

INCEST SECOND DEGREE
(Class D Felony)
PENAL LAW 255.26
(Committed on or after Nov. 1, 2006)

The _____ count is Incest in the Second Degree.

Under our law, a person is guilty of Incest in the Second Degree when he or she commits the crime of (name specified offense)¹ against a person whom he or she knows to be related to him or her, whether through marriage or not, as

Select appropriate relationship:

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

Under our law, a person commits the offense of (name specified offense) when:

[Cross-reference to the applicable definition in a previously explained count, or now read statutory definition of applicable offense and any defined terms and applicable charges as set forth in CJI2d for that offense.]

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

Select appropriate relationship:

an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.²

¹ The statute specifies the following offenses: rape in the second degree (PL §130.30) or criminal sexual act in the second degree (PL §130.45).

² Penal Law § 255.30(2).

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

1. That on or about (date), in the county of (county), the defendant, (defendant's name), committed the crime of (specify offense); and
2. That (complainant's name) was related to the defendant, whether through marriage or not, as

Select appropriate relationship:

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

3. That the defendant knew (complainant's name) was so related to him/her.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Incest in the Second Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of the crime of Incest in the Second Degree as charged in the _____ count.