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Parental Responsibility Ordinance Overturned in Davenport

FOR IMMEDIATE RELEASE – March 24, 2009

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The ACLU of Iowa announced today that a judge has thrown out a charge against a working mother under Davenport's "Parental Responsibility Ordinance," declaring the ordinance unconstitutional because it lacked due process.

"This is a blow against the growth of the 'nanny state,'" said Ben Stone, executive director of the ACLU of Iowa. "There are a wide variety of reasons why kids do stupid or bad acts. Kids often do such things despite the best efforts of good parents. This ill-conceived ordinance represented a grossly oversimplified reaction to the complex problem of troubled kids," said Stone, who added that the juvenile court system continues to be the best place to deal with delinquent youth.

The ordinance pitted Anne Hensler, represented by the ACLU of Iowa, against the City of Davenport, which had been attempting to enforce its Parental Responsibility Ordinance against her because of the actions of her son. Davenport's ordinance saddled parents with stiff fines and other harsh consequences if a police officer merely forms a belief that a minor had violated a law or the city curfew.

"The sin of this law 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 punishing them," said ACLU Cooperating Attorney Michael McCarthy, who is representing Hensler.

Under the law that was invalidated, a parent would receive a warning the first time that his or her child was detained by the police or referred to juvenile court. Upon a second referral, the parent would be required to pay for and complete parenting classes whether they were needed or not, and could be punished for contempt of court if the classes were not successfully finished. Subsequent incidents could result in a fine of up to \$750 each time their son or daughter got into trouble or violated curfew.

Ms. Hensler 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.

Ms. Hensler's lawsuit objected to the ordinance's automatic presumption of guilt imposed on parents based on nothing more than a police officer's word. The ACLU lawsuit argued, and Judge Mckenrick agreed, that Davenport's Parental Responsibility Ordinance violated substantive due process because:

"on its face [*it may*] subject a parent to liability even though the parent's child never committed a delinquent act, or at the least never was proved to have committed a delinquent act. Such a result lacks any rational relationship to the ordinance's stated purposes."

The Petitioner was represented locally by Davenport attorney Michael McCarthy. ACLU Foundation of Iowa Legal Director Randall C. Wilson also represented Hensler on the case. The ruling, *Anne Hensler v. City of Davenport* (#110312), was written by Iowa District Court Judge Gary D. McKenrick.

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