

Special Immigrant Juvenile Status: Serving and Protecting Undocumented Children through Child Welfare and Immigration Proceedings

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presented by Claire R. Thomas, Esq. & Derrick J. Hensley, Esq.

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- V. Common Issues with Family Court Judges, how to overcome Objections
- VI. Common/Potential Issues with USCIS, how to avoid/overcome RFE/NOID/NOIR's
- VII. Further below, there is a legal outline with a full discussion of the law.

I. MATERIALS:

TEMPLATE COMPLETE FILING PACKETS FOR USCIS:

- [Complete I-360 SIJS Petition Filing Packet Go-by/Template](#)
- [Complete SIJS-based I-485 AOS/Adjustment of Status Filing Packet Go-by/Template](#)

STATE COURT MODEL FILINGS

- NY Family Court [Template Guardianship Filing Packet](#)
- NC Family Court [Template Custody Complaint](#)
- NC Family Court [Template Order with SIJS Findings](#)
- NC Juvenile Abuse-Neglect-Dependency/Child Welfare Court Specific Filing Templates/go-bys:
 - [Motion/Request for SIJS Predicate Findings in pending Juvenile A/N/D Case](#)
 - [Termination of Parental Rights Petition with Request for SIJS Findings](#)
 - [SIJS Predicate Findings \(Juvenile A/N/D Court\) Standalone Order](#)

PROCESS/CHECKLISTS WITH LINKS THEREIN TO FORMS, TEMPLATES, GO-BY'S

- [Infographic/Summary Flowchart](#)
- [Special Immigrant Juvenile Status Comprehensive Checklist](#)
- [International Service of Process Protocol](#)
- [Child Custody Suit Documents Checklist \(NC-specific\)](#)
 - Most recent Family Court [SIJS Memorandum of Law](#) (and prior versions: [Ver. A](#), and [Ver. B](#))

Additional materials are also posted from time to time on [Attorney Hensley's website](#).

II. CONTACT & BIOGRAPHICAL INFORMATION FOR PRESENTERS

Presenter #1: Claire R. Thomas, Esq.

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Claire R. Thomas serves as Director of Training with the Safe Passage Project, a New York City-based non-profit providing pro bono counsel to immigrant children facing deportation from the United States. Since 2014, she has trained over 5,000 attorneys, judges, law students, social services providers, and interpreters at both the state and national level on a wide range of topics, including representing undocumented children in family court and before immigration agencies, working with survivors of trauma and gender-based violence, cultural awareness, and immigrant access to public benefits. She is also an adjunct professor at New York Law School, where she teaches a year-long clinical course exploring the intersection of family law and immigration law for undocumented children in New York City. Previously, Claire advocated for the rights of African, Caribbean, and Middle Eastern immigrants at African Services Committee, a Harlem-based non-profit assisting persons living with HIV/AIDS. She represented minors in family court, public benefits, and immigration proceedings and directed "Projet Aimée," a women's empowerment group for survivors of gender-based violence. Her writings have appeared in various law journals and other publications.

Presenter # 2: Derrick J. Hensley, Esq.

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III. SIJS STATUTE & GOVERNING CFR

8 U.S. Code § 1101 - Definitions

(a) As used in this chapter—

(27) The term “special immigrant” means—

(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 Services 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 chapter;

8 C.F.R. § 204.11 - Special immigrant status for certain aliens declared dependent on a juvenile court

(a) Definitions.

~~Eligible for long-term foster care means that a determination has been made by the juvenile court that family reunification is no longer a viable option. A child who is eligible for long-term foster care will normally be expected to remain in foster care until reaching the age of majority, unless the child is adopted or placed in a guardianship situation. For the purposes of establishing and maintaining eligibility for classification as a special immigrant juvenile, a child who has been adopted or placed in guardianship situation after having been found dependent upon a juvenile court in the United States will continue to be considered to be eligible for long-term foster care. [Note: The requirement of long-term foster care was removed from the definition of Special Immigrant Juvenile pursuant to the TVPRA, which makes the foregoing definition irrelevant.]~~

Juvenile court means a *court* located in the United States *having jurisdiction under State law to make judicial determinations about the custody and care of juveniles.*

(b) Petition for special immigrant juvenile. An alien may not be classified as a special immigrant juvenile unless the alien is the beneficiary of an approved petition to classify an alien as a special immigrant under section 101(a)(27) of the Act. The petition must be filed on Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant. The alien, or any person acting on the alien's behalf, may file the petition for special immigrant juvenile status. The person filing the petition is not required to be a citizen or lawful permanent resident of the United States.

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(c) Eligibility. An alien is eligible for classification as a special immigrant under section 101(a)(27)(J) of the Act if the alien:

(1) Is under twenty-one years of age;

(2) Is unmarried;

(3) Has been declared dependent upon a juvenile court located in the United States in accordance with state law governing such declarations of dependency, *while the alien was in the United States and under the jurisdiction of the court*;

~~(4) Has been deemed eligible by the juvenile court for long-term foster care; [See Note, supra.]~~

~~(5) Continues to be dependent upon the juvenile court and eligible for long-term foster care, such declaration, dependency or eligibility not having been vacated, terminated, or otherwise ended; and [Id.]~~

(6) Has been the subject of judicial proceedings or administrative proceedings authorized or recognized by the juvenile court in which it has been determined that it would not be in the alien's best interest to be returned to the country of nationality or last habitual residence of the beneficiary or his or her parent or parents; or

~~(7) On November 29, 1990, met all the eligibility requirements for special immigrant juvenile status in paragraphs (c)(1) through (c)(6) of this section, and for whom a petition for classification as a special immigrant juvenile is filed on Form I-360 before June 1, 1994. [Moot]~~

(d) Initial documents which must be submitted in support of the petition.

(1) Documentary evidence of the alien's age, in the form of a birth certificate, passport, official foreign identity document issued by a foreign government, such as a Cartilla or a Cedula, or other document which in the discretion of the director establishes the beneficiary's age; and

(2) One or more documents which include:

(i) *A juvenile court order, issued by a court of competent jurisdiction located in the United States, showing that the court has found the beneficiary to be dependent upon that court;*

~~(ii) A juvenile court order, issued by a court of competent jurisdiction located in the United States, showing that the court has found the beneficiary eligible for long-term foster care; and~~

(iii) *Evidence of a determination made in judicial or administrative proceedings by a court or agency recognized by the juvenile court and authorized by law to make such decisions, that it would not be in the beneficiary's best interest to be returned to the country of nationality or last habitual residence of the beneficiary or of his or her parent or parents.*

(e) Decision. The petitioner will be notified of the director's decision, and, if the petition is denied, of the reasons for the denial. If the petition is denied, the petitioner will also be notified of the petitioner's right to appeal the decision to the Associate Commissioner, Examinations, in accordance with part 103 of this chapter.

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IV. HYPOTHETICALS FOR DISCUSSION

INSTRUCTIONS: Read each hypothetical, below. You will be given a certain amount of time by the presenters to discuss the questions with your group/table. The presenters will be floating during this time to help guide the discussion - please flag them down if you have specific questions or concerns.

QUESTIONS FOR EACH HYPOTHETICAL:

1. The current caretaker brings this child to your office as a private attorney. Could this child be eligible for Special Immigrant Juvenile Status?
2. Are there any procedural issues in the state court:
 - a. How might Service of Process occur on any parents abroad?
 - b. What concerns might the State Court Judge have?
3. What concerns might there be if the father's name is not on the birth certificate from the child's home country?
4. What concerns would there be if the father dies (if the hypothetical posited that he was alive) before the state court process is completed?
5. There is a juvenile dependency/child welfare court petition filed and the agency takes custody.
 - a. Could this child be eligible for Special Immigrant Juvenile Status? Are there any added complications?
 - b. Would any aspect of your court proceeding involve reunification planning and efforts, and would any of that language cause any difficulty in getting a valid SIJS predicate order?
6. What happens if you do not obtain a SIJS predicate order.
7. Are there any barriers to success, through the adjustment of status stage, under immigration law and policy?
8. Bonus Question - Are there any other forms of immigration relief available, or any other defenses to deportation?

Hypothetical # 1 Francisco

Francisco Sosa is a ten year old and native and citizen of El Salvador. He currently lives with his mother, Ana, in your city. Francisco's mother was never married to his biological father, Jose. Francisco lived with both of his parents in San Salvador, El Salvador until the age of three when his father moved out of the family home.

Initially, Francisco's father would stop by one or two times each week to visit and drop off money. The visits gradually decreased and eventually stopped altogether. Francisco has not seen his father or had any contact with him since he turned five years old. When Francisco was seven years old, his mother came to the U.S. and left him in the care of his maternal grandmother. A few months ago, Francisco's maternal grandmother became ill. She is no longer able to work and cannot care for Francisco. Francisco asked his grandmother and mother for information about his father's whereabouts, but they do not have an address or phone number for him.

Having no relatives in El Salvador willing and able to care for him, Francisco left El Salvador and made his way to the United States, hoping to reunite with his mother. Francisco was apprehended in Arizona, served with a Notice to Appear, and spent a short period of time in an ORR shelter before being released into his mother's care. Shortly after arriving at his mother's house, the local ICE attorney served another copy of the NTA on Francisco's mother by regular US mail. His first master calendar hearing is scheduled for next month.

Hypothetical # 2 Clarisa

Clarisa is fourteen years old and was born in Guatemala. Her mother died during childbirth and she was raised by her father, Rigoberto. When Clarisa turned ten years old, Rigoberto moved his girlfriend, Maurilia, into the family home. Maurilia forced Clarisa to drop out of school so she could complete household chores. Clarisa was responsible for all the cleaning, cooking, and laundry. When the household chores were not completed to Maurilia's standards, she would hit Clarisa with a belt or slap her across the face. Maurilia frequently cursed at Clarisa, and told her that she was lazy and worthless. Clarisa's father, Rigoberto, did nothing to prevent Maurilia from harming his daughter. He often told Clarisa this was good for her because she would need all of these skills when she became an adult and got married. On at least two occasions, Rigoberto also hit Clarisa for talking back to Maurilia.

Clarisa dreamed of coming to the United States to live with her aunt, Gabriela. Gabriela was her mom's younger sister with whom Clarisa was very close during her early childhood. When Clarisa was eight, her aunt came to the United States without a visa and remains undocumented. When Clarisa turned thirteen years old, she decided she could no longer stand living with her father and his girlfriend. She fled Guatemala for the United States. She was apprehended in Texas, she was issued a notice to appear, and was placed in the custody of the Office of Refugee Resettlement, within DHHS/ACF, and eventually released to her aunt pursuant to a power of attorney-type document ("carta poder") that the father was asked to send to the ORR shelter. She now lives with her aunt in your town. She has occasional phone calls with her father, although he does not provide any financial support. He asks for her to come home with him, and doesn't understand why she won't just allow herself to be deported and come home. Her first master calendar hearing was last month and she attended that hearing with her Aunt by her side, and her second master calendar hearing is scheduled for next month.

Hypothetical #3: AYA

Aya is 16 years old and was born in the West African country of Côte d'Ivoire. She grew up with both of her parents and her two younger siblings. Like all girls in her ethnic group, Aya was forced to undergo female genital mutilation/cutting (FGM/C) when she was about 7 years old. She remembers the procedure and still experiences pain and discomfort to this day. Aya attended school until Côte d'Ivoire entered into a period of crisis following the 2010 presidential elections. During this time period, war came to Abidjan, where Aya and her family were living. After the fighting started, there was no food, no electricity, and no running water in Aya's family's neighborhood. Without radio or television, it was impossible for Aya's family to receive updates on the fighting around them, and remained inside in fear. At one point, when it was quiet, Aya and her family went outside their house to see what was going on. They saw groups of people running and became very frightened. Aya's parents told her to run in order to find a safe place to hide.

While they were fleeing from violence in Abidjan, Aya became separated from her family. Not knowing what to do, she joined a group of people and followed them across the border into Ghana, a neighboring country. In Ghana, Aya connected with one of her aunts, Bunmi. Aunt Bunmi cared for Aya and comforted her over the loss of her family. She tried to help Aya reunite with her parents, but after years went by, their search for Aya's parents became fruitless. Aya's parents are presumed to be among the thousands of people killed during the violence in the Ivory Coast.

However, another of Aya's aunts discovered that Aya was living in Ghana and was abandoned by her parents. This aunt attempted to profit from Aya's situation by offering to sell Aya into marriage to an old man. Aya discovered this plan and was terrified. Aunt Bunmi feared that Aya would be kidnapped and forced to marry the old man against her will, so Aunt Bunmi asked a friend who was traveling to the United States to help Aya to escape from West Africa. When Aunt Bunmi became sick and went to seek medical treatment, and Aya was left on her own. Aya has not heard from Aunt Bunmi since this time, and does not know her whereabouts. While she was on her own, Aya was raped and forced to beg for money in order to survive, all the while living in fear that she would be kidnapped and forced into marriage.

Aya believed she had no choice to save herself from being forced into marriage and further sexual violence but to flee from West Africa. She arrived at JFK Airport in New York City and was found by immigration agents to be in possession of a fraudulent visa, obtained by Auntie Bunmi's friend, which stated she was 19 years old. Aya was put into adult immigration detention in New Jersey until she confessed her real age. She was 15 years old at the time, and was served with a Notice to Appear, personally. Aya was then transferred to Children's Village and placed into the care of the U.S. Department of Health and Human Services' Office of Refugee Resettlement (ORR). Aya was able to connect with a family friend and to be released from ORR custody to live with this friend in the Bronx.

The child has not yet had her first hearing in immigration court.

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V. A. COMMON OBJECTIONS/ISSUES IN STATE COURTS

- State Court Judge doesn't want to make any 'special' findings or talk about 'federal law' or make "immigration decisions"
- Judge is concerned about human trafficking.
- Judge disbelieves the client's story and believes the parties are in collusion.
- Judge won't make findings about return to foreign country.
- Location of parent to be served is 'unknown'; issues with service of process
- Judge doesn't believe service/notice was sufficient because he doesn't know foreign law, or thinks there may be a treaty involved.
- Juvenile proceedings are confidential, won't release orders
- Judge doesn't believe that "reunification" can be found not to be viable outside a child welfare case where he is ordering some form of irreversible guardianship to a nonparent, or even that a termination action must be set to proceed
- Judge doesn't have time or interest in hearing your specific evidence, and/or makes minimal written findings.
- Judge requests paternity be established when no father on birth certificate
- Issues with translations of documents

V. B. COMMON ISSUES/CONCERNS WITH USCIS

- Temporary Order (or otherwise deemed to be merely *In Loco Parentis*)
- Primary Purpose (moot/nugatory)
- Father not on the birth certificate
- Statements from the I-213 (the record of CBP's interview of child at border)
- Statements made in other immigration/visa applications, often times by adults
- Second-guessing Jurisdiction under State Law (age, SMJ)
- Second-guessing the "best interests" determination
- For over-18 children, whether jurisdiction was "As a Minor" vs. "As an Incompetent" or other bases not *bona fide*
- Continuing Jurisdiction over Child
- Adequate Factual Findings (the Why)
- Visa Number Availability EB-4 (at the adjustment of status/green card stage)

Outline of Legal and Other Issues Covered by Presentation

- UAC's
- Federal Agencies Overview
- Federal-State Structure of SIJS
- Federal Agency Policy & Appeals
- State Law
- International Service of Process
- Practical Tips
- Other Concerns - Language Access, Trauma
- Statutory Excerpts (condensed, emphasis added)
- [Basic Vocabulary for Immigration and Family Law Practitioners](#)

Outline of Legal and Other Issues Covered by Presentation:

I. UNACCOMPANIED MINORS (UAC's)

A. **Definition:** Designation made by Customs & Border Patrol (CBP) upon crossing border regarding Children detained by (or otherwise come to the attention of) the Department of Homeland Security (DHS) who are not in the physical custody of their parent or other legal guardian

B. Crises in Central America

1. Dangers to Males
 - a) Gang recruitment into the most notorious gangs in the world
 - b) Child abuse
 - c) Negligent Parents
 - d) Abandonment
 - e) Forced labor
2. Dangers to Females
 - a) Sexual abuse/assault
 - b) Child abuse
 - c) Abandonment
 - d) Prostitution
 - e) Gang recruitment as a gang member's girlfriend

C. Humanitarian Relief (overview of existence of options)

1. Family-based Relief
2. Asylum
3. T Visas
4. U Visas
5. DACA (June 2012) - currently being processed
6. Executive Action/DAPA/Expanded DACA (Nov 2014) - On Hold, in the Federal Courts
7. Prosecutorial Discretion: Enforcement Priorities
8. Special Immigrant Juvenile Status (SIJS)

D. Factors Influencing SIJS as a choice of relief:

1. Emphasis on Deterrence & Prioritization of Recent Arrivals (including UAC's)
2. High Deportation Rate from Charlotte Immigration Court
3. Lack of Asylum or other forms of relief
4. Can apply for multiple, concurrent forms of relief

II. FEDERAL IMMIGRATION LAW ENFORCEMENT AND ADMINISTRATIVE AGENCIES:

A. Overview of relevant Agencies within US Department of Homeland Security ("DHS"), within the US Department of Health and Human Services ("DHHS") and within the US Department of Justice ("DOJ")

1. DHS:

- a) **US Customs and Border Patrol ("CBP"):** Apprehends Aliens at the Border

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- b) **US Immigration and Customs Enforcement (“ICE”):**
Apprehends Aliens in the Interior
 - c) **US Citizenship and Immigration Services (“USCIS”):**
Administers Benefits/Visas Domestically
- 2. **DHHS: Office of Refugee Resettlement (“ORR”):** Maintains shelters for unaccompanied minor children until release to relatives or, much less frequently, the foster care agencies with which it contracts
- 3. **DOJ: Executive Office for Immigration Review (“EOIR”):** For non-expedited-removal cases, Immigration Judge (“IJ”), DHS Trial Attorney (“TA”), purpose to adjudicate certain claims
 - a) Immigration Court Process
 - b) Methods of Case Disposition

III. FEDERAL-STATE STRUCTURE OF SIJS: FEDERAL STATUTES

- A. **What is SIJS?** Definition at [8 U.S.C. § 1101\(a\)\(27\)\(J\)](#)
- B. **Structure - Federal-State Interplay:** The INA contemplates a state court’s assistance with certain findings of fact is made pursuant to section 101(a)(27)(j) of the Immigration and Nationality Act (the “INA”), which is codified at Title 8 of the US Code at section [1101\(a\)\(27\)\(J\)](#), with implementing regulations at [8 C.F.R. § 204.11](#).
- C. **State-level Venues (“State or Juvenile Courts” in federal jargon):** State Courts using state law to make judicial determinations about the custody and care of minor children and juveniles, able to make the required predicate findings. [8 U.S.C. § 1101\(a\)\(27\)\(J\)\(i\)](#), [8 C.F.R. § 204.11](#)(a),(c). More fully detailed below.
 - 1. 2008 TVPRA expanded range of eligible children and proceedings by completely removing requirement for foster-care involvement.
 - 2. Any qualifying court’s order placing the Minor Child in the custody of “an individual or entity” will be taken into consideration by USCIS in that agency’s determination as to whether the Minor Child qualifies for Special Immigrant Juvenile Status. [8 U.S.C. § 1101\(a\)\(27\)\(J\)\(i\)](#), [8 C.F.R. § 204.11](#)(a),(c).
 - 3. The 2008 Trafficking Victims Protection Reauthorization Act (“TVPRA”) was passed by unanimous consent in Congress and expanded the range of eligible children by:
 - a) removing requirement for foster-care eligibility
 - b) reunification with only one parent now needs to not be viable.
 - 4. TVPRA provides numerous other protections while in the custody of the federal government, in filing asylum applications
- D. Two specific factual findings are necessary to enable the Minor Child or his representative to petition the U.S. Citizenship and Immigration Services (“USCIS”) for a classification of Special Immigrant Juvenile Status (“SIJS”).
 - 1. The first required finding is that that “reunification with one or both of the [Minor Child’s] parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law.” [8 U.S.C. § 1101\(a\)\(27\)\(J\)\(i\)](#).
 - 2. The second required finding is that it is not in the best interest of the

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Minor Child to be returned to his/her previous country of last habitual residence. [8 U.S.C. § 1101\(a\)\(27\)\(J\)\(ii\)](#).

- E. The minor (or representative) petitions USCIS for a SIJS classification by filing the form I-360 with other required documents. USCIS has six months in which to adjudicate the petition and either award or deny the classification (not any form of permanent status, in itself). A complete list of documents for the I-360 filing packet is in the [Special Immigrant Juvenile Status Comprehensive Checklist](#).
- F. The SIJS classification by USCIS would open the possibility for a child to remain in the United States notwithstanding his or her prior legal status. The child may apply to adjust status/adjustment of status (“AOS”) to that of lawful permanent residence (obtaining a green card) under [8 U.S.C. § 1255\(a\), \(h\)](#). This application requires the filing of the form I-485, other forms, and various required documents. See the [Special Immigrant Juvenile Status Comprehensive Checklist](#) for full listing of forms and other required items in the I-485 filing packet.
- G. If the child completes the immigration process and obtains lawful status, it has an extremely positive impact on the child’s well-being, including physical and emotional safety, education, medical care, and almost every aspect of the child’s life. This significantly improves ‘permanency’ for the child, well into the future.
- H. Some public benefits may be available in certain states upon filing or approval of the I-360; however, many public benefits will not accrue until the child has actually adjusted status and been a lawful permanent resident for five years.
- I. Caveat: All “Special Immigrants”, including Special Immigrant Juveniles, must become eligible an available visa number in order to apply for adjustment of status (though there is no limit on how many individuals may obtain the underlying special immigrant juvenile status).
 - 1. Normally, there have been adequate numbers of visas for all countries for all kinds of Special Immigrants under the [EB-4 category](#) as also defined by law and implemented by the Department of State, which publishes visa number availability each month in its monthly [Visa Bulletin](#). Thus, normally for an individual who was not in removal proceedings, he or she could file both their Form I-360 Petition for Special Immigrant Juvenile Status as well as their Form I-485 Adjustment of Status Application together because a visa number would be available upon the approval of the SIJS petition. However, such dual-filing is not allowed when a visa number is not available.
 - 2. The filing of the Special Immigrant Juvenile Petition I-360 locks in a ‘priority date’, which will be important in determining when a visa is available when the allotments are insufficient to cover all pending actions, and the Department of State thus doles out the numbers to those who have been waiting the longest before advancing to newer applications.
 - 3. Presently, individuals from El Salvador, Guatemala, Honduras, India, and Mexico are oversubscribed, meaning that no more visa numbers are available due to having too many applicants from each of those countries, for this category, for this fiscal year. Each new federal fiscal year (October 1), new allotments are available. In light of the growing

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backlog, there is great uncertainty about best practices for children in the interim, especially those who are also in EOIR Removal proceedings. There is a good article about some potential options, from the Center for the Study of Social Policy, titled [*Special Immigrant Juvenile Status: A Critical Pathway to Safety and Permanence*](#). Another article from Michelle Mendez and Sarah Bronstein is [*Strategies for SIJS cases in light of adjustment backlog*](#).

4. Because the filing of the Form I-360 Special Immigrant Juvenile Status petition locks in a priority date, it is important to continue to timely file that petition, even though there may be a wait before being able to adjust status - and of course, for individuals in removal proceedings, there may be a delay in the ability to terminate the removal case (to adjust with USCIS) or to attempt to adjust status before the Immigration Judge instead.
- J. Further caveat: in order to adjust status, an individual must be ‘admissible’ to the United States (even though they are already physically here). This determination includes looking at whether any ‘grounds of inadmissibility’ pertain, and if so, whether any of them may be waived. Although after the award of Special Immigrant Juvenile Status a number of those grounds are automatically waived, and waivers may be available for other grounds, there can still commonly be issues related to gang affiliation, controlled substances, criminal history, and various other issues. The Immigrant Legal Resource Center has an excellent breakdown of the provisions, titled: [*Grounds of Inadmissibility for Special Immigrant Juveniles*](#). However, this material can quickly become very murky, and it is often crucial to consult an immigration attorney dealing with waiver issues and the intersection of criminal issues and immigration in your state, as there is considerable variation geographically.

IV. FEDERAL AGENCY POLICY AND APPEALS

A. Agency Policy Memoranda:

1. **USCIS Memorandum No. 3: Field Guidance on Special Immigrant Juvenile Status Petitions (May 27, 2004)** (a.k.a. “Yates Memo”) articulating policies for adjudicating SIJS cases, available on the [USCIS website](#).
2. **USCIS Memorandum: Trafficking Victims Protection Reauthorization Act of 2008: Special Immigrant Juvenile Status Provisions (March 24, 2009)** (a.k.a. “Neufeld Memo”) articulating updated policies for adjudication of petitions implementing the TVPRA’s changes, available on the [USCIS Website](#).
3. USCIS will often issue notices or requests when they are reviewing a case and are not willing to approve the case as-submitted:
 - a) Requests for Evidence (“RFE”) - the most benign kind of request, seeking particular additional evidence that if received, will help them in rendering a possibly positive decision
 - b) Notice of Intent to Deny (“NOID”) - a notice indicating that they

do not intend to approve a case, but offering the opportunity to provide additional evidence and arguments

- c) Notice of Intent to Revoke (“NOIR”) - a notice issued after an approval, indicating that USCIS considers their prior approval to have been erroneous, and seeking to revoke the benefit, but offering an opportunity to provide additional evidence and arguments

- 4. If you encounter opposition from USCIS on a legally-sound SIJS petition, which is common, it may be helpful to consult with other members of the advocacy community about the current state of affairs and what has been successful for others. There are also good resources available from immigration advocacy nonprofits that may be helpful in overcoming the objections of USCIS, including the great document by the Immigrant Legal Resource Center (“ILRC”) entitled [*Responding to Inappropriate RFEs & NOIDs in SIJS Cases*](#)
- 5. In the event of unfavorable action at the field office level, one may seek reconsideration based on new evidence, or may appeal to the AAO.

B. Decisions of the Administrative Appeals Office (“AAO” - the authority within USCIS for many kinds of appeals, including denials of Special Immigrant Juvenile Status): Defining categories of courts with jurisdiction to enter predicate orders involving custody determinations, finding that a wide variety of types of courts nationwide were able to make these findings. There are also opinions addressing the adequacy and support of the factual findings, including a non-precedent [*March 10, 2014 opinion*](#) out of the Philadelphia office indicating that a state court which bases its decree upon a best interests determination may be deemed to impliedly make the ‘special findings’ when they would be necessary for the court to reach its decision. A registry of technically non-binding, non-precedent decisions that may nonetheless be useful for guidance and illustration is available at the [*AAO’s Database for SIJS Decisions \(broken down by year\)*](#).

- 1. Decisions of the AAO, and potentially other agency action/inaction, may be challenged through an Administrative Procedure Act (“APA”) suit (also, possibly a *Habeas Corpus* writ, if the child is detained). This gateway to the federal courts may be the only option for challenging
- 2. Final Decisions and long-delayed decisions may also be brought to the attention of the USCIS Ombudsman, an independent agency within DHS (not under USCIS), which has the power to recommend systemic change and to advocate for USCIS to reconsider in particular cases if they see mishandling or misapplication of the law.

C. Injunctions in Force against USCIS regarding handling of SIJS adjudications: Materials relating to the 2015 stipulations in the long-running *Perez-Olano* case, originally settled in 2010 (a class action lawsuit filed on behalf of children whose applications for Special Immigrant Juvenile Status or SIJS-based Adjustment of Status were denied because they either turned 21 or ceased to be under the jurisdiction of a juvenile court while their applications

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were pending) - [see the most current agreement which provides for clearer “age-out” protections for SIJS eligible youth here](#) and other prior materials on the settlement at the [USCIS website here](#).

V. STATE LAW, SUBJECT MATTER JURISDICTION, LEGAL BASES, VENUES WHERE SIJS FINDINGS MAY BE MADE

A. Public Policy in every state we know of is that every unemancipated Child needs and deserves a Guardian or Custodian who has full legal authority to act in their best interests, during each and every day of their childhood, and if both parents are not available/willing to assist, for just one of them to be able to act alone

B. What is Child Custody?

1. Child custody is a “bundle” of rights and responsibilities relating to the care, custody, and control of a minor child.
2. Prior to any court involvement or other binding legal action, biology controls and the parents share equal custody rights (regardless of whether a child is legitimated, and often even without any formal paternity determination by courts, though sometimes at least some action is required)
3. Child custody may be shared by multiple individuals/entities, and some, all, or none of whom may be the biological parents.
4. Child custody consists of both legal custody (decisionmaking authority) and physical custody (physical care, visits, delegated care). Mere physical custody is not usually awarded alone; rather, legal custodians typically have authority to designate who will have any particular periods of physical custody if not exercising it him/herself.
5. Mere physical custody or possession (caretaking) of a child does not constitute the kind of legal custody required for SIJS.
6. What Kinds of Custodians Exist?
 - a) A biological parent or an adoptive parent
 - b) A general guardian or guardian of the person
 - c) A custodian appointed by a court, including child welfare agencies
 - d) Other types of legal relationship which control the child’s legal custody
7. What categories are not custodians?
 - a) Caretakers
 - b) Individuals appointed by ORR as voluntary ‘sponsors’
 - c) Individuals with (revocable) powers of attorney over the child

C. Juvenile Court/Abuse-Neglect-Dependency/Child Welfare Actions

D. Termination of Parental Rights (“TPR”)

E. Juvenile Undisciplined/Delinquent Actions

F. Family Court Child Custody Actions

G. Guardianship Proceedings

H. Adoption Proceedings

I. Declaratory Judgments

J. Venue:

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1. The general rule is that the Defendant must raise a venue defense in the pleadings, or it is waived.
2. If your specific local venue (usually a specific County or other subdivision with a state) has problems with obtaining relief, question whether there would be barriers to filing in other venues

VI. Subject Matter Jurisdiction: Uniform Child Custody Jurisdiction and Enforcement Act (Here is a [link to the model law](#) - your state may differ): Applicable to all child custody proceedings of any sort, this statutory provision deprives a custody court of subject-matter jurisdiction unless and until the state meets the definition of a “Home State” or the court at least has temporary emergency jurisdiction under § 204 when the child is present in a particular state and has been abandoned or threatened with abuse or mistreatment (which may ripen into non-temporary jurisdiction with passage of time). UCCJEA vests a state’s courts with the jurisdiction to render custody determinations regarding minor children after six months of residence and arguably sooner, treating a foreign country like another state, and the information that must be included with any new filing:

1. Home State is defined under § 102 Definitions as follows: "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.
2. This article treats foreign countries as though they were other states for purposes of these definitions, per § 105 International application of Article:
 - (a) A court of this State shall treat a foreign country as if it were a state of the United States for the purpose of applying Parts 1 and 2.
 - (b) Except as otherwise provided in subsection (c), a child-custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this Article must be recognized and enforced under Part 3.
 - (c) A court of this State need not apply this Article if the child-custody law of a foreign country violates fundamental principles of human rights.
3. The UCCJEA also addresses Service of Process & Personal Jurisdiction
 - a) Notice (Service) to persons outside State: § 108(a) “Notice required for the exercise of jurisdiction when a person is outside this State may be given in a manner prescribed by the law of this State for service of process or by the law of the state in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.”
 - b) § 201(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child-custody determination.

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4. Temporary Emergency Jurisdiction: § 204(a) allows the state court to act in emergency circumstances involving abuse or abandonment, prior to the state becoming the ‘home state,’ after which point it can **ripen/merge into a permanent order under § 204(b)** under appropriate timing, usually (but not necessarily) upon the state obtaining home state jurisdiction where no other state has timely acted.

VII. PERSONAL JURISDICTION - INTERNATIONAL SERVICE OF PROCESS

- A. **Federal Rules of Civil Procedure** for International Service of Process: [Rule 4\(j\)](#)
- B. Use the Department of State [country information widget](#) as the first tool to check on which treaties apply
- C. Review [this helpful article on International Service of Process](#).
- D. Due process likely requires translation of the summons and complaint into a language spoken by the defendant, even if an international agreement does not govern or specify that the documents must be translated.
- E. **Hague Service Convention**
 1. This convention governs service in many countries around the world
 2. The US is a full party to the convention
 3. You may wish to read the [Full Text of the Treaty](#) and determine whether the other country is also a party by looking in the [Status Table](#).
 4. See also W. Mark C. Weidemaier, [International Service of Process Under the Hague Convention](#).
- F. **Inter-American Service Convention and Additional Protocol** governing service in certain Western Hemisphere Countries, as the US is a full party to the convention (and considers parties who adopted the original convention but not the additional protocol not to be full parties): you may wish to read the text of the [Additional Protocol](#). As explained below, this is not a mandatory treaty, and most individuals, unless they want to ensure the highest degree of assurance of the enforceability of a judgment in the foreign country, will opt to use a simpler and faster method of service.
- G. State Law Example, NC: *Hammond v. Hammond*, 708 S.E.2d 74 (N.C. App., 2011)
 1. The *Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* (“Hague Service Convention”) is Binding on State Procedure and Mandatory as a means of Service whenever both countries are signatories.
 2. However, there is always room for Judicial Discretion to overlook procedural irregularity or nonconformity where ACTUAL NOTICE and a good faith effort to comply.
- H. Federal Cases: *Kreimerman v. Casa Veerkamp, S.A. de C.V.*, 22 F.3d 634 (C.A.5 (Tex.), 1994); *Pizzabioche v. Vinelli*, 772 F.Supp. 1245 (M.D. Fla., 1991); and *Morgenthau v. Avion Resources Ltd.*, 11 N.Y.3d 383, 898 N.E.2d 929 (N.Y., 2008)
 1. All jurisdictions to address the question (so far as I have found) have interpreted the Inter-American Convention on Letters Rogatory + Additional Protocol to be NON-EXCLUSIVE, and therefore any U.S. State is free to follow its own civil procedure with respect to service abroad in countries which are signatories only to the Inter-American Convention on Letters Rogatory and Additional Protocol.

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- I. Principles of International Comity (discussed briefly in *Avion Resources, supra*) do not require adherence to the precise procedural rules for service in the receiving country, and is not an “additional hurdle.”
- J. Absent any binding treaty (to wit: the Hague Service Convention), so long as Due Process is afforded to the individual served and the service complies with the U.S. State’s rules (which may adopt or find sufficient foreign methods of service), then the service will generally be valid.

VIII. PRACTICAL TIPS:

A. DRAFTING THE COMPLAINT/MOTION/REQUEST PACKET

1. As much detail about abuse, abandonment, and/or neglect as possible
2. Tell why it is in the child’s best interests to remain in the United States and why the Plaintiff is the proper person to have custody of the minor child
3. Include details of any prior litigation regarding custody of the minor child
4. Details of where the child has lived for the past 5 years
5. Include all required documents per the template/packet appropriate for your state, though the list may vary by locality and local rule - always follow local rules
6. If you do not have an in-house interpreter, you can often obtain a volunteer interpreter to assist with interviewing the minor child and any caregivers with relevant information (for individuals in the GAL program, it is recommended to request appointment of the volunteer interpreter through the court to comply with the strict confidentiality requirements)

B. FILING

1. Take original and 3 copies to clerk of court in civil filings
2. Use Petition to Sue/Appeal/File Motions as an Indigent if client qualifies to waive filing fees
3. File Motion to waive Parent Education and Mediation with Family Court

C. Initial Hearing: Calendar Call

1. After filing proof of service, follow your county’s procedures for scheduling hearings.
2. When you attend Calendar Call, know your deadlines and approximately how much time you will need to conduct your custody hearing.
3. Most hearings are unopposed and last approximately 30 minutes.

D. PREPARING FOR TRIAL

1. Notify the potential guardian/sponsor and the minor child of the date of the hearing.
2. Make sure they know the address and set up a meeting place within the courthouse.
3. Draft direct examination questions for both the potential guardian/sponsor and the minor child.
4. Distribute the list of questions to them for review and set up a time to practice before the hearing.
5. Prepared an opening statement which summarizes the case.
6. Draft your proposed order, making sure to include the requisite language

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and findings of fact.

7. Arrange a court interpreter to be present at the trial.

IX. Other Considerations

A. Language Access:

1. Your state should make available interpreters for child custody/welfare type proceedings, and there should be a process in place (if not, call the US DOJ to complain, as they've intervened in states with such problems).
2. Consider whether there is a dialect or other language altogether in which the client might be more proficient - always ask, as clients may not realize that you may be interested or willing to accommodate their specific needs, particularly if they came from an oppressed/minority group.

B. Be Trauma-Informed:

1. Even under the best of circumstances, international migration causes trauma and loss to clients. Most individuals qualifying for humanitarian relief have suffered significant trauma. It is important to recognize that many things may be difficult for the client to talk about, especially with a very confusing foreign attorney (you). Building comfort, rapport, and trust across such large divides may take substantially more time than for other client types. For children who have faced parental abuse, neglect, and abandonment, typically on top of other concerns in their country of origin, this is especially true.
 - a) Ensure that if possible, clients seek appropriate counseling/mental health services - some parts of your state (but probably not all) have sliding-scale providers in some common foreign languages.
 - b) You may need to re-interview the client after time has passed, and adjust your case based on your client's continuing disclosures. Expansion or clarification of a client's story is a positive sign.
 - c) Recognize that stability and security have been scarce in your client's life, and that court proceedings (determining whether they will face deportation) are a huge source of stress. For clients fleeing danger, in particular, these consequences are life-or-death. Many clients' mental and physical health hinge on their case. Additional time and energy devoted to showing compassion and performing the legal counsellor role are often needed.

C. Connect Traumatized Children (and adults) with Mental Health Services

1. This will improve your client's ability to process and talk about the issues
2. This will also improve your client's wellbeing and functioning, and happiness, which is a benefit to your client
3. This may also produce medical records that are easy to put in evidence and would have good value at hearing or with the immigration agency.

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Statutory Excerpts (condensed, emphasis added)

UCCJEA § 102

UCCJEA § 108, -201, -204, -205

FRCP, Rule 4(j)

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UCCJEA Definitions:

§ 102. Definitions. In this Article:

(1) "Abandoned" means left without provision for reasonable and necessary care or supervision.

(2) "Child" means an individual who has not attained 18 years of age.

(3) "Child-custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

(4) "Child-custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under Part 3 of this Article.

...

(7) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

(8) "Initial determination" means the first child-custody determination concerning a particular child.

...

(13) "Person acting as a parent" means a person, other than a parent, who:

A. Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child-custody proceeding; and

B. Has been awarded legal custody by a court or claims a right to legal custody under the law of this State.

(14) "Physical custody" means the physical care and supervision of a child.

...

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Service and Notice under the UCCJEA

§ 108. Notice to persons outside State.

- (a) Notice required for the exercise of jurisdiction when a person is outside this State may be given in a manner prescribed by the law of this State for service of process or by the law of the state in which the service is made. ***Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.***
- (b) Proof of service may be made in the manner prescribed by the law of this State or by the law of the state in which the service is made.
- (c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

§ 205. Notice; opportunity to be heard; joinder.

- (a) Before a child-custody determination is made under this Article, notice and an opportunity to be heard in accordance with the standards of Section 108 must be given to all persons entitled to notice under the law of this State as in child-custody proceedings between residents of this State, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.
- (b) This Act does not govern the enforceability of a child-custody determination made without notice or an opportunity to be heard.
- (c) The obligation to join a party and the right to intervene as a party in a child-custody proceeding under this Act are governed by the law of this State as in child-custody proceedings between residents of this State.

UCCJEA Part 2. Jurisdiction.

§ 201. Initial child-custody jurisdiction.

- (a) Except as otherwise provided in Section 204, a court of this State has jurisdiction to make an initial child-custody determination only if:

(1) **This State is the home state** of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding, and the child is absent from this State but a parent or person acting as a parent continues to live in this State;

(2) **A court of another state does not have jurisdiction under subdivision (1)**, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this State is the more appropriate forum under Section 207 or 208, and:

a. The child and the child's parents, or the child and at least one parent or a **person acting as a parent, have a significant connection with this State** other than mere physical presence; and

b. **Substantial evidence is available in this State** concerning the child's care, protection, training, and personal relationships;

(3) All courts having jurisdiction under subdivision (1) or (2) have declined to exercise jurisdiction on the ground that a court of this State is the more appropriate forum to determine the custody of the child under Section 207 or 208; or

(4) **No court of any other state would have jurisdiction under the criteria specified in subdivision (1), (2), or (3)**

- (b) Subsection (a) is the exclusive jurisdictional basis for making a child custody

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determination by a court of this State.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child-custody determination.

§ 204. Temporary emergency jurisdiction.

(a) A court of this State has temporary emergency jurisdiction if the child is present in this State and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(b) If there is no previous child-custody determination that is entitled to be enforced under this Act and a child-custody proceeding has not been commenced in a court of a state having jurisdiction under Sections 201 through 203, a child-custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under Sections 201 through 203. If a child-custody proceeding has not been or is not commenced in a court of a state having jurisdiction under Sections 201 through 203, a child-custody determination made under this section becomes a final determination if it so provides, and this State becomes the home state of the child.

...

SERVICE OF PROCESS Federal Rules of Civil Procedure Rule 4

(j) **Serving an Individual in a Foreign Country.** Unless federal law provides otherwise, an individual—other than a minor, an incompetent person, or a person whose waiver has been filed—may be served at a place not within any judicial district of the United States:

- (1) by any internationally agreed means of service that is reasonably calculated to give notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;
- (2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:
 - A. as prescribed by the foreign country’s law for service in that country in an action in its courts of general jurisdiction;
 - B. as the foreign authority directs in response to a letter rogatory or letter of request; or
 - C. unless prohibited by the foreign country’s law, by:
 1. delivering a copy of the summons and of the complaint to the individual personally; or
 2. using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or
- (3) by other means not prohibited by international agreement, as the court orders.

(I) Proving Service.

(1) *Affidavit Required.* Unless service is waived, proof of service must be made to the court. Except for service by a United States marshal or deputy marshal, proof must be by the server’s affidavit.

(2) *Service Outside the United States.* Service not within any judicial district of the United States must be proved as follows:

- (A) if made under Rule 4(f)(1), as provided in the applicable treaty or convention; or
- (B) if made under Rule 4(f)(2) or (f)(3), by a receipt signed by the addressee, or by other evidence satisfying the court that the summons and complaint were delivered to the addressee.

(3) *Validity of Service; Amending Proof.* Failure to prove service does not affect the validity of service. The court may permit proof of service to be amended.

(m) **Time Limit for Service.** If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f) or 4(j)(1) or to service of a notice under Rule 71.1(d)(3)(A).

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ETHICAL/OTHER CONSIDERATIONS:

- D. **Dual-Representation:** In SIJS cases, if an attorney or firm/organization is representing the child in more than one court/agency, they may have different legal clients (though normally the purpose of the representation is seeking a benefit for the child). Rules [1.7](#) and [1.8](#) of the Model Rules of Professional Conduct govern the potential conflicts between current clients, regarding adverse interests, financial assistance, etc.
- E. **Mandatory Reporting Law** - varies by state

Immigration Law Basic Definitions useful for a State/Family Court Practitioner

1. **Adjustment of Status (“AOS”)** - The legal grant of lawful permanent residence (“LPR,” also colloquially known as a “green card”) to an alien.
2. **Alien** - A person who is not a US Citizen
3. **CBP** - US Customs and Border Patrol, a law enforcement agency which (among other things) processes individuals seeking entry to the US as well as apprehending aliens near the border
4. **Child** - for immigration purposes, an unmarried person under 21
5. **DHS** - the US Department of Homeland Security, a Department of the federal government tasked with enforcing the immigration laws, as well as administering benefits
6. **DOJ** - the US Department of Justice, the federal Department tasked with fairly administering the removal process for aliens, providing hearings for DHS and aliens
7. **EOIR** - Executive Office for Immigration Review - the federal agency, within the DOJ, which adjudicates the immigration cases of aliens who are in removal proceedings. The immigration courts, which fall under EOIR, may issue orders of removal (deportation) and may award certain immigration statuses
8. **Green card** - an ID indicating that the alien has lawful permanent resident status, usually first opportunity to get a SSN (instead of TIN) and then driver’s license
9. **Lawful Permanent Resident** - an alien who has been granted an adjustment of status, and who may remain in the US indefinitely, unless they commit certain crimes or abandon the US
10. **SIJS** - Special Immigrant Juvenile Status - a designation that may be given by USCIS to children who meet certain specific criteria, which may then be a basis to adjust status
11. **Sponsor** - With regard to UACs, an adult who agrees to provide care and physical custody of an Unaccompanied Alien Child, to provide for the child’s basic needs, and to ensure that the child attends any and all required hearings in EOIR’s immigration courts. Note: A sponsor does not necessarily have legal custody or guardianship of the child.
12. **TVPPRA** - William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, which increased procedural protections for UACs and expanded the SIJS classification to eliminate the requirement that a child be designated eligible for long-term foster care and to include children whose reunification with just one parent is not viable due to abuse, abandonment, neglect or similar (rather than both parents)
13. **Unaccompanied Alien Child (“UAC”)** - an alien under age 18, who, at the time s/he first comes in contact with federal immigration agencies, is without lawful immigration status and lacks a parent or legal guardian who is available to provide care and physical custody (normally remains designated a UAC even if child later reunites with parent)
14. **USCIS** (or just CIS) - the Federal Agency, within DHS, which administers immigration benefits

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State Law Basic, Custody-related Definitions useful for an Immigration Practitioner

1. **Adoption** - the complete substitution of new legal parent(s) for a child
2. **Application** - the document that is drafted to request a guardian for a minor child.
3. **Complaint** - the document that contains the claims made in a civil action. In all family/custody/domestic cases, the complaint must be “Verified.”
4. **Custodian** - an individual or entity appointed by a court to exercise some portion of the duties and obligations of care, custody, and control of a minor child.
5. **Defendant** - the person against whom the Plaintiff is proceeding
6. **District Court** - A Division of the General Court of Justice (the unified court system exercising all the judicial power in this state) where certain types of civil actions can be heard by a **judge**, including family/domestic cases involving child custody under **Ch. 50**, as well as the different types of Juvenile proceedings under **Ch. 7B**
7. **Family Court** (aka Domestic Relations) - District Court proceedings under Ch. 50 regarding divorce, custody, or family finances
8. **Guardian** - a type of custodian and decisionmaker for a child appointed by a juvenile action (even when parents are alive) or by the clerk’s office (only when parents deceased)
9. **Juvenile Court** - Cases which are brought under and follow the procedures of the Juvenile Code, Ch. 7B, which has differences from other civil (and criminal) actions.
 - a. Juvenile Abuse/Neglect/Dependency action (aka “DSS Court”) - may only be filed by DSS and seeks to deem a child the status of “abused,” “neglected,” or “dependent,” which is a prerequisite for judicial involvement and oversight of the parents and department of social services, designed to protect the child and remedy any conditions preventing the child from safely returning home
 - b. Termination of Parental Rights (“TPR”) - an action to permanently sever the parent-child relationship, has high procedural hurdles to protect the constitutional rights of parents, and may be necessary to ‘clear the way’ for an adoption
 - c. Juvenile Delinquency/Undisciplined Action (“DJJ Court”) - an action brought against a child under 16 for corrective (and punitive) purposes, which may result in changes in custody (including appointing guardians for children who appear without parents) and actions needing to be taken by the parents.
10. **Minor Child** or **Juvenile** - unemancipated, unmarried, person under 18 years of age.
11. **Petition** - a description of the document that is drafted to start juvenile actions (abuse/neglect/dependency, undisciplined/delinquent, and termination of parental rights), as well as the document that is drafted to start an adoption.
12. **Petitioner** - the person/agency who files a petition.
13. **Plaintiff** - the person seeking relief via civil action, complaining of some Defendant(s)
14. **Respondent** - the persons whose legal rights/relationships are affected by a petition
15. **Special Proceeding** - Cases that are not civil actions, which are handled by the Clerk of Superior Court, exercising certain judicial powers in a (relatively) informal process.
16. **Summons** - the form, which is signed by a clerk, that indicates that a lawsuit has been filed and is active, and that the person being served therewith must defend their interests
17. **Verified** - relating to Complaints and Petitions, this means that the Plaintiff or Petitioner have reviewed the factual allegations in the document and under solemn oath or affirmation signed to indicate the veracity of those allegations, before a notary.
18. **Ward** - means a minor child for whom a guardian has been appointed

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