

137-050-0730
Parenting Time Credit

(1) For the purposes of this rule:

(a) “Primary physical custody” means the parent provides the primary residence for the child and is responsible for the majority of the day-to-day decisions concerning the child.¹

(b) “Split custody” means that there are two or more children and each parent has at least one child more than 50 percent of the time.

(2) If there is a current² written parenting time agreement or court order providing for parenting time, calculate each parent's overnights for the minor children³ as follows⁴:

(a) Determine the average number of overnights using two consecutive years.⁵

(b) Add the total number of overnights the parent is allowed with each minor child and divide by the total number of minor children

¹ Commentary: A parent may be ordered to pay child support notwithstanding that parent's status as the custodial parent. Under ORS 25.240, a parent may be ordered to pay support attributable to those periods of time when s/he does not have physical custody of the children. *Matter of Marriage of Greenfield*, 130 Or App 632, 635-36 (1994).

² Commentary: The word “current” in “a current written parenting time agreement or court order providing for parenting time” acknowledges those situations where the current parenting time situation is not reflected in the last court order or written agreement. For example, assume Mother has custody of the child and Father has a court order for 30% parenting time. At some point, the child goes to live with the Father, and Mother now exercises parenting time. Father seeks a support order, but the existing custody order has never been changed. Pursuant to ORS 25.240, the parent with primary physical custody (now, the Father) may get a support order, regardless of the terms of the last custody order. In this circumstance, the existing custody (or parenting time) order is not “current” and, therefore, would not be used to calculate parenting time for child support. Support is calculated with no shared parenting time until a new written parenting time agreement or court order providing for parenting time is entered.

³ Commentary: Parenting time is calculated based on minor children and those 18-year-olds attending high school and living with a parent. See ORS chapter 107; *Matter of Marriage of Smith*, 44 Or App 635, 641 (1980); *Matter of Marriage of Miller*, 62 Or App 371, 374 (1983).

⁴ Commentary: Where the child support computation will be submitted as part of a petition that includes parenting time, the calculation should reflect the parenting included in the action. This applies primarily to private actions for dissolution (under ORS Chapter 107) and establishing paternity and/or parenting time for unmarried parents (under ORS Chapter 109). The Child Support Program will continue to require a written agreement or court order in order to consider shared parenting time in administrative actions.

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.

(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.

(3) If the parents have split custody but no written parenting time agreement, determine each parent's parenting time overnights by dividing the number of minor children with the parent by the total number of children and multiplying by 365.

(4) If there is no current written parenting time agreement or court order providing for parenting time, the parent or party having primary physical custody of the minor child will be treated as having all of the parenting time for that child unless a court or administrative law judge determines actual parenting time.

(5) If the court or administrative law judge determines actual parenting time exercised by a parent is different than what is provided in a written parenting plan or court order, the parenting time overnights may be calculated using the actual parenting time exercised by the parent.⁶

(6) Determine each parent's parenting time credit percentage as follows:

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

(a) The precisely computed credit percentage is preferred. However, where this is impractical (for example, when calculating support by hand) an approximate credit percentage can be determined by referencing the table at the end of this rule using the parents' average overnights determined in step 2, 3, or 4, rounding up or down to the nearest whole number of overnights.

(7) To determine the amount of each parent's parenting time credit:^{7 8}

⁶ Commentary: A finding of actual parenting time does not alter the written parenting time agreement or court order. If the parties want the written parenting time agreement to reflect the actual parenting time exercised the parties will need to amend the written parenting time agreement through the judicial process or stipulate to a new written parenting time agreement.

⁷ Commentary: This rule applies to parents whose child lives with a caretaker or is in state care. The caretaker has no obligation and needs no credit, but a credit is computed for each parent with parenting time.

⁸ Commentary: The assumptions underlying the formula include:

- Any parenting time creates some expenses for the parent
- Low levels of parenting time result in low levels of expenses, because there are fewer fixed, duplicated expenses like housing, and do not significantly decrease the expenses of the parent with greater parenting time.
- Higher levels of parenting time increase the likelihood that the parents will incur fixed, duplicated expenses.
- At equal parenting time, parents' expenses are most likely to be equal.

If each parent has the child 50% of the time and parental incomes are equal, no support would be owed.

(a) Determine the minor children's portion of the combined basic support obligation, as determined in OAR 137-050-0725(2), by dividing the combined basic support obligation by the total number of minor children and children attending school and multiply the result by the number of minor children only.

(b) Multiply the result by each parent's parenting time credit percentage.

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Stats. Implemented: ORS 25.270 – 25.290

Effective date: July 1, 2013

However, if each parent has 50% of the parenting time and one parent's income is greater than the other parent's, the parent with the larger income would pay some support. In either case, expenses such as child care or health care coverage could cause the opposite result.

Table: Parenting time credit percentage by number of overnights

Overnights	Credit %						
0	0.00%	36	3.19%	72	8.67%	108	17.77%
1	0.07%	37	3.30%	73	8.87%	109	18.09%
2	0.14%	38	3.42%	74	9.07%	110	18.41%
3	0.21%	39	3.54%	75	9.27%	111	18.73%
4	0.28%	40	3.66%	76	9.48%	112	19.06%
5	0.35%	41	3.78%	77	9.68%	113	19.39%
6	0.42%	42	3.91%	78	9.90%	114	19.72%
7	0.49%	43	4.04%	79	10.11%	115	20.06%
8	0.57%	44	4.16%	80	10.33%	116	20.40%
9	0.65%	45	4.30%	81	10.55%	117	20.75%
10	0.72%	46	4.43%	82	10.77%	118	21.10%
11	0.80%	47	4.56%	83	11.00%	119	21.45%
12	0.88%	48	4.70%	84	11.23%	120	21.81%
13	0.96%	49	4.84%	85	11.47%	121	22.17%
14	1.04%	50	4.98%	86	11.70%	122	22.54%
15	1.13%	51	5.12%	87	11.94%	123	22.90%
16	1.21%	52	5.27%	88	12.19%	124	23.27%
17	1.29%	53	5.41%	89	12.43%	125	23.65%
18	1.38%	54	5.56%	90	12.68%	126	24.03%
19	1.47%	55	5.71%	91	12.94%	127	24.41%
20	1.56%	56	5.87%	92	13.19%	128	24.80%
21	1.65%	57	6.02%	93	13.45%	129	25.19%
22	1.74%	58	6.18%	94	13.72%	130	25.58%
23	1.84%	59	6.34%	95	13.98%	131	25.98%
24	1.93%	60	6.51%	96	14.25%	132	26.38%
25	2.03%	61	6.67%	97	14.53%	133	26.78%
26	2.12%	62	6.84%	98	14.80%	134	27.19%
27	2.22%	63	7.01%	99	15.08%	135	27.60%
28	2.32%	64	7.19%	100	15.37%	136	28.01%
29	2.43%	65	7.36%	101	15.66%	137	28.43%
30	2.53%	66	7.54%	102	15.95%	138	28.85%
31	2.64%	67	7.72%	103	16.24%	139	29.27%
32	2.74%	68	7.91%	104	16.54%	140	29.70%
33	2.85%	69	8.09%	105	16.84%	141	30.13%
34	2.96%	70	8.28%	106	17.15%	142	30.56%
35	3.08%	71	8.47%	107	17.46%	143	31.00%

144	31.44%	181	49.24%	218	67.23%	255	81.59%
145	31.88%	182	49.75%	219	67.68%	256	81.91%
146	32.32%	183	50.25%	220	68.12%	257	82.23%
147	32.77%	184	50.76%	221	68.56%	258	82.54%
148	33.22%	185	51.26%	222	69.00%	259	82.85%
149	33.68%	186	51.76%	223	69.44%	260	83.16%
150	34.13%	187	52.27%	224	69.87%	261	83.46%
151	34.59%	188	52.77%	225	70.30%	262	83.76%
152	35.05%	189	53.27%	226	70.73%	263	84.05%
153	35.52%	190	53.77%	227	71.15%	264	84.34%
154	35.99%	191	54.27%	228	71.57%	265	84.63%
155	36.45%	192	54.77%	229	71.99%	266	84.92%
156	36.93%	193	55.27%	230	72.40%	267	85.20%
157	37.40%	194	55.77%	231	72.81%	268	85.47%
158	37.88%	195	56.27%	232	73.22%	269	85.75%
159	38.35%	196	56.77%	233	73.62%	270	86.02%
160	38.83%	197	57.26%	234	74.02%	271	86.28%
161	39.32%	198	57.75%	235	74.42%	272	86.55%
162	39.80%	199	58.25%	236	74.81%	273	86.81%
163	40.29%	200	58.74%	237	75.20%	274	87.06%
164	40.77%	201	59.23%	238	75.59%	275	87.32%
165	41.26%	202	59.71%	239	75.97%	276	87.57%
166	41.75%	203	60.20%	240	76.35%	277	87.81%
167	42.25%	204	60.68%	241	76.73%	278	88.06%
168	42.74%	205	61.17%	242	77.10%	279	88.30%
169	43.23%	206	61.65%	243	77.46%	280	88.53%
170	43.73%	207	62.12%	244	77.83%	281	88.77%
171	44.23%	208	62.60%	245	78.19%	282	89.00%
172	44.73%	209	63.07%	246	78.55%	283	89.23%
173	45.23%	210	63.55%	247	78.90%	284	89.45%
174	45.73%	211	64.01%	248	79.25%	285	89.67%
175	46.23%	212	64.48%	249	79.60%	286	89.89%
176	46.73%	213	64.95%	250	79.94%	287	90.10%
177	47.23%	214	65.41%	251	80.28%	288	90.32%
178	47.73%	215	65.87%	252	80.61%	289	90.52%
179	48.24%	216	66.32%	253	80.94%	290	90.73%
180	48.74%	217	66.78%	254	81.27%	291	90.93%

292	91.13%	329	96.81%				
293	91.33%	330	96.92%				
294	91.53%	331	97.04%				
295	91.72%	332	97.15%				
296	91.91%	333	97.26%				
297	92.09%	334	97.36%				
298	92.28%	335	97.47%				
299	92.46%	336	97.57%				
300	92.64%	337	97.68%				
301	92.81%	338	97.78%				
302	92.99%	339	97.88%				
303	93.16%	340	97.97%				
304	93.33%	341	98.07%				
305	93.49%	342	98.16%				
306	93.66%	343	98.26%				
307	93.82%	344	98.35%				
308	93.98%	345	98.44%				
309	94.13%	346	98.53%				
310	94.29%	347	98.62%				
311	94.44%	348	98.71%				
312	94.59%	349	98.79%				
313	94.73%	350	98.87%				
314	94.88%	351	98.96%				
315	95.02%	352	99.04%				
316	95.16%	353	99.12%				
317	95.30%	354	99.20%				
318	95.44%	355	99.28%				
319	95.57%	356	99.35%				
320	95.70%	357	99.43%				
321	95.84%	358	99.51%				
322	95.96%	359	99.58%				
323	96.09%	360	99.65%				
324	96.22%	361	99.72%				
325	96.34%	362	99.79%				
326	96.46%	363	99.86%				
327	96.58%	364	99.93%				
328	96.70%	365	100.00%				