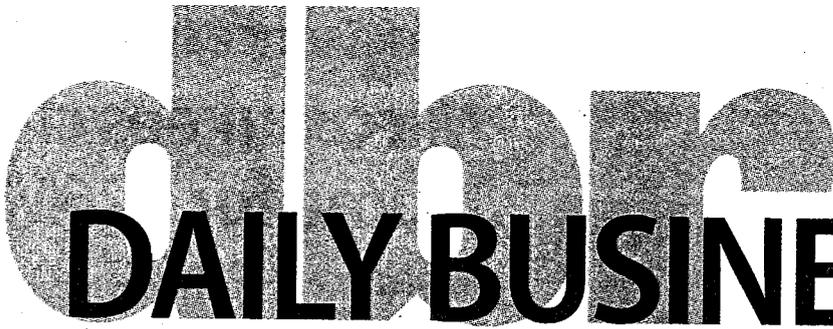


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DAILY BUSINESS REVIEW

DEPENDENCY COURT Judges, attorneys address statewide issue

FLORIDA **AMONG WORST** FOR REPRESENTING CHILDREN

by Adolfo Pesquera, DBR. A cross-section of judges and attorneys concerned about the lack of legal representation for children in dependency court gathered at Nova Southeastern University to discuss how the state might improve its record.

Florida is one of 17 states that provides little to no representation for children who have been removed from their homes because of abuse or neglect. Of the 32,000 children taken by the state last year, only 2,500 had a lawyer, said Alfreda Coward, director of One Voice Children's Law Center in Fort Lauderdale.

The American Bar Association has offered a model law, but with the Legislature struggling to sustain existing programs, there is no interest in launching a new one in Florida.

SEE STORY, PAGE A3



MELANIE BELL

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DEPENDENCY COURT Judges, attorneys address statewide problems

FLORIDA AMONG WORST AT REPRESENTING KIDS

by Adolfo Pesquera
apesquera@alm.com

David Gagne, taken from his family at 5, waited a year to be put up for adoption and didn't get placed with a foster family until he was 11.

Now 19 years old and attending Florida International University, Gagne explained how not having a lawyer kept him stuck in the state system longer than he should have.

The only reason he finally got into a home is because he was wrongfully moved from an institution to a shelter for runaways, he said.

"The people there realized I couldn't be there long. I was there two months before I was adopted. And the only way I was adopted is because I was put in that shelter," Gagne said at a briefing on Improving Outcomes for Children, a daylong conference at Nova Southeastern University.

The lack of legal representation for children remains one of the most important pieces of unfinished business in Florida, said Judge Rosemary Barkett of the 11th U.S. Circuit Court of Appeals.

Everyone in a dependency hearing, except the child, has legal counsel. The parents, the state Department of Children and Families and the child's guardian ad litem, she said.

Some argue the guardian ad



MELANIE BELL

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litem is there for the child's interest, but the guardian often is a layperson unfamiliar with state law. Also, the guardian cannot protect confidentiality and, if questioned by a judge, must tell everything the child says.

"What kind of confidence does that child have? Who is going to take this child that is terrified, being pulled away from its parents?" Barkett asked.

The conference resumes a decades-long debate over the absence of child representation.

Florida is one of seven states given a failing grade by First Star and the Children's Advocacy Institute in their 2009 report "A Child's Right to Counsel."

In 33 states, all or most children in dependency cases are required to have a lawyer. In Florida, Barkett could point to a requirement in only one county, Palm Beach.

Palm Beach Circuit Judge Juan Alvarez originated the program,

SEE CHILDREN, PAGE A13

DUE DILIGENCE Lawyer accused of not checking zoning before purchase

Trucking company stuck with unusable land

by Julie Kay
jkay@alm.com

When Miami-based Nighthawk Trucking was scouting for a new headquarters in 2010, executives latched onto 6 acres in Opa-locka. With their attorney's help, the company's owner bought the parcel for \$2.2 million.



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FROM PAGE A3

CHILDREN: Making change in courts draws resistance

and Barkett said the results are remarkable.

"Cases are resolved so much quicker. If adoption is going to be the end result, it happens fairly quickly. If it's going to be reconciliation, that also happens quickly," she said.

DEVILS GET LAWYERS

Co-sponsored by Nova and the American Bar Association's Children's Rights Litigation Committee, the conference revolved around the ABA's Model Act Governing Representation of Children in Abuse, Neglect and Dependency Proceedings, a white paper touted as a blueprint for legislative reform.

There has been strong resistance to any change, however. The Office of Guardian Ad Litem was created in 2004 to consolidate fragmented county systems, but it soon became apparent most staff lawyers were there to represent the program, not the children.

The Florida Bar spearheaded a bill in 2010 that would have provided attorneys for children. It failed because of the expense and resistance from the Office of Guardian Ad Litem out of fears it would suffer financially.



Judge Rosemary Barkett of the 11th U.S. Circuit Court of Appeals said Palm Beach is the only county in Florida requiring children in dependency cases to have a lawyer.

Nova law professor Michael Dale said guardians represent from 50 percent to 70 percent of children on a \$40 million budget.

"They're asking \$3.9 million more from the Legislature," he said, adding no funding for the children's legal needs came up this year. "There's a real disincentive to do that."

Meanwhile, only 2,500 children out of about 32,000 had legal representation in the last fiscal year, said Alfreda Coward, director and co-founder of One Voice Children's Law Center in Fort Lauderdale.

Former foster child Tamara Lastage, 23, explained she ran away after she was sexually abused at home. During the three years she endured the abuse, she asked for help everywhere she could think of. She didn't get it until she had been on the street for three months and found a lawyer who helped her get into foster care.

But Lastage lost her lawyer on a judge's order because the attorney was practicing outside her area of expertise. Lastage never found new representation and said she endured numerous injustices. She said her abusers were never prosecuted, she was forced onto heavy medication, and she was wrongfully kicked out of school even though she was never a truant or a troublemaker.

AT THE BOTTOM

States with the worst grades on child legal representation:

Indiana	43
Idaho	45
Delaware	51
Maine	52
Hawaii	55
North Dakota	55
Florida	58

Source: "A Child's Right to Counsel"

Whenever she was in dependency court, she was the only one without counsel.

"It felt as if only the devils get to have a lawyer," she said. "If a criminal could get a lawyer after murdering a person, why shouldn't I get a lawyer after being abused?"

Adolfo Pesquera can be reached at (954) 468-2616.

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