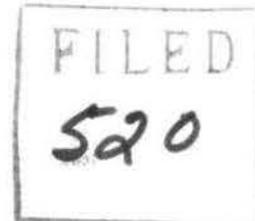


Answer by Letter (Klaffenbach)

November 18, 1970

OPINION LETTER NO. 520

Honorable Robert Payne
Assistant Prosecuting Attorney
Buchanan County Court House
St. Joseph, Missouri 64501



Dear Mr. Payne:

This letter is in answer to your opinion request concerning whether a woman who received alimony judgment in a fixed amount in a divorce action in Buchanan County can bring an action under the provisions of Chapter 454, the uniform support of Dependent's Law, Missouri being the initiating state and Arkansas the responding state. We are further advised that the primary question involved is whether this reciprocal law applies to alimony judgment.

We are enclosing Opinion Letter No. 491 involving the uniform law and you will note in that instance we did not issue an official opinion for the reason that the matter was pending before the court. We adhere to the policy expressed in that letter and for the same reason will not issue an official opinion in this instance. You will note however, from the memorandum of law enclosed that we held on page 3 that it was our view that the support law may be employed by a wife against her former husband to collect back alimony awarded her by judgment of a foreign state. We adhere to the view expressed in Davidson v. Davidson, 405 P2 261 (1965) in which the Supreme Court of Washington held that the reciprocal support acts (of California and Washington) may be invoked by an ex-wife to compel the appearance of her ex-husband in a court of the responding state to determine her rights and need of support and his duty of support, if any, and "This without reference to any amount indicated or obligation, if any, to pay

Honorable Robert Payne

the same under the divorce decree." While it is clear that the court in the Davidson case disregarded the amount fixed by the court in the sister state for alimony and considered it only as an advisory finding of the obligor's duty of support and the obligee's entitlement thereto and not binding we do not reach the conclusion that every responding state under the uniform act must consider the alimony judgment as only "advisory". That is "the duty of support" under Section 454.020(3), RSMo 1969, includes any duty of support imposed by any court order. The court did not consider in the Davidson case whether the alimony judgment of the sister state was entitled to full faith and credit or the application of Section 454.280, RSMo 1969 (or like statutes), which provides that no order of support of the responding state shall supercede any other order of support. These questions were, however, considered in the Iowa case of Moore v. Moore, 107 N.W.2d 97 (1961) cited as authority in the Davidson decision.

However, as we indicated we support the proposition in the Davidson case that (in an instance such as this) the ex-wife has a duty of support owing to her which can be enforced under the uniform act although we do not speculate at this time as to what effect the Arkansas responding state court will give to the amount of alimony which Missouri has determined to be the amount of support due the obligee.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosure:

Opinion Letter No. 491
12-21-66, Potashnick