

## IMMIGRATION PROTECTION SCREENING CHECKLIST: SPECIAL IMMIGRANT JUVENILE STATUS<sup>1</sup>

- Are you under the age of 21 and unmarried?  
*and*
- Have you been abused, neglected or abandoned by:
- a parent or
  - both parents
- and*
- Is your reunification with the parent who abused, neglected or abandoned you viable?<sup>2</sup>  
*and*
- Is it not in your best interest to be returned to your country of origin?<sup>3</sup>  
*and*
- Have you been or can you receive a court order placing you under jurisdiction of a state juvenile, family, or probate court through any of the following actions?<sup>4</sup>

<b>Custody Proceedings in Family Court</b>	<ul style="list-style-type: none"> <li>• Non-abusive parent is awarded custody when other parent is abusive</li> <li>• Family member or third party (e.g. foster care system) is awarded custody when one parent is abusive and the other has abandoned the child</li> </ul>
<b>Motions for Declaratory Judgment in Family Court</b>	<ul style="list-style-type: none"> <li>• Child over 18 but under 21 is granted declaratory judgment containing findings required for SIJS application</li> </ul>
<b>Dependency Proceedings</b>	<ul style="list-style-type: none"> <li>• Child is placed with non-abusive parent, other family member, or third party custodian</li> </ul>
<b>Termination of Parental Rights</b>	<ul style="list-style-type: none"> <li>• One or both parent's parental rights are terminated due to abuse, neglect, or abandonment, or other similar basis under state law</li> </ul>

<sup>1</sup> Eileen Lohmann, Rocio Molina, Leslye Orloff, October 5, 2012.

<sup>2</sup> For purposes of SIJS, a showing that reunification is not viable does not require formal termination of parental rights or a determination that reunification will never be possible. A showing of an extended period of separation may be sufficient to show reunification is not viable. Evidence of child abuse and ongoing danger to the child from the abusive parent provides evidence to support a determination that reunification with the abusive parent is not viable.

<sup>3</sup> Juvenile/Family court should consider access to appropriate care, family/friend support system, and conditions in the child's native country in making this determination.

<sup>4</sup> This Special Immigrant Juvenile Statute under immigration law uses the term "juvenile court" to refer to any court family, juvenile, dependency or other court located in the United States having jurisdiction under State law to make judicial determinations about the custody and care of juveniles. 8 C.F.R. § 204.11(a).

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<b>Probate Court</b>	<ul style="list-style-type: none"> <li>• When juvenile who is subject of guardianship proceeding has been abused, neglected or abandoned, court makes findings regarding these facts and determines that reunification with one or both parents is not viable</li> </ul>
<b>Adoption Proceedings</b>	<ul style="list-style-type: none"> <li>• Court terminates parental rights of either or both parents</li> <li>• Birth parent voluntarily gives up parental rights and those rights are transferred to another individual</li> </ul>
<b>Paternity and Child Support Proceedings</b>	<ul style="list-style-type: none"> <li>• Custodial parent brings case against non-custodial parent who has abandoned the immigrant child</li> <li>• Court issues orders establishing paternity, identifying the custodial parent and awarding child support to that parent</li> </ul>
<b>Protection Orders</b>	<ul style="list-style-type: none"> <li>• Child has been abused by one parent and the protection order grants custody to the non-abusive parent</li> <li>• One of the child's parent has abused the other parent in the presence of the child, and protection order includes a custody award to the non-abusive parent and protects both the abused parent and the child from ongoing abuse</li> <li>• Abused child files protection order against abusive parent that orders the child to be placed in the custody of their non-abusive parent</li> <li>• Abused child under 21 files sexual assault protection order against sexually abusive parent</li> </ul>
<b>Delinquency Proceedings</b>	<ul style="list-style-type: none"> <li>• Juvenile delinquency proceedings confine juveniles to state juvenile detention centers, boot camps, or other forms of supervision in which state is responsible for care and custody</li> </ul>