

## Definition

Consanguinity refers to a direct line of familial relationship – or “blood” relationship – between individuals. A relationship based on consanguinity differs from a relationship based on “affinity,” which refers to those related through marriage.

## Statutory Uses

The two most common statutory uses for referencing consanguineous relationships are prohibitions against incest, including marriage and sexual contact, and restrictions against nepotism. Consanguinity prohibitions can be established statutorily by explicitly listing the relationships in question, or by referencing consanguinity degrees defined elsewhere. States that establish consanguinity degrees in statute may also have a chart to aid understanding by providing a visual depiction of each degree. These charts typically extend to the 4<sup>th</sup> degree, with some extending up to the 5<sup>th</sup> degree.

## Approaches to Codification

### Broad Prohibitions

#### South Dakota’s Incestuous Marriages Law

SDCL Section 25-1-6 – 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,

### Narrow Prohibitions

#### Maine Incest Law

17-A M.R.S.A. Section 556 – 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... 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.

## Utah's use of Consanguinity

### Section 30-1-1. Incestuous marriages void (marriage)

(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 siblings of the half as well as the whole blood;
- (d) marriages between:
  - (i) uncles and nieces or nephews; or
  - (ii) aunts and nieces or nephews;
- (e) marriages between first cousins, except as provided in Subsection (2); or
- (f) marriages between any individuals 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.

### Section 76-7-102. Incest – Definitions – Penalty (criminal)

...

- (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.

### Section 52-3-1. Employment of relatives and household members prohibited – Exceptions (public officer nepotism)

...

- (e) “Relative” means a father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.