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Lee child support program under fire

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A Lee County courts program is violating the civil rights of people ordered to pay child support, sometimes resulting in their wrongful arrest, an attorney claims in a petition filed with a state appellate court.

Cape Coral attorney Sam Assini is asking the state 2nd District Court of Appeal to halt the county's Pay or Appear child support program until the alleged legal problems are corrected.

The purpose of Pay or Appear is simple: parents must pay child support or appear in court within two days to explain why, said Lee County Clerk of Court Charlie Green, who administers the program.

However, there are many legal problems with the program, Assini said in his petition.

Parents are ordered into the child support program without hearings, Assini said. He said they are then arrested and jailed without sufficient legal notice if they miss payments and don't show up for subsequent child support hearings, Assini said.

"It would be a great program if it followed the law," Assini said.

However, a local court order establishing guidelines for the program corrects any problems pointed out by Assini and the program should be allowed to continue, Chief Circuit Judge G. Keith Cary said in his response filed last week with the appellate court. Cary's order became final Thursday.

Cary said the appellate court should also throw out the case because Assini's petition should only be considered in emergency cases and no emergency exists.

Assini, who has 20 days to file an answer to Cary's response, said the local court order isn't enough to rectify the problems.

Assini said a similar program in Miami was abolished because of constitutional rights violations in 1983 by the state 3rd District Court of Appeal.

Assini filed his original petition after a local judge in August ordered the arrest of his client, Childs Roberts, for contempt of court after not paying child support of \$132 a week for his 4-year-old son and then not showing up for a support hearing.

Roberts was ordered into the program without a hearing in June 2007. He is required to pay child support to Amy Nicole Horney, the mother of his son, Aaristat.

Roberts has been arrested five times for not paying child support and then not showing up for the subsequent hearings, Assini said.

Roberts has had difficulty in making support payments because he is partially disabled with a neck injury from a car crash, Assini said.

Roberts, 43, said he works part time at his own welding shop and depends on family and friends to help him meet his weekly child support obligations. He said he has also applied for disability payments.

"All I want to do is be able to take care of my son," Roberts said.

The appellate court threw out Roberts' arrest warrant and gave Cary a month to respond to the allegations.

The program, said Cary, is effective. Out of \$1.4 million in child support owed this year in Lee County, \$1.3 million has been paid, for a collection rate of 91.5 percent, Cary said.

Assini said a separate order should be issued for a person to appear in court each time they don't make a child support payment. He said a standing order giving a two-day notice to appear in court is insufficient and he will ask the appellate court to grant his petition.

Also, "the order does nothing about the 264 people who are already part of the program" who didn't get hearings, Assini said.

NEW ORDER

Chief Circuit Judge G. Keith Cary said that his new order now effective for the Pay or Appear child support program requires the following:

€ A hearing to decide whether a parent should be ordered to participate in the program. The hearing can be requested if a parent entitled to child support hasn't received a payment in a month.

€ A standing order issued requiring anyone who doesn't make a weekly child support payment by Wednesday to show up in court Friday to explain why they haven't made a payment.

€ People arrested for not appearing in court for non-payment of child support will have hearings within two days.

Caption: