



# County Technical Assistance Service

Published on e-Li (<http://eli.ctas.tennessee.edu>)

January 17, 2020

## Who Can Marry?

---

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

The University of Tennessee  
County Technical Assistance Service  
226 Capitol Blvd. Suite 400  
Nashville, TN. 37219  
615-532-3555 phone  
615-532-3699 fax  
[ctas@tennessee.edu](mailto:ctas@tennessee.edu)  
[www.ctas.tennessee.edu](http://www.ctas.tennessee.edu)

## Table of Contents

Who Can Marry? .....	3
Bigamy .....	3
Common Law Marriages .....	3

## Who Can Marry?

**Reference Number:** CTAS-391

### Prohibited Degrees of Relationship

Tennessee law defines prohibited degrees of relationship for marriages, generally considered "incestuous." Marriage cannot be contracted with a lineal ancestor (parents, grandparents, great-grandparents, etc.) or descendant (children, grandchildren, great-grandchildren, etc.), nor the lineal ancestor of either parent (grandparents, great-grandparents, etc.) or descendant of either parent (brothers, sisters, half-brothers, half-sisters, nieces and nephews, grandnieces and grandnephews, etc.), nor the child of a grandparent (aunts and uncles), nor the lineal descendants of spouse (spouse's children, grandchildren, stepchildren, step-grandchildren, etc.), nor the husband or wife of a parent (stepmother, stepfather) or lineal descendent. T.C.A. § 36-3-101. A marriage entered into in violation of this statute is void in Tennessee regardless of whether the marriage was entered into in Tennessee or in another state where the marriage would be valid. *Rhodes v. McAfee*, 224 Tenn. 495, 457 S.W.2d 522 (1970) (declaring void the marriage of a stepdaughter to her stepfather after the divorce of the stepfather and the mother). In an opinion dated October 24, 1960, the Tennessee Attorney General determined that this statute does not prohibit marriage between first cousins.

### Effect of Adoption

The signing of a final order of adoption establishes the relationship of parent and child between the adoptive parent and the adoptive child as if the adopted child had been born to the adoptive parent, and the adopted child is deemed the lawful child of the adoptive parent for all legal consequences and incidents of the biological relation of parents and children. T.C.A. § 36-1-121.

## Bigamy

**Reference Number:** CTAS-421

A second marriage cannot be contracted before the dissolution of the first. However, the first marriage is regarded as dissolved for this purpose if either party has been absent five (5) years, and is not known to the other to be living. T.C.A. § 36-3-102; *Douglas v. Douglas*, 6 Tenn. App. 12 (1927); *Hall v. Hall*, 13 Tenn. App. 683 (1932). Bigamy is a Class A misdemeanor. T.C.A. § 39-15-301.

Because bigamous marriages are prohibited by statute, such marriages are void ab initio (i.e., void from the beginning). These marriages are not recognized by the courts and cannot be ratified by the parties. *Guzman v. Alvares*, 205 S.W.3d 375 (Tenn. 2006).

## Common Law Marriages

**Reference Number:** CTAS-423

Marriage is controlled by statute and not common law in Tennessee. Although Tennessee does not recognize common law marriages, Tennessee will recognize a valid common law marriage entered into in a jurisdiction which recognizes common law marriages. *In re Estate of Glover*, 882 S.W.2d 789 (Tenn. App. 1994); *Andrew v. Signal Auto Parts, Inc.*, 492 S.W.2d 222 (Tenn. 1972); *Lightsey v. Lightsey*, 407 S.W.2d 684, 56 Tenn. App. 394 (Tenn. App. 1966); *Troxel v. Jones*, 322 S.W.2d 251, 45 Tenn. App. 264 (Tenn. App. 1959). *But see Crawford v. Crawford*, 198 Tenn. 9, 277 S.W.2d 389 (1955) (under exceptional circumstances, parties may be estopped to deny their marriage under the doctrine of marriage by estoppel).

---

**Source URL:** <http://eli.ctas.tennessee.edu/reference/who-can-marry>

