

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 HOUSE BILL 1042

 By: Shoemake

7 AS INTRODUCED

8 An Act relating to child support; amending 43 O.S.
9 2011, Section 118E, which relates to parenting time
10 adjustment; prohibiting parents who participate in
 shared parenting time from paying increased child
 support amount; and providing an effective date.

11
12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 43 O.S. 2011, Section 118E, is
15 amended to read as follows:

16 Section 118E. A. Parenting time adjustment.

17 1. The adjustment may be granted based upon a court order or
18 agreement that the noncustodial parent is granted at least one
19 hundred twenty-one (121) overnights of parenting time per twelve-
20 month period with the children in the case under consideration.

21 2. Average parenting time. If there are multiple children for
22 whom support is being calculated, and the parent seeking the
23 parenting time adjustment is spending a different amount of time
24

1 with each child, then an annual average of parenting time with all
2 of the children shall be calculated.

3 B. In cases of split physical custody, either parent may be
4 eligible for a parenting time adjustment.

5 C. Parenting time adjustments are not mandatory, but
6 presumptive. The presumption may be rebutted in a case where the
7 circumstances indicate the adjustment is not in the best interest of
8 the child or that the increased parenting time by the noncustodial
9 parent does not result in greater expenditures which would justify a
10 reduction in the support obligation.

11 D. Reduction in child support obligation for additional
12 parenting time.

13 1. If the parent receiving the parenting time adjustment is
14 granted one hundred twenty-one (121) or more overnights of parenting
15 time per twelve-month period with a child, or an average of one
16 hundred twenty-one (121) overnights with all applicable children, a
17 reduction to the child support obligation of the parent may be made
18 as set forth in this section.

19 2. A parenting time adjustment shall be made to the base
20 monthly child support obligation by the following formula: The
21 total combined base monthly child support obligation shall be
22 multiplied by a factor determined by the number of overnights
23 granted to the noncustodial parent. The result shall be designated
24

1 the adjusted combined child support obligation. In a case where the
2 noncustodial parent is granted:

3 a. one hundred twenty-one (121) overnights to one hundred
4 thirty-one (131) overnights, the factor shall be two
5 (2),

6 b. one hundred thirty-two (132) overnights to one hundred
7 forty-three (143) overnights, the factor shall be one
8 and three-quarters (1.75), or

9 c. one hundred forty-four (144) or more overnights, the
10 factor shall be one and one-half (1.5).

11 3. To determine the adjusted child support obligation of each
12 parent, the adjusted combined child support obligation shall be
13 divided between the parents in proportion to their respective
14 adjusted gross incomes.

15 4. a. The percentage of time a child spends with each parent
16 shall be calculated by determining the number of
17 overnights for each parent and dividing that number by
18 three hundred sixty-five (365).

19 b. The share of the adjusted combined child support
20 obligation for each parent shall then be multiplied by
21 the percentage of time the child spends with the other
22 parent to determine the base child support obligation
23 owed to the other parent.

24

1 c. The respective adjusted base child support obligations
2 for each parent are then offset, with the parent owing
3 more base child support paying the difference between
4 the two amounts to the other parent. The base child
5 support obligation of the parent owing the lesser
6 amount is then set at zero dollars (\$0.00).

7 5. The parent owing the greater amount of base child support
8 shall pay the difference between the two amounts as a child support
9 order. In no event shall the provisions of this paragraph be
10 construed to authorize or allow the payment of child support by a
11 parent having more than two hundred five (205) overnights. In no
12 case shall the amount of child support ordered to be paid exceed the
13 amount of child support which would otherwise be ordered to be paid
14 if the parents did not participate in shared parenting time.

15 E. 1. Failure to exercise or exercising more than the number
16 of overnights upon which the parenting time adjustment is based, is
17 a material change of circumstances.

18 2. If the court finds that the obligor has failed to exercise a
19 significant number of the overnights provided in the court order
20 necessary to receive the parenting time adjustment, in a proceeding
21 to modify the child support order, the court may establish the
22 amount that the obligor has underpaid due to the application of the
23 parenting time adjustment as a child support judgment that may be
24 enforced in the same manner as any other child support judgment.

1 3. The court may rule that the obligor will not receive the
2 parenting time adjustment for the next twelve-month period. After a
3 twelve-month period during which the obligor did not receive the
4 parenting time adjustment, the obligor may petition the court to
5 modify the child support order. The obligor may be granted a
6 prospective parenting time adjustment upon a showing that the
7 obligor has actually exercised the threshold number of overnights in
8 the preceding twelve months. No retroactive modification or credit
9 from the child support guidelines amount shall be granted based on
10 this section.

11 SECTION 2. This act shall become effective November 1, 2015.

12
13 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND CIVIL PROCEDURE,
14 dated 02/10/2015 - DO PASS.

15
16
17
18
19
20
21
22
23
24