

Additional Tips

Be familiar with current immigration standards.

The Immigration and Nationality Act (INA) section 101(a)(27)(J) establishes the definition of a Special Immigrant Juvenile. It is important to note that this definition has altered over time. For example, the Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. 110-457 amended the INA definition and these statutory changes supersede portions of the Code of Federal Regulations relating to SIJ status (8 CFR 204.11).

Be timely.

A child or the child's legal representative or advocate must request the juvenile court order and apply to USCIS for SIJ status before the child ages-out of the juvenile court's jurisdiction (usually before 18 years of age), and before he or she turns 21 (even in states where court jurisdiction extends beyond age 21). In some cases, children may need to obtain SIJ status prior to turning 18 years of age to access certain benefits (such as federally funded foster care).

Provide the factual basis for juvenile court order findings.

DHS must consent to the grant of SIJ classification. This means that for a child to be eligible for SIJ status, DHS must determine that the court order was sought primarily for protection from abuse, neglect or abandonment, rather than primarily to obtain an immigration benefit. Template orders are usually not sufficient to establish this. The court order should include the factual basis for the findings on parental reunification, dependency/custody, and best interests. Alternatively, the child or the child's attorney may submit separate findings of fact, records from the judicial proceedings, or affidavits summarizing the evidence presented to the court.

Ensure the court order remains current.

The court order must remain in effect at the time USCIS makes a decision on the case, unless it terminated solely based on age.

Visit the "Humanitarian" section of the USCIS website
www.uscis.gov

Case inquiries may be made by contacting USCIS at **1 800 375 5283** or by making an INFOPASS appointment.

Case-specific status may be checked by visiting the "My Case Status" section on the USCIS website at www.uscis.gov



Immigration Relief for Abused Children

Information for Juvenile Court Judges, Child Welfare Workers, and Others Working with Abused Children

Special Immigrant Juvenile Status



U.S. Citizenship and Immigration Services

Eligible Population

Some foreign-born children present in the United States may be in need of humanitarian protection because they have been abused, abandoned, or neglected by a parent. Special Immigrant Juvenile (SIJ) status is an immigration classification that may allow for these vulnerable children to immediately apply for lawful permanent resident status ("LPR" status or "a Green Card").

Certain children who cannot be reunified with one or both parents because of abuse, abandonment or neglect, and for whom it would not be in their best interests to return to their country of origin, may be eligible for SIJ status.

Without a Green Card, these children may not be able to work legally, attend college or qualify for most state and federal benefits. Some of these children, especially if they entered the United States at a young age, may not know that they do not have legal immigration status.

SIJ eligible children may:

- Be, or have been, in federal custody due to their undocumented status.
- Be in a state's child welfare system.
- Be living with a foster family, an appointed guardian, or the non-abusive parent.
- Have been the victim of child abuse that occurred while residing in the U.S.
- Have been the victim of child abuse that occurred in the child's home country.

Note: this is not an exhaustive list.

The biological or prior adoptive parents of a child with SIJ status cannot get any immigration benefits through the SIJ child.

Eligibility Requirements

To qualify, a child victim must meet the following four requirements:

1. Be unmarried.
2. Be under 21 years of age and under the jurisdiction of a juvenile court at time of filing the SIJ petition.
3. Be physically present in the U.S.
4. Have an order from a juvenile court that makes the following three findings:

Family Reunification: Reunification with one or both of the child’s parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law. The abuse may have occurred in the United States or prior to the child’s arrival in the United States.

Dependency/Custody: Declares the juvenile dependent on the court, or legally commits or places juvenile under the custody of either an agency, department of a state, or an individual or entity appointed by a state or juvenile court. (This can include adoption or guardianship).

Best Interests: It would not be in the child’s best interest to be returned to his or her country of origin.

Note: If a child currently in the custody of the U.S. Department of Health and Human Services (HHS) seeks a juvenile court order that also alters his or her custody status or placement, the child must have HHS consent. If the order simply restates the child’s current HHS placement, and does not make any decisions about the child’s placement, specific consent is not required.



Juvenile Court Judges, Child Welfare Workers and Other Professionals

Juvenile court judges, child welfare workers, health care professionals, and educators are important participants in the SIJ process. Judges play a critical role because they see these children in their court rooms, and the juvenile court order helps determine a child’s eligibility for SIJ status. Child welfare workers and other professionals such as health care providers and educators are often the first to see the signs of child abuse or neglect, and are uniquely positioned to provide information and assistance to victims of abuse. Since child victims are often unaware of potential immigration protections, these professionals serve as a vital link for children who may be eligible for SIJ status. This brochure is designed to help these key professionals understand their roles in the SIJ process.

Child welfare workers identify children who may be eligible, ensure that an immigration attorney or accredited representative is working on the child’s case, and coordinate communication with the child’s legal representative and foster family or guardian. Under the legal representative’s direction, child welfare workers may provide psycho-social assessments and reports that may assist the juvenile court in making factual findings needed to establish SIJ eligibility. Child welfare workers may also collect important documents, such as proof of the child’s age.

Juvenile court judges issue juvenile court orders that help determine a child’s eligibility for SIJ status. A child cannot apply to USCIS for SIJ classification without a court order from a juvenile court. However, juvenile judges should note that providing a qualifying order does not grant SIJ status or a Green Card—only USCIS can grant or deny these benefits. The role of the court is to make factual findings based on state law about the abuse, neglect, or abandonment, family reunification, and best interests of the child. The order must be issued by a “juvenile” court as defined by USCIS. A juvenile court is a court in the United States that has jurisdiction under state law to make judicial determinations about the custody and care of children.

Examples of courts that may issue a qualifying order:

Juvenile	Family
Orphans	Dependency
Guardianship	Probate
Delinquency	

Filing with USCIS for the SIJ benefit

USCIS approval of the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, (SIJ petition) only confers SIJ status. A child with SIJ status must take additional steps to obtain lawful permanent resident (LPR) status and other benefits. He or she is eligible to immediately apply for LPR status and work authorization. If possible, a child should generally file the Form I-485, Application to Register Permanent Residence or Adjust Status, (application to become an LPR) at the same time as the SIJ petition. (If the child is in removal proceedings, the immigration court must terminate the proceedings before USCIS can adjudicate the child’s application for LPR status.) Even if a child obtains SIJ status, the child still must qualify for LPR status in order to be eligible for a Green Card. Certain factors may make the child ineligible to become an LPR if they constitute a “ground of inadmissibility.” However, there are exceptions and waivers available under the law that the child’s legal representative can explore.



	SIJ Petition	SIJ-based LPR Application
Main Form	<ul style="list-style-type: none"> Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant 	<ul style="list-style-type: none"> Form I-485, Application to Register Permanent Residence or Adjust Status
Fee	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Fee required or fee waiver must be requested using Form I-912, Request for Fee Waiver
Supporting Documentation	<ul style="list-style-type: none"> Petitioner’s birth certificate or other evidence of the petitioner’s age Juvenile court order and document(s) that establish eligibility HHS consent, if applicable 	<ul style="list-style-type: none"> Copy of the applicant’s birth certificate and/or a finding of both the applicant’s date of birth and country of birth Evidence that the applicant continues to have a valid dependency or juvenile order, unless terminated due to age Two (2) passport-style photographs Certified copies of court disposition(s), if the juvenile has an arrest record
Supporting Forms	<ul style="list-style-type: none"> Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative 	<ul style="list-style-type: none"> Concurrently filed Form I-360 or copy of the approval notice, Form I-797 Form I-693, Report of Medical Examination and Vaccination Record Form G-325A, Biographic Information Sheet, if over 14 Form I-765, Application for Employment Authorization, if desired Form I-601, Application for Waiver of Grounds of Inadmissibility, if applicable Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative