


**The International Law Section and the Family Law Section
of the State Bar of Texas Present**

A background graphic in a dark purple color. It features a large heart at the top that is cracked down the middle, symbolizing a broken heart. Below the heart are two stylized human figures, one on the left and one on the right, facing each other. The figures are simple, rounded shapes with vertical lines for legs.

When Love Dies

Cuando Muere el Amor

By Judge Victor Negron, Jr. and Miriam Name

November 7, 2024

Marriage in Mexico



STATE



CHURCH

Why is marital property important?

Divorce

Liabilities/
Debts

Inheritance

Alimony

Sale of or Lien
on Assets

Marriage. A State Issue.



Example: Civil Code for the State of Mexico, Mexico.

States that a marital property agreement consists of agreements entered into between parties who are about to enter into marriage or who are already married to each other, in order to establish a marital property regime of either community property or separate property and to provide rules for the management of such property. Marital property agreements may be entered into before marriage or during marriage; and may include not only the property each spouse owns at the time of executing such agreement but also the property the spouses will acquire in the future.

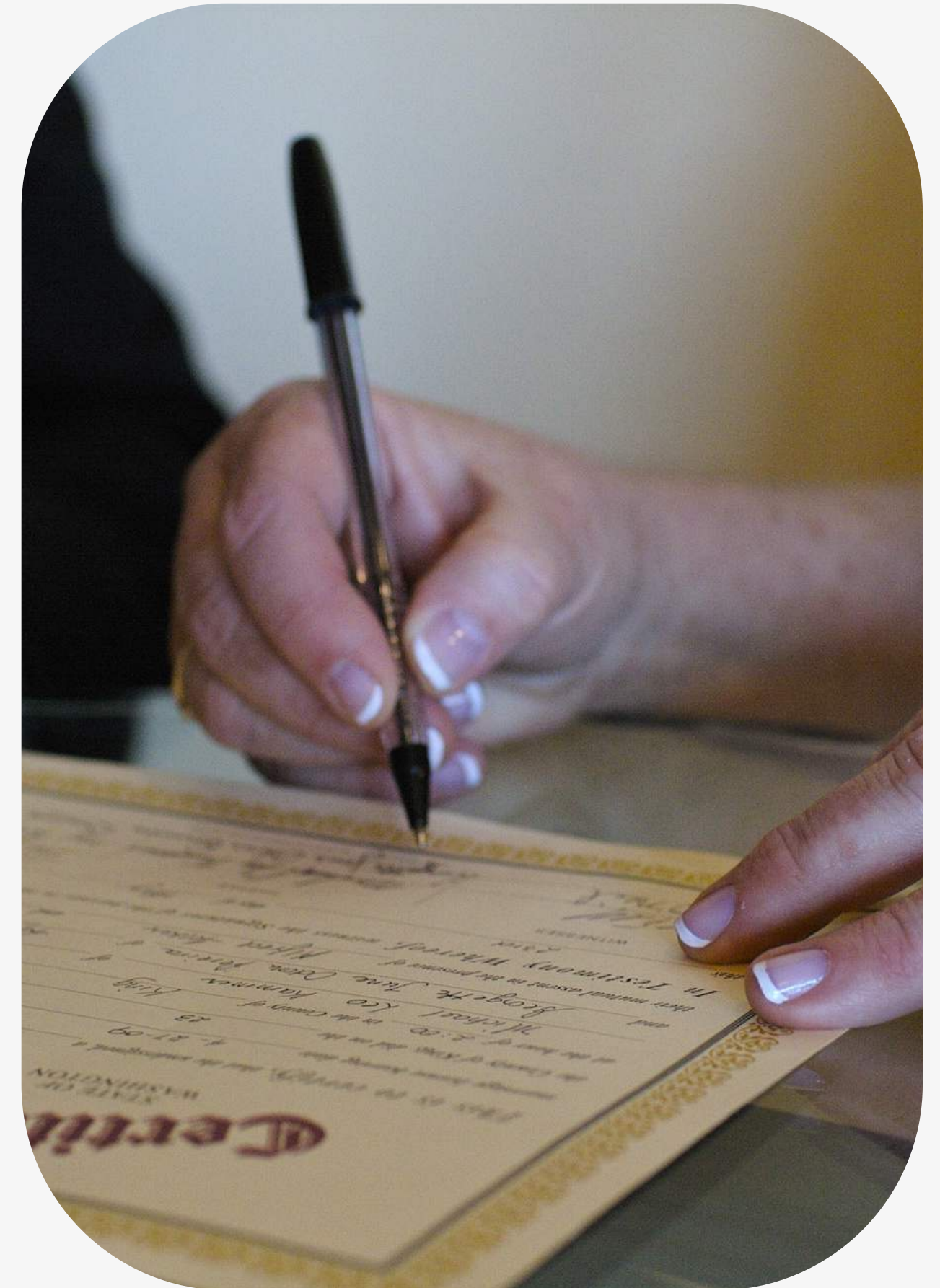
The law provides that the separate property regime may be adopted by means of a simple election on the marriage certificate. If the parties fail to make an election, the separate property regime will apply.

The Institution of Marriage

The Marriage Certificate contains:

1. the marital relationship (institution); and
2. the marital property agreement (property regime).

You can have a certificate (acta) that includes the election of the property regime and/or a separate notarial prenuptial or marital property agreement.



Official Marriage in Mexico



Authorization from the Secretary of State in case of foreign party(ies):

This marriage is subject to the property regime: SEPARATE PROPERTY

SIGNATURES	GROOM [illegible signature]	BRIDE [illegible signature]	Finger Print of the Groom [finger print]
	Parties		
	[finger print] [finger print]	[illegible signature] [Illegible signature]	Finger Print of the Bride [finger print]
	PARENTS		
	[illegible signature] [illegible signature]	[illegible signature] [illegible signature]	
	WITNESSES		

HAVING INTERROGATED THE PARTIES HERETO PURSUANT TO THE LAWS, AND HAVING NOT FOUND ANY LEGAL IMPEDIMENT OR HAVING ANY IMPEDIMENT BEEN EXEMPTED IN ORDER TO ENTER INTO MARRIAGE, I HEREBY DECLARE THEM IN THE NAME OF THE LAW AND BEFORE SOCIETY UNITED IN MARRIAGE AND THEIR MATRIMONIAL CONTRACT PERFECTED AND VALID FOR ALL LEGAL PURPOSES. HAVING READ THIS DOCUMENT EXECUTED BY THE PARTIES, THE UNDERSIGNED WITNESSES JOIN THEM IN EXECUTING, FOR THOSE WHO KNOW HOW TO SIGN OR INCLUDE THEIR FINGER PRINTS FOR THOSE THAT DO NOT KNOW HOW TO SIGN.

OFFICER 25 OF THE PUBLIC REGISTRY.
I ATTEST.
[illegible signature]
LUZ MARIA RIVERA QUINTERO, ESQ.
NAME AND SIGNATURE

SEAL OF THE CIVIL
REGISTRY OFFICE

[stamp: Civil Registry
Office Number 25.
Durango, Durango]

Long Form Marriage Certificate

- Signed by the groom and bride
- Before witnesses
- Before a Government Official
- Stamped by the Civil Registry Office

ESTADOS UNIDOS MEXICANOS
REGISTRO CIVIL

EN NOMBRE DEL ESTADO LIBRE Y SOBERANO DE DURANGO
Y COMO OFICIAL 25 DEL REGISTRO CIVIL EN DURANGO, DURANGO CERTIFICO
QUE EN EL LIBRO No. 3 TOMO No. 1 DEL ARCHIVO DE ESTA OFICIAIA EN LA HOJA No. 2057844
SE ENCUENTRA ASENTADA EL ACTA No. 00297 DE FECHA 11 JULIO 2008
LEVANTADA POR EL C. OFICIAL 25 DEL REGISTRO CIVIL RESIDENTE EN DURANGO, DURANGO
EN LA CUAL SE CONTIENEN LOS SIGUIENTES DATOS:

ACTA DE MATRIMONIO

CONTRAYENTES

NOMBRE DEL CONTRAYENTE [REDACTED]
LUGAR DE NACIMIENTO GUADALAJARA GUADALAJARA JALISCO
EDAD 44 NACIONALIDAD MEXICANA
NOMBRE DE LA CONTRAYENTE [REDACTED]
LUGAR DE NACIMIENTO MEXICO MEXICO D.F.
EDAD 34 NACIONALIDAD MEXICANA

PADRES DEL CONTRAYENTE

NOMBRE DEL PADRE [REDACTED] NACIONALIDAD MEXICANA
NOMBRE DE LA MADRE [REDACTED] NACIONALIDAD MEXICANA

PADRES DE LA CONTRAYENTE

NOMBRE DEL PADRE [REDACTED] NACIONALIDAD MEXICANA
NOMBRE DE LA MADRE [REDACTED] NACIONALIDAD MEXICANA

ESTE CONTRATO DE MATRIMONIO SEGUN LA VOLUNTAD EXPRESADA POR LOS CONTRAYENTES ESTA SUJETO AL REGIMEN DE SEPARACION DE BIENES

SE EXTIENDE ESTA CONSTANCIA CERTIFICADA, EN CUMPLIMIENTO DE LOS ARTICULOS 38 Y 47 DEL CODIGO CIVIL VIGENTE EN EL ESTADO ASI COMO DE LOS ARTICULOS 100 Y 102 DEL REGLAMENTO INTERNO DEL REGISTRO CIVIL EN EL ESTADO, EN DURANGO, DGO.

A LOS 11 DIAS DEL MES DE JULIO DE 2008

LA OFICIAL 25 DEL REGISTRO CIVIL DOY FE.

LIC. LUZ MARIA RIVERA QUINTERO
NOMBRE FIRMA

2057844

ESTE CONTRATO DE MATRIMONIO SEGUN LA VOLUNTAD EXPRESADA POR LOS CONTRAYENTES EST A SUJETO AL REGIMEN DE SEPARACION DE BIENES

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A LOS 11 DIAS DEL MES DE JULIO DE 2008

LA OFICIAL 25 DEL REGISTRO CIVIL DOY FE.

LIC. LUZ MARIA RIVERA QUINTERO
NOMBRE FIRMA

SELO DE LA OFICIALIA DEL REGISTRO CIVIL
OFICIAL 25 DEL REGISTRO CIVIL
DURANGO

THIS MARRIAGE CONTRACT AS PER THE WILL OF THE PARTIES IS SUBJECT TO THE MARITAL PROPERTY REGIME OF **SEPARATE PROPERTY**

THIS CERTIFICATE IS ISSUED IN COMPLIANCE OF ARTICLES 38 AND 47 OF THE CIVIL CODE IN FORCE IN THIS STATE, AS WELL AS PER THE ARTICLES 100 AND 102 OF THE INTERIM REGULATIONS OF THE CIVIL REGISTRY OF THE STATE OF DURANGO, DURANGO.

ON THE 11TH DAY OF JULY OF 2008

OFFICER 25 OF THE PUBLIC REGISTRY. I ATTEST.
LUZ MARIA RIVERA QUINTERO, ESQ. [illegible signature]
NAME SIGNATURE

SEAL OF THE CIVIL REGISTRY OFFICE
[stamp: Civil Registry Office Number 25. Durango, Durango]

2057844

Marital Property Agreement

Under Mexican law, couples about to marry *must* elect one of two marital property regimes or marriage contracts to govern their assets. The two choices are as follows:

1 Community Property Regime

Co-ownership

2 Separate Property Regime

Each spouse maintains the individual ownership and control of his/her property and the income, fruits, or production of that property. Additionally, wages, bonuses and other benefits are also the separate property of the spouse who earned them.

Marital Property Regime Election

In Mexico you can have a marriage certificate (acta) with the election of the property regime and/or a separate notarial prenuptial or property agreement.

- The agreement is always in writing.
- Signed by the spouses.
- Before a government official or notary public.

THIS MARRIAGE CONTRACT AS PER THE WILL OF THE PARTIES IS SUBJECT TO THE MARITAL PROPERTY REGIME OF <u>SEPARATE PROPERTY</u>	
THIS CERTIFICATE IS ISSUED IN COMPLIANCE OF ARTICLES 38 AND 47 OF THE CIVIL CODE IN FORCE IN THIS STATE, AS WELL AS PER THE ARTICLES 100 AND 102 OF THE INTERIM REGULATIONS OF THE CIVIL REGISTRY OF THE STATE OF DURANGO, DURANGO. ON THE 11 TH DAY OF JULY OF 2008 OFFICER 25 OF THE PUBLIC REGISTRY. I ATTEST. <u>LUZ MARIA RIVERA QUINTERO, ESQ.</u> NAME	SEAL OF THE CIVIL REGISTRY OFFICE [stamp: Civil Registry Office Number 25, Durango, Durango] [illegible signature] SIGNATURE
2057844	

It is practically impossible to be officially married in Mexico without a property regime, either expressly agreed in the marriage certificate or other document or deemed by law.

GIFTS, INHERITANCE, AND PROPERTY ACQUIRED BEFORE MARRIAGE?

Before Marriage



Date of Marriage



During Marriage



Excluding: Gifts, inheritance, and property acquired before marriage.

Community Property Examples



1. The case of Ivan Ilych and his 25+ siblings.



2. The “two” widowed wives and the tort case in Texas.

Abandonment or separation does not end the marriage. There must be a declaration issued by a competent Court or a Notarial Agreement for Divorce for the termination of a marriage to be valid. Moreover, under Mexican law, spouses need not live together for any specific period of time in order for the marriage to be valid.



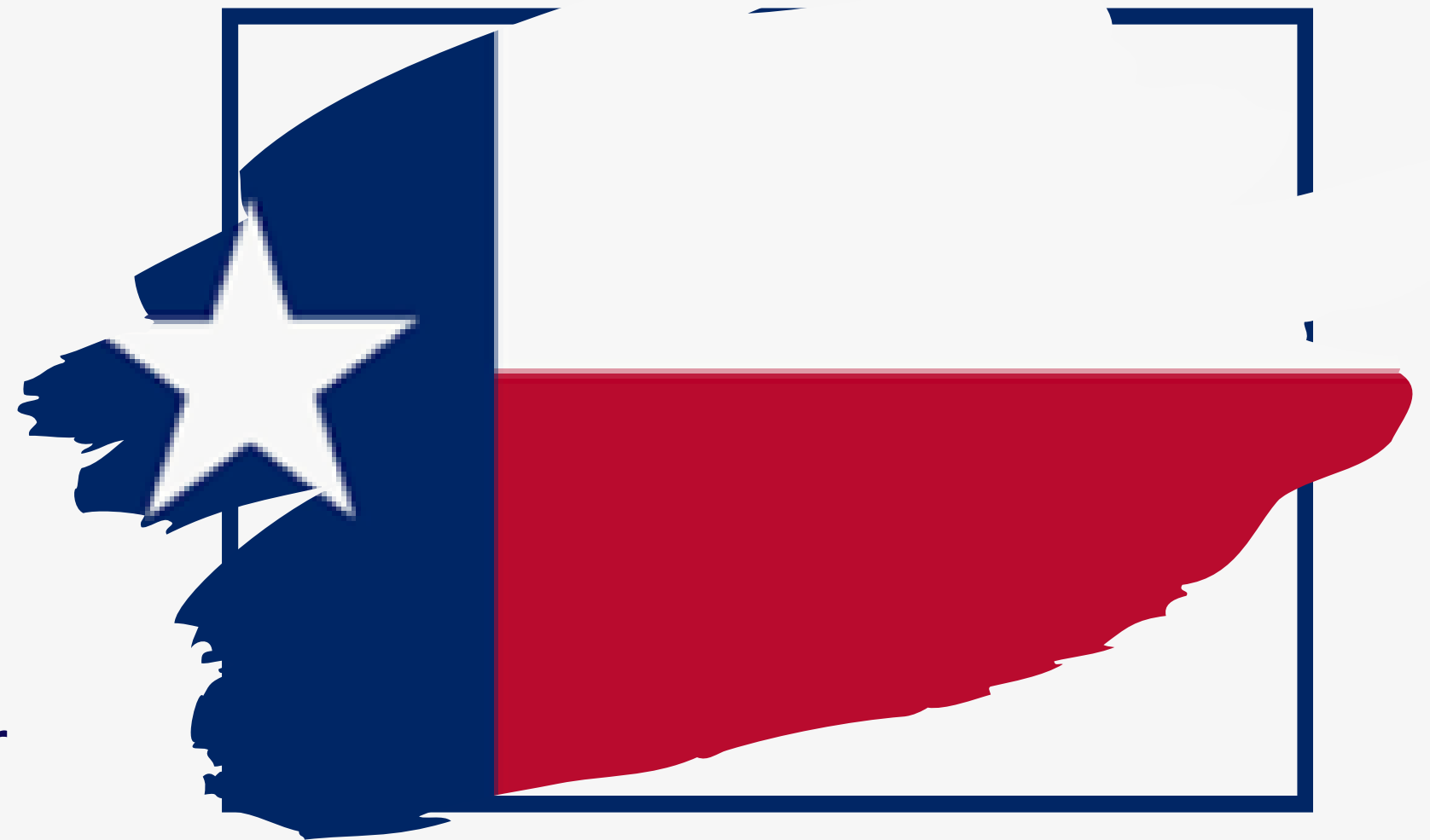
Is there a premarital agreement?

- The laws of Texas and [Mexico] as they relate to premarital agreements are quite similar.
- Prospective spouses in Texas and Chihuahua may enter valid premarital agreements dictating that no community property will be acquired during the marriage.
- The laws of both states allow individuals about to marry to agree that income from their separate property, and/or their personal earnings, will remain separate property.
- Both Texas and [Mexico] allow persons about to marry a great deal of flexibility in determining the character of the various types of property they will acquire during their marriage.
- It would not be against the public policy of Texas to enforce a premarital agreement properly executed in Mexico.

See: *Fraccionadora y Urbanizadora de Juarez, S.A. de C.V. v. Delgado*, 632 S.W.3d 80 (2020)

Requirements for a Texas Premarital Agreement

- Formalities:
 - In writing; and
 - Signed by both parties.
- Enforceable without consideration.
- Can address any matter as long as it does not:
 - Violate public policy or a statute imposing criminal penalties;
 - Adversely affect a child's right to support; or
 - Defraud a creditor.



Recognition of Mexican Premarital Agreements in Texas



- Must not violate Texas public policy.
- Were there anomalies in the execution of the agreement?
- Was the premarital agreement valid where and when it was signed?

Recommendations for couples married in Mexico who acquire property in the U.S. and want to avoid for their marital property regime to be contested.

- Suit for declaratory judgment to confirm the marital property regime.
- Do not acquire property in joint title.



Photo By: James Waterson/Tour Texas

Closing Remarks & Questions



Thank you!



Judge Victor H. Negron, Jr.

*Former State District Judge

*Board Certified Family Law

*Mediator/Arbitrator

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