

**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.<sup>1</sup>

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.<sup>2</sup>

ANAL SEXUAL CONTACT means conduct between persons consisting of contact between the penis and anus.<sup>3</sup>

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

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<sup>1</sup> Penal Law § 130.00(1).

<sup>2</sup> Penal Law § 130.00(2)(a).

<sup>3</sup> Penal Law § 130.00(2)(b).

[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.<sup>4</sup>

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);

2. 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

3. 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.

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<sup>4</sup> Penal Law § 255.30(2).

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.