



CHILD REPRESENTATION

Dependency courts are primarily courts of equity, not courts of law. The judge stands in the parent's shoes to protect the child, making judicial decisions based on information received.

There are two types of representation for children in the child welfare system.

GUARDIANSHIP

Florida Guardian ad Litem

VS

CHILD-DIRECTED ATTORNEY

Attorney ad Litem/Attorney for Kids

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| All information about the child is provided to the court. | Only the information the child has authorized to be released is provided to the court. |
| Attorneys advocate for the child's best interests. | Attorneys can only advocate for what the child wants. |
| Recognizes the legal and practical limitations of the child. Advocates based on decisions made by the child's team as a reasonable parent would. | Responsibility of the child to make adult decisions. |
| Interactions with the child are regular and recurring, establishing relationships. | The American Bar Association suggests the child be seen once every four months. |
| Better outcomes for children to include permanency, education, and less likely to have law enforcement contact. | More likely to interact with law enforcement and spend extended time in the foster care system. |
| The Florida Guardian ad Litem is authorized to provide all information about the child to the court. | The Florida Bar rules do not provide an exception for the disclosure of attorney-client information to prevent harm to a child. |

Child-Directed Attorneys Cannot Provide Best-Interest Representation or Break Confidentiality with a Child Even if the Child is in Danger

This is not a theoretical problem. In a recent case brought forth in Arizona, an attorney felt morally obligated to advocate for the child's best interests. The court made it clear that the attorney had to follow the child's direction even when the attorney believed the decision made by the child was not in the child's best interests. *J.W. v. Dep't of Child Safety, 500 P.3d 344 (App.2021).*

In Florida, a child ran away from foster care, and his attorney refused to share his location or contact information even after a judge required everyone to account for the child's safety and whereabouts. The attorney must maintain confidentiality for the child client. The attorney is prohibited from sharing the child's information without the child providing consent. *R.L.R. v. State, 116 So.3d 570 (3DCA 2013).*