

Special Immigrant Juvenile Status:



The Crossover Between Immigration and Family Law

Special Immigrant Juvenile Status (SIJS) is a form of immigration relief available to noncitizen minors living in the United States who have been abused, abandoned, and/or neglected.¹ A state court must find that reunification with the parents is not viable and that it is in the minor's best interest to stay in the United States.² Applicants who obtain an SIJS visa become eligible for a green card and eventually citizenship. Obtaining SIJS is a multi-step process that begins in state court and then proceeds to a federal immigration court.

1 Requirements for SIJS

(1) Applicant must be under 21.

The applicant must be under the age of 21 at the time the SIJS application is filed.³

(3) Applicant must be unmarried.

The applicant must be unmarried. "Unmarried" requires that the applicant has never been married or, if the applicant has been married, that the marriage ended before the SIJS application was filed.⁵

(2) Applicant must live in the United States.

The applicant must be living in the United States at the time the SIJS application is filed, and while it is pending.⁴

(4) Valid Juvenile SAPCR Court Order

The applicant must obtain a court order issued by a U.S. state court with a finding that (1) the applicant is a dependent of the court, and that (2) the applicant cannot be reunified with his or her parents because of abuse, abandonment, or neglect.⁶

2 Obtaining a Valid SAPCR Order

(1) What is a SAPCR?

A Suit Affecting Parent-Child Relationship (SAPCR) is a state court proceeding that addresses the needs of a child. Most commonly, SAPCRs are filed to address issues including but not limited to parental rights, custody, child support, and visitation.⁷

(2) How are SAPCRs and SIJS related?

The Code of Federal Regulations requires that SIJS applicants obtain a valid state court order, commonly known as a "SAPCR," before they are eligible for the immigration benefit of SIJS.⁸ During a SAPCR hearing, a state judge must issue a court order containing the findings listed below. The court order must contain these findings to be accepted by the immigration judge hearing the applicant's SIJS request.⁹

- The child has been declared dependent on a court or is under the custody of a state agency or an individual appointed by a court;
- Reunification with one or both parents is not viable due to abuse, neglect, or abandonment; and
- It is not in the child's best interest to be returned to her country of origin.¹⁰

(3) The "Best Interest of the Child" Analysis and the Holley Factors

The *Best Interest of the Child* is a heavily weighed factor in both State and Federal Immigration proceedings. The *Best Interest of the Child* findings made in State Court are highly considered by immigration judges when making their final SIJS determination. When making a *Best Interest of the Child* analysis, the Supreme Court of the United States established the *Holley* factors, which include but are not limited to:

- The desires of the child;
- The present and future emotional and physical needs and dangers to the child;
- The parental abilities of the individuals seeking custody of the child;
- The stability of the proposed home;
- Acts or omissions of the parent indicating an improper parent-child relationship; and
- Excuses for the acts or omissions of the parent.¹¹



Cause Number _____
(The Clerk's office will fill in the Cause Number and Court Number when you file this form.)

In the Interest of the following Minor Child(ren):
(Print the initials of each child.)

1 _____
2 _____
3 _____
4 _____
5 _____

In the Court Number _____
 District Court
 County Court at Law of _____ County, Texas

Petition in Suit Affecting the Parent-Child Relationship

My name is: _____
First Middle Last

I am the **Petitioner**, the person asking the Court to make orders about the child or children named below.
My driver's license was issued in (state) _____. The last three numbers of my driver's license number are: _____.
Or I do not have a driver's license.

The last three numbers of my social security number are: _____.
Or I do not have a social security number.

I am: (Check one.)
 not related to the children.
 related to the children. I am the child(ren)'s: _____
Write your relationship to the children.

3 SIJS Four-Step Process



Step 1

Obtain court order from State Court establishing SIJS eligibility.



Step 2

Submit Form I-360 for Special Immigrants to USCIS.



Step 3

Secure approval of SIJS Petition and terminate removal proceedings, if necessary.



Step 4

Submit Form I-485 for Adjustment of Status, AKA green card application.

4 Common Situations in SIJS Eligible Cases



There is a common pattern in the types of family situations in SIJS eligible cases.

- One or both parents are deceased.
- The child has lived in multiple homes.
- Incidents of abuse.
- Child neglect in the home.
- Child was in foster care.
- Alcoholism or domestic violence in the home.
- Child began working at a young age.
- Failure to attend school.

5 Common Issues in Obtaining SIJS

* **Securing the SAPCR Order before the Age of 21.**

Overcoming grounds of inadmissibility during the SIJS process.

* **Filing the SIJS application before age 21 and remaining unmarried.**

Waivable Grounds of Inadmissibility
* Health-Related Grounds
* Certain Criminal Convictions
* Admission of Certain Criminal Conduct

SIJS application information can be used to initiate removal proceedings.

* **Non-Waivable Grounds of Inadmissibility**
* National Security Issues
* Multiple Convictions
* Controlled Substance Convictions

References...

- U.S. Citizenship and Immigration Services, *Special Immigrant Juveniles*, <https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fourth-preference-eb-4/special-immigrant-juveniles> (last visited Nov. 17, 2021).
- U.S. Citizenship and Immigration Services, *Chapter 2 - Eligibility Requirements*, <https://www.uscis.gov/policy-manual/volume-6-part-j-chapter-2> (last visited Nov. 17, 2021).
- U.S. Citizenship and Immigration Services, *Special Immigrant Juveniles*, <https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fourth-preference-eb-4/special-immigrant-juveniles> (last visited Nov. 17, 2021).
- Id.*
- Id.*
- Id.*
- Hunt Law Firm, *What You Need to Know About Filing a SAPCR* (February 16, 2016), <https://www.familylawyerkaty.com/blog/2016/february/what-you-need-to-know-about-filing-a-sapcr/>.
- 8 C.F.R. 204.11(a).
- Id.*
- Id.*
- Holley v. Adams*, 544 S.W.2d 367 (Tex. 1976).

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