

Getting Married In Jail?

December 2, 2013 By [Jason Kohlmeier](#)

It's your right to get married...even if you're in jail

This could also be called Five Brides Go To Court. No, it's not a budget summer movie of dubious quality, it's a real lawsuit from Missouri. Missouri (like a lot of states) had a law which required that each applicant for a marriage license sign the

application in the presence of the recorder of deeds or their deputy. That sounds fine, right? The problem is, it means that one of the license applicants can't be in prison, since they wouldn't be able to sign in front of the recorder (County Recorders don't make house... or in this case prison calls).



So, when five brides who were scheduled to marry inmates at a Missouri correctional center (aka prison) were unable to get marriage licenses because the groom couldn't get down to the county recorder, they sued, saying that the law was unconstitutional as a violation of the [14th Amendment](#), specifically that their equal protection and due process rights were being violated.

And, they won. Marriage is seen as a fundamental right under our constitution, even if the bride or groom is incarcerated. Further, the 14th Amendment prohibits any state from depriving someone of life, liberty, or property, without due process of law.

How did this happen well, first, the court found that the Missouri law, by making it virtually impossible to get a marriage license while incarcerated, significantly interfered with the fundamental right to marry. Second, if the point of the law was to have some system for verifying the identities of people applying for marriage licenses, there were other ways Missouri could have dealt with that issue without requiring both people to be physically present when signing the application. While the court didn't give any examples, one that we can think of would be to just have applicants send a copy of their driver's license or other identity card in with the application.

The final outcome? The judge prohibited the state from enforcing the law, finding that this was in the public interest. All five weddings can carry on as planned, the ultimate relief for any bride!

I'm guessing this post might get some comments and to be clear, I'm not taking a position either way on this one, just reporting an interesting case.

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While I appreciate all of our readers (I really do!) a few things to know before you send me an email with a "quick legal question" I'm a Minnesota only lawyer. I can't give any advice about the laws in any other state except Minnesota. Also, while I am a believer that while clients needs to learn as much as they can (that's why I do these blogs) I can't give advice to you via email and unless we sign a retainer agreement and pay the retainer as our malpractice carrier is very particular about giving out advice over email.