An Act

ENROLLED HOUSE
BILL NO. 1042

By: Shoemake of the House

and

Thompson of the Senate

An Act relating to modification of child support; amending 43 O.S. 2011, Section 118E, which relates to parenting time adjustment; clarifying application of certain adjustment formula; and providing an effective date.

SUBJECT: Child support

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

Section 118E. A. Parenting time adjustment.

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

2. Average parenting time. If there are multiple children for whom support is being calculated, and the parent seeking the parenting time adjustment is spending a different amount of time with each child, then an annual average of parenting time with all of the children shall be calculated.

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

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

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

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

2. A parenting time adjustment shall be made to the base monthly child support obligation by the following formula: The total combined base monthly child support obligation shall be multiplied by a factor determined by the number of overnights granted to the noncustodial parent. The result shall be designated the adjusted combined child support obligation. In a case where the noncustodial parent is granted:

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

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

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

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

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

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

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

5. The parent owing the greater amount of base child support shall pay the difference between the two amounts as a child support order. In no event shall the provisions of this paragraph be construed to authorize or allow the payment of child support by a parent having more than two hundred five (205) overnights. In no event shall the amount of child support ordered to be paid by a parent exceed the amount which would otherwise be ordered if the parent was not eligible for the parenting time adjustment.

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

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

3. The court may rule that the obligor will not receive the parenting time adjustment for the next twelve-month period. After a twelve-month period during which the obligor did not receive the parenting time adjustment, the obligor may petition the court to modify the child support order. The obligor may be granted a prospective parenting time adjustment upon a showing that the obligor has actually exercised the threshold number of overnights in the preceding twelve (12) months. No retroactive modification or credit from the child support guidelines amount shall be granted based on this section.

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

Passed the House of Representatives the 28th of April, 2015.

Presiding Officer of the House
of Representatives

Passed the Senate the 6th day of April, 2015.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 29th
day of April, 20 15, at 3:00 o'clock P M.
By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 4th
day of May, 20 15, at 2:13 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 4th
day of May, 20 15, at 3:18 o'clock P. M.
By: Chi Berge