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**SUPREME COURT OF THE STATE OF WASHINGTON**

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In re the Paternity of M.H.,

STEPHANIE BELL,

Petitioner,

v.

JUAN SIDRAN HEFLIN,

Respondent.

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**BRIEF OF AMICUS CURIAE STATE OF WASHINGTON,  
DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

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**TABLE OF CONTENTS**

I. INTRODUCTION.....1

II. IDENTITY AND INTEREST OF AMICUS CURIAE .....2

III. ISSUE ADDRESSED BY AMICUS .....3

IV. STATEMENT OF THE CASE.....3

V. ARGUMENT .....5

    A. Standard of Review.....5

    B. Federal Statutory Background .....5

    C. UIFSA and FFCCSOA Require Application of the  
    Longer Statute of Limitations in Proceedings to Enforce  
    Arrearages.....9

        1. UIFSA requires application of the state law with a  
        longer enforcement period for support arrearages.....9

        2. The FFCCSOA requires the Court to Apply the  
        Longer of Washington’s or Indiana’s Statute of  
        Limitations.....11

        3. The plain meaning of the statute and persuasive  
        authority construing the FFCCSOA and UIFSA  
        confirm the Court should apply the longer of  
        Washington’s or Indiana’s statute of limitations.....12

        4. Washington’s and Indiana’s statute of limitations are  
        not identical .....19

VI. CONCLUSION .....20

## TABLE OF AUTHORITIES

### Cases

<i>American Discount Corp. v. Shepherd</i> , 129 Wn. App. 345, 120 P.3d 96 (2005).....	16
<i>Att’y General of Texas v. Litten</i> , 999 S.W.2d 74 (Tex. Ct. App. 1999).....	18
<i>Brown v. Steinle</i> , 837 So.2d 1072 (Fla. Dist. Ct. 2003).....	18
<i>Dep’t of Ecology v. Campbell &amp; Gwinn, L.L.C.</i> , 146 Wn.2d 1, 43 P.3d 4 (2002).....	13
<i>Estate of Wilson v. Steward</i> , 937 N.E.2d 826 (Ind. Ct. App. 2010) .....	20
<i>Georgia Dep’t of Human Res. v. Deason</i> , 238 Ga. App. 853, 520 S.E.2d 712 (1999).....	18
<i>Goodwin v. Bacon</i> , 127 Wn.2d 50, 896 P.2d 673 (1995).....	11
<i>Grub v. Fogle’s Garage</i> , 5 Wn. App. 840, 491 P.2d 258 (1971).....	12
<i>Hale v. Hale</i> , 33 Kan. App. 2d 769, 108 P.3d 1012 (2005).....	17, 18
<i>In re Marriage of Morris</i> , 32 P.3d 625 (Colo. Ct. App. 2001).....	18
<i>In re Schneider</i> , 173 Wn.2d 353, 268 P.3d 215 (2011).....	6, 7, 14
<i>In the Interest of B.C. &amp; K.C.</i> , 52 S.W.3d 926 (Tex. Ct. App. 2001).....	16, 17

<i>Johns v. Johns</i> , W2013-01102-COA-R3-CV, 2013 WL 6050939, at *1 (Tenn. Ct. App. Nov. 15, 2013) .....	18
<i>Martin v. Phillips</i> , 51 Kan. App. 2d 393, 347 P.3d 1033 (2015).....	15, 16
<i>New Hanover Co. v. Kilbourne</i> , 157 N.C. App. 239, 578 S.E.2d 610 (2003).....	18
<i>Owens v. Georgia Dep't of Human Res.</i> , 255 Ga. App. 678, 566 S.E.2d 403 (2002).....	18
<i>State v. Evans</i> , 177 Wn.2d 186, 298 P.3d 724 (2013).....	13
<i>Sussman v. Sussman</i> , 687 S.E.2d 644, 301 Ga. App. 397 (2009).....	18
<i>TCAP Corp. v. Gervin</i> , 163 Wn.2d 645, 185 P.3d 589 (2008).....	5
<i>Trend v. Bell</i> , 57 Cal. App. 4th 1092, 68 Cal. Rptr. 2d 54 (1997).....	18
<i>Utah Dep't of Human Servs. v. Jacoby</i> , 975 P.2d 939 (Utah Ct. App. 1999) .....	18
<i>Waters v. Anderson</i> , 116 Wn. App. 211, 63 P.3d 137 (2003).....	14

**Statutes**

28 U.S.C. § 1738B (2014) .....	7, 8, 9, 11, 12
42 U.S.C. § 654(6).....	2
Former RCW 26.21.510(2).....	14
Full Faith and Credit for Child Support Orders Act, Pub. L. No. 103, § 3 (Oct. 20, 1994), 108 Stat. 4063 .....	7

Ind. Code § 34-11-2-10.....	19
Ind. Code § 34-11-2-12.....	19
Laws of 1993, ch. 318, §§ 101-907 .....	7
Pub. L. No. 100-485, § 126 (Oct. 13, 1988).....	7
RCW 4.56.210 .....	4, 12, 14, 19
RCW 6.17.020 .....	4, 12, 14, 19
RCW 26.18.070 .....	4
RCW 26.21.510(2).....	14
RCW 26.21A.....	7
RCW 26.21A.115-.130 .....	8
RCW 26.21A.150.....	8
RCW 26.21A.500-.515 .....	13
RCW 26.21A.515.....	3, 4, 5, 9, 10, 12, 13, 14
RCW 26.21A.905.....	15
RCW 26.23.030(1).....	2
RCW 74.20.040(3).....	2

**Other Authorities**

2B Norman Singer & Shambie Singer, <i>Sutherland Statutory Construction</i> § 52:5 (7th ed. Nov. 2015).....	9, 15
Kurtis A. Kemper, <i>Construction and Application of Uniform Interstate Family Support Act</i> , 90 A.L.R.5th 1 (2001).....	7, 8

Kurtis Kemper, <i>Validity, Construction, and Application of Full Faith and Credit for Child Support Orders Act (FFCCSOA)</i> , 18 A.L.R.6th 97 (orig. publ. 2006) .....	8
Margaret Campbell Haynes & Susan Friedman Paikin, <i>Reconciling FFCCSO and UIFSA</i> , 49 Fam. L. Q. 331 (2015) .....	6, 7, 8
Margaret Campbell Haynes, <i>Supporting Our Children: A Blueprint for Reform</i> , 27 Family L. Q., no. 1, Spring 1993 .....	6
Model Uniform Interstate Family Support Act (2008), <a href="http://www.uniformlaws.org/Act.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20(2008)">http://www.uniformlaws.org/Act.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20(2008)</a> .....	9, 10, 14
Office of Child Support Enforcement, <i>FY 2014 Final Report to Congress</i> (May 13, 2016), <a href="http://www.acf.hhs.gov/css/resource/fy2014-annual-report-to-congress/">http://www.acf.hhs.gov/css/resource/fy2014-annual-report-to-congress/</a> .....	2
Patricia Hatamyar, <i>Interstate Establishment, Enforcement, and Modification of Child Support Orders</i> , 25 Okla. City U. L. Rev. 511 .....	19
U.S. Commission on Interstate Child Support, <i>Supporting Our Children: A Blueprint for Reform 4</i> (1992) .....	6

**Constitutional Provisions**

U.S. Const. art. VI, cl. 2 .....	11
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## I. INTRODUCTION

In 2014, Stephanie Bell obtained a Washington wage withholding order to enforce unpaid child support accruing under her Indiana child support order. Juan Heflin owes \$110,709.23 in back child support. The Division One Court of Appeals reversed the wage withholding order because the time limit for enforcing child support obligations in Washington had expired. Instead, the court should have followed federal and state statutes directing it to compare Washington's statute of limitations with Indiana's and apply the longer of the two. This is necessary to comply with the express terms of the Uniform Interstate Family Support Act (UIFSA), the federal Full Faith and Credit for Child Support Orders Act (FFCCSOA), and out-of-state cases construing these Acts. Furthermore, this Court should reject Heflin's argument that the statutes preventing enforcement of child support arrears are not "statutes of limitation." Heflin's argument is inconsistent with the language and purpose of the choice-of-law provision. Moreover, courts across the country have unanimously held that for purposes of UIFSA, statutes addressing the length of time in which an order can be enforced are encompassed within UIFSA's "statute of limitations" language. This Court should reverse the Court of Appeals.

## II. IDENTITY AND INTEREST OF AMICUS CURIAE

The Department of Social and Health Services (DSHS) provides child support establishment and enforcement services to help families become or remain self-sufficient. It is the agency designated to administer the child support program under Title IV-D of the Social Security Act. RCW 26.23.030(1). In 2014, nearly 16 million or one in four children in the United States received child support enforcement services. Office of Child Support Enforcement, *FY 2014 Final Report to Congress* (May 13, 2016), <http://www.acf.hhs.gov/css/resource/fy2014-annual-report-to-congress/>. DSHS has 350,000 active child support cases and collects more than 675 million dollars in child support annually.

There is a federal requirement that DSHS provide the same services to residents of other states that it provides to its own residents. 42 U.S.C. § 654(6). DSHS opens a child support enforcement case when it receives a request for child support enforcement services from another state and also refers cases to other states. RCW 74.20.040(3). DSHS has a substantial interstate caseload and regularly implements federal and state laws specific to interstate cases.<sup>1</sup> It is required to determine the applicable

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<sup>1</sup> From 2010 through 2014, DSHS referred an average of 36,500 child support cases to other states annually for support enforcement services. *FY 2014 Final Report to Congress* at 39 (Table P-34) (May 13, 2016), <http://www.acf.hhs.gov/css/resource/fy-2014-annual-report-to-congress/>. During this same period, DSHS received an average of

statute of limitations under the choice-of-law provisions contained in the Full Faith and Credit for Child Support Orders Act (FFCCSOA) and the Uniform Interstate Family Support Act (UIFSA) and stop enforcement when child support can no longer be collected.

DSHS respectfully submits this amicus brief to urge the Court to reverse the decision below holding that Washington's statute of limitations bars Bell from enforcing her Indiana child support order. The Court should compare Washington's time limits for enforcing child support obligations with Indiana's and apply the one that is longer.

### **III. ISSUE ADDRESSED BY AMICUS**

State law requires that “[i]n a proceeding for arrears under a registered support order, the statute of limitations of this state or of the issuing state . . . , whichever is longer, applies.” RCW 26.21A.515(2). When a parent commences a proceeding for arrears under a registered support order, does this choice-of-law provision apply to determine the period of time in which the child support order can be enforced?

### **IV. STATEMENT OF THE CASE**

Stephanie Bell filed a parentage action in Indiana regarding M.H., who was born on May 13, 1985. *In re Paternity of M.H.*, 190 Wn. App. 1020, 2015 WL 5690575, at\*1 (2015), *review granted*, 185 Wn.2d  

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over 21,500 requests each year for support enforcement services from other states. *Id.* at 40 (Table P-35).

1017 (2016). In 1994, the Vigo County Court entered an order establishing Juan Heflin as M.H.'s father and requiring him to pay child support. *M.H.*, 2015 WL 5690575, at \*1. In 2010, Bell registered the Indiana child support order for enforcement in King County Superior Court under UIFSA (RCW 26.21A.500-535). *M.H.*, 2015 WL 5690575, at \*1.

On November 30, 2010, the King County Superior Court determined that Heflin's accrued obligation under the 1994 Indiana child support order was \$110,709.23, including interest. *M.H.*, 2015 WL 5690575, at \*1. A corresponding order was entered on February 24, 2011. *M.H.*, 2015 WL 5690575, at \*1. On August 8, 2014, when M.H. was 29 years old, Bell moved for a wage assignment under RCW 26.18.070. *M.H.*, 2015 WL 5690575, at \*1. Heflin relied on RCW 4.56.210(2) and RCW 6.17.020(2) to assert that Bell is statutorily barred from enforcing the order. *M.H.*, 2015 WL 5690575, at \*2. It is undisputed that these statutes limit enforcement of child support obligations to 10 years after the child's 18th birthday.

Bell countered that per RCW 26.21A.515, Indiana's statute of limitation applies rather than Washington's because the underlying child support order was entered in Indiana. *M.H.*, 2015 WL 5690575, at \*2. The appellate court discussed RCW 26.21A.515(1)(a) and (b) and concluded that "Indiana law governs the nature, extent, amount, and duration of

current payments, as well as computation of the amount of arrearages, the accrual of interest, and the satisfaction of other obligations . . . . [but] does not govern how long a child support order can be enforced in the registering state.” *M.H.*, 2015 WL 5690575, at \*2-3. The appellate court further determined that Indiana law does not apply since the issue before the court was the trial court’s authority to enforce the order for arrearages, which was different from the duration of current payments. *M.H.*, 2015 WL 5690575, at \*3. The opinion does not explicitly discuss RCW 26.21A.515(2), which addresses which state’s statute of limitations applies when arrearages are enforced in a state that is different from the state where the order was entered. *M.H.*, 2015 WL 5690575, at \*3-4. Because the court determined that Washington’s authority to enforce the arrearage order had expired, it reversed the order permitting wage withholding. *M.H.*, 2015 WL 5690575, at \*1.

## V. ARGUMENT

### A. Standard of Review

This case involves statutory interpretation, which is an issue of law. *TCAP Corp. v. Gervin*, 163 Wn.2d 645, 650, 185 P.3d 589 (2008).

Issues of law are reviewed de novo. *Id.*

### B. Federal Statutory Background

Before federal laws governing interstate cases were enacted in the

1990s, each state would issue its own child support orders, and every time the noncustodial parent moved to a different state, the custodial parent would have to start over again. Margaret Campbell Haynes & Susan Friedman Paikin, *Reconciling FFCCSO and UIFSA*, 49 Fam. L. Q. 331, 333 (2015). *See also In re Schneider*, 173 Wn.2d 353, 358-59, 268 P.3d 215 (2011) (discussing history of UIFSA). A parent who wanted to avoid paying child support could do so simply by moving to a different state. *See* U.S. Commission on Interstate Child Support, *Supporting Our Children: A Blueprint for Reform* 4 (1992) (quoting Wendy Epstein, Executive Director, Illinois Task Force on Child Support). Interstate enforcement required a lengthy processing time that commonly resulted in conflicting child support orders from different states about the same child. Haynes & Paikin, *supra*, at 333.

Custodial parents in interstate cases reported receiving far less child support than other parents; 34 percent of them reported they never received a dime. Margaret Campbell Haynes, *Supporting Our Children: A Blueprint for Reform*, 27 Family L. Q., no. 1, Spring 1993, at 7. The difficulties associated with interstate cases affected a large segment of the population. One researcher estimated that in 30 percent of all child support cases, noncustodial parents lived in a state different from their children. *Id.*

Congress created the United States Commission on Interstate Child

Support to recommend improvements. Pub. L. No. 100-485, § 126 (Oct. 13, 1988). The Commission worked closely with the Uniform Law Commission to develop laws that would “limit the ability of a state to establish a new order when one already existed, and restrict the ability of a state to modify an existing child support order.” Haynes & Paikin, *supra*, at 334. The result was UIFSA, which the Uniform Law Commission approved in 1992. *Id.* Although Congress did not require states to enact UIFSA, Washington did so in 1993 and was among one of the first states to do so. *See* Laws of 1993, ch. 318, §§ 101-907. After Congress conditioned federal child support program payments on adoption of UIFSA, all states enacted it. Kurtis A. Kemper, *Construction and Application of Uniform Interstate Family Support Act*, 90 A.L.R.5th 1 (2001); *In re Schneider*, 173 Wn.2d at 369. Washington’s version of UIFSA is codified at RCW 26.21A.<sup>2</sup>

Congress also passed the Full Faith and Credit for Child Support Orders Act (FFCCSOA), which became effective on October 20, 1994. *See* Full Faith and Credit for Child Support Orders Act, Pub. L. No. 103-383, § 3 (Oct. 20, 1994), 108 Stat. 4063, 4064 (codified as amended at 28 U.S.C. § 1738B (2014)). The FFCCSOA mirrors UIFSA and has the

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<sup>2</sup> Like the court below, this brief cites to the current version of UIFSA because the changes, effective July 2015, do not affect the issue before the Court. *M.H.*, 2015 WL 5690575, at n.3.

same purpose. It was enacted to “facilitate the enforcement of child support orders among the states, to discourage interstate controversies over child support, and to avoid jurisdictional competition and conflict among the states in the establishment of child support.” Kurtis Kemper, *Validity, Construction, and Application of Full Faith and Credit for Child Support Orders Act (FFCCSOA)*, 18 A.L.R.6th 97 (orig. publ. 2006).

The FFCCSOA and UIFSA govern the procedures for establishing, enforcing, and modifying child support orders and for determining parentage when more than one state is involved. *See* Kemper, 90 A.L.R.5th, at 1; Kemper, 18 A.L.R.6th, at 97. These complementary Acts work in tandem, and contain many duplicative provisions.<sup>3</sup> Haynes & Paikin, *supra*, at 341-49. Both Acts ensure that there will only be one controlling child support order at any given point in time. This is accomplished by permitting the first state with jurisdiction that enters an order to retain continuing, exclusive jurisdiction. 28 U.S.C. § 1738B(d), (e); RCW 26.21A.115-.130, .150. The FFCCSOA and UIFSA limit the ability of a second state to establish a new child support order or modify an existing one. 28 U.S.C. § 1738B(e); RCW 26.21A.150. Throughout the enforcement process, the controlling order remains the order of the issuing state, and the responding state only assists in the enforcement of the

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<sup>3</sup> The FFCCSOA applies to Indian tribes while UIFSA does not.

issuing state's child support order. Model Uniform Interstate Family Support Act § 604, Official Cmt. at 78-79; 28 U.S.C. § 1738B(d) and (e).<sup>4</sup>

**C. UIFSA and FFCCSOA Require Application of the Longer Statute of Limitations in Proceedings to Enforce Arrearages**

**1. UIFSA requires application of the state law with a longer enforcement period for support arrearages**

As discussed above, it is a basic principle of UIFSA that throughout the enforcement process, the underlying order remains the order of the issuing state (in this case Indiana) and that the responding state's (Washington) role is limited to assisting with the enforcement of the out-of-state order. Model UIFSA's choice-of-law provision is set forth at section 604, and the corresponding section of Washington law is codified at RCW 26.21A.515. *See* model UIFSA (2008) at 77-79.

UIFSA contains explicit direction about which state's statute of limitations applies in interstate cases: "In a proceeding for arrears under a registered support order, the statute of limitation of this state or of the issuing state or foreign country, whichever is longer, applies." *Id.* at 77; RCW 26.21A.515(2). Thus, UIFSA directs the court to determine whether

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<sup>4</sup> *See* model Uniform Interstate Family Support Act (2008) at 77-79, [http://www.uniformlaws.org/Act.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20\(2008\)](http://www.uniformlaws.org/Act.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20(2008)) (view Final Act (PDF)). The model act was drafted by the National Conference of Commissioners on Uniform State Laws and contains their official comment after each section to aid in construing the Act. The official published comments provide persuasive assistance in construing the act and may also be ascribed to the Washington legislature, which enacted it verbatim. *See* 2B Norman Singer & Shambie Singer, *Sutherland Statutory Construction* § 52:5 (7th ed. Nov. 2015).

Indiana or Washington has the longer statute of limitations.

The Uniform Commission on Uniform Laws explained the rationale behind using the longer statute of limitations in their official comment, which would also apply to RCW 26.21A.515, since it contains identical wording. The Commission recognized that substantial arrears often accumulate in interstate cases before enforcement is perfected, and that the obligor should not gain an undue benefit if the forum state has a shorter statute of limitations. *See* Official Comment to model UIFSA § 604 (2008) at 79. On the other hand, if the paying parent is living in a state with a longer statute of limitations, the parent will be treated identically to other parents in the state. *Id.* The model Act's official comment further explains that "statute of limitations" applies not only to the time period arrears remain owing but also "to the time period after the accrual of the arrears in which to bring an enforcement action." *Id.* Indeed, if the directive to apply the longer limitation period applies to how long the arrears are owed, but not the enforcement period, the provision will be eviscerated. A child support arrearage that cannot be enforced is not worthy of being preserved. For example, a parent who lives in a state like California, which has no time limit for enforcement, can avoid paying child support by moving to a state where the order can no longer be enforced, defeating one of the central purposes of UIFSA.

**2. The FFCCSOA requires the Court to Apply the Longer of Washington's or Indiana's Statute of Limitations**

The lower court also failed to comply with the Full Faith and Credit for Child Support Orders Act (federal Act), which contains wording that is similar to UIFSA's choice-of-law provision. *See* 28 U.S.C. § 1738B(h)(3). The federal Act provides: "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." 28 U.S.C. § 1738B(h)(3) (emphasis added). The federal Act is binding on all states under the Supremacy Clause of the United States Constitution and supersedes any inconsistent provisions of state law. *See* U.S. Const. art. VI, cl. 2; *Goodwin v. Bacon*, 127 Wn.2d 50, 57, 896 P.2d 673 (1995).

The federal Act, similarly to UIFSA, requires the Court to apply the longer of Washington's or Indiana's statute of limitations but uses slightly different wording. Instead of using the phrase "in a proceeding for arrears under a registered support order . . . ," it instead states "in an action to enforce arrears." Here, Bell's wage withholding action to collect back child support falls clearly within the statutory language in UIFSA and if anything even more clearly under the language of FFCCSOA as "an action to enforce arrears." Identically to UIFSA, FFCCSOA requires the Court to

compare Washington's and Indiana's statutes to determine which permits enforcement actions for the longer time period.

**3. The plain meaning of the statute and persuasive authority construing the FFCCSOA and UIFSA confirm the Court should apply the longer of Washington's or Indiana's statute of limitations**

Heflin incorrectly argues that RCW 6.17.020 and RCW 4.56.210 are not statutes of limitation for purposes of FFCCSOA, 28 U.S.C. § 1738B(h)(3), and UIFSA, RCW 26.21A.515(2). He argues that RCW 4.56.210 deprives the court of jurisdiction to enforce his child support obligation past M.H.'s 28th birthday because it is a nonclaim statute terminating the judgment, which is separate from a statute of limitations. *See Am. Answer to Pet. for Review* at 6-8, 10. *See Grub v. Fogle's Garage*, 5 Wn. App. 840, 841-42, 491 P.2d 258 (1971) (lien right under RCW 4.56.210 is not a substantive claim governed by a statute of limitations because it only exists during the period conferred by statute). Heflin's argument fails to recognize that the enforcement of out-of-state child support orders is governed by different statutes than in-state cases.

When the court engages in statutory construction, its primary objective is to effectuate the intent of the legislature by examining the plain language of the statute within the context of the statutory scheme. *Dep't of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wn.2d 1, 9-10, 43

P.3d 4 (2002). Here, the plain language of UIFSA shows that “statute of limitations” encompasses enforcement actions like wage withholding. The statute instructs courts to apply the law of the state that has a longer statute of limitations in “a proceeding for [child support] arrears under a registered support order.” RCW 26.21A.515(2). Once another state’s support order is registered, as presupposed by the statute, the only type of proceeding that “statute of limitations” can reasonably apply to is an action to enforce the order. This construction is supported by the placement of the provision within the section of Article VI that is devoted to the enforcement of out-of-state orders. *See* RCW 26.21A.500-.515. Heflin’s interpretation, which would make this provision inapplicable to actions to enforce existing judgments, would deprive the choice-of-law provision of all meaning.

To the extent there is any ambiguity in the wording of UIFSA or FFCCSOA, their legislative history may be used to discern legislative intent. *State v. Evans*, 177 Wn.2d 186, 193-94, 298 P.3d 724 (2013). As discussed above, these Acts were passed to improve the collection of child support across state lines by curtailing the authority of the enforcing state. The drafters of UIFSA explained that the statute of limitations provision applies to “the time period after the accrual of arrears in which to bring an enforcement action,” and that the provision was intended to prevent

obligors from benefiting from their choice of residence. *See* Official Comment to model UIFSA § 604 (2008) at 79. This Court has previously relied on the official comment to model UIFSA in interpreting its provisions. *Schneider*, 173 Wn.2d at 365. If the Court were to rule that RCW 4.56.210 applies to all out-of-state support orders, legislative intent will be thwarted because parents will be able to shorten the time their orders can be enforced merely by moving to a different state. This encourages forum shopping, something FFCCSOA and UIFSA were designed to prevent. *See Schneider*, at 365-66 (purpose of UIFSA was to preclude forum shopping).

Although Washington courts have not explicitly addressed Heflin's argument, the Court of Appeals, in passing, characterized the provision limiting enforcement of child support orders as a "statute of limitation" subject to UIFSA's choice-of-law provision.<sup>5</sup> *Waters v. Anderson*, 116 Wn. App. 211, 219 n.4, 63 P.3d 137 (2003). Although this was dicta, every out-of-state court that has considered arguments similar to Heflin's has rejected them. As discussed below, these cases unanimously hold that statutes similar to Washington's RCW 4.56.210 and RCW 6.17.020 are considered "statutes of limitations" for purposes of UIFSA, regardless of

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<sup>5</sup> The court was addressing the provisions formerly codified at RCW 26.21.510(2). Former RCW 26.21.510(2) is similar to RCW 26.21A.515(2), but not identical.

whether they are characterized as dormancy statutes, statutes of repose, or even jurisdictional statutes. These out-of-state cases are noteworthy because when the Court construes UIFSA, it must consider “the need to promote uniformity of the law with respect to its subject matter among states that enact it.” RCW 26.21A.905. Further, since UIFSA has been adopted in all 50 states, the courts give even more probative force to the persuasive value of the decisions from other jurisdictions. *See* 2B Norman Singer & Shambie Singer, *Sutherland Statutory Construction* § 52:5 (7th ed. Nov. 2015).

The analysis in *Martin v. Phillips*, 51 Kan. App. 2d 393, 347 P.3d 1033 (2015), is particularly instructive. In *Martin*, the parties divorced in Kansas, but an order enforcing the Kansas child support order was entered in Washington. *Id.* at 395 (discussing *In re Marriage of Owen*, 126 Wn. App. 487, 491-95, 108 P.3d 824 (2005)). A subsequent Washington enforcement order for \$65,836.10 in unpaid interest, attorney’s fees, and medical costs was registered in Kansas, and the court was asked to determine the applicable statute of limitations. *Martin*, 51 Kan. App. 2d at 395. The father argued that the enforcement order was dormant because his child had already turned 28, and Washington’s statute of limitations applied. *Id.* at 396. The mother asserted that Kansas’ statute of limitations controlled, which provides that arrears collectable as of July 1, 2007,

never become dormant. *Id.*

The *Martin* court concluded that under UIFSA, it was required to apply the longer of Washington's or Kansas's statute of limitations since the matter at hand was an arrearage proceeding. *Id.* at 398. It distinguished between two types of statutes of limitations: (1) statutory-limitation periods for bringing a lawsuit; and (2) statutory-limitation periods for using judicial process (such as garnishment) to enforce an existing judgment. *Id.* at 398. It referred to the latter as a dormancy statute, which it described as a type of statute of limitations. *Id.* The *Martin* court determined that under UIFSA's choice-of-law provision, enforcement action can be taken unless a judgment is dormant in both the state where it was issued *and* the state where it is being enforced. *Id.*<sup>6</sup>

In *In the Interest of B.C. & K.C.*, 52 S.W.3d 926 (Tex. Ct. App. 2001), the court applied UIFSA's choice-of-law provision in a scenario similar to the one at bar because it also involved a challenge to a wage withholding action. In that case, the mother took action to enforce the father's back child support obligation for her children, who were now adults. *B.C. & K.C.*, 52 S.W.3d at 927. She registered her Missouri child

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<sup>6</sup> "Dormant judgment" and "dormancy" are not terms that are favored by Washington courts. Instead, Washington courts have described a statute that extinguishes the right to take enforcement action on a judgment as a nonclaim statute if the underlying right or obligation is extinguished and as a statute of repose if only the remedy is extinguished. See *American Discount Corp. v. Shepherd*, 129 Wn. App. 345, 351-53, 120 P.3d 96 (2005). "Dormancy" seems to encompass both.

support order for enforcement in Texas and applied for a writ so the father's wages would be withheld. *Id.* The court ruled that the enforcement action was not barred, even though the time limit for obtaining a withholding order under Texas law had expired. *Id.* at 928. It explained that under UIFSA, it was required to apply the longer of Texas' or Missouri's statute of limitations in the proceeding for arrearages and Missouri law permitted continued enforcement. *Id.* at 928-29. It expressly rejected the father's argument that he had a vested right to rely on Texas' four-year statute of repose for back child support. *Id.* at 929 n.3.

Likewise, in *Hale v. Hale*, 33 Kan. App. 2d 769, 771, 108 P.3d 1012 (2005), the parties disputed whether the Kansas or Oklahoma statute of limitations applied to an Oklahoma child support order registered in Kansas. The *Hale* Court concluded that while the duration of an enforceable judgment is normally controlled by state dormancy and reviver statutes, these general statutes were subservient to the UIFSA statute specifically relating to arrearages and dormancy. *Hale*, 108 P3d, at 1013. It ruled that under UIFSA's clear and unambiguous choice-of-law provision, it was required to apply Oklahoma law providing that child support judgments do not become dormant and remain enforceable until paid in full. *Id.* at 1015. The court determined that Kansas' shorter statute of limitations making the judgment dormant did

not deprive the court of subject matter jurisdiction since the court had unlimited authority to interpret Kansas and Oklahoma statutes. *Id.* at 1014.

Many other courts have reached the same or similar conclusions. E.g., *Sussman v. Sussman*, 687 S.E.2d 644, 647, 301 Ga. App. 397 (2009) (under UIFSA, Georgia's dormancy statute preventing enforcement of judgment after seven years does not bar Georgia from enforcing a Massachusetts child support order when the limitation period for enforcing orders has not expired under Massachusetts law); *In re Marriage of Morris*, 32 P.3d 625 (Colo. Ct. App. 2001) (Colorado can enforce a Texas child support order, even though the arrearages can no longer be confirmed under Texas law; if there are differing statutes of limitations for enforcement, the longer time limit applies); *Utah Dep't of Human Servs. v. Jacoby*, 975 P.2d 939 (Utah Ct. App. 1999) (Utah should apply Pennsylvania statute of limitations when enforcing a Pennsylvania child support order since it was the longer of the two, and this is also consistent with the purpose of UIFSA to allow the greatest possible recovery of arrearages).<sup>7</sup>

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<sup>7</sup> Other cases applying the longer of the issuing or enforcing state's statute of limitations in child support enforcement actions include the following: *Johns v. Johns*, W2013-01102-COA-R3-CV, 2013 WL 6050939, at \*1 (Tenn. Ct. App. Nov. 15, 2013); *Brown v. Steinle*, 837 So.2d 1072 (Fla. Dist. Ct. 2003); *New Hanover Co. v. Kilbourne*, 157 N.C. App. 239, 578 S.E.2d 610 (2003); *Owens v. Georgia Dep't of Human Res.*, 255 Ga. App. 678, 566 S.E.2d 403 (2002); *Georgia Dep't of Human Res. v. Deason*, 238 Ga. App. 853, 520 S.E.2d 712 (1999); *Att'y General of Texas v. Litten*, 999 S.W.2d 74 (Tex. Ct. App. 1999); *Trend v. Bell*, 57 Cal. App. 4th 1092, 68 Cal. Rptr. 2d 54 (1997). *See also*

Heflin's argument that the superior court loses jurisdiction to enforce the Indiana child support order after the time for enforcing the judgment expires under Washington law has been repeatedly rejected by all out-of-state cases considering similar arguments. Clear and unambiguous language in FFCCSOA and UIFSA direct the Court to apply the longer of Washington's or Indiana's statute of limitations for enforcing child support obligations. Any other construction defeats the purpose of the choice-of-law provision in both Acts; the inability to enforce a judgment is tantamount to having no judgment at all.

**4. Washington's and Indiana's statute of limitations are not identical**

Contrary to Heflin's assertion, Indiana's and Washington's statute of limitations are not identical. Both states have similar statutes of limitation that require child support enforcement to stop 10 years after the child turns 18. *Compare* RCW 4.56.210(2) and RCW 6.17.020(2) with Indiana Code section 34-11-2-10. But Indiana has another provision that also applies. Indiana Code section 34-11-2-12 states: "Every judgment and decree of any court of record of the United States, of Indiana, or of any other state shall be considered satisfied after the expiration of twenty (20) years." The Indiana appellate court considered the interplay of both

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Patricia Hatamyar, *Interstate Establishment, Enforcement, and Modification of Child Support Orders*, 25 Okla. City U. L. Rev. 511, 555, n.252 (collecting cases).

statutes in *Estate of Wilson v. Steward*, 937 N.E.2d 826 (Ind. Ct. App. 2010), when the mother sought to enforce a child support judgment. The court ultimately concluded that the 10-year statute applies to amounts that accrue under a child support order, but the 20-year statute applies to the portion of that obligation that was reduced to judgment. *Id.* at 829. The court explained further that the 20-year statute does not bar enforcement, rather it is a rule of evidence that creates a rebuttable presumption that an obligation is no longer owed. *Id.* at 830.

It is incumbent upon the Court to compare the statutes of limitation in both Washington and Indiana, and apply the one that is longer. Because Indiana's statute of limitations varies, depending on whether a child support obligation has been reduced to judgment, the Court must also determine whether the Washington child support order determining Heflin owes \$110,709.23 in back child support is a "judgment" under Indiana law.

## **VI. CONCLUSION**

The decision of the Court of Appeals should be reversed. When an out-of-state child support order is registered for enforcement in Washington, the Court should apply the longer of this or the issuing state's statute of limitations.

RESPECTFULLY SUBMITTED this 5 day of August, 2016.

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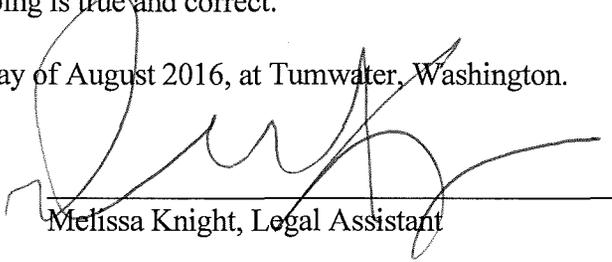
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I certify under penalty of perjury under the laws of the state of  
Washington that the foregoing is true and correct.

DATED this 5 day of August 2016, at Tumwater, Washington.



Melissa Knight, Legal Assistant