

NO. 68357-8

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

In Re: the Marriage of:
DANIEL MCMINN

Petitioner,

v.

LORI MCMINN,

APPELLANT

REPLY BRIEF OF APPELLANT

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68357-8
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12/13/09

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COMES NOW the Appellant, Lori McMinn, (Hereinafter referred to as “Mother.”) by and through her attorney Bruce O. Danielson of the Danielson Law Office, P.S. and submits the following Reply Brief of Appellant.

I. ARGUMENT

A. IT IS UNCONTESTED THAT THE MOTHER’S CLAIM FOR UNPAID CHILD SUPPORT IS NOT BARRED BY THE STATUTE OF LIMITATIONS.

The Mother challenged the ruling of Commissioner Waggoner that the Mother’s claim for past due child support pursuant to the Indiana Order of Support is barred by the statute of limitations. Neither the law of Indiana, nor Washington, time bars the Mother’s claim for unpaid child support.

The law on this issue has been fully briefed by the Appellant and has not been challenged or addressed by the Father in his Response. As a matter of law, the lower Court clearly erred in ruling that the Mother’s claim for unpaid child support, pursuant to the Indiana Order of Support, is barred by the Statute of Limitations and is not enforceable in Washington.

B. MOTHER IS ENTITLED TO APPEAL AS A MATTER OF RIGHT.

Court Commissioner Waggoner ruled that the Mother was barred from pursuing in Washington unpaid child support, arising from a Court Order of Support from Indiana, because the claims for unpaid support were barred by statute of limitations and the child was emancipated shortly after his 18th birthday. Court Commissioner Waggoner also ruled, after having terminated any claim the Mother might pursue in Washington for unpaid child support, that the dismissal was without prejudice. As argued below, the dismissal of the claim for unpaid child support terminated forever the Mother's right to seek unpaid child support in Washington. The provision of the Order that the dismissal was without prejudice is meaningless in its application. The only sums sought by the Mother are those sums alleged to be due and owing as part of the Mother's exercise of her right to register and enforce in Washington the Indiana Order of Support.

1. *The Decision of the Court Commissioner is Appealable as a Matter of Right Per RAP 2.2(a)(1).*

RAP 2.2(a)(1) provides for the right of appeal from any final judgment. The lower Court ruled that the Mother's claim for unpaid child support is barred, per RCW 26.21A.530(g), by the statute of limitations.

The ruling of Commissioner Waggoner is an absolute and final judgment in that it prevents the Mother, at any future time, from arguing or raising the issue of unpaid child support as a cause of action in Washington. There are no other claims for unpaid child support that the Mother can make that have not been dismissed as time barred.

The lower Court ruled that the Mother cannot register the Indiana Order of Support and enforce same due to the child's emancipation under Washington law. This Order results in an absolute and final determination of the rights of the Mother, pursuant to RCW 26.21A.500, et. seq., to register and enforce the Indiana Order of Support in Washington and to collect unpaid child support due and owing after the child's 18th birthday.

The final Order of Commissioner Waggoner states that the matter was dismissed without prejudice makes no sense. The claim made by the

Mother is limited to unpaid child support, which claim has been dismissed as either barred by the statute of limitations or emancipation.

In his Response, the Father fails to identify what issues of unpaid child support are left for determination in Indiana. The Father is asking this Court to look past the practical effect and final determination of the Order Striking Registration.

2. *The Decision of the Court Commissioner is Appealable as a Matter of Right Per RAP 2.2(a)(3).*

RAP 2.2 (a)(3) provides the right of appeal of “Any written decision affecting a substantial right in a civil case that in effect determines the action and prevents a final judgment or discontinues the action.”

The Order on Motion to Strike Registration denies the Mother her right to file and enforce the Indiana Order of Support in Washington pursuant to RCW 26.21A.500. The Order on Appeal represents a determination of the merits of the Mother’s claim for unpaid child support pursuant to a lawful and binding Order from the Court in Indiana, the Order denies the Mother a final judgment for the sums claimed as due and

owing and discontinues any action the Mother may maintain in Washington for unpaid child support.

The Father's reliance upon the holding In re the Marriage of Molvik, 31 Wn. App. 133, 639 P.2d 238 (1982) that an Order of Dismissal Without Prejudice is not appealable as a matter of right is misplaced. In Molvik, supra, the Washington claims which were dismissed in one proceeding, yet the same claims could be asserted in a separate proceeding and for the same relief. In this case, the Court Commissioner denied the Mother her Constitutional and Statutory right to file and enforce the Indiana Order of Support in Washington when she ruled that the unpaid child support claim, the only claim made by the Mother, is barred by the statute of limitations and/or emancipation.

The Order of Commissioner Waggoner disposed of all of the Mother's claims and foreclosed the Mother's right, pursuant to RCW 26.21A.500, to file and enforce a claim for unpaid child support. In Rose v. Fritz, 104 Wn. App. 116, 15 P.3d 1062 (2001) the Court of Appeals determined that a dismissal, without or without prejudice, is final when it disposes of all claims of the parties.

“Where a dismissal without prejudice has the effect of discontinuing the action, the dismissal is appealable.” Munden v. Hazelrigg, 105 Wn. 2d 39, 44, 711 P. 2d 295 (1985). Regardless of the language used by Commissioner Waggoner, the substance of the decision terminated the Mother’s right to file and enforce an Indiana Order for unpaid child support in Washington.

C. THE LOWER COURT COMMITTED AN OBVIOUS AND PROBABLE ERROR OF LAW AND DISCRETIONARY REVIEW IS APPROPRIATE.

If this Court determines that the Mother cannot appeal as matter of right, the Mother’s appeal should be allowed to proceed as a discretionary review pursuant to RAP 2.3. Discretionary review is available to the Mother when “(1) The superior court has committed an obvious error which would render further proceedings useless.” RAP 2.3(b)(1) or the superior court has committed “[P]robable error which substantially alters the status quo or substantially limits the freedom of a party to act.” RAP 2.3(b)(2).

The decision of Commissioner Waggoner terminated the Mother’s right, pursuant to RCW 26.21A.500, to register and enforce the Indiana Order of Child Support in Washington. The Mother’s freedom to act in

Washington to enforce the Indiana Order of Child Support has been terminated. Commissioner Waggoner's Order appears to allow the Mother to return to Indiana to pursue other claims not barred by her Order. The problem for the Mother that she has no other claims that have not been terminated and would render further proceedings useless in Washington.

Court Commissioner Waggoner committed an obvious error of law by ruling that the claims of the Mother were barred by the statute of limitations/emancipation and barring registration of the Indiana Order of Child Support in Washington. The Order of Commissioner Waggoner precludes further action by the Mother in Washington.

D. THE LOWER COURT EXCEEDED ITS JURISDICTIONAL AUTHORITY BY DENYING REGISTRATION OF THE INDIANA ORDER OF CHILD SUPPORT BASED UPON EMANCIPATION.

The Washington Court lacks jurisdictional authority to alter, amend or otherwise change the nature, extent and duration of the Indiana Order of Child Support. RCW 26.21A.515(1)(A). "The legislature has limited the superior courts' authority— not the superior courts' jurisdiction—to modify another state's child support order by adopting the UIFSA." (Citations omitted.) Schneider v. Almgren, 173 Wn.2d 353, 360, 268 P.3d 215 (2011)

If emancipation of the child took place prior to his 21st birthday, it must be determined to have happened in accordance with the laws of Indiana.

1. *Per the Indiana Order of Child Support and the Laws of the State of Indiana, Emancipation Did Not Take Place Prior to the Child's 21st Birthday.*

The Full Faith and Credit for Child Support Orders Act of 1994 (FFCCSOA) requires States to give full faith and credit to child support orders issued by other States, *28 U.S.C. § 1738B*.

RCW 26.21A.515(1)(a) requires the Washington Court to utilize the law of issuing state, in this case Indiana, to determine the nature, extent, amount and duration of support. The duration of support, is determined by the original Indiana Child Support Order (CP 148) and the laws of Indiana, which duration of support may not be unilaterally changed by a Washington Court.

The Father does not deny that the Order of Child Support requires him to pay child support and post-secondary support. The Father alleges that when his son entered college and his education expenses, for which

the Father was 100% responsible was paid by a trust, it automatically emancipated the child under Indiana law.

It should first be noted that emancipation and the statute of limitations were not defenses raised by the Father in opposition to the filing of the Indiana Order of Support. RCW 26.21A.530 presents very specific and limited grounds to object to registration of a child support obligation in Washington. The Father elected to argue, per RCW 26.21A.530(f), that he had paid his child support obligation in full. This unsupported argument of payment in full of his child support obligation is addressed below.

To decide if the Father's was relieved of his Indiana Child Support obligation through emancipation, we must first look to the Indiana Order of Child Support which Order was agreed to by the Father with the advice of counsel.

The Order of Child Support states in paragraph 5. Child Support:

Subject to **further order of the Court**, Husband shall pay to Wife, as and for support of the minor child of the parties, the sum of Ninety Six Dollars and Ninety Two Cents (\$96.92) per week, . . . Said payments shall continue until said child shall be come emancipated, married or **twenty-one (21) years of age**." (Emphasis added.) CP154

The Father ignores the plain language of the Indiana Order of Child Support in arguing that his son was emancipated when he turned eighteen years old. The Order of Child Support plainly states in paragraph 5, the payment of child support continues until his son's 21st birthday pending **“further order of the Court, . . . “** CP 154

The Father's argument that emancipation is presumed by his son's enrollment in college is directly contradicted by the Order of Child Support, paragraph 8 which Order expressly states: “In **addition** to the provisions for **child support** set forth in this Agreement, **Husband shall pay** costs and expenses for the post-secondary education of the child of this marriage. . . .” CP 155.

The Father's argument that emancipation is presumed by his son's enrollment in college is directly contradicted by Indiana law. **IC § 31-16-6-6 Termination or modification of child support; emancipation of child**, which provides in pertinent part:

Sec. 6. (a) The duty to support a child under this chapter ceases when the child becomes twenty-one (21) years of age unless any of the following conditions occurs: . . .

3) The child:

(A) is at least eighteen (18) years of age;

(B) has not attended a secondary school or postsecondary educational institution for the prior four (4) months and is not enrolled in a secondary school or postsecondary educational institution; and

(C) is or is capable of supporting himself or herself through employment.

In this case the child support terminates **upon the court's finding that the conditions prescribed in this subdivision exist.**

(Emphasis added.)

The Court Commissioner correctly held, which ruling is unchallenged by the Father: “There are no orders out of Indiana modifying child support or emancipating the child prior to age 21.” CP 30.

The Father argues that he should not have to pay child support because the child was in college and that somehow the Mother was relieved of **his** duty to pay post secondary college expenses. This argument does not represent the clear and unequivocal requirements of Indiana Order of Child Support and the laws of Indiana.

Vagenas v. Vagenas, 879 NE 2d. 1155, 1158 (2008) was cited by the Father for the proposition that somehow he was relieved of his child support obligation when his son turned eighteen. The holding in Vagenas, supra, affirms the Mother’s argument that “[A] parent subject to a support order must make payments in accordance with that order until the court modifies and/or sets aside the order.” (Citations omitted.) Vagenas,

supra, at 1158. The Order of Child Support, the Indiana Code and Indiana case law require a Court Order to modify or set aside a child support obligation.

The Father goes to great lengths to confuse child support with post secondary educational support. “Child support orders and educational support orders are separate and distinct.” (Citations omitted.) Vagenas, supra, at 1158. The Father makes the illogical argument that because another entity paid his son’s educational expenses, which he was required to pay, it relieved the Mother of this debt and excused him from paying child support!?! The issue before the Court Commissioner, and now before this Court, is limited to enforcement of a debt for unpaid child support.

2. The Washington Court Improperly and Retroactively Modified Support.

Court Commissioner Waggoner ruled, contrary to the express language in the Indiana Order of Support and the laws of Indiana, that the child was emancipated while he was eighteen (18) years of age. The parties’ son is over 21. Because no Order was issued by the Indiana Court terminating the Father’s support obligation prior to his son’s 21st birthday, the ruling of Commissioner Waggoner constitutes a retroactive

modification of child support. The ruling by Commissioner Waggoner unilaterally voided a prior Indiana Order which required the payment of child support until the child's 21st birthday unless modified by Court Order.

Federal law provides that every child support installment becomes a judgment by operation of law as it comes due and is ***not subject to retroactive modification***. (Emphasis added) 42 U.S.C. § 666(a)(9).

The law of Indiana is also very clear that you cannot retroactively modify support.

“Therefore, “a court may not retroactively reduce or eliminate child support obligations after they have accrued.”” (Citations omitted.) Vagenas v. Vagenas, 879 NE 2d. 1155, 1158 (2008).

The Father argues that Indiana law is sympathetic to private agreements about child support. In making this argument, the Father fails to cite to the record proof any private agreement to waive the Father's child support obligation. In the Mother's Supplemental Declaration, paragraph 9, she denies there was any agreement to waive the Father's child support obligation. CP 35.

E. THE UNPAID CHILD SUPPORT OBLIGATION HAS BEEN ESTABLISHED AND THE ORDER OF SUPPORT AND JUDGMENT SHOULD HAVE BEEN REGISTERED IN WASHINGTON.

The Father argues that a Judgment was not entered because the Mother failed to provide an exact calculation of unpaid support. This argument is factually incorrect and directly contradicted by the pleadings presented to Commissioner Waggoner.

In the proceeding before Commissioner Waggoner on December 12, 2011 the Court questioned the sum claimed by the Mother and incorrectly asserted that the Mother did not meet **her** burden of proof to establish the child support arrears. 12/12/11 RP 6- 8. The Father has the **burden of proof**, per RCW 26.21A.530(1), to show that he has made **all** required child support payments as he claimed as his defense to registration of the Indiana Order of Child Support.

At the conclusion of the hearing, Commissioner Waggoner stated she was taking the issues under advisement and invited counsel for the parties to submit additional briefing or substantive materials. 12/12/11 RP 17-18.

Despite the fact that the burden to prove payment of the support obligation is that of the Father, the Mother submitted a Supplemental Declaration setting forth the exact amount of past due child support due and owing from the Father. The Mother provided an exact figure as to unpaid child support with a spreadsheet detailing payments made, missed child support payments and partial child support payments. CP 38 & 39 The ruling of Commissioner Waggoner denying registration and enforcement of the Indiana Order of Support for a sum certain was directly contradicted by the law and the evidence presented to the Court.

Because the Father did not prove his defense, payment in full of his child support obligation, in accordance with RCW 26.21A.530, “[T]he registering tribunal shall issue an order confirming the order.”

As argued to Commissioner Waggoner and in the Mother’s briefing, Full Faith and Credit requires Washington to recognize and enforce the Indiana Order of Child Support. 28 U.S.C. §1738 and §1738B. Enforcement is carried out in Washington through the Uniform Family Support Act (UIFSA), adopted by Washington under RCW 26.21A.

The UIFSA addressed this "chaos" by establishing a "one-order" system for child support orders by providing that one state would have continuing exclusive jurisdiction over the order. *Id.* at 139-40. The UIFSA enforces the one-order system in a variety of ways, including registration of out-of-state child support orders for either enforcement, modification, or both. *See* Kemper, *supra*, § 2; *see also* RCW 26.21A.500-A.515 (enforcement); In re Schneider, 173 Wn. 2d 353, 358-359, 268 P.3d 215 (2011)

Both States (the original State or the State of current residency of the obligor) have concurrent jurisdiction when it comes to the setting of an arrears judgment and payment plan. It is a "first to the trough" issue regarding the determination of arrearages. Whichever State makes the arrears determination first (either the original State or the second State – and set as either a lump sum judgment or an automatic judgment via UIFSA registration) that such judgment and any payment plan from such judgment "must" be recognized by the original State. Under the Full Faith and Credit Act, 28 U.S.C. 1738, either State must accept the other State's judicial setting of the arrears.

F. LACHES, EQUITY AND UNJUST ENRICHMENT ARE NOT ISSUES ON APPEAL.

The Father argues Washington legal theories of laches, unjust enrichment and relief in equity support the ruling of Commissioner Waggoner. Washington law, including claims of laches, equity and unjust

enrichment, do not control the nature, extent and duration of the Father's support obligation per the Indiana Order of Support. RCW

26.21A.515(1)(a). Furthermore, laches, equity and unjust enrichment were not Orders from which the Mother is appealing, and such claims are not recognized defenses to registering the Indiana Order of Child Support.

RCW 26.21A.530

The Mother will not expend time or effort on issues not properly before this Court, and on "issues" involving the application of Washington law and issues not appealed when the law of Indiana controls. It is well established and "black letter law" that Indian law controls the nature, extent and duration of child support. RCW 26.21A.515(1)(a)

The Father's argument that deference should be given to the Order of Commissioner Waggoner, based upon the credibility of the parties, is inapplicable. The issue to be decided, the payment of child support, requires objective proof of payment of child support by the Father. RCW 26.21A.530(1). The Father failed to provide the necessary proof of payment in full of his child support obligation.

G. THE MOTION FOR REVISION WAS TIMELY BASED ON THE NOTICE GIVEN.

At the first hearing in this matter on December 12, 2011, Commissioner Waggoner took the matter under advisement because “[I]t is strictly a legal issue.” 12/12/11 RP 17.

Commissioner Waggoner set the next hearing for January 18th, 2012 and stated it would be handled without oral argument. 12/12/11 RP 17-18.

Commissioner Waggoner did not issue an Order on January 18th, 2012. Instead, Commissioner Waggoner signed an Order on January 26, 2012. CP 30. Not until January 31, 2012 did the Clerk of the Court mail a copy of the Order to counsel for the parties. CP 25 The Mother filed and served her Motion for Revision on February 8, 2012. CP 15

The Mother concedes that a strict and unbending reading of RCW 2.24.50 and the holding in Robertson v. Robertson, 113 Wn. App. 711, P.3d 708 (2002) results in the Mother’s Motion for Revision being untimely. As strictly applied, the holding in Robertson, supra, deprives the Mother of procedural due process in violation of Article I § 3 of the Washington State Constitution in that the Mother did not get fair and adequate notice of entry of the Order from which she sought revision.

The problem inherent in this case, which can and will occur in other cases in Washington, is when the Court takes a matter under advisement, issues an Order without prior notice and the County Clerk fails to mail out the Order in a timely fashion. The errors and omissions of the Court, over which the Mother has no control, results in a denial of timely notice of the entry of an Order and precluded the filing of a timely response.

The relevant time line is as follows:

January 26, 2012, Order on Motion to Strike Registration signed by Commissioner Waggoner. CP 30

January 27, 2012, the Order was filed with the Court. CP 30

January 31, 2012, the Order was mailed to counsel for the parties.
CP 25

February 3, 2012, the Order was received by counsel for the respondent. CP 187

February 8, 2012, the respondent filed and served its Motion for Revision. CP 15

Entering his Order Striking the Motion for Revision as untimely, Judge Lucas strictly adhered to RCW 2.24.050 and Robertson v. Robertson, supra, without regard to actual notice received by the Mother of the entry of the Order in issue. In his Order, Judge Lucas specifically found: “The Court finds five days was sufficient notice.” CP 8

In his Response, the Father ignores the issue of timely and adequate notice. The Mother will not repeat the Washington Constitutional and case law augments set forth in her opening brief that the notice of the entry of the Order in issue did not provide timely notice and an opportunity to be heard.

The ruling in Robertson v. Robertson, 113 Wn. App. 711, P.3d 708 (2002) should be modified to reflect that the ten days period of time allowed for filing a Motion for Revision begins to run from the date of receipt of the Order to be challenged, or if the Order is mailed, the Order is presumed to be received three days after mailing and the ten days to file a Motion for Revision begins to run thereafter.

II. CONCLUSION.

The lower Court made an obvious error of law in denying the Mother the right to register and enforce the Indiana Order of Support in Washington and denying the Mother a judgment for unpaid child support in the sum of \$44,445.00 as of December 30, 2011.

The Father does not contest the validity of the Indiana Order of Support. The Father alleged payment in full of his child support obligation, but failed to provide the necessary proof of payment in full of his child support obligation.

The Father alleged his child was emancipated when he turned 18. The controlling Order of Child Support, and the law of Indiana, require the Father to pay child support until his son's 21st birthday unless otherwise Ordered by the Indiana Court. The Indiana Order of Support was never modified or changed and sets forth the Father's support obligation. The Father wants to be relieved of a duty he agreed to, which agreement was Ordered by the Indiana Court.

The issue before the lower Court and now this Court is *very simple*: Did the Father prove payment in full of his child support obligation pursuant to the express and binding terms of the Indiana Order

of Support? The answer from the pleadings and evidence before the Court is NO and the ruling of Court Commissioner Waggoner can and should be reversed.

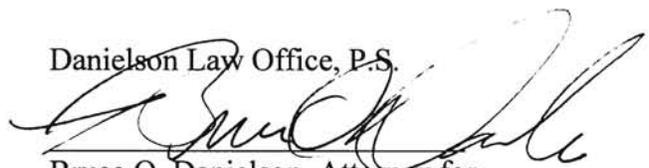
Because the Father did not pay his Indiana child support obligation in full, and in accordance with RCW 26.21A.530(3), “If the contesting party does not establish a defense under subsection (1) of this section to the validity or enforcement of the order, the registering tribunal *shall* issue an order confirming the order.” (Emphasis added.)

This Court should reverse the January 26, 2012 Order on Motion to Strike Registration in that it denies registration of the Indiana Order of Support and should issue a mandate directing the Snohomish County Superior Court to enter a Judgment in favor of the Mother, pursuant to her claim for unpaid child support, in the sum of \$44,445.00 as of December 30, 2011, with interest thereon pursuant to the laws of Indiana. Furthermore, the Mother is entitled to the award of her attorneys’ fees and costs for being forced to maintain this action both in the Superior Court and on Appeal.

In addition, the Court of Appeals should recognize that many matters are taken under advisement by the Courts with Orders signed and issued without specific notice to counsel or the parties. When the Court or the County Clerk holds an Order, in this case it is five (5) days after the Order is entered before the Order is mailed to the parties, the time to file a Motion for Revision should begin to run upon actual or presumed receipt, i.e. receipt by mail is presumed three days after mailing. Civil Rule 6(e).

Dated this 28th day of June 2012.

Danielson Law Office, P.S.



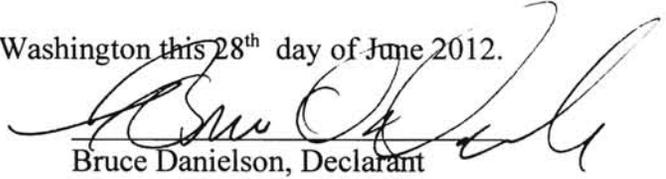
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CERTIFICATE OF SERVICE.

I certify under penalty of perjury under the laws of the State of Washington that on the 28th day of June 2012, I forwarded to counsel for the Respondent, Carolyn J. Balkema, Landrum and Balkema, 9100 Roosevelt Way NE., Seattle, WA 98115, which envelope contained a copy of the foregoing Reply Brief of Appellant.

I SWEAR UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at Port Orchard, Washington this 28th day of June 2012.


Bruce Danielson, Declarant

**APPENDIX WITH COPIES OF CITED CONSTITUTIONAL
AND STATUTORY AUTHORITY**

CONSTITUTIONAL PROVISIONS.

Article I. § 3 of the Washington Constitution

STATUTES.

Washington Statutes

RCW 2.24.050
RCW 26.21A.500
RCW 26.21A.515
RCW 26.21A.530

Indiana Statutes

Indiana Code 31-16-6-6

UNITED STATES CODE

28 U.S.C. § 1738

28 U.S.C. § 1738B

42 U.S.C. § 666(a)(9)

CIVIL RULES

CR 6

Washington State Constitution
PREAMBLE

We, the people of the State of Washington, grateful to the Supreme Ruler of the Universe for our liberties, do ordain this constitution.

ARTICLE I
DECLARATION OF RIGHTS

SECTION 3 PERSONAL RIGHTS. No person shall be deprived of life, liberty, or property, without due process of law.

APPENDIX

RCW 2.24.050
Revision by court.

All of the acts and proceedings of court commissioners hereunder shall be subject to revision by the superior court. Any party in interest may have such revision upon demand made by written motion, filed with the clerk of the superior court, within ten days after the entry of any order or judgment of the court commissioner. Such revision shall be upon the records of the case, and the findings of fact and conclusions of law entered by the court commissioner, and unless a demand for revision is made within ten days from the entry of the order or judgment of the court commissioner, the orders and judgments shall be and become the orders and judgments of the superior court, and appellate review thereof may be sought in the same fashion as review of like orders and judgments entered by the judge.

APPENDIX

RCW 26.21A.500

Registration of order for enforcement.

A support order or income-withholding order issued by a tribunal of another state may be registered in this state for enforcement.

RCW 26.21A.515

Choice of law.

(1) Except as otherwise provided in subsection (4) of this section, the law of the issuing state governs:

(a) The nature, extent, amount, and duration of current payments under a registered support order;

(b) The computation and payment of arrearages and accrual of interest on the arrearages under the registered support order; and

(c) The existence and satisfaction of other obligations under the registered support order.

(2) In a proceeding for arrears under a registered support order, the statute of limitation of this state or of the issuing state, whichever is longer, applies.

(3) A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrears and interest due on a support order of another state registered in this state.

(4) After a tribunal of this or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state issuing the registered controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

RCW 26.21A.530

Contest of registration or enforcement.

(1) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(a) The issuing tribunal lacked personal jurisdiction over the contesting party;

(b) The order was obtained by fraud;

(c) The order has been vacated, suspended, or modified by a later order;

(d) The issuing tribunal has stayed the order pending appeal;

(e) There is a defense under the law of this state to the remedy sought;

(f) Full or partial payment has been made;

(g) The statute of limitation under RCW 26.21A.515 precludes enforcement of some or all of the alleged arrearages; or

(h) The alleged controlling order is not the controlling order.

(2) If a party presents evidence establishing a full or partial defense under subsection (1) of this section, a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

(3) If the contesting party does not establish a defense under subsection (1) of this section to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

APPENDIX

Indiana Statutes

Title 31. FAMILY LAW AND JUVENILE LAW

**Article 16. FAMILY LAW: SUPPORT OF CHILDREN AND
OTHER DEPENDENTS**

Chapter 6. CHILD SUPPORT ORDERS

**§ 31-16-6-6. *[Effective Until 7/1/2012]* Termination or modification of
child support; emancipation of child**

(a) The duty to support a child under this chapter ceases when the child becomes twenty-one (21) years of age unless any of the following conditions occurs:

(1) The child is emancipated before becoming twenty-one (21) years of age. In this case the child support, except for the educational needs outlined in section 2(a)(1) of this chapter, terminates at the time of emancipation, although an order for educational needs may continue in effect until further order of the court.

(2) The child is incapacitated. In this case the child support continues during the incapacity or until further order of the court.

(3) The child:

(A) is at least eighteen (18) years of age;

(B) has not attended a secondary school or postsecondary educational institution for the prior four (4) months and is not enrolled in a secondary school or postsecondary educational institution; and

C) is or is capable of supporting himself or herself through employment.

In this case the child support terminates upon the court's finding that the conditions prescribed in this subdivision exist. However, if the court finds that the conditions set forth in clauses (A) through (C) are met but that the child is only partially supporting or is capable of only partially supporting himself or herself, the court may order that support be modified instead of terminated.

(b) For purposes of determining if a child is emancipated under subsection (a)(1), if the court finds that the child:

(1) is on active duty in the United States armed services;

(2) has married; or

(3) is not under the care or control of:

(A) either parent; or

(B) an individual or agency approved by the court; the court shall find the child emancipated and terminate the child support

28 U.S.C. § 1738 State and Territorial Statutes and Judicial Proceedings; Full Faith and Credit

The Acts of the legislature of any State, Territory, or Possession of the United States, or copies thereof, shall be authenticated by affixing the seal of such State, Territory or Possession thereto.

The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form.

Such Acts, records and judicial proceedings or copies thereof, so authenticated, shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken.

28 U.S.C. §1738b Full Faith and Credit for Child Support Orders

(a) General Rule.—

The appropriate authorities of each State

(1) shall enforce according to its terms a child support order made consistently with this section by a court of another State; and

(2) shall not seek or make a modification of such an order except in accordance with subsections (e), (f), and (i).

(b) Definitions.—

In this section: child means

(A) a person under 18 years of age; and

(B) a person 18 or more years of age with respect to whom a child support order has been issued pursuant to the laws of a State. child's State means

the State in which a child resides. child's home State means the State in which a child lived with a parent or a person acting as parent for at least 6

consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months

old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-

month period. child support means a payment of money, continuing support, or arrearages or the provision of a benefit (including payment of

health insurance, child care, and educational expenses) for the support of a child. child support order

(A) means a judgment, decree, or order of a court requiring the payment of child support in periodic amounts or in a lump sum; and

(B) includes

(i) a permanent or temporary order; and

(ii) an initial order or a modification of an order. contestant means

(A) a person (including a parent) who

(i) claims a right to receive child support;

(ii) is a party to a proceeding that may result in the issuance of a child support order; or

(iii) is under a child support order; and

(B) a State or political subdivision of a State to which the right to obtain child support has been assigned. court means a court or administrative

agency of a State that is authorized by State law to establish the amount of child support payable by a contestant or make a modification of a child

support order. modification means a change in a child support order that

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affects the amount, scope, or duration of the order and modifies, replaces, supersedes, or otherwise is made subsequent to the child support order. State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country (as defined in section 1151 of title 18).

(c) Requirements of Child Support Orders.—

A child support order made by a court of a State is made consistently with this section if

(1) a court that makes the order, pursuant to the laws of the State in which the court is located and subsections (e), (f), and (g)

(A) has subject matter jurisdiction to hear the matter and enter such an order; and

(B) has personal jurisdiction over the contestants; and

(2) reasonable notice and opportunity to be heard is given to the contestants.

(d) Continuing Jurisdiction.—

A court of a State that has made a child support order consistently with this section has continuing, exclusive jurisdiction over the order if the State is the child's State or the residence of any individual contestant unless the court of another State, acting in accordance with subsections (e) and (f), has made a modification of the order.

(e) Authority To Modify Orders.—

A court of a State may modify a child support order issued by a court of another State if

(1) the court has jurisdiction to make such a child support order pursuant to subsection (i); and

(2)

(A) the court of the other State no longer has continuing, exclusive jurisdiction of the child support order because that State no longer is the child's State or the residence of any individual contestant; or

(B) each individual contestant has filed written consent with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume continuing, exclusive jurisdiction over the order.

(f) Recognition of Child Support Orders.—

If 1 or more child support orders have been issued with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction

and enforcement:

(1) If only 1 court has issued a child support order, the order of that court must be recognized.

(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

(3) If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

(4) If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court having jurisdiction over the parties shall issue a child support order, which must be recognized.

(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction under subsection (d).

(g) Enforcement of Modified Orders.—

A court of a State that no longer has continuing, exclusive jurisdiction of a child support order may enforce the order with respect to nonmodifiable obligations and unsatisfied obligations that accrued before the date on which a modification of the order is made under subsections (e) and (f).

(h) Choice of Law.—

(1) In general.—

In a proceeding to establish, modify, or enforce a child support order, the forum State's law shall apply except as provided in paragraphs (2) and (3).

(2) Law of state of issuance of order.—

In interpreting a child support order including the duration of current payments and other obligations of support, a court shall apply the law of the State of the court that issued the order.

(3) Period of limitation.—

In an action to enforce arrears under a child support order, a court shall apply the statute of limitation of the forum State or the State of the court that issued the order, whichever statute provides the longer period of limitation.

(i) Registration for Modification.—

If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.

42 § 666. Requirement of Statutorily Prescribed Procedures to Improve Effectiveness of Child Support Enforcement

(a) Types of procedures required

In order to satisfy section 654 (20)(A) of this title, each State must have in effect laws requiring the Secretary, to increase the effectiveness of the program which the State administers under th

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(9) Procedures which require that any payment or installment of support under any child support processes required by paragraph (2), is (on and after the date it is due)-

(A) a judgment by operation of law, with the full force, effect, and attributes of a judgment

(B) entitled as a judgment to full faith and credit in such State and in any other State, and

(C) not subject to retroactive modification by such State or by any other State; except where there is pending a petition for modification, but only from the date that notice of such petition (to the obligee is the petitioner) to the obligor.

**WASHINGTON RULES
WASHINGTON SUPERIOR COURT CIVIL RULES
Part II. COMMENCEMENT OF ACTION**

Rule 6. TIME

(e) Additional Time After Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.

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