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ACLU of Iowa Files Challenge to Davenport Parental Responsibility Ordinance

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2/19/2008

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FOR IMMEDIATE RELEASE – February 19, 2008

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DES MOINES - The ACLU of Iowa announced today that it has filed a civil rights lawsuit against the City of Davenport over its Parental Responsibility Ordinance. The organization claims the provision can saddle struggling parents with stiff fines and other harsh consequences if their child violates a law or city ordinance.

"The sin of this ordinance is that it can seriously handicap parents who are doing all the right things even though their child has engaged in some misbehavior. We ought to be supporting parents, not fining them," said Michael McCarthy, attorney for the petitioner.

Under Davenport's Parental Responsibility Ordinance a parent receives a warning the first time that his or her child is reasonably suspected by police of violating the law or the city curfew. Upon a second referral by the police, the parent must seek and complete parenting classes whether they are needed or not, and can be punished for contempt of court if the classes are not successfully finished. Subsequent occurrences can result in a fine of up to \$750 for each day in which a violation occurs.

The Petitioner, "A.H.," was cited for an initial violation of the ordinance when her 16 year old son was picked up for possession of a controlled substance on November 30, 2007. Three days later she received a second citation when her son was picked up for a curfew violation.

The ACLU Foundation of Iowa Lawsuit is based on numerous constitutional and statutory grounds. On the basis of due process, the ACLUF-IA objects to the automatic presumption of guilt imposed on a parent in response to the actions of another person

who may not even be within the parent's means to control. The suit argues the constitutional right of family privacy precludes the state from intervening in parenting when the threshold levels for filing a Child in Need of Assistance action have not even been met in a court of law.

Additionally, the lawsuit argues that the Child in Need of Assistance and Juvenile Delinquency codes are the exclusive means in Iowa by which such matters are to be addressed in court--pointing to language in the statutes which explicitly say that. Finally, the lawsuit argues that Davenport's Parental Responsibility Ordinance is beyond the home rule powers of Davenport to adopt. The municipal home rule statute bars cities from passing laws dealing with "civil relationships."

The Petitioner is represented locally by Davenport attorney Michael McCarthy. ACLUF of Iowa Legal Director Randall C. Wilson is co-counseling the case.

The lawsuit seeks a permanent declaration that Davenport's Parental Responsibility Ordinance is null and void and an injunction against its continued enforcement. The case has been filed in the Iowa District Court for Scott County Iowa.

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