



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

November 12, 1952

Hon. H. C. Pipkin
District Attorney
47th Judicial District
Amarillo, Texas

Opinion No. V-1539

Re: Duty of a district attorney to represent the plaintiffs in civil nonsupport actions under the Uniform Reciprocal Support Act when Texas is the initiating state.

Dear Sir:

Your request for an opinion of this office relates to the duty of a district attorney to represent a plaintiff in a nonsupport action pursuant to the Uniform Reciprocal Enforcement of Support Act when Texas is the initiating state. Your particular problem is presented by reason of requests for your assistance from persons who have orders for child support granted by our courts and who now seek enforcement through civil contempt proceedings initiated in this state and to be enforced in another state.

The purpose of the Uniform Reciprocal Enforcement of Support Act, which is codified as Articles 2328b-1 to 2328b-3, V.C.S., is to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.

In Attorney General's Opinion V-1409 (1952) this office held that a proceeding under Article 2328b-3 is a civil proceeding and that the Legislature intended to charge the district or county attorney with the duty of representing the obligee in the Texas court wherein Texas is the responding state.

Applying the provisions of the act when this State acts as an initiating State, Sections 10 and 11 of the act provide:

"Sec. 10. The petition shall be verified and shall state the name and, so far as known to the plaintiff, the address and circumstances

of the defendant and his dependents for whom support is sought and all other pertinent information.

"Sec. 11. If the court of this State acting as an initiating State finds that the petition sets forth facts from which it may be determined that the defendant owes a duty of support and that a court of the responding State may obtain jurisdiction of the defendant or his property, he shall so certify and shall cause certified copies of the petition, the certificate and an authenticated copy of this Act to be transmitted to the court of the responding state."

An additional duty is imposed upon the court when this State acts as an initiating state by Section 17, which reads:

"The court of this State when acting as an initiating state shall have the duty which may be carried out through the district clerk or probation department of the court to receive and disburse forthwith all payments made by the defendant or transmitted by the court of the responding state."

The duty of support is enforceable by petition, duly verified and filed in the district court. If the court is of the opinion that the petition states sufficient facts from which it may be determined that the defendant owes a duty of support and that a court of the responding state may obtain jurisdiction, he shall cause the same to be transmitted to the court of the responding state. The act is silent as to the duty of representation by the district or county attorney, nor does such a duty necessarily follow by implication. Inasmuch as the Legislature has failed to impose upon the district or county attorney the duty to represent an obligee when Texas is the initiating state, it is our opinion that such duty does not rest with the district or county attorney.

Hon. H. C. Piplin, page 3 (V-1539)

SUMMARY

There is no duty imposed upon the district or county attorney to represent the obligee in a civil nonsupport action filed under the Uniform Reciprocal Enforcement of Support Act (Arts. 2328b-1 to 2328b-3, V. C.S.) when Texas is the initiating state.

Yours very truly,

APPROVED:

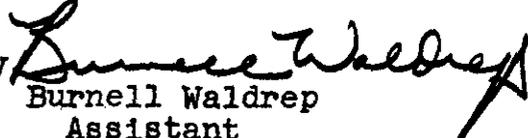
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BW:am

PRICE DANIEL
Attorney General

By 
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