

1 **SENATE FLOOR VERSION**

2 February 24, 2015

3 SENATE BILL NO. 445

By: Mazzei

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5
6 An Act relating to modification of child support;
7 amending 43 O.S. 2011, Section 118E, which relates to
8 parenting time adjustment; clarifying certain
9 adjustment formula; and providing an effective date.

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

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

13 Section 118E. A. Parenting time adjustment.

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

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

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

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

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

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

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

22 a. one hundred twenty-one (121) overnights to one hundred
23 thirty-one (131) overnights, the factor shall be two
24 (2),

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

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

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

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

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

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

1 5. The parent owing the greater amount of base child support
2 shall pay the difference between the two amounts as a child support
3 order. In no event shall the provisions of this paragraph be
4 construed to authorize or allow the payment of child support by a
5 parent having more than two hundred five (205) overnights.

6 6. In no event shall the amount of child support ordered to be
7 paid by a parent exceed the amount which would otherwise be ordered
8 if the parent was not eligible for the parenting time adjustment.

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

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

19 3. The court may rule that the obligor will not receive the
20 parenting time adjustment for the next twelve-month period. After a
21 twelve-month period during which the obligor did not receive the
22 parenting time adjustment, the obligor may petition the court to
23 modify the child support order. The obligor may be granted a
24 prospective parenting time adjustment upon a showing that the

1 obligor has actually exercised the threshold number of overnights in
2 the preceding twelve months. No retroactive modification or credit
3 from the child support guidelines amount shall be granted based on
4 this section.

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

6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
7 February 24, 2015 - DO PASS
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