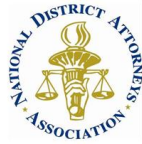


Statutory Compilation Regarding Incest Statutes

March 2013



Scope

This document is a comprehensive compilation of incest statutes from U.S. state, territorial, and the federal jurisdictions. It is up-to-date as of March 2013.

For further assistance, consult the National District Attorneys Association's National Center for Prosecution of Child Abuse at 703.549.9222, or via the free online prosecution assistance service http://www.ndaa.org/ta_form.php.

***The statutes in this compilation are current as of March 2013. Please be advised that these statutes are subject to change in forthcoming legislation and Shepardizing is recommended.**

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ALABAMA

ALA. CODE § 13A-13-3 (2013). INCEST

(a) A person commits incest if he marries or engages in sexual intercourse with a person he knows to be, either legitimately or illegitimately:

- (1) His ancestor or descendant by blood or adoption; or
- (2) His brother or sister of the whole or half-blood or by adoption; or
- (3) His stepchild or stepparent, while the marriage creating the relationship exists; or
- (4) His aunt, uncle, nephew or niece of the whole or half-blood.

(b) A person shall not be convicted of incest or of an attempt to commit incest upon the uncorroborated testimony of the person with whom the offense is alleged to have been committed.

(c) Incest is a Class C felony.

ALA. CODE § 30-1-3 (2013). LEGITIMACY OF ISSUE OF INCESTUOUS MARRIAGES

The issue of any incestuous marriage, before the same is annulled, shall not be deemed illegitimate.

ALASKA

ALASKA STAT. § 11.41.450 (2013). INCEST

(a) A person commits the crime of incest if, being 18 years of age or older, that person engages in sexual penetration with another who is related, either legitimately or illegitimately, as

- (1) an ancestor or descendant of the whole or half blood;
- (2) a brother or sister of the whole or half blood; or
- (3) an uncle, aunt, nephew, or niece by blood.

(b) Incest is a class C felony.

ALASKA R. EVID. RULE 505 (2013) HUSBAND-WIFE PRIVILEGES

(a) Spousal Immunity.

(1) *General Rule.* A husband shall not be examined for or against his wife, without his consent, nor a wife for or against her husband, without her consent.

(2) *Exceptions.* There is no privilege under this subdivision:

(A) In a civil proceeding brought by or on behalf of one spouse against the other spouse;

or

(B) In a proceeding to commit or otherwise place a spouse, the property of a spouse or both the spouse and the property of the spouse under the control of another because of the alleged mental or physical condition of the spouse; or

(C) In a proceeding brought by or on behalf of a spouse to establish the spouse's competence; or

(D) In a proceeding in which one spouse is charged with:

(i) A crime against the person or the property of the other spouse or of a child of either, whether such crime was committed before or during marriage.

(ii) Bigamy, incest, adultery, pimping, or prostitution.

(iii) A crime related to abandonment of a child or nonsupport of a spouse or child.

(iv) A crime prior to the marriage.

(v) A crime involving domestic violence as defined in AS 18.66.990.

(E) In a proceeding involving custody of a child.

(F) Evidence derived from or related to a business relationship involving the spouses.

(b) Confidential Marital Communications.

(1) *General Rule.* Neither during the marriage nor afterwards shall either spouse be examined as to any confidential communications made by one spouse to the other during the marriage, without the consent of the other spouse.

(2) *Exceptions.* There is no privilege under this subdivision:

(A) If any of the exceptions under subdivision (a)(2) of this rule apply; or

(B) If the communication was made, in whole or in part, to enable or aid anyone to commit or plan to commit a crime or a fraud; or

(C) In a proceeding between a surviving spouse and a person who claims through the deceased spouse, regardless of whether such claim is by testate or intestate succession or by inter vivos transaction; or

(D) In a criminal proceeding in which the communication is offered in evidence by a defendant who is one of the spouses between whom the communication was made; or

(E) In a proceeding under the Rules of Children's Procedure; or

(F) If the communication was primarily related to and made in the context of a business relationship involving both spouses or the spouses and third parties.

ALASKA STAT. § 25.27.040 (2013). DETERMINATION OF PATERNITY.

(a) The agency may appear on behalf of minor children or their mother or legal custodian or the state and initiate efforts to have the paternity of children born out of wedlock determined by the court. When the agency is a party to a court action in which paternity is contested, it shall request and pay for genetic

testing and procedures under AS 25.20.050(e) and may recover the costs of the testing as provided in AS 25.20.050(f).

(b) The agency may not attempt to establish paternity in any case

(1) involving incest or forcible rape, unless the mother of the child is legally competent and requests the establishment of paternity; in this paragraph, “forcible rape” means sexual assault in the first degree under AS 11.41.410 or a conviction under a law or ordinance from another jurisdiction with similar elements; “forcible rape” includes adjudications of delinquency for acts with elements similar to AS 11.41.410;

(2) when legal proceedings for adoption are pending; or

(3) when it would not be in the best interests of the children or the state.

(c) When the agency is a party in a court action in which paternity is contested, the agency shall move for a default judgment in a case that meets the conditions specified in AS 25.20.050(g).

ALASKA STAT. § 25.05.021 (2013). PROHIBITED MARRIAGES

Marriage is prohibited and void if performed when

(1) either party to the proposed marriage has a husband or wife living; or

(2) the parties to the proposed marriage are more closely related to each other than the fourth degree of consanguinity, whether of the whole or half blood, computed according to rules of the civil law.

ALASKA STAT. § 25.24.020 (2013). VOID MARRIAGES

A marriage which is prohibited by law on account of consanguinity between the persons, or a subsequent marriage contracted by a person during the life of a former husband or wife which marriage has not been annulled or dissolved is void.

ALASKA STAT. §09.10.065 (2013). COMMENCEMENT OF ACTIONS FOR ACTS CONSTITUTING SEXUAL OFFENSES

(a) A person may bring an action at any time for conduct that would have, at the time the conduct occurred, violated provisions of any of the following offenses:

(1) felony sexual abuse of a minor;

(2) felony sexual assault; or

(3) unlawful exploitation of a minor.

(b) Unless the action is commenced within three years of the accrual of the claim for relief, a person may not bring an action for conduct that would have, at the time the conduct occurred, violated the provisions of any of the following offenses:

- (1) misdemeanor sexual abuse of a minor;
- (2) misdemeanor sexual assault;
- (3) incest; or
- (4) felony indecent exposure

ARIZONA

ARIZ REV. STAT. § 13-3608 (2013). INCEST; CLASSIFICATION

Persons who are eighteen or more years of age and are within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who knowingly intermarry with each other, or who knowingly commit fornication or adultery with each other are guilty of a class 4 felony.

ARIZ REV. STAT. § 25-101 (2013). VOID AND PROHIBITED MARRIAGES

A. Marriage between parents and children, including grandparents and grandchildren of every degree, between brothers and sisters of the one-half as well as the whole blood, and between uncles and nieces, aunts and nephews and between first cousins, is prohibited and void.

B. Notwithstanding subsection A, first cousins may marry if both are sixty-five years of age or older or if one or both first cousins are under sixty-five years of age, upon approval of any superior court judge in the state if proof has been presented to the judge that one of the cousins is unable to reproduce.

C. Marriage between persons of the same sex is void and prohibited.

ARKANSAS

ARK. CODE ANN. § 5-26-202 (2013). INCEST

(a) A person commits incest if the person, being sixteen (16) years of age or older, purports to marry, has sexual intercourse with, or engages in deviate sexual activity with another person sixteen (16) years of age or older whom the actor knows to be:

- (1) An ancestor or a descendant;
- (2) A stepchild or adopted child;
- (3) A brother or sister of the whole or half blood;
- (4) An uncle, aunt, nephew, or niece; or
- (5) A stepgrandchild or adopted grandchild.

(b) A relationship referred to in this section includes a blood relationship without regard to legitimacy.

(c) Incest is a Class C felony.

ARK. CODE. ANN. § 16-41-101 (2013). UNIFORM RULES OF EVIDENCE

Rule 803. Hearsay exceptions -- Availability of declarant immaterial.

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(25) Child Hearsay When Declarant Is Available at Trial and Subject to Cross-Examination. A statement made by a child under the age of ten (10) years concerning any type of sexual offense, or attempted sexual offense, with, on, or against that child, which is inconsistent with the child's testimony and offered in a criminal proceeding, provided:

(A) The trial court conducts a hearing outside the presence of the jury and finds that the statement offered possesses a reasonable guarantee of trustworthiness considering the competency of the child both at the time of the out of court statement and at the time of the testimony.

(B) The proponent of the statement gives the adverse party reasonable notice of his intention to offer the statement and the particulars of the statement.

(C) This section shall not be construed to limit the admission of an offered statement under any other hearsay exception or applicable rule of evidence.

ARK. CODE. ANN. § 9-11-106 (2013). MARRIAGES BETWEEN RELATIVES

(a) All marriages between parents and children, including grandparents and grandchildren of every degree, between brothers and sisters of the half as well as the whole blood, and between uncles and nieces, and between aunts and nephews, and between first cousins are declared to be incestuous and absolutely void. This section shall extend to illegitimate children and relations.

(b) Whoever contracts marriage in fact, contrary to the prohibitions of subsection (a) of this section, and whoever knowingly solemnizes the marriage shall be deemed guilty of a misdemeanor and shall upon conviction be fined or imprisoned, or both, at the discretion of the jury who shall pass on the case, or if the conviction shall be by confession, or on demurrer, then at the discretion of the court.

CALIFORNIA

CAL. PENAL CODE § 285 (2013). INCEST

Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who being 14 years of age or older, commit fornication or adultery with each other, are punishable by imprisonment in the state prison.

CAL. PENAL CODE § 785 (2013). INCEST; BIGAMY

When the offense of incest is committed in the jurisdictional territory of one competent court and the defendant is apprehended in the jurisdictional territory of another competent court the jurisdiction is in either court.

When the offense of bigamy is committed, the jurisdiction is in any competent court within the jurisdictional territory of which the marriage took place, or cohabitation occurred or the defendant was apprehended.

CAL. PENAL CODE § 1219 (2013). IMPRISONMENT TO COMPEL PERFORMANCE OF ACTS; EXEMPTION OF SEXUAL ASSAULT AND DOMESTIC VIOLENCE VICTIMS WHO REFUSE TO TESTIFY; CONFIDENTIAL COMMUNICATIONS BETWEEN VICTIM AND COUNSELOR; DEFINITIONS

(a) Except as provided in subdivision (b), when the contempt consists of the omission to perform an act which is yet in the power of the person to perform, he or she may be imprisoned until he or she has performed it, and in that case the act shall be specified in the warrant of commitment.

(b) Notwithstanding any other law, no court may imprison or otherwise confine or place in custody the victim of a sexual assault or domestic violence crime for contempt when the contempt consists of refusing to testify concerning that sexual assault or domestic violence crime. Before finding a victim of a domestic violence crime in contempt as described in this section, the court may refer the victim for consultation with a domestic violence counselor. All communications between the victim and the domestic violence counselor that occur as a result of that referral shall remain confidential under Section 1037.2 of the Evidence Code.

(c) As used in this section, the following terms have the following meanings:

(1) "Sexual assault" means any act made punishable by Section 261, 262, 264.1, 285, 286, 288, 288a, or 289 of the Penal Code.

(2) "Domestic violence" means "domestic violence" as defined in Section 6211 of the Family Code.

(3) "Domestic violence counselor" means "domestic violence counselor" as defined in subdivision (a) of Section 1037.1 of the Evidence Code.

CAL. FAM CODE § 2200 (2013). INCESTUOUS MARRIAGES

Marriages between parents and children, ancestors and descendants of every degree, and between brothers and sisters of the half as well as the whole blood, and between uncles and nieces or aunts and nephews, are incestuous, and void from the beginning, whether the relationship is legitimate or illegitimate.

COLORADO

COLO. REV. STAT. § 18-6-301 (2013). INCEST

(1) Any person who knowingly marries, inflicts sexual penetration or sexual intrusion on, or subjects to sexual contact, as defined in section 18-3-401, an ancestor or descendant, including a natural child, child by adoption, or stepchild twenty-one years of age or older, a brother or sister of the whole or half blood, or an uncle, aunt, nephew, or niece of the whole blood commits **incest**, which is a class 4 felony. For the

purpose of this section only, “descendant” includes a child by adoption and a stepchild, but only if the person is not legally married to the child by adoption or the stepchild.

(2) When a person is convicted of, pleads nolo contendere to, or receives a deferred sentence for a violation of the provisions of this section and the victim is a child who is under eighteen years of age and the court knows the person is a current or former employee of a school district or a charter school in this state or holds a license or authorization pursuant to the provisions of article 60.5 of title 22, C.R.S., the court shall report such fact to the department of education.

COLO. REV. STAT. § 18-6-302 (2013). AGGRAVATED INCEST

(1) A person commits aggravated incest when he or she knowingly:

(a) Marries his or her natural child or inflicts sexual penetration or sexual intrusion on or subjects to sexual contact, as defined in section 18-3-401, his or her natural child, stepchild, or child by adoption, but this paragraph (a) shall not apply when the person is legally married to the stepchild or child by adoption. For the purpose of this paragraph (a) only, “child” means a person under twenty-one years of age.

(b) Marries, inflicts sexual penetration or sexual intrusion on, or subjects to sexual contact, as defined in section 18-3-401, a descendant, a brother or sister of the whole or half blood, or an uncle, aunt, nephew, or niece of the whole blood who is under ten years of age.

(2) Aggravated incest is a class 3 felony.

(3) When a person is convicted, pleads nolo contendere, or receives a deferred sentence for a violation of the provisions of this section and the court knows the person is a current or former employee of a school district in this state or holds a license or authorization pursuant to the provisions of article 60.5 of title 22, C.R.S., the court shall report such fact to the department of education.

COLO. REV. STAT. § 14-2-110 (2013). PROHIBITED MARRIAGES

(1) The following marriages are prohibited:

(a) A marriage entered into prior to the dissolution of an earlier marriage of one of the parties, except a currently valid marriage between the parties;

(b) A marriage between an ancestor and a descendant or between a brother and a sister, whether the relationship is by the half or the whole blood;

(c) A marriage between an uncle and a niece or between an aunt and a nephew, whether the relationship is by the half or the whole blood, except as to marriages permitted by the established customs of aboriginal cultures.

(2) Children born of a prohibited marriage are legitimate

CONNECTICUT

CONN. GEN. STAT. § 53A-191 (2013). INCEST: CLASS D FELONY

(a) A person is guilty of incest when he marries a person whom he knows to be related to him within any of the degrees of kindred specified in section 46b-21.

(b) Incest is a class D felony

CONN. GEN. STAT. § 46B-21 (2013). MARRIAGE OF PERSONS RELATED BY CONSANGUINITY OR AFFINITY PROHIBITED

No person may marry such person's parent, grandparent, child, grandchild, sibling, parent's sibling, sibling's child, stepparent or stepchild. Any marriage within these degrees is void.

CONN. GEN. STAT. § 53A-71 (2013). SEXUAL ASSAULT IN THE SECOND DEGREE: CLASS C OR B FELONY

(a) A person is guilty of sexual assault in the second degree when such person engages in sexual intercourse with another person and: (1) Such other person is thirteen years of age or older but under sixteen years of age and the actor is more than three years older than such other person; or (2) such other person is mentally defective to the extent that such other person is unable to consent to such sexual intercourse; or (3) such other person is physically helpless; or (4) such other person is less than eighteen years old and the actor is such person's guardian or otherwise responsible for the general supervision of such person's welfare; or (5) such other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (6) the actor is a psychotherapist and such other person is (A) a patient of the actor and the sexual intercourse occurs during the psychotherapy session, (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual intercourse occurs by means of therapeutic deception; or (7) the actor accomplishes the sexual intercourse by means of false representation that the sexual intercourse is for a bona fide medical purpose by a health care professional; or (8) the actor is a school employee and such other person is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (9) the actor is a coach in an athletic activity or a person who provides intensive, ongoing instruction and such other person is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (10) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and such other person is under eighteen years of age; or (11) such other person is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.

(b) Sexual assault in the second degree is a class C felony or, if the victim of the offense is under sixteen years of age, a class B felony, and any person found guilty under this section shall be sentenced to a term of imprisonment of which nine months of the sentence imposed may not be suspended or reduced by the court.

DELAWARE

DEL. CODE ANN. TIT. 11, § 766 (2013). INCEST; CLASS A MISDEMEANOR

(a) A person with whom the person has one of the following relationships:

- A male and his child.
- A male and his parent.
- A male and his brother.
- A male and his sister.
- A male and his grandchild.
- A male and his niece or nephew.
- A male and his father's sister or brother.
- A male and his mother's sister or brother.
- A male and his father's wife.
- A male and his wife's child.
- A male and the child of his wife's son or daughter.
- A female and her parent.
- A female and her child.
- A female and her brother.
- A female and her sister.
- A female and her grandchild.
- A female and her niece or nephew.
- A female and her father's sister or brother.
- A female and her mother's sister or brother.
- A female and her mother's husband.
- A female and her husband's child.
- A female and the child of her husband's son or daughter.

(b) The relationships referred to herein include blood relationships without regard to legitimacy and relationships by adoption.

Incest is a class A misdemeanor and is an offense within the original jurisdiction of the Family Court.

DEL. CODE ANN. TIT. 13, § 101 (2013). VOID AND VOIDABLE MARRIAGES

(a) A marriage is prohibited and void between a person and his or her ancestor, descendant, brother, sister, half brother, half sister, uncle, aunt, niece, nephew, first cousin or between persons of the same gender.

(b) A marriage is prohibited, and is void from the time its nullity is declared by a court of competent jurisdiction at the instance of the innocent party, if either party thereto is:

- (1) Repealed by 76 Laws 2007, ch. 48, § 1, eff. June 21, 2007.
- (2) Repealed by 76 Laws 2007, ch. 48, § 1, eff. June 21, 2007.
- (3) Repealed by 76 Laws 2007, ch. 48, § 1, eff. June 21, 2007.
- (4) Repealed by 76 Laws 2007, ch. 48, § 1, eff. June 21, 2007.

(5) Repealed by 76 Laws 2007, ch. 48, § 1, eff. June 21, 2007.

(6) Divorced, unless a certified copy of the divorce decree (last decree if such person has been divorced more than once) or a certificate of such divorce from the clerk of the court granting the divorce is inspected by the clerk of the peace to whom such person makes application for a marriage license, and unless such person may in other respects lawfully marry; and, if such decree or certificate cannot be obtained, the Resident Judge of the county where such license is desired or the person designated by the Resident Judge to grant such certificates as may be accepted under this paragraph may grant a certificate of the facts as stated by the applicant and the certificate may, for the purposes of this chapter, be accepted in lieu of a certified copy of a divorce decree;

(7) On probation or parole from any court or institution, unless such person first files with the clerk of the peace to whom such person makes application for a marriage license a written consent to such person's proposed marriage from the chief officer of such court or institution or from someone who is appointed by such officer to give such consent, and unless in other respects the applicant may lawfully marry.

(c) Repealed by 76 Laws 2007, ch. 48, § 1, eff. June 21, 2007.

(d) A marriage obtained or recognized outside the State between persons prohibited by subsection (a) of this section shall not constitute a legal or valid marriage within the State.

DISTRICT OF COLUMBIA

D.C. CODE ANN. § 22-1901 (2013). DEFINITION AND PENALTY

If any person in the District related to another person within and not including the fourth degree of consanguinity, computed according to the rules of the Roman or civil law, shall marry or cohabit with or have sexual intercourse with such other so-related person, knowing him or her to be within said degree of relationship, the person so offending shall be deemed guilty of incest, and, on conviction thereof, shall be punished by imprisonment for not more than 12 years.

D.C. CODE ANN. § 46-401.01 (2010). MARRIAGES VOID AB INITIO -- IN GENERAL

[Formerly § 30-101] The following marriages are prohibited in the District of Columbia and shall be absolutely void ab initio, without being so decreed, and their nullity may be shown in any collateral proceedings, namely:

(1) Repealed.

(2) Repealed.

(2A) The marriage of a person with a person's grandparent, grandparent's spouse, spouse's grandparent, parent's sibling, parent, step-parent, spouse's parent, child, spouse's child, child's spouse, sibling, child's child, child's child's spouse, spouse's child's child, sibling's child.

(3) The marriage of any persons either of whom has been previously married and whose previous marriage has not been terminated by death or a decree of divorce.

D.C. CODE ANN. § 22-3008 (2013). FIRST DEGREE CHILD SEXUAL ABUSE.

Whoever, being at least 4 years older than a child, engages in a sexual act with that child or causes that child to engage in a sexual act shall be imprisoned for any term of years or for life and, in addition, may be fined an amount not to exceed \$250,000. However, the court may impose a prison sentence in excess of 30 years only in accordance with § 22-3020 or § 24-403.01(b-2). For purposes of imprisonment following revocation of release authorized by § 24-403.01(b)(7), the offense defined by this section is a Class A felony.

FLORIDA

FLA. STAT. ANN. § 826.04 (2013). INCEST

Whoever knowingly marries or has sexual intercourse with a person to whom he or she is related by lineal consanguinity, or a brother, sister, uncle, aunt, nephew, or niece, commits incest, which constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. "Sexual intercourse" is the penetration of the female sex organ by the male sex organ, however slight; emission of semen is not required.

FLA. STAT. ANN. § 741.21 (2013). INCESTUOUS MARRIAGES PROHIBITED

A man may not marry any woman to whom he is related by lineal consanguinity, nor his sister, nor his aunt, nor his niece. A woman may not marry any man to whom she is related by lineal consanguinity, nor her brother, nor her uncle, nor her nephew.

GEORGIA

GA. CODE. ANN. § 16-6-22 (2013). INCEST

(a) A person commits the offense of incest when such person engages in sexual intercourse or sodomy, as such term is defined in Code Section 16-6-2, with a person whom he or she knows he or she is related to either by blood or by marriage as follows:

- (1) Father and child or stepchild;
- (2) Mother and child or stepchild;
- (3) Siblings of the whole blood or of the half blood;
- (4) Grandparent and grandchild;
- (5) Aunt and niece or nephew; or
- (6) Uncle and niece or nephew.

(b) A person convicted of the offense of incest shall be punished by imprisonment for not less than ten nor more than 30 years; provided, however, that any person convicted of the offense of incest under this subsection with a child under the age of 14 years shall be punished by imprisonment for not less than 25 nor more than 50 years. Any person convicted under this Code section of the offense of incest shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

GA. CODE. ANN. § 19-3-2 (2013). PERSONS ABLE TO CONTRACT

(a) To be able to contract marriage, a person must:

(1) Be of sound mind;

(2) Except as provided in subsection (b) of this Code section, be at least 18 years of age;

(3) Have no living spouse of a previous undissolved marriage. The dissolution of a previous marriage in divorce proceedings must be affirmatively established and will not be presumed. Nothing in this paragraph shall be construed to affect the legitimacy of children; and

(4) Not be related to the prospective spouse by blood or marriage within the prohibited degrees.

(b) If either applicant for marriage is 16 or 17 years of age, parental consent as provided in Code Section 19-3-37 shall be required.

GA. CODE. ANN. § 19-3-3 (2013). DEGREES OF RELATIONSHIP WITHIN WHICH MARRIAGE PROHIBITED

(a) Any person who marries a person to whom he knows he is related, either by blood or by marriage, as follows:

(1) Father and daughter or stepdaughter;

(2) Mother and son or stepson;

(3) Brother and sister of the whole blood or the half blood;

(4) Grandparent and grandchild;

(5) Aunt and nephew; or

(6) Uncle and niece

shall be punished by imprisonment for not less than one nor more than three years.

(b) Marriages declared to be unlawful under subsection (a) of this Code section shall be void from their inception.

HAWAII

HAW. REV. STAT. ANN. § 707-741 (2013). INCEST

(1) A person commits the offense of incest if the person commits an act of sexual penetration with another who is within the degrees of consanguinity or affinity within which marriage is prohibited.

(2) Incest is a class C felony.

HAW. REV. STAT. ANN. § 572-1 (2013). REQUISITES OF VALID MARRIAGE CONTRACT

In order to make valid the marriage contract, which shall be only between a man and a woman, it shall be necessary that:

(1) The respective parties do not stand in relation to each other of ancestor and descendant of any degree whatsoever, brother and sister of the half as well as to the whole blood, uncle and niece, aunt and nephew, whether the relationship is the result of the issue of parents married or not married to each other or parents who are partners in a civil union or not partners in a civil union;

(2) Each of the parties at the time of contracting the marriage is at least sixteen years of age; provided that with the written approval of the family court of the circuit within which the minor resides, it shall be lawful for a person under the age of sixteen years, but in no event under the age of fifteen years, to marry, subject to section 572-2;

(3) The man does not at the time have any lawful wife or civil union partner living and that the woman does not at the time have any lawful husband or civil union partner living;

(4) Consent of neither party to the marriage has been obtained by force, duress, or fraud;

(5) Neither of the parties is a person afflicted with any loathsome disease concealed from, and unknown to, the other party;

(6) The man and woman to be married in the State shall have duly obtained a license for that purpose from the agent appointed to grant marriage licenses; and

(7) The marriage ceremony be performed in the State by a person or society with a valid license to solemnize marriages and the man and the woman to be married and the person performing the marriage ceremony be all physically present at the same place and time for the marriage ceremony.

IDAHO

IDAHO CODE ANN. § 18-6602 (2013). INCEST

Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who commit fornication or adultery with each other, are punishable by imprisonment in the state prison for a term not to exceed life.

IDAHO CODE ANN. § 19-308 (2013). BIGAMY OR INCEST

When the offense either of bigamy or incest is committed in one county, and the defendant is apprehended in another, the venue is in either county.

IDAHO CODE ANN. § 32-205 (2013). INCESTUOUS MARRIAGES

Marriages between parents and children, ancestors and descendants of every degree, and between brothers and sisters of the half (½) as well as the whole blood, and between uncles and nieces, or aunts and nephews, are incestuous, and void from the beginning, whether the relationship is legitimate or illegitimate.

ILLINOIS

720 ILL. COMP. STAT. ANN. 5/11-11 (2013). SEXUAL RELATIONS WITHIN FAMILIES

[Prior to 1/1/93 cited as: Ill. Rev. Stat., Ch. 38, para. 11-11]

(a) A person commits sexual relations within families if he or she:

(1) Commits an act of sexual penetration as defined in Section 11-0.1 of this Code; and

(2) The person knows that he or she is related to the other person as follows: (i) Brother or sister, either of the whole blood or the half blood; or (ii) Father or mother, when the child, regardless of legitimacy and regardless of whether the child was of the whole blood or half-blood or was adopted, was 18 years of age or over when the act was committed; or (iii) Stepfather or stepmother, when the stepchild was 18 years of age or over when the act was committed; or (iv) Aunt or uncle, when the niece or nephew was 18 years of age or over when the act was committed; or (v) Great-aunt or great-uncle, when the grand-niece or grand-nephew was 18 years of age or over when the act was committed; or (vi) Grandparent or step-grandparent, when the grandchild or step-grandchild was 18 years of age or over when the act was committed.

(b) Sentence. Sexual relations within families is a Class 3 felony.

750 ILL. COMP. STAT. ANN. 5/212 (2013). PROHIBITED MARRIAGES

[Prior to 1/1/93 cited as: Ill. Rev. Stat., Ch. 40, para. 212]

(a) The following marriages are prohibited:

(1) a marriage entered into prior to the dissolution of an earlier marriage of one of the parties;

(2) a marriage between an ancestor and a descendant or between a brother and a sister, whether the relationship is by the half or the whole blood or by adoption;

(3) a marriage between an uncle and a niece or between an aunt and a nephew, whether the relationship is by the half or the whole blood;

(4) a marriage between cousins of the first degree; however, a marriage between first cousins is not prohibited if:

(i) both parties are 50 years of age or older; or

(ii) either party, at the time of application for a marriage license, presents for filing with the county clerk of the county in which the marriage is to be solemnized, a certificate signed by a licensed physician stating that the party to the proposed marriage is permanently and irreversibly sterile;

(5) a marriage between 2 individuals of the same sex.

(b) Parties to a marriage prohibited under subsection (a) of this Section who cohabit after removal of the impediment are lawfully married as of the date of the removal of the impediment.

(c) Children born or adopted of a prohibited or common law marriage are the lawful children of the parties.

INDIANA

IND. CODE ANN. § 35-46-1-3 (2013). INCEST

Sec. 3. (a) A person eighteen (18) years of age or older who engages in sexual intercourse or deviate sexual conduct with another person, when the person knows that the other person is related to the person biologically as a parent, child, grandparent, grandchild, sibling, aunt, uncle, niece, or nephew, commits incest, a Class C felony. However, the offense is a Class B felony if the other person is less than sixteen (16) years of age.

(b) It is a defense that the accused person's otherwise **incestuous** relation with the other person was based on their marriage, if it was valid where entered into.

IND. CODE ANN. § 35-37-4-15 (2013). CHILD MOLESTATION; EVIDENCE OF PRIOR ACTS

Sec. 15. (a) In a prosecution for child molesting under IC 35-42-4-3, a prosecution for incest under IC 35-46-1-3, or a prosecution for an attempt or a conspiracy to commit child molesting or incest, evidence that the defendant has committed another crime or act of child molesting or incest or attempted or conspired to commit another crime or act of child molesting or incest:

(1) against the same victim; or

(2) that involves a similar crime or act of child molesting or incest against a different victim;

is admissible.

(b) If the state proposes to offer evidence described under subsection (a), the state must disclose the evidence to the defendant, including statements made by witnesses or a summary of the substance of any testimony that is expected to be offered at the defendant's trial:

(1) at least fifteen (15) days before the date the defendant's trial is scheduled to begin; or

(2) at a later date as determined by the court for good cause.

(c) The court shall hold a hearing out of the presence of the jury regarding the admissibility of the evidence described under subsection (a). Even if the court determines that the evidence is relevant, the evidence may be excluded if the probative value of the evidence is substantially outweighed by:

(1) the danger of:

(A) unfair prejudice;

(B) confusion of the issues; or

(C) misleading the jury; or

(2) considerations of:

(A) undue delay;

(B) waste of time; or

(C) needless presentation of cumulative evidence.

However, if the court finds that all or some of the evidence is admissible, the court shall enter an order stating what evidence may be introduced.

(d) This section may not be construed to limit the right to introduce evidence at a trial that would otherwise be admissible to prove any of the following:

- (1) Motive.
- (2) Opportunity.
- (3) Intent.
- (4) Plan.
- (5) Knowledge.
- (6) Identity.
- (7) Absence of mistake or accident.

IND. CODE ANN. § 31-11-8-3 (2013). MARRIAGE TO CLOSE RELATIVE; MARRIAGES BETWEEN COUSINS; EXCEPTIONS

Sec. 3. A marriage is void if the parties to the marriage are more closely related than second cousins.

However, a marriage is not void if:

- (1) the marriage was solemnized after September 1, 1977;
- (2) the parties to the marriage are first cousins; and
- (3) both of the parties were at least sixty-five (65) years of age when the marriage was solemnized.

IOWA

IOWA CODE § 726.2 (2013). INCEST

A person, except a child as defined in section 702.5, who performs a sex act with another whom the person knows to be related to the person, either legitimately or illegitimately, as an ancestor, descendant, brother or sister of the whole or half blood, aunt, uncle, niece, or nephew, commits incest. Incest is a class “D” felony.

IOWA CODE § 802.2A (2013). INCEST -- SEXUAL EXPLOITATION BY A COUNSELOR, THERAPIST, OR SCHOOL EMPLOYEE

1. An information or indictment for **incest** under section 726.2 committed on or with a person who is under the age of eighteen shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age. An information or indictment for any other **incest** shall be found within ten years after its commission.

2. An indictment or information for sexual exploitation by a counselor, therapist, or school employee under section 709.15 committed on or with a person who is under the age of eighteen shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age. An information or indictment for any other sexual exploitation shall be found within ten years of the date the victim was last treated by the counselor or therapist, or within ten years of the date the victim was enrolled in or attended the school.

IOWA CODE § 709.4 (2013). SEXUAL ABUSE IN THE THIRD DEGREE

A person commits sexual abuse in the third degree when the person performs a sex act under any of the following circumstances:

1. The act is done by force or against the will of the other person, whether or not the other person is the person's spouse or is cohabiting with the person.
2. The act is between persons who are not at the time cohabiting as husband and wife and if any of the following are true:
 - a. The other person is suffering from a mental defect or incapacity which precludes giving consent.
 - b. The other person is twelve or thirteen years of age.
 - c. The other person is fourteen or fifteen years of age and any of the following are true:
 - (1) The person is a member of the same household as the other person.
 - (2) The person is related to the other person by blood or affinity to the fourth degree.
 - (3) The person is in a position of authority over the other person and uses that authority to coerce the other person to submit.
 - (4) The person is four or more years older than the other person.
3. The act is performed while the other person is under the influence of a controlled substance, which may include but is not limited to flunitrazepam, and all of the following are true:
 - a. The controlled substance, which may include but is not limited to flunitrazepam, prevents the other person from consenting to the act.
 - b. The person performing the act knows or reasonably should have known that the other person was under the influence of the controlled substance, which may include but is not limited to flunitrazepam.
4. The act is performed while the other person is mentally incapacitated, physically incapacitated, or physically helpless.

Sexual abuse in the third degree is a class "C" felony.

IOWA CODE § 595.19 (2013). VOID MARRIAGES

1. Marriages between the following persons who are related by blood are void:
 - a. Between a man and his father's sister, mother's sister, daughter, sister, son's daughter, daughter's daughter, brother's daughter, or sister's daughter.

b. Between a woman and her father's brother, mother's brother, son, brother, son's son, daughter's son, brother's son, or sister's son.

c. Between first cousins.

2. Marriages between persons either of whom has a husband or wife living are void, but, if the parties live and cohabit together after the death or divorce of the former husband or wife, such marriage shall be valid.

KANSAS

KAN. STAT. ANN. § 21-5604. (2013)INCEST; AGGRAVATED INCEST

(a) Incest is marriage to or engaging in otherwise lawful sexual intercourse or sodomy, as defined in K.S.A. 21-5501, and amendments thereto, with a person who is 18 or more years of age and who is known to the offender to be related to the offender as any of the following biological relatives: Parent, child, grandparent of any degree, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece.

(b) Aggravated incest is:

(1) Marriage to a person who is under 18 years of age and who is known to the offender to be related to the offender as any of the following biological, step or adoptive relatives: Child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece; or

(2) engaging in the following acts with a person who is 16 or more years of age but under 18 years of age and who is known to the offender to be related to the offender as any of the following biological, step or adoptive relatives: Child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece:

(A) Otherwise lawful sexual intercourse or sodomy as defined by K.S.A. 21-5501, and amendments thereto; or

(B) any lewd fondling, as described in subsection (a)(1) of K.S.A. 21-5506, and amendments thereto.

(c)(1) Incest is a severity level 10, person felony.

(2) Aggravated incest as defined in:

(A) Subsection (b)(2)(A) is a:

(i) Severity level 5, person felony, except as provided in subsection (c)(2)(A)(ii); and

(ii) severity level 3, person felony if the victim is the offender's biological, step or adoptive child; and

(B) subsection (b)(1) or (b)(2)(B) is a severity level 7, person felony

KAN. STAT. ANN. § 23-102 (2013). INCESTUOUS MARRIAGES VOID

All marriages between parents and children, including grandparents and grandchildren of any degree, between brothers and sisters of the one half as well as the whole blood, and between uncles and nieces, aunts and nephews, and first cousins, are declared to be incestuous and absolutely void.

KENTUCKY

KY. REV. STAT. ANN. § 530.020 (2010). INCEST

(1) A person is guilty of incest when he or she has sexual intercourse or deviate sexual intercourse, as defined in KRS 510.010, with a person whom he or she knows to be an ancestor, descendant, uncle, aunt, brother, or sister. The relationships referred to herein include blood relationships of either the whole or half blood without regard to legitimacy, relationship of parent and child by adoption, relationship of stepparent and stepchild, and relationship of step-grandparent and step-grandchild.

(2) (a) Incest is a Class C felony if the act is committed by consenting adults.

(b) Incest is a Class B felony if committed:

1. By forcible compulsion as defined in KRS 510.010(2); or
2. On a victim who is:
 - a. Less than eighteen (18) years of age; or
 - b. Incapable of consent because he or she is physically helpless or mentally incapacitated.

(c) Incest is a Class A felony if:

1. Committed on a victim less than twelve (12) years of age; or
2. The victim receives serious physical injury.

KY. REV. STAT. ANN. § 402.010 (2013). DEGREE OF RELATIONSHIP THAT WILL BAR MARRIAGE

1) No marriage shall be contracted between persons who are nearer of kin to each other by consanguinity, whether of the whole or half-blood, than second cousins.

(2) Marriages prohibited by subsection (1) of this section are incestuous and void.

KY. REV. STAT. ANN. § 402.990 (2013). PENALTIES

(1) Any party to a marriage prohibited by KRS 402.010 shall be guilty of a Class B misdemeanor. If the parties continue after conviction to cohabit as man and wife, either or both of them shall be guilty of a Class A misdemeanor.

(2) Any person who aids or abets the marriage of any person who has been adjudged mentally disabled, or attempts to marry, or aids or abets any attempted marriage with any such person shall be guilty of a Class B misdemeanor.

- (3) Any authorized person who knowingly solemnizes a marriage prohibited by this chapter shall be guilty of a Class A misdemeanor.
- (4) Any unauthorized person who solemnizes a marriage under pretense of having authority, and any person who falsely personates the father, mother, or guardian of an applicant in obtaining a license shall be guilty of a Class D felony.
- (5) Any person who falsely and fraudulently represents or personates another, and in such assumed character marries that person, shall be guilty of a Class D felony. Indictment under this subsection shall be found only upon complaint of the injured party and within two (2) years after the commission of the offense.
- (6) Any clerk who knowingly issues a marriage license to any persons prohibited by this chapter from marrying shall be guilty of a Class A misdemeanor and removed from office by the judgment of the court in which he is convicted.
- (7) Any clerk who knowingly issues a marriage license in violation of his duty under this chapter shall be guilty of a Class A misdemeanor.
- (8) If any deputy clerk or any person other than a county clerk knowingly issues a marriage license in violation of this chapter, but not for a prohibited marriage, he shall be guilty of a Class A misdemeanor, and if he knowingly issues a license for a marriage prohibited by this chapter, he shall be guilty of a Class A misdemeanor.
- (9) Any person who violates any of the provisions of KRS 402.090 shall be guilty of a violation.
- (10) Any county clerk who violates any of the provisions of KRS 402.110 or 402.230 shall be guilty of a violation.
- (11) Any person failing to make the return required of him by KRS 402.220 shall be guilty of a violation.

KY. REV. STAT. ANN. §510.010 (2013) DEFINITIONS FOR CHAPTER

The following definitions apply in this chapter unless the context otherwise requires:

- (1) “Deviate sexual intercourse” means any act of sexual gratification involving the sex organs of one person and the mouth or anus of another; or penetration of the anus of one person by a foreign object manipulated by another person. “Deviate sexual intercourse” does not include penetration of the anus by a foreign object in the course of the performance of generally recognized health-care practices;
- (2) “Forcible compulsion” means physical force or threat of physical force, express or implied, which places a person in fear of immediate death, physical injury to self or another person, fear of the immediate kidnap of self or another person, or fear of any offense under this chapter. Physical resistance on the part of the victim shall not be necessary to meet this definition;
- (3) “Mental illness” means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;

(4) “Individual with an intellectual disability” means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;

(5) “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of an intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent;

(6) “Physically helpless” means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act. “Physically helpless” also includes a person who has been rendered unconscious or for any other reason is physically unable to communicate an unwillingness to an act as a result of the influence of a controlled substance or legend drug;

(7) “Sexual contact” means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party;

(8) “Sexual intercourse” means sexual intercourse in its ordinary sense and includes penetration of the sex organs of one person by a foreign object manipulated by another person. Sexual intercourse occurs upon any penetration, however slight; emission is not required. “Sexual intercourse” does not include penetration of the sex organ by a foreign object in the course of the performance of generally recognized health-care practices; and

(9) “Foreign object” means anything used in commission of a sexual act other than the person of the actor.

LOUISIANA

LA. REV. STAT. ANN. § 14:78 (2013). INCEST

A. Incest is the marriage to, or sexual intercourse with, any ascendant or descendant, brother or sister, uncle or niece, aunt or nephew, with knowledge of their relationship.

B. The relationship must be by consanguinity, but it is immaterial whether the parties to the act are related to one another by the whole or half blood.

C. This Section shall not apply where one, not a resident of this state at the time of the celebration of his marriage, shall have contracted a marriage lawful at the place of celebration and shall thereafter have removed to this state.

D. (1) Whoever commits incest, where the crime is between an ascendant and descendant, or between brother and sister, shall be imprisoned at hard labor for not more than fifteen years.

(2) Whoever commits incest, where the crime is between uncle and niece, or aunt and nephew, shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

LA. REV. STAT. ANN. § 14:78.1 (2013). AGGRAVATED INCEST

A. Aggravated incest is the engaging in any prohibited act enumerated in Subsection B with a person who is under eighteen years of age and who is known to the offender to be related to the offender as any of the

following biological, step, or adoptive relatives: child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew, or niece.

B. The following are prohibited acts under this Section:

(1) Sexual intercourse, sexual battery, second degree sexual battery, carnal knowledge of a juvenile, indecent behavior with juveniles, pornography involving juveniles, molestation of a juvenile or a person with a physical or mental disability, crime against nature, cruelty to juveniles, parent enticing a child into prostitution, or any other involvement of a child in sexual activity constituting a crime under the laws of this state.

(2) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child, the offender, or both.

C. Consent is not a defense under this Section.

D. (1) A person convicted of aggravated incest shall be fined an amount not to exceed fifty thousand dollars, or imprisoned, with or without hard labor, for a term not less than five years nor more than twenty years, or both.

(2) Whoever commits the crime of aggravated incest on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Upon completion of the term of imprisonment imposed in accordance with Paragraph (2) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(4) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(5) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to, the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act¹ that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

E. (1) In addition to any sentence imposed under Subsection D, the court shall, after determining the financial resources and future ability of the offender to pay, require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense.

(2) The amount, method, and time of payment shall be determined by the court either by ordering that documentation of the offender's financial resources and future ability to pay restitution and of the victim's

pecuniary loss submitted by the victim be included in the presentence investigation and report, or the court may receive evidence of the offender's ability to pay and the victim's loss at the time of sentencing.

(3) The court may provide for payment to a victim up to but not in excess of the pecuniary loss caused by the offense. The offender may assert any defense that he could raise in a civil action for the loss sought to be compensated by the restitution order.

LA. CODE CIV. PROC. ANN. ART. 571.1 (2013). TIME LIMITATION FOR CERTAIN SEX OFFENSES

Except as provided by Article 572 of this Chapter, the time within which to institute prosecution of the following sex offenses, regardless of whether the crime involves force, serious physical injury, death, or is punishable by imprisonment at hard labor shall be thirty years: sexual battery (R.S. 14:43.1), second degree sexual battery (R.S. 14:43.2), oral sexual battery (R.S. 14:43.3), human trafficking (R.S. 14:46.2(B)(2) or (3)), trafficking of children for sexual purposes (R.S. 14:46.3), felony carnal knowledge of a juvenile (R.S. 14:80), indecent behavior with juveniles (R.S. 14:81), pornography involving juveniles (R.S. 14:81.1), molestation of a juvenile (R.S. 14:81.2), prostitution of persons under eighteen (R.S. 14:82.1), enticing persons into prostitution (R.S. 14:86), crime against nature (R.S. 14:89), aggravated crime against nature (R.S. 14:89.1), crime against nature by solicitation (R.S. 14:89.2(B)(3)), incest (R.S. 14:78), or aggravated incest (R.S. 14:78.1) which involves a victim under seventeen years of age. This thirty-year period begins to run when the victim attains the age of eighteen.

LA. REV. STAT. ANN. § 14:2 (2013). DEFINITIONS

A. In this Code the terms enumerated shall have the designated meanings:

(1) "Another" refers to any other person or legal entity, including the state of Louisiana or any subdivision thereof.

(2) "Anything of value" must be given the broadest possible construction, including any conceivable thing of the slightest value, movable or immovable, corporeal or incorporeal, public or private, and including transportation, telephone and telegraph services, or any other service available for hire. It must be construed in the broad popular sense of the phrase, not necessarily as synonymous with the traditional legal term "property." In all cases involving shoplifting the term "value" is the actual retail price of the property at the time of the offense.

(3) "Dangerous weapon" includes any gas, liquid or other substance or instrumentality, which, in the manner used, is calculated or likely to produce death or great bodily harm.

(4) "Felony" is any crime for which an offender may be sentenced to death or imprisonment at hard labor.

(5) "Foreseeable" refers to that which ordinarily would be anticipated by a human being of average reasonable intelligence and perception.

(6) "Misdemeanor" is any crime other than a felony.

(7) "Person" includes a human being from the moment of fertilization and implantation and also includes a body of persons, whether incorporated or not.

(8) "Property" refers to both public and private property, movable and immovable, and corporeal and incorporeal property.

(9) “Public officer,” “public office,” “public employee” or “position of public authority” means and applies to any executive, ministerial, administrative, judicial, or legislative officer, office, employee or position of authority respectively, of the state of Louisiana or any parish, municipality, district, or other political subdivision thereof, or of any agency, board, commission, department or institution of said state, parish, municipality, district, or other political subdivision.

(10) “State” means the state of Louisiana, or any parish, municipality, district, or other political subdivision thereof, or any agency, board, commission, department or institution of said state, parish, municipality, district or other political subdivision.

(11) “Unborn child” means any individual of the human species from fertilization and implantation until birth.

(12) “Whoever” in a penalty clause refers only to natural persons insofar as death or imprisonment is provided, but insofar as a fine may be imposed “whoever” in a penalty clause refers to any person.

B. In this Code, “crime of violence” means an offense that has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and that, by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense or an offense that involves the possession or use of a dangerous weapon.

The following enumerated offenses and attempts to commit any of them are included as “crimes of violence”:

- (1) Solicitation for murder
- (2) First degree murder
- (3) Second degree murder
- (4) Manslaughter
- (5) Aggravated battery
- (6) Second degree battery
- (7) Aggravated assault
- (8) Mingling harmful substances
- (9) Aggravated rape
- (10) Forcible rape
- (11) Simple rape
- (12) Sexual battery
- (13) Second degree sexual battery
- (14) Intentional exposure to AIDS virus
- (15) Aggravated kidnapping
- (16) Second degree kidnapping
- (17) Simple kidnapping
- (18) Aggravated arson
- (19) Aggravated criminal damage to property
- (20) Aggravated burglary
- (21) Armed robbery
- (22) First degree robbery
- (23) Simple robbery
- (24) Purse snatching
- (25) Extortion
- (26) Assault by drive-by shooting

- (27) Aggravated crime against nature
- (28) Carjacking
- (29) Illegal use of weapons or dangerous instrumentalities
- (30) Terrorism
- (31) Aggravated second degree battery
- (32) Aggravated assault upon a peace officer with a firearm
- (33) Aggravated assault with a firearm
- (34) Armed robbery; use of firearm; additional penalty
- (35) Second degree robbery
- (36) Disarming of a peace officer
- (37) Stalking
- (38) Second degree cruelty to juveniles
- (39) Aggravated flight from an officer
- (40) Aggravated incest
- (41) Battery of a police officer
- (42) Trafficking of children for sexual purposes
- (43) Human trafficking
- (44) Home invasion

LA. CIV. CODE. ANN. ART. 90 (2013). IMPEDIMENTS OF RELATIONSHIP

A. The following persons may not contract marriage with each other:

- (1) Ascendants and descendants.
- (2) Collaterals within the fourth degree, whether of the whole or of the half blood.

B. The impediment exists whether the persons are related by consanguinity or by adoption. Nevertheless, persons related by adoption, though not by blood, in the collateral line within the fourth degree may marry each other if they obtain judicial authorization in writing to do so.

MAINE

ME. REV. STAT. ANN. TIT. 17-A, § 556 (2013). INCEST

1. A person is guilty of incest if the person is at least 18 years of age and:

A. Engages in sexual intercourse with another person who the actor knows is related to the actor within the 2nd degree of consanguinity. Violation of this paragraph is a Class D crime; or

B. Violates paragraph A and, at the time of the incest, the person has 2 or more prior Maine convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime.

1-A. It is a defense to a prosecution under this section that, at the time the actor engaged in sexual intercourse with the other person, the actor was legally married to the other person.

1-B. As used in this section “sexual intercourse” means any penetration of the female sex organ by the male sex organ. Emission is not required.

1-C. As used in this section, “related to the actor within the 2nd degree of consanguinity” has the following meanings.

A. When the actor is a woman, it means the other person is her father, grandfather, son, grandson, brother, brother's son, sister's son, father's brother or mother's brother.

B. When this actor is a man, it means the other person is his mother, grandmother, daughter, granddaughter, sister, brother's daughter, sister's daughter, father's sister or mother's sister.

2. Repealed. Laws 2001, c. 383, § 72, eff. Jan. 31, 2003.

ME. REV. STAT. ANN. TIT. 17-A, § 254 (2013). SEXUAL ABUSE OF MINORS

1. A person is guilty of sexual abuse of a minor if:

A. The person engages in a sexual act with another person, not the actor's spouse, who is either 14 or 15 years of age and the actor is at least 5 years older than the other person. Violation of this paragraph is a Class D crime;

A-1. The person violates paragraph A and the actor knows that the other person is related to the actor within the 2nd degree of consanguinity. Violation of this paragraph is a Class C crime;

A-2. The person violates paragraph A and the actor is at least 10 years older than the other person. Violation of this paragraph is a Class C crime;

B. Deleted. Laws 1989, c. 401, § A, 3.

C. The person is at least 21 years of age and engages in a sexual act with another person, not the actor's spouse, who is either 16 or 17 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled. Violation of this paragraph is a Class E crime;

D. The person violates paragraph C and the actor knows that the student is related to the actor within the 2nd degree of consanguinity. Violation of this paragraph is a Class D crime; or

E. The person violates paragraph C and the actor is at least 10 years older than the student. Violation of this paragraph is a Class D crime.

F. Repealed. Laws 2011, c. 464, § 8.

2. It is a defense to a prosecution under subsection 1, paragraphs A, A-1, A-2 and F, that the actor reasonably believed the other person is at least 16 years of age.

3. **Deleted.** Laws 2001, c. 383, § 21.

4. As used in this section, "related to the actor within the 2nd degree of consanguinity" has the meaning set forth in section 556.

ME. REV. STAT. ANN. TIT. 17-A, § 8 (2013). STATUTE OF LIMITATIONS

1. It is a defense that prosecution was commenced after the expiration of the applicable period of limitations provided in this section; provided that a prosecution for murder or criminal homicide in the first or 2nd degree, or, if the victim had not attained the age of 16 years at the time of the crime, a prosecution for: incest; unlawful sexual contact; sexual abuse of a minor; rape or gross sexual assault, formerly denominated as gross sexual misconduct, may be commenced at any time.

2. Prosecutions for crimes other than murder or criminal homicide in the first or 2nd degree, or, if the victim had not attained the age of 16 years at the time of the crime, prosecutions for: incest; unlawful sexual contact; sexual abuse of a minor; rape or gross sexual assault, formerly denominated as gross sexual misconduct, are subject to the following periods of limitations:

A. A prosecution for a Class A, Class B or Class C crime must be commenced within 6 years after it is committed; and

B. A prosecution for a Class D or Class E crime must be commenced within 3 years after it is committed.

3. The periods of limitations shall not run:

A. During any time when the accused is absent from the State, but in no event shall this provision extend the period of limitation otherwise applicable by more than 5 years;

B. During any time when a prosecution against the accused for the same crime based on the same conduct is pending in this State; or

C. During any time when a prosecution against the accused for the corresponding juvenile crime based on the same conduct is pending in the Juvenile Court. For purposes of this section, pending includes any appeal period and, if an appeal is taken, any period pending its final disposition.

4. If a timely complaint, information or indictment is dismissed for any error, defect, insufficiency or irregularity, a new prosecution for the same crime based on the same conduct may be commenced within 6 months after the dismissal, or during the next session of the grand jury, whichever occurs later, even though the periods of limitations have expired at the time of such dismissal or will expire within such period of time.

5. If the period of limitation has expired, a prosecution may nevertheless be commenced for:

A. Any crime based upon breach of fiduciary obligation, within one year after discovery of the crime by an aggrieved party or by a person who has a legal duty to represent an aggrieved party, and who is not a party to the crime, whichever occurs first;

B. Any crime based upon official misconduct by a public servant, at any time when such person is in public office or employment or within 2 years thereafter.

C. This subsection shall in no event extend the limitation period otherwise applicable by more than 5 years.

6. For purposes of this section:

A. A crime is committed when every element thereof has occurred, or if the crime consists of a continuing course of conduct, at the time when the course of conduct or the defendant's complicity therein is terminated; and

B. A prosecution is commenced whenever one of the following occurs:

(1) A criminal complaint is filed;

(2) An indictment is returned; or

(3) Following waiver of an indictment, an information is filed.

7. The defense established by this section shall not bar a conviction of a crime included in the crime charged, notwithstanding that the period of limitation has expired for the included crime, if as to the crime charged the period of limitation has not expired or there is no such period, and there is evidence which would sustain a conviction for the crime charged.

ME. REV. STAT. ANN. TIT. 19-A, § 701 (2013). PROHIBITED MARRIAGES; EXCEPTIONS

1. Marriage out of State to evade law. When residents of this State, with intent to evade this section and to return and reside here, go into another state or country to have their marriage solemnized there and afterwards return and reside here, that marriage is void in this State.

1-A. Certain marriages performed in another state not recognized in this State. Any marriage performed in another state that would violate any provisions of subsections 2 to 4 if performed in this State is not recognized in this State and is considered void if the parties take up residence in this State.

2. Prohibitions based on degrees of consanguinity; exceptions. This subsection governs marriage between relatives.

A. A man may not marry his mother, grandmother, daughter, granddaughter, sister, brother's daughter, sister's daughter, father's sister, mother's sister, the daughter of his father's brother or sister or the daughter of his mother's brother or sister. A woman may not marry her father, grandfather, son, grandson, brother, brother's son, sister's son, father's brother, mother's brother, the son of her father's brother or sister or the son of her mother's brother or sister. A person may not marry that person's parent, grandparent, child, grandchild, sibling, nephew, niece, aunt or uncle.

B. Notwithstanding paragraph A, a man may marry the daughter of his father's brother or sister or the daughter of his mother's brother or sister, and a woman may marry the son of her father's brother or sister or the son of her mother's brother or sister as long as, pursuant to sections 651 and 652, the man or woman provides the physician's certificate of genetic counseling.

3. Persons under disability. A person who is impaired by reason of mental illness or mental retardation to the extent that that person lacks sufficient understanding or capacity to make, communicate or implement responsible decisions concerning that person's property or person is not capable of contracting marriage. For the purposes of this section:

A. "Mental illness" means a psychiatric or other disease that substantially impairs a person's mental health; and

B. "Mental retardation" means a condition of significantly subaverage intellectual functioning resulting in or associated with concurrent impairments in adaptive behavior and manifested during the developmental period.

4. Polygamy. A marriage contracted while either party has a living wife or husband from whom the party is not divorced is void.

5. Deleted. 2011, I.B. 3, § 5, adopted at election Nov. 6, 2012.

MARYLAND

MD. CODE ANN., CRIM. LAW § 3-323 (2013). INCEST

Prohibited

(a) A person may not knowingly engage in vaginal intercourse with anyone whom the person may not marry under § 2-202 of the Family Law Article.

Penalty

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment for not less than 1 year and not exceeding 10 years.

MD. CODE ANN., CRIM. LAW § 3-602 (2013). SEXUAL ABUSE OF A MINOR

Definitions

(a)(1) In this section the following words have the meanings indicated.

(2) “Family member” has the meaning stated in § 3-601 of this subtitle.

(3) “Household member” has the meaning stated in § 3-601 of this subtitle.

(4)(i) “Sexual abuse” means an act that involves sexual molestation or exploitation of a minor, whether physical injuries are sustained or not.

(ii) “Sexual abuse” includes:

1. incest;
2. rape;
3. sexual offense in any degree;
4. sodomy; and
5. unnatural or perverted sexual practices.

Prohibited

(b)(1) A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause sexual abuse to the minor.

(2) A household member or family member may not cause sexual abuse to a minor.

Penalty

(c) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 25 years.

Sentencing

(d) A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for:

- (1) any crime based on the act establishing the violation of this section; or

(2) a violation of § 3-601 of this subtitle involving an act of abuse separate from sexual abuse under this section.

MD. CODE ANN., FAM. LAW § 2-202 (2013). MARRIAGES WHICH ARE VOID

In general

(a) Any marriage performed in this State that is prohibited by this section is void.

Marriages within 3 degrees of direct lineal consanguinity or within first degree of collateral consanguinity prohibited; penalties

(b)(1) An individual may not marry the individual's:

- (i) grandparent;
- (ii) parent;
- (iii) child;
- (iv) sibling; or
- (v) grandchild.

(2) An individual who violates any provision of this subsection is guilty of a misdemeanor and on conviction is subject to a fine of \$1,500.

Certain marriages within other degrees of affinity or consanguinity prohibited; penalties

(c)(1) An individual may not marry the individual's:

- (i) grandparent's spouse;
- (ii) spouse's grandparent;
- (iii) parent's sibling;
- (iv) stepparent;
- (v) spouse's parent;
- (vi) spouse's child;
- (vii) child's spouse;
- (viii) grandchild's spouse;
- (ix) spouse's grandchild; or
- (x) sibling's child.

(2) An individual who violates any provision of this subsection is guilty of a misdemeanor and on conviction is subject to a fine of \$500.

MASSACHUSETTS

MASS. ANN LAWS CH. 272, § 17 (2013). INCESTUOUS MARRIAGE OR SEXUAL ACTIVITIES

Persons within degrees of consanguinity within which marriages are prohibited or declared by law to be incestuous and void, who intermarry or have sexual intercourse with each other, or who engage in sexual activities with each other, including but not limited to, oral or anal intercourse, fellatio, cunnilingus, or other penetration of a part of a person's body, or insertion of an object into the genital or anal opening of another person's body, or the manual manipulation of the genitalia of another person's body, shall be punished by imprisonment in the state prison for not more than 20 years or in the house of correction for not more than 2 ½ years.

MASS. ANN LAWS CH. 278, § 16A (2013). EXCLUSION OF PUBLIC FROM TRIAL FOR SEX OFFENSES INVOLVING MINORS UNDER AGE OF EIGHTEEN

At the trial of a complaint or indictment for rape, incest, carnal abuse or other crime involving sex, where a minor under eighteen years of age is the person upon, with or against whom the crime is alleged to have been committed, or at the trial of a complaint or indictment for getting a woman with child out of wedlock, or for the non-support of a child born out of wedlock, the presiding justice shall exclude the general public from the court room, admitting only such persons as may have a direct interest in the case.

MASS. ANN LAWS CH. 278, § 16C (2013). EXCLUSION OF PUBLIC FROM TRIAL INVOLVING CRIME OF INCEST OR RAPE

To protect the parties involved at a trial arising from a complaint or indictment for incest or rape, the trial judge may exclude all spectators from the courtroom in which such trial is being held, or from said courtroom during those portions of such trial when direct testimony is to be presented; provided, that either of the parties requests that all spectators be so excluded at the trial or portions thereof; and provided further, that the defendant in such trial by a written statement waives his right to a public trial for those portions from which spectators are so excluded.

MASS. ANN LAWS CH. 207, § 1 (2013). MARRIAGE OF MAN TO CERTAIN RELATIVES

No man shall marry his mother, grandmother, daughter, granddaughter, sister, stepmother, grandfather's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister or mother's sister.

MASS. ANN LAWS CH. 207, § 2 (2013). MARRIAGE OF WOMAN TO CERTAIN RELATIVES

No woman shall marry her father, grandfather, son, grandson, brother, stepfather, grandmother's husband, daughter's husband, granddaughter's husband, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother or mother's brother.

MASS. ANN LAWS CH. 260, § 2C (2013). SEXUAL ABUSE OF MINORS

Actions for assault and battery alleging the defendant sexually abused a minor shall be commenced within three years of the acts alleged to have caused an injury or condition or within three years of the time the

victim discovered or reasonably should have discovered that an emotional or psychological injury or condition was caused by said act, whichever period expires later; provided, however, that the time limit for commencement of an action under this section is tolled for a child until the child reaches eighteen years of age.

For purposes of this section, “sexual abuse” shall mean the commission of any act against a minor as set forth in section thirteen B, 13B ½, 13B ¾, thirteen H, twenty-two, twenty-two A, 22B, 22C, twenty-three, 23A, 23B, twenty-four, 24B or subsection (b) of section 50 of chapter two hundred and sixty-five or section two, three, four, four A, four B, seven, eight, thirteen, seventeen, twenty-nine A, thirty-four, thirty-five or thirty-five A of chapter two hundred and seventy-two.

MASS. ANN LAWS CH. 233, § 20 (2010). COMPETENCY OF WITNESSES; HUSBAND AND WIFE; CRIMINAL DEFENDANT; PARENT AND CHILD

Any person of sufficient understanding, although a party, may testify in any proceeding, civil or criminal, in court or before a person who has authority to receive evidence, except as follows:

First, Except in a proceeding arising out of or involving a contract made by a married woman with her husband, a proceeding under chapter two hundred and nine D and in a prosecution begun under sections one to ten, inclusive, of chapter two hundred and seventy-three, any criminal proceeding in which one spouse is a defendant alleged to have committed a crime against the other spouse or to have violated a temporary or permanent vacate, restraining, or no-contact order or judgment issued pursuant to section eighteen, thirty-four B or thirty-four C of chapter two hundred and eight, section thirty-two of chapter two hundred and nine, section three, three B, three C, four, or five of chapter two hundred and nine A, or sections fifteen or twenty of chapter two hundred and nine C, or a similar protection order issued by another jurisdiction, obtained by the other spouse, and except in a proceeding involving abuse of a person under the age of eighteen, including incest, neither husband nor wife shall testify as to private conversations with the other.

Second, Except as otherwise provided in section seven of chapter two hundred and seventy-three and except in any proceeding relating to child abuse, including incest, neither husband nor wife shall be compelled to testify in the trial of an indictment, complaint or other criminal proceeding against the other;

Third, The defendant in the trial of an indictment, complaint or other criminal proceeding shall, at his own request, but not otherwise, be allowed to testify; but his neglect or refusal to testify shall not create any presumption against him.

Fourth, An unemancipated, minor child, living with a parent, shall not testify before a grand jury, trial of an indictment, complaint or other criminal proceeding, against said parent, where the victim in such proceeding is not a member of said parent's family and who does not reside in the said parent's household. For the purposes of this clause the term “parent” shall mean the natural or adoptive mother or father of said child.

MICHIGAN

MICH. COMP. LAWS SERV. § 750.520B (2013). CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE

(1) A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and if any of the following circumstances exists:

- (a) That other person is under 13 years of age.
- (b) That other person is at least 13 but less than 16 years of age and any of the following:
 - (i) The actor is a member of the same household as the victim.
 - (ii) The actor is related to the victim by blood or affinity to the fourth degree.
 - (iii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.
 - (iv) The actor is a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled.
 - (v) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.
 - (vi) The actor is an employee, contractual service provider, or volunteer of a child care organization, or a person licensed to operate a foster family home or a foster family group home in which that other person is a resident, and the sexual penetration occurs during the period of that other person's residency. As used in this subparagraph, "child care organization", "foster family home", and "foster family group home" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111.
- (c) Sexual penetration occurs under circumstances involving the commission of any other felony.
- (d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:
 - (i) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.
 - (ii) The actor uses force or coercion to accomplish the sexual penetration. Force or coercion includes, but is not limited to, any of the circumstances listed in subdivision (f).
- (e) The actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.
- (f) The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or coercion includes, but is not limited to, any of the following circumstances:
 - (i) When the actor overcomes the victim through the actual application of physical force or physical violence.
 - (ii) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats.
 - (iii) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. As used in this subdivision, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

(iv) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes that are medically recognized as unethical or unacceptable.

(v) When the actor, through concealment or by the element of surprise, is able to overcome the victim.

(g) The actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(i) The actor is related to the victim by blood or affinity to the fourth degree.

(ii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(2) Criminal sexual conduct in the first degree is a felony punishable as follows:

(a) Except as provided in subdivisions (b) and (c), by imprisonment for life or for any term of years.

(b) For a violation that is committed by an individual 17 years of age or older against an individual less than 13 years of age by imprisonment for life or any term of years, but not less than 25 years.

(c) For a violation that is committed by an individual 17 years of age or older against an individual less than 13 years of age, by imprisonment for life without the possibility of parole if the person was previously convicted of a violation of this section or section 520c, 520d, 520e, or 520g1 committed against an individual less than 13 years of age or a violation of law of the United States, another state or political subdivision substantially corresponding to a violation of this section or section 520c, 520d, 520e, or 520g committed against an individual less than 13 years of age.

(d) In addition to any other penalty imposed under subdivision (a) or (b), the court shall sentence the defendant to lifetime electronic monitoring under section 520n.2

(3) The court may order a term of imprisonment imposed under this section to be served consecutively to any term of imprisonment imposed for any other criminal offense arising from the same transaction.

MICH. COMP. LAWS SERV. § 750.520E (2010). CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE; MISDEMEANOR

(1) A person is guilty of criminal sexual conduct in the fourth degree if he or she engages in sexual contact with another person and if any of the following circumstances exist:

(a) That other person is at least 13 years of age but less than 16 years of age, and the actor is 5 or more years older than that other person.

(b) Force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the following circumstances:

(i) When the actor overcomes the victim through the actual application of physical force or physical violence.

(ii) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute that threat.

(iii) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute that threat. As used in this subparagraph, “to retaliate” includes threats of physical punishment, kidnapping, or extortion.

(iv) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.

(v) When the actor achieves the sexual contact through concealment or by the element of surprise.

(c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(d) That other person is related to the actor by blood or affinity to the third degree and the sexual contact occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(e) The actor is a mental health professional and the sexual contact occurs during or within 2 years after the period in which the victim is his or her client or patient and not his or her spouse. The consent of the victim is not a defense to a prosecution under this subdivision. A prosecution under this subsection shall not be used as evidence that the victim is mentally incompetent.

(f) That other person is at least 16 years of age but less than 18 years of age and a student at a public school or nonpublic school, and either of the following applies:

(i) The actor is a teacher, substitute teacher, or administrator of that public school, nonpublic school, school district, or intermediate school district. This subparagraph does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.

(ii) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person

(g) That other person is at least 16 years old but less than 26 years of age and is receiving special education services, and either of the following applies:

(i) The actor is a teacher, substitute teacher, administrator, employee, or contractual service provider of the public school, nonpublic school, school district, or intermediate school district from which that other person receives the special education services. This subparagraph does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(ii) The actor is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(2) Criminal sexual conduct in the fourth degree is a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$500.00, or both.

MICH. COMP. LAWS SERV. § 551.3 (2013). INCAPACITY; PERSONS MAN PROHIBITED FROM MARRYING

A man shall not marry his mother, sister, grandmother, daughter, granddaughter, stepmother, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, mother's sister, or cousin of the first degree, or another man.

MICH. COMP. LAWS SERV. § 551.4 (2013). INCAPACITY; PERSONS WOMAN PROHIBITED FROM MARRYING

Sec. 4. A woman shall not marry her father, brother, grandfather, son, grandson, stepfather, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, mother's brother, or cousin of the first degree, or another woman.

MINNESOTA

MINN. STAT. § 609.365 (2013). INCEST

Whoever has sexual intercourse with another nearer of kin to the actor than first cousin, computed by rules of the civil law, whether of the half or the whole blood, with knowledge of the relationship, is guilty of incest and may be sentenced to imprisonment for not more than ten years.

MINN. STAT. § 517.03 (2013). PROHIBITED MARRIAGES

Subdivision 1. General. (a) The following marriages are prohibited:

(1) a marriage entered into before the dissolution of an earlier marriage of one of the parties becomes final, as provided in section 518.145 or by the law of the jurisdiction where the dissolution was granted;

(2) a marriage between an ancestor and a descendant, or between a brother and a sister, whether the relationship is by the half or the whole blood or by adoption;

(3) a marriage between an uncle and a niece, between an aunt and a nephew, or between first cousins, whether the relationship is by the half or the whole blood, except as to marriages permitted by the established customs of aboriginal cultures; and

(4) a marriage between persons of the same sex.

(b) A marriage entered into by persons of the same sex, either under common law or statute, that is recognized by another state or foreign jurisdiction is void in this state and contractual rights granted by virtue of the marriage or its termination are unenforceable in this state.

Subd. 2. Developmentally disabled persons; consent by commissioner of human services.

Developmentally disabled persons committed to the guardianship of the commissioner of human services and developmentally disabled persons committed to the conservatorship of the commissioner of human services in which the terms of the conservatorship limit the right to marry, may marry on receipt of written consent of the commissioner. The commissioner shall grant consent unless it appears from the commissioner's investigation that the marriage is not in the best interest of the ward or conservatee and the public. The local registrar in the county where the application for a license is made by the ward or conservatee shall not issue the license unless the local registrar has received a signed copy of the consent of the commissioner of human services.

MINN. STAT. § 518.01 (2013). VOID MARRIAGES

All marriages which are prohibited by section 517.03 shall be absolutely void, without any decree of dissolution or other legal proceedings; except if a person whose husband or wife has been absent for four successive years, without being known to the person to be living during that time, marries during the lifetime of the absent husband or wife, the marriage shall be void only from the time that its nullity is duly adjudged. If the absentee is declared dead in accordance with section 578.17, the subsequent marriage shall not be void.

MISSISSIPPI

MISS. CODE ANN. § 97-29-5 (2013). INCEST

Persons being within the degrees within which marriages are prohibited by law to be incestuous and void, or persons who are prohibited from marrying by reason of blood and between whom marriage is declared to be unlawful and void, who shall cohabit, or live together as husband and wife, or be guilty of a single act of adultery or fornication, upon conviction, shall be punished by imprisonment in the penitentiary for a term not exceeding ten (10) years.

MISS. CODE ANN. § 97-29-27 (2013). INCESTUOUS MARRIAGES

If any person shall marry within the degrees prohibited by law, he shall be guilty of incest, and on conviction thereof he shall be fined five hundred dollars or imprisoned in the penitentiary not longer than ten years, or punished by both such fine and imprisonment, and such marriage shall be void.

MISS. CODE ANN. § 97-29-29 (2013). PERSONS DIVORCED FOR INCEST

If persons divorced for incest shall, after such divorce, cohabit or live together as man and wife, or be guilty of a single act of adultery or fornication, such persons so offending shall be guilty of incest and fined, on conviction, five hundred dollars or be imprisoned in the penitentiary not longer than ten years or both.

MISS. CODE ANN. § 93-1-1 (2013). INCESTUOUS MARRIAGES VOID

(1) The son shall not marry his grandmother, his mother, or his stepmother; the brother his sister; the father his daughter, or his legally adopted daughter, or his grand-daughter; the son shall not marry the daughter of his father begotten of his stepmother, or his aunt, being his father's or mother's sister, nor shall the children of brother or sister, or brothers and sisters intermarry being first cousins by blood. The father shall not marry his son's widow; a man shall not marry his wife's daughter, or his wife's daughter's daughter, or his wife's son's daughter, or the daughter of his brother or sister; and the like prohibition shall extend to females in the same degrees. All marriages prohibited by this subsection are incestuous and void.

(2) Any marriage between persons of the same gender is prohibited and null and void from the beginning. Any marriage between persons of the same gender that is valid in another jurisdiction does not constitute a legal or valid marriage in Mississippi.

MISS. CODE ANN. § 93-5-29 (2013). DIVORCED PERSONS NOT TO COHABIT

If any person who shall be divorced on account of their being within the degrees prohibited by law, shall afterwards cohabit, they shall be liable to the pains and penalties provided by law against incest. If any persons who shall be divorced on account of a prior marriage, adultery, or other cause, shall afterwards cohabit, they shall be liable to all the pains provided by law against adultery.

MISS. CODE ANN. § 93-7-1 (2013). DECLARATION OF NULLITY OBTAINABLE

All bigamous or incestuous marriages are void, and a declaration of nullity may be obtained at the suit of either party.

MISSOURI

MO. REV. STAT. § 568.020 (2013). INCEST

1. A person commits the crime of incest if he marries or purports to marry or engages in sexual intercourse or deviate sexual intercourse with a person he knows to be, without regard to legitimacy:

- (1) His ancestor or descendant by blood or adoption; or
- (2) His stepchild, while the marriage creating that relationship exists; or
- (3) His brother or sister of the whole or half-blood; or
- (4) His uncle, aunt, nephew or niece of the whole blood.

2. Incest is a class D felony.

MO. REV. STAT. § 516.371 (2013). LIMITATIONS ON ACTION FOR SEXUAL CONTACT BY CERTAIN PERSONS

Notwithstanding any provision of law to the contrary, there shall be a ten-year statute of limitation on any action for damages for personal injury caused to an individual by a person within the third degree of affinity or consanguinity who subjects such individual to sexual contact, as defined in section 566.010, RSMo.

MO. REV. STAT. § 451.020 (2013). CERTAIN MARRIAGES PROHIBITED--OFFICIAL ISSUING LICENSES TO CERTAIN PERSONS GUILTY OF MISDEMEANOR

All marriages between parents and children, including grandparents and grandchildren of every degree, between brothers and sisters of the half as well as the whole blood, between uncles and nieces, aunts and nephews, first cousins, and between persons who lack capacity to enter into a marriage contract, are presumptively void; and it shall be unlawful for any city, county or state official having authority to issue marriage licenses to issue such marriage licenses to the persons heretofore designated, and any such official who shall issue such licenses to the persons aforesaid knowing such persons to be within the prohibition of this section shall be deemed guilty of a misdemeanor; and this prohibition shall apply to persons born out of lawful wedlock as well as those in lawful wedlock. It shall be presumed that marriages between persons who lack capacity to enter into a marriage contract are prohibited unless the court having jurisdiction over such persons approves the marriage.

MO. REV. STAT. § 451.115 (2013). MARRIAGES ILLEGALLY SOLEMNIZED -- PENALTY

Every person who shall solemnize any marriage, having knowledge of any fact which renders such marriage unlawful or criminal in either of the parties under any law of this state, or, having knowledge or reasonable cause to believe that either of the parties shall be under the age of legal consent, or is prohibited by section 451.020 from entering into such marriage, or where to his knowledge, any other legal impediment exists to such marriage, and every person not authorized by law to solemnize marriages who shall falsely represent that he is so authorized, and who, by any pretended marriage ceremony which he may perform, shall deceive any innocent person or persons into the belief that they have been legally married, shall, on conviction, be adjudged guilty of a class C misdemeanor.

MONTANA

MONT. CODE ANN. § 45-5-507 (2013). INCEST

(1) A person commits the offense of incest if the person knowingly marries, cohabits with, has sexual intercourse with, or has sexual contact, as defined in 45-2-101, with an ancestor, a descendant, a brother or sister of the whole or half blood, or any stepson or stepdaughter. The relationships referred to in this subsection include blood relationships without regard to legitimacy, relationships of parent and child by adoption, and relationships involving a stepson or stepdaughter.

(2) Consent is a defense under this section to incest with or upon a stepson or stepdaughter, but consent is ineffective if the victim is less than 18 years old.

(3) Except as provided in subsections (4) and (5), a person convicted of incest shall be punished by life imprisonment or by imprisonment in the state prison for a term not to exceed 100 years or be fined an amount not to exceed \$50,000.

(4) If the victim is under 16 years of age and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing incest, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than \$50,000.

(5)(a) If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (5)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

(ii) may be fined an amount not to exceed \$50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

(6) In addition to any sentence imposed under subsection (3), (4), or (5), after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244.

MONT. CODE ANN. § 40-1-401 (2013). PROHIBITED MARRIAGES -- CONTRACTS

(1) The following marriages are prohibited:

(a) a marriage entered into prior to the dissolution of an earlier marriage of one of the parties;

(b) a marriage between an ancestor and a descendant or between a brother and a sister, whether the relationship is by the half or the whole blood, or between first cousins;

(c) a marriage between an uncle and a niece or between an aunt and a nephew, whether the relationship is by the half or the whole blood;

(d) a marriage between persons of the same sex.

(2) Parties to a marriage prohibited under this section who cohabit after removal of the impediment are lawfully married as of the date of the removal of the impediment.

(3) Children born of a prohibited marriage are legitimate.

(4) A contractual relationship entered into for the purpose of achieving a civil relationship that is prohibited under subsection (1) is void as against public policy.

MONT. CODE ANN. § 45-2-101 (2013). GENERAL DEFINITIONS

Unless otherwise specified in the statute, all words must be taken in the objective standard rather than in the subjective, and unless a different meaning plainly is required, the following definitions apply in this title:

(1) "Acts" has its usual and ordinary meaning and includes any bodily movement, any form of communication, and when relevant, a failure or omission to take action.

(2) "Administrative proceeding" means a proceeding the outcome of which is required to be based on a record or documentation prescribed by law or in which a law or a regulation is particularized in its application to an individual.

(3) "Another" means a person or persons other than the offender.

(4)

(a) "Benefit" means gain or advantage or anything regarded by the beneficiary as gain or advantage, including benefit to another person or entity in whose welfare the beneficiary is interested.

(b) Benefit does not include an advantage promised generally to a group or class of voters as a consequence of public measures that a candidate engages to support or oppose.

(5) "Bodily injury" means physical pain, illness, or an impairment of physical condition and includes mental illness or impairment.

(6) "Child" or "children" means any individual or individuals under 18 years of age, unless a different age is specified.

(7) "Cohabit" means to live together under the representation of being married.

(8) "Common scheme" means a series of acts or omissions motivated by a purpose to accomplish a single criminal objective or by a common purpose or plan that results in the repeated commission of the same offense or that affects the same person or the same persons or the property of the same person or persons.

(9) "Computer" means an electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all input, output, processing, storage, software, or communication facilities that are connected or related to that device in a system or network.

(10) "Computer network" means the interconnection of communication systems between computers or computers and remote terminals.

(11) "Computer program" means an instruction or statement or a series of instructions or statements, in a form acceptable to a computer, that in actual or modified form permits the functioning of a computer or computer system and causes it to perform specified functions.

(12) "Computer services" include but are not limited to computer time, data processing, and storage functions.

(13) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer system.

(14) "Computer system" means a set of related, connected, or unconnected devices, computer software, or other related computer equipment.

(15) "Conduct" means an act or series of acts and the accompanying mental state.

(16) "Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or nolo contendere or upon a verdict or finding of guilty of an offense rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury.

(17) "Correctional institution" means a state prison, detention center, multijurisdictional detention center, private detention center, regional correctional facility, private correctional facility, or other institution for the incarceration of inmates under sentence for offenses or the custody of individuals awaiting trial or sentence for offenses.

(18) "Deception" means knowingly to:

(a) create or confirm in another an impression that is false and that the offender does not believe to be true;

(b) fail to correct a false impression that the offender previously has created or confirmed;

(c) prevent another from acquiring information pertinent to the disposition of the property involved;

(d) sell or otherwise transfer or encumber property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether the impediment is or is not of value or is or is not a matter of official record; or

(e) promise performance that the offender does not intend to perform or knows will not be performed. Failure to perform, standing alone, is not evidence that the offender did not intend to perform.

(19) "Defamatory matter" means anything that exposes a person or a group, class, or association to hatred, contempt, ridicule, degradation, or disgrace in society or to injury to the person's or its business or occupation.

(20) "Deprive" means:

(a) to withhold property of another:

(i) permanently;

(ii) for such a period as to appropriate a portion of its value; or

(iii) with the purpose to restore it only upon payment of reward or other compensation; or

(b) to dispose of the property of another and use or deal with the property so as to make it unlikely that the owner will recover it.

(21) "Deviate sexual relations" means sexual contact or sexual intercourse between two persons of the same sex or any form of sexual intercourse with an animal.

(22) "Document" means, with respect to offenses involving the medicaid program, any application, claim, form, report, record, writing, or correspondence, whether in written, electronic, magnetic, microfilm, or other form.

(23) "Felony" means an offense in which the sentence imposed upon conviction is death or imprisonment in a state prison for a term exceeding 1 year.

(24) "Forcible felony" means a felony that involves the use or threat of physical force or violence against any individual.

(25) A "frisk" is a search by an external patting of a person's clothing.

(26) "Government" includes a branch, subdivision, or agency of the government of the state or a locality within it.

(27) "Harm" means loss, disadvantage, or injury or anything so regarded by the person affected, including loss, disadvantage, or injury to a person or entity in whose welfare the affected person is interested.

(28) A "house of prostitution" means a place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management, or supervision of another.

(29) "Human being" means a person who has been born and is alive.

(30) An "illegal article" is an article or thing that is prohibited by statute, rule, or order from being in the possession of a person subject to official detention.

(31) "Inmate" means a person who is confined in a correctional institution.

(32)

(a) "Intoxicating substance" means a controlled substance, as defined in Title 50, chapter 32, and an alcoholic beverage, including but not limited to a beverage containing 1/2 of 1% or more of alcohol by volume.

(b) Intoxicating substance does not include dealcoholized wine or a beverage or liquid produced by the process by which beer, ale, port, or wine is produced if it contains less than 1/2 of 1% of alcohol by volume.

(33) An "involuntary act" means an act that is:

(a) a reflex or convulsion;

(b) a bodily movement during unconsciousness or sleep;

(c) conduct during hypnosis or resulting from hypnotic suggestion; or

(d) a bodily movement that otherwise is not a product of the effort or determination of the actor, either conscious or habitual.

(34) "Juror" means a person who is a member of a jury, including a grand jury, impaneled by a court in this state in an action or proceeding or by an officer authorized by law to impanel a jury in an action or proceeding. The term "juror" also includes a person who has been drawn or summoned to attend as a prospective juror.

(35) "Knowingly"--a person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when the person is aware of the person's own conduct or that the circumstance exists. A person acts knowingly with respect to the result of conduct described by a statute defining an offense when the person is aware that it is highly probable that the result will be caused by the person's conduct. When knowledge of the existence of a particular fact is an element of an offense, knowledge is established if a person is aware of a high probability of its existence. Equivalent terms, such as "knowing" or "with knowledge", have the same meaning.

(36) "Medicaid" means the Montana medical assistance program provided for in Title 53, chapter 6.

(37) "Medicaid agency" has the meaning in [53-6-155](#).

(38) "Medicaid benefit" means the provision of anything of pecuniary value to or on behalf of a recipient under the medicaid program.

(39) (a) "Medicaid claim" means a communication, whether in oral, written, electronic, magnetic, or other form:

(i) that is used to claim specific services or items as payable or reimbursable under the medicaid program; or

(ii) that states income, expense, or other information that is or may be used to determine entitlement to or the rate of payment under the medicaid program.

(b) The term includes related documents submitted as a part of or in support of the claim.

(40) "Mentally defective" means that a person suffers from a mental disease or defect that renders the person incapable of appreciating the nature of the person's own conduct.

(41) "Mentally incapacitated" means that a person is rendered temporarily incapable of appreciating or controlling the person's own conduct as a result of the influence of an intoxicating substance.

(42) "Misdemeanor" means an offense for which the sentence imposed upon conviction is imprisonment in the county jail for a term or a fine, or both, or for which the sentence imposed is imprisonment in a state prison for a term of 1 year or less.

(43) "Negligently"--a person acts negligently with respect to a result or to a circumstance described by a statute defining an offense when the person consciously disregards a risk that the result will occur or that the circumstance exists or when the person disregards a risk of which the person should be aware that the result will occur or that the circumstance exists. The risk must be of a nature and degree that to disregard it involves a gross deviation from the standard of conduct

that a reasonable person would observe in the actor's situation. "Gross deviation" means a deviation that is considerably greater than lack of ordinary care. Relevant terms, such as "negligent" and "with negligence", have the same meaning.

(44) "Nolo contendere" means a plea in which the defendant does not contest the charge or charges against the defendant and neither admits nor denies the charge or charges.

(45) "Obtain" means:

(a) in relation to property, to bring about a transfer of interest or possession, whether to the offender or to another; and

(b) in relation to labor or services, to secure the performance of the labor or service.

(46) "Obtains or exerts control" includes but is not limited to the taking, the carrying away, or the sale, conveyance, or transfer of title to, interest in, or possession of property.

(47) "Occupied structure" means any building, vehicle, or other place suitable for human occupancy or night lodging of persons or for carrying on business, whether or not a person is actually present, including any outbuilding that is immediately adjacent to or in close proximity to an occupied structure and that is habitually used for personal use or employment. Each unit of a building consisting of two or more units separately secured or occupied is a separate occupied structure.

(48) "Offender" means a person who has been or is liable to be arrested, charged, convicted, or punished for a public offense.

(49) "Offense" means a crime for which a sentence of death or of imprisonment or a fine is authorized. Offenses are classified as felonies or misdemeanors.

(50)

(a) "Official detention" means imprisonment resulting from a conviction for an offense, confinement for an offense, confinement of a person charged with an offense, detention by a peace officer pursuant to arrest, detention for extradition or deportation, or lawful detention for the purpose of the protection of the welfare of the person detained or for the protection of society.

(b) Official detention does not include supervision of probation or parole, constraint incidental to release on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or a weapon to escape.

(51) "Official proceeding" means a proceeding heard or that may be heard before a legislative, a judicial, an administrative, or another governmental agency or official authorized to take evidence under oath, including any referee, hearings examiner, commissioner, notary, or other person taking testimony or deposition in connection with the proceeding.

(52) "Other state" means a state or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(53) "Owner" means a person other than the offender who has possession of or other interest in the property involved, even though the interest or possession is unlawful, and without whose consent the offender has no authority to exert control over the property.

(54) "Party official" means a person who holds an elective or appointive post in a political party in the United States by virtue of which the person directs or conducts or participates in directing or conducting party affairs at any level of responsibility.

(55) "Peace officer" means a person who by virtue of the person's office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses while acting within the scope of the person's authority.

(56) "Pecuniary benefit" is benefit in the form of money, property, commercial interests, or anything else the primary significance of which is economic gain.

(57) "Person" includes an individual, business association, partnership, corporation, government, or other legal entity and an individual acting or purporting to act for or on behalf of a government or subdivision of government.

(58) "Physically helpless" means that a person is unconscious or is otherwise physically unable to communicate unwillingness to act.

(59) "Possession" is the knowing control of anything for a sufficient time to be able to terminate control.

(60) "Premises" includes any type of structure or building and real property.

(61) "Property" means a tangible or intangible thing of value. Property includes but is not limited to:

(a) real estate;

(b) money;

(c) commercial instruments;

(d) admission or transportation tickets;

(e) written instruments that represent or embody rights concerning anything of value, including labor or services, or that are otherwise of value to the owner;

(f) things growing on, affixed to, or found on land and things that are part of or affixed to a building;

(g) electricity, gas, and water;

(h) birds, animals, and fish that ordinarily are kept in a state of confinement;

(i) food and drink, samples, cultures, microorganisms, specimens, records, recordings, documents, blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, prototypes, or models thereof;

(j) other articles, materials, devices, substances, and whole or partial copies, descriptions, photographs, prototypes, or models thereof that constitute, represent, evidence, reflect, or record secret scientific, technical, merchandising, production, or management information or a secret designed process, procedure, formula, invention, or improvement; and

(k) electronic impulses, electronically processed or produced data or information, commercial instruments, computer software or computer programs, in either machine- or human-readable form, computer services, any other tangible or intangible item of value relating to a computer, computer system, or computer network, and copies thereof.

(62) "Property of another" means real or personal property in which a person other than the offender has an interest that the offender has no authority to defeat or impair, even though the offender may have an interest in the property.

(63) "Public place" means a place to which the public or a substantial group has access.

(64)

(a) "Public servant" means an officer or employee of government, including but not limited to legislators, judges, and firefighters, and a person participating as a juror, adviser, consultant, administrator, executor, guardian, or court-appointed fiduciary. The term "public servant" includes one who has been elected or designated to become a public servant.

(b) The term does not include witnesses.

(65) "Purposely"--a person acts purposely with respect to a result or to conduct described by a statute defining an offense if it is the person's conscious object to engage in that conduct or to cause that result. When a particular purpose is an element of an offense, the element is established although the purpose is conditional, unless the condition negatives the harm or evil sought to be prevented by the law defining the offense. Equivalent terms, such as "purpose" and "with the purpose", have the same meaning.

(66) (a) "Serious bodily injury" means bodily injury that:

(i) creates a substantial risk of death;

(ii) causes serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ; or

(iii) at the time of injury, can reasonably be expected to result in serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ.

(b) The term includes serious mental illness or impairment.

(67) "Sexual contact" means touching of the sexual or other intimate parts of the person of another, directly or through clothing, in order to knowingly or purposely:

(a) cause bodily injury to or humiliate, harass, or degrade another; or

(b) arouse or gratify the sexual response or desire of either party.

(68) (a) "Sexual intercourse" means penetration of the vulva, anus, or mouth of one person by the penis of another person, penetration of the vulva or anus of one person by a body member of another person, or penetration of the vulva or anus of one person by a foreign instrument or object manipulated by another person to knowingly or purposely:

(i) cause bodily injury or humiliate, harass, or degrade; or

(ii) arouse or gratify the sexual response or desire of either party.

(b) For purposes of subsection (68)(a), any penetration, however slight, is sufficient.

(69) "Solicit" or "solicitation" means to command, authorize, urge, incite, request, or advise another to commit an offense.

(70) "State" or "this state" means the state of Montana, all the land and water in respect to which the state of Montana has either exclusive or concurrent jurisdiction, and the air space above the land and water.

(71) "Statute" means an act of the legislature of this state.

(72) "Stolen property" means property over which control has been obtained by theft.

(73) A "stop" is the temporary detention of a person that results when a peace officer orders the person to remain in the peace officer's presence.

(74) "Tamper" means to interfere with something improperly, meddle with it, make unwarranted alterations in its existing condition, or deposit refuse upon it.

(75) "Telephone" means any type of telephone, including but not limited to a corded, uncorded, cellular, or satellite telephone.

(76) "Threat" means a menace, however communicated, to:

(a) inflict physical harm on the person threatened or any other person or on property;

(b) subject any person to physical confinement or restraint;

(c) commit a criminal offense;

(d) accuse a person of a criminal offense;

(e) expose a person to hatred, contempt, or ridicule;

(f) harm the credit or business repute of a person;

(g) reveal information sought to be concealed by the person threatened;

(h) take action as an official against anyone or anything, withhold official action, or cause the action or withholding;

(i) bring about or continue a strike, boycott, or other similar collective action if the person making the threat demands or receives property that is not for the benefit of groups that the person purports to represent; or

(j) testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(77) (a) "Value" means the market value of the property at the time and place of the crime or, if the market value cannot be satisfactorily ascertained, the cost of the replacement of the property within a reasonable time after the crime. If the offender appropriates a portion of the value of the property, the value must be determined as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, is considered the amount due or collectible. The figure is ordinarily the face amount of the indebtedness less any portion of the indebtedness that has been satisfied.

(ii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation is considered the amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(iii) The value of electronic impulses, electronically produced data or information, computer software or programs, or any other tangible or intangible item relating to a computer, computer system, or computer network is considered to be the amount of economic loss that the owner of the item might reasonably suffer by virtue of the loss of the item. The determination of the amount of economic loss includes but is not limited to consideration of the value of the owner's right to exclusive use or disposition of the item.

(b) When it cannot be determined if the value of the property is more or less than \$ 1,500 by the standards set forth in subsection (77)(a), its value is considered to be an amount less than \$ 1,500.

(c) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property.

(78) "Vehicle" means a device for transportation by land, water, or air or by mobile equipment, with provision for transport of an operator.

(79) "Weapon" means an instrument, article, or substance that, regardless of its primary function, is readily capable of being used to produce death or serious bodily injury.

(80) "Witness" means a person whose testimony is desired in an official proceeding, in any investigation by a grand jury, or in a criminal action, prosecution, or proceeding.

NEBRASKA

NEB. REV. STAT. ANN. § 28-702 (2013). INCESTUOUS MARRIAGES; DECLARED VOID

Incestuous marriages are marriages between parents and children, grandparents and grandchildren of every degree, between brothers and sisters of the half as well as the whole blood, and between uncles and nieces, aunts and nephews. Incestuous marriages are declared to be absolutely void. This section shall extend to children and relations born out of wedlock.

NEB. REV. STAT. ANN. § 28-703 (2013). INCEST; PENALTY

(1) Any person who shall knowingly intermarry or engage in sexual penetration with any person who falls within the degrees of consanguinity set forth in section 28-702 or any person who engages in sexual penetration with his or her minor stepchild commits incest.

(2) Incest is a Class III felony.

(3)(a) For purposes of this section, the definitions found in section 28-318 shall be used.

(b) The testimony of a victim shall be entitled to the same weight as the testimony of victims of other crimes under this code.

NEB. REV. STAT. ANN. § 28-201 (2013). CRIMINAL ATTEMPT; CONDUCT; PENALTIES

(1) A person shall be guilty of an attempt to commit a crime if he or she:

(a) Intentionally engages in conduct which would constitute the crime if the attendant circumstances were as he or she believes them to be; or

(b) Intentionally engages in conduct which, under the circumstances as he or she believes them to be, constitutes a substantial step in a course of conduct intended to culminate in his or her commission of the crime.

(2) When causing a particular result is an element of the crime, a person shall be guilty of an attempt to commit the crime if, acting with the state of mind required to establish liability with respect to the attendant circumstances specified in the definition of the crime, he or she intentionally engages in conduct which is a substantial step in a course of conduct intended or known to cause such a result.

(3) Conduct shall not be considered a substantial step under this section unless it is strongly corroborative of the defendant's criminal intent.

(4) Criminal attempt is:

(a) A Class II felony when the crime attempted is a Class I, IA, IB, IC, or ID felony;

(b) A Class III felony when the crime attempted is a Class II felony;

(c) A Class IIIA felony when the crime attempted is sexual assault in the second degree under section 28-320, a violation of subdivision (2)(b) of section 28-416, incest under section 28-703, or assault by a confined person with a deadly or dangerous weapon under section 28-932;

(d) A Class IV felony when the crime attempted is a Class III felony not listed in subdivision (4)(c) of this section;

(e) A Class I misdemeanor when the crime attempted is a Class IIIA or Class IV felony;

(f) A Class II misdemeanor when the crime attempted is a Class I misdemeanor; and

(g) A Class III misdemeanor when the crime attempted is a Class II misdemeanor.

NEB. REV. STAT. ANN. § 28-367 (2013). SEXUAL ABUSE, DEFINED

Sexual abuse shall include sexual assault as described in section 28-319 or 28-320 and incest as described in section 28-703.

NEB. REV. STAT. ANN. § 27-505 (2013). RULE 505 HUSBAND-WIFE PRIVILEGE; GENERAL RULE OF PRIVILEGE; DEFINITIONS; WAIVER; CRIMINAL CASES; EXCEPTIONS TO THE PRIVILEGE

(1) Neither husband nor wife can be examined in any case as to any confidential communication made by one to the other while married, nor shall they after the marriage relation ceases be permitted to reveal in testimony any such communication while the marriage subsisted except as otherwise provided by law. This privilege may be waived only with the consent of both spouses. After the death of one, it may be waived by the survivor.

For purposes of this section (a) a confidential communication shall mean a communication which is made privately by any person to his or her spouse with no intention that such communication be disclosed to any other person and (b) communication shall include any action on the part of a spouse if the action reasonably appears to have been intended to communicate a message from one spouse to the other.

(2) During the existence of the marriage, a husband and wife can in no criminal case be a witness against the other. This privilege may be waived only with the consent of both spouses.

(3) These privileges may not be claimed:

(a) In any criminal case where the crime charged is a crime of violence, bigamy, incest, or any crime committed by one against the person or property of the other or of a child of either or in any criminal prosecution against the husband for wife or child abandonment;

(b) In any case brought by either husband or wife against a third person relating to their marriage relationship or the interruption of or interference with such relationship; or

(c) In any case brought by either husband or wife against the other for divorce or annulment of the marriage or for support.

NEB. REV. STAT. ANN. § 28-702 (2013). INCESTUOUS MARRIAGES; DECLARED VOID

Incestuous marriages are marriages between parents and children, grandparents and grandchildren of every degree, between brothers and sisters of the half as well as the whole blood, and between uncles and

nieces, aunts and nephews. Incestuous marriages are declared to be absolutely void. This section shall extend to children and relations born out of wedlock.

NEB. REV. STAT. ANN. § 29-110 (2010). PROSECUTIONS; COMPLAINT, INDICTMENT, OR INFORMATION; FILING; TIME LIMITATIONS; EXCEPTIONS

(1) Except as otherwise provided by law, no person shall be prosecuted for any felony unless the indictment is found by a grand jury within three years next after the offense has been done or committed or unless a complaint for the same is filed before the magistrate within three years next after the offense has been done or committed and a warrant for the arrest of the defendant has been issued.

(2) Except as otherwise provided by law, no person shall be prosecuted, tried, or punished for any misdemeanor or other indictable offense below the grade of felony or for any fine or forfeiture under any penal statute unless the suit, information, or indictment for such offense is instituted or found within one year and six months from the time of committing the offense or incurring the fine or forfeiture or within one year for any offense the punishment of which is restricted by a fine not exceeding one hundred dollars and to imprisonment not exceeding three months.

(3) Except as otherwise provided by law, no person shall be prosecuted for kidnapping under section 28-313, false imprisonment under section 28-314 or 28-315, child abuse under section 28-707, pandering under section 28-802, debauching a minor under section 28-805, or an offense under section 28-813, 28-813.01, or 28-1463.03 when the victim is under sixteen years of age at the time of the offense (a) unless the indictment for such offense is found by a grand jury within seven years next after the offense has been committed or within seven years next after the victim's sixteenth birthday, whichever is later, or (b) unless a complaint for such offense is filed before the magistrate within seven years next after the offense has been committed or within seven years next after the victim's sixteenth birthday, whichever is later, and a warrant for the arrest of the defendant has been issued.

(4) No person shall be prosecuted for a violation of the Securities Act of Nebraska under section 8-1117 unless the indictment for such offense is found by a grand jury within five years next after the offense has been done or committed or unless a complaint for such offense is filed before the magistrate within five years next after the offense has been done or committed and a warrant for the arrest of the defendant has been issued.

(5) No person shall be prosecuted for criminal impersonation under section 28-638, identity theft under section 28-639, or identity fraud under section 28-640 unless the indictment for such offense is found by a grand jury within five years next after the offense has been done or committed or unless a complaint for such offense is filed before the magistrate within five years next after the offense has been done or committed and a warrant for the arrest of the defendant has been issued.

(6) No person shall be prosecuted for a violation of section 68-1017 if the aggregate value of all funds and other benefits obtained or attempted to be obtained is five hundred dollars or more unless the indictment for such offense is found by a grand jury within five years next after the offense has been done or committed or unless a complaint for such offense is filed before the magistrate within five years next after the offense has been done or committed and a warrant for the arrest of the defendant has been issued.

(7) There shall not be any time limitations for prosecution or punishment for treason, murder, arson, forgery, sexual assault in the first or second degree under section 28-319 or 28-320, sexual assault of a child in the second or third degree under section 28-320.01, incest under section 28-703, or sexual assault of a child in the first degree under section 28-319.01; nor shall there be any time limitations for prosecution or punishment for sexual assault in the third degree under section 28-320 when the victim is under sixteen years of age at the time of the offense.

(8) The time limitations prescribed in this section shall include all inchoate offenses pursuant to the Nebraska Criminal Code and compounding a felony pursuant to section 28-301.

(9) The time limitations prescribed in this section shall not extend to any person fleeing from justice.

(10) When any suit, information, or indictment for any crime or misdemeanor is limited by any statute to be brought or exhibited within any other time than is limited by this section, then the suit, information, or indictment shall be brought or exhibited within the time limited by such statute.

(11) If any suit, information, or indictment is quashed or the proceedings set aside or reversed on writ of error, the time during the pendency of such suit, information, or indictment so quashed, set aside, or reversed shall not be reckoned within this statute so as to bar any new suit, information, or indictment for the same offense.

(12) The changes made to this section by Laws 2004, LB 943, shall apply to offenses committed prior to April 16, 2004, for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

(13) The changes made to this section by Laws 2005, LB 713, shall apply to offenses committed prior to September 4, 2005, for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

(14) The changes made to this section by Laws 2009, LB 97, and Laws 2006, LB 1199, shall apply to offenses committed prior to May 21, 2009, for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

(15) The changes made to this section by Laws 2010, LB 809, shall apply to offenses committed prior to July 15, 2010, for which the statute of limitations has not expired as of such date and to offenses committed on or after such date.

NEVADA

NEV. REV. STAT. ANN. § 201.180 (2013). INCEST: DEFINITION; PENALTY

Persons being within the degree of consanguinity within which marriages are declared by law to be incestuous and void who intermarry with each other or who commit fornication or adultery with each other shall be punished for a category A felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of life with the possibility of parole, and may be further punished by a fine of not more than \$10,000.

NEV. REV. STAT. ANN. § 171.055 (2013). BIGAMY AND INCEST

When the offense, either of bigamy or incest, is committed in one county and the defendant is apprehended in another, the venue is in either county.

NEV. REV. STAT. ANN. § 49.295 (2009). HUSBAND AND WIFE: GENERAL RULE OF PRIVILEGE; EXCEPTIONS

1. Except as otherwise provided in subsections 2 and 3 and NRS 49.305:

(a) A husband cannot be examined as a witness for or against his wife without his consent, nor a wife for or against her husband without her consent.

(b) Neither a husband nor a wife can be examined, during the marriage or afterwards, without the consent of the other, as to any communication made by one to the other during marriage.

2. The provisions of subsection 1 do not apply to a:

(a) Civil proceeding brought by or on behalf of one spouse against the other spouse;

(b) Proceeding to commit or otherwise place a spouse, the property of the spouse or both the spouse and the property of the spouse under the control of another because of the alleged mental or physical condition of the spouse;

(c) Proceeding brought by or on behalf of a spouse to establish his or her competence;

(d) Proceeding in the juvenile court or family court pursuant to title 5 of NRS or NRS 432B.410 to 432B.590, inclusive; or

(e) Criminal proceeding in which one spouse is charged with:

(1) A crime against the person or the property of the other spouse or of a child of either, or of a child in the custody or control of either, whether the crime was committed before or during marriage.

(2) Bigamy or incest.

(3) A crime related to abandonment of a child or nonsupport of the other spouse or child.

3. The provisions of subsection 1 do not apply in any criminal proceeding to events which took place before the husband and wife were married.

NEV. REV. STAT. ANN. § 122.020 (2013). PERSONS CAPABLE OF MARRIAGE; CONSENT OF PARENT OR GUARDIAN

1. Except as otherwise provided in this section, a male and a female person, at least 18 years of age, not nearer of kin than second cousins or cousins of the half blood, and not having a husband or wife living, may be joined in marriage.

2. A male and a female person who are the husband and wife of each other may be rejoined in marriage if the record of their marriage has been lost or destroyed or is otherwise unobtainable.

3. A person at least 16 years of age but less than 18 years of age may marry only if the person has the consent of:

(a) Either parent; or

(b) Such person's legal guardian.

NEW HAMPSHIRE

N.H. REV. STAT. ANN. § 632-A:2 (2010). AGGRAVATED FELONIOUS SEXUAL ASSAULT

I. A person is guilty of the felony of aggravated felonious sexual assault if such person engages in sexual penetration with another person under any of the following circumstances:

(a) When the actor overcomes the victim through the actual application of physical force, physical violence or superior physical strength.

(b) When the victim is physically helpless to resist.

(c) When the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the present ability to execute these threats.

(d) When the actor coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim believes that the actor has the ability to execute these threats in the future.

(e) When the victim submits under circumstances involving false imprisonment, kidnapping or extortion.

(f) When the actor, without the prior knowledge or consent of the victim, administers or has knowledge of another person administering to the victim any intoxicating substance which mentally incapacitates the victim.

(g) When the actor provides therapy, medical treatment or examination of the victim and in the course of that therapeutic or treating relationship or within one year of termination of that therapeutic or treating relationship:

(1) Acts in a manner or for purposes which are not professionally recognized as ethical or acceptable; or

(2) Uses this position as such provider to coerce the victim to submit.

(h) When, except as between legally married spouses, the victim has a disability that renders him or her incapable of freely arriving at an independent choice as to whether or not to engage in sexual conduct, and the actor knows or has reason to know that the victim has such a disability.

(i) When the actor through concealment or by the element of surprise is able to cause sexual penetration with the victim before the victim has an adequate chance to flee or resist.

(j) When, except as between legally married spouses, the victim is 13 years of age or older and under 16 years of age and:

(1) the actor is a member of the same household as the victim; or

(2) the actor is related by blood or affinity to the victim.

(k) When, except as between legally married spouses, the victim is 13 years of age or older and under 18 years of age and the actor is in a position of authority over the victim and uses this authority to coerce the victim to submit.

(l) When the victim is less than 13 years of age.

(m) When at the time of the sexual assault, the victim indicates by speech or conduct that there is not freely given consent to performance of the sexual act.

(n) When the actor is in a position of authority over the victim and uses this authority to coerce the victim to submit under any of the following circumstances:

(1) When the actor has direct supervisory or disciplinary authority over the victim by virtue of the victim being incarcerated in a correctional institution, the secure psychiatric unit, or juvenile detention facility where the actor is employed; or

(2) When the actor is a probation or parole officer or a juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation.

Consent of the victim under any of the circumstances set forth in subparagraph (n) shall not be considered a defense.

II. A person is guilty of aggravated felonious sexual assault without penetration when he intentionally touches whether directly, through clothing, or otherwise, the genitalia of a person under the age of 13 under circumstances that can be reasonably construed as being for the purpose of sexual arousal or gratification.

III. A person is guilty of aggravated felonious sexual assault when such person engages in a pattern of sexual assault against another person, not the actor's legal spouse, who is less than 16 years of age. The mental state applicable to the underlying acts of sexual assault need not be shown with respect to the element of engaging in a pattern of sexual assault.

IV. A person is guilty of aggravated felonious sexual assault when such person engages in sexual penetration as defined in RSA 632-A:1, V with another person under 18 years of age whom such person knows to be his or her ancestor, descendant, brother or sister of the whole or half blood, uncle, aunt, nephew, or niece. The relationships referred to herein include blood relationships without regard to legitimacy, stepchildren, and relationships of parent and child by adoption.

N.H. REV. STAT. ANN. § 639:2 (2013). INCEST

I. A person is guilty of a class B felony if he or she marries or engages in sexual penetration as defined in RSA 632-A:1, V, or lives together with, under the representation of being married, a person 18 years or older whom he or she knows to be his or her ancestor, descendant, brother, or sister, of the whole or half blood, or an uncle, aunt, nephew, or niece; provided, however, that no person under the age of 18 shall be liable under this section if the other party is at least 3 years older at the time of the act. The relationships referred to herein include blood relationships without regard to legitimacy, stepchildren, and relationships of parent and child by adoption.

II. In cases of alleged incest where the victim is under the age of 18 when the alleged offense occurred, the statute of limitations shall run pursuant to RSA 625:8, III(d).

III. Notwithstanding the provisions of paragraph I, a person convicted of incest where the victim is under the age of 18 shall be sentenced to a maximum sentence which is not to exceed 20 years and a minimum which is not to exceed ½ the maximum. Notwithstanding the provisions of this paragraph, no person under 18 years of age shall be subject to any minimum sentence of imprisonment for a conviction of incest under this section.

N.H. REV. STAT. ANN. § 457:2 (2013). MARRIAGES PROHIBITED

No person shall marry his or her father, mother, father's brother, father's sister, mother's brother, mother's sister, son, daughter, brother, sister, son's son, son's daughter, daughter's son, daughter's daughter, brother's son, brother's daughter, sister's son, sister's daughter, father's brother's son, father's brother's daughter, mother's brother's son, mother's brother's daughter, father's sister's son, father's sister's daughter, mother's sister's son, or mother's sister's daughter. No person shall be allowed to be married to more than one person at any given time.

NEW JERSEY

N.J. STAT. ANN. § 2C:14-2 (2013). SEXUAL ASSAULT

a. An actor is guilty of aggravated sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances:

(1) The victim is less than 13 years old;

(2) The victim is at least 13 but less than 16 years old; and

(a) The actor is related to the victim by blood or affinity to the third degree, or

(b) The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status, or

(c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household;

(3) The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, kidnapping, homicide, aggravated assault on another, burglary, arson or criminal escape;

(4) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object;

(5) The actor is aided or abetted by one or more other persons and the actor uses physical force or coercion;

(6) The actor uses physical force or coercion and severe personal injury is sustained by the victim;

(7) The victim is one whom the actor knew or should have known was physically helpless, mentally incapacitated, or had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent.

Aggravated sexual assault is a crime of the first degree.

b. An actor is guilty of sexual assault if he commits an act of sexual contact with a victim who is less than 13 years old and the actor is at least four years older than the victim.

c. An actor is guilty of sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances:

(1) The actor uses physical force or coercion, but the victim does not sustain severe personal injury;

(2) The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status;

(3) The victim is at least 16 but less than 18 years old and:

(a) The actor is related to the victim by blood or affinity to the third degree; or

(b) The actor has supervisory or disciplinary power of any nature or in any capacity over the victim; or

(c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household;

(4) The victim is at least 13 but less than 16 years old and the actor is at least four years older than the victim.

Sexual assault is a crime of the second degree.

N.J. STAT. ANN. § 37:1-1 (2013). CERTAIN MARRIAGES OR CIVIL UNIONS PROHIBITED

a. A man shall not marry or enter into a civil union with any of his ancestors or descendants, or his sister or brother, or the daughter or son of his brother or sister, or the sister or brother of his father or mother, whether such collateral kindred be of the whole or half blood.

b. A woman shall not marry or enter into a civil union with any of her ancestors or descendants, or her sister or brother, or the daughter or son of her brother or sister, or the sister or brother of her father or mother, whether such collateral kindred be of the whole or half blood.

c. A marriage or civil union in violation of any of the foregoing provisions shall be absolutely void.

NEW MEXICO

N.M. STAT. ANN. § 30-10-3 (2013). INCEST

Incest consists of knowingly intermarrying or having sexual intercourse with persons within the following degrees of consanguinity: parents and children including grandparents and grandchildren of every degree, brothers and sisters of the half as well as of the whole blood, uncles and nieces, aunts and nephews.

Whoever commits incest is guilty of a third degree felony.

N.M. STAT. ANN. § 40-1-9 (2013). PROHIBITED MARRIAGES; ANNULMENT

No marriage between relatives within the prohibited degrees or between or with infants under the prohibited ages, shall be declared void, except by a decree of the district court upon proper proceedings being had therein. A cause of action may be instituted by the minor, by next friend, by either parent or legal guardian of such minor or by the district attorney. In the case of minors, no party to the marriage who may be over the prohibited age shall be allowed to apply for or obtain a decree of the court declaring such marriage void; but such minor may do so, and the court may in its discretion grant alimony until the minor becomes of age or remarries. All children of marriage so declared void as aforesaid shall be deemed and held as legitimate with the right of inheritance from both parents; and also in the case of minors, if the parties should live together until they arrive at the age under which marriage is prohibited [permitted] by statute, then and in that case, such marriage shall be deemed legal and binding.

NEW YORK

N.Y. PENAL LAW § 255.25 (2013). INCEST IN THE THIRD DEGREE

A person is guilty of incest in the third degree when he or she marries or engages in sexual intercourse, oral sexual conduct or anal sexual conduct with a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

Incest in the third degree is a class E felony.

N.Y. PENAL LAW § 255.26 (2013). INCEST IN THE SECOND DEGREE

A person is guilty of incest in the second degree when he or she commits the crime of rape in the second degree, as defined in section 130.30 of this part, or criminal sexual act in the second degree, as defined in section 130.45 of this part, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

Incest in the second degree is a class D felony

N.Y. PENAL LAW § 255.27 (2013). INCEST IN THE FIRST DEGREE

A person is guilty of incest in the first degree when he or she commits the crime of rape in the first degree, as defined in subdivision three or four of section 130.35 of this part, or criminal sexual act in the first degree, as defined in subdivision three or four of section 130.50 of this part, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or half blood, uncle, aunt, nephew or niece.

Incest in the first degree is a class B felony.

N.Y. PENAL LAW § 255.30 (2013). ADULTERY AND INCEST; CORROBORATION

1. A person shall not be convicted of adultery or of an attempt to commit adultery solely upon the testimony of the other party to the adulterous act or attempted act, unsupported by other evidence tending to establish that the defendant attempted to engage with the other party in sexual intercourse, and that the defendant or the other party had a living spouse at the time of the adulterous act or attempted act.

2. 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 a relative of the other party of a kind specified in section 255.25.

N.Y. DOM. REL. § 5 (2013). INCESTUOUS AND VOID MARRIAGES

A marriage is incestuous and void whether the relatives are legitimate or illegitimate between either:

1. An ancestor and a descendant;
2. A brother and sister of either the whole or the half blood;
3. An uncle and niece or an aunt and nephew.

If a marriage prohibited by the foregoing provisions of this section be solemnized it shall be void, and the parties thereto shall each be fined not less than fifty nor more than one hundred dollars and may, in the discretion of the court in addition to said fine, be imprisoned for a term not exceeding six months. Any person who shall knowingly and wilfully solemnize such marriage, or procure or aid in the solemnization of the same, shall be deemed guilty of a misdemeanor and shall be fined or imprisoned in like manner.

NORTH CAROLINA

N.C. GEN. STAT. § 14-178 (2013). INCEST

(a) Offense. - A person commits the offense of incest if the person engages in carnal intercourse with the person's (i) grandparent or grandchild, (ii) parent or child or stepchild or legally adopted child, (iii) brother or sister of the half or whole blood, or (iv) uncle, aunt, nephew, or niece.

(b) Punishment and Sentencing. -

(1) A person is guilty of a Class B1 felony if either of the following occurs:

a. The person commits incest against a child under the age of 13 and the person is at least 12 years old and is at least four years older than the child when the incest occurred.

b. The person commits incest against a child who is 13, 14, or 15 years old and the person is at least six years older than the child when the incest occurred.

(2) A person is guilty of a Class C felony if the person commits incest against a child who is 13, 14, or 15 and the person is more than four but less than six years older than the child when the incest occurred.

(3) In all other cases of incest, the parties are guilty of a Class F felony.

(c) No Liability for Children Under 16. - No child under the age of 16 is liable under this section if the other person is at least four years older when the incest occurred.

N.Y. PENAL LAW. § 51-3 (2013). WANT OF CAPACITY; VOID AND VOIDABLE MARRIAGES

All marriages between any two persons nearer of kin than first cousins, or between double first cousins, or between a male person under 16 years of age and any female, or between a female person under 16 years of age and any male, or between persons either of whom has a husband or wife living at the time of such marriage, or between persons either of whom is at the time physically impotent, or between persons either of whom is at the time incapable of contracting from want of will or understanding, shall be void. No marriage followed by cohabitation and the birth of issue shall be declared void after the death of either of the parties for any of the causes stated in this section except for bigamy. No marriage by persons either of whom may be under 16 years of age, and otherwise competent to marry, shall be declared void when the girl shall be pregnant, or when a child shall have been born to the parties unless such child at the time of the action to annul shall be dead. A marriage contracted under a representation and belief that the female partner to the marriage is pregnant, followed by the separation of the parties within 45 days of the marriage which separation has been continuous for a period of one year, shall be voidable unless a child shall have been born to the parties within 10 lunar months of the date of separation.

NORTH DAKOTA

N.D. CENT. CODE § 12.1-20-11 (2013). INCEST

A person who intermarries, cohabits, or engages in a sexual act with another person related to him within a degree of consanguinity within which marriages are declared incestuous and void by section 14-03-03, knowing such other person to be within said degree of relationship, is guilty of a class C felony.

N.D. CENT. CODE § 14-03-03 (2013). VOID MARRIAGES

The following marriages are incestuous and void:

1. Marriage between parents and children, including grandparents and grandchildren of every degree.
2. Marriage between brothers and sisters of the half as well as the whole blood.
3. Marriage between uncles and nieces of the half as well as the whole blood.
4. Marriage between aunts and nephews of the half as well as the whole blood.
5. Marriage between first cousins of the half as well as the whole blood.

This section applies to illegitimate as well as legitimate children and relatives.

OHIO

OHIO REV. CODE ANN. § 2907.03 (2010). SEXUAL BATTERY

(A) No person shall engage in sexual conduct with another, not the spouse of the offender, when any of the following apply:

- (1) The offender knowingly coerces the other person to submit by any means that would prevent resistance by a person of ordinary resolution.

(2) The offender knows that the other person's ability to appraise the nature of or control the other person's own conduct is substantially impaired.

(3) The offender knows that the other person submits because the other person is unaware that the act is being committed.

(4) The offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse.

(5) The offender is the other person's natural or adoptive parent, or a stepparent, or guardian, custodian, or person in loco parentis of the other person.

(6) The other person is in custody of law or a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the other person.

(7) The offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the other person is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school.

(8) The other person is a minor, the offender is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the other person is enrolled in or attends that institution.

(9) The other person is a minor, and the offender is the other person's athletic or other type of coach, is the other person's instructor, is the leader of a scouting troop of which the other person is a member, or is a person with temporary or occasional disciplinary control over the other person.

(10) The offender is a mental health professional, the other person is a mental health client or patient of the offender, and the offender induces the other person to submit by falsely representing to the other person that the sexual conduct is necessary for mental health treatment purposes.

(11) The other person is confined in a detention facility, and the offender is an employee of that detention facility.

(12) The other person is a minor, the offender is a cleric, and the other person is a member of, or attends, the church or congregation served by the cleric.

(13) The other person is a minor, the offender is a peace officer, and the offender is more than two years older than the other person.

(B) Whoever violates this section is guilty of sexual battery. Except as otherwise provided in this division, sexual battery is a felony of the third degree. If the other person is less than thirteen years of age, sexual battery is a felony of the second degree, and the court shall impose upon the offender a mandatory prison term equal to one of the prison terms prescribed in section 2929.14 of the Revised Code for a felony of the second degree.

(C) As used in this section:

(1) "Cleric" has the same meaning as in section 2317.02 of the Revised Code.

(2) "Detention facility" has the same meaning as in section 2921.01 of the Revised Code.

(3) "Institution of higher education" means a state institution of higher education defined in section 3345.011 of the Revised Code, a private nonprofit college or university located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, or a school certified under Chapter 3332. of the Revised Code.

(4) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

OHIO REV. CODE. ANN. § 3101.01 (2010). PERSONS WHO MAY BE JOINED IN MARRIAGE; MINOR TO OBTAIN CONSENT; PUBLIC POLICY OF STATE CONCERNING SAME-SEX MARRIAGE AND EXTENSION OF CERTAIN BENEFITS TO NONMARITAL RELATIONSHIPS

(A) Male persons of the age of eighteen years, and female persons of the age of sixteen years, not nearer of kin than second cousins, and not having a husband or wife living, may be joined in marriage. A marriage may only be entered into by one man and one woman. A minor shall first obtain the consent of the minor's parents, surviving parent, parent who is designated the residential parent and legal custodian of the minor by a court of competent jurisdiction, guardian, or any one of the following who has been awarded permanent custody of the minor by a court exercising juvenile jurisdiction:

(1) An adult person;

(2) The department of job and family services or any child welfare organization certified by the department;

(3) A public children services agency.

(B) For the purposes of division (A) of this section, a minor shall not be required to obtain the consent of a parent who resides in a foreign country, has neglected or abandoned the minor for a period of one year or longer immediately preceding the minor's application for a marriage license, has been adjudged incompetent, is an inmate of a state mental or correctional institution, has been permanently deprived of parental rights and responsibilities for the care of the minor and the right to have the minor live with the parent and to be the legal custodian of the minor by a court exercising juvenile jurisdiction, or has been deprived of parental rights and responsibilities for the care of the minor and the right to have the minor live with the parent and to be the legal custodian of the minor by the appointment of a guardian of the person of the minor by the probate court or by another court of competent jurisdiction.

(C)(1) Any marriage between persons of the same sex is against the strong public policy of this state. Any marriage between persons of the same sex shall have no legal force or effect in this state and, if attempted to be entered into in this state, is void ab initio and shall not be recognized by this state.

(2) Any marriage entered into by persons of the same sex in any other jurisdiction shall be considered and treated in all respects as having no legal force or effect in this state and shall not be recognized by this state.

(3) The recognition or extension by the state of the specific statutory benefits of a legal marriage to nonmarital relationships between persons of the same sex or different sexes is against the strong public policy of this state. Any public act, record, or judicial proceeding of this state, as defined in section 9.82 of the Revised Code, that extends the specific statutory benefits of legal marriage to nonmarital relationships between persons of the same sex or different sexes is void ab initio. Nothing in division (C)(3) of this section shall be construed to do either of the following:

(a) Prohibit the extension of specific benefits otherwise enjoyed by all persons, married or unmarried, to nonmarital relationships between persons of the same sex or different sexes, including the extension of benefits conferred by any statute that is not expressly limited to married persons, which includes but is not limited to benefits available under Chapter 4117. of the Revised Code;

(b) Affect the validity of private agreements that are otherwise valid under the laws of this state.

(4) Any public act, record, or judicial proceeding of any other state, country, or other jurisdiction outside this state that extends the specific benefits of legal marriage to nonmarital relationships between persons of the same sex or different sexes shall be considered and treated in all respects as having no legal force or effect in this state and shall not be recognized by this state.

OKLAHOMA

OKLA. STAT. ANN. TIT. 21, § 885 (2013). INCEST

Persons who, being within the degrees of consanguinity within which marriages are by the laws of the state declared incestuous and void, intermarry with each other, or commit adultery or fornication with each other, shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections not exceeding ten (10) years. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

OKLA. STAT. ANN. TIT. 43, § 2 (2013). CONSANGUINITY

Marriages between ancestors and descendants of any degree, of a stepfather with a stepdaughter, stepmother with stepson, between uncles and nieces, aunts and nephews, except in cases where such relationship is only by marriage, between brothers and sisters of the half as well as the whole blood, and first cousins are declared to be incestuous, illegal and void, and are expressly prohibited. Provided, that any marriage of first cousins performed in another state authorizing such marriages, which is otherwise legal, is hereby recognized as valid and binding in this state as of the date of such marriage.

OREGON

OR. REV. STAT. § 163.525 (2013). INCEST

(1) A person commits the crime of incest if the person marries or engages in sexual intercourse or deviate sexual intercourse with a person whom the person knows to be related to the person, either legitimately or illegitimately, as an ancestor, descendant or brother or sister of either the whole or half blood.

(2) Incest is a Class C felony.

OR. REV. STAT. § 131.125 (2010). TIME LIMITATIONS

(1) A prosecution for aggravated murder, murder, attempted murder or aggravated murder, conspiracy or solicitation to commit aggravated murder or murder or any degree of manslaughter may be commenced at

any time after the commission of the attempt, conspiracy or solicitation to commit aggravated murder or murder, or the death of the person killed.

(2) A prosecution for any of the following felonies may be commenced within six years after the commission of the crime or, if the victim at the time of the crime was under 18 years of age, anytime before the victim attains 30 years of age or within 12 years after the offense is reported to a law enforcement agency or the Department of Human Services, whichever occurs first:

- (a) Strangulation under ORS 163.187 (4).
- (b) Criminal mistreatment in the first degree under ORS 163.205.
- (c) Rape in the third degree under ORS 163.355.
- (d) Rape in the second degree under ORS 163.365.
- (e) Rape in the first degree under ORS 163.375.
- (f) Sodomy in the third degree under ORS 163.385.
- (g) Sodomy in the second degree under ORS 163.395.
- (h) Sodomy in the first degree under ORS 163.405.
- (i) Unlawful sexual penetration in the second degree under ORS 163.408.
- (j) Unlawful sexual penetration in the first degree under ORS 163.411.
- (k) Sexual abuse in the second degree under ORS 163.425.
- (L) Sexual abuse in the first degree under ORS 163.427.
- (m) Using a child in a display of sexual conduct under ORS 163.670.
- (n) Encouraging child sexual abuse in the first degree under ORS 163.684.
- (o) Incest under ORS 163.525.
- (p) Promoting prostitution under ORS 167.012.
- (q) Compelling prostitution under ORS 167.017.
- (r) Luring a minor under ORS 167.057.

(3) A prosecution for any of the following misdemeanors may be commenced within four years after the commission of the crime or, if the victim at the time of the crime was under 18 years of age, anytime before the victim attains 22 years of age or within four years after the offense is reported to a law enforcement agency or the Department of Human Services, whichever occurs first:

- (a) Strangulation under ORS 163.187 (3).
- (b) Sexual abuse in the third degree under ORS 163.415.
- (c) Exhibiting an obscene performance to a minor under ORS 167.075.
- (d) Displaying obscene materials to minors under ORS 167.080.

(4) In the case of crimes described in subsection (2)(m) of this section, the victim is the child engaged in sexual conduct. In the case of the crime described in subsection (2)(o) of this section, the victim is the party to the incest other than the party being prosecuted. In the case of crimes described in subsection (2)(p) and (q) of this section, the victim is the child whose acts of prostitution are promoted or compelled.

(5) A prosecution for arson in any degree may be commenced within six years after the commission of the crime.

(6) A prosecution for any of the following felonies may be commenced within six years after the commission of the crime if the victim at the time of the crime was 65 years of age or older:

- (a) Theft in the first degree under ORS 164.055.
- (b) Aggravated theft in the first degree under ORS 164.057.
- (c) Theft by extortion under ORS 164.075.
- (d) Robbery in the third degree under ORS 164.395.
- (e) Robbery in the second degree under ORS 164.405.
- (f) Robbery in the first degree under ORS 164.415.
- (g) Forgery in the first degree under ORS 165.013.
- (h) Fraudulent use of a credit card under ORS 165.055 (4)(b).
- (i) Identity theft under ORS 165.800.

(7) Except as provided in subsection (8) of this section or as otherwise expressly provided by law, prosecutions for other offenses must be commenced within the following periods of limitations after their commission:

- (a) For any other felony, three years.
- (b) For any misdemeanor, two years.
- (c) For a violation, six months.

(8) If the period prescribed in subsection (7) of this section has expired, a prosecution nevertheless may be commenced as follows:

(a) If the offense has as a material element either fraud or the breach of a fiduciary obligation, prosecution may be commenced within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is not a party to the offense, but in no case shall the period of limitation otherwise applicable be extended by more than three years;

(b) If the offense is based upon misconduct in office by a public officer or employee, prosecution may be commenced at any time while the defendant is in public office or employment or within two years thereafter, but in no case shall the period of limitation otherwise applicable be extended by more than three years; or

(c) If the offense is an invasion of personal privacy under ORS 163.700, prosecution may be commenced within one year after discovery of the offense by the person aggrieved by the offense, by a person who has a legal duty to represent the person aggrieved by the offense or by a law enforcement

agency, but in no case shall the period of limitation otherwise applicable be extended by more than three years.

(9) Notwithstanding subsection (2) of this section, if the defendant is identified after the period described in subsection (2) of this section on the basis of DNA (deoxyribonucleic acid) sample comparisons, a prosecution for:

(a) Rape in the first degree, sodomy in the first degree, unlawful sexual penetration in the first degree or sexual abuse in the first degree may be commenced at any time after the commission of the crime.

(b) Rape in the second degree, sodomy in the second degree or unlawful sexual penetration in the second degree may be commenced within 25 years after the commission of the crime.

(10) Notwithstanding subsection (9) of this section, if a prosecution for a felony listed in subsection (9) of this section would otherwise be barred by subsection (2) of this section, the prosecution must be commenced within two years of the DNA-based identification of the defendant.

OR. REV. STAT. § 106.020 (2013). PROHIBITED AND VOID MARRIAGES

The following marriages are prohibited; and, if solemnized within this state, are absolutely void:

(1) When either party thereto had a wife or husband living at the time of such marriage.

(2) When the parties thereto are first cousins or any nearer of kin to each other, whether of the whole or half blood, whether by blood or adoption, computing by the rules of the civil law, except that when the parties are first cousins by adoption only, the marriage is not prohibited or void.

PENNSYLVANIA

18 PA. CONS. STAT. ANN. § 4302 (2012). INCEST

(a) General rule.--Except as provided under subsection (b), a person is guilty of incest, a felony of the second degree, if that person knowingly marries or cohabits or has sexual intercourse with an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood.

(b) Incest of a minor.--A person is guilty of incest of a minor, a felony of the second degree, if that person knowingly marries, cohabits with or has sexual intercourse with a complainant who is an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood and:

(1) is under the age of 13 years; or

(2) is 13 to 18 years of age and the person is four or more years older than the complainant.

(c) Relationships.--The relationships referred to in this section include blood relationships without regard to legitimacy, and relationship of parent and child by adoption.

23 PA. CONS. STAT. ANN. § 1703 (2013). MARRIAGE WITHIN DEGREE OF CONSANGUINITY

All marriages within the prohibited degrees of consanguinity as set forth in this part are voidable, but, when any of these marriages have not been dissolved during the lifetime of the parties, the unlawfulness of the marriage shall not be inquired into after the death of either of the parties to the marriage.

RHODE ISLAND

R.I. GEN. LAWS § 15-1-1 (2012). MEN FORBIDDEN TO MARRY KINDRED

No man shall marry his mother, grandmother, daughter, son's daughter, daughter's daughter, stepmother, grandfather's wife, son's wife, son's son's wife, daughter's son's wife, wife's mother, wife's grandmother, wife's daughter, wife's son's daughter, wife's daughter's daughter, sister, brother's daughter, sister's daughter, father's sister, or mother's sister.

R.I. GEN. LAWS § 15-1-2 (2012). WOMEN FORBIDDEN TO MARRY KINDRED

No woman shall marry her father, grandfather, son, son's son, daughter's son, stepfather, grandmother's husband, daughter's husband, son's daughter's husband, daughter's daughter's husband, husband's father, husband's grandfather, husband's son, husband's son's son, husband's daughter's son, brother, brother's son, sister's son, father's brother, or mother's brother.

R.I. GEN. LAWS § 15-1-3 (2012). INCESTUOUS MARRIAGES VOID

If any man or woman intermarries within the degrees stated in § 15-1-1 or § 15-1-2, the marriage shall be null and void.

R.I. GEN. LAWS § 15-1-4 (2012). MARRIAGES OF KINDRED ALLOWED BY JEWISH RELIGION

The provisions of §§ 15-1-1--15-1-3 shall not extend to, or in any way affect, any marriage which shall be solemnized among the Jewish people, within the degrees of affinity or consanguinity allowed by their religion.

SOUTH CAROLINA

S.C. CODE ANN. § 16-15-20 (2013). INCEST

Any persons who shall have carnal intercourse with each other within the following degrees of relationship, to wit:

(1) A man with his mother, grandmother, daughter, granddaughter, stepmother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister or mother's sister; or

(2) A woman with her father, grandfather, son, grandson, stepfather, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother or mother's brother;

Shall be guilty of incest and shall be punished by a fine of not less than five hundred dollars or imprisonment not less than one year in the Penitentiary, or both such fine and imprisonment.

S.C. CODE ANN. § 20-1-10 (2013). PERSONS WHO MAY CONTRACT MATRIMONY

(A) All persons, except mentally incompetent persons and persons whose marriage is prohibited by this section, may lawfully contract matrimony.

(B) No man shall marry his mother, grandmother, daughter, granddaughter, stepmother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, mother's sister, or another man.

(C) No woman shall marry her father, grandfather, son, grandson, stepfather, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, mother's brother, or another woman.

S.C. CODE ANN. § 13-5-555 (2013). STATUTE OF LIMITATIONS FOR ACTION BASED ON SEXUAL ABUSE OR INCEST.

(A) An action to recover damages for injury to a person arising out of an act of sexual abuse or incest must be commenced within six years after the person becomes twenty-one years of age or within three years from the time of discovery by the person of the injury and the causal relationship between the injury and the sexual abuse or incest, whichever occurs later.

(B) Parental immunity is not a defense against claims based on sexual abuse or incest that occurred before, on, or after this section's effective date.

SOUTH DAKOTA

S.D. CODIFIED LAWS § 22-22A-2 (2013). INCEST—PROHIBITED SEXUAL CONTACT—FELONY

Any persons, eighteen years of age or older, who knowingly engage in a mutually consensual act of sexual penetration with each other:

- (1) Who are not legally married; and
- (2) Who are within degrees of consanguinity within which marriages are, by the laws of this state, declared void pursuant to § 25-1-6;

are guilty of incest. Incest is a Class 5 felony.

S.D. CODIFIED LAWS § 22-22A-3 (2013). AGGRAVATED INCEST -- PROHIBITED SEXUAL CONTACT -- FELONY

Any person who knowingly engages in an act of sexual penetration with a person who is less than eighteen years of age and is either:

- (1) The child of the perpetrator or the child of a spouse or former spouse of the perpetrator; or
- (2) Related to the perpetrator within degrees of consanguinity within which marriages are, by the laws of this state, declared void pursuant to § 25-1-6;

is guilty of aggravated incest. Aggravated incest is a Class 3 felony.

S.D. CODIFIED LAWS § 22-22A-3.1 (2013). AGGRAVATED INCEST – FOSTER CHILD -- FELONY

Any person eighteen years of age or older, who knowingly engages in an act of sexual penetration with a person who is less than eighteen years of age and who, at the time of the offense, has been placed, and resides, in a licensed foster home is guilty of aggravated incest if the perpetrator is:

- (1) The licensed foster care provider; or
- (2) A resident of the licensed foster care provider's home and related to the licensed foster care provider by blood or marriage.

Aggravated incest is a Class 3 felony.

S.D. CODIFIED LAWS § 25-1-6 (2013). MARRIAGE BETWEEN SPECIFIED RELATIVES VOID

Marriages between parents and children, ancestors and descendants of every degree, and between brothers and sisters of the half as well as the whole blood, and between uncles and nieces, or aunts and nephews, and between cousins of the half as well as of the whole blood, are null and void from the beginning, whether the relationship is legitimate or illegitimate. The relationships provided for in this section include such relationships that arise through adoption.

TENNESSEE

TENN. CODE ANN. § 39-15-302 (2013). INCEST

(a) A person commits incest who engages in sexual penetration as defined in § 39-13-501, with a person, knowing the person to be, without regard to legitimacy:

- (1) The person's natural parent, child, grandparent, grandchild, uncle, aunt, nephew, niece, stepparent, stepchild, adoptive parent, adoptive child; or
- (2) The person's brother or sister of the whole or half-blood or by adoption.

(b) Incest is a Class C felony.

TENN. CODE ANN. § 36-3-101 (2013). DEGREES OF RELATIONSHIP

Marriage cannot be contracted with a lineal ancestor or descendant, nor the lineal ancestor or descendant of either parent, nor the child of a grandparent, nor the lineal descendants of husband or wife, as the case may be, nor the husband or wife of a parent or lineal descendant.

TEXAS

TEX. PENAL CODE ANN. § 25.02 (2013). PROHIBITED SEXUAL CONDUCT

(a) A person commits an offense if the person engages in sexual intercourse or deviate sexual intercourse with another person the actor knows to be, without regard to legitimacy:

- (1) the actor's ancestor or descendant by blood or adoption;
- (2) the actor's current or former stepchild or stepparent;
- (3) the actor's parent's brother or sister of the whole or half blood;
- (4) the actor's brother or sister of the whole or half blood or by adoption;
- (5) the children of the actor's brother or sister of the whole or half blood or by adoption; or
- (6) the son or daughter of the actor's aunt or uncle of the whole or half blood or by adoption.

(b) For purposes of this section:

(1) “Deviate sexual intercourse” means any contact between the genitals of one person and the mouth or anus of another person with intent to arouse or gratify the sexual desire of any person.

(2) “Sexual intercourse” means any penetration of the female sex organ by the male sex organ.

(c) An offense under this section is a felony of the third degree, unless the offense is committed under Subsection (a)(1), in which event the offense is a felony of the second degree.

TEX. FAM. CODE ANN. § 6.201 (2013). CONSANGUINITY

A marriage is void if one party to the marriage is related to the other as:

- (1) an ancestor or descendant, by blood or adoption;
- (2) a brother or sister, of the whole or half blood or by adoption;
- (3) a parent's brother or sister, of the whole or half blood or by adoption; or
- (4) a son or daughter of a brother or sister, of the whole or half blood or by adoption.

UTAH

UTAH CODE ANN. § 76-5-406 (2013). SEXUAL OFFENSES AGAINST THE VICTIM WITHOUT CONSENT OF VICTIM -- CIRCUMSTANCES

An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a child, object rape, attempted object rape, object rape of a child, attempted object rape of a child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy upon a child, attempted sodomy upon a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

- (1) the victim expresses lack of consent through words or conduct;
- (2) the actor overcomes the victim through the actual application of physical force or violence;
- (3) the actor is able to overcome the victim through concealment or by the element of surprise;

(4)(a)(i) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or

(ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;

(b) as used in this Subsection (4) “to retaliate” includes but is not limited to threats of physical force, kidnaping, or extortion;

(5) the victim has not consented and the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;

(6) the actor knows that as a result of mental disease or defect, the victim is at the time of the act incapable either of appraising the nature of the act or of resisting it;

(7) the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim's spouse;

(8) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim's knowledge;

(9) the victim is younger than 14 years of age;

(10) the victim is younger than 18 years of age and at the time of the offense the actor was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in Subsection 76-5-404.1(4)(h);

(11) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2) or (4); or

(12) the actor is a health professional or religious counselor, as those terms are defined in this Subsection (12), the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested. For purposes of this Subsection (12):

(a) “health professional” means an individual who is licensed or who holds himself out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling including, but not limited to, a physician, osteopathic physician, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor; and

(b) “religious counselor” means a minister, priest, rabbi, bishop, or other recognized member of the clergy.

UTAH CODE ANN. § 76-7-102 (2013). INCEST—DEFINITIONS--PENALTY

(1) As used in this section:

(a) “Provider” means a person who provides or makes available his seminal fluid or her human egg.

(b) "Related person" means a person related to the provider or actor as an ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin, and includes:

(i) blood relationships of the whole or half blood without regard to legitimacy;

(ii) the relationship of parent and child by adoption; and

(iii) the relationship of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(2)(a) An actor is guilty of incest when, under circumstances not amounting to rape, rape of a child, or aggravated sexual assault, the actor knowingly and intentionally:

(i) engages in conduct under Subsection (2)(b)(i), (ii), (iii), or (iv); or

(ii) provides a human egg or seminal fluid under Subsection (2)(b)(v).

(b) Conduct referred to under Subsection (2)(a) is:

(i) sexual intercourse between the actor and a person the actor knows has kinship to the actor as a related person;

(ii) the insertion or placement of the provider's seminal fluid into the vagina, cervix, or uterus of a related person by means other than sexual intercourse;

(iii) providing or making available his seminal fluid for the purpose of insertion or placement of the fluid into the vagina, cervix, or uterus of a related person by means other than sexual intercourse;

(iv) a woman 18 years of age or older who:

(A) knowingly allows the insertion of the seminal fluid of a provider into her vagina, cervix, or uterus by means other than sexual intercourse; and

(B) knows that the seminal fluid is that of a person with whom she has kinship as a related person; or

(v) providing the actor's sperm or human egg that is used to conduct in vitro fertilization, or any other means of fertilization, with the human egg or sperm of a person who is a related person.

(c) This Subsection (2) does not prohibit providing a fertilized human egg if the provider of the fertilizing sperm is not a related person regarding the person providing the egg.

(3) Incest is a third degree felony.

(4) A provider under this section is not a donor under Section 78B-15-702.

UTAH CODE ANN. § 30-1-1 (2013). INCESTUOUS MARRIAGES VOID

(1) The following marriages are incestuous and void from the beginning, whether the relationship is legitimate or illegitimate:

(a) marriages between parents and children;

(b) marriages between ancestors and descendants of every degree;

(c) marriages between brothers and sisters of the half as well as the whole blood;

(d) marriages between uncles and nieces or aunts and nephews;

(e) marriages between first cousins, except as provided in Subsection (2); or

(f) marriages between any persons related to each other within and not including the fifth degree of consanguinity computed according to the rules of the civil law, except as provided in Subsection (2).

(2) First cousins may marry under the following circumstances:

(a) both parties are 65 years of age or older; or

(b) if both parties are 55 years of age or older, upon a finding by the district court, located in the district in which either party resides, that either party is unable to reproduce.

VERMONT

VT. STAT. ANN. TIT. 13, § 205 (2013). INTERMARRIAGE OF OR FORNICATION BY PERSONS PROHIBITED TO MARRY

Persons between whom marriages are prohibited by the laws of this state who intermarry or commit fornication with each other shall be imprisoned not more than five years or fined not more than \$1,000.00, or both.

VT. STAT. ANN. TIT. 15, § 511 (2013). VOID CIVIL MARRIAGES; CONSANGUINITY, AFFINITY, OR LIVING SPOUSE

(a) Civil marriages prohibited by law on account of consanguinity or affinity between the parties or on account of either party having a wife or husband living, if solemnized within this state, shall be void without decree of divorce or other legal process.

(b) When the validity of a civil marriage is uncertain for causes mentioned in subsection (a) of this section, either party may file a complaint to annul the same. Upon proof of the nullity of the marriage it shall be declared void by a decree of nullity.

V.T. RULES OF EVIDENCE RULE 804A (2013). HEARSAY EXCEPTION; PUTATIVE VICTIM AGE 12 OR UNDER; PERSON IN NEED OF GUARDIANSHIP

(a) Statements by a person who is a child 12 years of age or under or a person in need of guardianship as defined in 14 V.S.A. § 3061 at the time the statements were made are not excluded by the hearsay rule if the court specifically finds at the time they are offered that:

(1) the statements are offered in a civil, criminal, or administrative proceeding in which the child or person in need of guardianship is a putative victim of sexual assault under 13 V.S.A. § 3252, aggravated sexual assault under 13 V.S.A. § 3253, aggravated sexual assault of a child under 13 V.S.A. § 3253a, lewd or lascivious conduct under 13 V.S.A. § 2601, lewd or lascivious conduct with a child under 13 V.S.A. § 2602, incest under 13 V.S.A. § 205, abuse, neglect, or exploitation under 33 V.S.A. § 6913, sexual abuse of a vulnerable adult under 13 V.S.A. § 1379, or wrongful sexual activity and the statements

concern the alleged crime or the wrongful sexual activity; or the statements are offered in a juvenile proceeding under chapter 52 of Title 33 involving a delinquent act alleged to have been committed against a child 13 years of age or under or a person in need of guardianship, if the delinquent act would be an offense listed herein if committed by an adult and the statements concern the alleged delinquent act; or the child is the subject of a petition alleging that the child is in need of care or supervision under chapter 53 of Title 33, and the statement relates to the sexual abuse of the child;

(2) the statements were not taken in preparation for a legal proceeding and, if a criminal or delinquency proceeding has been initiated, the statements were made prior to the defendant's initial appearance before a judicial officer under Rule 5 of the Vermont Rules of Criminal Procedure;

(3) the child or person in need of guardianship is available to testify in court or under Rule 807; and

(4) the time, content, and circumstances of the statements provide substantial indicia of trustworthiness.

(b) Upon motion of either party in a criminal or delinquency proceeding, the court shall require the child or person in need of guardianship to testify for the state.

VIRGINIA

VA. CODE ANN. § 18.2-366 (2013). ADULTERY AND FORNICATION BY PERSONS FORBIDDEN TO MARRY; INCEST

A. Any person who commits adultery or fornication with any person whom he or she is forbidden by law to marry shall be guilty of a Class 1 misdemeanor except as provided by subsection B.

B. Any person who commits adultery or fornication with his daughter or granddaughter, or with her son or grandson, or her father or his mother, shall be guilty of a Class 5 felony. However, if a parent or grandparent commits adultery or fornication with his or her child or grandchild, and such child or grandchild is at least thirteen years of age but less than eighteen years of age at the time of the offense, such parent or grandparent shall be guilty of a Class 3 felony.

VA. CODE ANN. § 20-38.1 (2013). CERTAIN MARRIAGES PROHIBITED

(a) The following marriages are prohibited:

(1) A marriage entered into prior to the dissolution of an earlier marriage of one of the parties;

(2) A marriage between an ancestor and descendant, or between a brother and a sister, whether the relationship is by the half or the whole blood or by adoption;

(3) A marriage between an uncle and a niece or between an aunt and a nephew, whether the relationship is by the half or the whole blood.

(b) Repealed.

VA. CODE ANN. § 19.2-271.2 (2013). TESTIMONY OF HUSBAND AND WIFE IN CRIMINAL CASES (SUBSECTION (B) OF SUPREME COURT RULE 2:504 DERIVED FROM THIS SECTION)

In criminal cases husband and wife shall be allowed, and, subject to the rules of evidence governing other witnesses, may be compelled to testify in behalf of each other, but neither shall be compelled to be called as a witness against the other, except (i) in the case of a prosecution for an offense committed by one against the other, against a minor child of either, or against the property of either; (ii) in any case where either is charged with forgery of the name of the other or uttering or attempting to utter a writing bearing the allegedly forged signature of the other; or (iii) in any proceeding relating to a violation of the laws pertaining to criminal sexual assault (§§ 18.2-61 through 18.2-67.10), crimes against nature (§ 18.2-361) involving a minor as a victim and provided the defendant and the victim are not married to each other, incest (§ 18.2-366), or abuse of children (§§ 18.2-370 through 18.2-371). The failure of either husband or wife to testify, however, shall create no presumption against the accused, nor be the subject of any comment before the court or jury by any attorney.

Except in the prosecution for a criminal offense as set forth in (i), (ii) or (iii) above, in any criminal proceeding, a person has a privilege to refuse to disclose, and to prevent anyone else from disclosing, any confidential communication between his spouse and him during their marriage, regardless of whether he is married to that spouse at the time he objects to disclosure. For the purposes of this section, “confidential communication” means a communication made privately by a person to his spouse that is not intended for disclosure to any other person.

WASHINGTON

WASH. REV. CODE ANN. § 9A.64.020 (2013). INCEST

(1)(a) A person is guilty of incest in the first degree if he or she engages in sexual intercourse with a person whom he or she knows to be related to him or her, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either the whole or the half blood.

(b) Incest in the first degree is a class B felony.

(2)(a) A person is guilty of incest in the second degree if he or she engages in sexual contact with a person whom he or she knows to be related to him or her, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either the whole or the half blood.

(b) Incest in the second degree is a class C felony.

(3) As used in this section:

(a) “Descendant” includes stepchildren and adopted children under eighteen years of age;

(b) “Sexual contact” has the same meaning as in RCW 9A.44.010; and

(c) “Sexual intercourse” has the same meaning as in RCW 9A.44.010.

WASH. REV. CODE ANN. § 26.04.020 (2013). PROHIBITED MARRIAGES

(1) Marriages in the following cases are prohibited:

(a) When either party thereto has a spouse or registered domestic partner living at the time of such marriage, unless the registered domestic partner is the other party to the marriage; or

(b) When the spouses are nearer of kin to each other than second cousins, whether of the whole or half blood computing by the rules of the civil law.

(2) It is unlawful for any person to marry his or her sibling, child, grandchild, aunt, uncle, niece, or nephew.

(3) A marriage between two persons that is recognized as valid in another jurisdiction is valid in this state only if the marriage is not prohibited or made unlawful under subsection (1)(a) or (2) of this section.

(4) A legal union, other than a marriage, between two individuals that was validly formed in another state or jurisdiction and that provides substantially the same rights, benefits, and responsibilities as a marriage, does not prohibit those same two individuals from obtaining a marriage license in Washington.

(5) No state agency or local government may base a decision to penalize, withhold benefits from, license, or refuse to contract with any religious organization based on the opposition to or refusal to provide accommodations, facilities, advantages, privileges, service, or goods related to the solemnization or celebration of a marriage.

(6) No religiously affiliated educational institution shall be required to provide accommodations, facilities, advantages, privileges, service, or goods related to the solemnization or celebration of a marriage, including a use of any campus chapel or church. A religiously affiliated educational institution shall be immune from a civil claim or cause of action, including a claim pursuant to chapter 49.60 RCW, based on its refusal to provide accommodations, facilities, advantages, privileges, service, or goods related to the solemnization or celebration of a marriage under this subsection shall be immune for civil claim or cause of action, including a claim pursuant to chapter 49.60 RCW.

WEST VIRGINIA

W. VA. CODE ANN. § 61-8-12 (2013). INCEST; PENALTY

(a) For the purposes of this section:

(1) “Aunt” means the sister of a person's mother or father;

(2) “Brother” means the son of a person's mother or father;

(3) “Daughter” means a person's natural daughter, adoptive daughter or the daughter of a person's husband or wife;

(4) “Father” means a person's natural father, adoptive father or the husband of a person's mother;

(5) “Granddaughter” means the daughter of a person's son or daughter;

(6) “Grandfather” means the father of a person's father or mother;

(7) “Grandmother” means the mother of a person's father or mother;

(8) “Grandson” means the son of a person's son or daughter;

(9) “Mother” means a person's natural mother, adoptive mother or the wife of a person's father;

(10) “Niece” means the daughter of a person's brother or sister;

(11) “Nephew” means the son of a person's brother or sister;

(12) “Sexual intercourse” means any act between persons involving penetration, however slight, of the female sex organ by the male sex organ or involving contact between the sex organs of one person and the mouth or anus of another person;

(13) “Sexual intrusion” means any act between persons involving penetration, however slight, of the female sex organ or of the anus of any person by an object for the purpose of degrading or humiliating the person so penetrated or for gratifying the sexual desire of either party;

(14) “Sister” means the daughter of a person's father or mother;

(15) “Son” means a person's natural son, adoptive son or the son of a person's husband or wife; and

(16) “Uncle” means the brother of a person's father or mother.

(b) A person is guilty of incest when such person engages in sexual intercourse or sexual intrusion with his or her father, mother, brother, sister, daughter, son, grandfather, grandmother, grandson, granddaughter, nephew, niece, uncle or aunt.

(c) Any person who violates the provisions of this section shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than five years nor more than fifteen years, or fined not less than five hundred dollars nor more than five thousand dollars and imprisoned in the penitentiary not less than five years nor more than fifteen years.

(d) In addition to any penalty provided under this section and any restitution which may be ordered by the court under article eleven-a of this chapter, the court may order any person convicted under the provisions of this section where the victim is a minor to pay all or any portion of the cost of medical, psychological or psychiatric treatment of the victim, the need for which results from the act or acts for which the person is convicted, whether or not the victim is considered to have sustained bodily injury.

(e) In any case where a person is convicted of an offense described herein against a child and further has or may have custodial, visitation or other parental rights to the child, the court shall find that the person is an abusing parent within the meaning of article six, chapter forty-nine of this code, and shall take such further action in accord with the provisions of said article.

W. VA. CODE ANN. § 48-2-302 (2013). PROHIBITION AGAINST MARRIAGE OF PERSONS RELATED WITHIN CERTAIN DEGREES

(a) A man is prohibited from marrying his mother, grandmother, sister, daughter, granddaughter, half sister, aunt, brother's daughter, sister's daughter, first cousin or double cousin. A woman is prohibited from marrying her father, grandfather, brother, son, grandson, half brother, uncle, brother's son, sister's son, first cousin or double cousin.

(b) The prohibitions described in subsection (a) of this section are applicable to consanguineous relationships where persons are blood related by virtue of having a common ancestor.

(c) The prohibitions described in subsection (a) of this section are applicable to persons related by affinity, where the relationship is founded on a marriage, and the prohibition continues in force even though the marriage is terminated by death or divorce, unless the divorce was ordered for a cause which made the marriage, originally, unlawful or void.

WISCONSIN

WIS. STAT. § 944.06 (2013). INCEST

Whoever marries or has nonmarital sexual intercourse, as defined in s. 948.01(6), with a person he or she knows is a blood relative and such relative is in fact related in a degree within which the marriage of the parties is prohibited by the law of this state is guilty of a Class F felony.

WIS. STAT.. § 948.06 (2013). INCEST WITH A CHILD

Whoever does any of the following is guilty of a Class C felony:

(1) Marries or has sexual intercourse or sexual contact with a child he or she knows is related, either by blood or adoption, and the child is related in a degree of kinship closer than 2nd cousin.

(1m) Has sexual contact or sexual intercourse with a child if the actor is the child's stepparent.

(2) Is a person responsible for the child's welfare and:

(a) Has knowledge that another person who is related to the child by blood or adoption in a degree of kinship closer than 2nd cousin or who is a child's stepparent has had or intends to have sexual intercourse or sexual contact with the child;

(b) Is physically and emotionally capable of taking action that will prevent the intercourse or contact from occurring or being repeated;

(c) Fails to take that action; and

(d) The failure to act exposes the child to an unreasonable risk that intercourse or contact may occur between the child and the other person or facilitates the intercourse or contact that does occur between the child and the other person.

WIS. STAT. § 765.03 (2013). WHO SHALL NOT MARRY; DIVORCED PERSONS

(1) No marriage shall be contracted while either of the parties has a husband or wife living, nor between persons who are nearer of kin than 2nd cousins except that marriage may be contracted between first cousins where the female has attained the age of 55 years or where either party, at the time of application for a marriage license, submits an affidavit signed by a physician stating that either party is permanently sterile. Relationship under this section shall be computed by the rule of the civil law, whether the parties to the marriage are of the half or of the whole blood. A marriage may not be contracted if either party has such want of understanding as renders him or her incapable of assenting to marriage.

(2) It is unlawful for any person, who is or has been a party to an action for divorce in any court in this state, or elsewhere, to marry again until 6 months after judgment of divorce is granted, and the marriage of any such person solemnized before the expiration of 6 months from the date of the granting of judgment of divorce shall be void.

WYOMING

WYO. STAT. ANN. § 6-4-402 (2013). INCEST; PENALTIES; DISCLOSURE OR PUBLICATION OF IDENTIFYING INFORMATION; "MINOR VICTIM"

(a) A person is guilty of incest if he knowingly commits sexual intrusion, as defined by W.S. 6-2-301(a)(vii), or sexual contact, as defined by W.S. 6-2-301(a)(vi), with an ancestor or descendant or a brother or sister of the whole or half blood. The relationships referred to herein include relationships of:

- (i) Parent and child by adoption;
- (ii) Blood relationships without regard to legitimacy; and
- (iii) Stepparent and stepchild.

(b) Incest is a felony punishable by imprisonment for not more than fifteen (15) years, a fine of not more than ten thousand dollars (\$10,000.00), or both.

(c) Prior to the filing of an information or indictment charging a violation under this section, neither the name of the person accused or the victim nor any other information reasonably likely to disclose their identity shall be released or negligently allowed to be released to the public by any public employee, except as authorized by the judge with jurisdiction over the criminal charges. The name of the person accused may be released to the public to aid or facilitate an arrest.

(d) After the filing of an information or indictment and absent a request to release the identity of a minor victim by the victim or another acting on behalf of a minor victim, the trial court shall restrict the disclosure or publication of information reasonably likely to identify the minor victim.

(e) Any person who willfully violates subsection (c) or (d) of this section or who willfully neglects or refuses to obey any court order made pursuant thereto is guilty of contempt and, upon conviction, shall be fined not more than seven hundred fifty dollars (\$750.00) or be imprisoned in the county jail not more than ninety (90) days, or both.

(f) A release of a name or other information to the public in violation of the proscriptions of subsection (c) or (d) of this section shall not stand as a bar to the prosecution of a defendant nor be grounds for dismissal of any charges against a defendant.

(g) As used in this section, “minor victim” means a person under the age of eighteen (18) years.

WYO. STAT. ANN. § 20-2-101 (2010). VOID AND VOIDABLE MARRIAGES DEFINED; ANNULMENTS

(a) Marriages contracted in Wyoming are void without any decree of divorce:

- (i) When either party has a husband or wife living at the time of contracting the marriage;
- (ii) When either party is mentally incompetent at the time of contracting the marriage;
- (iii) When the parties stand in the relation to each other of parent and child, grandparent and grandchild, brother and sister of half or whole blood, uncle and niece, aunt and nephew, or first cousins, whether either party is illegitimate. This paragraph does not apply to persons not related by consanguinity.

(b) A marriage is voidable if solemnized when either party was under the age of legal consent unless a judge gave consent, if they separated during nonage and did not cohabit together afterwards, or if the consent of one (1) of the parties was obtained by force or fraud and there was no subsequent voluntary cohabitation of the parties.

(c) Either party may file a petition in the district court of the county where the parties or one (1) of them reside, to annul a marriage for reasons stated in subsections (a) and (b) of this section and proceedings

shall be held as in the case of a petition for divorce except as otherwise provided. Upon due proof the marriage shall be declared void by a decree of nullity.

(d) An action to annul a marriage on the ground that one of the parties was under the age of legal consent provided by W.S. 20-1-102(a) may be filed by the parent or guardian entitled to the custody of the minor. The marriage may not be annulled on the application of a party who was of the age of legal consent at the time of the marriage nor when it appears that the parties, after they had attained the age of consent, had freely cohabited as man and wife.

(e) An action to annul a marriage on the grounds of mental incompetency may be commenced on behalf of a mentally incompetent person by his guardian or next friend. A mentally incompetent person restored to competency may maintain an action of annulment, but no decree may be granted if the parties freely cohabited as husband and wife after restoration of competency.

(f) An action to annul a marriage on the grounds of physical incapacity may only be maintained by the injured party against the party whose incapacity is alleged and may only be commenced within two (2) years from the solemnization of the marriage.

(g) All decrees of annulment may include provisions for the custody and support of children pursuant to this article, W.S. 20-2-201 through 20-2-204 and 20-2-301 through 20-2-315 and for the division of property pursuant to W. S. 20-2-114.

FEDERAL LEGISLATION

18 U.S.C.S. § 3509 (2013). CHILD VICTIMS' AND CHILD WITNESSES' RIGHTS

(a) Definitions.--For purposes of this section--

(1) the term “adult attendant” means an adult described in subsection (i) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

(2) the term “child” means a person who is under the age of 18, who is or is alleged to be--

(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

(B) a witness to a crime committed against another person;

(3) the term “child abuse” means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child;

(4) the term “physical injury” includes lacerations, fractured bones, burns, internal injuries, severe bruising or serious bodily harm;

(5) the term “mental injury” means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors, which may be demonstrated by a change in behavior, emotional response, or cognition;

(6) the term “exploitation” means child pornography or child prostitution;

(7) the term “multidisciplinary child abuse team” means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

(8) the term “sexual abuse” includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(9) the term “sexually explicit conduct” means actual or simulated--

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

(E) sadistic or masochistic abuse;

(10) the term “sex crime” means an act of sexual abuse that is a criminal act;

(11) the term “negligent treatment” means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of the child; and

(12) the term “child abuse” does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.

(b) Alternatives to live in-court testimony.--

(1) Child's live testimony by 2-way closed circuit television.--

(A) In a proceeding involving an alleged offense against a child, the attorney for the Government, the child's attorney, or a guardian ad litem appointed under subsection (h) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 7 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the defendant, for any of the following reasons:

(i) The child is unable to testify because of fear.

(ii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying.

(iii) The child suffers a mental or other infirmity.

(iv) Conduct by defendant or defense counsel causes the child to be unable to continue testifying.

(C) The court shall support a ruling on the child's inability to testify with findings on the record. In determining whether the impact on an individual child of one or more of the factors described in subparagraph (B) is so substantial as to justify an order under subparagraph (A), the court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of time with the child attendant, the prosecutor, the child's attorney, the guardian ad litem, and the defense counsel present.

(D) If the court orders the taking of testimony by television, the attorney for the Government and the attorney for the defendant not including an attorney pro se for a party shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are--

(i) the child's attorney or guardian ad litem appointed under subsection (h);

(ii) Persons necessary to operate the closed-circuit television equipment;

(iii) A judicial officer, appointed by the court; and

(iv) Other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the defendant, jury, judge, and public. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall relay into the room in which the child is testifying the defendant's image, and the voice of the judge.

(2) Videotaped deposition of child.—

(A) In a proceeding involving an alleged offense against a child, the attorney for the Government, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subsection (h) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the defendant, jury, judge, and public for any of the following reasons:

(I) The child will be unable to testify because of fear.

(II) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

(III) The child suffers a mental or other infirmity.

(IV) Conduct by defendant or defense counsel causes the child to be unable to continue testifying.

(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are--

(I) the attorney for the Government;

(II) the attorney for the defendant;

(III) the child's attorney or guardian ad litem appointed under subsection (h);

(IV) persons necessary to operate the videotape equipment;

(V) subject to clause (iv), the defendant; and

(VI) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney, the right to be confronted with the witness against the defendant, and the right to cross-examine the child.

(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant, including a defendant represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that the defendant be excluded from the deposition room, the court shall order that 2-way closed circuit television equipment relay the defendant's image into the room in which the child is testifying, and the child's testimony into the room in which the defendant is viewing the proceeding, and that the defendant be provided with a means of private, contemporaneous communication with the defendant's attorney during the deposition.

(v) **Handling of videotape.**--The complete record of the examination of the child, including the image and voices of all persons who in any way participate in the examination, shall be made and preserved on video tape in addition to being stenographically recorded. The videotape shall be transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant, and the defendant's attorney during ordinary business hours.

(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal including Supreme Court review. The videotape shall become part of the court record and be kept by the court until it is destroyed.

(c) Competency examinations.--

(1) Effect on Federal Rules of Evidence.--Nothing in this subsection shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

(2) Presumption.--A child is presumed to be competent.

(3) Requirement of written motion.--A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

(4) Requirement of compelling reasons.--A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

(5) Persons permitted to be present.--The only persons who may be permitted to be present at a competency examination are--

(A) the judge;

(B) the attorney for the Government;

(C) the attorney for the defendant;

(D) a court reporter; and

(E) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

(6) Not before jury.--A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

(7) Direct examination of child.--Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorney for the Government and the attorney for the defendant including a party acting as an attorney pro se. The court may permit an attorney but not a party acting as an attorney pro se to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

(8) Appropriate questions.--The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

(9) Psychological and psychiatric examinations.--Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

(d) Privacy protection.--

(1) Confidentiality of information.—

(A) A person acting in a capacity described in subparagraph (B) in connection with a criminal proceeding shall--

(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

(B) Subparagraph (A) applies to--

(i) all employees of the Government connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the Government to provide assistance in the proceeding;

(ii) employees of the court;

(iii) the defendant and employees of the defendant, including the attorney for the defendant and persons hired by the defendant or the attorney for the defendant to provide assistance in the proceeding; and

(iv) members of the jury.

(2) **Filing under seal.**--All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court--

(A) the complete paper to be kept under seal; and

(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

(3) **Protective orders.**—

(A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

(B) A protective order issued under subparagraph (A) may--

(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

(ii) provide for any other measures that may be necessary to protect the privacy of the child.

(4) **Disclosure of information.**--This subsection does not prohibit disclosure of the name of or other information concerning a child to the defendant, the attorney for the defendant, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

(e) **Closing the courtroom.**--When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate. Such an order shall be narrowly tailored to serve the Government's specific compelling interest.

(f) Victim impact statement.--In preparing the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, the probation officer shall request information from the multidisciplinary child abuse team and other appropriate sources to determine the impact of the offense on the child victim and any other children who may have been affected. A guardian ad litem appointed under subsection (h) shall make every effort to obtain and report information that accurately expresses the child's and the family's views concerning the child's victimization. A guardian ad litem shall use forms that permit the child to express the child's views concerning the personal consequences of the child's victimization, at a level and in a form of communication commensurate with the child's age and ability.

(g) Use of multidisciplinary child abuse teams.--

(1) In general.--A multidisciplinary child abuse team shall be used when it is feasible to do so. The court shall work with State and local governments that have established multidisciplinary child abuse teams designed to assist child victims and child witnesses, and the court and the attorney for the Government shall consult with the multidisciplinary child abuse team as appropriate.

(2) Role of multidisciplinary child abuse teams.--The role of the multidisciplinary child abuse team shall be to provide for a child services that the members of the team in their professional roles are capable of providing, including--

(A) medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings;

(B) telephone consultation services in emergencies and in other situations;

(C) medical evaluations related to abuse or neglect;

(D) psychological and psychiatric diagnoses and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case;

(E) expert medical, psychological, and related professional testimony;

(F) case service coordination and assistance, including the location of services available from public and private agencies in the community; and

(G) training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, in handling child victims and child witnesses.

(h) Guardian ad litem.--

(1) In general.--The court may appoint, and provide reasonable compensation and payment of expenses for, a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

(2) Duties of guardian ad litem.--A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. (The extent of access to grand jury materials is limited to the access routinely provided to victims and their representatives.) A guardian

ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

(3) Immunities.--A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties described in paragraph (2).

(i) Adult attendant.--A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child. The image of the child attendant, for the time the child is testifying or being deposed, shall be recorded on videotape.

(j) Speedy trial.--In a proceeding in which a child is called to give testimony, on motion by the attorney for the Government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the criminal process. When deciding whether to grant a continuance, the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child.

(k) Stay of civil action.--If, at any time that a cause of action for recovery of compensation for damage or injury to the person of a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the civil action shall be stayed until the end of all phases of the criminal action and any mention of the civil action during the criminal proceeding is prohibited. As used in this subsection, a criminal action is pending until its final adjudication in the trial court.

(l) Testimonial aids.--The court may permit a child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.

(m) Prohibition on reproduction of child pornography.--

(1) In any criminal proceeding, any property or material that constitutes child pornography (as defined by section 2256 of this title) shall remain in the care, custody, and control of either the Government or the court.

(2)(A) Notwithstanding Rule 16 of the Federal Rules of Criminal Procedure, a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography (as defined by section 2256 of this title), so long as the Government makes the property or material reasonably available to the defendant.

(B) For the purposes of subparagraph (A), property or material shall be deemed to be reasonably available to the defendant if the Government provides ample opportunity for inspection, viewing, and examination at a Government facility of the property or material by the defendant, his or her attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial.

U.S. TERRITORIES

AMERICAN SAMOA

AM. SAMOA CODE ANN. § 46.3802 (2007). INCEST

(a) A person commits the crime of incest if he marries or purports to marry or engages in sexual intercourse or deviate sexual intercourse with a person he knows to be:

(1) his ancestor or descendant by blood or adoption;

(2) his stepchild or stepparent, while the marriage creating that relationship exists and while the stepchild is 18 years of age or less;

(3) his brother or sister of the whole or half-blood; or

(4) his uncle, aunt, nephew, or niece of the whole blood.

(b) For purposes of this section:

(1) "Sexual intercourse" has the meaning specified in subsection (c) of 46.2001.

(2) "Deviate sexual intercourse" has the meaning specified in subsection (a) of 46.3601.

(3) Incest is a class D felony.

AM. SAMOA CODE ANN. § 42.0101 (2007). REQUISITES OF VALID MARRIAGE

To enter into a valid marriage contract:

(a) The parties must not be related to each other nearer than the fourth degree of consanguinity.

(b) The male shall be at least 18 years of age and the female at least 14 years of age.

(c) If the female is less than 18 years of age, she must have the consent of one of her parents or her guardian.

(d) Neither of the parties may have a lawful spouse living.

(e) A marriage ceremony must be performed by a duly authorized person as provided in this chapter.

GUAM

GUAM CODE ANN. TIT. 9, § 31.15 (2013). INCEST: DEFINED & PUNISHED

A person is guilty of incest, a misdemeanor, if he knowingly marries or cohabits or has sexual intercourse with an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood. Cohabit means to live together under the representation or appearance of being married. The relationships referred to herein include blood relationships without regard to legitimacy, and relationship of parent and child by adoption

GUAM CODE ANN. TIT. 19, § 3301 (2013). VOID MARRIAGES

Either party to an incestuous or void marriage may proceed, by action in the Superior Court, to have the same so declared.

GUAM CODE ANN. TIT. 8, § 91.03 (2013). EXCLUSION OF PUBLIC FROM TRIAL INVOLVING CRIME OF INCEST, CHILD PORNOGRAPHY OR CRIMINAL SEXUAL CONDUCT

To protect the parties involved at a trial arising from a complaint *or* indictment for incest, child pornography *or* criminal sexual conduct, the judge *may* exclude all spectators from the courtroom in which such trial is being held, *or* from said courtroom during those portions of such trial when direct testimony is to be presented; provided, that either of the parties requests that all spectators be so excluded at the trial *or* portions thereof; and provided further, that the defendant in such trial by a written statement waives his right to a public trial for those portions from which spectators are so excluded.

GUAM CODE ANN. TIT. 8, § 91.01 (2013). EXCLUSION OF PUBLIC FROM TRIAL FOR SEX OFFENSES INVOLVING MINORS UNDER AGE OF EIGHTEEN

At the trial of a complaint or indictment for criminal sexual conduct, incest, carnal abuse or other crime involving sex, where a minor under eighteen (18) years of age is the person upon, with or against whom the crime is alleged to have been committed or at the trial of a complaint or indictment for any criminal act in which a child was conceived as a result of such act or related act (such as stalking where the predator committed a prior sexual assault against the stalking victim), or for the non-support of a child born out of wedlock, the judge may exclude the general public from the court room, admitting only such persons as may have a direct interest in the case.

NORTHERN MARIANA ISLANDS

2001 N.MAR. I. PUB. L. 12-82. SEC. 1311. INCEST

(a) A person commits the crime of incest if, being 18 years of age or older, that person engages in sexual penetration with another who is related, either legitimately or illegitimately, as

- (1) an ancestor or descendant of the whole or half blood;
- (2) a brother or sister of the whole or half blood; or
- (3) an uncle, aunt, nephew, or niece by blood.

(b) Incest is punishable by imprisonment for not more than five years, a fine of not more than \$2,000, or both.

2001 N.MAR. I. PUB. L. 12-82. SEC. 1306. SEXUAL ABUSE OF A MINOR IN THE FIRST DEGREE

(a) An offender commits the crime of sexual abuse of a minor in the first degree if

- (1) being 16 years of age or older, the offender engages in sexual penetration with a person who is under 13 years of age or aids, induces, causes, or encourages a person who is under 13 years of age to engage in sexual penetration with another person;

(2) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 18 years of age, and the offender is the victim's natural parent., stepparent, adopted parent, or legal guardian; or

(3) being 18 years of age or older, the offender engages in sexual penetration with a person who is under 16 years of age, and

(A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or

(B) the offender occupies a position. of authority in relation to the victim.

(b) Sexual abuse of a minor in the first degree is punishable by imprisonment for not more than 30 years, a fine of not more than \$50,000, or both, and the mandatory sentencing provisions of 6 CMC 9 4102.

2001 N.MAR. I. PUB. L. 12-82. SEC. 1307. SEXUAL ABUSE OF A MINOR IN THE SECOND DEGREE

(a) An offender commits the crime of sexual abuse of a minor in the second degree if

(1) being 16 years of age or older, the offender engages in sexual penetration with a person who is 13, 14, or 15 years of age and at least three years younger than the offender, or aids, induces, causes or encourages a person who is 13, 14, or 15 years of age and at least three years younger than the offender to engage in sexual penetration with another person;

(2) being 16 years of age or older, the offender engages in sexual contact with a person who is under 13 years of age or aids, induces, causes, or encourages a person under 13 years of age to engage in sexual contact with another person;

(3) being 18 years of age or older, the offender engages in sexual contact with a person who is under 18 years of age, and the offender is the victim's natural parent, stepparent, adopted parent, or legal guardian;

(4) being 16 years of age or older, the offender aids, induces, causes, or encourages a person who is under 16 years of age to engage in conduct described in 6 CMC 5 13 14(a)(2) - (6); or

(5) being 18 years of age or older, the offender engages in sexual contact with a person who is under 16 years of age, and

(A) the victim at the time of the offense is residing in the same household as the offender and the offender has authority over the victim; or

(B) the offender occupies a position of authority in relation to the victim.

(b) Sexual abuse of a minor in the second degree is punishable by imprisonment for not more than 10 years, a fine of not more than \$10,000, or both.

2001 N.MAR. I. PUB. L. 12-82. SEC. 3302. PRIVILEGES: SPOUSES

(a) Privileges: Spouses. Neither husband nor wife may be compelled to testify against the other in the trial of an information, complaint, citation or other criminal proceeding.

(b) Exceptions. There is no privilege under this subdivision:

(1) In a civil proceeding brought by or on behalf of one spouse against the other spouse; or

(2) In a proceeding to commit or otherwise place his spouse, the property of his spouse or both the spouse and the property of the spouse under the control of another because of the alleged mental or physical condition of the spouse; or

(3) In a proceeding brought by or on behalf of a spouse to establish his competence; or

(4) In a proceeding in which one spouse is charged with:

(A) A crime against the person or the property of the other spouse or of a child of either, whether such crime was committed before or during marriage.

(B) Bigamy, incest, adultery, pimping, or prostitution.

(C) A crime related to abandonment of a child or nonsupport of a spouse or child.

(D) A crime prior to the marriage.

(E) A crime involving domestic violence as defined under Commonwealth law.

(5) In a proceeding involving custody of a child.

(6) Evidence derived from or related to a business relationship involving the spouses.

(c) Confidential Marital Communications.

(1) General Rule. Neither during the marriage nor afterwards shall either spouse be examined as to any confidential communications made by one spouse to the other during the marriage, without the consent of the other spouse.

(2) Exceptions. There is no privilege under this subdivision:

(A) If any of the exceptions under subdivision (b) of this section apply; or

(B) If the communication was made, in whole or in part, to enable or aid anyone to commit or plan to commit a crime or a fraud; or

(C) In a proceeding between a surviving spouse and a person who claims through the deceased spouse, regardless of whether such claim is by testate or intestate succession or by inter vivos transaction; or

(D) In a criminal proceeding in which the communication is offered in evidence by a defendant who is one of the spouses between whom the communication was made; or

(E) In a proceeding under the Rules of Children's Procedure; or .

(F) If the communication was primarily related to and made in the context of a business relationship involving both spouses or the spouses and third parties.

PUERTO RICO

P.R. LAWS ANN. TIT. 33, § 4770 (2013). SEXUAL ASSAULT

Any person who performs sexual penetration, whether vaginal, anal, oral-genital, digital or instrumental under any of the following circumstances shall incur a severe second degree felony:

- (a) If the victim has not yet reached the age of sixteen (16) at the time of the event.
- (b) If due to mental disability or illness, whether temporary or permanent, the victim is unable to understand the nature of the act at the time of its commission.
- (c) If the victim has been compelled into the act by means of physical force, violence, intimidation or the threat of serious and immediate bodily harm.
- (d) If the victim's capability to consent has been annulled or diminished substantially without his/her knowledge or without his/her consent by means of hypnosis, narcotics, depressants or stimulants, or similar means or substances.
- (e) When at the time of the commission of the act the victim is not conscious of its nature and this circumstance is known to the person accused.
- (f) If the victim submits to the act by means of deception, trickery, simulation or cover up with respect to the identity of the person accused.
- (g) If the victim is forced or induced by means of abuse or physical or psychological violence into participating or becoming involved in unwanted sexual relations with third parties.
- (h) If the accused person is a relative of the victim, by ascendancy or descendancy, or consanguinity, adoption or affinity, or collateral by consanguinity or adoption up to the third degree.
- (i) When the accused person takes advantage of the trust deposited in him/her by the victim because there is a relationship of superiority because the victim is under his/her custody, guardianship, or primary, secondary or special education, medical or psychotherapeutic treatment, or any type of counseling, or because there is a relationship with the victim as the leader of his/her religious belief.

If the conduct typified in subsection (a) of this section is committed by a minor who has not yet reached the age of eighteen (18), the offender shall incur a third degree felony if prosecuted as an adult.

P.R. LAWS ANN. TIT. 34, R. 131 (2013). WITNESSES; EVIDENCE; PUBLIC TRIALS; EXCLUSION OF PUBLIC

Unless otherwise provided by law and by these rules, the testimony of a witness in all trials shall be oral and in open court, and the admissibility of the evidence and the competency and privileges of the witnesses shall be governed by the provisions of the Law of Evidence of Puerto Rico.

In suits for incest, rape, sodomy, seduction, lustful or indecent acts, and in indecent exposure or the attempt thereof, the court may exclude the public from the courtroom during the injured person's testimony, admitting only those persons who have a legitimate interest in the case, such as court officials and the party's lawyers and relatives. Prior to the order of exclusion, the court shall hold a private hearing to determine if the injured person needs this protection during his testimony.

P.R. LAWS ANN. TIT. 21, § 233 (2013). CAPACITY--IMPEDIMENTS TO CONTRACT

Nor can the following contract marriage with each other:

- (1) Ascendants or descendants by consanguinity or affinity.
- (2) Collaterals by consanguinity within the fourth degree.
- (3) The adoptive father or mother and the person adopted; the latter with the surviving husband or wife of the adopter; and the adopter with the surviving husband or wife of the adopted.
- (4) The legitimate descendants of the adopter with the adopted person during the time the adoption exists.
- (5) The parties to an adultery who have been convicted by a final judgment for five years after such judgment.
- (6) Those who have been condemned as principals or as principal and accomplice responsible for the death of the husband or wife or either of them.

VIRGIN ISLANDS

V.I. CODE ANN. TIT. 14, § 961 (2013). INCEST DEFINED; PUNISHMENT

Persons being within the degrees of consanguinity within which marriages are declared by law to be void, who knowingly intermarry with each other, or who commit fornication or adultery with each other shall each be imprisoned for not more than 10 years.

V.I. CODE ANN. TIT. 16, § 1 (2013). VOID MARRIAGES

(a) A marriage is prohibited and void from the beginning, without being so decreed and its nullity may be shown in any collateral proceeding, when it is between-

(1) a man and his grandmother, grandfather's wife, wife's grandmother, father's sister, mother's sister, mother, stepmother, wife's mother, daughter, wife's daughter, son's wife, sister, son's daughter, daughter's daughter, son's son's wife, daughter's son's wife, wife's son's daughter, wife's daughter's daughter, brother's daughter or sister's daughter;

(2) a woman and her grandfather, grandmother's husband, husband's grandfather, father's brother, mother's brother, father, stepfather, husband's father, son, husband's son, daughter's husband, brother, son's son, daughter's son, son's daughter's husband, daughter's daughter's husband, husband's son's son, husband's daughter's son, brother's son or sister's son; or

(3) any persons either of whom has been previously married and whose previous marriage has not been terminated by death or a decree of divorce.

(b) Any of such marriages may also be declared to have been null and void by judicial decree.

V.I. CODE ANN TIT. 5, § 855 (2013). MARITAL COMMUNICATION PRIVILEGE

(a) Definition. The ‘Marital Communication Privilege’ prohibits spouses from divulging confidential communications between them that occurred during their marriage, without the other's consent.

(b) Holder of Privilege. Both of the spouses hold the privilege which applies in both criminal and civil proceedings. Either spouse may invoke the privilege not to testify regarding confidential communications between the spouses made while married. Each spouse may prevent the other from testifying regarding confidential communications.

(c) Effect of Divorce. The marital communication privilege does not terminate upon divorce and may be asserted by either party even after the parties are divorced.

(d) Exceptions. The marital communication privilege does not apply to communications that occurred before the marriage or in the presence of third parties during the marriage. It does not apply when the spouses are involved in litigation regarding domestic violence against, or incest with, family members, and in any proceeding, in discretion of the court, if the interest of the minor child of either spouse may be adversely affected by the invocation of the privilege.