



The University of New Mexico

School of Law Library
MSC11 6080
1 University of New Mexico
Albuquerque, NM 87131-0001
Telephone (505) 277-0939
FAX (505) 277-0068

This document was scanned pursuant to the express permission of its author and rights holder.

The purpose of scanning this document was to make it available to University of New Mexico law students to assist them in their preparation and study for Law School exams.

This document is the property of the University of New Mexico School of Law. Downloading and printing is restricted to UNM Law School students. Printing and file sharing outside of the UNM Law School is strictly prohibited.

NOTICE: WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is no to be "used for any purpose other that private study, scholarship, or research." If the user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

Exam No. _____

**Family Law 533
Fall Semester 2005**

**UNM School of Law
Final Examination**

**Professor Antoinette Sedillo Lopez
9:00 a.m. Wednesday, Dec. 7, 2005
9:00 a.m. Friday Dec. 16**

Three Credits

**Examination Format
Essay Answers**

1. **Laptop** computer users: Start the Securexam program entering your examination number, course name, professor's name, & date of examination. Click "proceed" to enter the program. Type START in the next window that is displayed but do NOT press the enter key until the proctor says to begin the exam.
2. **Bluebooks** for writing: write on every-other line and only on the front page of each sheet. On the front of bluebook record the class name, professor's name, date of exam, and your examination number. Make sure to number each bluebook in order. DO NOT WRITE YOUR NAME ON BLUEBOOKS.

A five-minute warning will be given prior to the conclusion of the examination. When time is called, stop immediately. If you are handwriting, lay down your pen & close bluebook immediately. If using a laptop, save & exit the program.

Go to the exam check-in table at the conclusion of the exam & fill out an examination receipt.

Professor's Instructions

Attached to this exam are some materials that may be relevant to your answer.

Answer each question fully. Use relevant statutes, case law and policy considerations to analyze each problem thoroughly. Do not simply express your opinion.

The time suggested for each question roughly reflects its weight in grading. Note that the time suggested adds up to three hours exactly.

Clearly identify your answers. Clarity of expression will improve your score.

GOOD LUCK!!!

END OF INSTRUCTIONS

[Exam begins on next page]

QUESTION ONE (45 minutes)

Harry and Sally, having lived together for ten years in New Mexico, are considering the possibility of marriage. Harry is particularly anxious to marry because he gave up his career as a chef several years ago at Sally's request. He has just turned 55 and is beginning to worry about his future. Sally, age 48, is a vice-president of a U.S. major corporation in charge of overseas operations. As a result, she has to travel extensively as well as entertain foreign guests in her home. She shares her home with Harry: he has never paid her rent. She bought the home shortly after meeting Harry and has made all of the payments from her salary. She currently owes \$50,000 on the home. It is valued at \$150,000. Harry has remodeled the home extensively and has probably been responsible for increasing the value by about \$20,000 due to his efforts and expertise in decorating.. Harry has been very supportive of Sally's career, traveling with Sally and assisting with entertaining the couples' professional and personal guests. He is gregarious and well liked by Sally's colleagues.

After the marriage discussion with Harry, Sally consults an accountant. She is less enthusiastic about the marriage when she learns that her marriage to Harry may result in approximately \$10,000 in additional federal tax liability per year if Harry ever goes back to his old job as a chef. The federal income tax rates are so arranged that under some circumstances, a man and woman who both have income will pay more in income tax when they are married than when they are single and living together. In other words, assume that the tax rate structure creates a financial disincentive to marry in these circumstances.

- (a) Sally consults you, her attorney, about a potential federal lawsuit challenging the "marriage penalty." Is there any legal theory to support such a lawsuit and, if so, is it likely to be successful?

Assume that Sally is not successful in challenging the federal income tax code and, as a result, she refuses to marry Harry. To appease him, however, she promises "to always stand by" him. They have a "ceremony" at the vacation home owned and maintained by Sally's corporation in Texas in which they gather with all their friends. Refreshments are served and at some point a particular friend comes before the group and gives a short account of the lives of Harry and Sally, and asks everyone to celebrate their relationship. Their friends attended the ceremony because they thought the couple was planning to marry. Many brought gifts, which the happy couple accepted.

Shortly after the ceremony, Sally meets another man on a trip to Paris and decides she wants him to move in with her. She comes to you again and asks:

- (b) whether Harry will have any claim against her for property or support.

(c) whether the fact that for the last five years she and Harry have spent the months of July and August at the corporate vacation retreat in Texas will affect Harry's potential right to support.

Advise her.

QUESTION TWO (One hour and 15 minutes)

Olivia comes to you seeking advice about her situation. Lennie and Olivia were married in Philadelphia, Pennsylvania in 1998 and moved to New Mexico in March, 2002. In 2000, they had adopted twin girls who are now six years old. In addition, Olivia has a 14 year old son from a relationship with a man she dated, but never married. The 14 year old is in the custody of his father who lives in Louisiana and she pays \$500 in child support each month pursuant to a Louisiana court order. She believes her son's father makes about \$2000.00 per month. Olivia has worked as a salaried employee as an architect with various firms since 1993. Her annual salary has climbed from \$45,000 to \$120,000 during her employment but was reduced substantially last year. She has earned only \$2,000 a month for the last year because of the drop in the commercial real estate market. Although the firm covers her health insurance, she pays \$100.00 a month for the child's health insurance. She has a pension from the architectural firm currently valued at \$100,000. In addition, she has income of about \$100.00 a month from interest on a savings account she opened in her name from an inheritance from a favorite aunt. She has not made any deposits since opening the account when she received the bequest in 2000.

Olivia was married in the early 90's to a very wealthy man. Although they were only married for a brief time, he agreed to pay her alimony of \$500.00 a month for 10 years when they divorced in 1997. She received no property settlement from this marriage.

Lennie has struggled in various jobs during their marriage but began a career as a salesman in 2001 and earned \$60,000 each of the last two years. He has contributed to an IRA since 1999 and the account is currently valued at \$10,000.

Although Olivia and Lennie have been growing apart for some time, Olivia feels the situation in her marriage has become 'intolerable' in the last year. She's concerned Lennie has developed a drinking problem. Olivia begged him to go to Alcoholics' Anonymous but he refused. During the last year, Lennie has also worked long hours and late nights and has become verbally abusive to Olivia. During the evening before she came to see you, he became physically abusive for the first time, pushing her to the floor and causing her nose to bleed. She has frequent headaches and has just begun treatment by a psychiatrist for depression related to her mental problems. She has asked Lennie to move out of the home they share but he refuses. She is particularly angry about this because the family home, titled as joint tenants, was purchased in 2000 with a large down payment (\$100,000) provided by her parents. It is now valued at \$250,000 and has no outstanding mortgage.

Advise Olivia about her legal situation and explain her options.

QUESTION THREE (30 minutes)

Hermione and Ron began living together in the state of Bliss when they both attended Veterinary school in 2001. Shortly after they began to cohabit, Hermione quit school because they were running out of money. She got a job as a waitress so that they could "make ends meet," and so that Ron could complete his education. Hermione understood that when Ron graduated and had established his veterinary practice, he would support her efforts to complete her education. It was her plan that eventually they would be partners in a veterinary practice. She insisted that they get married. They finally got married in 2003.

The day after Ron graduated from school in 2004 he announced that he was leaving Hermione. He remarked that he "doubted she had the talent to complete veterinary school," and, certainly was a poor candidate for the public relations part of being a vet."

Ron has fallen in love with Lynda, a classmate with substantial assets and a bright future.

Ron and Hermione have absolutely nothing but debt and his diploma.

Hermione consults you, her lawyer. Advise her about any options she may have. Do you need additional information? What additional information do you need that would help support your theories?

QUESTION FOUR (30 minutes)

Child poverty after the breakup of a family is a topic we discussed in class. Describe at least three theories for the causes of child poverty after divorce and four potential solutions to the problem. Evaluate the potential viability of your suggestions.

End of Examination

Attachments:

New Mexico Child Support Guidelines

(Assume that Louisiana's and New Mexico's Child Support Guidelines are identical)

Texas Common Law Marriage Statute

Louisiana and New Mexico Child Support Guidelines

K. BASIC CHILD SUPPORT SCHEDULE.--

Both Parents' Combined Gross Monthly Income	BASIC CHILD SUPPORT SCHEDULE					
	Number of children					
	1	2	3	4	5	6
\$0-800	\$100	\$150	\$150	\$150	\$150	\$150
850	119	150	150	150	150	150
900	153	155	157	158	160	162
950	187	189	191	193	196	198
1,000	206	223	226	228	231	233
1,050	215	257	260	263	266	269
1,100	224	291	294	298	301	304
1,150	232	325	329	332	336	339
1,200	241	351	363	367	371	375
1,250	250	363	397	401	406	410
1,300	258	375	431	436	441	445
1,350	267	387	457	470	475	481
1,400	275	399	471	505	510	516
1,450	283	411	485	536	545	551
1,500	292	423	499	551	579	585
1,550	300	435	513	567	613	620
1,600	308	447	527	582	631	654
1,650	316	458	540	597	647	689
1,700	324	470	554	612	664	710
1,750	333	482	568	628	680	728
1,800	341	494	582	643	697	746
1,850	349	506	596	658	714	764
1,900	357	517	609	673	730	781
1,950	365	529	623	689	747	799
2,000	373	541	637	704	763	816
2,050	382	553	651	719	780	834
2,100	390	564	665	734	796	852
2,150	398	576	678	750	813	869
2,200	406	588	692	765	829	887
2,250	414	600	706	780	846	905
2,300	422	611	720	795	862	922
2,350	430	623	733	810	879	940
2,400	438	635	747	825	895	957
2,450	443	641	754	834	904	967
2,500	447	647	761	841	912	976
2,550	451	652	768	849	920	984
2,600	455	658	775	856	928	993
2,650	459	664	782	864	936	1,002
2,700	463	670	788	871	944	1,010
2,750	467	675	795	878	952	1,019
2,800	471	681	802	886	960	1,027
2,850	474	687	808	893	968	1,036
2,900	478	692	815	900	976	1,044
2,950	482	698	822	908	984	1,053
3,000	486	704	828	915	992	1,062
3,050	490	710	835	923	1,000	1,070
3,100	494	715	842	930	1,008	1,079
3,150	497	720	847	936	1,014	1,085
3,200	500	723	851	940	1,019	1,090
3,250	503	727	855	945	1,024	1,095
3,300	505	731	859	949	1,029	1,101
3,350	508	734	863	954	1,033	1,106
3,400	511	738	867	958	1,038	1,111
3,450	513	742	871	963	1,043	1,116
3,500	516	745	875	967	1,048	1,121
3,550	519	749	879	971	1,053	1,127

3,200	500	723	851	940	1,019	1,090
3,250	503	727	855	945	1,024	1,095
3,300	505	731	859	949	1,029	1,101
3,350	508	734	863	954	1,033	1,106
3,400	511	738	867	958	1,038	1,111
3,450	513	742	871	963	1,043	1,116
3,500	516	745	875	967	1,048	1,121
3,550	519	749	879	971	1,053	1,127
3,600	522	752	883	976	1,058	1,132
3,650	524	756	887	980	1,063	1,137
3,700	527	760	891	985	1,067	1,142
3,750	530	763	895	989	1,072	1,147
3,800	532	767	899	994	1,077	1,153
3,850	535	771	903	998	1,082	1,158
3,900	540	777	911	1,007	1,091	1,168
3,950	545	785	919	1,016	1,101	1,178
4,000	550	792	927	1,025	1,111	1,189
4,050	554	799	936	1,034	1,121	1,199
4,100	559	806	944	1,043	1,130	1,209
4,150	564	812	952	1,052	1,140	1,220
4,200	569	819	960	1,060	1,150	1,230
4,250	574	826	968	1,069	1,159	1,241
4,300	579	833	976	1,078	1,169	1,251
4,350	584	840	984	1,087	1,179	1,261
4,400	589	847	992	1,096	1,188	1,272
4,450	594	854	1,000	1,105	1,198	1,282
4,500	599	861	1,008	1,114	1,208	1,292
4,550	604	868	1,016	1,123	1,217	1,303
4,600	608	875	1,024	1,132	1,227	1,313
4,650	612	880	1,030	1,139	1,234	1,321
4,700	615	885	1,036	1,145	1,241	1,328
4,750	619	890	1,042	1,152	1,248	1,336
4,800	622	895	1,048	1,158	1,256	1,344
4,850	625	900	1,054	1,165	1,263	1,351
4,900	629	905	1,060	1,172	1,270	1,359
4,950	632	910	1,066	1,178	1,277	1,367
5,000	635	915	1,072	1,185	1,284	1,374
5,050	639	920	1,078	1,192	1,292	1,382
5,100	642	926	1,085	1,199	1,300	1,391
5,150	646	931	1,092	1,206	1,308	1,399
5,200	650	937	1,098	1,214	1,316	1,408
5,250	654	942	1,105	1,221	1,324	1,416
5,300	657	948	1,112	1,228	1,332	1,425
5,350	661	954	1,119	1,236	1,340	1,433
5,400	666	960	1,126	1,244	1,349	1,443
5,450	671	967	1,134	1,253	1,358	1,453
5,500	675	973	1,141	1,261	1,367	1,463
5,550	680	980	1,149	1,269	1,376	1,472
5,600	685	987	1,156	1,278	1,385	1,482
5,650	690	993	1,164	1,286	1,394	1,492
5,700	695	1,000	1,171	1,294	1,403	1,501
5,750	700	1,007	1,179	1,303	1,412	1,511
5,800	704	1,013	1,186	1,311	1,421	1,521
5,850	709	1,020	1,194	1,319	1,430	1,530
5,900	714	1,027	1,201	1,328	1,439	1,540
5,950	719	1,033	1,209	1,336	1,448	1,549
6,000	724	1,040	1,216	1,344	1,457	1,559
6,050	728	1,047	1,224	1,353	1,466	1,569
6,100	733	1,053	1,232	1,361	1,475	1,579
6,150	738	1,060	1,240	1,370	1,485	1,589

6,200	742	1,067	1,247	1,378	1,494	1,599
6,250	747	1,073	1,255	1,387	1,504	1,609
6,300	751	1,080	1,263	1,396	1,513	1,619
6,350	756	1,087	1,271	1,405	1,523	1,629
6,400	760	1,093	1,279	1,413	1,532	1,639
6,450	765	1,100	1,287	1,422	1,541	1,649
6,500	770	1,107	1,295	1,431	1,551	1,660
6,550	774	1,113	1,303	1,439	1,560	1,670
6,600	779	1,120	1,311	1,448	1,570	1,680
6,650	783	1,127	1,318	1,457	1,579	1,690
6,700	788	1,133	1,326	1,466	1,589	1,700
6,750	792	1,140	1,334	1,474	1,598	1,710
6,800	797	1,147	1,342	1,483	1,607	1,720
6,850	802	1,153	1,350	1,492	1,617	1,730
6,900	806	1,160	1,358	1,500	1,626	1,740
6,950	811	1,167	1,366	1,509	1,636	1,751
7,000	815	1,173	1,374	1,518	1,645	1,761
7,050	820	1,180	1,382	1,527	1,655	1,771
7,100	824	1,187	1,389	1,535	1,664	1,781
7,150	828	1,193	1,396	1,543	1,673	1,789
7,200	832	1,198	1,403	1,550	1,680	1,798
7,250	836	1,203	1,409	1,557	1,688	1,806
7,300	840	1,209	1,416	1,564	1,696	1,814
7,350	843	1,214	1,422	1,572	1,704	1,823
7,400	847	1,220	1,429	1,579	1,711	1,831
7,450	851	1,225	1,435	1,586	1,719	1,839
7,500	855	1,231	1,442	1,593	1,727	1,847
7,550	858	1,236	1,448	1,600	1,735	1,856
7,600	862	1,241	1,455	1,607	1,742	1,864
7,650	866	1,247	1,461	1,614	1,750	1,872
7,700	869	1,252	1,467	1,622	1,758	1,881
7,750	873	1,258	1,474	1,629	1,766	1,889
7,800	877	1,263	1,480	1,636	1,773	1,897
7,850	881	1,269	1,487	1,643	1,781	1,905
7,900	884	1,274	1,493	1,650	1,789	1,914
7,950	888	1,279	1,500	1,657	1,797	1,922
8,000	892	1,285	1,506	1,665	1,804	1,930

For gross monthly income greater than \$8,000,
multiply gross by the following percentages:

11% 16.1% 18.8% 20.8% 22.6% 24%.

WORKSHEET A--BASIC VISITATION

JUDICIAL DISTRICT COURT
 COUNTY OF _____
 STATE OF **NEW MEXICO**
 NO. _____

 Petitioner,
 vs.
 _____,
 Respondent.

MONTHLY CHILD SUPPORT OBLIGATION

	Custodial Parent		Other Parent		Combi
1. Gross Monthly Income	\$	+	\$	=	\$
-----					-----
2. Percentage of Combined Income %	%	+	%	=	100
(Each parent's income divided by combined income)					
-----					-----
3. Number of Children _____					
4. Basic Support from Schedule				=	-----
(Use combined income from Line 1)					
5. Children's Health and Dental Insurance Premium				=	-----
-----					-----
6. Work-Related Child Care		+		=	-----
-----					-----
7. Additional Expenses		+		=	-----
-----					-----
8. Total Support (Add Lines 4, 5, 6 and 7 for each parent and for combined column)				=	-----
-----					-----
9. Each Parent's Obligation (Combined Column Line 8 X each parent's Line 2)					
10. Enter amount for each parent from Line 8	-		-		
-----					-----
11. Each parent's net obligation (Subtract Line 10 from Line 9 for each parent).					Other
-----					-----

Parent

dial

t

t

pays
Custo

Paren

this
Amoun

PAYS _____ EACH MONTH \$ _____

Petitioner's Signature

Respondent's Signature

Date: _____

SHARED RESPONSIBILITY

INSTRUCTIONS FOR WORKSHEET B

JUDICIAL DISTRICT COURT
COUNTY OF _____
STATE OF NEW MEXICO
NO. _____

Petitioner,
vs.

Respondent.

MONTHLY CHILD SUPPORT OBLIGATION

	Mother	Father	Comb
ined			
Part 1--Basic Support:			
1. Gross Monthly Income	\$ _____	\$ _____	\$ _____

2. Percentage of Combined Income	%	+	% = 10
0%			
(Each parent's income divided by combined income)	-----	-----	-----

3. Number of Children _____			
4. Basic Support from Schedule (Use combined income from Line 1)			= _____

5.	Shared Responsibility Basic				
	Obligation (Line 4 x 1.5)				
6.	Each Parent's Share (Line 5 x	-----		-----	
	each parent's Line 2)				
7.	Number of 24 hour days with each		+		
	parent (must total 365)	-----		-----	
8.	Percentage with each parent (Line	%	+	%	10
0%	7 divided by 365)				
9.	Amount retained (Line 6 x Line 8	-----		-----	
	for each parent)				
10.	Each Parent's Obligation	-----		-----	
	(subtract Line 9 from Line 6)				
11.	Amount Transferred (subtract				
	smaller amount on Line 10 from				
	larger amount on Line 10.)				
	Parent with larger amount on				
	Line 10 pays other parent the				
	difference.				

PART 2--ADDITIONAL PAYMENTS:

12.	Children's Health and Dental		+		-
	Insurance Premium	-----		-----	-----
13.	Work-Related Child Care		+		-
		-----		-----	-----
14.	Additional Expenses		+		-
		-----		-----	-----
15.	Total Additional Payments (Add		+		-
	Lines 12, 13 and 14 for each				
	parent and for combined column)	-----		-----	
16.	Each Parent's Obligation	-----		-----	
	(Combined Column Line 15 x each				
	parent's Line 2)				
17.	Amount transferred (Subtract each	-----		-----	
	parent's Line 16 from his Line				
	15). Parent with "minus" figure				
	pays that amount to other				
	parent.				

PART 3--NET AMOUNT TRANSFERRED:

18.	Combine Lines 11 and 17 by				
	addition if same parent pays on				
	both lines, otherwise by				
	subtraction.				

PAYS _____ EACH MONTH \$ _____

Petitioner's Signature

Respondent's Signature

Date: _____

SHARED RESPONSIBILITY

INSTRUCTIONS FOR WORKSHEET B

Part 1--Basic Support:

Line 1. Gross Monthly Income:

Includes all income, except AFDC, food stamps and supplemental security income. See text for allowed deductions from income. Use current income if steady. If income varies a lot from month to month, use an average of the last twelve months, if available, or last year's income tax return.

Add both parents' gross incomes and put total under the combined column.

Line 2. Percentage of Combined Income:

Divide each parent's income by combined income to get that parent's percentage of combined income.

Lines 3 and 4. Basic Support:

Fill in the number of children on the worksheet (Line 3). Round combined income to nearest one hundred dollars (\$100). Look at the basic child support schedule. In the far left-hand column of that schedule, find the rounded combined income figure. Read across to the column with the correct number of children. Enter that amount on Line 4.

Line 5. Shared Responsibility Basic Obligation:

Multiply the basic obligation on Line 4 by 1.5.

Line 6. Each Parent's Share:

Multiply the support amount on Line 5 by each parent's percentage share on Line 2, and enter each parent's dollar share under that parent's column on Line 6.

Line 7. Each Parent's Time of Care for Children:

Enter the number of twenty-four-hour days of responsibility that each parent has each child in a year according to the parenting plan.

Line 8. Percentage of Twenty-Four-Hour Days With Each Parent:

Divide each parent's number of twenty-four-hour days (Line 7) by three hundred sixty-five to obtain a percentage.

Line 9. Amount Retained:

Under shared responsibility arrangements, each parent retains the percentage of the basic support obligation equal to the number of twenty-four-hour days of responsibility spent by each child with each respective parent divided by three hundred sixty-five. Multiply each parent's share of basic support (Line 6) by the percentage in that parent's Line 8 and enter the result on that parent's Line 9. This is the amount that each parent retains to pay the children's expenses during that parent's periods of responsibility.

Line 10. Each Parent's Basic Obligation:

Subtract the amount retained by each parent for direct expenses (Line 9) from that parent's basic obligation (Line 6) and enter the difference on that parent's Line 10.

Line 11. Amount Transferred for Basic Support:

In shared responsibility situations, both parents are entitled not only to retain money for direct expenses but also to receive contributions from the other parent toward those expenses. Therefore, subtract the smaller amount on Line 10 from the larger amount on Line 10 to arrive at a net amount transferred for basic support.

Part 2--Additional Payments:

Line 12. Children's Health and Dental Insurance Premium:

Enter the cost paid by a parent for covering these children with medical and dental insurance under that parent's column on Line 12. Add costs paid by each parent and enter under the combined column on Line 12.

Line 13. Work-Related Child Care:

Enter the cost paid by each parent for work-related child care. If the cost varies (for example, between school year and summer), take the total yearly cost and divide by twelve. Enter each parent's figure in that parent's column on Line 13. Add the cost for both parents and enter in combined column on Line 13.

Line 14. Cost Paid For Additional Expenses:

Enter the cost paid by each parent for additional expenses provided by Subsection I of this section on Line 14.

Line 15. Enter Total of Lines 12, 13 and 14:

For each parent, total the amount paid by him for insurance, child care and additional expenses (Lines 12, 13 and 14). Enter the total in that parent's column on Line 15 and the total of both parents' expenses under the combined column on Line 15.

Line 16. Each Parent's Obligation:

Multiply the total additional payments (combined column on Line 15) by each parent's percentage share of income on Line 2, and enter each parent's dollar share of the additional payments on his Line 16.

Line 17. Amount Transferred:

Subtract each parent's obligation for additional expenses (that parent's Line 16) from the total additional payments made by that parent (that parent's Line 15). The parent with a "minus" figure pays the other parent the amount on Line 17.

Part 3--Net Amount Transferred:

Line 18. Combine Lines 11 and 17:

Combine the amount owed by one parent to the other for basic support (Line 11) and the amount owed by one parent to the other for additional payments (Line 17). If the same parent owes for both obligations, add Lines 11 and 17, and enter the total on Line 18. If one parent owes for basic support and the other owes for additional payments, subtract the smaller amount from the larger and enter on Line 18. Fill in the blanks by stating which parent pays and which parent receives the net amount transferred.

TEXAS REVISED STATUTES

➔§ 2.401. Proof of Informal Marriage

(a) In a judicial, administrative, or other proceeding, the marriage of a man and woman may be proved by evidence that:

- (1) a declaration of their marriage has been signed as provided by this subchapter; or
- (2) the man and woman agreed to be married and after the agreement they lived together in this state as husband and wife and there represented to others that they were married.

(b) If a proceeding in which a marriage is to be proved as provided by Subsection (a)(2) is not commenced before the second anniversary of the date on which the parties separated and ceased living together, it is rebuttably presumed that the parties did not enter into an agreement to be married.