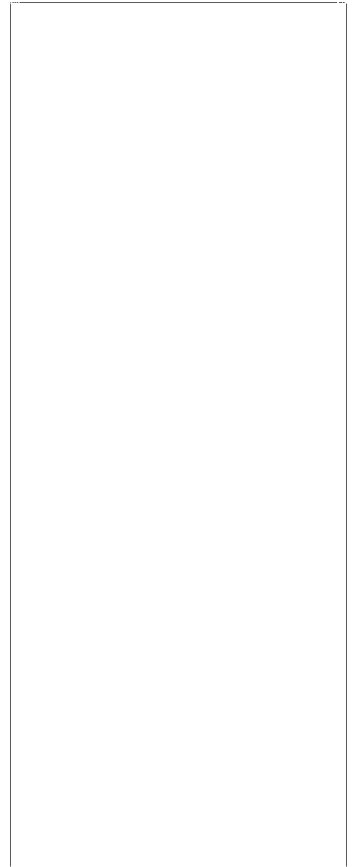




# U.S. Citizenship and Immigration Services



# Special Immigrant Juvenile Status

Immigration Relief for Abused, Neglected and Abandoned  
Children

June 30, 2015



# SIJ Overview

## Scope and Benefits

- Humanitarian protection for children that cannot be reunified with one or both parents due to abuse, abandonment or neglect.
- An immigration classification that allows these children to immediately apply for LPR status (if otherwise eligible).



# SIJ Eligibility

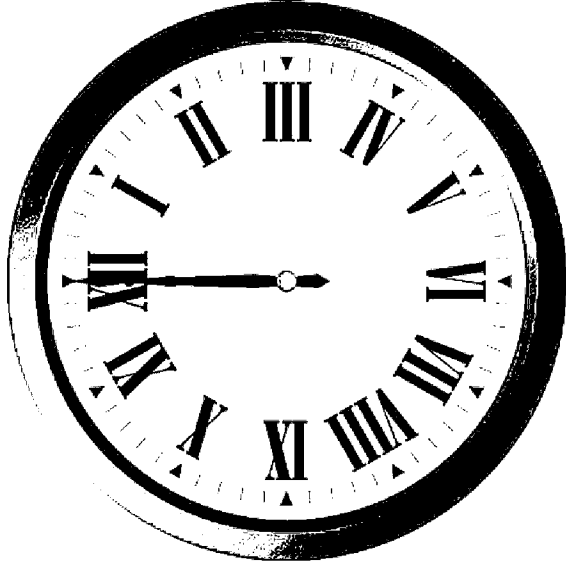
## Eligibility

Petitioner must be:

- ✓ Under 21
- ✓ Unmarried
- ✓ Present in the U.S.
- ✓ Have a juvenile court order with required findings on:
  - dependency or custody
  - parental reunification
  - best interests



# Age Issues

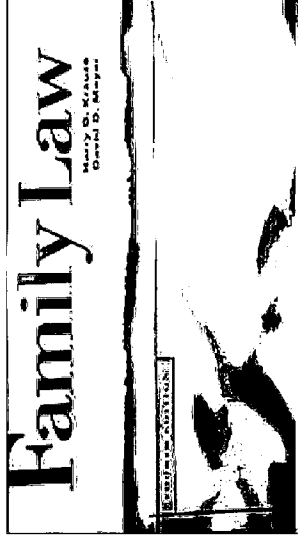


- A child must apply to USCIS for SIJ status before he or she turns 21 (even in states where juvenile court jurisdiction extends beyond 21).
- Note: Some children may also need SIJ status prior to turning 18 to access certain benefits (such as federally-funded foster care).



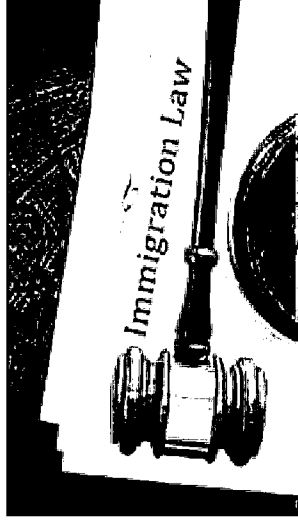
# State and Federal Roles

## Juvenile Court (State)



- Issue orders that help USCIS determine eligibility for immigration benefit
- Make factual findings based on state law on:
  - Dependency/Custody
  - Parental reunification
  - Best interests

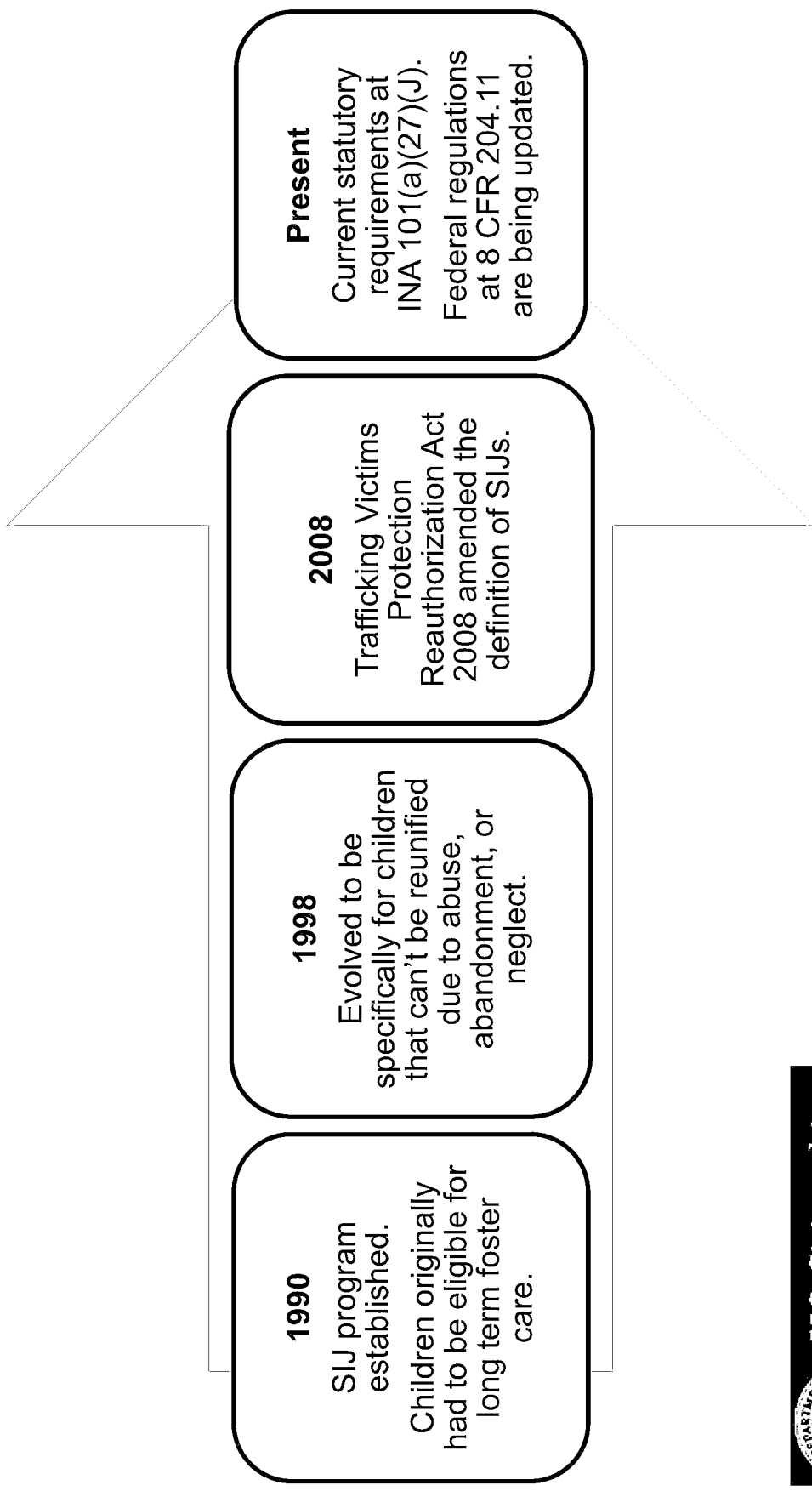
## USCIS (Federal)



- Review SIJ petition, including juvenile court order, to determine eligibility
- Determine if order was sought primarily for relief from child abuse, neglect, or abandonment, rather than immigration purposes



# Evolution of SIJ Program



# Legal Basis

- Immigration Act of 1990 [IMMACT 90] Pub. L. 101-649 (1990)
- Miscellaneous and Technical INA Amendments of 1991 [MTINA] Pub. L. 102-232 (1991)
- Appropriations Act of 1998 Pub. L. 105-119 (1997)
- William Wilberforce Trafficking Victims Protection Reauthorization Act [TVPRA 2008] Pub. L. 110-457 (2008)
- INA § 101(a)(27)(J)—definition and INA § 245(h)—adjustment of status
- 8 C.F.R. § 204.11 and 8 C.F.R. § 205.1(a)(3)(iv) (1993)

Note: The regulation is outdated and USCIS is working on an updated rule.





# INA §101 (a)(27)(J)

- J) an immigrant who is present in the United States—
  - (i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;
  - (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and
- (iii) in whose case the Secretary of Homeland Security consents to the grant of special immigrant juvenile status, except that—
  - (I) no juvenile court has jurisdiction to determine the custody status or placement of an alien in the custody of the Secretary of Health and Human Services unless the Secretary of Health and Human Service specifically consents to such jurisdiction; and
  - (II) no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;



# Policy Guidance

- Memo: Implementation of the Special Immigrant Juvenile *Perez-Olano* Settlement Agreement (June 25, 2015)
- Memo: Trafficking Victims Protection Reauthorization Act of 2008: Special Immigrant Juvenile Status Provisions (March 24, 2009)
- Consolidated Handbook of Adjudication Procedures (CHAP): HQ is currently working on Volumes 6 and 7 SIJ procedures
- Adjudicator’s Field Manual (AFM): Chapter 22.3 will be replaced by new Policy Manual
- Policy Manual: HQ is working on consolidated SIJ policy guidance in Volume 6 and Volume 7 of the new USCIS Policy Manual



# Regulations Governing SIJ Eligibility

The regulation is outdated and parts are superseded by statutory changes. See USCIS memo issued March 24, 2009 on TVPRA 2008 changes.

- **PRIOR REQUIREMENT:** Child was deemed eligible for long term foster care by a juvenile court.  
**CHANGE – Expanded to:** Child cannot be reunited with one or both of the child’s parents due to abuse, neglect, abandonment, or similar basis under state law
- **PRIOR REQUIREMENT:** Child must be dependent upon the juvenile court  
**CHANGE:** Expanded eligibility to also include children under the custody of an agency or department of a State, or an individual or entity appointed by the court



# Regulations Governing SIJ Eligibility (cont'd)

0477

- **PRIOR REQUIREMENT:** Continues to be dependent on the juvenile court.
- CHANGE:** If the juvenile court's jurisdiction ends solely because the minor ages-out, this requirement does not apply

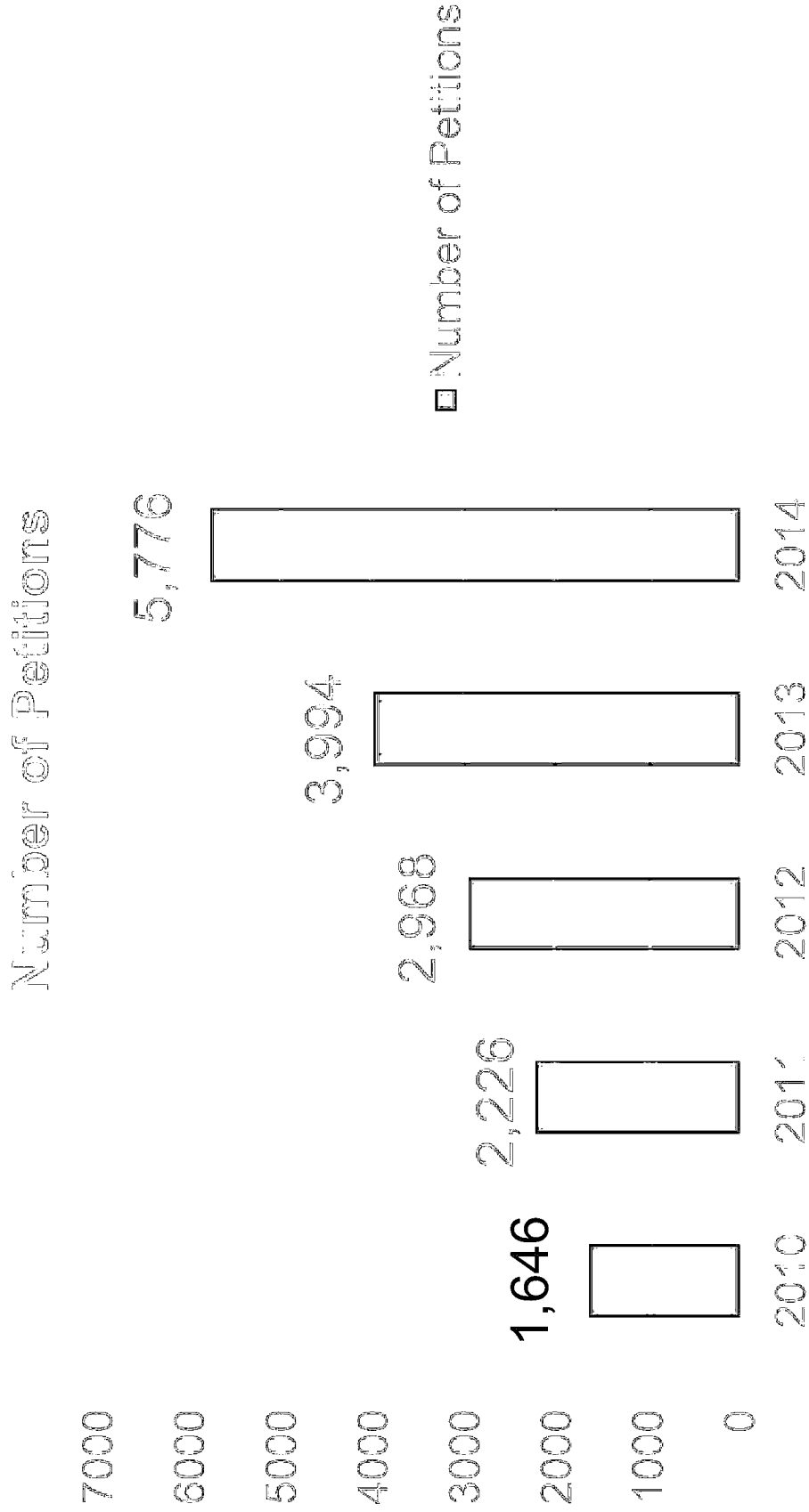


# Potentially Eligible Populations

- Abused while in the U.S.
- Abused in home country
- Live with one parent
- Live with a guardian
- Adopted
- In state foster care system
- In federal custody (ORR)



# Annual SIJ Petitions to USCIS



# Juvenile Court Orders

- ❖ Qualifying Courts
- ❖ Required Findings
- ❖ USCIS Consent and Establishing Factual Basis
- ❖ Age Issues



# Qualifying “Juvenile” Courts

A court in the U.S. that has jurisdiction under state law to make judicial determinations about the custody and care of children.

## Examples

- Juvenile
- Dependency
- Family
- Guardianship
- Orphans
- Delinquency
- Probate





# Required Findings

|                                     |   |
|-------------------------------------|---|
| <p><b>Dependency or Custody</b></p> | <ul style="list-style-type: none"> <li>The child is dependent on the court, or under the custody of a state agency or department, or an individual or entity appointed by the court.</li> </ul>     |
| <p><b>Family Reunification</b></p>  | <ul style="list-style-type: none"> <li>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.</li> </ul>       |
| <p><b>Best Interests</b></p>        | <ul style="list-style-type: none"> <li>It would not be in the child's best interest to be returned to the child's or his/her parent's country of nationality or last habitual residence.</li> </ul> |



# USCIS Consent: Factual Basis

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.

- Court order should include the factual basis for the court's findings.
- Findings do not need to be overly detailed but must reflect that the court made an informed decision.
- Template orders that recite the statutory requirements usually do not provide sufficient information for consent purposes.



# Application to USCIS

- SIJ Status
- SIJ-Based Adjustment of Status (Green Card)



# Applying to USCIS: SIJ Petition

- Form I-360
- Birth certificate or other evidence of age
- Juvenile court order and other document(s) that may establish eligibility
- HHS consent, if applicable
- No fee

U.S. Citizenship and Immigration Services  
 I-360, Petition for Amerasian, Widow(er), or Special Immigrant

Department of Homeland Security  
 U.S. Citizenship and Immigration Services

SIJ Petition Form I-360 (Rev. 01-2015)

**Part 1. Information About Person of Organization Filing This Petition**

1. Name of Petitioner/ Organization: ABC COMPANY

2. Complete an appropriate form: Form I-360

3. Address (O): 123 Main St, New York, NY 10001

4. Street Number and City: 123 Main St, New York, NY 10001

5. ZIP: 10001

6. Country: USA

7. A valid Security Number (if applicable): 123456789

**Part 2. Classification Request (Check one):**

A. Amerasian

B. Widow(er) of U.S. citizen

C. Special Immigrant (SIJ)

D. Special Immigrant Juvenile Status (SIJS)

E. Special Immigrant for Religious Workers

F. Special Immigrant for Former U.S. Government Employees

G. Special Immigrant for Former U.S. Government Contractors

H. Special Immigrant for Former U.S. Government Contractors' Family Members

I. Special Immigrant for Former U.S. Government Contractors' Spouses

J. Special Immigrant for Former U.S. Government Contractors' Children

K. Special Immigrant for Former U.S. Government Contractors' Grandchildren

L. Other (Specify): None

U.S. Citizenship and Immigration Services  
 Form I-360 (Rev. 01-2015)





# USCIS Processing

- USCIS generally considers Green Card application at same time as Form I-360 Petition
- USCIS generally makes decisions on SIJ petitions within 180 days. (Does not apply to Green Card.)
- Interviews as needed
- Fingerprints for those 14 and older



# About this Presentation

- Author: USCIS, Office of Policy and Strategy
- Date of last revision: June 2015
  - This presentation is current only as of the date of last revision.
- This presentation contains no sensitive Personally Identifiable Information (PII).
- Any references in documents or text, with the exception of case law, relate to fictitious individuals.
- Images in this presentation were found at:
  - iStock Photo
  - *Public Domain Clip Art, retrieved from <http://www.pdclipart.org>*



# Disclaimer and Dissemination

This training module is intended solely for informational purposes. It is not intended to, does not, and may not be relied upon to create or confer any right(s) or benefit(s), substantive or procedural, enforceable at law by any individual or other party in benefit applications before USCIS, in removal proceedings, in litigation with the United States, or in any other form or manner. This training module does not have the force of law, or of a DHS directive.

