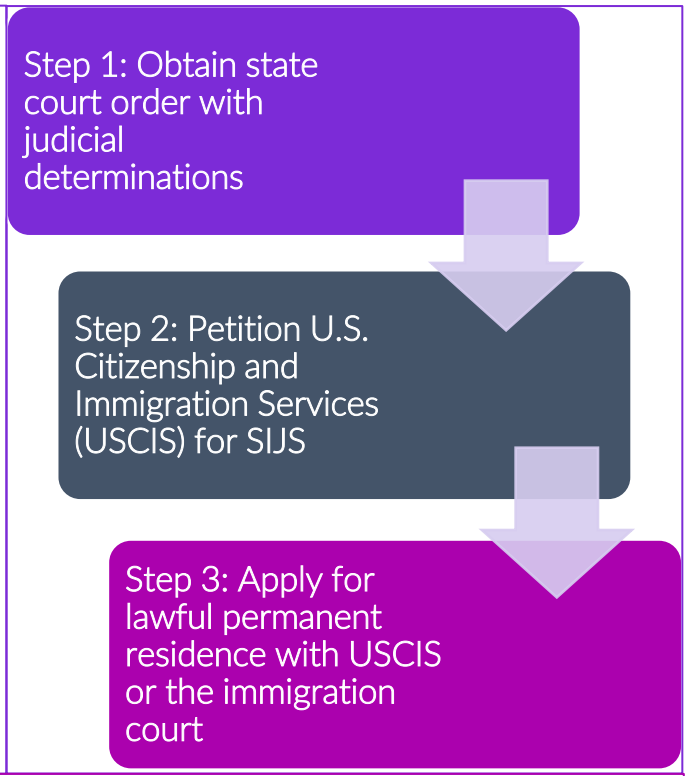
AMERICAN BAR ASSOCIATION
CILA Children's Immigration Law Academy

Special Immigrant Juvenile Status (SIJS) Overview

SIJS Eligibility Requirements:

- Physically present in the United States
- Unmarried through adjudication of SIJS
- Under 21 on the date of filing SIJS petition
- Valid juvenile court order with determinations
- Department of Homeland Security (DHS) consent

See INA § 101(a)(27)(7); 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11



Step 1: A "juvenile court located in the United States" (8 U.S.C. § 1101(a)(27)(J)(i)) must have issued an order with determinations regarding custody or dependency, parental reunification, and best interests. *See more on reverse.*

Step 2: The petitioner seeking classification as a special immigrant juvenile must be physically present in the United States, unmarried through adjudication of SIJS, and under the age of 21 on the date of filing the SIJS petition with USCIS. Documentation to USCIS will include:

- Petition for SIJS (Form I-360);
- Copy of the petitioner's birth certificate or other evidence of age; and
- A copy of the state court order and any supplemental evidence providing the factual basis for each judicial determination.

USCIS must adjudicate the petition within 180 days.

Step 3: The special immigrant juvenile may apply for lawful permanent residence when a visa number becomes available. *See* INA § 245(h); 8 U.S.C. § 1255(h); 8 C.F.R. § 245.1(e)(3). Congress has imposed annual numerical limits on the issuance of immigrant visas. The limits are imposed by category: family-based, employment-based, and certain special immigrants with each country subject to additional numerical limitations.

The applicant must show that they are not barred from permanent residency due to health-related, economic, criminal, or moral grounds; or due to immigration violations, fraud or material representation; or security and related grounds.

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The state court order does NOT grant any immigration status to any individual.

SIJS State Court & USCIS Review of the Order

What determinations are USCIS looking for in a state court order?

(Note: The below information references Texas state law in the Texas Family Code.)

- Custody OR dependency such as:
  - Sole managing conservatorship (TFC § 153.132)
- Abuse, neglect, abandonment, or similar basis under state law such as:
  - Abuse (TFC §§ 261.001(1); 153.004(g))
  - Neglect (TFC §§ 261.001(4); 153.004(g))
  - Abandonment (TFC § 152.102(1))
- Non-viability of reunification with at least one parent based on the above:
  - No federal statutory definition
  - Example: rebuttal of joint managing conservator (JMC) presumption under TFC §§ 153.131 or 153.004
  - Example: rebuttal of parental presumption under TFC §§ 153.131 or 153.191
  - Example: denial of possessory conservatorship/access under TFC § 153.191
- Best interest not to return to child's last country of residence:
  - No federal statutory definition
  - NOT based on general conditions of the country but case specific factors that the court normally takes into account when making best interest determinations
  - Example: There is no longer an appropriate caretaker in that country that can provide a safe, stable, or nonviolent environment for the child under TFC § 153.001

USCIS will review the order to determine whether it:

- Is valid under state law
  - References specific state statutes (*i.e.*, the order should not include references to immigration law)
  - Provides for continuing jurisdiction (unless terminated due to age)
- Includes the necessary determinations (listed above)
- Establishes a factual basis for the required determinations
  - The order is specific (which parent mistreated which child)
  - Specific facts should be clear from the record (pleadings, testimony, evidence, order)

The complete text of the federal statute is found at INA § 101(a)(27)(7); 8 U.S.C. § 1101(a)(27)(J) and the regulations are found at 8 C.F.R. § 204.11. USCIS is the agency within the Department of Homeland Security (DHS) that adjudicates requests for immigration benefits. USCIS issued guidance on SIJS in their Policy Manual found here: https://www.uscis.gov/policy-manual/volume-6-part-j.

This cheat sheet was created by the ABA's Children's Immigration Law Academy (CILA). Attorneys, judges, or other stakeholders with questions about SIJS, may reach out to CILA for technical assistance or training by emailing us at cila@abacila.org or by completing this form on the CILA website: https://cilacademy.org/request-assistance/.

CILA has multiple written materials and recorded trainings regarding SIJS on the CILA website: www.cilacademy.org. Some helpful introductory materials regarding SIJS include: the "Quick Reference Guide – Special Immigrant Juvenile Status and EB-4 Immigrant Visa Availability," the *CILA Pro Bono Guide* Section III.D., and a SIJS 101 recorded training.

This is not legal advice. This resource is for informational purposes only and should not substitute your own research and analysis.