

Adjustment for Extended Visitation – Number of Visitation Nights to be Counted in the Calculation (IC-CO-01-13)

Child Support Guidelines, N.D. Admin. Code § 75-02-04.1-08.1

Question: When calculating the extended visitation adjustment in cases in which extended visitation applies, should the total number of visitation nights be counted in the calculation or only the number of visitation nights which are associated with an extended visitation threshold?

Answer: The total number of visitation nights are to be counted when calculating the extended visitation adjustment in applicable cases. Pursuant to N.D. Admin. Code § 75-02-04.1-08.1(1), extended visitation is defined as visitation between an obligor and a child living with an obligee scheduled by court order to exceed 60 of 90 consecutive nights or an annual total of 164 nights (i.e., the extended visitation thresholds).

The formula for calculating the extended visitation adjustment in applicable cases is set forth in N.D. Admin. Code § 75-02-04.1-08.1(2). In part, the formula provides that for each child, it is necessary to "multiply the number of that child's visitation nights times .32 and subtract the resulting amount from three hundred sixty-five." (emphasis added)

Although not explicitly stated, the above-referenced language implies that the total number of visitation nights are to be counted in the calculation rather than only the number of visitation nights associated with an extended visitation threshold. For example, if a court order provides for summer visitation which exceeds 60 of 90 consecutive nights, thus meeting an extended visitation threshold, plus other specified weekend and holiday visitation periods, the total number of visitation nights (summer, weekend, and holiday) are to be counted, not merely the number of nights associated with summer visitation.

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