction

For many detained noncitizens, the ability to marry is significant not only because it implicates a fundamental personal and legal right<sup>2</sup>, but also because a valid marriage may be relevant to eligibility for certain forms of immigration relief or benefits that could be their ticket to freedom from U.S. Immigration and Customs Enforcement (ICE) detention. Accordingly, unnecessary delays or barriers in accessing the marriage process may have significant consequences for detained noncitizens and their families.

Unfortunately, detained persons in ICE custody frequently encounter significant procedural and logistical barriers when attempting to coordinate marriage requests. This is primarily due to the absence of uniform, publicly available guidance directing how such requests are processed across detention facilities nationwide.

This practice advisory is intended as a practical guide for practitioners seeking to facilitate marriage requests for detained clients.<sup>3</sup> Because the process governing marriage requests in ICE custody may vary significantly depending on the facility, the governing ICE field office, and applicable state and local law, practitioners should independently verify specific requirements with the relevant detention facility, local ICE personnel, and state, county, or parish (in Louisiana) marriage licensing authorities in each case.

### II. ICE Detention Standards: Overview and Applicability

ICE manages a network of detention facilities, operated by private, for-profit prison companies and local, state or county governments under contract. To regulate conditions and operations, the former Immigration and Naturalization Service (INS), ICE's predecessor agency, first issued national detention standards to govern detention operations. These standards are known as the National Detention Standards (NDS). The NDS apply to non-dedicated facilities, which are facilities used for other purposes besides immigration detention, like detaining persons in state or other federal custody.<sup>4</sup> These standards have since been amended multiple times, most recently in 2026.<sup>5</sup>

---

<sup>1</sup> Publication of the National Immigration Project, 2026. This practice advisory is released under a Creative Commons Attribution 4.0 International License (CC BY 4.0). The advisory is intended for authorized legal counsel and is not a substitute for independent legal advice provided by legal counsel familiar with a client's case. Counsel should independently confirm whether the law has changed since the date of this publication. The author of this practice advisory is Rebecca Chavez, Staff Attorney. The author would like to thank Michelle Méndez, National Immigration Project Legal Director, for her comment and review.

<sup>2</sup> The Supreme Court has long recognized marriage as a fundamental liberty interest protected by the Constitution. *Griswold v. Connecticut*, 381 U.S. 479, 486 (1965). Marriage is "the most important relation in life," *Maynard v. Hill*, 125 U.S. 190, 205 (1888), and the liberty protected by the Fourteenth Amendment includes the freedom "to marry, establish a home[,] and bring up children." *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923); see also *Loving v. Virginia*, 388 U.S. 1, 12 (1967) ("The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men.").

<sup>3</sup> This practice advisory draws on experiences coordinating marriage requests at the Montgomery Processing Center in Conroe, Texas, and the IAH Polk Adult Detention Facility in Livingston, Texas.

<sup>4</sup> U.S. Immig. and Customs Enforcement, National Detention Standards, revised 2026, <https://www.ice.gov/doclib/detention-standards/2026/nds2026.pdf> (hereinafter NDS Handbook).

<sup>5</sup> *Id.*

As the immigration detention system grew and increasingly relied on dedicated detention facilities, meaning facilities designed and operated solely to hold those in ICE custody, ICE introduced a separate set of standards known as the Performance-Based National Detention Standards (PBNDS). ICE first issued the PBNDS in 2008, and they have been revised twice since then, with the most recent version released in 2016.<sup>6</sup>

Both the NDS and PBNDS set standards for safety, security, order, care, activities, justice, and facility management. These standards address issues such as food services, medical care, telephone access, access to counsel, and marriage requests. The PBNDS, however, are more comprehensive and provide greater protection than the NDS, particularly when it comes to phone access, legal visitation, medical care, solitary confinement, religious practice, and disability accommodation. Neither the NDS nor the PBNDS is codified into statute or regulation, meaning that noncompliance does not typically result in significant consequences. As a result, the influence of either standard on actual detention conditions is limited.

Moreover, because ICE's contracts with private prisons and county jails are negotiated on a case-by-case basis, the application of detention standards vary across facilities. Contractors are not required to adopt the most current version of the PBNDS, contributing to a patchwork system in which detention practices can vary significantly from one facility to another.

Nonetheless, the NDS and PBNDS should still be referenced and used as persuasive authority when advocating for improved conditions or access, as they represent ICE's stated expectations for the management of facilities and the treatment of detained persons.

### **III. Preliminary Assessment Before Preparing the Marriage Request**

Prior to initiating the marriage process, practitioners should determine whether the parties are eligible to marry. Practitioners will first need to assess if the parties are already legally married under the laws of the applicable state. This inquiry should include whether either party remains legally married to a former spouse because a prior marriage was never terminated through divorce, annulment, or death. Practitioners should also determine whether the parties may have already established a legally recognized common-law or informal marriage. Because only certain jurisdictions recognize common-law marriage, and the requirements for establishing such a marriage vary by state, practitioners should assess whether the parties' circumstances satisfy the applicable state's requirements.<sup>7</sup> Practitioners will want to ask if the couple ever resided together in a jurisdiction that recognizes common-law marriage and, if so, conduct the specific common

---

<sup>6</sup> U.S. Immig. and Customs Enforcement, Performance-Based National Detention Standards 2011 (revised 2016) § 5.3 (Marriage Requests), <https://www.ice.gov/doclib/detention-standards/2011/pbnlds2011r2016.pdf> (hereinafter PBNDS Handbook).

<sup>7</sup> At the time of this writing, the following ten jurisdictions recognize some form of common-law or informal marriage: Colorado, where common-law marriages entered into on or after September 1, 2006 are valid if statutory requirements are met (Colo. Stat. § 14-2-109.5); Iowa (Iowa Code §§ 252A.3, 595.1A); Kansas (Kan. Stat. §§ 23-2502, 23-2714); Montana (Mont. Code § 40-1-403); New Hampshire, which recognizes a marriage arising from cohabitation and public acknowledgment as spouses for the statutory period (N.H. Rev. Stat. § 457:39); Oklahoma, where common-law marriage continues to be recognized under judicial precedent; South Carolina (S.C. Code § 20-1-360); Texas, which recognizes informal marriage when statutory requirements are satisfied (Tex. Fam. Code §§ 1.101, 2.401–2.402); Utah (Utah Code § 30-1-4.5); and the District of Columbia, which recognizes common-law marriages when the parties have a present mutual agreement to be married and meet applicable requirements (D.C. Code § 46-401). Several additional jurisdictions recognize only grandfathered common-law marriages established before the state abolished the creation of new common-law marriages. Alabama recognizes common-law marriages established before January 1, 2017 (Ala. Code § 30-1-20); Florida recognizes common-law marriages established before January 1, 1968 (Fla. Stat. § 741.211); Georgia recognizes common-law marriages established before January 1, 1997 (O.C.G.A. § 19-3-1.1); Idaho recognizes common-law marriages established before January 1, 1996 (Idaho Code § 32-201); Indiana recognizes common-law marriages established before January 1, 1958 (Ind. Code § 31-11-8-5); Ohio recognizes common-law marriages established before October 10, 1991 (Ohio Rev. Code § 3105.12); and Pennsylvania recognizes common-law marriages established on or before January 1, 2005 (23 Pa. Cons. Stat. § 1103).

law marriage assessment pursuant to the laws of the relevant state. If the couple has since moved out of the common law marriage jurisdiction, practitioners must verify if the last state of residence—where the couple lived together before ICE separated them—recognizes common-law marriages from another state.<sup>8</sup> If the parties have already satisfied the requirements for a valid informal marriage to each other, they may not need to pursue a new marriage ceremony and could instead explore the appropriate process for documenting or registering the existing marriage.

#### IV. Preparing the Formal Request Packet

Once practitioners have confirmed that the parties are eligible to marry and that both parties intend to marry, they can begin the marriage request process. When a detained person seeks to marry while in ICE custody, the request must be submitted through a formal approval process administered by both ICE and the detention facility. At intake or processing, detention facilities provide each detained person with ICE's *National Detainee Handbook*, a standardized document provided to all detained persons that outlines general rules, rights, and procedures governing detention, including how to submit marriage requests and navigate facility processes.<sup>9</sup> In addition, each detention facility issues a local supplement to the Handbook, which may impose facility-specific procedure, documentation requirements, and approval processes.<sup>10</sup> If possible, practitioners should ask the client to review the facility's local supplement to determine the procedures followed by the specific detention facility. The local supplement may identify the preferred method of submitting a marriage request and the appropriate request recipient for that facility.

Some detention facilities have chaplains or religious services staff who may be able to assist with the marriage request process, including providing information about facility procedures, identifying required forms, and facilitating communication with appropriate facility personnel. Practitioners should consider contacting the facility chaplain or religious services department when available, and should also advise the detained person to seek assistance from the chaplain directly. Practitioners should be aware that some chaplains, as a matter of their own practice or policy, may choose to communicate only with the detained person and may decline to discuss facility procedures or requests directly with outside counsel. In those circumstances, the detained person may need to initiate the communication and obtain the necessary information or forms through the chaplain.

The PBNDS and the ICE National Detainee Handbook establish the minimum requirements for a request to marry while in ICE custody. At a minimum, the marriage request packet must include:

**Written request from the detained person.** The written request should (1) request permission to marry, (2) affirm that the detained person is legally eligible to marry under the laws of the state where they are detained, and (3) affirm that the detained person is mentally competent to enter into marriage.

**Written affirmation from the intended non-detained spouse.** The intended non-detained spouse should provide a signed written statement affirming their intent to marry the detained person. Practitioners should include a copy of the intended non-detained spouse's government-issued identification. Although neither the PBNDS nor the ICE National Detainee

---

<sup>8</sup> See e.g., *Kleinfield v. Veruki*, 372 S.E.2d 407, 409 (Va.App.,1988) (holding that Virginia recognizes a common-law marriage that is valid under the laws of the jurisdiction where the common-law relationship was created).

<sup>9</sup> U.S. Immig. and Customs Enforcement, National Detainee Handbook 2026, at 21, <https://www.ice.gov/doclib/detention/ndHandbook/ndhEnglish.pdf>.

<sup>10</sup> <https://www.ice.gov/detain/detention-management/national-detainee-handbook>.

Handbook requires notarization, having the affirmation notarized may reduce the likelihood of administrative delays or requests for additional verification.

In addition to these minimum requirements, some detention facilities may impose additional documentation requirements, which may include a copy of the marriage license, identification for the proposed officiant, documentation establishing the officiant's authority to perform marriages, and identification for any required witnesses. Practitioners should consider preparing and gathering this additional documentation, even if not required at the initial submission stage. Having these materials readily available may help avoid delays if the facility requests supplemental documentation during the review process.

## **V. Submitting the Marriage Request Packet**

Marriage requests may be submitted through several channels, depending on the facility's procedures and the circumstances of the detained person. Generally, the request is submitted to the assigned Enforcement and Removal Operations (ERO) Deportation Officer (DO), who will forward it to the appropriate facility administrator or Field Office Director for review and processing. However, practitioners should be aware that submission procedures vary. Although the PBNDS and the ICE National Detainee Handbook permit legal representatives to submit marriage requests on behalf of detained persons, some facilities may require submission through the detained person, the facility's chaplain or religious services department, or a facility-specific process.

If the assigned DO is unknown, practitioners may identify them by calling the ERO office responsible for the detention facility. The ERO office telephone number is typically listed on the facility's webpage.<sup>11</sup> Because ERO offices are often difficult to reach by telephone, practitioners should submit the request to the appropriate ICE Field Office outreach email address and request that it be forwarded to the assigned DO.<sup>12</sup> If practitioners are unable to reach the assigned DO or do not receive a response through the usual channels, they should also consider sending the request by mail to the ERO Field Office or detention facility to help ensure that it reaches the appropriate recipient. In some cases, practitioners may also submit or route the request through the detention facility's chaplain or religious services department.

While marriage requests may often be submitted by email, some detention facilities require in-person delivery or submission through a facility-specific system. For example, some facilities may require the detained person to initiate or submit the request directly using the facility's electronic tablet system or another designated method.

## **VI. Obtaining the Marriage License**

After obtaining (or while pursuing) approval from ICE and the detention facility to proceed with the marriage, practitioners must address the state and local requirements for obtaining a valid marriage license. The requirements for obtaining a marriage license vary by jurisdiction and may present unique challenges when one party is detained.

Practitioners should begin by determining the state and local licensing requirements that will apply based on where the marriage ceremony is expected to take place. Because marriage ceremonies involving detained persons will often occur at the detention facility, practitioners

---

<sup>11</sup> U.S. Immig. and Customs Enforcement, Detention Facilities, <https://www.ice.gov/detention-facilities>.

<sup>12</sup> These email addresses usually follow the format [City Name].Outreach@ice.dhs.gov. For example, LosAngeles.Outreach@ice.dhs.gov or Atlanta.Outreach@ice.dhs.gov. A list of ICE field offices and their corresponding contact information, including outreach email addresses, can be found on the ICE Field Offices webpage: <https://www.ice.gov/contact/field-offices>.

should generally begin by evaluating whether a marriage license can be obtained through a licensing authority in the state where the detention facility is located. In many jurisdictions, applicants—whether residents or nonresidents—must obtain the marriage license from an authorized licensing authority in the state where the ceremony will occur, and some jurisdictions tie the licensing process to the county, parish, or other local authority where the ceremony is planned.

The rules governing which local licensing authority may issue a license vary by state. Some states permit applicants to obtain a marriage license from any authorized licensing office within the state, including a different county (or parish) from where the ceremony will take place. Other states impose residency requirements or limit where nonresident applicants may obtain a license. Practitioners should therefore determine whether the licensing authority closest to the detention facility can accommodate the application process and, if not, whether another authorized licensing authority within the same state provides a more practical alternative.

If the intended non-detained spouse resides in the same state where the detention facility is located, practitioners may also consider whether obtaining the marriage license through the intended non-detained spouse's county or parish of residence, or another convenient licensing authority within that state, would facilitate the process.

For example, if a detained person is housed at the Port Isabel Service Processing Center in Los Fresnos, Texas, and the intended non-detained spouse resides in Houston, Texas, practitioners should generally begin by determining the marriage licensing requirements for the county where the detention facility is located, because the marriage ceremony will likely take place at the facility. However, because Texas permits certain absent applicant procedures for detained individuals and because traveling from Houston to Los Fresnos may be burdensome for the intended non-detained spouse, the parties may choose to obtain the marriage license through the Harris County Clerk's Office for convenience.

Practitioners should consider the following issues when assisting a detained person and their intended non-detained spouse obtain a marriage license:

#### **A. Identification Requirements**

Every state requires applicants to establish their identity before a marriage license will be issued, although the forms of acceptable identification vary by jurisdiction. For detained individuals, satisfying these requirements may present practical challenges because they may not have a government-issued identity document or may not have access to identity documents. Practitioners should therefore determine what forms of identification the issuing authority will accept and whether alternative documentation or procedures are available.

Practitioners should consult the applicable state statute and any guidance issued by the local licensing authority to determine what forms of identification are acceptable. In many jurisdictions, acceptable identification extends beyond driver's licenses and passports. For example, Texas law permits applicants to establish their identity through various forms of identification, including school records, car insurance policy that has been continuously valid for the preceding two years, or a motor vehicle certificate of title.<sup>13</sup> Accordingly, practitioners should carefully review the applicable law to identify all forms of identification that may be available to the detained person.

Practitioners should also be aware that licensing clerks may not be familiar with less commonly used forms of identification authorized by statute. Accordingly, applicants relying on such documentation should be prepared to provide the relevant statutory authority or other official

---

<sup>13</sup> Tex. Fam. Code § 2.005(b).

guidance demonstrating that the identification is acceptable under state law and, if necessary, respectfully request that the matter be reviewed by a supervisor.

### **B. In-Person Appearance Requirements and Possible Waivers**

In addition to identity requirements, practitioners must determine whether the applicable jurisdiction requires the parties to appear in person to apply for a marriage license. Some states and local licensing authorities require both applicants to appear together before the issuing official, while others permit an applicant to apply in the absence of the other party through an affidavit, absentee application, or other designated procedure.

For detained persons, practitioners should determine whether the jurisdiction provides an exception or alternative procedure that would allow the detained person to complete the marriage license application without appearing in person. If the governing law requires one or both parties to appear in person, practitioners should contact the local licensing authority to determine whether the clerk is willing to accommodate the application at the detention facility or through another authorized procedure. In some cases, licensing authorities may be willing to conduct the required in-person application at the detention facility during normal visitation hours if provided with documentation confirming the individual's detention. Practitioners should therefore inquire whether the clerk would permit the in-person application to occur at the facility upon presentation of a letter from ICE confirming that the detained person is in custody and that the marriage request has been approved. If the local licensing authority is unable or unwilling to accommodate the application, practitioners should contact other licensing authorities within the same state, where permitted, to determine whether they offer more flexible administrative procedures. Although the substantive requirements for obtaining a marriage license are established by state law, administrative practices may vary among local licensing offices.

For example, Georgia generally requires both applicants to appear in person to apply for a marriage license. If a detained person is housed at the Stewart Detention Center and the parties intend to marry there, practitioners should first contact the Stewart County Clerk to determine whether the clerk is willing to accommodate the application by issuing the marriage license at the detention facility during a regular visitation period, or by permitting the detained person's portion of the application to be executed separately at the detention facility before a notary or other authorized official. If the Stewart County Clerk is unable to accommodate the application, practitioners should contact the clerk's office in other Georgia counties to determine whether they are willing to issue the marriage license under the circumstances.<sup>14</sup>

### **C. Waiting Periods and License Expiration Dates**

Practitioners should consider any applicable waiting periods and marriage license expiration dates when coordinating the timing of a detained person's marriage. Some jurisdictions require a waiting period between the issuance of the marriage license and the date the marriage ceremony may occur, while others require the ceremony to take place within a specified period after the license is issued.

These timing requirements are particularly important in cases involving detained persons because ICE and detention facility approval processes may take longer than anticipated. If a marriage license expires before the required approvals are obtained or before the ceremony can occur, the couple may need to complete the application process again and obtain a new license. If a marriage license expires before the required approvals are obtained or before the ceremony can

---

<sup>14</sup> See S. Poverty Law Ctr., *SIFI Staff Prison Wedding: A Beautiful Moment Under Ugly Circumstances*, <https://www.splcenter.org/resources/stories/sifi-staff-prison-wedding-beautiful-moment-under-ugly-circumstances/> (describing how advocates contacted multiple licensing authorities to identify a jurisdiction whose marriage licensing procedures accommodated a detained applicant).

occur, the parties may need to complete the marriage license application process again and pay an additional license fee, depending on the requirements of the applicable jurisdiction.<sup>15</sup> Practitioners should therefore consider the anticipated timeline for ICE and facility approval when determining when to apply for the marriage license.

## VII. Facility Approval and Logistics

Under the PBNDS, “[o]rdinarily, a detainee’s request for permission to marry shall be granted.”<sup>16</sup> The NDS further provide that, once a marriage request is approved, the detained person, legal representative, or other individual acting on the detained person’s behalf is responsible for making the necessary arrangements for the marriage.<sup>17</sup> These arrangements may include obtaining a marriage license, completing any required prerequisites, and retaining an official to perform the ceremony. The marriage usually takes place inside the facility. In some cases, when the detained person is housed at a non-dedicated facility, ICE/ERO may take temporary custody of the detained person for purposes of making marriage arrangements.<sup>18</sup>

If a marriage request is approved, the parties must identify an individual authorized to perform the ceremony. Depending on the circumstances, the parties may use a judge, magistrate, religious official, or another qualified officiant.<sup>19</sup> If the parties do not already have an officiant available, practitioners should advise them of potential resources for locating one, including local courts, religious organizations, online directories, officiant websites, or social media platforms. When appropriate, practitioners may also assist with contacting potential officiants and coordinating the logistics necessary for the ceremony.

When considering a potential officiant, including a judge, magistrate, religious official, or other authorized officiant, practitioners should determine whether the individual has previously performed a marriage ceremony at the detention facility and whether the facility has already completed any required clearance process. For judges or magistrates, practitioners may contact the court where the judge or magistrate serves to determine whether the judicial officer has previously conducted marriage ceremonies at the facility or is familiar with the facility’s approval procedures.

If the proposed officiant has not previously been approved by the facility, practitioners should determine the facility’s requirements before requesting that the officiant participate in the ceremony. In some cases, the assigned DO or facility may require the officiant to provide identification or other documentation as part of the approval process. Practitioners should identify these requirements early because some officiants, including judges or other government officials, may be unwilling or unable to provide personal identification documents directly to the parties or their representatives. If advance identification or clearance is required, the officiant may need to communicate directly with the appropriate ICE or facility personnel to complete the approval process. If the facility does not require advance clearance documentation, the officiant may instead be permitted to present the required identification at the time of the ceremony.

Although approval of a marriage request generally permits the parties to proceed, the facility will typically determine the date, time, location, and procedures for the ceremony. Practitioners should communicate with the facility and the assigned DO, as appropriate, to confirm scheduling

---

<sup>15</sup> Marriage license fees vary significantly by jurisdiction, but are often in the range of approximately \$25 to \$100, with some jurisdictions charging more or imposing additional fees for required services or documentation.

<sup>16</sup> PBNDS Handbook § 5.3.

<sup>17</sup> NDS Handbook at 68.

<sup>18</sup> *Id.*

<sup>19</sup> This may include individuals ordained through online religious organizations, such as the Universal Life Church, although practitioners should verify that the officiant meets the requirements of the state where the marriage ceremony will occur.

requirements and any limitations on the ceremony. These procedures may vary significantly by facility and may include restrictions on physical contact, the number of participants permitted, and whether the detained person must remain in restraints during the ceremony. In some facilities, the ceremony may occur in a designated visitation area, including with the parties separated by a glass partition or other physical barrier. Practitioners should discuss these potential limitations with the parties in advance so they understand the conditions under which the ceremony may take place.

Practitioners should confirm whether the ceremony will take place inside the facility or whether, in cases involving non-dedicated facilities, ICE/ERO will temporarily assume physical custody of the detained person for purposes of transporting the person to an approved location outside the facility where the marriage ceremony may occur. The PBNDS provides that marriage ceremonies shall be private with no media publicity and that only individuals essential to the ceremony, such as required witnesses, may attend.<sup>20</sup> Practitioners should therefore assume that attendance will generally be limited to the officiant and any required witnesses, with additional attendees, including family members or friends, permitted only if specifically authorized by the facility.

Practitioners should confirm in advance the facility's procedures regarding attendance, identification, and clearance requirements for any approved participants. Facilities may also impose logistical requirements related to entry and security processing, including visitor approval, identification, permissible items, photographs, and any religious or ceremonial materials.

## **VIII. Strategies for Addressing Facility and/or ERO Pushback**

Although marriage requests are ordinarily expected to be granted, practitioners should understand the circumstances under which a request may be denied and the process for review. Under the PBNDS, a marriage request should be considered on a case-by-case basis.<sup>21</sup> ICE/ERO must provide the detained person with written notice of the reasons for denial within 30 days of the request.<sup>22</sup> The PBNDS identifies several circumstances in which a marriage request may be denied.<sup>23</sup> In practice, these grounds generally fall into two categories: (1) incomplete documentation or failure to satisfy procedural requirements, and (2) concerns regarding facility security, orderly operation, or other asserted government interests.

### **A. Facility or ERO Fails to Provide a Written Reason for Denial**

If the facility or ICE/ERO refuses to provide a written explanation for a denial, practitioners should remind the agency of its obligation to provide the detained person with written notice of the reasons for denial. The PBNDS and the ICE National Detainee Handbook require that, when a marriage request is denied, the detained person be notified in writing of the reasons for denial within the applicable timeframe.<sup>24</sup> Practitioners should request that any denial or restriction be provided in writing and identify the specific policy, security concern, or government interest supporting the decision.

---

<sup>20</sup> PBNDS Handbook § 5.3.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* The PBNDS provides that a marriage request may be denied where: (i) the individual is not legally eligible to marry; (ii) the individual is not mentally competent as determined by a qualified medical practitioner; (iii) the intended non-detained spouse has not affirmed in writing their intent to marry; (iv) the marriage would present a threat to the security or orderly operation of the facility; or (v) there are compelling government interests supporting denial.

<sup>24</sup> PBNDS Handbook § 5.3.

## **B. Facility Imposes Requirements or Restrictions Not Clearly Supported by Policy**

Where a facility imposes restrictions that appear to exceed or are not clearly reflected in the PBNDS or any applicable local supplement, practitioners should request the specific authority supporting such restrictions and the justification for their application in the particular case.

## **C. Facility Raises Security or Operational Concerns**

If a facility raises security, operational, or other concerns, practitioners should address any stated concerns by providing information demonstrating that the ceremony will not interfere with the facility's operations. This may include confirming that the ceremony will be limited to individuals necessary to complete the marriage, that required documentation for the intended non-detained spouse, witnesses, and officiant has been provided or will be provided as required, and that the parties will comply with all facility procedures.

## **D. Seeking Administrative Review**

If a marriage request is denied, practitioners should seek review of the denial through the ICE/ERO process by requesting review by the FOD or designee. Under the PBNDS, a facility administrator's denial must be forwarded to the FOD or designee for review, and the FOD or designee may uphold or reverse the denial after any consultations deemed appropriate.<sup>25</sup> Practitioners should consider submitting additional information or documentation addressing the stated basis for denial as part of the review process.

## **E. Delay or Denial Impacts Immigration Court Proceedings**

If the denial or delay affects an issue pending before the Immigration Court, practitioners should also consider raising the issue with the Office of Principal Legal Advisor (OPLA) and making the issue part of the record before the Immigration Judge. Practitioners should explain how the inability to complete the marriage process affects the noncitizen's immigration case and provide documentation regarding the request, denial, or delay. In appropriate cases, practitioners may request that the Immigration Judge direct OPLA, to respond on the record, provide a position regarding the issue, or facilitate communication with the relevant ICE/ERO components.

For example, a detained noncitizen wishes to marry his U.S. citizen fiancée. Once they are married, the U.S. citizen spouse can file a Form I-130 petition on his behalf. He is otherwise eligible to adjust status before the Immigration Court if the petition is approved. The parties submitted a marriage request to the DO several weeks before the next hearing but received no confirmation that the request was received or being processed. Despite multiple follow-up emails and telephone calls, the DO does not respond. Counsel also contacted the detention facility, which advises that it is awaiting approval from ICE/ERO before a marriage ceremony can be scheduled. In this circumstance, practitioners should file a motion to continue and a motion to compel DHS to adjudicate the pending marriage request, supported by the marriage request, all follow-up correspondence, and a declaration from counsel describing the efforts made to obtain a response from the DO, facility, and/or other relevant individuals. The motions should explain how DHS's delay is preventing the respondent from pursuing potentially available relief before the Court and request that the Immigration Judge direct OPLA to facilitate communication with the appropriate ERO officials. If the Immigration Judge denies the requested relief or the delay persists, practitioners should ensure that the record reflects all efforts to obtain a decision on the marriage request, DHS's responses (or lack thereof), and the prejudice caused by the delay. Maintaining a clear record of these efforts is important to preserve the issue for appeal and to

---

<sup>25</sup> PBNDS Handbook § 5.3.

support a request for remand if adjustment of status becomes available while the appeal is pending.

#### **F. Additional Advocacy Options**

Practitioners should also consider whether additional advocacy is warranted, including congressional inquiry or public advocacy. Such measures should be evaluated carefully and used strategically, taking into account the specific facts of the case and potential impacts on the detained person. Practitioners may also consider contacting the local chapter of the American Civil Liberties Union (ACLU) serving the detention facility's jurisdiction for potential advocacy assistance or guidance, given that any delay or infringement of a person's right to marry implicates fundamental personal and legal rights.<sup>26</sup>

---

<sup>26</sup> See Am. Civil Liberties Union, ACLU Affiliates, <https://www.aclu.org/affiliates>.

## Template Letter: Request from the Detained Person

[Facility Administrator/Field Office Director]

[Facility or Field Office Street Address]

[City, State, Zip Code]

Date: [Date]

**Re: Request for Permission to Marry**

Detainee Name: [Full Name]

A-Number: [AXXX-XXX-XXX]

Dear [Facility Administrator/Field Office Director],

I, [Noncitizen's Name], am currently in custody at [Facility's Name]. I am writing to respectfully request permission to marry my intended spouse, [Intended Non-Detained Spouse's Full Name].

I affirm that I am legally eligible to marry in the State of [State]. I further affirm that I am not currently married to another person and that I am mentally competent and have the capacity to enter into marriage.

I respectfully request approval to proceed with the marriage process and appreciate your consideration of this request.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

[Signature]

[Printed Name]

**Template Letter: Affirmation from the Intended Non-Detained Spouse**

[Facility Administrator/Field Office Director]  
[Facility Street Address]  
[City, State, Zip Code]

Date: [Date]

**Re: Request for Permission to Marry**  
Detainee Name: [Full Name]  
A-Number: [AXXX-XXX-XXX]

Dear Facility Administrator,

My name is [Intended Spouse's Full Name]. My date of birth is [Month, Day, Year], and I am writing this letter to affirm my sincere intent to marry [Detained Person's Full Name], who is currently in custody at [Facility's Name].

I am legally eligible to marry in the State of [State]. I am not currently married to any other person and have the mental capacity to enter into this marriage.

I respectfully request that you approve our marriage request.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

[Intended Non-Detained Spouse's Signature]  
[Intended Non-Detained Spouse's Printed Name]  
[Intended Non-Detained Spouse's Address]  
[Intended Non-Detained Spouse's Phone Number]

\_\_\_\_\_  
Date

Sworn to me this \_\_\_\_ day of \_\_\_\_, YYYY

\_\_\_\_\_  
Notary Public