



SPECIAL IMMIGRANT JUVENILE STATUS (SIJS)

Overview

SIJ Status Eligibility Requirements

Physically present in the US

Unmarried

Under 21 on the date of filing SIJ status petition

Valid juvenile court order with findings

DHS consent

See 8 USC 1101(a)(27)(J)

Step 1: Obtain State Court Order with Findings

Step 2: Petition U.S. Citizenship and Immigration Services for SIJ Status

Step 3: Apply for Lawful Permanent Residence with USCIS or Immigration Court

Step 1: A “juvenile court located in the United States” (8 U.S.C. 1101(a)(27)(J)(i)) must have issued an order with findings regarding custody or dependency, parental reunification, and best interests. *See more on reverse.*

Step 2: The petitioner seeking classification as a Special Immigrant Juvenile must be physically present in the U.S., unmarried, and under the age of 21 on the date of filing the SIJ status petition with U.S. Citizenship and Immigration Services.

Documentation to USCIS will include:

- Petition for Special Immigrant (Form I-360);
- Copy of the petitioner’s birth certificate or other evidence of age; and
- A copy of the state court order.

USCIS must adjudicate the petition within 180 days.

Step 3: The Special Immigrant Juvenile may apply for Lawful Permanent Residence when a visa number becomes available.* Congress has imposed annual numerical limits on the issuance of immigrant visas. The limits are imposed by category (i.e. employment-based, family-based, or other special immigrants) with each country subject to additional limitations.

The applicant must show that they are not barred from permanent residency due to health-related, economic, criminal, or moral grounds; or due to immigration violations, fraud or material representation; or security and related grounds.

*For more information on this process, please visit <http://www.cilacademy.org/resources/online-library/>



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State Court

****The state court order does NOT grant any immigration status to any individual****

What findings USCIS is looking for in a state court order:

- **Custody OR Dependency such as:**
 - Sole Managing Conservatorship under TFC § 153.132
- **Abuse, neglect or abandonment or similar basis under state law such as:**
 - Abuse under TFC §§ 261.001(1); 153.004(g)
 - Neglect under TFC §§ 261.001(4); 153.004(g)
 - Abandonment under TFC § 152.102(1) or § 261.001(b)
- **Non-Viability of Reunification with at least one parent based on the above:**
 - No federal statutory definition
 - Example: rebuttal of JMC presumption under TFC §§ 153.131 or 153.004
 - Example: rebuttal of parental presumption under TFC §§ 153.131 or 153.191
 - Example: denial of possessory conservatorship/access under TFC § 153.191
- **Best Interest Not to Return to Child's Last Country of Residence**
 - No federal statutory definition
 - NOT based on general conditions of the country but case specific factors about the availability of a caretaker in that country
 - Example: There is no longer an appropriate caretaker in that country that can provide a safe, stable or nonviolent environment for the child under TFC § 153.001

USCIS will review the order to determine whether it:

- Is valid under state law
 - References specific state statutes (i.e. the order should not include references to immigration law)
 - Provides for continuing jurisdiction (unless terminated due to age)
- Includes the necessary findings (listed above)
- Establishes a factual basis for the required findings
 - The order is specific (which parent mistreated which child)
 - Specific facts should be clear from the record (pleadings, evidence, order)

The complete text of the federal statute is found at 8 USC 1101(a)(27)(J).

U.S. Citizenship and Immigration Services (USCIS) is the agency within the Department of Homeland Security (DHS) that adjudicates requests for immigration benefits. USCIS issued guidance on SIJ Status in their Policy Manual. <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>

This cheat sheet was created by the ABA's Children's Immigration Law Academy (CILA). Attorneys, judges or other stakeholders with questions about SIJS in Texas, may reach out to CILA for technical assistance or training: www.cilacademy.org or cila@abacila.org