



# County Technical Assistance Service

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## Inmate Marriages

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

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Sincerely,

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## Inmate Marriages

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Post v. Mohr. Not Reported in F.Supp.2d, 2012 WL 76894 N.D. Ohio, 2012. Prisoners have a constitutional right to marry and, therefore, prison regulations that interfere with that right must be reasonably related to legitimate penological interests. *Turner v. Safley*, 482 U.S. 78, 89–96, 107 S.Ct. 2254, 96 L.Ed.2d 64 (1987) (finding a regulation prohibiting inmate marriage unconstitutional); see *Zablocki v. Redhail*, 434 U.S. 374, 385–86, 98 S.Ct. 673, 54 L.Ed.2d 618 (1978) (marriage is fundamental right).

King v. Caruso 542 F.Supp.2d 703 E.D.Mich., 2008. Moreover, in the very case in which the Supreme Court held impermissible a prison regulation effecting an “almost complete ban” on marriage by inmates, *Turner v. Safley*, 482 U.S. 78, 107 S.Ct. 2254, 2267, 96 L.Ed.2d 64 (1987), the Court reiterated:

- [W]hen a prison regulation impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests. In our view, such a standard is necessary if “prison administrators ... and not the courts, [are] to make the difficult judgments concerning institutional operations.”
- *Id.* 107 S.Ct. at 2261, quoting \*713 *Jones v. North Carolina Prisoners' Union*, 433 U.S. 119, 128, 97 S.Ct. 2532, 2539, 53 L.Ed.2d 629 (1977); see also *id.* 107 S.Ct. at 2267. The Court upheld in *Turner* a Missouri regulation restricting inmate-to-inmate correspondence, 107 S.Ct. at 2263–64, and stated that an inmate's marriage is indeed “subject to substantial restrictions as a result of incarceration,” *id.* at 2265, although the restrictions imposed must be “reasonably related to legitimate penological objectives,” *id.* at 2267, including “legitimate security concerns.” *Id.* at 2266.
- The D.C. Circuit noted that while *Turner v. Safley*, 482 U.S. 78, 107 S.Ct. 2254, 96 L.Ed.2d 64 (1987), held impermissible a prison regulation effecting an “almost complete ban” on marriage by inmates,<sup>FN4</sup> the Supreme Court nonetheless reiterated:
  - [W]hen a prison regulation impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests. In our view, such a standard is necessary if “prison administrators ... and not the courts, [are] to make the difficult judgments concerning institutional operations.”

Allman v. Motley Not Reported in S.W.3d, 2007 WL 1723373 Ky.App., 2007. As stated in *Turner v. Safley*, 482 U.S. 78, 89, 107 S.Ct. 2254, 2261, 96 L.Ed.2d 64 (1987), “when a prison regulation impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests.” Thus, “legitimate security concerns may require placing reasonable restrictions upon an inmate's right to marry, and may justify requiring approval of the superintendent.” *Id.*, 482 U.S. at 97, 107 S.Ct. at 2266. The court indicated that a reasonable restriction might be one such as that provided by 28 CFR § 551.10 (1986), which the court described as generally permitting inmate marriage unless the “warden finds that it presents a threat to security or order of institution, or to public safety.” *Id.* 482 U.S. at 98, 107 S.Ct. at 2266.

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