

The Legal Reason Why Sibling Marriage Is Illegal

This law journal article, cited and excerpted below, discusses the legal rationale for making sibling marriage illegal. It says that the reason the U.S. Supreme Court says sibling marriage should not be legal is because sex between siblings is illegal (*i.e.*, defined as incest), and one reason the law makes sex between siblings illegal is, in turn, because a child of siblings is at a higher risk of genetic harm. This journal article quantifies the genetic harm, saying that genetic harm (due to having two deleterious recessive genes, *i.e.*, being homozygous for that gene) that has a probability of only 0.001 in nonconsanguineous (*i.e.*, not closely related) matings of heterozygous (*i.e.*, having both the recessive and dominant version of a gene) parents has a higher probability of 0.125 when the couple are siblings.

(Although it is irrelevant from the point of view of understanding WHY legislatures and courts make sibling marriage illegal, it is a curious fact that the author of this journal article personally does not think that an increase in the probability of genetic harm from 0.001 to 0.125 is great enough to justify making sibling marriage illegal, and devotes much of the article to elaborating why.)

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Incest Statutes and the Fundamental Right of Marriage: Is Oedipus Free to Marry?

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The U.S. Supreme Court has found that the right to marry is a constitutionally protected right.' That right is restricted, however, by state incest statutes which impede marriage between adults by making some choices of a marriage partner illegal.

....

I. The Hereditary Biological Function and Negative Eugenics

A commonly articulated state purpose for incest statutes is that they serve a hereditary-biological function in which the state has a legitimate interest.

...

If the heterozygous individual has offspring by her or his parent, child, or sibling, the probability that the offspring will be homozygous for the recessive gene trait is 0.125. ... The probabilities of offspring who are homozygous for a deleterious recessive gene appear low, but they are higher than the 0.001 probability of homozygosity for a deleterious recessive gene in nonconsanguineous matings when there is no family history of such recessive gene, traits.