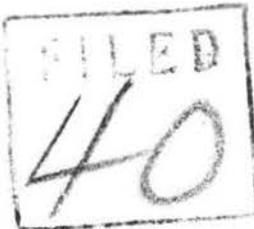


UNIFORM SUPPORT OF  
DEPENDENTS ACT:



A Prosecuting Attorney should represent the plaintiff in any proceeding under the Uniform Support of Dependents Law in his county, whether such plaintiff resides in his county or in another state, upon, and only upon, the request of the court in which such proceeding is lodged or of the state division of welfare to do so.

March 2, 1956

Honorable Ernest J. Hilgert  
Assistant Prosecuting Attorney  
St. Louis County  
Courthouse  
Clayton 5, Missouri

Dear Sir:

Your recent request for an official opinion reads:

"The question has arisen as to whether or not the Prosecuting Attorney should represent the Plaintiff-Petitioner in a Cause filed in another State under the Uniform Support of Dependents Law by a private attorney acting for Plaintiff-Petitioner, the latter being neither indigent nor an applicant for aid to dependent children from her State Division of Welfare.

"It has been the policy in St. Louis County that after a Cause is filed under the Uniform Support of Dependents Law in another State, and the Hearing is held, the papers are then forwarded to this County where the Circuit Clerk docketts the Cause and notifies this office; this office then sets the matter for hearing, the Sheriff serves the Respondent with a copy of all of the papers, the trial is held and a judgment is rendered. Most cases arising under this Act in other States are instituted by Prosecuting Attorneys and are accompanied by the proper paupers' affidavits. However, there is an occasional case which has been instituted by a private attorney. (This office only institutes Causes under the Uniform Support of Dependents Law when we are directed to do so by the St. Louis County Office of the State Division of Welfare.)

"This office would appreciate your opinion as to whether or not our office should represent Plaintiff-Petitioner in all cases arising under the Uniform Support of Dependents Law in other States and coming into this County for final disposition, or whether we should act only in those cases which have been instituted by the direction of the Welfare Agency of

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Plaintiff-Petitioner's County."

All statutory references are to RSMo 1955 Cum. Supp. unless otherwise indicated.

The Uniform Support of Dependents Law provides means whereby a resident of this state, who is under a duty to support dependents in this state, leaves this state and fails to support his dependents, may be brought back to this state; and the means whereby a resident of any other state which has a law similar to Missouri, who is under a duty to support dependents in that state, but who comes into Missouri and fails to discharge that duty, may be apprehended in this state and returned to the state where his dependents reside.

Section 454.020 reads:

"As used in this chapter the following terms shall mean:

"(1) 'State', any state, territory or possession of the United States and the District of Columbia in which this or a substantially similar reciprocal law has been enacted;

"(2) 'Initiating state', any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced;

"(3) 'Responding state', any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced;

"(4) 'Court', the circuit court of this state and when the context requires, means the court of any other state as defined in a substantially similar reciprocal law;

"(5) 'Law', both common and statutory law;

"(6) 'Duty of support', any duty of support imposed or imposable by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, legal separation, separate maintenance or otherwise;

"(7) 'Obligor', any person owing a duty of support;

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"(8) 'Obligee', any person to whom a duty of support is owed."

Section 454.103 reads:

"The prosecuting attorney, upon the request of the court or of the state division of welfare, shall represent the plaintiff (petitioner), in any proceeding under this law."

In view of the interstate character of this law, we believe that the word "plaintiff", as used above, means a "plaintiff" residing in Missouri, which would make Missouri the instituting state, and a "plaintiff" living in another state, which would make Missouri the responding state. However, it will be noted from Section 454.103, supra, that the duty of the prosecuting attorney to represent the "plaintiff" is strictly limited to those cases in which the prosecuting attorney is requested to represent the "plaintiff" by the court or \* \* \* the state division of welfare \* \* \* in any proceeding under this law". (Emphasis ours.)

The underscored words above would seem to be conclusive that a prosecuting attorney should represent the plaintiff, whether the plaintiff resides in Missouri or in another state "upon request of the court or of the state division of welfare" to do so.

Section 454.117 reads:

"The division of welfare of this state is hereby designated as the state information agency under this law, and it shall be its duty:

"(1) To compile a list of the courts and their addresses in this state having jurisdiction under this law and transmit the same to the state information agency of every other state which has adopted this or a substantially similar law.

"(2) To maintain a register of such lists received from other states and to transmit copies thereof as soon as possible after receipt to every court in this state having jurisdiction under this law."

Section 454.120 reads:

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"When the court of this state receives from the court of an initiating state copies as aforesaid, it shall:

"(1) Docket the cause;

"(2) Notify the prosecuting attorney;

"(3) Set a time and place for hearing not less than ten days nor more than thirty days;

"(4) Serve upon the obligor copy of said copies at least five days before the day set for hearing;

"(5) Hear evidence submitted by petitioner and obligor and make and render such orders and judgments as the court adjudges should be made under the provisions of this chapter or discharge the obligor."

It would seem that (2) of Section 454.120, supra, made clear the fact that the prosecuting attorney should, under all circumstances, represent the plaintiff from another state "upon the request of the court or of the state division of welfare" to do so.

#### CONCLUSION

It is the opinion of this department that a prosecuting attorney should represent the plaintiff in any proceeding under the Uniform Support of Dependents Law in his court, whether such plaintiff resides in his county or in another state, upon, and only upon, the request of the court in which such proceeding is lodged, or of the state division of welfare to do so.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Hugh P. Williamson.

Very truly yours,

John M. Dalton  
Attorney General

HPW/ld