**INCEST IN THE THIRD DEGREE   
Penal Law § 255.25**

**(Committed on or after Sept 1, 2024)**

The (*specify*) count is Incest in the Third Degree.

Under our law, a person is guilty of Incest in the Third Degree when he or she [marries *or*] engages in vaginal sexual contact or oral sexual contact or anal sexual contact with a person whom he or she knows to be related to him or her, whether through marriage or not, as

*Select appropriate alternative:*

an ancestor, descendant, brother or sister of either the

whole or the half blood, uncle, aunt, nephew or niece.

The following terms used in that definition have a special meaning:

VAGINAL SEXUAL CONTACT means conduct between persons consisting of contact between the penis and the vagina or vulva.[[1]](#footnote-1)

ORAL SEXUAL CONTACT means conduct between persons consisting of contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina.[[2]](#footnote-2)

ANAL SEXUAL CONTACT means conduct between persons consisting of contact between the penis and anus.[[3]](#footnote-3)

Under our law, a person shall not be convicted of incest (or of an attempt to commit incest) solely upon the testimony of the other party unsupported by other evidence tending to establish [that the defendant married the other party, or] that the defendant was related to the other party, whether through marriage or not, as

*Select appropriate relationship:*

an ancestor, descendant, brother or sister of either the whole or

the half blood, uncle, aunt, nephew or niece.[[4]](#footnote-4)

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, each of the following three elements:

1. That on or about (*date*) , in the county of (*county*) , the defendant, (*defendant's name*), married

[or engaged in

*Select appropriate alternative(s):*

vaginal sexual contact [or]

oral sexual contact [or]

anal sexual contact

with] (*complainant’s name*);

1. That (*complainant’s name*) was related to the defendant, whether through marriage or not, as

*Select appropriate relationship:*

an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece; and

1. That the defendant knew (*complainant’s name*) was so related to him/her.

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.

1. Penal Law § 130.00(1). [↑](#footnote-ref-1)
2. Penal Law § 130.00(2)(a). [↑](#footnote-ref-2)
3. Penal Law § 130.00(2)(b). [↑](#footnote-ref-3)
4. Penal Law § 255.30(2). [↑](#footnote-ref-4)