



By David Lee Wells

LAW 4 BIKERS



Relief from Wrongful Child Support Only Until December 31, 2011

Missouri's Dads Court

It costs the State of Missouri about \$35,000 per year to keep a guy in jail for child support, the Missouri Legislature's new law provides an alternative to jail for Dads who don't pay child support, now each court may set up a Criminal Non-Support Division which creates Dad's School to provide an alternative to jail, counseling, job counseling and probation. It is run similar to Drug Court.

There are thousands of men wrongfully obligated to pay child support. It is the old story; how come you and the mother are blue eyed and blonde and your child is black headed and brown eyed? The mother says that man is the Father (the one with the good job) and he pays child support or goes to jail.

Years ago, this guy calls me from a western state and said he just got out of jail and they told him that he needed a lawyer for a child support case in Kansas City. I told him that I am that kind of lawyer and asked what the charge was, felony or misdemeanor child support. He didn't know but they said he owed \$150,000 back child support. I told him that was definitely a felony and asked how he got out of jail. Judges normally set the bail bond very high and least what is owed and then keep the bond money to be applied to the back child support. He said that his bond was \$75,000. I asked did his relatives put up the money (since the Judge's keep the money on the workout or plea, bail bondsmen will not put up the bond). He said he had the money and paid "cash" as he owned a good business, a car dealership, which he had recently sold. He said he didn't "owe" the money as he was not the father of the child who is now 16 years old. He was never married to the mother or even dated her. I asked "how did it happen?" he said he "worked with her and one night after the bars closed she knocked on my door at about 2:00 a.m. and I let her in" (maybe Tiger could use this defense).

Now as a criminal/family lawyer that was not the first time I have heard from a client "I didn't do it". I asked him why he waited so long to claim that he was not the father. He said he was very busy building up his business and did not take the time to go to the Court after he was served to deny he was the father.

It is not uncommon for men to fail to deny paternity. The poor guy doesn't wake up to the fact that he needs a lawyer and that child support is a big deal until he sees the jail house. The law in most states has a "gotcha" you can't complain after the Judge enters an order that you are not the "Daddy". You say, "But genetic testing would prove I am not the dad", too bad so sad, res judicata.

How did I help my business man? I bargained with the prosecutor. I said "he is not the father" the prosecutor said "they all say that", I said "let's do a DNA test". He said "your man is not permitted a DNA test under the law, issues of fatherhood is res judicata". I asked if this is the largest amount of child support he had attempted to collect, "Yes", well I have a deal for you and you can be a hero. You believe my guy and all Defendants are the father:

1. Give him and the child a DNA test;
2. If he is the father, you get \$75,000 of my client's bail money and we will pay into the court another \$75,000 within 5 days;
3. If he is not the father, he goes free, no felony and he gets back his \$75,000 bond money

Or we spend the next 3 to 5 years in court on a payment plan and you try to collect money in some western state and you will have to field all of the phone calls from the mother and her relatives as to why they don't have their money.

Surprise! My fellow was found not to be the father, justice was done. He had a creative lawyer and the Prosecutor was a just and honorable man, who would not put a man in jail based on a lie.

Finally after many years the Missouri legis-

Got to go to Church

The Illinois Supreme Court recently ruled that a trust provisions as to interfaith marriages is enforceable. Grandmother had a trust that would only be distributed to grandchildren at the time of her death that were married and in the same faith, church as Grandma. All of the grandchildren were married but only one couple was practicing the Grandmother's faith, they got it all! The trust was not a "dead hand" control of future actions of the grandchildren but a reward at the time of the death of the Grandmother for perpetuating her faith. Remember children if you have a rich grandmother, listen to her.

Heart Attack and the Good Samaritan

If you see someone is having a heart attack and hanging on the wall is a automated defibrillator, should you use it? If you use the defibrillator gratuitously and in good faith (follow the directions on the box) then the guy having the heart attack or his relatives cannot sue you unless you actions were willful, wanton and reckless.

Where I'd rather be

In the Elbow Inn drinking beer today when it is 6 degrees or would South Florida be a better option? I love you Devil's Elbow, but I am gone, Jimmy Buffet is a better option.

lature has passed laws that allow a procedure to contest court ordered paternity and child support. However, the new rules must be followed closely and the window for relief will slam shut on old child support orders older than 2 years on December 31, 2011. What do you do?

1. Hire a lawyer, things do not work by magic and there is no Santa Claus.
2. File a Petition, under oath, to set aside the

- child support Judgment in the county where the child lives;
3. File by December 31, 2011;
 4. Serve the papers on the mother;
 5. Have the child made a party and have a Guardian Ad Litem appointed;
 6. If the child or children has received State aid (welfare) serve the Missouri Family Support Division;
 7. Allege that you are not the father;
 8. Request an order for genetic (DNA) testing;
 9. Pay for the test;
 10. If you are not the father the court will enter an order of non-paternity, extinguish the order for child support and any unpaid child support arrearage and change the child's birth certificate.
 11. Remember this list does not show all of the steps and besides the checklist is always changing.

No you don't get your money back (there is no Santa Claus), you have made the Judge deal with this twice.

The Court will not let you; collect from the mother all the money you have already paid her under the false order or get her to pay your attorney's fees for correcting the matter.

If you have plead guilty or been found guilty of criminal non-support the criminal record may be expunged by going to the criminal court that sentenced you and file the necessary papers. The court on its own does not fix your record.

Unfortunately, this remedy only applies to one of the 2 ways that paternity and child support is determined. The Court = Judgment for paternity and child support.

The other method of child support is an Administrative Oder establishing paternity which does not allow paternity tests on old child support orders.

Just because you have been with a lady, she gets pregnant and says that you are the one, the only one. Don't believe her, hire a lawyer, and get the DNA test. One of my clients was dating this girl; she got pregnant and had a baby. While I was fighting the Prosecutor who wanted to put my guy in jail the mother and the client got together again and she had a second baby (sometimes my clients do not show good judgment). DNA tests proved he was not the father of either child! Like the Kansas City Professional Football player I was representing who I asked him if he was the father and he said "my momma says I am". Don't believe the woman or your mother (the expectant Grandmother wants grandbabies), get the DNA test, because \$500 per month in child support x 12 months is \$6,000 a year x 21 years = \$126,000 real money! Tests and attorneys fees are cheap.

Times are tough, protect yourself.
Support Our Troops.

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