

## Shared Parenting and Residential Credit Subcommittee

This document contains recommendations made by a subcommittee of the 2019 Washington State Child Support Schedule Workgroup. It does not reflect any agreement or recommendation by the Workgroup as a whole, but has been prepared for purposes of discussion and may be used in the drafting of the Workgroup's Report to the Legislature, depending on whether the Workgroup adopts any or all of the recommendations of the subcommittee.

### Overview

Address Residential credit in significantly shared parenting schedules to provide balance in both households actively engaged in parenting children.

Maintain TANF.

### Key Issues

1. Determine threshold for determining whether a parenting schedule should be considered substantially shared.
2. Determine how parenting time should be quantified/calculated.
3. Eliminate the need for findings of fact specific to increased/decreased expenses in significantly shared parenting schedules, instead concentrating on the totality of circumstances in each household to determine whether a deviation is appropriate, and if so, in what amount.
4. Allow for process to be utilized in administrative as well as superior court matters.
5. Maintaining the preclusion of a deviation for TANF recipients.
6. Allowing for a modification procedure for substantial failure to follow the shared plan once a deviation is entered.

### Findings and Recommendation

1. We counted time (hours) in many common parenting plans to determine significantly shared. It was something of a shock to see that in a plan that was only one (1) overnight a week off from a pure 50/50 was only 35% of parenting time. Setting the threshold at this level limits the number of plans that would qualify for this finding, as it then becomes a bit easier to obtain a proper deviation. Plans 35%-50% would qualify.
2. While calculating time in the research to determine threshold, it became clear that hours were necessary for determining the total parenting time fairly and accurately. This is consistent with the caselaw that led to the revision of the relocation statute when determining what quantifies as a "substantially shared" plan. (Note: we chose to use the term "significantly shared" to differentiate this threshold from the threshold in "substantially shared" plans as determined in the relocation statute)

3. Case law that has interpreted the current statute requires findings about increased/decreased expenses to determine whether a deviation should apply. Common sense tells us that if parents are parenting their children in a significantly shared schedule, they have significantly similar expenditures to meet the children’s basic needs. It would then be necessary to look at each household to make sure the receipt/payment of support does not put either person into a more/less favorable position vis a vis the other parent who is also parenting in a significantly shared capacity.
4. The deviation would not be an automatic consideration. Specific findings are required as to whether a formal parenting order, or testimony of the parties supports a finding of a significantly shared plan. Then the deviation would need to be requested, and findings made as to whether to deviate, and in what amount after a look at the totality of the circumstances in each party’s household.
5. No change to language regarding TANF recipients. We did consider many issues regarding TANF, such as those who are receiving it inappropriately. There is also circumstance when one household may have a TANF grant, and so does the other, but for another child not in common to the two parties. However, the number of times of a proper grant would surely outnumber those who falsely obtained the grant, and legislating for those few cases did not seem appropriate at this time

We also tried to define the term “insufficient funds” by tying it to the federal poverty standard. This proved to be too burdensome with the multitude of combinations regarding family size, the amount of time this family size applied, and the further complication of blended families. We determined that leaving it undefined, as it is currently, allows for the same discretion as currently for a determination, again based on the totality of circumstances. The intent is to not let either parent try to parent with insufficient funds

6. We’ll pull the language for the last workgroup to allow for a modification for parents who seek a shared plan to obtain a deviation and then fail to provide the parenting time for which the deviation was obtained.

## Citations