

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 1040

By: Sykes of the Senate

and

Echols and Pittman of the  
House

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10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to child support; amending 43 O.S.  
12                   2011, Sections 118E and 118.1, which relate to child  
13                   support orders; modifying reduced child support  
14                   obligation for additional parenting time; clarifying  
15                   certain jurisdiction; prohibiting simultaneous  
16                   proceedings for certain motions; specifying what date  
17                   controls as the effective date; stating preference of  
18                   district court; and providing an effective date.

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

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

22                   Section 118E.   A.   Parenting time adjustment.

23                   1.   The adjustment may be granted based upon a court order or  
24 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.

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

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

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

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

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

22           2. A parenting time adjustment shall be made to the base  
23 monthly child support obligation by the following formula: The total  
24 combined base monthly child support obligation shall be multiplied

1 by a factor determined by the number of overnights granted to the  
2 noncustodial parent. The result shall be designated the adjusted  
3 combined child support obligation. In a case where the noncustodial  
4 parent is granted:

5 a. one hundred twenty-one (121) overnights to one hundred  
6 thirty-one (131) overnights, the factor shall be two  
7 (2),

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

11 c. one hundred forty-four (144) ~~or more~~ overnights to one  
12 hundred eighty (180) overnights, the factor shall be  
13 one and one-half (1.5), or

14 d. one hundred eighty-one (181) or more overnights, the  
15 factor shall be one and one-quarter (1.25).

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

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

24

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

6           c. The respective adjusted base child support obligations  
7           for each parent are then offset, with the parent owing  
8           more base child support paying the difference between  
9           the two amounts to the other parent. The base child  
10          support obligation of the parent owing the lesser  
11          amount is then set at ~~zero dollars~~ Zero Dollars  
12          (\$0.00).

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

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

21          2. If the court finds that the obligor has failed to exercise a  
22          significant number of the overnights provided in the court order  
23          necessary to receive the parenting time adjustment, in a proceeding  
24          to modify the child support order, the court may establish the

1 amount that the obligor has underpaid due to the application of the  
2 parenting time adjustment as a child support judgment that may be  
3 enforced in the same manner as any other child support judgment.

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

14 SECTION 2. AMENDATORY 43 O.S. 2011, Section 118.1, is  
15 amended to read as follows:

16 Section 118.1 A. In all cases in which child support services  
17 are being provided under the state child support plan as provided in  
18 Section 237 of Title 56 of the Oklahoma Statutes, the Department  
19 shall conduct reviews of child support orders pursuant to rules  
20 promulgated by the Department. If the Department conducts a review  
21 and determines that the child support obligation is not in  
22 accordance with child support guidelines, the Department shall file  
23 a notice of review and intent to modify the child support order, and  
24 it shall be served upon the parties in accordance with law. The

1 notice shall be set for hearing before a district or administrative  
2 court. The district or administrative court shall review the child  
3 support obligation to determine its compliance with the child  
4 support guidelines and order modification if appropriate. An order  
5 of modification shall be effective upon the date the notice of  
6 review and intent to modify the child support order was filed.

7 B. In any proceeding to establish or modify a support order,  
8 each party shall completely disclose his or her financial status.

9 C. A proceeding under this section shall be the jurisdiction of  
10 either the district court or the administrative court, while the two  
11 court systems have concurrent jurisdiction over such proceedings and  
12 parties are free to pursue their actions in either administrative or  
13 district court regardless of the originating court of the underlying  
14 order, in no event shall the administrative court and the district  
15 court conduct simultaneous proceedings on a motion to modify child  
16 support. Should the motion to modify be transferred from one court  
17 system to the other, the date of filing of the initial motion shall  
18 control as to the effective date of any change in the support order.  
19 On motions to transfer, the district court shall be given  
20 preference.

21 SECTION 3. This act shall become effective November 1, 2013.

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23 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 04/10/2013 -  
24 DO PASS, As Amended and Coauthored.