Special Immigrant Juvenile Status
Today’s Topics

1. SIJ Overview & Eligibility Requirements
2. Tips for the State Court Order
3. Petitioning for SIJ
4. Applying for Permanent Residency
“UNACCOMPANIED ALIEN CHILD”

Homeland Security Act, 6 USC §279(g)

- no lawful immigration status
- under age 18
- no parent or legal guardian in the U.S. available to provide care & physical custody

- Designation given upon entry but may be reassessed by immigration judge or USCIS Asylum office.
- A child does not have to maintain UAC status to petition for SIJS
WHAT IS SPECIAL IMMIGRANT JUVENILE STATUS (SIJ)?

**ELEMENTS:**

- Under 21;
- Unmarried;
- Dependent on “juvenile court” OR placed in custody of an individual/entity by a “juvenile court”;
- Findings by a “juvenile court” that
  - Child’s reunification with one OR both parents not viable due to abuse, abandonment, neglect or similar basis under state law
  - Not in child’s best interest to return to home country

Common SIJ Scenarios

- Physical abuse by a parent
- Verbal abuse by a parent
- Inaction by a parent, constituting neglect
- Lack of financial or emotional support
- Abandonment by a parent
THREE KEY STEPS IN SIJ CASES

1. Obtain Juvenile Court Order
2. Petition for SIJ Status
3. Apply for Lawful Permanent Residence
SIJS requires a finding from the juvenile court that the child is either:
  Dependent on the juvenile court

-OR-

Placed in custody of an individual/entity

Dependency and Custody proceedings vary by state. In Texas:
  Custody = Conservatorship + Possession & Access
Dependency = Referenced but not defined by statute, 5th Cir. interpretation is that it is equivalent to conservatorship for immigration purposes
A "juvenile court" has jurisdiction under state law to make determinations as to the care and custody of juveniles. See 8 CFR 204.11(a).

In Texas, a qualifying "juvenile court" could be:
- A designated Family Court
- A designated Juvenile Justice Court
- A designated Delinquency Court
- A designated Probate Court
Custody v. Dependency

- **Best Method in Texas:**
  - Petition in Family Court for a **Suit Affecting the Parent Child Relationship (SAPCR)** to adjudicate conservatorship

- **Alternative Methods in Texas:**
  - Obtain a **Declaratory Judgment/Order of Dependency** before any “juvenile court” to adjudicate dependency on the court (not recommended)
  - Obtain a **Guardianship Order** from Probate Court (difficult in most jurisdictions)
Start with traditional family law template – incl. TX Title 5 Req.

ID Adult Petitioner

Initiate service of process against Respondent Parent(s)

Prepare evidence

May require adjudication of paternity

May require ad litem or amicus attorney appointments

Must be final order (in Texas - obtained before child turns 18)

Consult KIND mentoring attorney to ensure compliance with USCIS Policy Manual

STEP 1: JUVENILE COURT ORDER
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SAPCR Findings:

1. Grant Petitioner Sole Managing Conservatorship (decision making rights over child)

2. Deny Respondent Possessory Conservatorship (all decision making rights over child) due to abuse, abandonment, and/or neglect

3. Deny or limit Respondent's Possession and Access (deny visitation) due to abuse, abandonment, and/or neglect

4. SIJ Special Findings ***
SAPCR Special Findings (under conservatorship section):

1. Child was abused, abandoned and/or neglected by Respondent – with Texas Family Code citation (include facts for USCIS purposes)

2. Separate finding that child's reunification with Respondent is not viable due to abuse, abandonment, and/or neglect – with Texas Family Code citation (include facts for USCIS purposes)

3. It is not in the child's best interest to return to home country
   • What does this mean?
     - Dangerous conditions prevent alternative placement in home country
     - No one willing or able to care for child in home country
Remember: The juvenile court judge is NOT granting the child Special Immigrant Juvenile Status by signing the order. You are only obtaining the necessary findings to make the child prima facie eligible.
Child petitions U.S. Citizenship & Immigration Services (USCIS) for Special Immigrant Juvenile classification

Steps to petitioning:
1. Complete I-360 Petition (found at [www.uscis.gov](http://www.uscis.gov))
2. Include proof of eligibility:
   - Juvenile court order with required findings
   - Proof of age (must be under 21)
3. Attend USCIS interview, if requested (rare)

USCIS may request additional evidence before final adjudication

The USCIS decision may be appealed
STEP 2: PETITION FOR SPECIAL IMMIGRANT JUVENILE STATUS

- SIJS does not grant work authorization
- SIJS does not grant re-entry into the U.S. if child leaves the country
- SIJS should prevent order of removal (barring certain acts of inadmissibility) and provide basis for continuance in immigration court *
- Child must remain unmarried until obtaining permanent resident status
- Parents of special immigrant juveniles cannot obtain immigration status through their children, even if “good” parent
**Requirements:**

- Approved immigrant petition with an **immediately available** immigrant visa number
- Not inadmissible
  - Selected grounds of “inadmissibility” are inapplicable to SIJS holders: e.g., present without admission, public charge, work without authorization
- Discretionarily deserving
- Child can be over the age of 21 when applying

**Steps to filing:**

1. Complete I-485 application (found at [www.uscis.gov](http://www.uscis.gov)) and file by mail
2. Submit proof of eligibility, including approval of Special Immigrant Juvenile Status
3. Apply for work authorization
4. Attend USCIS interview or adjust before Immigration Court

If approved, child receives *green card* and is *adjusted* to Lawful Permanent Resident (LPR) status when visa is available (there is currently a waitlist)
STEP 3: ADJUSTMENT OF STATUS

**LPR Rights**
- Live and work permanently in the U.S.
- Leave and return to the U.S. under certain conditions
- Attend college or join the US Armed Forces
- Apply for citizenship once eligible (after 5 years)

**LPR Duties**
- Obey all federal, state, and local laws.
- Pay federal, state, and local income taxes.
- Register with the Selective Service if a male between 18 and 26 years of age.
- Maintain lawful immigration status.
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