

To: Georgia Child Support Guidelines Statute Review Subcommittee
 From: Jane Venohr
 Date: Apr 18, 2023
 RE: Parenting Time Adjustments

There are many sub-issues in developing a parent-time adjustment. CPR’s contract identifies the following.

Exhibit 1: Contract Requirements and Preliminary, Short Answers

Contract Requirements	Preliminary Short Answer
1. Contractor will identify the main methods used by other states to account for parenting time when calculating child support.	There are over a dozen methods currently in use by states. An overview is provided later in this memorandum.
2. Contractor will give a recommendation as to the simplest method to account for parenting time in child support calculations.	All of the formulas are simple if automated. The easiest formula to calculate manually is a percentage adjustment such as what AZ and KY uses. There is a trade-off, however, between simplicity and precipitous decreases between intervals. (This is illustrated in Exhibit 7 of this memo.)
3. Contractor will provide recommendation on what is the most appropriate method for Georgia to consider to account for parenting time in child support calculations. Contractor will provide recommendations accounting for parenting time in cases with various levels of parenting time ranging from 1% to 49% O.C.G.A. 19-6-15 (a)(17); O.C.G.A. 19-6-15 (i)(2)(K). Contractor will provide recommendations accounting for parenting time in 50/50 equal physical custody cases. O.C.G.A. 19-6-15 (a)(9); O.C.G.A. 19-6-15 (a)(14); O.C.G.A. 19-6-15 (i)(2)(K). Contractor will provide recommendations accounting for parenting time in split parenting cases as defined in O.C.G.A. 19-6-15 (a)(21) and O.C.G.A. 19-6-15 (l).	That is to be determined based on discussions with subcommittee. Some factors to consider: <ul style="list-style-type: none"> • Appropriateness for GA • Ease of use • Understood by guidelines users including parents • Perception of fairness • Degree of transparency • Trends in parenting time • Future legislative revisions Ideally, the same formula would apply across all timesharing arrangements. States with one formula for timesharing below 50% and another at 50% typically have a precipitous decrease between the two formulas or clustering around 50% timesharing. Another thing to keep in mind is the lower the timesharing threshold the less likely there is to a precipitous decrease when that timesharing threshold is met. To be addressed after parenting-time is addressed. This is typically an easier issue.

<p>4. When considering the most appropriate way for Georgia to account for parenting time, Contractor will note that not all parents have been granted court-ordered parenting time. Contractor should be aware of Georgia’s legitimation statute when making recommendations for Georgia. In 2021, the Georgia Department of Vital Records reported that 46% of Georgia’s children were born out of wedlock.</p>	<p>A common criterion among state guidelines with a parenting-time adjustment formula is court-ordered parenting time, a parenting plan, or agreed-to-parenting time. Several states without this criterion find it difficult to determine the actual time with each parent particularly when each parent reports a different amount.</p> <p>Although having a clear roadmap and mechanism for never-married parents to gain court-ordered parenting time is important, the issue is separate from the child support guidelines that are used to calculate support.</p>
<p>5. If a unit of time is needed to account for parenting time, what unit of time should be used?</p>	<p>The most important thing is to allow some flexibility for non-traditional work and timesharing arrangements (e.g., one parent works evenings and the other works days, both parents provide the child meals, but the child spends the night with one parent). This can be addressed through judicial discretion or defining time as narrowed as 4-hour blocks. See examples from other states on page 17 of this memorandum.</p>
<p>6. Contractor will provide a recommendation as to whether Georgia should continue to account for parenting time as a “deviation” or whether Georgia should amend its child support guidelines statute to account for parenting time as an “adjustment.”</p>	<p>At a minimum, GA should have a formula within a deviation for timesharing and very clear criteria for applying the deviation and formula (see FL and SC for examples on page 18). A formula will produce more consistent and predictable amounts. As an aside, Alabama struggled with the same issue last year. Alabama did not have a timesharing adjustment, but will in a few months. Alabama landed on providing the cross-credit with multiplier formula to be used when there is a court-order for 50-50% timesharing.</p>
<p>7. If Contractor recommends a parenting time “adjustment” instead of a parenting time “deviation,” Contractor will explain at what point in the child support calculation that adjustment should be applied.</p>	<p>That depends on the formula selected. Some formulas do not work well at low thresholds</p>
<p>8. Contractor will opine on the appropriateness of the definitions of “custodial parent” and “noncustodial parent” in joint physical custody cases as found in O.C.G.A. 19-6-15 (a)(9) and O.C.G.A. 19-6-15 (a)(14).</p>	<p>To be discussed later. Contractor needs to review statutory definitions first.</p>
<p>9. There is no formula to determine the amount of a parenting time deviation in Georgia’s Child Support Guidelines Statute. In the absence of a formula, jurists have developed their own. Four examples are listed below. Contractor will review each example and consider the economic soundness of each methodology.</p> <p>Method #1 (daily rate for over 90 days)</p>	<p>There is no economic evidence that 90 days (or any other number of days) is a</p>

<p>Method #2 (noncustodial parent pays the difference in each parent’s orders)</p> <p>Method #3 (per diem amount)</p> <p>Method #4. (Real life example) with three options</p> <ol style="list-style-type: none"> 1. Higher income parent pays the full, sole custody amount. 2. Take the difference in basic obligation owed by each parent 3. Take the difference and divide by 2 4. Take the basic child support obligation (BCSO) and apply the same formula as Option 3 	<p>threshold where costs shift. Also, economic theory does not support a “per diem” rate because some expenses (e.g., housing) are paid monthly not per day. Still, a couple of states (e.g., PA and UT) use a version of this, but their thresholds are significantly higher than 90 days.</p> <p>This approach does not account for the fact that it costs more to raise a child in two households than one household; and the timesharing amount. No state uses this method as their parenting-time adjustment formula in their guidelines.</p> <p>See issues with Method #1.</p> <p>This is not a parenting time adjustment.</p> <p>See comments on Method #2.</p> <p>A few states use this approach when there is 50/50% physical custody. It would not work for 40/60 or another arrangement.</p> <p>Not clear what this means. Does it mean take the BCSO and divide it in half?</p>
<p>10. In Georgia’s 2022 case sampling data, 10% of cases (49 out of 472 cases) reduced child support to \$0 by using a parenting time or non-specific deviation. Contractor will evaluate as to whether these were appropriate outcomes in those cases.</p>	<p>Cannot evaluate without knowing child support arrangements in each case. That data was not collected.</p>
<p>11. Contractor will review the public comments collected by and provided to Contractor by the Georgia Child Support commission when evaluating methods for calculation.</p>	<p>Still in the process of reviewing.</p>
<p>12. Contractor will consider domestic violence concerns when making a recommendation on the most appropriate method for Georgia to consider to account for parenting time in child support calculations and Contractor will identify the ways, if any, other states consider domestic violence concerns when accounting for parenting time.</p>	<p>There are two ways that states are addressing this issue.</p> <ul style="list-style-type: none"> • Requiring court-ordered timesharing—hence, any DV concerns are addressed in the court-ordered timesharing arrangement, which would hopefully consider pickup/dropoff, and etc. • Some states require periodic sharing of income information and changes in addresses in ALL child support orders (not just timesharing). States with these provisions are reviewing them and making appropriate exceptions.

OVERVIEW OF SHARED-PARENTING TIME ADJUSTMENTS IN STATE GUIDELINES

Exhibit 2 is an attempt to group the types of timesharing formulas in state child support guidelines. Even though Exhibit 2 shows eight groups, no state formula is exactly like. For example, those using simple percentages or sliding scale adjustment vary in the percentages they use and the income thresholds in which they apply the percentages. Even those states using the cross-credit with a 1.5 multiplier vary in the percentage of parenting time that must be met before applying the formula and the criteria that must be met for the adjustment to occur. As shown in Exhibit 3, state thresholds for applying the timesharing formula vary.

Most states bordering Georgia (i.e., AL, FL, NC, and SC) use the cross-credit with a multiplier, which is the most commonly used formula among states. TN uses a unique formula that can be considered a variation of per diem approach. As shown later, the TN formula is mathematically complicated. Exhibit 2 also shows eight states without a formula. Most of these states (Connecticut, Georgia, Mississippi, New Hampshire, and New York) reviewed their guidelines last year or are currently reviewing their guidelines. Many of these states are considering a timesharing formula to improve consistency and predictability of timesharing adjustments. Many also believe that timesharing is increasing and that providing an adjustment to recognize the paying-parent's direct expenditures on the children is appropriate, fair, and just.

Exhibit 2: Types of Timesharing Formulas in State Child Support Guidelines

Formula	States
Cross-Credit with 1.5 Multiplier	19 states (AL ^a , AK, CO, DC, IL, ID, FL, LA, ME, MD, NE, NC, NM, SC, SD, VT, WV, WY, WI) and IA* for equal custody
Cross-Credit with No or Alternative Multiplier	4 states (MT, NV, OK, VA)
Offset	1 state (RI) and ND* for equal custody
Simple Percentage or Sliding Scale Adjustment	7 states (AZ, DE, IA*, KS, KY**, OH, UT)
Consideration of Transferable and Fixed Expenses	3 states (IN, MO, NJ)
Non-Linear Formulas	3 states (MI, MN, OR)
Per Diem Adjustment	4 states (HI, PA, ND*, TN)
Unique Formula	2 states (CA, MA)
States with a Formula	43 states
States without a Formula	8 states (AR, CT, GA, MS, NH, NY, TX, WA)

^aThe Alabama formula will become effective June 1, 2023.

* State is listed twice because it has two different formulas depending on the amount of time.

** The Kentucky sliding scale percentage will be effective April 2023.

Exhibit 3: Threshold for Applying Parenting-Time Formula

Threshold for Shared-Parenting Time Adjustment	States
1–10% parenting time	8 states (AZ, CA, MI, MN, MO, NV, NJ, OR)
11–15% parenting time	1 state (IN)
16–20% parenting time	1 (FL)
21–25% parenting time	9 states (CO, DE, ID, KY, OH, TN, VT, VA, WI)
26–30% parenting time	7 states (AK, MT, NE, ND, NM, SC, UT)
31–35% parenting time	8 states (DC, IA, KS, MA, MD, NC, OK, WV)
36–40% parenting time	4 states (HI, IL, PA, WY)
41–45% parenting time	None
46–50% parenting time	5 states (AI, KS, LA, ME, SD)
States with a threshold	42 states
States without a Formula	8 states (AR, CT, GA, MS, NH, NY, TX, WA)

* Nevada does not specify a threshold.

Cross-Credit Formula

The most commonly applied formula is the cross-credit formula. Essentially, theoretical orders are calculated for each parent based on the time the child is with the other parent, then offset against each other so that the parent with the higher theoretical order owes the difference. Exhibit 4 illustrates the cross-credit calculation using the existing Georgia income shares table and applying it to one child. It is called the “cross-credit” because Line 10 of Exhibit 4 could also be achieved by cross-multiplying each parent’s Line 6 by the other parent’s Line 8.) Most states relying on the cross-credit formula increase the basic obligation by 150 percent to account for it costing more to raise the child in two households than one household. In other words, 150 percent is used to capture the duplicated expenses. Housing and some transportation expenses are believed to be duplicated, but there is no quantitative research confirming that largely because of the lack of data sets of matched parents with timesharing arrangements. Virginia uses a 140 percent multiplier, and Oklahoma uses a sliding scale multiplier. The West Virginia legislature just passed an increase from a multiplier of 150 percent to 160 percent. Montana and Nevada do not use a multiplier, but neither use the income shares model. Montana relies on the Melson formula, and Nevada relies on a percentage of obligor income guidelines model. Colorado is the first state to use the cross-credit; it began using the formula in 1986.

Strengths of Cross-Credit Formula

- Adjustment has a theoretical basis;
- Explainable;
- Used by many states and for many years;
- Results in zero order when there is equal custody and equal income (which many perceive as an appropriate and fair outcome); and

- Mathematically, the greater-time parent can be the paying-parent if the greater time parent has significantly more income than the lesser-time parent (which many also perceive as an appropriate and fair outcome).

Weaknesses of Cross-Credit Formula

- Requires another worksheet;
- Requires a timesharing threshold to apply;
- The formula with the multiplier does not work mathematically at low levels of timesharing;¹
- There can be a precipitous decrease in the support amount at the timesharing threshold;
- Theoretically, not consistent with the income shares model because the adjustment is time dependent rather than income dependent; and
- Some policymakers do not favor a formula that allows the parent obligated to pay support to “flip” from one parent to the other with more timesharing (which can occur using the cross-credit if the greater-time parent has much more income than the lesser-time parent).

Exhibit 4: Illustration of Income Shares Using Existing Georgia Income Shares Table: One Child

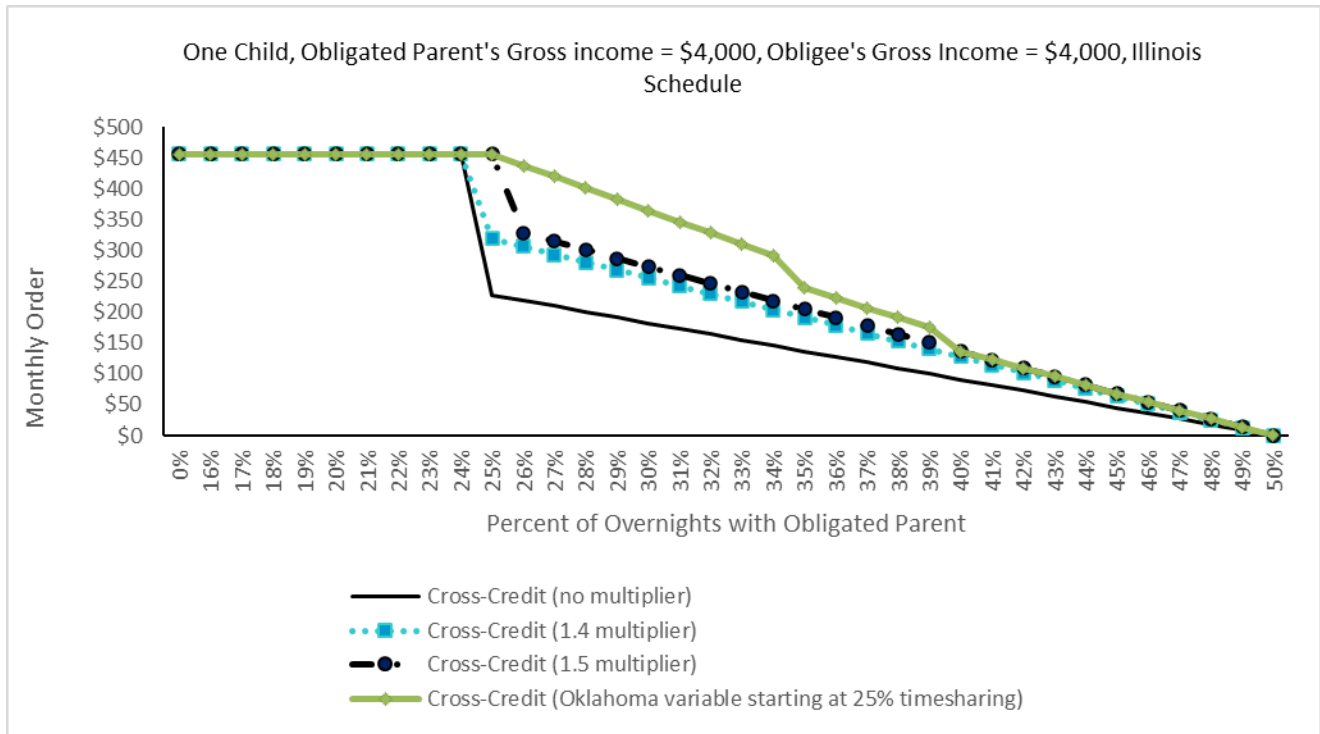
Line		Parent A	Parent B	Combined
1	Monthly Adjusted Gross Income	\$3,100	\$4,300	\$7,400
2	Percentage Share of Income	42%	58%	100%
3	Basic Obligation for 1 Child (Combined Line 1 applied to table)	\$462	\$638	\$ 1,100
4	Each Parent’s Share (Line 3 x each parent’s Line 2)			
5	Shared Custody Basic Obligation (Line 3 x 1.5)			\$1,650
6	Each Parent’s Share (Line 5 x each parent’s Line 2)	\$693	\$957	
7	Overnights with Each Parent (must total 365)	265	100	365
8	Percentage Time with Each Parent (Line 7 divided by 365)	73%	27%	100%
9	Amount Retained (Line 6 x Line 8 for each parent)	\$506	\$258	
10	Each Parent’s Obligation (Line 6 – Line 9)	\$187	\$699	
11	Shared Custody Obligation (Subtract smaller from larger on Line 10)		\$512	
12	Final Order (lessor of Line 4 and 11)		\$512	

Exhibit 5 shows how the cross-credit formula can result in a cliff effect when it reaches the timesharing threshold. For this particular example, the timesharing threshold is 25 percent timesharing. The example is adapted from a recent *Family Law Quarterly* article.² It relies on the Illinois schedule for its illustration, which calculates orders monthly. In contrast, the Ohio guidelines calculates orders annually.

¹ This is because the cross-credit amount can be more than the sole-custody calculation. A simple solution to this is to take the lower of the two calculations. This is shown on Line 12 of Exhibit 7.

² Oldham, Thomas, & Venohr, Jane. (May 2021). “The Relationship between Child Support and Parenting Time. *Family Law Quarterly*. Volume 43, Number 2. Available at <https://centerforpolicyresearch.org/publications/the-relationship-between-child-support-and-parenting-time/>.

Exhibit 5: Illustration of the “Cliff Effect” in the Cross-Credit Formula and the Impact of Different Multipliers



Simple Percentage or Sliding Scale Percentages

Most states using percentages rely on sliding scale percentages that increase with more overnights (see

Exhibit 6 for sliding-scale adjustments in Arizona, Iowa, Kentucky, and Missouri). Arizona first adapted its adjustment in the mid-1990s. It used the concept of transferable/duplicated expenses, which is discussed next, to develop it. Since then, Arizona has tweaked it several times. Missouri and Kentucky considered the Arizona percentages when crafting their sliding scale. Kentucky also considered typical timesharing arrangements, child-rearing expenses, that there is not always a \$1 for \$1 transfer of expenses from one parent to the other parent for child-rearing expenses, and other factors. In crafting the adjustment, Kentucky policymakers aimed to keep the adjustment simple, appropriate, fair, and produce gradual amounts to minimize litigation over one or two overnights.

Exhibit 7 uses a case scenario involving parents with equal income (i.e., each has gross income of \$4,000 per month) to illustrate the staircase impact that more time with the other parent has on the order amount using a sliding scale percentage. There are more “stairs” under the Arizona adjustment than the Kentucky adjustment because there are more rows for the range of parenting days. Exhibit 7 also shows that Arizona reaches a zero-order amount by 164 parenting days, while Kentucky does not reach a zero-order amount until 182 parenting days. These thresholds correspond to the last row in each of the state’s respective sliding scale chart.

Exhibit 6: Examples of Sliding-Scale Percentage Adjustments

<p>Iowa</p> <p>128–147 overnights 15% 148–166 overnights 20% 167 or more but less than equally shared physical care 25%</p> <p>Cross-credit with 150% multiplier for equally shared</p>	<p>Missouri: Deviation allowed for equal custody</p> <table border="1"> <thead> <tr> <th>Number of Overnights</th> <th>Adjustment</th> </tr> </thead> <tbody> <tr><td>Less than 36</td><td>0%</td></tr> <tr><td>36–72</td><td>6%</td></tr> <tr><td>73–91</td><td>9%</td></tr> <tr><td>92–109</td><td>10%</td></tr> <tr><td>110–115</td><td>13%</td></tr> <tr><td>116–119</td><td>15%</td></tr> <tr><td>120–125</td><td>17%</td></tr> <tr><td>126–130</td><td>20%</td></tr> <tr><td>131–136</td><td>23%</td></tr> <tr><td>137–141</td><td>25%</td></tr> <tr><td>142–147</td><td>27%</td></tr> <tr><td>148–152</td><td>28%</td></tr> <tr><td>153–158</td><td>29%</td></tr> <tr><td>159–164</td><td>30%</td></tr> <tr><td>165–170</td><td>31%</td></tr> <tr><td>171–175</td><td>32%</td></tr> <tr><td>176–180</td><td>33%</td></tr> <tr><td>181–183</td><td>34%</td></tr> </tbody> </table>	Number of Overnights	Adjustment	Less than 36	0%	36–72	6%	73–91	9%	92–109	10%	110–115	13%	116–119	15%	120–125	17%	126–130	20%	131–136	23%	137–141	25%	142–147	27%	148–152	28%	153–158	29%	159–164	30%	165–170	31%	171–175	32%	176–180	33%	181–183	34%								
Number of Overnights	Adjustment																																														
Less than 36	0%																																														
36–72	6%																																														
73–91	9%																																														
92–109	10%																																														
110–115	13%																																														
116–119	15%																																														
120–125	17%																																														
126–130	20%																																														
131–136	23%																																														
137–141	25%																																														
142–147	27%																																														
148–152	28%																																														
153–158	29%																																														
159–164	30%																																														
165–170	31%																																														
171–175	32%																																														
176–180	33%																																														
181–183	34%																																														
<p>Arizona</p> <table border="1"> <thead> <tr> <th>Parenting Time Days</th> <th>Adjustment Percentage</th> </tr> </thead> <tbody> <tr><td>0–19</td><td>0</td></tr> <tr><td>20–34</td><td>.025</td></tr> <tr><td>35–49</td><td>.050</td></tr> <tr><td>50–69</td><td>.075</td></tr> <tr><td>70–84</td><td>.10</td></tr> <tr><td>85–99</td><td>.15</td></tr> <tr><td>100–114</td><td>.175</td></tr> <tr><td>115–129</td><td>.20</td></tr> <tr><td>130–142</td><td>.25</td></tr> <tr><td>143–152</td><td>.325</td></tr> <tr><td>153–163</td><td>.40</td></tr> <tr><td>164 or more</td><td>.50</td></tr> </tbody> </table>	Parenting Time Days	Adjustment Percentage	0–19	0	20–34	.025	35–49	.050	50–69	.075	70–84	.10	85–99	.15	100–114	.175	115–129	.20	130–142	.25	143–152	.325	153–163	.40	164 or more	.50	<p>Kentucky (eff. 4/2023)</p> <table border="1"> <thead> <tr> <th>Parenting Time Days</th> <th>Adjustment Percentage</th> </tr> </thead> <tbody> <tr><td>72–87</td><td>.105</td></tr> <tr><td>88–115</td><td>.15</td></tr> <tr><td>116–129</td><td>.205</td></tr> <tr><td>130–142</td><td>.25</td></tr> <tr><td>143–152</td><td>.305</td></tr> <tr><td>153–162</td><td>.36</td></tr> <tr><td>163–172</td><td>.42</td></tr> <tr><td>173–181</td><td>.485</td></tr> <tr><td>182–182.5</td><td>.50</td></tr> </tbody> </table>	Parenting Time Days	Adjustment Percentage	72–87	.105	88–115	.15	116–129	.205	130–142	.25	143–152	.305	153–162	.36	163–172	.42	173–181	.485	182–182.5	.50
Parenting Time Days	Adjustment Percentage																																														
0–19	0																																														
20–34	.025																																														
35–49	.050																																														
50–69	.075																																														
70–84	.10																																														
85–99	.15																																														
100–114	.175																																														
115–129	.20																																														
130–142	.25																																														
143–152	.325																																														
153–163	.40																																														
164 or more	.50																																														
Parenting Time Days	Adjustment Percentage																																														
72–87	.105																																														
88–115	.15																																														
116–129	.205																																														
130–142	.25																																														
143–152	.305																																														
153–162	.36																																														
163–172	.42																																														
173–181	.485																																														
182–182.5	.50																																														

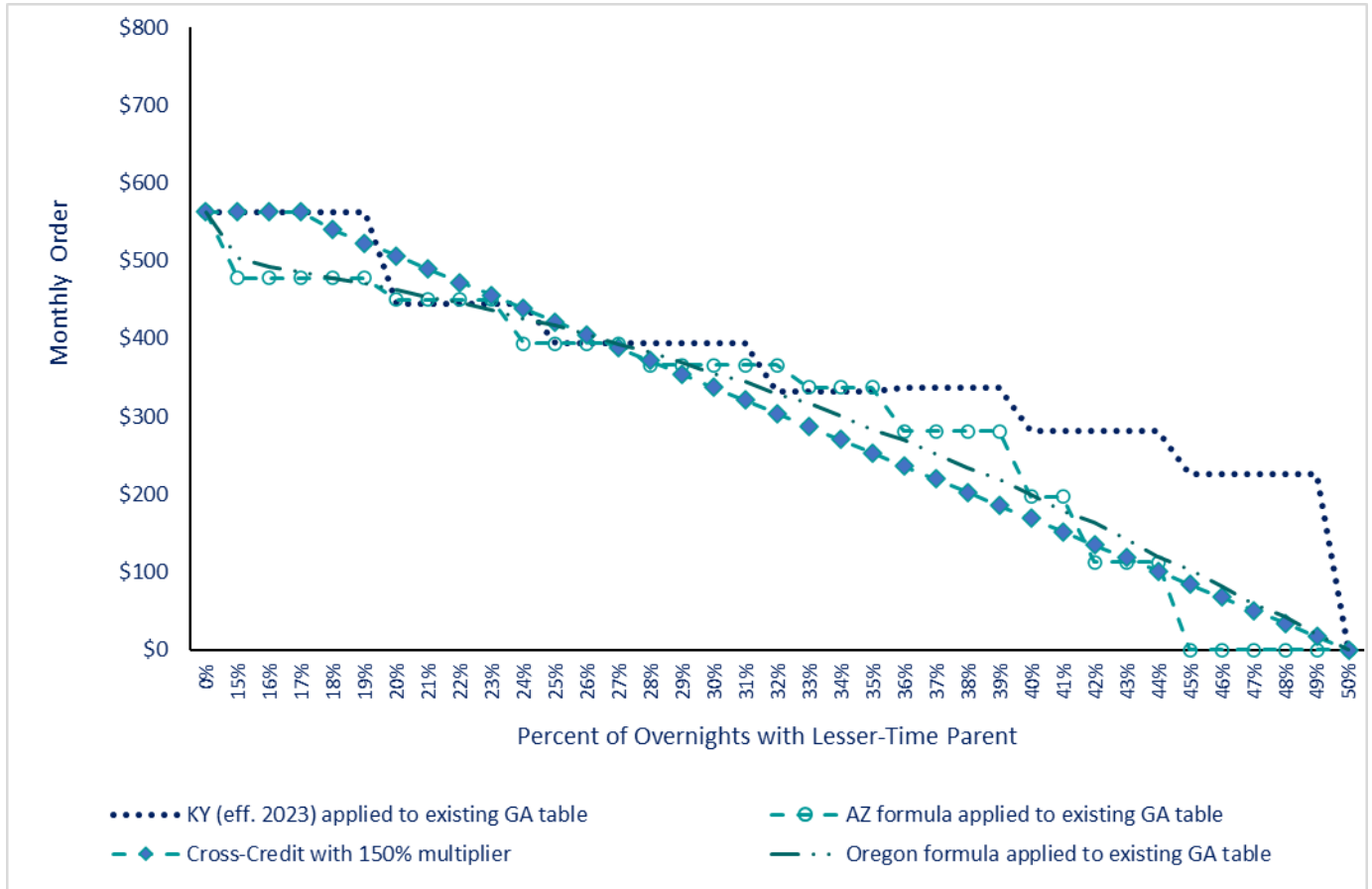
Strength of Percentage/Sliding Scale Percentage Formula

- Simple to calculate and understand

Limitations of Percentage/Sliding Scale Percentage Formula

- “Cliff effects” between overnight intervals are unavoidable;
- Theoretical basis less clear than the cross-credit; and
- Does not allow flipping of paying-parent when greater-time parent is also the parent with greater income.

Exhibit 7: Illustration of the Staircase Nature of the Sliding-Scale Percentage Formula Using a Case Scenario Involving Parents with Equal Incomes



Formulas that Consider Transferable and Fixed Expenses

Indiana, Missouri, and New Jersey formulas are based on the concept that some child-rearing expenditures are transferable between parents while others are fixed, yet the formulas vary significantly. The original Arizona timesharing formula was also based on transferable- and fixed-expenditures concept. Over the years, however, Arizona has modified its timesharing formula extensively. The existing Arizona timesharing formula is essentially a lookup table and has no mention of transferable or fixed expenditures.

Exhibit 8 shows the different breakdowns among transferable (variable); fixed, duplicated, and fixed, non-duplicated child-rearing expenses used by different states and studies.

Exhibit 8: Percentage of Child-Rearing Expenditures Deemed to Be Transferable and Duplicated

	Transferable (Variable)	Fixed Duplicated	Fixed Non-Duplicated	Source	Notes
AZ ³	38% (Food home and away and household operations and utilities)	28% (furnishings and shelter), but rounded up to 30% initially	34% (all other expenses ⁴)	1995 analysis by Professor Shockey, University of Arizona using 1991 Consumer Expenditure Survey data	No longer adhered to; converted to sliding scale that has been modified several times since originally adapted in the late 1990s
IN	35% (food and transportation)	50% (shelter)	15% (clothing, education, school books and supplies, ordinary uninsured health care and personal care)	Thomas Espenshade (1984)	Fixed, non-duplicated are called “controlled” expenses. 6% uninsured healthcare expenses
MO	30%	38%	32%	Looked at other states, and designed to create gradual change	Converted to a sliding scale similar to Arizona
NJ	37% (food and transportation)	37% (housing)	25% (clothing, personal care, entertainment, and miscellaneous)	USDA (early 1990s—exact year is unknown)	
Melli & Brown (1994) ⁵	Estimated 40%–50% (food, recreation, and some transportation)	Estimated at 25%–33% (utilities, household furnishing, pay and study space, toys and play equipment)	Estimated 25% (clothing, medical care, childcare, and school expenses)	Unknown (possibly Espenshade)	

At low levels of time-sharing, the adjustment is for transferable expenses only. When time-sharing becomes more substantial, the adjustment also considers duplicated, fixed expenses. Variable expenses are those that are transferable between the parents, depending on which parent has time with the child. For example, food expenses are typically considered a variable child-rearing expense. If one parent buys the child food, there is no

³ Shockey, J. W. (1995). *Determining the Cost of Raising Children in Nonintact Arizona Households*, Report to Arizona Judicial Council, University of Arizona Department of Sociology, p. 27.

⁴ Although not explicitly stated, this would be apparel, transportation, reading and entertainment, healthcare, and other using Shockey’s categories on page 9 of his report.

⁵ Melli, Marygold S., & Brown, Patricia. R. (1994). “The Economics of Shared Custody: Developing an Equitable Formula for Dual Residence.” *31 Hous. L. Rev.* 543.

need for the other parent to purchase food also. Duplicated, fixed costs are those child-rearing expenses that both parents incur and the other parent's time with the child does not reduce that expense for the first parent (e.g., housing for the child). Non-duplicated, fixed costs are child-rearing expenses that are not affected by the parent's time and are not duplicated. For example, the child has one set of clothes that are generally not duplicated. Due to the non-duplicated, fixed costs, one parent even in equal custody and equal income situations, incurs more child-rearing expenditures. That is, one parent buys the child's clothes, cell phone, and other non-duplicated, fixed items. This means the order is never zero in Indiana when the parents have equal incomes and equal timesharing.

Indiana Formula

The Indiana adjustment is rooted in work by Professor David Betson, University of Notre Dame, who developed the measurements of child-rearing expenditures underlying most state guidelines. The Indiana formula is premised on a consideration of three types of child-rearing expenditures:

- Transferable (variable) expenses;
- Duplicated, fixed expenses; and
- Non-duplicated, fixed expenses.⁶

Indiana's existing formula consists of a worksheet with percentage adjustments, which are shown in Exhibit 9. The most unusual part of the Indiana parenting-time adjustment is the controlled expenses. On the one hand, this means the formula does not produce a zero order when there is equal custody and equal timesharing. On the other hand, it clarifies which parent is responsible for some of the child-rearing expenses that are not always clearly allocated (e.g., which parent is responsible for purchasing the child's prom dress and which parent is responsible for purchasing the child's cell phone), since these are controlled expenses.

The Indiana formula to adjust the child support order for timesharing complements the Indiana parenting time guidelines that is used to help parents develop a parenting plan that spells out each parent's time with the child including holidays and pickup and drop-off times. Indiana strongly encourages the use of its parenting-time guidelines to establish a parenting plan and encourages that the parties file the parenting plan with the courts. Appendix D shows the link and table of contents to the parenting-time guidelines. (The actual guidelines are not attached because of their length.) The amount of time designated in the parenting-time plan is often used in the parenting-time formula to calculate the support order.

Comparison of Indiana, Missouri, and New Jersey

Exhibit 10 uses a case example where the parents have equal incomes to illustrate that the order amount never goes to zero when using these formulas unless there is a guidelines deviation. This is because of controlled expenses (i.e., there is always one parent who picks up the school fees or cellphone for the child).

⁶ Indiana Rules of Court. (Oct. 2016). Child Support Rules and Guidelines. Retrieved from https://www.in.gov/judiciary/rules/child_support/#6.

Exhibit 9: Indiana Parenting-Time Worksheet and Percentage Adjustment Table

Line:				
1PT	Enter Annual Number of Overnights			
2PT	Enter Weekly Basic Child Support Obligation – BCSO (Enter Line 4 from Child Support Worksheet)			
3PT	Enter Total Parenting Time Expenses as a Percentage of the BCSO (Enter Appropriate TOTAL Entry from Table PT)			
4PT	Enter Duplicated Expenses as a Percentage of the BCSO (Enter Appropriate DUPLICATED Entry from Table PT)			
5PT	Parent’s Share of Combined Weekly Income (Enter Line 2 from Child Support Worksheet)			
Percentage Adjustment				
		ANNUAL OVERNIGHTS		
		FROM	TO	TOTAL
		DUPLICATED		
6PT	Average Weekly Total Expenses during Parenting Time (Multiply Line 2PT times Line 3PT)	1	51	0
		52	55	0.062
		56	60	0.07
7PT	Average Weekly Duplicated Expenses (Multiply Line 2PT times Line 4PT)	61	65	0.08
		66	70	0.093
	
8PT	Parent’s Share of Duplicated Expenses (Multiply Line 5PT times Line 7PT)	151	155	0.623
		156	160	0.634
		161	165	0.644
9PT	Allowable Expenses during Parenting Time (Line 6PT – Line 8PT)	166	170	0.652
		171	175	0.66
		176	180	0.666
	Enter Line 9PT on Line 7 of the Child Support Worksheet as the Parenting Time Credit	181	183	0.675
				0.5

Strengths of Transferable/Fixed Cost Formulas

- Has a theoretical basis;
- Considers breakdown of actual child-rearing expenditures; and
- By definition, makes it clear which parent is responsible for the child’s clothing and school expenses.

Limitations of Transferable/Fixed Cost Formulas

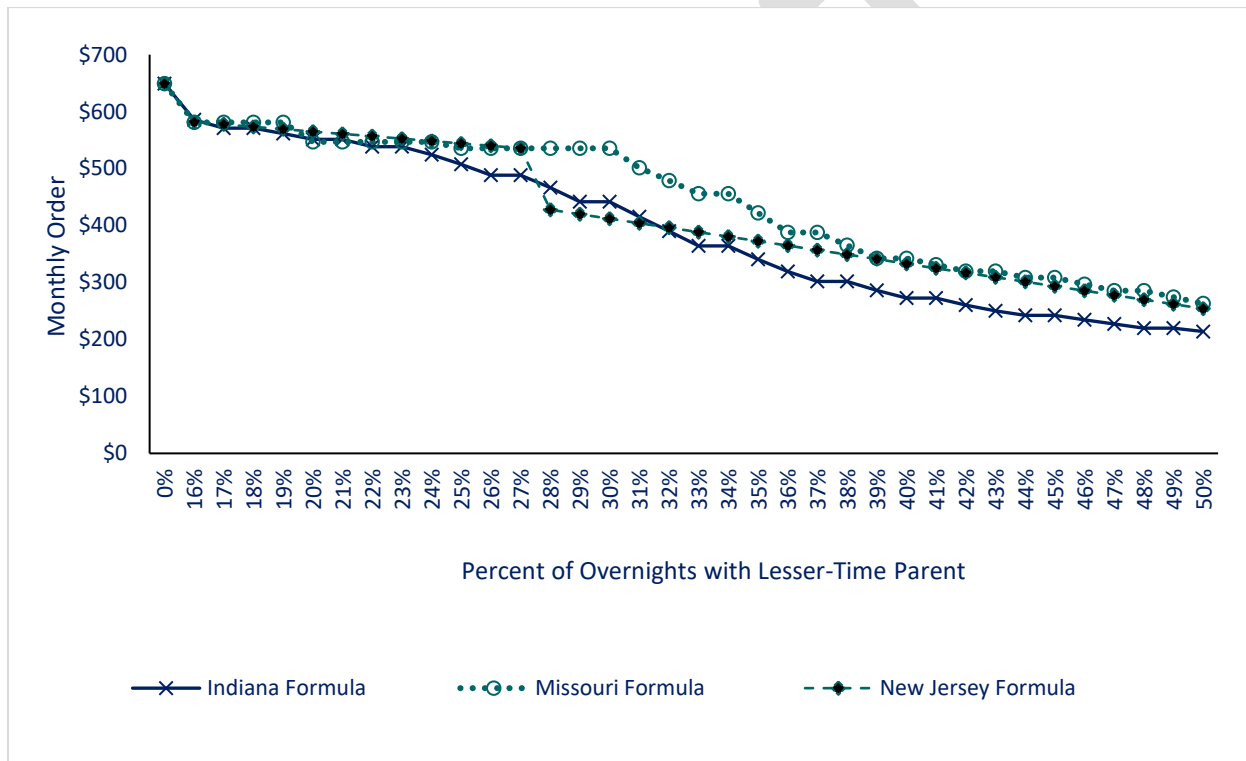
- Complicated to calculate;
- Does not allow for a zero order when there is equal income and equal custody (which is actually an arguable limitation depending on the policy perspective); and
- Does not always flip the paying-parent when greater-time parent is also the parent with greater income. (The Indiana formula can mathematically, but the Missouri formula cannot.)

Determining which parent is responsible for controlled expenses can be challenging, but both Indiana and Missouri provide clear guidance. Indiana has almost two decades of experience with the successful

implementation of its adjustment, which complements its parenting time guidelines and encouragement of the filing of a parenting plan with the courts. Missouri just adopted its adjustment and does not have statewide parenting-time guidelines.

Whether the formula does not result in a zero order when there is equal income and equal timesharing is a strength or weakness depends on the policy perspective. Similarly, whether the formula not allowing for the flipping of the paying-parent from the mother to the father or vice versa is a strength or weakness is also a policy perspective.

Exhibit 10: Illustration of how “Controlled Expenses” in Timesharing Adjustment Do Not Allow for a \$0 Order when There Is Equal Income and Equal Custody⁷



Non-Linear Formulas

In contrast to sliding-scale formulas, “non-linear” formulas do not produce the staircase effect with more parenting days. Usually, this is achieved by using exponential functions or taking something to the power of another value (e.g., squared when something is multiplied by itself and cubed when something is multiplied by itself thrice). Michigan, Minnesota, and Oregon use nonlinear formulas.

⁷ Adapted from Oldham, Thomas, & Venohr, Jane. (May 2021). “The Relationship between Child Support and Parenting Time.” *Family Law Quarterly*. Volume 43, Number 2. Available at <https://centerforpolicyresearch.org/publications/the-relationship-between-child-support-and-parenting-time/>.

Minnesota/Michigan Formula

After forming a legislated committee that extensively investigated alternative formulas, Minnesota decided to adopt Michigan's formula at the time. Minnesota's formula is shown below.

$$\frac{(A_o)^3(B_s)^3 - (B_o)^3(A_s)^3}{(A_o)^3 + (B_o)^3}$$

Where

A_o – Approximate annual number of overnights the children will spend with parent A

B_o – Approximate annual number of overnights the children will spend with parent B

A_s – Parent A's base support obligation

B_s – Parent B's base support obligation

As Minnesota deliberated the Michigan formula, Michigan changed its parameter from taking the number of overnights and base support obligations to the third power (as noted by the "3" in superscript) to a power of 2.5. The base of the formula is essentially a cross-credit. Taking it to the third power (or 2.5th power) results in a gradual decrease when the paying-parent has more time with the child. The higher the power, the more gradual the adjustment. Michigan originally started with using the second power, switched to the third power, and then settled to a power of 2.5. Minnesota extensively reviewed several formulas, including the Oregon formula, and, using different powers with the Michigan formula, it eventually settled on using the third power.⁸

Oregon Formula

Oregon consulted with a mathematics professor to develop an adjustment that gradually changes as the paying-parent had more time with the child, but results in a zero order when the parents have equal time with the child and equal incomes.⁹ The Oregon formula¹⁰ for determining each parent's parenting time credit percentage is:

$$1/(1+e^{(-7.14*((\text{overnights}/365)-0.5))})-2.74\%+(2*2.74\%*(\text{overnights}/365))$$

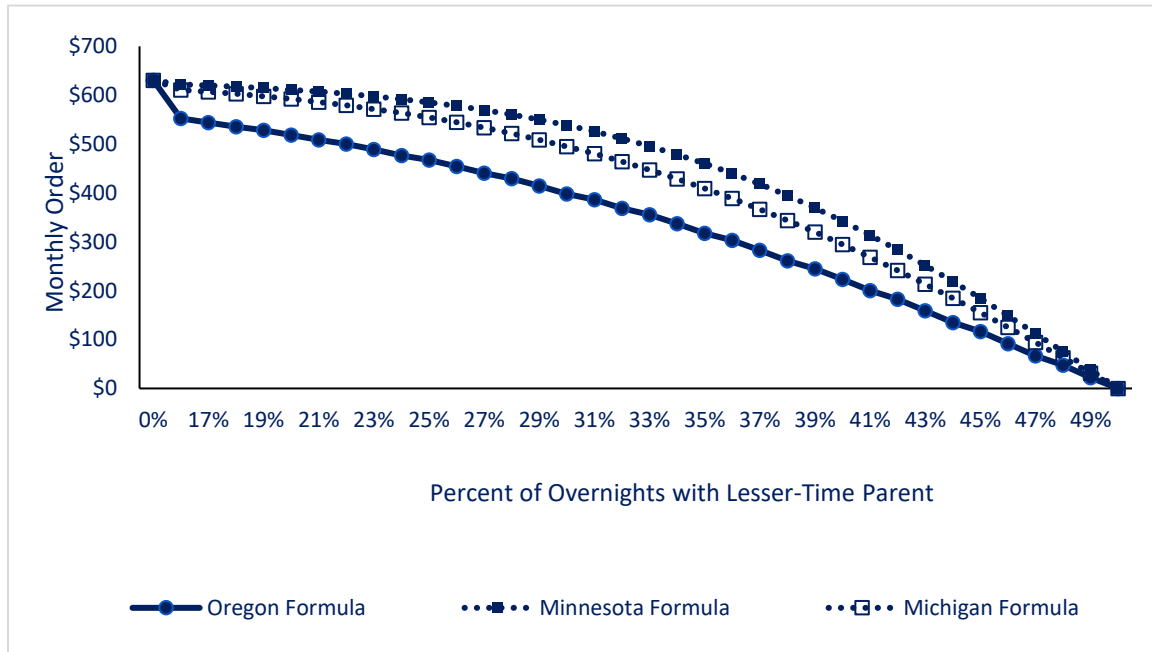
Oregon converted the formula into a table for ease of use. (Appendix C contains an excerpt of the table.) It results in a 0.07 percent credit for one overnight per year, a 0.14 percent credit for two overnights per year, a 0.21 percent credit for three overnights per year, and so forth up to a 49.75 percent credit for 182 overnights—effectively a 50.0 percent credit for 182.5 overnights.

⁸ Minnesota Department of Human Services Child Support Work Group. (Jan. 29, 2016) *Child Support Work Group Final Report*. Retrieved from <https://www.leg.state.mn.us/docs/2016/mandated/160242.pdf>.

⁹ Oregon Guidelines Advisory Committee. (May 27, 2012). *Oregon Child Support Program 2011-12 Child Support Guidelines Review: Report and Recommendations*. Retrieved from https://justice.oregon.gov/child-support/pdf/guidelines_advisory_committee_report_and_recommendations_2011-12.pdf.

¹⁰ Oregon Child Support Guidelines Rule OAR 137-050-07030. Retrieved from <https://justice.oregon.gov/child-support/pdf/137-050-0730.pdf>.

Exhibit 11: Illustration of Non-Linear Timesharing Formulas Using a Case Scenario Where the Parents Have Equal Income¹¹



Strengths of Non-Linear Formulas

- No cliff (precipitous decrease) with more time;
- Oregon believes its formula has reduced litigation since it was adopted;
- Can adjust for one night (which is an arguable strength depending on the policy perspective); and
- Produces \$0 order when equal income and equal custody (which is an arguable strength depending on the policy perspective).

Limitations of Transferable/Fixed Cost Formulas

- Complicated to calculate; and
- Difficult to explain.

Per Diem and Other Formulas

The Tennessee formula is a variation of a per-diem adjustment. Several state guidelines provide a per-diem adjustment, which essentially is a percentage adjustment for timesharing above a state-determined threshold. Under the Tennessee parenting-time formula, the paying-parent gets an adjustment based on the other parent's prorated share of the following: the paying-parent's number of overnights multiplied by 0.0109589 multiplied by the basic obligation (table amount) minus the basic obligation (table amount). Tennessee's formula only works for timesharing of 25 percent or more. It results in no adjustment if the obligee has no income. However, it produces

¹¹ Adapted from Oldham, Thomas, & Venohr, Jane. (May 2021). "The Relationship between Child Support and Parenting Time." *Family Law Quarterly*. Volume 43, Number 2. Available at <https://centerforpolicyresearch.org/publications/the-relationship-between-child-support-and-parenting-time/>.

a zero order when there is equal timesharing and equal income. The Tennessee guidelines presume standard parenting of 80 overnights per year. The formula applies when the number of overnights is 92 or more.

Strength of Per Diem Adjustment

- Per-diem concept is simple.

Limitations of Per Diem Adjustment

- Calculation of per diem amount is not simple to explain;
- Amount of adjustment does not become larger with more time; and
- Produces a zero adjustment when the obligee has no income (which is an arguable limitation depending on the policy perspective).

Exhibit 12: Definitions of Days in State Child Support Guidelines (Compiled in 2019)

Examples of How States Address Extraordinary Time: Listed from Least Restrictive to More Restrictive		
State	Overview of Measurement	Excerpt
MO	Court-ordered overnights	This adjustment is based on the number of periods of overnight visitation or custody per year awarded to and exercised by the parent obligated to pay support under any order or judgment.
MN	Permissible to use something other than overnights if the parent has significant time periods	The percentage of parenting time may be determined by calculating the number of overnights or overnight equivalents that a parent spends with a child pursuant to a court order. For purposes of this section, overnight equivalents are calculated by using a method other than overnights if the parent has significant time periods on separate days where the child is in the parent's physical custody and under the direct care of the parent but does not stay overnight.
IN	Recognizes "overnight" will not always mean 24-hour block. Encourages consideration of whether party feed or transported child	An overnight will not always translate into a twenty-four hour block of time with all of the attendant costs and responsibilities. It should include, however, the costs of feeding and transporting the child, attending to school work and the like. Merely providing a child with a place to sleep in order to obtain a credit is prohibited.
LA	Court discretion but no less than 4 hours can constitute a day	A day for the purposes of this Paragraph shall be determined by the court; however, in no instance shall less than four hours of physical custody of the child constitute a day.
TN	More than 12 consecutive hours	(10) "Days" — For purposes of this chapter, a "day" of parenting time occurs when the child spends more than twelve (12) consecutive hours in a twenty-four (24) hour period under the care, control or direct supervision of one parent or caretaker. The twenty-four (24) hour period need not be the same as a twenty-four (24) hour calendar day. Accordingly, a "day" of parenting time may encompass either an overnight period or a daytime period, or a combination thereof.
OR	Alternatives such as 12-hr blocks, but never less than 12 hour blocks	(a) Determine the average number of overnights using two consecutive years. ⁵ (c) Notwithstanding the calculation provided in subsections (2)(a) and (2)(b), parenting time may be determined using a method other than overnights if the parents have an alternative parenting time schedule in which a parent has significant time periods where the minor child is in the parent's physical custody but does not stay overnight. For example, in lieu of overnights, 12 continuous hours may be counted as one day. Additionally, blocks of time of four hours up to 12-hours may be counted as half-days, but not in conjunction with overnights. Regardless of the method used, blocks of time may not be used to equal more than one full day per 24-hour period. ⁵ Commentary: Parenting time cannot be calculated using speculative data. Since parenting time is calculated based on 365 days in a year, averaged over two

		consecutive years, practitioners may calculate the number of days spent with the parent for known periods of time (E.g., “The child will spend Memorial Day weekend with the Mother,”: quantifiable as 3 overnights). Unknown or unquantifiable periods of time would not be calculated (E.g., “The child will spend time during the summer months with the Father”: unquantifiable period of time; no overnights can be calculated). The determination of overnights applies to the parenting plan that will be followed while the new support order is in effect.
AZ	Breaks down to 3-hour blocks	<p>To adjust for the costs of parenting time, first determine the total annual amount of parenting time indicated in a court order or parenting plan or by the expectation or historical practice of the parents. Using the following definitions, add together each block of parenting time to arrive at the total number of parenting time days per year. Calculate the number of parenting time days arising from any block of time the child spends with the parent with less parenting time in the following manner:</p> <p>A. Each block of time begins and ends when that parent receives or returns the child from the primary residential parent or from a third party with whom the primary residential parent left the child. Third party includes, for example, a school or childcare provider.</p> <p>B. Count one day of parenting time for each 24 hours within any block of time.</p> <p>C. To the extent there is a period of less than 24 hours remaining in the block of time, after all 24-hour days are counted or for any block of time which is in total less than 24 hours in duration:</p> <ol style="list-style-type: none"> 1. A period of 12 hours or more counts as one day. 2. A period of 6 to 11 hours counts as a half-day. 4. A period of 3 to 5 hours counts as a quarter-day. 5. Periods of less than 3 hours may count as a quarter-day if, during those hours, the parent with less parenting time pays for routine expenses of the child, such as meals. <p>EXAMPLES: For the purposes of these examples, mother has parenting time 130 days per year and father is the primary residential parent.</p> <ol style="list-style-type: none"> 1. Mother receives the child at 9:00 p.m. on Thursday evening and brings the child to school at 8:00 a.m. on Monday morning, from which father picks up the child at 3:00 p.m. on Monday. <ol style="list-style-type: none"> a. 9:00 p.m. Thursday to 9:00 p.m. Sunday is three days. b. 9:00 p.m. Sunday to 8:00 a.m. Monday is 11 hours, which equals a half day. c. Total is 3 ½ days. 2. Mother picks the child up from school at 3:00 p.m. Friday and returns the child to school at 8:00 a.m. on Monday. <ol style="list-style-type: none"> a. 3:00 p.m. Friday to 3:00 p.m. Sunday is two days. b. 3:00 p.m. Sunday to 8:00 a.m. Monday is 17 hours, which equals one day. c. Total is 3 days. 3. Mother picks up child from soccer at noon on Saturday, and returns the child to father at 9:00 p.m. on Sunday. <ol style="list-style-type: none"> a. Noon Saturday to noon Sunday is one day. b. Noon Sunday to 9:00 p.m. Sunday is 9 hours, which equals ½ day. c. Total is 1 ½ days. <p>If the children have different parenting time schedules, then see Section 16 to determine the parenting time adjustment or to determine if separate worksheets are required. After determining the total number of parenting time days, refer to “Parenting Time Table A” below. The left column of the table sets forth numbers of parenting time days in increasingly higher ranges. Adjacent to each range is an adjustment percentage. The parenting time adjustment is calculated as follows: locate the total number of parenting time days per year in the left column of “Parenting Time Table A” and select the adjustment percentage from the adjacent column. Multiply the Basic Child Support Obligation determined under Section 8 by the appropriate adjustment percentage. The number resulting from this multiplication then is subtracted from the proportionate share of the Total Child Support Obligation of the parent who exercises parenting time.</p>

Exhibit 13: Examples of States with Timesharing Adjustment is a Deviation, but the Guidelines Provides a Formula

FLORIDA

(11)(a) The court may adjust the total minimum child support award, or either or both parents' share of the total minimum child support award, based upon the following deviation factors:

10. The particular parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties, such as where the child spends a significant amount of time, but less than 20 percent of the overnights, with one parent, thereby reducing the financial expenditures incurred by the other parent; or the refusal of a parent to become involved in the activities of the child.

(b) Whenever a particular parenting plan, a court-ordered time-sharing schedule, or a time-sharing arrangement exercised by agreement of the parties provides that each child spend a substantial amount of time with each parent, the court shall adjust any award of child support, as follows:

1. In accordance with subsections (9) and (10), calculate the amount of support obligation apportioned to each parent without including day care and health insurance costs in the calculation and multiply the amount by 1.5.
2. Calculate the percentage of overnight stays the child spends with each parent.
3. Multiply each parent's support obligation as calculated in subparagraph 1. by the percentage of the other parent's overnight stays with the child as calculated in subparagraph 2.
4. The difference between the amounts calculated in subparagraph 3. shall be the monetary transfer necessary between the parents for the care of the child, subject to an adjustment for day care and health insurance expenses.
5. Pursuant to subsections (7) and (8), calculate the net amounts owed by each parent for the expenses incurred for day care and health insurance coverage for the child.
6. Adjust the support obligation owed by each parent pursuant to subparagraph 4. by crediting or debiting the amount calculated in subparagraph 5. This amount represents the child support which must be exchanged between the parents.

South Carolina

A. SHARED PARENTING ARRANGEMENTS

When both parents are deemed fit, and other relevant logistical circumstances apply, active participation in the life of the child(ren) by the parent without custody should be encouraged in order to ensure the maximum involvement by both parents in the life of the child(ren). . The amount of visitation, however, is left to the discretion of the judge in consideration of the various factors of the Children's Code, and the use of the calculation on Worksheet C in shared physical custody cases is advisory and not compulsory. The court should consider each case individually before applying the adjustment to ensure that it does not produce a substantial negative effect on the child(ren)'s standard of living.

For the purpose of this section, shared physical custody means that each parent has court-ordered visitation with the children overnight for more than 109 overnights each year (30%) and that both parents contribute to the expenses of the child(ren) in addition to the payment of child support.

If a parent with shared physical custody does not exercise it as ordered by the court, the parent to whom support is owed may petition the court for a reversion to the level of support calculated under the guidelines without the shared parenting adjustment. The shared physical custody adjustment is an annual adjustment only and should not be used when the proportion of overnights exceeds 30% for a shorter period, e.g., a month. For example, child support is not abated during a month-long summer visitation. This adjustment should be applied without regard to legal custody of the child(ren). Legal custody refers to decision-making authority with respect to the child(ren). If the 109 overnights threshold is reached for shared physical custody, this adjustment may be applied even if one parent has sole legal custody.

1. Child support for cases with shared physical custody shall be calculated using Worksheet C. This worksheet should be used only for shared physical custody as defined above.
2. The basic child support obligation shall be multiplied by 1.5 to arrive at a shared custody basic child support obligation. The shared custody basic child support

*Exhibit 14: Excerpt from Tennessee Guidelines***(h) Reduction in Child Support Obligation for Additional Parenting Time.**

1. If the ARP spends ninety-two (92) or more days per calendar year with a child, or an average of ninety-two (92) days with all applicable children, an assumption is made that the ARP is making greater expenditures on the child during his/her parenting time for transferred costs such as food and/or is making greater expenditures for child-rearing expenses for items that are duplicated between the two (2) households (e.g., housing or clothing). A reduction to the ARP's child support obligation may be made to account for these transferred and duplicated expenses, as set forth in this chapter. The amount of the additional expenses is determined by using a mathematical formula that changes according to the number of days the ARP spends with the child and the amount of the BCSO. The mathematical formula is called a "variable multiplier."
2. Upon reaching the threshold of ninety-two (92) days, the variable multiplier shall be applied to the BCSO, which will increase the amount of the BCSO in relation to the ARP's parenting time, in order to account for the child-rearing expenses incurred by the ARP during parenting time. These additional expenses are divided between the parents according to each parent's PI. The PRP's share of these additional expenses represents an amount owed by the PRP to the ARP and is applied as a credit against the ARP's obligation to the PRP.
3. The presumption that more parenting time by the ARP results in greater expenditures which should result in a reduction to the ARP's support obligation may be rebutted by evidence.
4. Calculation of the Parenting Time Credit.
 - (i) First, the variable multiplier is determined by multiplying a standard per diem of .0109589 [$2 / 182.5$] by the ARP's parenting time determined pursuant to paragraph (7)(b) above. For example, the 94 days of parenting time calculated in the example from part (7)(b)4. above is multiplied by .0109589, resulting in a variable multiplier of 1.0301366 [$94 \times .0109589$].
 - (ii) Second, the variable multiplier calculated in subpart (i) above is applied to the amount of the parties' total BCSO, which results in an adjusted BCSO. For example, application of the variable multiplier determined above for ninety-four (94) days of parenting time to a BCSO of one thousand dollars (\$1000) would result in an adjusted BCSO of one thousand thirty dollars and fourteen cents (\$1030.14) [$\1000×1.0301366].
 - (iii) Third, the amount of the BCSO is subtracted from the adjusted BCSO. The difference is the child-rearing expenses associated with the ARP's additional parenting time. In the example above, the additional childrearing expenses associated with the ninety-four (94) days of parenting time would be thirty dollars and fourteen cents (\$30.14) [$\$1030.14 - \1000].
 - (iv) The additional child-rearing expenses determined in subpart (iii) above are pro-rated between the parents according to each parent's percentage of income (PI). The PRP's share of these additional expenses is applied as an adjustment against the ARP's pro-rata share of the original BCSO. For instance, if the PRP's PI is forty percent (40%), the PRP's share of the additional expenses in the example above would be twelve dollars and six cents (\$12.06) [$\$30.14 \times 40\%$]. The twelve dollars and six cents (\$12.06) is applied as a credit against the ARP's share of the BCSO, resulting in a child support obligation for the ARP of five hundred eighty-seven dollars and ninety-four cents (\$587.94) [$\$1000 \times 60\% = \$600 - \12.06].
 - (v) Once the BCSO is reduced for parenting time, only one parent will owe a BCSO. Once it is determined who that one parent is, that parent's AGI and number of children for whom support is being determined shall be checked against the "shaded area" to determine if the SSR applies to that parent. If...