

By law, the parentage of a child born in marriage is proved by means of the child's birth certificate (Sonora) the parents' marriage certificate.

Parentage and Civil Status of Children

A child was born in Cocorit, state of Sonora, Mexico, on March 31, 1967. The child's birth certificate states that he is a legitimate child, although his parents were not married. The father registered the birth of his child in the Office of the Civil Registry of the municipality of Cajeme, Sonora. Based on these facts, the requester wishes to ascertain whether legitimation can be effected by any means other than by the subsequent marriage of the natural parents and if Mexican federal law takes precedence over the laws of the individual Mexican States.

I. The Law on the Civil Status

The civil status of persons born in the state of Sonora in 1967 is governed by the provisions of the Civil Code of that state.^{1/} That Code defines legitimate children as those born no less than 180 days after the celebration of their parents' marriage or within 300 days following the dissolution of the marriage.^{2/} A child born outside marriage can be legitimated by the subsequent marriage of his or her parents, provided that there was an acknowledgment by them.^{3/}

1/ Código Civil para el E. L. y S. de Sonora (C. Civ.) (Puebla, Mexico, Editorial Cajica, 1983).

2/ C. Civ. art. 490.

3/ Id. arts. 520 and 521.

By law, the parentage of a child born in marriage is proved by means of the child's birth certificate along with the parents' marriage certificate.^{4/} The parentage of a child born outside marriage is established with regard to the mother, by the mere fact of the child's birth; with regard to the father, by an acknowledgment of the child which could be executed at the time of the child's birth registration.^{5/}

A child who had been acknowledged has the right to use the name of the father or mother who acknowledged him or her; to be supported by the acknowledging parent(s); and, to receive the inheritance share and amount of support provided by law.^{6/} Acknowledged children inherit in equal shares.^{7/} The rights of an acknowledged child are limited in that the child's father could not take the child to live in his home unless his spouse gave express consent.^{8/}

Under the Code, parental authority of a child born in marriage is vested in both the father and the mother of the child.^{9/} When a child born outside marriage is acknowledged by the parents and they lived together, parental authority is also vested in both of them.^{10/} However, if they did not live together, they are required to agree which would exercise parental authority over the child. Should they reach no agreement, the court would

^{4/} C. Civ. art. 506.

^{5/} Id. arts. 526 and 535 (I).

^{6/} Id. art. 555.

^{7/} Id. art. 1683.

^{8/} Id. art. 539.

^{9/} Id. art. 581(I).

^{10/} Id. art. 582.

then decide.^{11/} If the acknowledgment was executed at different times by the natural parents who were not living together, parental authority is vested in the parent who first acknowledged the birth, unless the parents had agreed otherwise and the court approved this agreement.^{12/}

II. Precedence of State Law

Mexico, like the United States is a federation of states. It is composed of thirty one states and the Federal District of Mexico, known as Mexico City. Under Article 117 of the Constitution of Mexico of 1917,^{13/} the powers of the Mexican states are limited in the sense that they are forbidden to enact laws on certain matters of national interest such as making alliances, coining money, etc. However, in matters concerning domestic relations, such as those affecting the civil status of persons, each state is sovereign and is capable of enacting the corresponding laws. Thus the Civil Code of the State of Sonora provides that

the provisions of this Code shall govern supplementarily any other legal transaction or de jure situation that has not been foreseen or has been partially regulated by other laws issued by the state^{14/} . . . the laws of the State of Sonora, including those concerning the civil status and legal capacity of persons shall be applicable to all the inhabitants of the State regardless of whether they are nationals or foreigners, are domiciled within its territorial jurisdiction or are transients. However, in the case of foreigners, the provisions of the federal law on this matter shall be taken into account.^{15/}

^{11/} C. Civ. art. 546.

^{12/} Id. art. 547.

^{13/} Id.

^{14/} Id. art. 1.

^{15/} Id. art. 13.

In concluding, it may be stated that: a) the child in this inquiry is one born-out-of-marriage but acknowledged. He was acknowledged by his mother by the mere fact of his birth and by his father as of the moment he registered the birth in the Office of the Civil Registry on June (or July) 12, 1967. By virtue of this acknowledgment, the child acquired the rights granted to him under article 555 of the Civil Code with the limitations set under article 539 of the Code. It should be noted that the provisions on legitimation of children by the subsequent marriage and acknowledgment of their parents found in articles 520 and 521 of the Civil Code have not been repealed and remain in force; b) the provisions of the Civil Code of the State of Sonora are applicable to this inquiry over those on the same matter applicable in federal matters.

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