

**Report for the Executive Office for Immigration Review**  
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# **Mexico: State Law on Legitimation and Distinctions Between Children Born In and Out of Wedlock**

**(Update)**

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## Contents

Introduction .....	1
Aguascalientes .....	2
Baja California .....	4
Baja California Sur .....	6
Campeche.....	8
Chiapas.....	10
Chihuahua .....	12
Coahuila .....	14
Colima.....	15
Durango.....	17
Federal District.....	19
Guanajuato .....	21
Guerrero .....	23
Hidalgo.....	25
Jalisco.....	26
México .....	28
Michoacán.....	29
Morelos .....	31
Nayarit.....	33
Nuevo León.....	35
Oaxaca.....	37
Puebla.....	39

Querétaro.....	41
Quintana Roo .....	43
San Luis Potosí .....	45
Sinaloa.....	47
Sonora .....	49
Tabasco .....	51
Tamaulipas .....	53
Tlaxcala.....	55
Veracruz.....	57
Yucatán .....	59
Zacatecas.....	60

# Introduction

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Mexico is a federal republic comprising thirty-one states and the Federal District (Mexico City). This report summarizes the current laws governing legitimation and distinctions between children born in and out of wedlock for each Mexican state and the Federal District.\* Each jurisdiction has its own laws concerning parentage, and although there are similarities among the various jurisdictions, relevant rules applicable to specific issues may vary widely depending on the state.

This report updates a report prepared in 2011 and retains the structure and scope of that report. It provides a brief summary of key current state law provisions on legitimation and acknowledgement of children born out of wedlock. The Law Library of Congress stands ready to provide a more detailed treatment of any issue for any particular jurisdiction, as needed.

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\* Gustavo Guerra prepared the surveys for the states of México, Quintana Roo, Guerrero, San Luis Potosí, Sonora, Tlaxcala, Zacatecas, Yucatán, Oaxaca, Guanajuato, Aguascalientes, Coahuila, Hidalgo, Querétaro, Tabasco, and Veracruz. Norma Gutiérrez prepared the surveys for Baja California, Baja California Sur, Morelos, Colima, Chiapas, Campeche, Michoacán, Nuevo León, Chihuahua, Durango, Nayarit, Pueblo, Tamaulipas, Sinaloa, Jalisco, and the Federal District.

# Aguascalientes

## I. Legitimation of Children Born Out of Wedlock

The Aguascalientes Civil Code includes a chapter entitled “Of Legitimation.”<sup>1</sup> This chapter provides that children born out of wedlock may be considered to be born in wedlock provided that the parents subsequently marry and both expressly acknowledge the children as theirs, either jointly or separately.<sup>2</sup> Acknowledgement may take place before the marriage, during the marriage ceremony, or during the marriage.<sup>3</sup> Legitimation is effective from the day on which the parents marry, even if acknowledgement takes place afterwards.<sup>4</sup>

This Code also provides different rules applicable to proving filiation of children born in and out of wedlock. The most relevant of the latter for purposes of this report are briefly summarized below.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish parentage in order to have their rights implemented. The Aguascalientes Civil Code includes a chapter entitled “Of Acknowledgement of Children Born Out of Wedlock.”<sup>5</sup> This chapter provides that filiation of children results, with respect to the mother, by the mere fact of birth.<sup>6</sup> With respect to the father, filiation may be established by voluntary acknowledgement or by a judgment that declares paternity.<sup>7</sup>

Acknowledgement of a child born out of wedlock may be done in any of the following ways:

- I. In the birth certificate before the Civil Registry official;
- II. In a special certificate before the Civil Registry official;
- III. By a notarized document;
- IV. By a will;
- V. By direct and express judicial confession.<sup>8</sup>

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<sup>1</sup> CÓDIGO CIVIL DEL ESTADO DE AGUASCALIENTES, “De la Legitimación,” PERIÓDICO OFICIAL DEL ESTADO DE AGUASCALIENTES, Dec. 7, 1947, available as amended through May 2017 on the website of the Aguascalientes State Judicial Branch, at <http://www.poderjudicialags.gob.mx/servicios/legislacion/Cod%20Civil.pdf>, archived at <https://perma.cc/DA8R-JACP>.

<sup>2</sup> *Id.* arts. 378, 379.

<sup>3</sup> *Id.* art. 379.

<sup>4</sup> *Id.* art. 381.

<sup>5</sup> *Id.*, “Del Reconocimiento de los Hijos Nacidos Fuera de Matrimonio.”

<sup>6</sup> *Id.* art. 384.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* art. 393.

State Law on Legitimation and Distinctions between Children Born In and Out of Wedlock:  
Aguascalientes

A child acknowledged by the father, mother, or both parents has the following rights:

- I. To take the last name of the acknowledging parent(s);
- II. To get support from the acknowledging parent(s);
- III. To get an inheritance share and support as provided by law.<sup>9</sup>

Either parent may acknowledge a child born before the parents were married, and the husband may acknowledge a child born during his marriage, but he does not have the right to bring the child into the marital home to live without his wife's consent.<sup>10</sup>

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<sup>9</sup> *Id.* art. 412.

<sup>10</sup> *Id.* art. 396.

# Baja California

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Baja California includes a chapter entitled “Of Legitimation.”<sup>1</sup> Under these provisions, children born before the marriage of their parents are considered born of the marriage by the subsequent celebration of the marriage.<sup>2</sup> In order for a child to enjoy this right, the parents must expressly acknowledge the child prior to the celebration of the marriage, during the celebration itself, or during the marriage.<sup>3</sup> The acknowledgment must be made by both parents, either jointly or separately.<sup>4</sup> If the child was expressly acknowledged by the father and the mother’s name is on the birth certificate, the express acknowledgment of the mother is not necessary for the legitimation to be legally effective.<sup>5</sup> The father’s acknowledgment is also not necessary if his name is included on the birth certificate.<sup>6</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented.

The filiation of children born out of wedlock is established with regard to the mother by the mere fact of the child’s birth, and with regard to the father by his voluntary acknowledgement of the child or by a court judgment declaring him the father.<sup>7</sup>

The acknowledgment of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Officer;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same officer;
- III. By a public notarial instrument;
- IV. Under a will; and
- V. By direct and open admission in open court.<sup>8</sup>

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<sup>1</sup> CÓDIGO CIVIL PARA EL ESTADO DE BAJA CALIFORNIA, “De la Legitimación,” PERIÓDICO OFICIAL DEL ESTADO DE BAJA CALIFORNIA, Jan. 31, 1974, [http://www.congresobc.gob.mx/Parlamentarias/TomosPDF/Leyes/TOMO\\_III/CODCIVIL\\_28OCT2016.pdf](http://www.congresobc.gob.mx/Parlamentarias/TomosPDF/Leyes/TOMO_III/CODCIVIL_28OCT2016.pdf), archived at <https://perma.cc/K8CP-BPYP>.

<sup>2</sup> *Id.* art. 351.

<sup>3</sup> *Id.* art. 352.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* art. 353.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* art. 357.

<sup>8</sup> *Id.* art. 366 (translation by author).

State Law on Legitimation and Distinctions Between Children Born In and Out of Wedlock:  
Baja California

The Code forbids, under any circumstances, the entry of any reference to or use of qualifying terms in a birth record in relation to the nature of a child's filiation.<sup>9</sup>

A child acknowledged by the father, mother, or both has the following rights:

- I. To take the surname of the one who acknowledges him;
- II. To receive support from him/her; and
- III. To receive his/her inheritance share and support as is provided by law.<sup>10</sup>

With respect to the final item concerning intestate succession for descendants, the Code states that if upon the death of the parents they are survived only by their children, the estate must be divided among the children in equal shares.<sup>11</sup> The Code states that a spouse may acknowledge a child born prior to the marriage without the consent of the other spouse, but may not bring the child to live in the marital home without the express consent of the other spouse.<sup>12</sup>

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<sup>9</sup> *Id.* art. 60.

<sup>10</sup> *Id.* art. 386.

<sup>11</sup> *Id.* art. 1494.

<sup>12</sup> *Id.* arts. 369, 370.

# Baja California Sur

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Baja California Sur includes a chapter entitled “Of Legitimation of Children.”<sup>1</sup> Under these provisions, children born before the marriage of their parents are considered born of the marriage by the subsequent celebration of the marriage.<sup>2</sup> In order for a child to enjoy this right, the parents must expressly acknowledge the child prior to the celebration of the marriage, during the celebration itself, or during the marriage.<sup>3</sup> The acknowledgment must be made by both parents, either jointly or separately.<sup>4</sup> If the child was expressly acknowledged by the father and the mother’s name is on the birth certificate, the express acknowledgment of the mother is not necessary for the legitimation to be legally effective.<sup>5</sup> The father’s acknowledgment also is not necessary if his name is included on the birth certificate.<sup>6</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented.

The filiation of children born out of wedlock is established with regard to the mother by the mere fact of the child’s birth,<sup>7</sup> and with regard to the father by his voluntary acknowledgement of the child or by a court judgment declaring the paternity of the child.<sup>8</sup>

The acknowledgment of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Officer;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same officer;
- III. By a public notarial instrument;
- IV. Under a will; and
- V. By direct and open admission in open court.<sup>9</sup>

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<sup>1</sup> CODIGO CIVIL PARA EL ESTADO LIBRE Y SOBERANO DE BAJA CALIFORNIA SUR, “De la Legitimación de los Hijos,” BOLETÍN OFICIAL DEL GOBIERNO DEL ESTADO DE BAJA CALIFORNIA SUR, July, 19, 1996, <http://www.cbcs.gob.mx/index.php/trabajos-legislativos/leyes>, archived at, <https://perma.cc/HE8A-DRXW>.

<sup>2</sup> *Id.* art. 368.

<sup>3</sup> *Id.* art 369.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* art. 370.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* art. 393.

<sup>8</sup> *Id.* art. 396.

The Code, without elaboration, forbids the insertion in the birth records of terms that qualify the person who is being registered.<sup>10</sup> This is commonly understood to mean qualifications related to the circumstances of a child's birth.

A child acknowledged by the father, mother, or both has the following rights:

- I. To take the paternal or maternal surname;
- II. To receive support from his/her parents and other relatives who are required;
- III. To receive his/her rightful inheritance share; and
- IV. To the additional protective functions, affective and disciplinary drawn from parental authority.<sup>11</sup>

With respect to the third item on this list concerning intestate succession for descendants, the Code states that if the parents die and are survived only by their children, the estate must be divided among the children in equal shares.<sup>12</sup>

The Code provides that a spouse may acknowledge a child born prior to the marriage without the consent of the other spouse, but may not bring the child to live in the marital home without the express consent of the other spouse.<sup>13</sup>

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<sup>9</sup> *Id.* art. 374.

<sup>10</sup> *Id.* art. 70.

<sup>11</sup> *Id.* art. 409.

<sup>12</sup> *Id.* art. 1512.

<sup>13</sup> *Id.* art. 385.

# Campeche

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Campeche contains a chapter entitled “[Matters Concerning] Legitimation.”<sup>1</sup> Under these provisions, children born before the marriage of their parents are considered born of the marriage by the subsequent celebration of the marriage.<sup>2</sup> In order for a child to enjoy this right, the parents must expressly acknowledge the child prior to the celebration of the marriage, during the celebration itself, or during the marriage.<sup>3</sup> The acknowledgment must be made by both parents, either jointly or separately.<sup>4</sup>

If the child was expressly acknowledged by the father and the birth certificate indicates that the child was presented by the mother or her representative, the express acknowledgment of the mother is not necessary for legitimation to be legally effective. Likewise, the father’s express acknowledgment is not necessary if the mother acknowledged the child and the birth certificate indicates that the child was presented by the father or his representative.<sup>5</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented.

The filiation of children born out of wedlock is established by the voluntary acknowledgement of the child, by a court judgment declaring paternity or maternity, or both.<sup>6</sup>

The acknowledgment of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Officer;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same officer;
- III. By a public notarial instrument;
- IV. Under a will; and
- V. By direct and open admission in open court.<sup>7</sup>

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<sup>1</sup> CÓDIGO CIVIL PARA EL ESTADO DE CAMPECHE, “De la Legitimación,” PERIÓDICO OFICIAL DEL ESTADO DE CAMPECHE, Oct. 17, 1942, *as amended*, [http://legislacion.congresocam.gob.mx/images/legislacion/codigos/codigo\\_civil\\_del\\_estado\\_de\\_campeche.pdf](http://legislacion.congresocam.gob.mx/images/legislacion/codigos/codigo_civil_del_estado_de_campeche.pdf), archived at <https://perma.cc/K6DW-Z3K2>.

<sup>2</sup> *Id.* art. 372.

<sup>3</sup> *Id.* art. 373.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* art. 374.

<sup>6</sup> *Id.* art. 378.<sup>7</sup> *Id.* art. 387 (translation by author).

<sup>7</sup> *Id.* art. 387 (translation by author).

The Code forbids, under any circumstances, the entry of any reference in birth records in relation to the nature of a child's filiation with his or her parents.<sup>8</sup>

A child acknowledged by the father, mother, or both has the following rights:

- I. To take the surname of the one who acknowledge him/her;
- II. To receive support from him/her; and
- III. To receive his/her inheritance share and support as provided by law.<sup>9</sup>

With respect to the third item concerning intestate succession for descendants, the Code states that if the parents die and are survived only by their children, the estate must be divided among the children in equal shares.<sup>10</sup>

The Code states that a spouse may acknowledge a child born prior to the marriage without the consent of the other spouse, but may not bring the child to live in the marital home without the express consent of the other spouse.<sup>11</sup>

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<sup>8</sup> *Id.* art. 73.

<sup>9</sup> *Id.* art. 405 (translation by author).

<sup>10</sup> *Id.* art. 1506.

<sup>11</sup> *Id.* art. 390.

# Chiapas

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Chiapas contains a chapter entitled “Of Legitimation.”<sup>1</sup> Under these provisions, children born before the marriage of their parents are considered born of the marriage by the subsequent celebration of the marriage.<sup>2</sup> In order for a child to enjoy this right, the parents must expressly acknowledge the child prior to the celebration of the marriage, during the celebration itself, or during the marriage.<sup>3</sup> The acknowledgment must be made by both parents, either jointly or separately.<sup>4</sup> If the child was expressly acknowledged by the father and the mother’s name is on the birth certificate, the express acknowledgment of the mother is not necessary for the legitimation to be legally effective.<sup>5</sup> The father’s acknowledgment is also not necessary if his name is included on the birth certificate.<sup>6</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented. The filiation of children born out of wedlock is established with regard to the mother by the mere fact of the child’s birth, and with regard to the father by his voluntary acknowledgement of the child or by a court judgment declaring him the father.<sup>7</sup>

The acknowledgment of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Officer;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same officer;
- III. By a public notarial instrument;
- IV. Under a will; and
- V. By direct and open admission in open court.<sup>8</sup>

The Code, without elaboration, forbids under any circumstances the use in the birth records of terms that qualify the persons registered. This is generally understood as a reference to

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<sup>1</sup> CÓDIGO CIVIL PARA EL ESTADO DE CHIAPAS, “De la Legitimación,” PERIÓDICO OFICIAL DEL ESTADO DE CHIAPAS, Feb. 2, 1938 (effective Feb. 5, 1938), available as amended at [http://www.congresochiapas.gob.mx/new/Info-Parlamentaria/LEY\\_0003.pdf?v=MTA](http://www.congresochiapas.gob.mx/new/Info-Parlamentaria/LEY_0003.pdf?v=MTA), archived at <https://perma.cc/668R-88ET>.

<sup>2</sup> *Id.* art. 349.

<sup>3</sup> *Id.* art. 350.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* art. 351.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* art. 355.

<sup>8</sup> *Id.* art. 364 (translation by author).

qualifications related to the circumstances of a child's birth. Such terms contained in any birth record must be crossed out by the officer in charge of the records.<sup>9</sup>

A child acknowledged by the father, mother, or both parents has the following rights:

- I. To take the surname of the one who acknowledge him;
- II. To receive support from him/her;
- III. To receive his/her inheritance share and support as is provided by law.<sup>10</sup>

With respect to the final right concerning intestate succession for descendants, the Code states that if upon the death of the parents they are survived only by their children, the estate must be divided among the children in equal shares.<sup>11</sup>

The Code states that a spouse may acknowledge a child born prior to the marriage without the consent of the other spouse, but may not bring the child to live in the marital home without the express consent of the other spouse.<sup>12</sup>

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<sup>9</sup> *Id.* art. 61.

<sup>10</sup> *Id.* art. 384 (translation by author).

<sup>11</sup> *Id.* art. 1581.

<sup>12</sup> *Id.* art. 368.

# Chihuahua

## I. Legitimation of Children Born Out of Wedlock

The Civil Code contains a chapter entitled “[Matters Concerning] Legitimation.”<sup>1</sup> Under these provisions, children born before the marriage of their parents are considered born of the marriage by the subsequent celebration of the marriage.<sup>2</sup> In order for a child to enjoy this right, the parents must expressly acknowledge the child prior to the celebration of the marriage, during the celebration itself, or during the marriage.<sup>3</sup> The acknowledgment must be made by both parents, either jointly or separately.<sup>4</sup> If the child was expressly acknowledged by the father and the mother’s name is on the birth certificate, the express acknowledgment of the mother is not necessary for the legitimation to be legally effective.<sup>5</sup> Neither is the father’s acknowledgment necessary if his name is on the birth certificate.<sup>6</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented. The filiation of children born out of wedlock is established with regard to the mother by the mere fact of the child’s birth, and with regard to the father by his voluntary acknowledgement of the child or by a court judgment declaring him the father.<sup>7</sup>

The acknowledgment of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Officer;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same officer;
- III. By a public notarial instrument;
- IV. Under a will; and
- V. By direct and open admission in open court.<sup>8</sup>

The Code forbids the Office of the Civil Registry to make inquiries as to the paternity of a child whose birth is going to be registered. Only the essential information required under article 58

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<sup>1</sup> CÓDIGO CIVIL DEL ESTADO CHIHUAHUA, “De la Legitimación,” PERIÓDICO OFICIAL DEL ESTADO DE CHIHUAHUA, Mar. 23, 1974, available as amended at <http://www.congresochihuahua.gob.mx/biblioteca/codigos/archivos/Codigos/13.pdf>, archived at <https://perma.cc/B7RX-BREE>.

<sup>2</sup> *Id.* art. 331.

<sup>3</sup> *Id.* art. 332.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* art. 333.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* art. 337.

<sup>8</sup> *Id.* art. 346 (translation by author).

(concerning the child's name, place of birth, etc.), to be attested to by the persons who bring the child, may appear on the birth record.<sup>9</sup> Therefore, any insertion of terms qualifying the nature of the child's filiation is prohibited.

A child acknowledged by the father, mother, or both has the following rights:

- I. To take the surname of the one who acknowledged him/her;
- II. To receive support from that person; and
- III. To receive his/her inheritance share and support as is provided by law.<sup>10</sup>

With respect to item III concerning intestate succession for descendants, the Code states that if upon the death of the parents they are survived only by their children, the estate must be divided among the children in equal shares.<sup>11</sup>

The Code states that a spouse may acknowledge a child born prior to the marriage without the consent of the other spouse, but may not bring the child to live in the marital home without the express consent of the other spouse.<sup>12</sup>

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<sup>9</sup> *Id.* arts. 69, 58.

<sup>10</sup> *Id.* art. 366 (translation by author).

<sup>11</sup> *Id.* art. 1499.

<sup>12</sup> *Id.* arts. 349, 350.

# Coahuila

## I. Legitimation of Children Born Out of Wedlock

The Coahuila Family Law has a chapter on filiation that does not appear to include rules on legitimation.<sup>1</sup> This law also provides several rules applicable to establishing filiation of children, the most relevant of which for purposes of this report are briefly summarized below.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish parentage in order to have their rights implemented. Filiation of children born out of wedlock results, with respect to the mother, by the mere fact of birth.<sup>2</sup> With respect to the father, filiation of children born out of wedlock is established by acknowledgement or by a judgment declaring paternity.<sup>3</sup>

Acknowledgement of a child may be done in the following ways:

- I. In the birth certificate before the Civil Registry official;
- II. In a special certificate before the Civil Registry official;
- III. In the marriage certificate of the parents, in which case they have the duty to make the acknowledgement;
- IV. In a notarized document;
- V. By a will;
- VI. By judicial confession;
- VII. By an incidental statement made clearly and unequivocally during the course of an act performed with a different purpose, provided that it is in a public document.<sup>4</sup>

The Coahuila Family law provides that the law does not make any distinction in the rights of children.<sup>5</sup> It also provides that a married individual may acknowledge a child born before his/her marriage took place without his/her spouse's consent, but the acknowledging parent does not have the right to custody of the child if the physical and mental integrity of the child cannot be guaranteed in the parent's marital home.<sup>6</sup>

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<sup>1</sup> Ley para la Familia de Coahuila de Zaragoza, De la Filiación arts. 313–374, PERIÓDICO OFICIAL DEL GOBIERNO DEL ESTADO DE COAHUILA, Dec. 15, 2015, available as amended through June 2017 on the website of the Coahuila State Congress, at <http://congresocoahuila.gob.mx/portal/wp-content/uploads/2014/11/coa233.pdf>, archived at <https://perma.cc/UH8X-2Z6Z>.

<sup>2</sup> *Id.* art. 341.

<sup>3</sup> *Id.* art. 342.

<sup>4</sup> *Id.* art. 349 (translation by author).

<sup>5</sup> *Id.* art. 315.

<sup>6</sup> *Id.* art. 352.

# Colima

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Colima contains a chapter entitled “Of Legitimation.”<sup>1</sup> Under these provisions, children born before the marriage of their parents are considered born of the marriage by the subsequent celebration of the marriage.<sup>2</sup> In order for a child to enjoy this right, the parents must expressly acknowledge the child prior to the celebration of the marriage, during the celebration itself, or during the marriage.<sup>3</sup> The acknowledgment must be made by both parents, either jointly or separately.<sup>4</sup> If the child was expressly acknowledged by the father and the mother’s name is on the birth certificate, the express acknowledgment of the mother is not necessary for the legitimation to be legally effective.<sup>5</sup> The father’s acknowledgment also is not necessary if his name is included on the birth certificate.<sup>6</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented. The filiation of children born out of wedlock is established with respect to both the mother and the father by the voluntary acknowledgement of the child or by a court judgment declaring the paternity or maternity of the child.<sup>7</sup>

The acknowledgment of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Officer;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same officer;
- III. By a public notarial instrument;
- IV. Under a will; and
- V. By direct and open admission in open court.<sup>8</sup>

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<sup>1</sup> CÓDIGO CIVIL PARA EL ESTADO DE COLIMA, “De la Legitimación,” Suplemento del PERIÓDICO OFICIAL DEL ESTADO DE COLIMA, Sept. 25, 1954 (effective Oct. 1, 1954), available as amended at [http://congresocol.gob.mx/web/Sistema/uploads/LegislacionEstatal/Codigos/codigo\\_civil\\_03jun2017.pdf](http://congresocol.gob.mx/web/Sistema/uploads/LegislacionEstatal/Codigos/codigo_civil_03jun2017.pdf), archived at <https://perma.cc/8UF3-H45E>.

<sup>2</sup> *Id.* art. 354.

<sup>3</sup> *Id.* art. 355.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* art. 356.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* art. 360.

<sup>8</sup> *Id.* art. 369 (translation by author).

The Code, without elaboration, forbids the insertion into the birth record of terms that qualify the person who is being registered.<sup>9</sup> This is commonly understood to mean qualifications related to the circumstances of a child's birth.

A child acknowledged by the father, mother, or both has the following rights:

- I. To take the surname of the parent(s) who acknowledged him/her;
- II. To receive support from his/her parents; and
- III. To receive his/her rightful inheritance share.<sup>10</sup>

With respect to the third right concerning intestate succession for descendants, the Code states that if upon the death of the parents they are survived only by their children, the estate must be divided among the children in equal shares.<sup>11</sup>

The Code states that a spouse may acknowledge a child born prior to the marriage without the consent of the other spouse, but may not bring the child to live in the marital home without the express consent of the other spouse.<sup>12</sup>

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<sup>9</sup> *Id.* art. 60.

<sup>10</sup> *Id.* art. 389 (translation by author).

<sup>11</sup> *Id.* art. 1498.

<sup>12</sup> *Id.* art. 372.

# Durango

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Durango contains a chapter entitled “[Matters Concerning] Legitimation.”<sup>1</sup> Under these provisions, children born before the marriage of their parents are considered born of the marriage by the subsequent celebration of the marriage.<sup>2</sup> In order for a child to enjoy this right, the parents must expressly acknowledge the child prior to the celebration of the marriage, during the celebration itself, or during the marriage.<sup>3</sup> The acknowledgment must be made by both parents, either jointly or separately.<sup>4</sup> If the child was expressly acknowledged by the father and the mother’s name is on the birth certificate, the express acknowledgment of the mother is not necessary for the legitimation to be legally effective.<sup>5</sup> Neither is the father’s acknowledgment necessary if his name is expressed on the birth certificate.<sup>6</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented. The filiation of children born out of wedlock is established with regard to the mother by the mere fact of the child’s birth, and with regard to the father by his voluntary acknowledgement of the child or by a court judgment declaring him the father.<sup>7</sup>

The acknowledgment of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Officer;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same officer;
- III. By a public notarial instrument;
- IV. Under a will; and
- V. By direct and open admission in open court<sup>8</sup>

The Code forbids, under any circumstances, the use in birth records of terms that qualify the person registered. Such terms contained in any birth record must be considered void and the

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<sup>1</sup> CÓDIGO CIVIL DEL ESTADO DE DURANGO, “De la Legitimación,” PERIÓDICO OFICIAL DEL GOBIERNO DEL ESTADO DE DURANGO, Jan. 22–Aug. 19, 1948, available as amended at <http://congresodurango.gob.mx/Archivos/legislacion/CODIGO%20CIVIL.pdf>, archived at <https://perma.cc/UT7J-KFEN>.

<sup>2</sup> *Id.* art. 349.

<sup>3</sup> *Id.* art. 350.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* art. 351.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* art. 355.

<sup>8</sup> *Id.* art. 364 (translation by author).

Civil Registry Officer who made the recording is liable for this violation.<sup>9</sup> Therefore, any insertion of terms qualifying the nature of a child's filiation is prohibited.

A child acknowledged by the father, mother or both has the following rights:

- I. To take the surnames of both parents or both surnames of the parent who acknowledged him/her;
- II. To receive support from the person(s) who acknowledged him/her;
- III. To receive his/her inheritance share and support as provided by law; and
- IV. To the other rights arising from filiation.<sup>10</sup>

With respect to item III concerning intestate succession for descendants, the Code states that if upon the death of the parents they are survived only by their children, the estate must be divided among the children in equal shares.<sup>11</sup>

The Code states that a spouse may acknowledge a child born prior to the marriage but may not bring the child to live in the marital home without the express consent of the other spouse.<sup>12</sup>

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<sup>9</sup> *Id.* art. 60.

<sup>10</sup> *Id.* art. 384 (translation by author).

<sup>11</sup> *Id.* art. 1491.

<sup>12</sup> *Id.* art. 368.

# Federal District

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of the Federal District of Mexico (Mexico City) contains no provision on the legitimation of children born out of wedlock. Legitimation was repealed by the amendments to the Civil Code promulgated in May 2000.<sup>1</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented.

The filiation of children born out of wedlock is established by acknowledgment of the father, the mother, or both, or by a court judgment declaring the paternity of the child.<sup>2</sup> The father and the mother are obliged to recognize their children.<sup>3</sup> If a father or a mother separately acknowledge a child, only the name of the parent who is providing the acknowledgment is recorded, but the right to investigate paternity or maternity remains.<sup>4</sup>

The acknowledgment of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Judge;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same Judge;
- III. By a public notarial instrument;
- IV. Under a will; and
- V. By direct and open admission in open court.<sup>5</sup>

An acknowledgment done differently from those [methods] listed above will have no effect, but it may be used as evidence in a paternity or maternity investigation case.<sup>6</sup>

The Code states that “[n]o record shall be made in the register [of the Civil Registry], either by means of a note or a warning, save that which ought to be declared for the precise act that it [the

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<sup>1</sup> CÓDIGO CIVIL PARA EL DISTRITO FEDERAL, DIARIO OFICIAL DE LA FEDERACIÓN, May 26, July 14 & Aug. 3 and 31, 1928, *as amended by* Decreto, May 23, 2000, GACETA OFICIAL DEL DISTRITO FEDERAL, May 25, 2000, <http://www.aldf.gob.mx/archivo-3d1e2e2104591d665ab462880c904021.pdf>, archived at <https://perma.cc/3KSU-4TAR>.

<sup>2</sup> *Id.* art. 360.

<sup>3</sup> *Id.* art. 60.

<sup>4</sup> *Id.* art. 370.

<sup>5</sup> *Id.* art. 369 (all translations by author).

<sup>6</sup> *Id.*

register] makes reference to and that which is expressly provided by law.”<sup>7</sup> The Code further states that “[t]he judges of the Civil Registry and witnesses, if any, are strictly prohibited from inquiring as to the paternity of the child. On the birth record there must only appear such matters required to be attested to by the persons who bring the child and the witnesses, when required.”<sup>8</sup> Therefore, any insertion of terms qualifying the nature of the child’s filiation is prohibited.

A child acknowledged by the father, the mother, or both has the following rights:

- I. To take the surname of his/her parents or both surnames of the one who acknowledges him/her;
- II. To receive support from the persons who acknowledged him/her;
- III. To receive his/her inheritance share and support as is provided by law; and
- IV. To the other prerogatives arising from filiation.<sup>9</sup>

With respect to item III concerning intestate succession for descendants, the Code states that if upon the death of the parents they are survived only by their children, the estate must be divided among the children in equal shares.<sup>10</sup>

Article 338 *Bis* of the Code states that the law makes no distinctions based on the rights drawn from filiation, whatever their source.<sup>11</sup> Article 372 states that a spouse may acknowledge a child born prior to the marriage without the consent of the other spouse, but may not bring the child to live in the marital home without the express consent of the other spouse.<sup>12</sup>

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<sup>7</sup> *Id.* art. 43.

<sup>8</sup> *Id.* art. 69.

<sup>9</sup> *Id.* art. 389.

<sup>10</sup> *Id.* art. 1607.

<sup>11</sup> *Id.* art. 338 *Bis*.

<sup>12</sup> *Id.* art. 372.

# Guanajuato

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Guanajuato includes a chapter entitled “Of Legitimation.”<sup>1</sup> This chapter provides that children born out of wedlock may be considered to be born in wedlock if the parents subsequently marry and both expressly acknowledge the children as theirs, either jointly or separately.<sup>2</sup> Acknowledgement may take place before the marriage, during the marriage ceremony, or during the marriage.<sup>3</sup> Legitimation is effective from the day on which the parents marry, even if acknowledgement takes place afterwards.<sup>4</sup>

The Civil Code also provides different rules applicable to proving filiation of children born in and out of wedlock. The most relevant of the latter for purposes of this report are briefly summarized below.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish parentage in order to have their rights implemented. The Guanajuato Civil Code includes a chapter entitled “Of Acknowledgement of Children Born Out of Wedlock.”<sup>5</sup> This chapter provides that filiation of children born out of wedlock results, with respect to the mother, by the mere fact of birth.<sup>6</sup> With respect to the father, filiation may only be established by voluntary acknowledgement or by a judgment that declares paternity.<sup>7</sup>

The acknowledgement of a child born out of wedlock may be done in any of the following ways:

- I. In the birth certificate before the Civil Registry official;
- II. By an annotation in the birth certificate before the Civil Registry official;
- III. By an express statement contained in a notarized document;
- IV. By a will;
- V. By direct and express judicial confession.<sup>8</sup>

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<sup>1</sup> CÓDIGO CIVIL PARA EL ESTADO DE GUANAJUATO, “De la Legitimación,” PERIÓDICO OFICIAL DEL GOBIERNO DEL ESTADO, May 14, 1967, available as amended through May 2017 on the website of the Guanajuato State Legislative Branch, at [http://www.congresogto.gob.mx/uploads/codigo/pdf/6/Codigo\\_Civil\\_para\\_el\\_Estado\\_de\\_Guanajuato\\_P.O.\\_26may2017.pdf](http://www.congresogto.gob.mx/uploads/codigo/pdf/6/Codigo_Civil_para_el_Estado_de_Guanajuato_P.O._26may2017.pdf), archived at <https://perma.cc/8M3N-NV3T>.

<sup>2</sup> *Id.* arts. 410, 411.

<sup>3</sup> *Id.* art. 411.

<sup>4</sup> *Id.* art. 413.

<sup>5</sup> *Id.*, “Del Reconocimiento de los Hijos Nacidos Fuera de Matrimonio.”

<sup>6</sup> *Id.* art. 416.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* art. 425 (translation by author).

Children born out of wedlock whose filiation is proved have the following rights:

- I. To take the last name of the acknowledging parent(s);
- II. To get support from the acknowledging parent(s);
- III. To get an inheritance share and support as provided by law.<sup>9</sup>

A married woman may acknowledge a child born before her marriage took place without her husband's consent, but she does not have the right to bring the child into the marital home to live without her husband's express consent.<sup>10</sup> Likewise, a husband may acknowledge a child born before his marriage took place or during his marriage, but he does not have the right to bring the child into the marital home to live without his wife's express consent.<sup>11</sup>

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<sup>9</sup> *Id.* art. 445 (translation by author).

<sup>10</sup> *Id.* art. 428.

<sup>11</sup> *Id.* art. 429.

# Guerrero

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Guerrero includes a chapter on filiation.<sup>1</sup> This chapter does not appear to include rules concerning legitimation of children born out of wedlock.<sup>2</sup> The Civil Code of Guerrero also provides different rules applicable to proving filiation of children born in and out of wedlock. The most relevant of the latter for purposes of this report are briefly summarized below.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish filiation in order to have their rights implemented. Maternity is proved by the mere fact of birth.<sup>3</sup> With respect to the father, filiation is established by voluntary acknowledgment or by a judgment declaring paternity.<sup>4</sup>

Acknowledgement of a child may be done in a number of ways, including the following:

- I. In the birth certificate before the Civil Registry official;
- II. In a special certificate before the Civil Registry official;
- III. In the marriage certificate of the parents, in which case they have the duty to make the acknowledgement;
- IV. In a notarized document;
- V. In a will;
- VI. By judicial confession.<sup>5</sup>

A child acknowledged by the father, by the mother, or by both parents has the following rights:

- I. To take the last name of the acknowledging parent;
- II. To get support from the acknowledging parent;

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<sup>1</sup> CÓDIGO CIVIL DEL ESTADO LIBRE Y SOBERANO DE GUERRERO, “De la filiación,” PERIÓDICO OFICIAL DEL ESTADO, Mar. 2, 1993, *as amended through 2017*, available on the website of the Guerrero State Government, at <http://i.guerrero.gob.mx/uploads/2006/02/CCELSG358-3.pdf>, archived at <https://perma.cc/PX6P-RPJB>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* art. 520.

<sup>4</sup> *Id.* art. 521.

<sup>5</sup> *Id.* art. 527 (translation by author).

III. To get an inheritance share as provided by law for cases of intestate succession, or to get support as provided by law if the acknowledged child is not chosen as a testamentary heir in the case of testate succession;

IV. To exercise the rights granted by the Guerrero Civil Code to posthumous children.<sup>6</sup>

Article 497 of the Guerrero Civil Code provides that the law does not establish any distinction in the rights derived from filiation.<sup>7</sup>

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<sup>6</sup> *Id.* art. 538 (translation by author).

<sup>7</sup> *Id.* art. 497.

# Hidalgo

## I. Legitimation of Children Born Out of Wedlock

Hidalgo's Family Law includes chapters on filiation and children.<sup>1</sup> These chapters do not appear to include rules on the legitimation of children born out of wedlock. This Law also provides different rules applicable to proving filiation of children born in and out of wedlock. The most relevant of the latter for purposes of this report are briefly summarized below.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish parentage in order to have their rights implemented. The filiation of children born out of wedlock may be established by voluntary acknowledgement or by a judgment that declares paternity or maternity.<sup>2</sup>

Voluntary acknowledgement of a child may be done in any of the following ways:

- I. In the birth certificate before a Family Status Registry official;
- II. In an acknowledgement certificate before a Family Status Registry official;
- III. In a notarized document;
- IV. By a will; or
- V. By direct and express judicial confession.<sup>3</sup>

An acknowledged child has the same rights and obligations as a child born in wedlock.<sup>4</sup> Article 196 provides that children are equal under the law and within the family, society, and the state.<sup>5</sup> A married individual may acknowledge a child born before the marriage took place without the consent of the individual's spouse, but the married individual does not have the right to bring the child into the marital home to live without his or her spouse's express consent.<sup>6</sup>

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<sup>1</sup> Ley para la Familia del Estado de Hidalgo, "De la Filiación" & "De los Hijos," PERIÓDICO OFICIAL DEL ESTADO DE HIDALGO, Apr. 9, 2007, available as amended through Dec. 2016 on the website of the Hidalgo State Legislative Branch, at [http://www.congreso-hidalgo.gob.mx/biblioteca\\_legislativa/Leyes/118Ley%20para%20la%20Familia%20del%20Estado%20de%20Hidalgo%20Bis.pdf](http://www.congreso-hidalgo.gob.mx/biblioteca_legislativa/Leyes/118Ley%20para%20la%20Familia%20del%20Estado%20de%20Hidalgo%20Bis.pdf), archived at <https://perma.cc/G2HY-FHAR>.

<sup>2</sup> *Id.* art. 168.

<sup>3</sup> *Id.* art. 198 (translation by author).

<sup>4</sup> *Id.* arts. 173, 202.

<sup>5</sup> *Id.* art. 196.

<sup>6</sup> *Id.* art. 200.

# Jalisco

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Jalisco<sup>1</sup> does not include a chapter specifically on legitimation. However, the concept of legitimation, while not named as such, is included in a chapter entitled “[Matters Concerning] Filiation.” Article 486 of the Code simply states that children born before the marriage of their parents are considered born of the marriage by the subsequent celebration of the marriage. Article 487 states that in order for a child to enjoy this right, the parents must expressly acknowledge the child prior to the celebration of the marriage, during the celebration itself, or during the marriage. The acknowledgment must be made by both parents, either jointly or separately.<sup>2</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented. The filiation of children born out of wedlock is established by the voluntary acknowledgement of the child by his/her parents or by a court judgment declaring the filiation.<sup>3</sup>

The acknowledgment of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Officer;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same officer;
- III. By a public notarial instrument;
- IV. Under a will; and
- V. By direct and open admission in open court.<sup>4</sup>

The Law on Civil Registry forbids, under any circumstances, mentioning in birth records that a child is born out of wedlock or using qualifying terms in reference to filiation, or mentioning that the child’s parents are unknown persons.<sup>5</sup>

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<sup>1</sup> CÓDIGO CIVIL DEL ESTADO DE JALISCO, PERIÓDICO OFICIAL DEL ESTADO DE JALISCO, Feb. 25, 1995, <http://congresoweb.congresoal.gob.mx/BibliotecaVirtual/busquedasleyes/Listado.cfm#Leyes> (click on “Código Civil del Estado de Jalisco”), archived at <https://perma.cc/JU8Y-YS2V>.

<sup>2</sup> *Id.* arts. 486, 487.

<sup>3</sup> *Id.* art. 491.

<sup>4</sup> *Id.* art. 500 (translation by author).

<sup>5</sup> Ley del Registro Civil del Estado de Jalisco art. 44, PERIÓDICO OFICIAL DEL ESTADO DE JALISCO, Feb. 25, 1995, <http://congresoweb.congresoal.gob.mx/BibliotecaVirtual/busquedasleyes/Listado.cfm#Leyes> (click on “Ley del Registro Civil del Estado de Jalisco”), archived at <https://perma.cc/MS6W-XSLN>.

A child acknowledged by the father, mother, or both has the following rights:

- I. To take the surname of the one who acknowledged him/her;
- II. To receive support from such person(s); and
- III. To receive his/her inheritance share and support as provided by law.<sup>6</sup>

With respect to item III concerning intestate succession for descendants, the Code states that if upon the death of the parents they are survived only by their children, the estate must be divided among the children in equal shares.<sup>7</sup>

The Code states that a spouse may acknowledge a child born prior to the marriage without the consent of the other spouse, but may not bring the child to live in the marital home without the express consent of the other spouse.<sup>8</sup>

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<sup>6</sup> CÓDIGO CIVIL art. 519 (translation by author).

<sup>7</sup> *Id.* art. 2915.

<sup>8</sup> *Id.* art. 503.

# México

## I. Legitimation of Children Born Out of Wedlock

The current Civil Code of the State of México includes a chapter on parentage and filiation.<sup>1</sup> This chapter does not appear to include rules concerning legitimation of children born out of wedlock.<sup>2</sup> The Civil Code also provides different rules applicable to proving filiation of children born in and out of wedlock. The most relevant of the latter for purposes of this report are briefly summarized below.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish filiation in order to have their rights implemented. The Civil Code of the State of México provides that filiation of children born out of wedlock is established, with respect to the mother, by the mere fact of birth.<sup>3</sup> With respect to the father, filiation is established by acknowledgement or by a judgment that declares paternity.<sup>4</sup>

Acknowledgement must be done in one of the following ways:

- I. In the birth certificate or in an acknowledgement certificate before the Civil Registry official;
- II. In a notarized document;
- III. In a will;
- IV. By express judicial confession.
- V. In the marriage certificate, by registering the acknowledgement made by the father during the marriage ceremony.<sup>5</sup>

The chapter on parentage in the Civil Code does not appear to provide for distinctions between children born in and out of wedlock whose filiation has been established in one of the ways described above.<sup>6</sup>

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<sup>1</sup> CÓDIGO CIVIL DEL ESTADO DE MÉXICO arts. 4.147–4.177, GACETA DEL GOBIERNO DEL ESTADO DE MÉXICO [G.O.], June 7, 2002, available as amended through Dec. 2016 on a State of Mexico website, at <http://legislacion.edomex.gob.mx/sites/legislacion.edomex.gob.mx/files/files/pdf/cod/vig/codvig001.pdf>, archived at <https://perma.cc/9TD4-9KYE>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* art. 4.162.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* art. 4.168 (translation by author).

<sup>6</sup> *Id.* arts. 4.147–4.177.

# Michoacán

## I. Legitimation of Children Born Out of Wedlock

The 2008 Family Code of Michoacán includes a chapter entitled “Legitimation.”<sup>1</sup> Under these provisions, pursuant to article 364, children born before the marriage of their parents are considered born of the marriage by the subsequent celebration of the marriage.<sup>2</sup> In order for a child to enjoy this right, however, the parents must expressly acknowledge the child prior to the celebration of the marriage, during the celebration itself, or during the marriage. The acknowledgment must be made by both parents, either jointly or separately.<sup>3</sup>

If the child was expressly acknowledged by the father and the mother’s name is on the birth certificate, the express acknowledgment of the mother is not necessary for the legitimation to be legally effective; neither is the father’s acknowledgment necessary if his name is stated in the birth certificate.<sup>4</sup>

Even where recognition occurs later, children acquire all their rights from the day on which their parents’ marriage was celebrated.<sup>5</sup> Children who have already died when their parents’ marriage was celebrated can enjoy the rights granted to them by article 364 if they left descendants. Likewise, children who are as yet unborn can enjoy these rights, if the father, upon marriage to a woman who is pregnant, recognizes the child she is carrying.<sup>6</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented. The filiation of children born out of wedlock is established with regard to the mother by the mere fact of the child’s birth, and with regard to the father by his voluntary acknowledgement of the child or by a court judgment declaring him the father.<sup>7</sup>

The acknowledgment of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Officer;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same officer;

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<sup>1</sup> CÓDIGO FAMILIAR PARA EL ESTADO DE MICHOACÁN DE OCAMPO, “De la Legitimación,” PERIÓDICO OFICIAL DEL ESTADO DE MICHOACÁN, Sept. 30, 2015, [http://transparencia.congresomich.gob.mx/media/documentos/trabajo\\_legislativo/CODIGO\\_FAMILIAR\\_REF\\_29\\_DIC\\_2016.pdf](http://transparencia.congresomich.gob.mx/media/documentos/trabajo_legislativo/CODIGO_FAMILIAR_REF_29_DIC_2016.pdf), archived at <https://perma.cc/F4YE-6KZK>.

<sup>2</sup> *Id.* art. 364.

<sup>3</sup> *Id.* art. 365.

<sup>4</sup> *Id.* art. 366.

<sup>5</sup> *Id.* art. 367.

<sup>6</sup> *Id.* art. 368.

<sup>7</sup> *Id.* art. 369.

- III. By a public notarial instrument;
- IV. Under a will.<sup>8</sup>

A child acknowledged by the father, the mother, or both has the following rights:

- I. To take the surname of the one who acknowledged him/her;
- II. To receive child support; and
- III. To receive his/her inheritance share.<sup>9</sup>

With respect to item III concerning intestate succession for descendants, the Civil Code states that if upon the death of the parents they are survived only by their children, the estate must be divided among the children in equal shares.<sup>10</sup>

The Code states that a spouse may acknowledge a child born prior to the marriage without the consent of the other spouse, but may not bring the child to live in the marital home without the express consent of the other spouse.<sup>11</sup>

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<sup>8</sup> *Id.* art. 376 (translation by author).

<sup>9</sup> *Id.* art. 393 (translation by author).

<sup>10</sup> CÓDIGO CIVIL PARA EL ESTADO DE MICHOACÁN DE OCAMPO art. 773, PERIÓDICO OFICIAL DEL ESTADO DE MICHOACÁN, Feb. 11, 2008, [http://transparencia.congresomich.gob.mx/media/documentos/trabajo\\_legislativo/CODIGO\\_CIVIL\\_REF.29\\_DE\\_DICIEMBRE\\_DE\\_2016.pdf](http://transparencia.congresomich.gob.mx/media/documentos/trabajo_legislativo/CODIGO_CIVIL_REF.29_DE_DICIEMBRE_DE_2016.pdf), archived at <https://perma.cc/A9DN-D2TJ>.

<sup>11</sup> CÓDIGO FAMILIAR art. 379.

# Morelos

## I. Legitimation of Children Born Out of Wedlock

The Family Code of Morelos, which was promulgated in 2006, contains a chapter on the filiation of children born out of wedlock. This chapter does not appear to include provisions regarding the legitimation of such children.<sup>1</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented. The filiation of children born out of wedlock is established with regard to the mother by the mere fact of the child's birth, and with regard to the father by his voluntary acknowledgement of the child or by a court judgment declaring the paternity of the child.<sup>2</sup>

The parents may acknowledge or "admit to" their children jointly or separately.<sup>3</sup> Article 199 of the Code makes a distinction between the father's role of acknowledgment and the mother's role of admission. The acknowledgment or admission of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Officer;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same officer;
- III. By a public notarial instrument;
- IV. Under a will; and
- V. By direct and open admission in open court.<sup>4</sup>

The Code, without elaboration, forbids the insertion in birth records of terms that qualify the person who is being registered.<sup>5</sup> This is commonly understood to mean qualifications related to the circumstances of a child's birth.

A child acknowledged by the father, "admitted" by the mother, or acknowledged/admitted by both parents, or whose filiation has been established according to law, has the following rights:

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<sup>1</sup> CÓDIGO FAMILIAR PARA EL ESTADO LIBRE Y SOBERANO DE MORELOS, "De la Filiación de los Hijos Nacidos Fuera de Matrimonio," PERIÓDICO OFICIAL DEL ESTADO DE MORELOS, Sept. 6, 2006 (effective Oct. 1, 2006), available as amended at <http://marcojuridico.morelos.gob.mx/archivos/codigos/pdf/CFAMILIAREM.pdf>, archived at <https://perma.cc/DA3E-QT3G>.

<sup>2</sup> *Id.* art. 198.

<sup>3</sup> *Id.* art. 199.

<sup>4</sup> *Id.* art. 203 (translation by author).

<sup>5</sup> *Id.* art. 445.

- I. To take the surname of the father who acknowledged him/her and/or the mother who admitted him/her;
- II. To receive support from the parent(s) who acknowledged or admitted him/her and their ascendants; and
- III. To receive his/her rightful inheritance share or the appropriate child support if the child is not designated as an heir in testamentary succession.<sup>6</sup>

With regard to the third right, no provision was found in the chapter on the succession of descendants stating what portion is the “rightful inheritance share” in intestate succession of a child born out of wedlock that has been acknowledged by his/her father.<sup>7</sup>

The Code states that a married woman may bring her children born outside her marriage into the conjugal home to live. Similarly, the husband may acknowledge a child born prior to or during his marriage and may bring the child into the conjugal home to live.<sup>8</sup>

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<sup>6</sup> *Id.* art. 217 (translation by author); *see also* art. 38 (mandating that ascendants—typically grandparents—provide support when the child’s parents cannot provide such support).

<sup>7</sup> *Id.* bk. 7, tit. 4, ch. II, “De la Sucesión de los Descendientes.”

<sup>8</sup> *Id.* art. 205.

# Nayarit

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Nayarit contains a chapter entitled “[Matters Concerning] Legitimation.”<sup>1</sup> Under these provisions, children born before the marriage of their parents are considered born of the marriage by the subsequent celebration of the marriage.<sup>2</sup> In order for a child to enjoy this right, the parents must expressly acknowledge the child prior to the celebration of the marriage, during the celebration itself, or during the marriage.<sup>3</sup> The acknowledgment must be made by both parents, either jointly or separately.<sup>4</sup> If the child was expressly acknowledged by the father and the mother’s name is on the birth certificate, the express acknowledgment of the mother is not necessary for the legitimation to be legally effective.<sup>5</sup> Neither is the father’s acknowledgment necessary if his name is on the birth certificate.<sup>6</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented. Filiation of children born out of wedlock is established with regard to the mother by the mere fact of the child’s birth, and with regard to the father by his voluntary acknowledgement of the child or by a court judgment declaring him the father.<sup>7</sup>

The acknowledgment of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Officer;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same officer;
- III. By a public notarial instrument;
- IV. Under a will; and
- V. By direct and open admission in open court.<sup>8</sup>

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<sup>1</sup> CÓDIGO CIVIL PARA EL ESTADO DE NAYARIT, “De la Legitimación,” PERIÓDICO OFICIAL, ÓRGANO DEL GOBIERNO DEL ESTADO DE NAYARIT, Aug. 22, 1981, available as amended at [http://www.congresonayarit.mx/media/2289/codigo\\_civil\\_estado\\_de\\_nayarit.pdf](http://www.congresonayarit.mx/media/2289/codigo_civil_estado_de_nayarit.pdf), archived at <https://perma.cc/7UY9-RDSR>.

<sup>2</sup> *Id.* art. 347.

<sup>3</sup> *Id.* arts. 351, 348.

<sup>4</sup> *Id.* art. 348.

<sup>5</sup> *Id.* art. 349.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* art. 353.

<sup>8</sup> *Id.* art. 362 (translation by author).

The Code forbids, under any circumstances, the use in birth records of terms that qualify the person registered. Such terms contained in any birth record must be crossed out by the officer in charge of the records.<sup>9</sup>

A child acknowledged by the father, mother, or both has the following rights:

- I. To take the surnames of his/her parents or both surnames of the one who acknowledged him/her;
- II. To receive support from the person(s) who acknowledged him/her; and
- III. To receive his/her inheritance share and support as provided by law.<sup>10</sup>

With respect to item III concerning intestate succession for descendants, the Code states that if upon the death of the parents they are survived only by their children, the estate must be divided among the children in equal shares.<sup>11</sup>

The Code states that a spouse may acknowledge a child born prior to the marriage without the consent of the other spouse, but may not bring the child to live in the marital home without the express consent of the other spouse.<sup>12</sup>

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<sup>9</sup> *Id.* art. 57.

<sup>10</sup> *Id.* art. 381 (translation by author).

<sup>11</sup> *Id.* art. 2721.

<sup>12</sup> *Id.* art. 365.

# Nuevo León

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Nuevo Leon contains a chapter entitled “[Matters Concerning] Legitimation.”<sup>1</sup> Under these provisions, children born before the marriage of their parents are considered born of the marriage by the subsequent celebration of the marriage.<sup>2</sup> In order for a child to enjoy this right, the parents must expressly acknowledge the child prior to the celebration of the marriage, during the celebration itself, or during the marriage.<sup>3</sup> The acknowledgment must be made by both parents, either jointly or separately.<sup>4</sup> If the child was expressly acknowledged by the father and the mother’s name is on the birth certificate, the express acknowledgment of the mother is not necessary for the legitimation to be legally effective.<sup>5</sup> Neither is the father’s acknowledgment necessary if the latter’s name is expressed in the birth certificate.<sup>6</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented. The filiation of children born out of wedlock is established with regard to the mother by the mere fact of the child’s birth, and with regard to the father by his voluntary acknowledgement of the child or by a court judgment declaring him the father.<sup>7</sup>

The acknowledgment of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Officer;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same officer;
- III. By a public notarial instrument;
- IV. Under a will; and
- V. By direct and open admission in open court.<sup>8</sup>

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<sup>1</sup> CÓDIGO CIVIL PARA EL ESTADO DE NUEVO LEÓN, “De la Legitimación,” PERIÓDICO OFICIAL DEL ESTADO DE NUEVO LEÓN, July 6, 1935, available as amended at [http://www.hcnl.gob.mx/trabajo\\_legislativo/leyes/pdf/CODIGO%20CIVIL%20PARA%20EL%20ESTADO%20DE%20NUEVO%20LEON%20.pdf](http://www.hcnl.gob.mx/trabajo_legislativo/leyes/pdf/CODIGO%20CIVIL%20PARA%20EL%20ESTADO%20DE%20NUEVO%20LEON%20.pdf), archived at <https://perma.cc/3TT2-JJ CJ>.

<sup>2</sup> *Id.* art. 354.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* art. 356.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* art. 360.

<sup>8</sup> *Id.* art. 369 (translation by author).

The Code prohibits the use of terms in birth records that qualify the persons registered. The Code also mandates that any such terms contained in a birth record must be deleted by the officer who is in charge of the records. Moreover, the Code mandates that a Civil Registry officer who violates this prohibition must be removed from office without prejudice to any criminal penalty that may apply.<sup>9</sup> Therefore, any insertion of terms qualifying the nature of the child's filiation is prohibited.

A child acknowledged by the father, mother, or both has the following rights:

- I. To take the surname of the one who acknowledged him/her;
- II. To receive support from such person(s); and
- III. To receive his/her inheritance share and support as is provided by law.<sup>10</sup>

With respect to item III concerning intestate succession for descendants, the Code states that if upon the death of the parents they are survived only by their children, the estate must be divided among the children in equal shares.<sup>11</sup>

The Code states that a spouse may acknowledge a child born prior to the marriage without the consent of the other spouse, but may not bring the child to live in the marital home without the express consent of the other spouse.<sup>12</sup>

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<sup>9</sup> *Id.* art. 62, paras. fifth & sixth.

<sup>10</sup> *Id.* art. 389 (translation by author).

<sup>11</sup> *Id.* art. 1504.

<sup>12</sup> *Id.* art. 373.

# Oaxaca

## I. Legitimation of Children Born Out of Wedlock

Articles 367 and 368 of the Oaxaca Civil Code provide that children born out of wedlock may be considered to be born in wedlock if the parents subsequently marry and both expressly acknowledge the children as theirs, either jointly or separately.<sup>1</sup> Acknowledgement may take place before the marriage, during the marriage ceremony, or during the marriage.<sup>2</sup> Article 370 provides that an out-of-wedlock child's acquisition of the status of a child born in wedlock is effective from the day on which the parents marry, even if the acknowledgement takes place afterwards.<sup>3</sup>

This Code also provides rules applicable to proving filiation of children born in and out of wedlock. The most relevant of the latter for purposes of this report are briefly summarized below.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish parentage in order to have their rights implemented. The maternity of children born out of wedlock is proved by the mere fact of birth.<sup>4</sup>

With respect to the father, filiation is established by voluntary acknowledgement or by a judgment that declares paternity.<sup>5</sup> The acknowledgement of a child born out of wedlock may be done in any of the following ways:

- I. In the birth certificate before the Civil Registry official;
- II. In a special certificate before the Civil Registry official;
- III. By notarized document;
- IV. By a will;
- V. By direct and express judicial confession.<sup>6</sup>

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<sup>1</sup> CÓDIGO CIVIL PARA EL ESTADO DE OAXACA arts. 367, 368, PERIÓDICO OFICIAL, Nov. 25, 1944, available as amended through Oct. 2016 on the website of the Oaxaca State Legislative Branch, at <http://www.congresooaxaca.gob.mx/legislatura/legislacion/leyes/002R.pdf>, archived at <https://perma.cc/88U6-6RNH>.

<sup>2</sup> *Id.* art. 368.

<sup>3</sup> *Id.* art. 370.

<sup>4</sup> *Id.* art. 373.

<sup>5</sup> *Id.* art. 374.

<sup>6</sup> *Id.* art. 384 (translation by author).

A child acknowledged by the father, mother, or both parents has the following rights:

- I. To take the last name of the acknowledging parent;
- II. To get support from the acknowledging parent; and
- III. To get an inheritance share and support as provided by law.<sup>7</sup>

A married parent may acknowledge a natural child born before the marriage took place, and the husband may acknowledge a child born during the husband's marriage, but the husband does not have the right to bring the child into the marital home to live without his wife's express consent.<sup>8</sup>

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<sup>7</sup> *Id.* art. 402.

<sup>8</sup> *Id.* art. 387.

# Puebla

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Puebla contains a chapter on filiation. This chapter does not appear to include provisions regarding the legitimation of children born out of wedlock.<sup>1</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented. The filiation of children born out of wedlock is established with regard to the mother by the mere fact of the child's birth,<sup>2</sup> and with regard to the father by his voluntary acknowledgement of the child or by a court judgment declaring him the father.<sup>3</sup>

The acknowledgment of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Judge;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same Judge;
- III. On the marriage certificate of the parents—in this case the parents have the duty to make the acknowledgement (this duty remains even if the child has died before the marriage is celebrated, if the child left descendants);
- IV. By a public notarial instrument;
- V. Under a will; and
- VI. By admission in open court.<sup>4</sup>

The Code forbids the use in birth records of terms that qualify the person being registered in regard to his/her filiation. The Code provides a list of terms that are prohibited, such as “legitimate,” “illegitimate,” “natural,” “child born in wedlock” or “out of wedlock,” “child of unknown parents,” “child of adultery,” “child of incest,” and other similar terms. Such terms contained in a birth record must be crossed out by the Office of the Civil Registry.<sup>5</sup>

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<sup>1</sup> CÓDIGO CIVIL PARA EL ESTADO LIBRE Y SOBERANO DE PUEBLA, “Filiación,” PERIÓDICO OFICIAL DEL ESTADO DE PUEBLA, Apr. 30, 1985, available as amended at [http://www.congresopuebla.gob.mx/index.php?option=com\\_docman&task=doc\\_download&gid=6011&Itemid=111](http://www.congresopuebla.gob.mx/index.php?option=com_docman&task=doc_download&gid=6011&Itemid=111) (click “Descargar”), archived at <https://perma.cc/5CKX-MTD7>.

<sup>2</sup> *Id.* art. 551.

<sup>3</sup> *Id.* art. 552.

<sup>4</sup> *Id.* art. 558 (translation by author).

<sup>5</sup> *Id.* art. 860.

A judge of the Civil Registry who inserts any of the above-referenced, prohibited terms in a birth record will be punished the first time with a fine of one to ten days of the minimum wage and the second time with dismissal from his/her post.<sup>6</sup>

The Code specifically provides that the law makes no distinction with regard to the rights of children.<sup>7</sup> Parents have the duty to provide child support, which includes education, to all their children.<sup>8</sup> Both parents have parental authority with respect to all their children.<sup>9</sup> If parents do not live together, they must agree which of them will have custody of their children. Parents also may agree on joint custody. If they do not reach an agreement, the court will decide.<sup>10</sup>

With respect to intestate succession for descendants, the Code states that if upon the death of the parents they are survived only by their children, the estate must be divided among the children in equal shares.<sup>11</sup>

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<sup>6</sup> *Id.* art. 861.

<sup>7</sup> *Id.* art. 524.

<sup>8</sup> *Id.* arts. 487, 498, 499.

<sup>9</sup> *Id.* arts. 597, 598.

<sup>10</sup> *Id.* art. 635.

<sup>11</sup> *Id.* art. 3341.

# Querétaro

## I. Legitimation of Children Born Out of Wedlock

The Querétaro Civil Code includes a chapter entitled “Of Legitimation.”<sup>1</sup> This chapter provides that children born out of wedlock may be considered to be born in wedlock provided that the parents subsequently marry and both expressly acknowledge the children as theirs, either jointly or separately.<sup>2</sup> Acknowledgement may take place before the marriage, during the marriage ceremony, or during the marriage.<sup>3</sup> Legitimation is effective from the day on which the parents marry, even if the acknowledgement takes place afterwards.<sup>4</sup>

This Code also provides a broad set of rules applicable to proving filiation of children born in and out of wedlock. The most relevant of the latter for purposes of this report are briefly summarized below.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish parentage in order to have their rights implemented. The Queretaro Civil Code includes a chapter entitled “Of Acknowledgement of Children Born Out of Wedlock.”<sup>5</sup> This chapter provides that the filiation of children born out of wedlock results, with respect to the mother, by the mere fact of birth.<sup>6</sup> With respect to the father, filiation may be established by voluntary acknowledgement or by a judgment that declares paternity.<sup>7</sup>

Acknowledgement of a child born out of wedlock may be done in one of the following ways:

- I. In the birth certificate before the Civil Registry official;
- II. In a special acknowledgement certificate before the Civil Registry official;
- III. By a notarized document;
- IV. By a will; or
- V. By express and direct judicial confession.<sup>8</sup>

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<sup>1</sup> CÓDIGO CIVIL DEL ESTADO DE QUERÉTARO, “De la Legitimación,” PERIÓDICO OFICIAL DEL GOBIERNO DEL ESTADO DE QUERETARO, Oct. 21, 2009, available as amended through Jan. 2017 on the website of the Queretaro State Legislative Branch, at <http://legislaturaqueretaro.gob.mx/app/uploads/2016/01/COD001-1.pdf>, archived at <https://perma.cc/3PQC-XK2E>.

<sup>2</sup> *Id.* arts. 342, 343.

<sup>3</sup> *Id.* art. 343.

<sup>4</sup> *Id.* art. 345.

<sup>5</sup> *Id.*, “Del reconocimiento de los hijos nacidos fuera del matrimonio.”

<sup>6</sup> *Id.* art. 348.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* art. 357 (translation by author).

A child acknowledged by the father, by the mother, or by both has the following rights:

- I. To take the last name of the acknowledging parent;
- II. To get support from the acknowledging parent; and
- III. To get an inheritance share and support as provided by law.<sup>9</sup>

A married individual may acknowledge a child born before his or her marriage took place without his or her spouse's consent, but the married individual does not have the right to bring the child into the marital home to live without his or her spouse's express consent.<sup>10</sup>

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<sup>9</sup> *Id.* art. 376 (translation by author).

<sup>10</sup> *Id.* art. 360.

# Quintana Roo

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Quintana Roo includes a chapter on filiation.<sup>1</sup> This chapter does not appear to include rules concerning legitimation of children born out of wedlock.<sup>2</sup> Article 970 of the Code provides that if a birth certificate includes expressions such as “legitimate child,” “illegitimate child,” or other similar terms, they should be crossed out in a way that makes them illegible.<sup>3</sup>

The Civil Code of Quintana Roo also provides different rules applicable to proving filiation of children born in and out of wedlock. The most relevant of the latter for purposes of this report are briefly summarized below.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish filiation in order to have their rights implemented. Children born in the following time periods are presumed to be the children of an unmarried couple comprised of a man and a woman who live together as if they were married, without having impediments to marry:

**I.-** Children born within 180 days after the unmarried couple started cohabitation.

**II.-** Children born after 180 days counted from the time the unmarried couple started cohabitation.

**III.-** Children born within 300 days following the end of cohabitation.<sup>4</sup>

The filiation of children born in these circumstances may be demonstrated with their birth certificate and evidence of the date on which the presumed parents began cohabiting.<sup>5</sup> The filiation of children born out of wedlock who cannot benefit from this presumption is established, with respect to the mother, by the mere fact of birth.<sup>6</sup> With respect to the father, filiation may be established by acknowledgement or by a judgment that declares paternity.<sup>7</sup>

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<sup>1</sup> CÓDIGO CIVIL PARA EL ESTADO LIBRE Y SOBERANO DE QUINTANA ROO arts. 866–927, PERIÓDICO OFICIAL DEL ESTADO, Oct. 8, 1980, available as amended through May 2016 on the website of the Quintana Roo State Congress, at <http://documentos.congresoqroo.gob.mx/codigos/C1420160530402.pdf>, archived at <https://perma.cc/Y2QN-EDMB>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* art. 970.

<sup>4</sup> *Id.* art. 882 (translation by author).

<sup>5</sup> *Id.* art. 886.

<sup>6</sup> *Id.* art. 890.

<sup>7</sup> *Id.* art. 891.

Acknowledgement of a child must be done in one of the following ways:

- I.-** In the birth certificate, before a Civil Registry official;
- II.-** In a special certificate before a Civil Registry official;
- III.-** In the marriage certificate of the parents, in which case they have the duty to make the acknowledgement;
- IV.-** In a notarized document;
- V.-** In a will;
- VI.-** By judicial confession.<sup>8</sup>

A child acknowledged by the father, by the mother, or by both parents has the following rights:

- I.-** To take the last name of the acknowledging parent;
- II.-** To receive support from the acknowledging parent;
- III.-** To receive an inheritance share as provided by law for cases of intestate succession, or to receive support as provided by law if the acknowledged child is not chosen as a testamentary heir in the case of testate succession;
- IV.-** To exercise the rights granted by the Quintana Roo Civil Code to posthumous children.<sup>9</sup>

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<sup>8</sup> *Id.* art. 897 (translation by author).

<sup>9</sup> *Id.* art. 913 (translation by author).

# San Luis Potosí

## I. Legitimation of Children Born Out of Wedlock

The Family Code of San Luis Potosí includes a chapter entitled “Of Legitimation.”<sup>1</sup> This chapter indicates that children born out of wedlock may be considered to be born in wedlock provided that the parents subsequently marry and both expressly acknowledge the children as theirs, either jointly or separately.<sup>2</sup> Acknowledgement may take place before or during the marriage ceremony, or during the marriage.<sup>3</sup> Legitimation is effective from the day on which the parents marry, even if acknowledgement takes place afterwards.<sup>4</sup>

The Family Code of San Luis Potosí also provides different rules applicable to proving filiation of children born in and out of wedlock. The most relevant of the latter for purposes of this report are briefly summarized below.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish filiation in order to have their rights implemented. The San Luis Potosi Family Code includes a chapter entitled “Of Acknowledgement of Children Born Out of Wedlock.”<sup>5</sup> This chapter provides that filiation of children born out of wedlock results, with respect to the mother, by the mere fact of birth.<sup>6</sup> With respect to the father, filiation is established by voluntary acknowledgement or by a judgment declaring paternity.<sup>7</sup>

Voluntary acknowledgement may be done in any of the following ways:

- I. In the birth certificate before a Civil Registry official;
- II. In an acknowledgement certificate before a Civil Registry official;
- III. In a notarized document;

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<sup>1</sup> CÓDIGO FAMILIAR PARA EL ESTADO DE SAN LUIS POTOSI, “De la Legitimación,” PERIÓDICO OFICIAL DEL ESTADO, Dec. 18, 2008, available as amended through Mar. 2017 on the website of the San Luis Potosi State Congress, at [http://congresosanluis.gob.mx/sites/default/files/unpload/legislacion/codigos/2017/05/Codigo\\_Familiar\\_para\\_el\\_Estado\\_de\\_San\\_Luis\\_Potosi\\_14\\_Marzo\\_2017.pdf](http://congresosanluis.gob.mx/sites/default/files/unpload/legislacion/codigos/2017/05/Codigo_Familiar_para_el_Estado_de_San_Luis_Potosi_14_Marzo_2017.pdf), archived at <https://perma.cc/8DYM-8KAM>.

<sup>2</sup> *Id.* arts. 183, 184.

<sup>3</sup> *Id.* art. 184.

<sup>4</sup> *Id.* art. 186.

<sup>5</sup> *Id.* “Del Reconocimiento de Hijas o Hijos Nacidos Fuera del Matrimonio.”

<sup>6</sup> *Id.* art. 210.

<sup>7</sup> *Id.*

- IV. By will; or
- V. By express and direct judicial confession.<sup>8</sup>

A child acknowledged by the father, the mother, or both parents has the following rights:

- I. To take the last name of the acknowledging parent;
- II. To receive support from the acknowledging parent;
- III. To receive an inheritance share; and
- IV. In general, to receive all the rights inherent in a son or daughter.<sup>9</sup>

Article 203 of the Family Code (which is included in the chapter on acknowledgement of children born out of wedlock) provides that children are equal under the law.<sup>10</sup> Article 221, included in the same chapter, provides that a married man or woman may acknowledge a child born before the marriage took place without his or her spouse's consent, but the acknowledging parent does not have the right to bring the child into the marital home to live without his or her spouse's express consent.<sup>11</sup>

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<sup>8</sup> *Id.* art. 205 (translation by author).

<sup>9</sup> *Id.* art. 209 (translation by author).

<sup>10</sup> *Id.* art. 203.

<sup>11</sup> *Id.* art. 221.

# Sinaloa

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Sinaloa contains a chapter entitled “[Matters Concerning] Legitimation.”<sup>1</sup> Under these provisions, children born before the marriage of their parents are considered born of the marriage by the subsequent celebration of the marriage, and likewise children born before the parents’ registration of “concubinage” (a de facto union) are considered born of that union.<sup>2</sup> In order for a child to enjoy this right, however, the parents must expressly acknowledge the child prior to the celebration of the marriage, during the celebration itself, or during the marriage.<sup>3</sup> The acknowledgment must be made by both parents, either jointly or separately. The same rules are applicable with respect to the registration of the concubinage.<sup>4</sup>

If the child was expressly acknowledged by the father and the mother’s name is on the birth certificate, the express acknowledgment of the mother is not necessary for the legitimation to be legally effective. Neither is the father’s acknowledgment necessary if his name is listed on the birth certificate.<sup>5</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented. The filiation of children in relation to their mother is called maternity, and in relation to their father is called paternity.<sup>6</sup> The maternity of a child born out of wedlock is established by the mere fact of the child’s birth, and paternity is established by the father’s voluntary acknowledgment of the child or by a court judgment declaring him the father.<sup>7</sup>

The acknowledgment of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Officer;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same officer;
- III. By a public notarial instrument;
- IV. Under a will; and

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<sup>1</sup> CÓDIGO FAMILIAR DEL ESTADO DE SINALOA, “De la Legitimación,” PERIÓDICO OFICIAL DEL ESTADO DE SINALOA, Feb. 6, 213, [http://www.congresosinaloa.gob.mx/images/congreso/leyes/zip/codigo\\_familiar\\_24-may-2017.pdf](http://www.congresosinaloa.gob.mx/images/congreso/leyes/zip/codigo_familiar_24-may-2017.pdf), archived at <https://perma.cc/B5MY-UREE>.

<sup>2</sup> *Id.* art. 257. Concubinage, a de facto union, is protected by the Code if some requirements are met. (*Id.* Art. 165).

<sup>3</sup> *Id.* art. 258.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* art. 240.

<sup>7</sup> *Id.* art. 300.

- V. By direct and open admission in open court;
- VI. In the marriage certificate of the parents, or in the application to register the concubinage, even if the child has died, if he/she left descendants.<sup>8</sup>

The Code forbids the Office of the Civil Registry to make inquiries as to the paternity of the child whose birth is being registered. The birth record may only reflect the information required to be attested by the persons who bring the child to the Civil Registry and by their witnesses.<sup>9</sup> The Code also forbids the use of terms that qualify the nature of a child's filiation.<sup>10</sup>

A child acknowledged by the father or mother, or whose filiation has been established by a court decision, has the following rights:

- I. To take the first paternal or maternal surname;
- II. To receive support from his/her parents and other obligated relatives;
- III. To receive his/her corresponding hereditary portion;
- IV. To the other protective and normative functions derived from the filial bond.<sup>11</sup>

With respect to item III, concerning intestate succession for descendants, the Code states that if upon the death of the parents they are survived only by their children, the estate must be divided among the children in equal shares.<sup>12</sup>

In addition, the Code states that all children are equal before the law and have the same rights and duties with respect to their parents, whether they are biological children or adopted.<sup>13</sup>

The Code also states that a spouse or "concubine" (a partner in a de facto union) may acknowledge a child born prior to the marriage or concubinage without the consent of the other spouse or partner of the concubinage, and they may bring the child to live in the marital home, unless the other spouse or partner in the concubinage expressly objects.<sup>14</sup>

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<sup>8</sup> *Id.* art. 261 (translation by author).

<sup>9</sup> *Id.* art. 1134.

<sup>10</sup> *Id.* art. 241.

<sup>11</sup> *Id.* art. 308 (translation by author).

<sup>12</sup> *Id.* art. 916.

<sup>13</sup> *Id.* art. 241.

<sup>14</sup> *Id.* arts. 269, 270.

# Sonora

## I. Legitimation of Children Born Out of Wedlock

The Sonora Family Code includes a chapter entitled “*Of Acquisition of Status of a Child Born in Wedlock.*”<sup>1</sup> This chapter provides that children born out of wedlock may be considered to be born in wedlock provided that the parents subsequently marry and both expressly acknowledge the children as theirs, either jointly or separately.<sup>2</sup> Acknowledgement may take place before or during the marriage ceremony, or during the marriage.<sup>3</sup> The acquisition of status of a child born in wedlock is effective from the day on which the parents marry, even if the acknowledgement takes place afterwards.<sup>4</sup>

The Sonora Family Code also provides different rules applicable to proving the filiation of children born in and out of wedlock. The most relevant of the latter for purposes of this report are briefly summarized below.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish parentage in order to have their rights implemented. The maternity of children born out of wedlock results from the mere fact of birth and the identity of the child.<sup>5</sup> The paternity of children born out of wedlock is established by voluntary acknowledgement or by a judgment not subject to appeal that declares paternity.<sup>6</sup>

Acknowledgement of a child born out of wedlock may be done in any of the following ways:

- I.- In the birth certificate, before the Civil Registry official;
- II.- In a special certificate before the Civil Registry official;
- III.- By a notarized document;
- IV.- By a will;
- V.- By direct and express judicial confession;

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<sup>1</sup> CÓDIGO DE FAMILIA PARA EL ESTADO DE SONORA [FAMILY CODE FOR THE STATE OF SONORA], “De la Adquisición del Caracter de Hijo Matrimonial,” BOLETÍN OFICIAL DEL GOBIERNO DEL ESTADO DE SONORA, Oct. 15, 2009, available as amended through June 2015 on the website of the Sonora State Congress, at [http://www.congreso.son.gob.mx:81/Content/Doc\\_leyes/doc\\_436.pdf](http://www.congreso.son.gob.mx:81/Content/Doc_leyes/doc_436.pdf) (scroll to page 29), archived at <https://perma.cc/PPF3-QY34>.

<sup>2</sup> *Id.* arts. 230, 231.

<sup>3</sup> *Id.* art. 231.

<sup>4</sup> *Id.* art. 232.

<sup>5</sup> *Id.* art. 256.

<sup>6</sup> *Id.*

VI.- In the marriage certificate of the parents; or

VII.- By acknowledgement before a Director of the Alternative Justice Center [a mediation and conciliation government entity].<sup>7</sup>

A child acknowledged by the father or the mother, or by a judgment, has the following rights:

I.- To take the last name of the father or the mother;

II.- To receive support from the parents and other relatives, as provided by law;

III.- To receive an inheritance share as provided by law; and

IV.- To receive other protective and legal measures derived from filiation.<sup>8</sup>

Children are equal under the law, regardless of the relationship of the parents.<sup>9</sup> A married woman may acknowledge a child born before her marriage took place without her husband's consent and has the right to bring the child into the marital home to live, unless her husband expressly objects.<sup>10</sup> A married man may acknowledge a child born before his marriage took place, or born to a woman other than his wife during his marriage, and has the right to bring the child into the marital home to live, unless his wife expressly objects.<sup>11</sup>

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<sup>7</sup> *Id.* art. 234 (translation by author).

<sup>8</sup> *Id.* art. 266 (translation by author).

<sup>9</sup> *Id.* art. 8.

<sup>10</sup> *Id.* art. 244.

<sup>11</sup> *Id.* art. 245.

# Tabasco

## I. Legitimation of Children Born Out of Wedlock

The Tabasco Civil Code includes a chapter on filiation.<sup>1</sup> This chapter does not appear to include rules concerning legitimation of children born out of wedlock. Article 92 of the Code provides that if a birth certificate includes expressions such as “legitimate child,” “illegitimate child,” or other similar terms, they should be crossed out in a way that makes them illegible.<sup>2</sup>

This Code also provides a broad set of rules applicable to proving filiation of children born in and out of wedlock. The most relevant of the latter for purposes of this report are briefly summarized below.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish parentage in order to have their rights implemented. The filiation of children born out of wedlock results, with respect to the mother, by the mere fact of birth.<sup>3</sup> With respect to the father, filiation may be established by voluntary acknowledgement or by a judgment that declares paternity.<sup>4</sup>

Acknowledgement of a child may be done in one of the following ways:

- I. In the birth certificate before the Civil Registry official;
- II. In a special certificate before the Civil Registry official;
- III. In the marriage certificate of the parents, in which case they have the duty to make the acknowledgement;
- IV. In a notarized document;
- V. In a will; or
- VI. By judicial confession.<sup>5</sup>

A child acknowledged by the father, mother, or both parents has the following rights:

- I. To take the last name of the acknowledging parent;

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<sup>1</sup> CÓDIGO CIVIL PARA EL ESTADO DE TABASCO, “De la Filiación,” *as amended* through 2016, PERIÓDICO OFICIAL DEL GOBIERNO DE TABASCO, Apr. 9, 1997, available on the website of the Tabasco State Judicial Branch, at <http://tsj-tabasco.gob.mx/documentos/3425/CODIGO-CIVIL-PARA-EL-ESTADO-DE-TABASCO/>, archived at <https://perma.cc/3G3F-8N6Q>.

<sup>2</sup> *Id.*, “De las Actas de Nacimiento,” art. 92.

<sup>3</sup> *Id.*, “De la Filiación,” art. 346.

<sup>4</sup> *Id.* art. 347.

<sup>5</sup> *Id.* art. 353 (translation by author).

- II. To receive support from the acknowledging parent;
- III. To receive an inheritance share as provided by law in the case of intestate succession, or to receive support as provided by law if the child is not named as an heir in the case of testamentary succession; and
- IV. To claim the rights that the Tabasco Civil Code grants to posthumous children.<sup>6</sup>

Article 322 of the Tabasco Civil Code provides that the law does not make any distinction in the rights of children based on the different methods of proving filiation.<sup>7</sup>

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<sup>6</sup> *Id.* art. 365 (translation by author).

<sup>7</sup> *Id.* art. 322.

# Tamaulipas

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Tamaulipas contains a chapter entitled “[Matters Concerning] Filiation.”<sup>1</sup> This chapter does not appear to have provisions on legitimation of children born out of wedlock.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to have their filiation established in order to have their rights implemented.

The filiation of children born out of wedlock is established with regard to the mother by the mere fact of the child’s birth,<sup>2</sup> and with regard to the father by his voluntary acknowledgement of the child or by a court judgment declaring him the father.<sup>3</sup>

The acknowledgment of a child born out of wedlock may be done in any of the following ways:

- I. On the birth record, before the Civil Registry Officer;
- II. By a special acknowledgment proceeding [*por acta especial*] before the same officer;
- III. On the marriage certificate of the parents—in this case the parents have the duty to make the acknowledgement (this duty remains even if the child has died when the marriage is celebrated if the child left descendants);
- IV. By a public notarial instrument;
- V. Under a will;
- VI. By direct and open admission in open court; and
- VII. By means of a final judgment, in the case of a defendant’s refusal to submit to a test of the molecular biological characterization of the deoxyribonucleic acid (DNA) of his cells.<sup>4</sup>

The Code forbids the use in the birth records of terms that qualify the person being registered in regard to the child’s filiation. Such terms contained in a birth record must be crossed out by the Office of the Civil Registry.<sup>5</sup>

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<sup>1</sup> CÓDIGO CIVIL PARA EL ESTADO DE TAMAULIPAS, “De la Filiación,” PERIÓDICO OFICIAL DEL ESTADO DE TAMAULIPAS, Jan. 10, 1987, available as amended at <http://www.congresotamaulipas.gob.mx/Legislacion Estatal/LegislacionVigente/VerCodigo.asp?IdCodigo=98>, archived at <https://perma.cc/B346-LMG7>.

<sup>2</sup> *Id.* art. 321.

<sup>3</sup> *Id.* art. 322.

<sup>4</sup> *Id.* art. 331 (translation by author).

<sup>5</sup> *Id.* art. 61.

A child has the following rights:

- I. To take the surname of the one who acknowledged him/her;
- II. To receive support from such person(s); and
- III. To inherit from his/her estate.<sup>6</sup>

With respect to item III concerning intestate succession for descendants, the Code states that if upon the death of the parents they are survived only by their children, the estate must be divided among the children in equal shares.<sup>7</sup>

The Code states that the law makes no distinction among the rights deriving from filiation, whatever their source.<sup>8</sup> It also states that a spouse may acknowledge a child born prior to the marriage without the consent of the other spouse, but may not bring the child to live in the marital home without the express consent of the other spouse.<sup>9</sup>

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<sup>6</sup> *Id.* art. 315 (translation by author).

<sup>7</sup> *Id.* art. 2670.

<sup>8</sup> *Id.* art. 315.

<sup>9</sup> *Id.* art. 335.

# Tlaxcala

## I. Legitimation of Children Born Out of Wedlock

The Civil Code of Tlaxcala includes a chapter on filiation.<sup>1</sup> This chapter does not appear to include rules concerning legitimation of children born out of wedlock.<sup>2</sup> Furthermore, article 585 of the Code provides that if a birth certificate includes expressions such as “legitimate child,” “illegitimate child,” or other similar terms, they should be crossed out in a way that makes them illegible.<sup>3</sup>

The Civil Code of Tlaxcala also provides different rules applicable to proving filiation of children born in and out of wedlock. The most relevant of the latter for purposes of this report are briefly summarized below.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish parentage in order to have their rights implemented. Filiation of children born out of wedlock results, with respect to the mother, by the mere fact of birth.<sup>4</sup> With respect to the father, filiation is established by voluntary acknowledgement or by a judgment that declares paternity.<sup>5</sup>

Acknowledgement of a child may be done in one of the following ways:

- I.- In the birth certificate, before the Civil Registry official;
- II.- In a special certificate before the Civil Registry official;
- III.- In the marriage certificate of the parents, in which case they have the duty to make the acknowledgement;
- IV.- In a notarized document;
- V.- In a will; and
- VI. By judicial confession.<sup>6</sup>

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<sup>1</sup> CÓDIGO CIVIL PARA EL ESTADO LIBRE Y SOBERANO DE TLAXCALA [CIVIL CODE FOR THE STATE OF TLAXCALA], “De la Filiación,” arts. 169–229, PERIÓDICO OFICIAL DEL GOBIERNO DEL ESTADO DE TLAXCALA, Oct. 20, 1976, available as amended through December 2016 on the website of the Tlaxcala State Congress, at <http://congreso.deltlaxcala.gob.mx/wp-content/uploads/2017/03/C%C3%B3digo-Civil-para-el-Estado-Libre-y-Soberano-de-Tlaxcala.pdf>, archived at <https://perma.cc/7RHN-QE3Y>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* art. 585.

<sup>4</sup> *Id.* art. 195.

<sup>5</sup> *Id.* art. 196.

<sup>6</sup> *Id.* art. 202 (translation by author).

A child acknowledged by the father, the mother, or both parents has the following rights:

- I.- To take the last name of the acknowledging parent;
- II.- To get support from the acknowledging parent;
- III.- To get an inheritance share as provided by law in the case of intestate succession or to get support as provided by law if the child is not named as a testamentary heir in the case of testamentary succession; and
- IV.- To exercise the rights that the Tlaxcala Civil Code grants to posthumous children.<sup>7</sup>

Article 171 of the Civil Code provides that the law does not make any distinction in the rights of children based on the different methods of proving filiation.<sup>8</sup>

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<sup>7</sup> *Id.* art. 214 (translation by author).

<sup>8</sup> *Id.* art. 171.

# Veracruz

## I. Legitimation of Children Born Out of Wedlock

The Veracruz Civil Code includes a chapter entitled “Of Legitimation.”<sup>1</sup> This chapter provides that children born out of wedlock may be considered to be born in wedlock provided that the parents subsequently marry and both expressly acknowledge the children as theirs, either jointly or separately.<sup>2</sup> Acknowledgement may take place before the marriage, during the marriage celebration, or during the marriage.<sup>3</sup> Legitimation is effective from the day on which the parents marry, even if the acknowledgement takes place afterwards.<sup>4</sup>

This Code also provides a broad set of rules applicable to proving filiation of children born in and out of wedlock. The most relevant of the latter for purposes of this report are briefly summarized below.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish parentage in order to have their rights implemented. The Veracruz Civil Code includes a chapter entitled “Of Children Born Out of Wedlock.”<sup>5</sup> This chapter provides that filiation of children born out of wedlock is proved by voluntary acknowledgement or by a judgment that declares paternity or maternity.<sup>6</sup>

Acknowledgement of a child born out of wedlock may be done in one of the following ways:

- I. In the birth certificate before a Civil Registry official;
- II. By a special acknowledgement certificate before a Civil Registry official;
- III. By a notarized document;
- IV. By a will; or
- V. By direct and express judicial confession.<sup>7</sup>

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<sup>1</sup> CÓDIGO CIVIL PARA EL ESTADO DE VERACRUZ, “De la Legitimación,” GACETA OFICIAL DEL ESTADO DE VERACRUZ, Sept. 15, 1932, available as amended through Nov. 2016 on the website of the Veracruz State Legislative Branch, at <http://www.legisver.gob.mx/leyes/LeyesPDF/CCIVIL2911116.pdf>, archived at <https://perma.cc/7M6B-GFHC>.

<sup>2</sup> *Id.* arts. 285, 286.

<sup>3</sup> *Id.* art. 286.

<sup>4</sup> *Id.* art. 288.

<sup>5</sup> *Id.*, “De los hijos nacidos fuera de matrimonio.”

<sup>6</sup> *Id.* art. 291.

<sup>7</sup> *Id.* art. 299 (translation by author).

A child acknowledged by the father, by the mother, or by both has the following rights:

- I. To take the last name of the acknowledging parent;
- II. To get support from the acknowledging parent; and
- III. To get an inheritance share and support as provided by law.<sup>8</sup>

A married individual may acknowledge a child born before the marriage took place without his/her spouse's consent, but may not bring the child to the marital home to live without his/her spouse's express consent.<sup>9</sup>

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<sup>8</sup> *Id.* art. 319 (translation by author).

<sup>9</sup> *Id.* art. 300.

# Yucatán

## I. Legitimation of Children Born Out of Wedlock

The Yucatán Family Code has a chapter on filiation that does not appear to include rules on legitimation.<sup>1</sup>

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish parentage in order to have their rights implemented. Filiation of children is proved with their birth certificate.<sup>2</sup> Parents may acknowledge their children in the following ways:

- I. In the birth certificate before a Civil Registry official;
- II. In a notarized document;
- III. By a will;
- IV. By direct and express judicial confession;
- V. In the marriage certificate of the parents.<sup>3</sup>

A child acknowledged by his/her father or mother has the following rights:

- I. To take the last name of the father or mother;
- II. To receive support from their parents and other relatives as provided by law;
- III. To receive an inheritance share as provided by law;
- IV. To receive other protective and legal measures derived from filiation.<sup>4</sup>

Article 11 of the Yucatán Family Code provides that children are equal under the law, regardless of the relationship of the parents.<sup>5</sup> A married man or woman may acknowledge a child conceived with another party and born before or during his/her marriage without consent from his/her spouse, but the acknowledging parent does not have the right to bring the child into the marital home to live without express consent from his/her spouse.<sup>6</sup>

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<sup>1</sup> CÓDIGO DE FAMILIA PARA EL ESTADO DE YUCATÁN arts. 217–275, DIARIO OFICIAL DEL GOBIERNO DEL ESTADO DE YUCATÁN, Apr. 30, 2012, available as amended through December 2016 on the website of the Yucatán State Judicial Branch, at <https://www.poderjudicialyucatan.gob.mx/digestum/marcoLegal/03/2012/DIGESTUM03009.pdf>, archived at <https://perma.cc/P4YW-CB5P>.

<sup>2</sup> *Id.* art. 219.

<sup>3</sup> *Id.* art. 252.

<sup>4</sup> *Id.* art. 254.

<sup>5</sup> *Id.* art. 11.

<sup>6</sup> *Id.* art. 263.

# Zacatecas

## I. Legitimation of Children Born Out of Wedlock

The Family Code of Zacatecas includes a chapter on acknowledgement of children born out of wedlock.<sup>1</sup> This chapter does not appear to include rules concerning legitimation of children born out of wedlock.<sup>2</sup> However, this Code provides rules applicable to proving the filiation of children born in and out of wedlock. The most relevant of the latter for purposes of this report are briefly summarized below.

## II. Distinctions Between Children Born In and Out of Wedlock

Children born out of wedlock need to establish parentage in order to have their rights implemented. Maternal filiation results from the mere fact of birth.<sup>3</sup> Paternal filiation is established by acknowledgement or by a judgment that declares paternity.<sup>4</sup>

Acknowledgement of a child born out of wedlock may be done in one of the following ways:

- I. In the birth certificate before the Civil Registry official;
- II. In a special certificate before the Civil Registry official;
- III. In a notarized document;
- IV. By a will; or
- V. By direct and express judicial confession.<sup>5</sup>

A child acknowledged by the father, mother, or both parents, as well as a child who has proved filiation as provided by the Zacatecas Family Code, has the following rights:

- I. To take the last name of the acknowledging parent;
- II. To get support from the acknowledging parent; and
- III. To get an inheritance share as provided by law in the case of intestate succession, or to get support as provided by law if the child is not named as a testamentary heir in the case of testamentary succession.<sup>6</sup>

Article 285 of the Zacatecas Family Code provides that the law does not make any distinction concerning the rights of children based on the different methods of proving filiation.<sup>7</sup> Article

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<sup>1</sup> CÓDIGO FAMILIAR DEL ESTADO DE ZACATECAS arts. 322–350, PERIÓDICO OFICIAL DEL ESTADO, May 10, 1986, available as amended through Mar. 2017 on the website of the Zacatecas State Legislative Branch, at <http://www.congresozaac.gob.mx/f/todojuridico&cual=104>, archived at <https://perma.cc/KT6Y-YBVU>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* art. 322.

<sup>4</sup> *Id.* art. 323.

<sup>5</sup> *Id.* art. 331 (translation by author).

<sup>6</sup> *Id.* art. 349 (translation by author).

334 provides that a married person may acknowledge a child born out of wedlock, but the acknowledging parent does not have the right to bring the child into the marital home to live without his spouse's express consent.<sup>8</sup> Article 336 of the Code provides that a married woman may, without her husband's consent, acknowledge a child conceived with someone different than her husband and born before her marriage took place, but she does not have the right to bring the child into the marital home to live without her spouse's express consent.<sup>9</sup>

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<sup>7</sup> *Id.* art. 285.

<sup>8</sup> *Id.* art. 334.

<sup>9</sup> *Id.* art. 336.