



# U.S. Citizenship and Immigration Services

## Special Immigrant Juvenile Status: Information for Juvenile Courts

### What is Special Immigrant Juvenile Status?

Some children present in the United States without legal immigration status 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”).

### Who is Eligible?

A child must be unmarried, under 21 years of age at the time of filing with U.S. Citizenship and Immigration Services (USCIS), physically present in the United States, and have a qualifying juvenile court order. SIJ-eligible children may come from a variety of circumstances, including, but not limited to, children in federal custody in the U.S. without parents or legal guardians, children in a state’s child welfare system (for example, foster care), and children in the court-ordered custody of a state agency or individual. This can include adoption or guardianship.

### What is the Role of the Juvenile Court?

Juvenile courts issue orders that help determine a child’s eligibility for SIJ status. A child cannot apply to USCIS for SIJ status without an order from a juvenile court. However, juvenile judges should note that providing an 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.



### Which Courts May Issue the Order?

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 include: juvenile, family, orphans, dependency, guardianship, probate and delinquency courts.

### What is the Role of USCIS?

USCIS determines eligibility for SIJ status by adjudicating the **Form I-360**, Petition for Amerasian, Widow(er), or Special Immigrant, which includes review of supporting documentation and the juvenile court order. USCIS may also determine a special immigrant juvenile’s eligibility for lawful permanent resident status by adjudicating **Form I-485**, Application to Register Permanent Residence or Adjust Status.

## Helpful Tips for Juvenile Courts

- **Be familiar with current immigration law.** The Immigration and Nationality Act (INA) section 101(a)(27)(f) establishes the definition of a Special Immigrant Juvenile. This definition can change by acts of Congress. For example, the Trafficking Victims Protection Reauthorization Act of 2008, **Pub. L. 110-457** amended the SIJ **definition**. These statutory changes supersede portions of the Code of Federal Regulations relating to SIJ status (**8 CFR 204.11**). Note: All findings must be based on state law.
- **Ensure HHS consent has been obtained if it is necessary.** If a child currently in the custody of the U.S. Department of Health and Human Services (HHS), Office of Refugee Resettlement (ORR) seeks a juvenile court order that also alters his or her custody status or placement, HHS must specifically consent to the court's jurisdiction. If the order simply restates the child's current ORR placement, HHS consent is not required. See ORR's website at <http://www.acf.hhs.gov/programs/orr/programs/ucs>.
- **Be timely.** A child must obtain a 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 juvenile 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).
- **Ensure the court order makes all required findings.** The order must make the following findings:
  - o Declares the child dependent on the court, or legally commits or places the child under the custody of either a state agency or department or an individual or entity appointed by a juvenile court.
  - o 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. Note: The abuse may have occurred in the United States or prior to the child's arrival in the United States.
  - o It would not be in the child's best interest to be returned to his or her country of origin.
- **Provide a detailed court order.** The Secretary of Homeland Security, through USCIS, must consent to the grant of SIJ status. This means that for a child to be eligible for SIJ status, USCIS must determine that the juvenile court order was sought primarily to obtain relief 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 or 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. The court order need not be overly detailed, and need not recount all of the circumstances of the abuse, abandonment or neglect, but must show the factual basis for the court's findings.

