



- **Special Immigrant
Juveniles (SIJ)**

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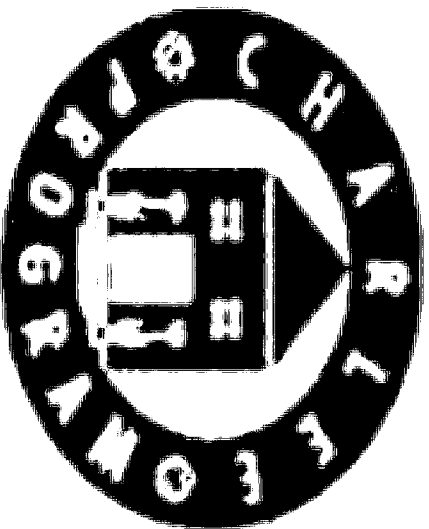
Special Immigrant

Juveniles



child.net

- Special Immigrant Juvenile Status (SIJS) is a federal law that assists certain undocumented children in obtaining legal permanent residency.
- It was created by Section 153 of Immac 90 to allow immigrants in the United States; who have been removed from the custody of their parents or legal guardians, to have the protection of the juvenile courts and child welfare systems.
- Definition of Special Immigrant



William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPPRA
2008)

- Signed by the President December 23, 2008
- Ammended eligibility requirement for SIJ status at Section 101(a)(27)(J) of the INA
- Ammended adjustment of status eligibility requirements at section 245(h) of the INA
- Most provisions took effect on March 23, 2009.
- *“If to be feelingly alive to the sufferings of my fellow-creatures is to be a fanatic, I am one of the most incurable fanatics ever permitted to be at large.” W. Wiberforce*



Eligibility



Before TVPRA

- Is a Juvenile under the laws of the State in which the juvenile court; upon which the alien has been declared dependant ,is located.
- Petitioner **MUST** demonstrate that a determination **was** made in administrative or judicial proceedings, stating 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.

After TVPRA

- Is a Juvenile declared dependent on a juvenile court;
- The juvenile court has legally committed him/her, or placed under the custody of, an agency or department of a State; or
- Who has been placed under the custody of an individual or entity appointed by a State or Juvenile Court.
- Petitioner **MUST STILL** demonstrate that a determination was made in administrative or judicial proceedings, stating 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.
- **Best Interest Order**



Eligibility cont,...

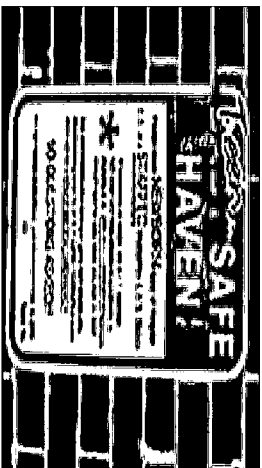
Before TVPRA

- Present in the United States and under the jurisdiction of the courts
- Eligible for long term foster care and continues to be dependent upon the juvenile court.
- Must be under 21 years old at time of I-360 adjudication
- Unmarried

After TVPRA



- No longer has to be eligible for long term foster care ;instead:
 - A Juvenile court MUST find that reunification with one or both of the immigrant’s parents is not viable due to abuse , neglect, abandonment, or a similar basis found under State law. (Petitions filed on or after March 23, 2009.)
- Must be under 21 years old at time of I-360 filing. (Age-Out protection for petitions filed or pending on or after December 23, 2008)
- Unmarried



CONSENT



1. Consent of the Grant of SIJ Status

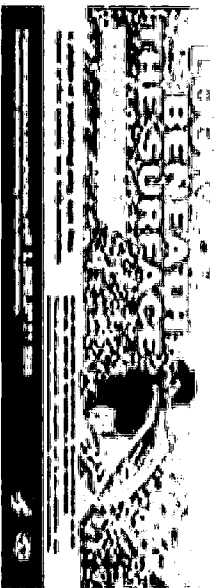
- Previously known as “express consent”
- The Secretary of Homeland Security (Secretary) **MUST** consent to a grant of Special Immigrant Juvenile status.
- Consent determination is an acknowledgement that the SIJ petition is bonafide, and that the juvenile court order was **NOT** sought primarily for the purpose of obtaining legal permanent resident status, but rather, primarily for relief from abuse, neglect, or abandonment.

Consent

2. Specific Consent

- Only necessary for individuals in federal custody.
- TVPRA 2008 vest this function to the Secretary of Health and human Services (HHS)
- Specific Consent is needed **ONLY** for juveniles in the custody of HHS, where the court order determines or alters the juvenile’s custody status or placement.

****Future guidance will be provided on this issue. If you encounter a case that may need specific consent, you **MUST** seek HQ assistance. (This applies **ONLY** to petitions filed after March 23, 2009.)**



Expeditions

- Adjudications **MUST** be done in an **expedient manner.**

- Cases **SHOULD NOT** take longer than **180 days** to adjudicate.

Adjudication

Section 235(d)(2) of the TVPRA 2008 requires USCIS to adjudicate petitions within 180 days of filing.

- Focus on Adjustment of Status eligibility and avoid questions regarding the abuse, neglect and abandonment they suffered.

- **DO NOT** have the SIJ petitioner contact the abuser; under **NO** circumstances. (VAWA 2005, Pub.L.109-162,119 Stat.2960 (2006), Section 287(h) of the INA

Under 8CFR 245.6 an interview can be waived for applicants under 14 years old or when it is determined to be unnecessary.

What is Child Abuse?



- Form of long-term torture usually inflicted by a loved one
- Abuse can be physical, neglect, psychological/emotional or sexual.
- The abusers can be parents or other family members or caretakers.
- Generates aggression which transforms into pathological envy, violence, rage, and hatred.
- If a child is degraded enough, the child will begin to act like the abusing parent or caretaker.

Behavioral Problems

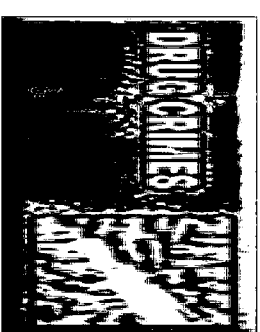
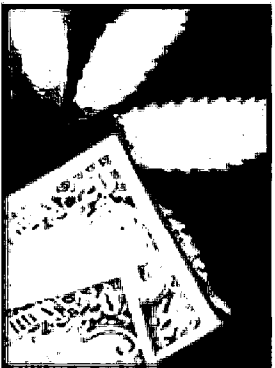
JUVENILE DELINQUENCY



- Difficulties during adolescence-25% more likely
- Juvenile delinquency and adult criminality-11 times more likely
- Alcohol and other drug abuse-2/3 of people in drug treatment programs were abused as children
- Abusive behavior-1/3 will victimize their own children

Inadmissibility

Charges



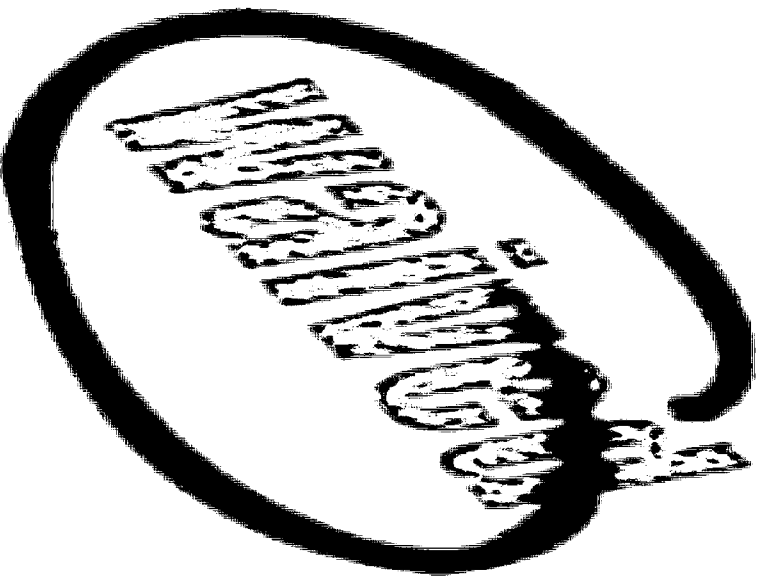
No Waiver Available

- 212(a)(2)(A)(i)(II)-Controlled Substance Violation
- Single instance of simple possession of 30 grams or less of marijuana
- Follow regulations as applied to juvenile delinquents

No Waiver Available

- 212 (a)(2)(A)(I0 and (II)-Conviction or commission of a CIMT
- 212(a)(2)(B)-Controlled Substance violations
- 212(a)(2)(C)-Controlled Substance traffickers
- 212(a)(3)(A)-Espionage, Sabotage
- 212(a)(3)(B)-Terrorist Activities
- 212(a)(3)(C)-Adverse foreign policy
- 212(a)(3)(E)-Security and related grounds, terrorist activities, and participants in Nazi persecution, genocide, torture or extrajudicial killing.

Are there any waivers available?



- If the juvenile is seeking a waiver of a ground of inadmissibility, which SIJ are otherwise automatically exempted from under INA §245(h)(2)(A), s/he must submit :
 - Form I-601 (Application for Waiver of Ground of Excludability)
 - Supporting documents establishing that waiver is warranted for :
 - humanitarian purposes,
 - family unity, or
 - in the public interest
- (supporting documents could include affidavits, letters, press clippings, etc.).

Criminal Grounds

Exceptions



- 212 (a)(4)- Public Charge
- 212(a)(5)(A)-Labor Certification
- 212(a)(6)(A)-Aliens present w/o Inspection (PWI)
- 212(a)(6)(C)-Misrepresentation
- 212(a) (6)(D)- Stowaways
- 212(a)(7)(A)-Documentation Requirements
- 212(a)(9)(B)-Aliens Unlawfully Present

Federal Juvenile Delinquency Act

Commissions or convictions of a CIMT

- If crime (s) Occurred when child was under 15- NOT inadmissible
- If child was age 15,16,or 17: NOT inadmissible UNLESS they are felony acts involving violence AND the child was tried and convicted as an adult.
- If the person is 18 years of age (or older):
Inadmissible UNLESS there is only ONE and it is such petty offense that:
 - Maximum possible sentence is < 1 year
 - Sentence imposed was for < than 6 months



Adjustment of Status of SIJs

- Requirements
- Classification
- Visa Number Availability
- I-360 and I-485 concurrent filing
 - Exceptions apply
 - Fees waived

Decision Clearances for Denials and Revocations of SIJ Petitions

- An I-360 SIJ petition should not be denied based on 8 CFR 204.11(c)(5) (termination of dependency) prior to review and clearance by HQ.
- A Notice of Revocation under 8 CFR 205.1(b) should not be issued for any SIJ petition where the petition appears subject to automatic revocation under 8 CFR 205.1(a)(3)(iv)(C) (termination of dependency) prior to review and clearance by HQ.

Decision Clearances for Denials and Revocations of SIJ Petitions

- Notify the HQ-OFO Adjustment of Status and Legalization Branch and provide a brief explanation as to why dependency status terminated when adjudicating the following:
 - SIJ petitions where dependency status terminated after filing, but prior to adjudication
 - SIJ-based I-485 applications where dependency status terminated following approval of the I-360 but prior to adjudication of the I-485

Decision Clearances for Denials and Revocations of SIJ Petitions

- Pursuant to TVPRA sec. 235(d)(6), SIJ petitions cannot be denied based on 8 CFR 204.11(c)(1) if the petitioner was under twenty-one years of age at the time of filing.
- Notices of revocation based on 8 CFR 205.1(a)(3)(iv)(A) should no longer be issued.
- Special Immigrant Juvenile clearances must be routed and obtained via the:
 - USCIS-SER-REPORTS MAILBOX
 - SUBJECT LINE: "1-360 CLEARANCE REQUEST"
- The SER Point of Contact for this activity is adjudications branch officer, Daniel Perilla.

THOUGHT



- **As Albert Einstein stated -
“The world is a dangerous
place to live not because
of the people who are evil,
but because of the people
who don’t do anything
about it.”**

