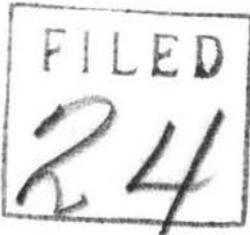


SUPPORT OF DEPENDENTS:
EXTRADITION:

Uniform Support of Dependents Law does not obligate the state to pay costs incident to extradition for the crime of failing to support.



October 29, 1953

Honorable John E. Downs
Prosecuting Attorney
Buchanan County
St. Joseph, Missouri

Attention: Mr. Frank D. Connett, Jr.
Assistant Prosecuting Attorney

Dear Sir:

Reference is made to your request for an official opinion of this office which request reads as follows:

"This office would like to know whether Section 454.450 R.S. Mo., 1949 effective August 29, 1953, which reads in part as follows:

'The Governor of this State may (1) demand from the governor of any other state the surrender of any person found in such other state who is charged in this state with the crime of failing to provide for the support of an obligee in this state;'

"My question is this: Does this mean that the governor of this state will now pay the cost of extradition of a person charged with the failure to support under Section 559.350 of Missouri R.S., 1949, even though Section makes the crime a misdemeanor?"

You refer to Section 454.450, RSMo. 1949, effective August 29, 1953, however, we believe that you mean Section 454.050, Mo. RS Cum. Supp. 1951. While the 67th General Assembly did in effect amend some provisions of the Uniform Support of Dependents Law, so far as we are able to ascertain Section 454.050, referred to remains

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unchanged. Said section provides as follows:

"The governor of this state may:

"(1) Demand from the governor of any other state the surrender of any person found in such other state who is charged in this state with the crime of failing to provide for the support of an obligee in this state; and

"(2) May surrender on demand by the governor of any other state any person found in this state who is charged in such other state with the crime of failing to provide for the support of an obligee in such other state. The provision for extradition of criminals not inconsistent herewith shall apply to any such demand although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he has not fled therefrom. Neither the demand, the oath nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or the other state."

This provision sets out the procedure for the extradition of persons charged in this state with the crime of failing to support. Paragraph (1) provides that the Governor may demand from the Governor of any other state the surrender of a person charged with the crime of failing to support. This provision in itself confers upon the Governor no new power not already possessed under the provision of Chapter 548, RSMo. 1949, and applicable federal extradition laws.

Paragraph (2) authorizes the Governor on demand of the Governor of another state to surrender a person charged with the crime of failing to support. Again, this in itself confers no new power not already possessed by the Governor. However, this section further provides that the demand, oath, etc., need not state or show that a person whose surrender is sought is a fugitive from justice, or, at the time of the commission of the crime, in the demanding state. This, of course, is a far less stringent procedure than existed under prior extradition authority.

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Conversely, it is to be assumed that the Governor of this state in making a demand upon a Governor of another state which has a similar law, need not show that the person sought was in the demanding state at the time of the commission of the crime or that he fled therefrom. As we view this provision it is fully consistent with, and should be construed along with, already existing provisions relating to extradition.

The Uniform Support of Dependents Law does not attempt to establish a new method of paying the costs of extradition or even refer to such item.

Section 454.030, RSMo. 1949, specifically provides that "the remedies herein provided are in addition to, and not in substitution for, any other remedies."

It has been for many years the duty of the county to pay the expenses incident to the extradition of the person charged under the provisions of Section 559.350, RSMo. 1949, (Crime of failing to support). See Sections 548.220 and 548.230, RSMo. 1949. We find nothing in the Uniform Support of Dependents Law which would abrogate or relieve the county of this obligation and place such obligation upon the state.

CONCLUSION

Therefore, it is the opinion of this office that the Uniform Support of Dependents Law does not place upon the state the obligation of paying the costs incident to an extradition for the crime of failing to support as provided in Section 559.350, RSMo. 1949 but that the obligation of paying these costs rests, as in the past, with the county.

This opinion which I hereby approve was written by my assistant, Mr. D. D. Guffey.

Respectfully submitted,

DDG:mw

JOHN M. DALTON
Attorney General