



# Special Immigrant Juvenile Status (SIJS) Manual for Florida Practitioners

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

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## Table of Abbreviations

Term	Definition
AAO	Administrative Appeals Office
DCA	District Court of Appeal
DCF	Florida Department of Children and Families
DHS	Department of Homeland Security
EOIR	Executive Office for Immigration Review
FFA	Family Functioning Assessment
GAL	Guardian ad Litem
HHS	Health and Human Services
INA	Immigration and Nationality Act
JRR	Judicial Review Report
LPR	Lawful permanent resident
NILA	National Immigration Litigation Alliance
ORR	Office of Refugee Resettlement
RFE	Request for Evidence
SIJS	Special Immigrant Juvenile Status
TVPRA	William Wilberforce Trafficking Victims Protection Reauthorization Act
UCCJEA	Uniform Child Custody Jurisdiction and Enforcement Act
USCIS	United States Citizenship and Immigration Services



## I. Introduction

### A. About CILA

The [Children's Immigration Law Academy \(CILA\)](#) is an [expert](#) legal resource center created by the American Bar Association (ABA). CILA's mission is to empower advocates who guide immigrant youth through complex legal procedures, to do so with courage, competency, compassion, and creativity. CILA builds capacity for those working to advance the rights of immigrant youth seeking protection through trainings, technical assistance, resource development, and collaboration.

CILA serves nonprofit, pro bono, and private sector legal advocates who work with children in immigration-related proceedings. CILA began operations in Houston, Texas in late 2015 in response to the thousands of children from Central America who surged across our Southern border fleeing prolific violence and abuse in their home countries and seeking humanitarian protections offered under U.S. law. Through our work, we hope to ensure more immigrant youth are represented and to provide the resources and expertise needed to support those who endeavor to represent them. In furtherance of this goal, in 2022, CILA expanded its technical assistance program nationwide and offers more trainings and working groups to a national audience.

Complementary and critical to our capacity-building efforts for legal advocates, CILA's social services program aims to increase capacity for social workers and social services providers serving immigrant youth at legal services organizations throughout Texas, thereby ensuring stability in the lives of youth so that they may meaningfully participate in their immigration cases.

Should you or someone you know wish to make a donation to further our work, please visit: [https://www.americanbar.org/groups/departments\\_offices/fund\\_justice\\_education/donate/com-imm-cila/](https://www.americanbar.org/groups/departments_offices/fund_justice_education/donate/com-imm-cila/).

**Trainings:** CILA provides regular training opportunities for individuals who are working with children in immigration proceedings. CILA offers trainings covering a wide range of topics related to representing immigrant youth and emerging practice issues for advocates of all experience levels. In addition, through a partnership with the National Immigration Litigation Alliance (NILA), CILA has a series of trainings focused on appellate and litigation strategy. Videos of our webinars and other select trainings are available to view on the CILA website. We regularly train new legal staff at nonprofits who work with detained children and have expanded our efforts to provide training for social services staff.

**Pro Bono:** CILA hosts an online platform, *Pro Bono Matters for Children Facing Deportation*, to connect pro bono attorneys and law students with pro bono opportunities from around the country. Legal service providers post a wide range of opportunities, from short-term projects to direct representation. Available opportunities can be found at: <https://cilacademy.org/pro-bono/pro-bono-matters/>. CILA's trainings and resources listed below additionally support the work of pro bono attorneys and law students. Moreover, CILA has a webpage dedicated to pro bono coordinators to provide creative models for pro bono engagement and to get expert tips regarding running a pro bono program. CILA has a pro bono focused nationwide working group and listserv, Pro Bono Coordination for Child Immigration, that meets quarterly by video conference.

**Resources:** CILA has a vast array of resources available to assist legal service providers, attorneys, and legal staff with their work to help immigrant youth.

- **CILA's Website:** Resources can be found on CILA's website in the *Online Library* and *Updates* pages. Additional online materials can be accessed after requesting an entry password.
- **Champions for Immigrant Youth:** CILA shares monthly updates via a newsletter to our listservs with legal updates, resources, opportunities to connect and learn, as well as celebrations of the work of advocates. Advocates can sign up to receive the newsletter by joining a CILA listserv (information below) or completing this [survey](#).

**Emergency Shelters:** CILA is available to provide training to legal service providers and volunteers at emergency shelters for unaccompanied children nationwide when the need arises.

**CILA Working Groups & Listservs:** CILA hosts six working groups which meet virtually and create spaces for advocates from around Texas and the nation to connect with each other, share on-the-ground trends, and receive updates on major changes in the law. We host a quarterly meeting for six different issue areas: (1) Special Immigrant Juvenile Status (SIJS), (2) Houston SIJS, (3) children's asylum law, (4) detained unaccompanied children, (5) social services, and (6) pro bono coordination. Attorneys and staff at legal service providers, pro bono attorneys, and private attorneys are all encouraged to participate in one or more of the working groups. CILA also hosts four listservs on different topics: (1) Houston SIJS, (2) Texas children's immigration, (3) social services, and (4) pro bono coordination. To learn more about our working groups or to join one of CILA's listservs, visit CILA's *Community* webpage.

**Technical Assistance:** Please be aware that CILA does not provide case-specific technical assistance regarding Florida state law. However, CILA provides individualized technical assistance to legal advocates across the nation relating to specific case questions and issues related to serving unaccompanied children. Requests can be made on CILA's website: <https://cilacademy.org/request-assistance/>. CILA also provides individualized technical assistance related to the psychosocial service needs of children and youth. Requests for assistance may relate to best practices for working with children and victims of trauma, assistance in identifying psychosocial needs, and available resources to assist in meeting those needs. Social services technical assistance can be made on CILA's website: <https://cilacademy.org/social-work-program/request-assistance-social-service/>.

## B. About OCJ

[Orlando Center for Justice, Inc. \(OCJ\)](#) is a nonprofit law firm that provides accessible legal representation to vulnerable communities for immigration, deportation defense, and other legal needs. OCJ's mission is to bridge the "access to justice gap" in Central Florida by using innovative funding programs, training, and outreach to reach a wide range of underserved communities. We are committed to providing legal relief to vulnerable and underrepresented populations in Florida with a focus on newcomers through a holistic and trauma-informed approach. As people navigate their legal process and reach stability, we walk alongside them, advocating, helping them to share their stories, and empowering them to forge a path that enables them to be a voice for systemic change. Our primary goal is to help make Florida a more welcoming place.



If you are interested in issues specific to Florida SIJS practitioners, consider joining the Florida SIJS Roundtable by writing OCJ at [help@orlandojustice.org](mailto:help@orlandojustice.org).

### C. About This Manual

CILA, in partnership with Orlando Center for Justice, created this manual for practitioners in the state of Florida who are representing children or youth<sup>1</sup> who may qualify for Special Immigrant Juvenile Status (SIJS). This manual is intended for practitioners in the field and pro bono attorneys working on behalf of immigrant youth. Our hope is that this manual helps practitioners who are new to the field and those who may be working on their first SIJS case. In this toolkit, the authors provide foundational information about Florida state law and practical tips to guide you. This manual reflects the viewpoints and recommendations of the authors as Florida practitioners.

While the process of obtaining lawful permanent resident (LPR) status as a special immigrant juvenile is three-fold—seeking a state court order from state court, filing an I-360 SIJS petition to the United States Citizenship and Immigration Services (USCIS), and filing an I-485 application to apply for lawful permanent residence either with USCIS or an immigration judge—this manual will only cover information relevant to obtaining the state court order from Florida state court judges.

Each case brings a unique set of facts and circumstances, and information related to the specific judge and local state court practice is always essential to consider in case preparation. This resource points to Florida state law on substantive and procedural matters for issues commonly seen in SIJS cases in Florida. Representing children, especially unaccompanied children, can often present unique circumstances that require practitioners to look to their jurisdiction’s ethical rules for guidance. The authors encourage a case-by-case assessment of any underlying ethical considerations. If you have a case-specific question about the federal aspects of SIJS, reach out to CILA for [technical assistance](#).

## II. Federal Requirements for Special Immigrant Juvenile Status (SIJS)

### A. What is SIJS?

Every year, thousands of children arrive to the United States for a myriad of reasons. Many of these children travel to the United States fleeing unsafe conditions, violence, poverty, and sometimes a combination of these circumstances in their countries of origin. U.S. immigration law provides various forms of humanitarian protections—legal relief to provide a path to lawful permanent residence for these children and other victims of violence. Special Immigrant Juvenile Status is one of these humanitarian forms of immigration relief that is available specifically to foreign-born children who enter the United States.

In 1990, Congress created SIJS as part of the Immigration and Nationality Act (INA). SIJS is a form of legal relief available to children who experienced abuse, abandonment, and/or neglect by one or both of their parents. Because many children leave their countries and come to the United States due to a lack of a proper caregiver, severe neglect, or circumstances based in familial abuse, SIJS is an important legal remedy for children to seek protection in the United States.

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<sup>1</sup> Throughout this manual we use the terms child or children and youth and generally do so interchangeably. In referencing provisions of state or federal law, we utilize the term used in the specific statute or regulation as they are defined by the relevant state or federal law.

SIJS provides a basis upon which a child can petition for classification as a special immigrant juvenile with USCIS and eventually apply to become a lawful permanent resident (LPR). An LPR can both live and work permanently in the United States, travel outside of the United States, qualify for certain public benefits, and eventually apply for citizenship. A child who becomes a green card holder after being granted SIJS can petition for qualifying family members through family-based immigration.<sup>2</sup> But unlike other forms of immigration relief, parents are prevented from obtaining immigration status based on the child's status. A child who receives a green card and naturalizes through the SIJS process cannot later apply for their parents to receive a green card, even if the parent was not abusive and acted as their custodian.<sup>3</sup>

## B. Who are the young people Seeking SIJS?

SIJS is available to youth regardless of whether they have had any contact with the immigration enforcement system. Many young people who seek SIJS are those who have been determined to be "unaccompanied children" and are currently in immigration detention or have been released. It is important to note, however, that contact with the immigration enforcement system is not required for SIJS. A youth may have been brought to the United States at a young age, for example, and experience abuse, abandonment, or neglect while living here. It is also important to keep in mind that not all unaccompanied children are eligible for SIJS, as is the case of they never experienced abuse, abandonment, or neglect by either parent.

Federal law defines an "unaccompanied child" as someone (1) who is not yet 18 years old, (2) who does not possess lawful immigration status, *and* (3) who does not have a parent or legal guardian in the United States *or* who does not have a parent or legal guardian in the United States available to care for them.<sup>4</sup> The assessment of whether or not a youth is considered an "unaccompanied child" by the immigration enforcement system is typically made at the time of apprehension. The law provides for certain protections for unaccompanied children in recognition of their vulnerability as children. For example, those youth under 18 years of age are housed and cared for in detention facilities managed by the Office of Refugee Resettlement (ORR), a federal agency within the Department of Health and Human Services (HHS), instead of United States Immigration and Customs Enforcement (ICE), which is part of the Department of Homeland Security (DHS).<sup>5</sup>

As CILA's focus is on the legal representation of unaccompanied children, this manual includes some specific details that relate only to unaccompanied children detained and released by ORR who may be eligible for SIJS. While these sections of the manual may only apply to unaccompanied children, most of this manual covers general Florida case law and procedure applicable to any child seeking SIJS in Florida, regardless of whether they have ever been determined to be "unaccompanied."

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<sup>2</sup> INA 101(a)(27)(J).

<sup>3</sup> See INA 101(a)(27)(J)(iii)(II); 8 CFR 245.1(e)(3)(vi).

<sup>4</sup> An unaccompanied child is defined at 6 U.S.C. § 279(g)(2) as "a child who—(A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom—(i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody."

<sup>5</sup> See 8 U.S.C. § 1232(a)(4).

### C. Immigration and Nationality Act (INA) and Amendments to the INA & SIJS

SIJS was first established in 1990 to protect children who were declared dependent on a U.S. juvenile court and eligible for long-term foster care.<sup>6</sup> However, since 1990 there have been a number of key changes via amendments to the INA and related regulations.

Amendments to the SIJS statutes and regulations during the 1990s expanded and then limited the scope of SIJS and introduced new requirements such as requiring express consent from the federal government to the juvenile court order (originally by the Attorney General, later by the Secretary of the Department of Homeland Security once that agency was established in 2002).<sup>7</sup> The Violence Against Women and Department of Justice Reauthorization Act of 2005 also added some protections for SIJ petitioners as it prohibited compelling them to contact their alleged abuser at any stage of applying for SIJS.<sup>8</sup>

Significant changes to SIJS occurred in 2008 when Congress passed the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA), which went into effect in March 2009. Under the TVPRA, SIJS-eligible children include children in the state's foster care system, children in the custody and care of ORR, children living with a non-parent caregiver, and children living with one parent. The TVPRA further removed a requirement that a juvenile court deem a child eligible for long-term foster care, requiring instead that the juvenile court find that reunification with one or both parents is not viable due to abuse, abandonment, neglect, or a similar basis under state law.<sup>9</sup> Additional protections in the TVPRA include prohibiting denials merely because a petitioner is 21 years old when the petition is adjudicated, mandating that USCIS adjudicate SIJS petitions within six months of filing, and making it easier to satisfy the requirement for DHS consent.<sup>10</sup>

CILA's resource, "[Overview of New Special Immigrant Juvenile Status Regulations](#)" (May 9, 2022) provides more information about the statutory and regulatory changes over the years. The [USCIS Policy Manual](#), which attorneys working with unaccompanied children should become familiar with and consistently reference, also includes information on the statutory history of SIJS. The updated requirements for SIJS are now set forth in the [INA at Section 101\(a\)\(27\)\(J\)](#). The SIJS regulations were recently updated in 2022 and can be found in [8 C.F.R. § 204.11](#).

### D. Legal Requirements for Obtaining SIJS

To be eligible for SIJS, the statute and the federal regulations at [8 C.F.R § 204.11](#) require that the SIJS petitioner:

- Be under the age of 21 when the petition is filed;
- Be unmarried through the filing and adjudication of the SIJS petition;
- Be physically present in the United States;

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<sup>6</sup> Immigration Act of 1990, Pub. L. 101-649 (Nov. 29, 1990).

<sup>7</sup> See Pub. L. 102-232 (Dec. 12, 1991); Pub. L. 103-416 (Oct. 25, 1994); Pub. L. 105-119 (1997); 1998 Appropriations Act, Pub. L. 105-119 (Nov. 26, 1997).

<sup>8</sup> Pub. L. 109-162 (2006).

<sup>9</sup> TVPRA 2008 § 235.

<sup>10</sup> *Id.* § 235(d)(2).

- Be the subject of a qualifying state court order with the required judicial determinations;<sup>11</sup> and
- Obtain consent from DHS.<sup>12</sup>
  - In this case, consent comes from USCIS, the agency within DHS that adjudicates immigration petitions and applications.
  - *Note:* If the child is in ORR custody and seeks a juvenile court order that alters their custody or placement status, consent from HHS (specifically, ORR) is also required.<sup>13</sup> See Section III.C. below for further discussion.

CILA’s explainer, “[Overview of New Special Immigrant Juvenile Status Regulations](#)” (May 9, 2022) also discusses the legal requirements for obtaining SIJS in more detail.

### E. SIJS is a Three-Step Process: From State Court to Green Card

The overall process of obtaining SIJS for an immigrant child can be divided into three major steps.

**First:** You must obtain a valid state court order from the appropriate juvenile court of the state, and this state court order must make specific judicial determinations.

**Second:** After obtaining the state court order, you must file a Form I-360 petition with USCIS through which the youth petitions for SIJS. At this stage in the case, the youth is called the “SIJS petitioner.” After USCIS approves the SIJS petition, then the SIJS petitioner is a special immigrant juvenile but not yet a LPR, and they do not hold any protective status against deportation. Depending on nationality and current visa availability, the petitioner may be able to apply to become a LPR concurrently or it can take anywhere from months to years before they are eligible because they can only apply to adjust status when a visa becomes available. The special immigrant juvenile is assigned a priority date, and when this priority date is current, this indicates that a visa is available, and the special immigrant juvenile can then apply to adjust status. In 2022, to alleviate difficulties that special immigrant juveniles experience in waiting for a visa to become available, USCIS announced and later rolled out grants of deferred action, available to special immigrant juveniles with an approved I-360 petition waiting for a visa to become available. With these grants of deferred action, special immigrant juveniles can apply for work authorization, under the (c)(14) category.

**Third:** When a visa is available for the special immigrant juvenile, then they can apply to adjust status to that of a LPR. It is important to note that, while adjusting status is the last step in obtaining SIJS, this may not be the end of the entire immigration process for the youth. SIJS allows the youth to become a LPR who can live and work permanently in the United States and apply for citizenship of the United States once they are eligible.

<sup>11</sup> 8 C.F.R. § 204.11(a); *see also* INA at Section 101(a)(27)(J).

<sup>12</sup> 8 C.F.R. § 204.11(b).

<sup>13</sup> *Id.* § 204.11(d)(6).



This manual **will only address** the first step of the SIJS process: obtaining the state court order with certain judicial determinations from the appropriate state court in Florida.

For more information about the three-step SIJS process, please reference Section XII which contains links to additional resources, or go to [www.cilacademy.org](http://www.cilacademy.org) to access CILA’s SIJS-related written materials and recorded trainings.

**PRACTICE TIP:** A child can pursue SIJS determinations in state court while they are in removal proceedings in immigration court. In that situation, the attorney and child must attend any hearings in immigration court and should advise the immigration judge of any ongoing proceedings in state court. You may also consider filing a joint motion to dismiss proceedings or a unilateral motion to terminate with the immigration court, if that is determined to be best for the case.

### III. Overview of Florida State Court

#### A. What is a Special Interest Order?

A state court order with a determination of either custody or dependency is a prerequisite for obtaining SIJS. In obtaining the state court order, a child qualifying for and seeking SIJS must first ask a state court judge, in the state where the child is living, to make certain judicial determinations<sup>14</sup> (previously referred to by USCIS as “findings”). The child must obtain the state court order from the appropriate state “juvenile court” before they can file their SIJS petition with USCIS. The federal regulations define a “juvenile court” as defined a “court located in the United States that has jurisdiction under State law to make judicial determinations about the dependency and/or custody and care of juveniles.”<sup>15</sup>

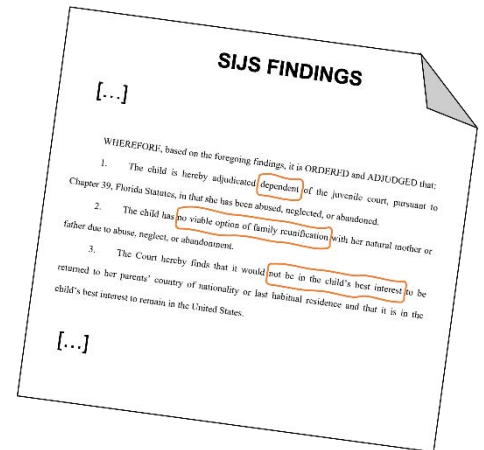
<sup>14</sup> 8 C.F.R. § 204.11(a).

<sup>15</sup> *Id.*

In Florida, a qualifying state court order can be sought in dependency, family, or probate court. To reiterate: the best interest of the child needs to be the priority consideration for the court.<sup>16</sup> However, the state court does not and should not determine eligibility for SIJ (or eligibility for any immigration benefit), grant or deny SIJ status (or any immigration benefit), or evaluate the “motive” for seeking court’s protection.

The state dependency, family, or probate court must make the following three judicial determinations in an order called a Special Interest Order<sup>17</sup>:

- That the Child has been declared dependent on a state court or legally committed to or placed under the custody of a state agency or department or an individual or entity appointed by a state or juvenile court;
- That reunification with one or both of the Child’s parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and
- That it is not in the Child’s best interest to be returned to his or her country of nationality or last habitual residence.



### B. What if I don’t have state court or immigration court experience?

Most of the work in SIJS cases is on the state dependency/family/probate court side to obtain a Special Interest Order. Many attorneys will not be acquainted with state court practice and procedure. **Do not worry, you can do this!** Most of us had little or no dependency/family/probate law experience before we started working on SIJS cases. This manual will help greatly in orienting attorneys with state court practice and procedure. However, you should always have an experienced attorney on standby to answer questions, provide suggestions, review pleadings and other documents, and provide general direction. Even experienced practitioners consult other practitioners all the time in this area, especially when entering another Florida county, when filing in a new court (e.g., temporary custody in family court), or arguing a case before an unfamiliar judge. However, it is important to emphasize that SIJS practitioners do not need to become full-fledged dependency/family/probate court experts. In general, we research and use the parts of state law and procedure necessary to represent our clients effectively.

### C. Which Florida courts may issue Special Interest Orders acceptable to USCIS?

Special Interest Orders may be issued by any “[...] juvenile court or any court located in the United States having jurisdiction under state law to make judicial determinations about the custody and care of juveniles.”<sup>18</sup> In Florida, these include dependency court, family, and probate (guardianship) court. Dependency court only hears dependency cases. In contrast, there are six causes of action that may yield a special interest order in family court and one cause of action in probate court:

- Dependency Court (Chapter 39 Florida Statutes)

<sup>16</sup> See §§ 39.01375, 61.13(3), 751.05(2), Fla. Stat. (2022).

<sup>17</sup> Fla. Admin. Code R. 65C-9.003. Sometimes, this is referred to among immigration practitioners as a State Predicate Order.

<sup>18</sup> 8 C.F.R § 204.11.

- Family Court - Temporary Custody By Extended Family or Concurrent Custody (Chapter 751 Florida Statutes)
- Family Court – Paternity (Chapter 742 Florida Statutes)
- Family Court – Delinquency (Chapter 985 Florida Statutes)
- Family Court – Adoption (Chapter 63 Florida Statutes)
- Family Court – Domestic Violence (Chapter 741 Florida Statutes)
- Family Court – Dissolution of Marriage (Chapter 61 Florida Statutes)
- Probate Court – Guardianship (Chapter 744 Florida Statutes)

Fact Pattern	Where to File?
Veronica is 16 years old. She says she came alone fleeing domestic violence by her father who physically abused her weekly and forced her to work in the fields using dangerous chemicals. She is currently living with her maternal aunt in Florida.	Dependency Court, Family Court, or Probate Court (Guardianship)
Andres comes for consultation and says dad physically abused him and his mom. Both Andres and mom fled Honduras to be safe in the U.S. Andre's dad still calls him and threatens him. He lives with his mom and mom never married dad?	Dependency Court or Family Court: Paternity case
Same as fact pattern above, but what if mom is married to dad?	Family Court: Dissolution of Marriage
Same fact pattern as above, but what if mom was divorced in Honduras?	You can also bring a case in Family Court and domesticate the foreign divorce in Florida.

These different courts and causes of action provide the following key benefit: a child’s case dismissed without prejudice in one court or in one cause of action for any reason may possibly be brought successfully in another court or in another cause of action.

**EXAMPLE:** A judge in Orange County denied a dependency case without prejudice involving an immigrant child abandoned by her mother and father. The practitioner filed the case in Orange County family court as a petition for temporary custody by extended family.

#### D. How do I choose which court to file in?

In general, Florida SIJS practitioners file in dependency court if the child has been abused, abandoned, or neglected by parent(s) and if the child has no parent or legal custodian capable of providing supervision and care. However, even with strong cases of abandonment, neglect, and/or abuse, when non-U.S. Citizens are involved, some dependency courts may be wary of proceeding.

Practitioners may decide that filing in family or probate court is an appropriate alternative.



In practice, Florida SIJS practitioners generally file one of the six causes of action in family court (or guardianship in probate court) if the child has been abused, abandoned, and/or neglected by parent(s) and the lawyer believes that child is living with *and* is well-cared for by a single parent or has a suitable caregiver, including “fictive kin.” Lawyers may consider the following factors when deciding if the child is being well-cared for:

- Interviews of child and custodians during client meetings;
- Whether custodian is addressing or able to address the child’s specific medical, education and/or mental health needs; and
- If custodian cannot provide child with supervision and care because they have not been granted legal custody of child.<sup>19</sup>

#### E. Detained/non-detained: what is Specific Consent and how do I get it?

Children who are in shelters working with the Office of Refugee Resettlement (ORR) are detained and are under ORR’s custody.<sup>20</sup> ORR is a division of the U.S. Department of Health and Human Services (HHS). The average length of stay for a child in ORR custody in 2021 was 37 days, but sometimes it takes longer for ORR to identify and vet sponsors for children.<sup>21</sup> ORR must release unaccompanied children in their custody to a “safe, efficient, and timely manner” to a child’s “parent, guardian, relative, or individual designated by the child’s parents, referred to as ‘sponsors.’”<sup>22</sup> Potential sponsors have to go through an application process, which may include interviews, an assessment of suitability, identity verification, and verification of the relationship between the child and the sponsor before ORR will release the child to the sponsor. Once ORR has released a child to the care and custody of their sponsor, the federal government does not retain custody of the child in any capacity, even in cases where ORR provides post-release services. Released youth can pursue legal relief related to their immigration case while in their sponsor’s care and while living in the community.

Sometimes ORR is unable to find a suitable sponsor and a child remains in a shelter indefinitely. When a detained child in this situation qualifies for SIJS, we are faced with two scenarios to move forward. Each scenario depends on whether we are seeking a dependency adjudication **only**, or if we are seeking a dependency adjudication **and** a change in custody or placement. For the first scenario in which we are only seeking a dependency adjudication, we can file in Florida State Court on behalf of the child without having to notify ORR. In the second scenario (dependency

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<sup>19</sup> Placement with a sponsor by the Office of Refugee Resettlement (ORR) does not constitute legal custody. This means that sponsors may have difficulty enrolling children in school, getting access to medical care, etc. Even a document like a power of attorney is often inadequate to empower a caretaker to provide proper care. The need to secure legal custodial authority for a child creates a potent argument for petitioners in cases where judges push back.

<sup>20</sup> See generally HHS ACF Office of Refugee Resettlement’s Unaccompanied Children’s Program, <https://www.acf.hhs.gov/orr/programs/uc>

<sup>21</sup> See Office of Refugee Resettlement, “Unaccompanied Children: Facts Sheet and Data” (Jan. 20, 2023), available at <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data>.

<sup>22</sup> See Office of Refugee Resettlement, “ORR Unaccompanied Children Program Policy Guide: Section 2: 2.1 Summary of the Safe and Timely Release Process” (Dec. 23, 2022), available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2#:~:text=ORR%27s%20policies%20require%20the%20release.able%20to%20provide%20for%20the>.



adjudication + change of custody or placement), we may file in Florida State Court on behalf of the child only after we have requested and received a change in custody. This change in custody in the second scenario is called a request for Specific Consent.<sup>23</sup>

To file for Specific Consent you must fill out a form requesting Specific Consent (included below) together with a G-28, E-28, or E-29 Notice of Representation to the ACF DucsConsent email at DUCSconsent@acf.hhs.gov.<sup>24</sup> Do not file in state court until Specific Consent is granted. When a child is no longer detained or has never been detained, this step is not necessary.

## F. What about subject matter, personal jurisdiction, and venue in Florida?

### i. Subject Matter Jurisdiction

Jurisdiction over dependency proceedings is vested in the circuit court (juvenile division).<sup>25</sup> A child may not initiate or defend a court action except through a guardian or next friend.<sup>26</sup> Florida law allows an attorney for the Department of Children and Families (“DCF”) or “any other person who has knowledge of the facts alleged or is informed of them and believes that they are true,” to initiate a proceeding seeking an adjudication that a child is dependent. In this way, the concept of next friend is firmly established in statute.<sup>27</sup> As counsel and next friend, the petitioner becomes the child’s fiduciary responsible for fully investigating all relevant facts of dependency, presenting the facts to the court, and vigorously pursuing a dependency adjudication and all other relief to which the child is entitled. Anyone can act as next friend. In many circumstances, the attorney may consider doing so but should contemplate the ethical implications of serving as both the child’s next friend and attorney.<sup>28</sup> Any dependency petition filed by a person other than an attorney for the Florida Department of Children and Families (“DCF” or “The Department”) is called a Private Petition.

### ii. Personal Jurisdiction

Personal jurisdiction over the child attaches once the dependency petition (or any other petition authorized by Chapter 39, Florida Statutes) is filed.<sup>29</sup> Dependency proceedings are included in the UCCJEA (Uniform Child Custody Jurisdiction and Enforcement Act). Consequently, the private petition must be accompanied with a UCCJEA Affidavit, a sample of which is included in the Appendix.

### iii. Venue

Chapter 39 of the Florida Dependency Statute does not contain venue provisions for dependency cases. Some practitioners argue that the general venue statute for civil proceedings, Section 47.011,

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<sup>23</sup> INA § 101(a)(27)(j)(iii)(I).

<sup>24</sup> Refer to the “Request for Specific Consent to Juvenile Court Jurisdiction” in the Appendix below.

<sup>25</sup> §§ 39.013(2), 39.801(2), Fla. Stat. (2022).

<sup>26</sup> §§ 39.501(1), (2022) and FLA. R. CIV. P. 1.210(b) (2019); *see also Kingsley v. Kingsley*, 623 So. 2d 780, 783–84 (Fla. Dist. Ct. App. 1993).

<sup>27</sup> *Id.*

<sup>28</sup> *See generally* Jean Koh Peters, *Representing Children in Child Protective Proceedings: Ethical and Practical Dimensions* 147–80 (3rd ed. 2007).

<sup>29</sup> §§ 39.013(2), 61.501-61.503, and 61.522, Fla. Stat. (2022).

Florida Statutes (2022) therefore applies.<sup>30</sup> Other practitioners disagree. In most, but not in all, Florida SIJS cases, practitioners will bring suit in the county where the child and custodian reside. Sometimes, it may be necessary to consider filing in another county for the convenience of the parties or witnesses, in the interest of justice, or for other reasons.

### G. What's the age limit, and what if my client is aging out soon?

Eighteen (18) is the age limit to obtain a child's adjudication in Florida.<sup>31</sup> You must act quickly to file and schedule a hearing to get the adjudication before the child turns 18. Be sure to mark your dependency court, family court, or probate court petition as an "Emergency Filing" on the appropriate page of the Florida ePortal in such cases.<sup>32</sup> Most family court hearings in South Florida are scheduled via the CourtMap program, and attorneys must create their own CourtMap account. This is feasible in cases with clients that have contacts or family in other states.

### H. What happens after the adjudication?

After the adjudication, as the petitioner, you will likely be expected to draft the order or orders commemorating the judge's findings. Some judges prefer to have separate orders so that your Special Interest Order is a standalone document from another court order or orders. Samples of these orders are included in the Appendix below.

In addition, in dependency cases, judges will set a future hearing, usually within 90 days, for the first Judicial Review Report (JRR) hearing.<sup>33</sup> The JRR hearing allows the judge or magistrate to monitor the child's progress during the duration of the dependency case. You will find samples of JRRs in the Appendix below. Make sure to file your JRR via the Florida ePortal at least three (3) days prior to the scheduled JRR hearing.<sup>34</sup> As a private petitioner, you will be expected to prepare the JRR. If the Florida Department of Children and Families (DCF) is assigned to the case, then the attorney for DCF is expected to file the JRR, but you should consult with your DCF colleague to make sure one of you is filing the JRR. If a Guardian ad Litem (GAL) and/or a case worker is assigned to the case, then their feedback regarding the case must also be included in the JRR.

In general for our cases, JRR hearings are relatively short and pro forma affairs in which the judge or magistrate gets to address the child, the petitioner, and other stakeholders regarding the case. The JRR contains information regarding the child's placement, the child's progress in school and vocational programs, the child's psychological and emotional wellbeing, the nature and progress of any court-ordered services, and progress with the child's SIJS filing, among other things.<sup>35</sup> Hearings are often, but not always conducted by magistrates. After the first JRR, subsequent JRR hearings are

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<sup>30</sup> Section 47.011, Florida Statutes (2022), Where actions may be begun. —Actions shall be brought only in the county where the defendant resides, where the cause of action accrued, or where the property in litigation is located. This section shall not apply to actions against nonresidents.

<sup>31</sup> § 39.01(11) Fla. Stat. (2022).

<sup>32</sup> The option to select "Emergency Filing" is on the ePortal page prior to final submission of your pleading to the clerk of court. By selecting this option, the clerk will know that your filing must be presented to the judge immediately. Rather than a formal legal tool, an emergency filing is generally a courtesy offered by the court clerk.

<sup>33</sup> Section 39.701, Florida Statutes (2022), Judicial Review and Fla. R. Juv. P. 8.415.

<sup>34</sup> Fla. R. Juv. P. 8.415(d).

<sup>35</sup> Fla. R. Juv. P. 8.415(c).

usually scheduled at six-month intervals. Practitioners should keep the state court case open until the SIJS has been granted by USCIS and the child has adjusted status, but by statute the latest allowed is until the child turns twenty-two (22).<sup>36</sup>

In some dependency cases, the court may order services for the child and will make sure that the DCF and the GAL program are heavily involved in the case. Cases involving tender-aged children, cases of children with serious medical needs, and cases involving severe abuse, for example, may prompt the judge to include other agencies and professionals. In our experience, we have learned a great deal about Florida's child protection system and gained allies through our work with DCF and GAL colleagues. It also provides an opportunity to explain to these stakeholders about the SIJS process. Ideally, SIJS practitioners work alongside with the dependency and family court judiciary, DCF, and GAL offices to protect all abandoned, neglected, and/or abused Children regardless of national origin.

### I. What happens if I get a denial?

If the judge denies your case, be sure to request as much detail as possible in the Order. A summary denial of your client's case without an individualized hearing is against the precedent set in the Florida Supreme Court case of *B.R.C.M. II*.<sup>37</sup> You may consider filing a motion for a rehearing including a brief explaining respectfully why you believe the order should be changed.<sup>38</sup> Receiving a denial in one court (e.g., dependency) does not mean that we cannot refile in another (e.g., family or probate court). Nothing prohibits a practitioner in Florida, upon receiving a denial of their special interest case in one court (e.g., dependency court), from refiling the case in another court (e.g., family or probate court). You should consult with other experienced colleagues regarding your options, including the possibility of an appeal to the relevant district court. Ask in the case of a denial that it be marked without prejudice to preserve opportunities to file before a subsequent court.

### J. What is the general Florida state court environment like for child immigrants?

Children petitioning before a Florida dependency or family court should be treated the same regardless of national origin. This is not a prescriptive statement, but a description of current Florida Statutes, case law, and administrative law.<sup>39</sup> Unfortunately, experience from a range of practitioners shows that dependency, family law, and probate judges across the 67 counties of Florida often have

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<sup>36</sup> Florida Statute § 39.013(d), "If a petition for special immigrant juvenile status and an application for adjustment of status have been filed on behalf of a foster child and the petition and application have not been granted by the time the child reaches 18 years of age, the court may retain jurisdiction over the dependency case solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. Review hearings for the child shall be set solely for the purpose of determining the status of the petition and application. The court's jurisdiction terminates upon the final decision of the federal authorities. Retention of jurisdiction in this instance does not affect the services available to a young adult under s. 409.1451. The court may not retain jurisdiction of the case after the immigrant child's 22nd birthday."

<sup>37</sup> *B.R.C.M. v. Fla. Dep't of Children & Families (B.R.C.M. II)*, 215 So. 3d 1219 (Fla. 2017)

<sup>38</sup> Fla. R. Juv. P. 8.265.

<sup>39</sup> FLA. CONST. art I, §21, §§ 39.001, 39.001(1)(b)(4)(d), 39.001(5)(d), and 39.001(12), 39.013(d), 39.301(1), 39.407(1), 39.4085, and 39.5075, Fla. Stat. (2022), *B.R.C.M. v. Fla. Dep't of Children & Families (B.R.C.M. II)*, 215 So. 3d 1219 (Fla. 2017). Florida Administrative Code 65C-9.003, Procedure for Handling Undocumented Children Alleged to Be Abused, Neglected or Abandoned.

substantially different opinions and approaches in cases involving immigrant children. The opinions range from welcoming, to neutral, to hostile. As an example, practitioners in some counties have stopped trying to bring SIJS cases in dependency court and have opted instead to bring these cases in family or probate court. In other counties, it is preferable to bring a SIJS case in dependency court because the judiciary applies existing law without regard to a child's national origin.

It is generally the case that other stakeholders in Florida's child protection system tend to hold the same range of opinions and approaches. These stakeholders include the DCF and the GAL program. Despite their clear mission to treat all children similarly regardless of national origin, some DCF and GAL practitioners create roadblocks in the pathway to obtaining an adjudication of dependency and a Special Interest Order for immigrant children.

Nearly all SIJS practitioners in Florida have experienced this range of attitudes from judges and other stakeholders toward immigrant children. For several years now in Florida, law school clinics, non-profit organizations, and SIJS practitioners have been advocating strongly on behalf of immigrant children through litigation, education, media outreach, and client storytelling.<sup>40</sup> It is helpful to become familiar with this vitally important advocacy work since it will help you anticipate and respond effectively to often-encountered arguments.<sup>41</sup>

#### K. What are some best practices for effective SIJS representation in Florida state courts?

- Establish an ongoing rapport with other SIJS practitioners for assistance, support, and information regarding specific county courts and judges.
- Look at every meeting/hearing with stakeholders as an opportunity to change hearts and minds for the better regarding immigrant children in state court.
- Download and read the current annotated statutes relevant to your dependency or family law case (i.e., Dependency - Chapter 39, Temporary Custody by a Relative - Chapter 751, Paternity - Chapter 742, Delinquency - Chapter 985, Adoption - Chapter 63, Domestic Violence - Chapter 741, Dissolution of Marriage - Chapter 61, Guardianship - Chapter 744 Florida Statutes).
- Be familiar with dependency, family law, and guardianship court procedure (i.e., Florida Rules of Juvenile Procedure and Florida Rules of Civil Procedure).<sup>42</sup>
- Be familiar with the UCCJEA.<sup>43</sup>
- Be prepared to anticipate and respond effectively to contrary arguments or specifically anti-immigrant hostility (see the Appendix below, "Key Florida SIJS Cases, Arguments, and Responses").

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<sup>40</sup> Judges Behaving Badly - Clinics Fighting Back: The Struggle for Special Immigrant Juveniles in State Dependency Courts in the Age of Trump, *Bernard Perlmutter*, [https://repository.law.miami.edu/fac\\_articles/790/](https://repository.law.miami.edu/fac_articles/790/)

<sup>41</sup> *Id.*

<sup>42</sup> It is helpful to access resources like Florida's Dependency Benchbook to see what judges often use to help them render decisions. <https://www.flcourts.org/Resources-Services/Office-of-Family-Courts/Family-Courts/Dependency/Dependency-Benchbook>.

<sup>43</sup> Interstate Child Custody, A Practitioner's Guide to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), [https://www.bwip.org/assets/documents/pdfs/a\\_practitioner's\\_guide\\_to\\_the\\_uniform\\_child\\_custody\\_jurisdiction\\_on\\_and\\_enforcement\\_act\\_uccjea.pdf](https://www.bwip.org/assets/documents/pdfs/a_practitioner's_guide_to_the_uniform_child_custody_jurisdiction_on_and_enforcement_act_uccjea.pdf)

- Avoid bringing weak cases (e.g., be careful with one-parent dependencies and cases with children who are about to turn 18. Make sure you have a strong case with sufficient evidence to show abandonment, neglect, and/or abuse).

## IV. Quick Start Guide

### A. Generic Dependency/Family/Probate Law Filing Checklist

This section includes a typical filing checklist for a Florida dependency, family, or probate court case. Generally, you can file electronically in the Florida ePortal, though this can vary by county.<sup>44</sup> Please note that your filing checklist will likely differ if the respondent is served through alternative or substituted methods of service or if the case results in a default judgment. The appendix of this manual provides samples of many state court filings for Florida court, though it is not exhaustive. We provide this sample checklist for informational purposes only. We encourage you to exercise due diligence in your case and to always review the filing requirements for your jurisdiction.

It is important to mention that there is no filing cost in many Florida counties for filing Dependency Petitions, although some counties do charge a filing fee that must be paid via the ePortal upon filing. Family law and probate petitions, however, will incur a filing fee unless you can argue that the person filing qualifies as indigent and request a waiver of the filing fee.<sup>45</sup>

- Dependency/Family/Probate Law Petition
- UCCJEA Affidavit
- Notice of Related Cases (usually required)
- Notice of Filing Evidence
- Child's birth certificate with certified translation
- Mother's and/or Father's Consent to Dependency and Waiver of Notice, OR
- Affidavit of Diligent Search, OR
- Proof of Service of Process
- Child's Personal Statement/Affidavit and translation
- Any other evidence necessary for your case
- While Dependency Court will provide language interpretation services, Family and Probate Court will not; you will need to hire your own certified language interpreter.

### B. Flowcharts

Below is a Dependency Case Management Flowchart. It helps to visualize the process for a case in dependency court. For the immigrant child, the shelter hearing may be irrelevant, and the process will start with the petition filed. The first hearing is called an arraignment. At the arraignment, a decision can be rendered, testimony gathered, or another evidentiary hearing may be scheduled. This will vary by jurisdiction. Once a child is found dependent in Florida, a judicial review

<sup>44</sup> Some counties, like Seminole County, permit only paper filing of the Dependency Petition with the Clerk of Juvenile Court.

<sup>45</sup> Virtually all filing in Florida Courts is done via the Florida Courts E-filing Portal or "ePortal." Governed by the Florida Courts E-Filing Authority, the Florida Courts E-Filing Portal serves as a single, statewide access point connecting thousands of users to Florida's court system. For more information and to sign up to the ePortal, go to <https://www.myflcourtaccess.com/authority/>.

is held every six months to follow up on the child's education, health, placement and status of the child's immigration filing. A family court or probate case will be similar, with the exception that the first hearing will not be an arraignment, but an evidentiary hearing. Another exception is that cases in family law court will not require JRRs. Another key exception is that while language interpretation services will be available in dependency court, you will have to make your own arrangements to have a certified interpreter for family or probate court.

This fact bears repeating: whether you are filing a dependency petition or a family law or guardianship petition, your goal is to obtain a Special Interest Order<sup>46</sup> making these three key judicial determinations:

- That the child has been declared dependent on a state court or legally committed to or placed under the custody of a state agency or department or an individual or entity appointed by a state or juvenile court;
- That reunification with one or both of the child's parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and
- That it is not in the child's best interest to be returned to his or her country of nationality or last habitual residence.

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<sup>46</sup> Fla. Admin. Code Ann. R. 65C-9.003

## File Petition in ePortal

The most important part of your Private Petition for Adjudication of Dependency is to demonstrate to the court with clear and convincing evidence that your child is dependent based on one or more of the seven independent grounds for dependency found in Section 39.01(14)(a) through (g), Florida Statutes (2022). Depending on the court, you may need to include DCF as a party. Please see the sample petitions in the Appendix.

Practice Tip: The second most important part of your petition is to ensure that the child's parents are properly served with notice of the petition. If the parents cannot be located, which is frequently the case, then a proper Affidavit of Diligent Search may suffice as a substitute. Refer to the Service of Process section below for more information.

## Schedule Hearing

After your petition is accepted in the ePortal, the clerk of dependency court will assign a case number. Once your case number is assigned, you may reach out to the judicial assistant for the presiding judge to schedule a hearing date.

Practice Tip: You will prepare and serve the notice of hearing through the ePortal on all the parties. Don't forget to include the request for an interpreter for your client and other parties. NOTE: Family and Probate Court DO NOT PROVIDE INTERPRETATION SERVICES. You must hire and bring your own CERTIFIED INTERPRETER if needed.

## Hearing(s)

Depending on your judge, the hearing may be just an arraignment or a combined arraignment/evidentiary/adjudication hearing. Judges have great procedural latitude in how they handle their dependence docket. If only an arraignment hearing, be prepared for follow up hearing until the dependency adjudication.

Practice tip: Let your trial advocacy skills shine. Be prepared to rebut challenges to your case from the bench and/or DCF. See the trial assistance materials in the Appendix.

## Order(s)

The court shall enter a written order stating: the legal basis for the dependency finding; the facts upon which the dependency is based; and whether the court made the finding by the preponderance of the evidence or clear and convincing evidence. Rule 8.332.

Practice Tip: You will prepare the order for the judge make sure to include the three SIJS eligibility findings. When preparing the order, include a short statement for the factual basis for each of the three findings. Include with whom the child will be placed and what the grounds are for not reunifying with one or both parents (and include the parents' names). Always include citations to Chapter 39 for each finding. Highlight how the dependency court granted relief from parental maltreatment through placement and/or services.





## V. Screening/Intake and Personal Statements

### A. Creating SIJS Awareness among Stakeholders

We have found that our strongest cases are built on a solid foundation composed of thorough screenings/intakes, targeted interviews, and detailed personal statements. With regards to immigration screenings/intakes, many practitioners who work with children are trained to look out for cases that would qualify for SIJS. They are always on the lookout for telltale signs of abandonment, neglect, and/or abuse. All stakeholders that have contact with vulnerable/unaccompanied/detained/immigrant children should be checking for SIJS relief. Unfortunately, this is not the case in Florida.

Even seasoned immigration law and/or child protection practitioners overlook this essential pathway to legal permanent residency. Too often we have seen children who would have qualified for SIJS but aged-out before they could get a Special Interest Order because their case was not properly flagged. There are cases of immigrant children who are adopted in Florida Family Court, but the adoption is not valid under immigration law procedurally and without a Special Interest Order and SIJS approval, these children remain without U.S. immigration status. When we have contact with our immigration law colleagues, we ask them to make sure they are screening for abandonment/neglect/abuse when interviewing immigrant children. Similarly, we encourage our DCF and GAL colleagues to review their cases carefully to see if there are any children in their care who were born outside the United States and may qualify for SIJS.

### B. Screening/Intake Questions

Below are ample SIJS screening questions to determine whether a child has been abused, abandoned, and/or neglected by either parent/primary caregiver(s). For additional guidance on trauma-informed interviewing techniques, reference CILA's written resource, [Tips for Working with Migrant Children and Trauma-Informed Lawyering](#). Do not forget to ask frequently, "how did that make you feel?" or "how did that harm you?":

1. Tell me about where you were born? (Country and city, town or village, describe in a few words).
2. Who did you live with in your home country/before coming to the United States? Are your parents still together? Does (Mom/Dad) have a new partner? How often did you see or talk to (Mom/Dad)? How is your relationship with (Mom/Dad)? Do you know where your dad/mom/caregiver is living now?
3. When is the last time you spoke to him/her? How often do you speak to him/her? Do we have your consent to talk to (Mom/Dad)? Number? Anything you don't wish for us to discuss with your (Mom/Dad)? If the child indicates a limited relationship with one or both parents, consider asking if she/he ever contacted the child on their birthday and holidays (e.g., did she/he send a card or gift to say happy birthday, Merry Christmas, etc.?)
4. Have your parent(s)/caregiver(s) always helped support you with money, clothes, food, shelter, etc.? Did you always have enough food/clothing/etc. while you were growing up?



5. What grade did you finish? Until what age? Why did you stop going to school? How well can you read and write? Do you speak a language other than Spanish? How well did you learn to read and write in that language? How well did you learn to read and write in Spanish?
6. Did you work while in your country of origin? How old were you when you started working? What kind of work did you do? Did you have the option of not working? Who collected your paycheck? How much were you paid? Were you paid less because you were a child? Were you the only or one of the only children working? How did you spend the money? Did you give your parents any of the money you had earned? Did you ever do anything dangerous at work or used dangerous tools?
7. Did you do agricultural work? Did you have a machete and a hoe? Did you injure yourself with the machete or doing anything at work? How young were you? Did you use any chemicals? Do you remember the names of the chemicals (e.g., Roundup, Paraquat, Glyphosate, Pantek, Matancha, etc.)? How old were you when you used the chemicals? How often did you use the chemicals? Did you use gloves/goggles/aprons/masks/special clothes/other or other protective equipment? How did you prepare and spray the chemicals? How did it make you feel when you used the chemicals? Did you ever feel dizzy? Were you ever burned? What was the worst thing that happened to you while using the chemicals? Were there other children using chemicals? Did you work on your family's field? Did you work on other people's fields?
8. What was a typical day like at home? With whom did you do it?
9. Did you get along with everyone at home? Did you ever see Mom or Dad arguing? Did you ever see Mom or Dad become physical or violent with each other or with someone else at home? Did anyone drink or use drugs at home?
10. Who provided economic support for you? If you did something bad what happened? How/what were you punished for?
11. Did your caregivers ever say things to you that made you feel sad or angry? Can you give an example of it?
12. Did anyone in the house ever hit others in the house? Any abuse by Mom or Dad to other family? Where did they hit them and with what? How often? Did anyone else see? If so, did they do anything? Did they hit you? If so, did they leave marks or scars?
13. Has anyone ever touched you in a way that made you feel uncomfortable? If yes, was it someone you knew? When did it happen? Did you tell anybody about it, was it reported to police?
14. Who are you living with now here in the United States? Is everything okay at home? Are you being forced to work? Do you have a debt you have to pay for coming here?

### C. Statutory Definitions of Abandonment, Abuse, and Neglect

The key definitions for abandonment, abuse, and neglect are found in the "Definitions" section of the Florida Statutes. Once you have identified a potential SIJS candidate, it is helpful to review all of

Section 39.01 and the accompanying annotations of the most recent Florida Statutes. As mentioned previously, this practice will alert you to changes in the Florida Statutes. Occasionally there are changes in the Definitions section, and you will want to avoid referring to an outdated section. Reviewing the Definitions and annotations with your client's fresh set of facts in mind will help you identify the areas of the statute that you need to cite later when writing your petition. It will also familiarize you with more of the key features of the law that may help you strengthen your client's personal statement and/or dependency/family law petition.

The key definitions are as follows:

### ABANDONMENT

- **Florida Statute Section 39.01(1)**, “Abandoned’ or ‘abandonment’ means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. For purposes of this subsection, “establish or maintain a substantial and positive relationship” includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child. A man’s acknowledgment of paternity of the child does not limit the period of time considered in determining whether the child was abandoned. The term does not include a surrendered newborn infant as described in s. 383.50, a “child in need of services” as defined in chapter 984, or a “family in need of services” as defined in chapter 984. The absence of a parent, legal custodian, or caregiver responsible for a child’s welfare, who is a servicemember, by reason of deployment or anticipated deployment as defined in 50 U.S.C. s. 3938(e), may not be considered or used as a factor in determining abandonment. The incarceration, repeated incarceration, or extended incarceration of a parent, legal custodian, or caregiver responsible for a child’s welfare may support a finding of abandonment.”

### ABUSE

- **Florida Statute Section 39.01(2)**, “Abuse’ means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.”

### NEGLECT

- **Florida Statute Section 39.01(50)**, “‘Neglect’ occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering the following services to be provided, when the health of the child so requires: (a) Medical services from a licensed physician, dentist, optometrist, podiatric physician, or other qualified health care provider; or (b) Treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization. Neglect of a child includes acts or omissions.”

### SIMILAR BASIS UNDER STATE LAW

- What happens if a child has been orphaned by both parents, but was not abandoned, neglected, or abused? Similarly, what if a caretaker is physically or psychologically incapacitated, but has not formally abandoned, neglected, or abused the child? The answer is to argue that a “similar basis under state law” exists to adjudicate a child dependent. The “similar basis under state law” concept was added to the SIJS statute in 2008. In Florida, the “similar basis under state law” is found in **Florida Statute Section 39.01(14)(e)**, “To have no parent or legal custodians capable of providing supervision and care,” and this subsection covers the abovementioned scenarios. In such cases, practitioners argue that a child should be declared dependent because they have no available parent or legal custodian capable of providing supervision and care.

#### D. Key Florida Cases

The annotations for Section 39.01 include references to several District Courts of Appeal (DCA) cases and one Florida Supreme Court case involving immigrant children in dependency proceedings. These cases provide valuable insight into the range of arguments – both in favor of and against immigrant children seeking dependency adjudications – made from the bench. Practitioners must be familiar with this case law as early as possible, which is why it is included here in the intake/screening phase of the case. Awareness of this case law at this stage helps the practitioner understand how Chapter 39 of the Florida Statutes is applied and misapplied not only by judges, but by DCF and GAL colleagues as well. Awareness at this stage also helps to anticipate and rebut potential anti-immigrant animus from stakeholders by drafting a more robust personal statement. Your more solid personal statement will then serve as a strong foundation for your dependency petition and arraignment/evidentiary hearing preparation.

There are certain fact patterns that generally cause greater scrutiny regardless of the county and judge. One-parent dependencies in which the child was abandoned by one parent many years prior to the filing of the dependency petition and cases with 17-year-old children usually trigger greater

scrutiny. Similarly, cases based solely on abandonment without neglect and/or abuse will also often face greater scrutiny. Poverty and routine agricultural work on a family farm are often not enough to demonstrate neglect. However, using dangerous tools, herbicides, and pesticides is not routine agricultural work for children and may constitute negligence and/or abuse. It is also negligent for a parent to allow a child to withdraw from school before the lawful age, even in cases of poverty. The U.S. Department of State and Department of Labor (among others) have publications about childhood education and child labor laws of other countries (e.g., El Salvador, Guatemala, Honduras, etc.) to help you demonstrate neglect/abuse based on *local* law. These U.S. Government publications are very useful and readily admissible into evidence.

#### *i. Chapter 39 vs. the Case Law*

The Definitions section of Chapter 39, Florida Statutes lists seven independent circumstances in which a child may be found dependent. These seven independent grounds for dependency are listed in paragraphs (a) through (g) in numeral (14) of Florida Statute Section 39.01 as follows:

*(14) "Child who is found to be dependent" means a child who, pursuant to this chapter, is found by the court:*

*(a) To have been abandoned, abused, or neglected by the child's parent or parents or legal custodians;*

*(b) To have been surrendered to the department, the former Department of Health and Rehabilitative Services, or a licensed child-placing agency for purpose of adoption;*

*(c) To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the department, or the former Department of Health and Rehabilitative Services, after which placement, under the requirements of this chapter, a case plan has expired and the parent or parents or legal custodians have failed to substantially comply with the requirements of the plan;*

*(d) To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption, and a parent or parents have signed a consent pursuant to the Florida Rules of Juvenile Procedure;*

*(e) To have no parent or legal custodians capable of providing supervision and care;*

*(f) To be at substantial risk of imminent abuse, abandonment, or neglect by the parent or parents or legal custodians; or*

*(g) To have been sexually exploited and to have no parent, legal custodian, or responsible adult relative currently known and capable of providing the necessary and appropriate supervision and care.*

These statutory definitions of what constitutes a situation of dependency for a child in Florida are relatively simple. If these definitions were applied in a fair and straightforward manner, many more immigrant children would likely qualify for a dependency adjudication and SIJS. Unfortunately, certain adverse rulings at the appellate District Court of Appeal (DCA) level against immigrant children have served to "modify" the statute. The consequences of these adverse rulings have arguably been mitigated by other rulings. However, it is important to point out that there are DCA opinions that may be used by judges in ways to help or harm a child's case.

One of the best examples of a DCA opinion that serves to harm an immigrant child's dependency case is the 4<sup>th</sup> DCA opinion of *O.I.C.L.*.<sup>47</sup> The opinion of this case served to alter (if not eviscerate) the seven independent grounds of dependency mentioned above by tasking judges to make additional determinations before granting dependency. These determinations included: "(1) the nature, severity and frequency of the abuse, neglect or abandonment; (2) the time that has elapsed between the abuse, neglect or abandonment and the filing of the petition; (3) whether the child is presently at a continued, but not necessarily imminent, risk of harm before turning eighteen years old; (4) the availability of a caregiver capable of providing both supervision and care; and (5) any other relevant factors unique to the particular case."<sup>48</sup>

In this way, be prepared for heightened scrutiny of your client's facts coming from the bench. Be prepared, for example, to argue either that your client's case passes the additional scrutiny of the "O.I.C.L. test" or that *O.I.C.L.* is inapplicable to your facts (or is bad law). Remember that DCA opinions are weighty regardless of which district they originated. There are many favorable DCA opinions from across the districts that may be useful for you.<sup>49</sup>

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<sup>47</sup> *O.I.C.L. v. Dep't of Children & Families*, 169 So. 3d 1224 (Fla. 4<sup>th</sup> DCA 2015).

<sup>48</sup> *Id.*

<sup>49</sup> The Supreme Court of Florida held in *Pardo v. State*, 596 So. 2d 665, 667 (Fla. 1992) that a trial court must follow any decision of first impression by any one of Florida's five district courts of appeal. "Initially, we note that the district court erred in commenting that decisions of other district courts of appeal were not binding on the trial court. This Court has stated that '[t]he decisions of the district courts of appeal represent the law of Florida unless and until they are overruled by this Court.' *Stanfill v. State*, [384 So. 2d 141](#), 143 (Fla. 1980). Thus, in the absence of interdistrict conflict, district court decisions bind all Florida trial courts. *Weiman v. McHaffie*, [470 So. 2d 682](#), 684 (Fla. 1985)."

Case	Court	Cite & Summary	Keywords	Details
BRCM2	FL SC	<p><i>BRCM v. DCF</i>, SC16-179 (2017)</p> <p>13-year-old Guatemalan child's petition rejected by trial court claiming he was not truly abandoned, was only looking for SIJ, and godmother qualified as legal custodian.</p>	<p>CATEGORICAL REJECTION OF PETITION</p> <p>INDIVIDUALIZED CONSIDERATION</p> <p>NO DCF SERVICES REQUESTED</p> <p>INTENT TO SEEK SIJ IS IRRELEVANT</p> <p>PRIMA FACIE CASE</p> <p>SEVEN STATUTORY</p>	<p>"We disapprove of the categorical summary denial of dependency petitions filed by immigrant juveniles and find no authority in the statutory scheme that allows for dismissal or denial without factual findings by the circuit court."</p> <p>Petitions "warrant individualized consideration and adjudication."</p> <p>Petition cannot be denied merely because child may apply for SIJ and does not seek state services. "[I]f a child qualifies for a declaration of dependency under our statutes, the child's motivation to obtain legal residency . . . is irrelevant."</p> <p>"If federal law grants a right to alien children to regularize their immigration status by first obtaining a state court adjudication of dependency, then there is no basis for failing to declare a child dependent so long as he or she meets the statutory criteria for dependency."</p> <p>"If the petition states a prima facie case, the petitioner should be permitted to introduce evidence in support of his or her claims, and the court should enter specific adjudicative findings responsive to the issues presented by the petition and the evidentiary record."</p> <p>When a petition for dependency alleges specific facts supporting a finding of dependency under any</p>

Case	Court	Cite & Summary	Keywords	Details
			<p>FOUNDATIONS OF DEPENDENCY</p>	<p>of the seven statutory grounds, the circuit court must make individualized factual findings and apply the law to the facts in order to make a proper adjudication of dependency, and If the petition states a prima facie case, the petitioner should be permitted to introduce evidence in support of his or her claims, and the court should enter specific adjudicative findings responsive to the issues presented by the petition and the evidentiary record.</p>
LT	5DCA	<p><i>LT ex rel KSL v. DCF</i>, 48 So.3d 928 (2010)</p> <p>K.S.L. was a child from Haiti whose parents were deceased and who was almost 18 at time of trial.</p>	<p>OCC RELEASE IS NOT LEGAL CUSTODY</p>	<p>“Here, at the time of the dependency hearing, K.S.L. was an orphan with no legal custodian and, therefore, he was dependent.”</p>
BC	5DCA	<p><i>BC v. DCF</i>, 864 So.2d 486 (2004)</p> <p>One-parent dependency</p>	<p>ONE-PARENT DEPENDENCY</p>	<p>“When read together, Fla. Stat. § 39.01(14)(a) and Fla. Stat. § 39.521, provide a comprehensive framework supporting the Department’s position for finding children dependent as to one parent only[...].”</p> <p>“Based on the inclusion of “parent or parents” in Fla. Stat. § 39.01(14), the Legislature’s intent to permit a finding of dependency based on allegations against only one parent is clear and unambiguous.”</p>
OICL1	4DCA	<p><i>OICL v. DCF</i>, 169 So3d 1244 (2015)</p> <p>17-year-old Guatemalan child abandoned by dad and neglected by mom released to uncle</p>	<p>TRYING TO CREATE A HEIGHTENED STANDARD FOR IMMIGRANT YOUTH – EQUAL PROTECTION ATTACK</p>	<p>(1)the nature, severity and frequency of the abuse, neglect or abandonment; (2) the time that has elapsed between the abuse, neglect or abandonment and the filing of the petition; (3) whether the child is presently at a continued, but not necessarily imminent, risk of harm before</p>

Case	Court	Cite & Summary	Keywords	Details
		IMPORTANT: OICL appealed to the Supreme Court, which dismissed the case as moot because the child had aged out; however, this would have been decided like BRCM2	THE DISSENT ON CUSTODY	turning eighteen years old; (4) the availability of a caregiver capable of providing both supervision and care; and (5) any other relevant factors unique to the particular case.  "Although the majority opinion does recognize section 39.01(15)(e) as a basis for finding dependency, it fails to recognize it as the independent basis that it is. See <i>In re Y.V.</i> , 160 So. 3d 576, 578 (Fla. 1st DCA 2015). Section 39.01(15)(e) specifically provides that a child is "dependent" upon a finding that the child has "no parent or legal custodians capable of providing supervision and care." § 39.01(15)(e), Fla. Stat. As mentioned above, the trial court made no finding that the uncle is a "legal custodian," which involves a legal status conveyed by a court, § 39.01(34), Fla. Stat., and therefore the uncle's care for the Child would not automatically rule out a finding of dependency under section 39.01(15)(e), contrary to what the majority suggests with its creation of a "presumption" upon a finding of no abandonment, abuse, or neglect by the "caregiver" (in this case, the Child's uncle)."
FLM	4DCA	<i>FLM v. DCF</i> , 912 So.2d 1264 (2005)  17-year-old Guatemalan youth made his way to Fla. He was orphaned and living with the parents of his girlfriend with whom he had a child.	OCC RELEASE IS NOT LEGAL CUSTODY  INTENT TO FILE SIJ	"A minor child in Florida without parents or legal guardian is dependent under Florida law."  The public policy argument that state courts and department resources should not be utilized simply to gain a favorable immigration status for a child who is not in any real danger or going



Case	Court	Cite & Summary	Keywords	Details
				without the necessities of life is unavailing. There is no basis for failing to declare a child dependent so long as he or she meets the statutory criteria. Their motivation for seeking such adjudication is irrelevant.
TJ	3DCA	<p><i>IN RE TJ</i>, 59 So.3d 1187 (2011)</p> <p>17-year-old child from Turks and Caicos whose mother died and father's whereabouts unknown cared for by aunt.</p>	PRIMA FACIE CASE OF DEPENDENCY BASED ON LACK OF LEGAL CUSTODIAN ALONE	"In the case at hand, T.J.'s aunt is not a "parent or legal custodian capable of providing supervision and care" under section 39.01(15)(e). Her father has been absent from her life for over ten years and has not been located after diligent search. Under the analysis of <i>F.L.M.</i> and <i>L.T.</i> , each of which we find persuasive and applicable, and subject to any evidence that may be offered at the adjudicatory hearing on remand, T.J. has made a prima facie case that she is dependent."
SARD	3DCA	<p><i>IN RE SARD</i>, 182 So3d 897 (2016)</p> <p>17-year-old Honduran child whose dad abandoned him 10 years earlier found abandonment too remote.</p> <p>Similar to <i>KBLV</i>, <i>BYGM</i>, <i>FJGM</i> – abandonment too remote in time and child is residing with other parent.</p>	CREATES A HEIGHTENED STANDARD FOR IMMIGRANT YOUTH – EQUAL PROTECTION ATTACK	"[T]o support a finding of dependency, the parent's harmful behavior must pose a present threat to the child based on current circumstances." <i>C.W. v. Dep't of Children &amp; Fams.</i> , 10 So.3d 136, 138 (Fla. 1st DCA 2009). "[I]n the absence of actual abuse, abandonment, or neglect, a finding of dependency can be made if prospective abuse, abandonment, or neglect is shown to be imminent." <i>J.B.M. v. Dep't of Children &amp; Fams.</i> , 870 So.2d 946, 951 (Fla. 1st DCA 2004) (citations omitted). "The terms 'prospective' and 'imminent' are not defined in the statute. 'Prospective' simply means likely to 'happen,' or 'expected.' 'Imminent' encompasses a narrower time frame and means 'impending' and 'about to occur'."

Case	Court	Cite & Summary	Keywords	Details
			INTENT DOES NOT MATTER	Because a petitioner's immigration-related motivation for seeking an adjudication of dependency is irrelevant to the determination of whether a child is dependent, it follows that immigration considerations alone cannot constitute sufficient grounds upon which a child may be adjudicated dependent. The use of an abandonment by one parent in a child's country of origin, which has little if any present effect on the child, to support an adjudication of dependency under section 39.01(15), is a misapplication of that statute which leads to an absurd result.
KBLV	3DCA	<i>IN RE KBLV</i> , 176 So3d 297 (2015)  17-year-old Honduran child's 1 parent Dependency Petition dismissed because he was living with his mom and abandonment by dad 14 years earlier was too remote.	IMMENSITY OF HARM (should only before future abandonment, neglect or abuse – not past)  DISTINGUISHED FROM YV	There is no imminency requirement for a finding of abuse within the statute. However, in the absence of a continuing threat of harm, incidents of alleged abuse found too remote in time will generally not support a dependency adjudication.  The case is contrasted with <i>In re Y.V.</i> , 160 So.3d 576, (Fla 1st DCA, 2015) where the child was not living with a legal guardian but instead was living with his uncle who had no legal obligation for his support.
YV	1DCA	<i>IN RE YV</i> , 160 So3d 576 (2015)  Honduran child's petition was originally dismissed because abuse, abandonment and neglect did not happen in Florida and	LIBERAL STATUTORY CONSTRUCTION	Chapter 39 is to be liberally construed. There are no provisions in the chapter that require the events giving rise to the grounds for dependency to occur in Florida. The grounds alleged in the petition do not require that the child be at imminent risk.

Case	Court	Cite & Summary	Keywords	Details
		because harm was not imminent - REVERSED	FL STATUTES SUPPORT SIJ	39.001, Purposes and intent; (12) LIBERAL CONSTRUCTION.—It is the intent of the Legislature that this chapter be liberally interpreted and construed in conformity with its declared purposes.  Florida legislature has specifically contemplated Florida's participation in the process of a juvenile obtaining SIJ status by facilitating the law.
GR	2DCA	<i>G.R. v. Dep't of Children &amp; Family Servs. (In the Interest of C.R.)</i> , 397 So. 2d 1257, 2006 (Fla. 2 <sup>nd</sup> DCA 2006)	STEPPARENT NOT A PARENT OR LEGAL CUSTODIAN	Father was neither the parent nor the legal custodian of his two stepsons; thus, because of the way in which dependency was defined in Fla. Stat. § 39.01(14), the two stepsons could not be found dependent as to the father.  In dependency proceedings under Fla. Stat. § 39.521 a stepfather was neither a "parent" nor a "relative" under Fla. Stat. § 39.01(49), (60), and placement with the stepfather was therefore not permitted. <i>L.F. v. Dep't of Children &amp; Family Servs.</i> , 837 So. 2d 1098, 2003 Fla. App. LEXIS 1840 (Fla. 4th DCA 2003).

### E. Getting the Story Right – Drafting the Personal Statement

For dependency cases, the personal statement is a key document and will be filed in most dependency cases. This is usually submitted without the formalities of an affidavit (i.e., not notarized). An affidavit may be used if you prefer to use a sworn statement, though a sworn statement is usually unnecessary in Florida and especially so if the child will testify in court. The assessment of whether to file a declaration from the petitioner and/or child will vary on a case-by-case basis. Declarations can be very helpful for laying out the facts for the judge. But they can also be used to impeach anyone who testifies at the arraignment/evidentiary/adjudication hearing. The decision of what level of detail to include in the child's personal statement should factor in the child's age, maturity, and knowledge of the facts giving rise to the state court proceeding. Strategy considerations for whether to have the child testify are discussed further in Section VII.A.

A well-drafted personal statement will allow you to write the evidentiary section—the main section—of your petition with ease. So, how do you create a well-drafted personal statement? Starting with the answers from a thorough intake, your follow up interview(s) will be targeted to fill in gaps, obtain more detail, understand the chronology of events, elaborate on the facts and feelings of abandonment, neglect, and abuse, and build rapport. Try to corroborate the information in the personal statement with the testimony of other witnesses and with other evidence. In addition, most of our client children will have been or will currently be detained in a shelter and under ORR custody. It is often the case that these currently or formerly detained children will have extensive records. You should file an ORR records request for these records by filling out the required documents at the following link: [Key Documents | The Administration for Children and Families \(hhs.gov\)](#). These records are often an excellent source of information regarding the Child.

**PRACTICE TIP:** Something to keep in mind when you are working with the child in drafting the personal statement is that the subject matter may be difficult for the child or petitioner to discuss—as the state court case will deal with circumstances surrounding abuse, neglect, and/or abandonment. Reference CILA’s [“Tips for Working with Migrant Children and Trauma-Informed Lawyering”](#) for some guidance. The resource can be found on CILA’s *Additional Resources* [webpage](#). Contact CILA at [cila@abacila.org](mailto:cila@abacila.org) if you need the password to access the webpage.

## Sample Statement of Juan Youth

<p>1. My name is Juan Youth. I was born in the town of Fray Bartolomé de las Casas in the state of Alta Verapaz, Guatemala on April 10, 2008. My mother's name is Ma. My father's name is Pa. I have 2 brothers and 3 sisters. They are all in Guatemala.</p>	<p><i>This is a sample personal statement from a successful Florida Dependency Case.<sup>50</sup> It begins with basic biographical information.</i></p>
<p>2. The worst part of my childhood was having to work from an early age. I was 11 when my mom and dad told me that I needed to start working and that I couldn't go to school anymore. The problem wasn't money, it was because the school I had to go to was far away and it was a hassle to get me there. I wanted to keep going to school, but my parents said that I had to work. I always do what my parents ask me to do, so I didn't complain. I've missed out on a lot of education. I can really see how much I need to learn, even just basic Spanish. I am from Guatemala, where Spanish is the primary language. But I am just an intermediate Spanish speaker. That makes me feel sad and makes we want to catch up.</p>	<p><i>The personal statement quickly moves into detailing the facts that led to the filing of the Dependency Petition. The statement illustrates what happened, when it happened, and how it made the child feel.</i></p>
<p>3. At 11 years old my dad gave me a machete so I could start working in the fields. I worked with corn, beans, and plantains. I remember being the youngest kid out in the fields. I also worked a lot with pesticides and weed killers. I remember the names and the effects of these poisons really well: there was Gramoxone, Hedonal, and Pantek. I used all of these chemicals using a tank and handpump. I didn't have a proper mask, I used a bandana. I didn't have goggles, either. I also didn't have gloves, a hat, special boots, or any other special equipment when I worked. I knew the stuff was dangerous, and I tried to handle it with care. But sometimes I got the chemicals on my hands. Wherever the chemicals touched my skin, it turned my skin green. I frequently asked for safety equipment, but the boss never had it. I know they chose me to work with pesticides and poisons because I was the youngest and I wouldn't complain. I felt kind of like an adult when I worked, but I was still scared using these chemicals.</p>	<p><i>Notice the detail regarding the child's work in the fields, the type of crops, the tools, the herbicides, the pesticides, etc. Initially the child had claimed that this work seemed completely normal and safe for a young person to do. As the interview progressed, however, the child remembered all of these unpleasant events.</i></p>
<p>4. I think the worst part about the work I did was using pesticides and herbicides. I mostly used the chemicals on corn. I was good at doing this kind of work, even though I was only 11. I frequently felt a little sick after using the chemicals. My heart would beat fast, too, and it was hard to breathe. I would tell my parents that I was feeling sick after I got home from working with the chemicals. They would always tell me the same thing, "you'll</p>	<p><i>The Child eventually opened up and relayed a great deal of information about his work with and fear of agricultural chemicals. These chemicals all contain strict warning labels (included in evidence) stating</i></p>

<sup>50</sup> This sample is for demonstration purposes only and should not be used by practitioners in other cases. It is important for practitioners to adapt all state-court documents based on the needs of each individual case.

## Sample Statement of Juan Youth

<p>feel better after you drink some water.” So I drank water - a lot of water - after a day of spraying. I always tried to be careful when using these chemicals after I found out that people had died using them. There was one guy in my local village who died using these chemicals. His name was Pedro. I knew him since he was from my town. I think he was around 30 years old. He was nice and I was sad to learn that he died. I am afraid of how these chemicals have affected me. I used these poisons for years.</p>	<p><i>that NO children should EVER use them.</i></p>
<p>5. Once, when I was 13 years old, I was using all three herbicides and pesticides – they were mixed together. The gas got into my eyes. I couldn’t see and my eyes turned bright red. I was crying a lot, it was so painful. I immediately had to go home. I washed my eyes with water for a long time. My eyes became swollen and I couldn’t see. I had to stay home for a week after that happened since I couldn’t work. I didn’t want to use the chemicals any more after that, but I kept getting that work assigned to me anyway.</p>	<p><i>When reading this personal statement, it is easy to see what dependency arguments we may bring in the petition. Resist making any such legal comments in the statement.</i></p>
<p>6. The second most dangerous thing was the machete. I used the machete a lot to do weeding around the crops. Once, when I was twelve years old, I almost cut off the fingertips of my left hand. My machete got caught on a thick weed, and when I exerted force to release it, the machete nearly cut off my fingers. I should have gotten stitches and medical care, but my parents didn’t do that for me. I still have a scar from that.</p>	
<p>7. When I was 13, I was working in the field. My machete cut open my knee and I started to scream. It hurt really bad and I was bleeding a lot. My shoe began to fill with blood. I went home, but I really needed to go to the hospital. My parents waited until the next day to take me to the hospital. I remember that I couldn’t sleep because of the pain and because my wound kept bleeding. The next day my parents took me to a hospital. They cleaned the wound and gave me several stitches. I don’t know why my parents waited until the next day to take me to the hospital. I had to stay home for several days to be well enough to work again. I feel lucky that the injury wasn’t worse than it was.</p>	<p><i>Notice how the personal statement alternates between specific traumatic events...</i></p>
<p>8. When I was young and started working, I didn’t like it when I had to work for other people. I wasn’t with my father or other family when I worked frequently. I was working on other people’s lands. When you’re really young like I was, you worked hard, but people didn’t pay very much. When I was young, I was only paid a few quetzals (very little money) for the work I did. I always gave the money I made to my parents.</p>	<p><i>... and then more general events that occurred repeatedly over time.</i></p>
<p>9. I studied until 6th grade, when I was 11 years old. I wanted to keep studying, but my parents said I had to work. My parents</p>	<p><i>Don’t forget to think about socio-cultural dynamics and conflicts</i></p>

## Sample Statement of Juan Youth

only speak Q'eqchi, a Mayan language. I spoke Q'eqchi at home, too. It is really important to learn Spanish in Guatemala to be able to move forward in life. My Spanish is not very strong because I stopped going to school. I have been practicing my Spanish a lot since I came here to the shelter. Now I can communicate better and I understand more things. This is also helping me learn English since the staff and other kids at the Shelter don't speak Q'eqchi and they answer my questions in Spanish.

*within the child's country of origin involving language, ethnicity, race, class, gender, gender identification, sexual orientation, etc.*

10. It was after Hurricane Nana in 2020 that my family began thinking that I should leave my village and my parents to come to the United States. My parents have a friend who lives in the United States that loaned me the money to get me to the border. It was a lot of money that this person loaned to my parents – around \$5,000. I think I was supposed to live with and work for that family friend to pay back the debt. I am afraid of having to pay back this debt. I am afraid of being returned to Guatemala because I owe this debt.

*Natural disasters are important to reference by name and add context. The issue of indebtedness related to the journey to the United States may also be relevant.*

11. I left on September 2, 2020. It was a difficult journey. There were a lot of people making the trip to the border. I remember walking day and night. I was tired all the time. People got sick on the trip. It was dangerous, especially in Mexico. There were times that we had to run, especially from police in Mexico. I injured my foot stepping in a hole, and I injured my knee, too. But I just kept walking. I was hungry and thirsty during the trip. I arrived on September 20, 2020 near El Paso, Texas. I was first at a shelter in Texas and now I am at the shelter in Orlando, Florida. I am happy to be here because I am learning English and Spanish and other subjects. I am catching up on the schooling that I missed for so many years.

*Allowing children to make the dangerous journey to the United States is arguably negligent in all cases. The negligence increases for younger and/or incapacitated children.*

*Consider giving a preview of what positive things are happening now and will continue to happen with a dependency adjudication.*

12. I was released from the ORR shelter on October 10, 2020, and I moved in with my uncle, Paco Patrocinador. He has taken care of me for X months. He takes me to school and makes sure that I do my homework. When I am sick my uncle makes sure that I take my medicine and rest.

*Include details of how things are with the current caretaker.*

Juan Youth

Date





## VI. Petition Drafting and Service of Process

### A. General Considerations

#### Sample Petition of Pedro Youth

IN THE CIRCUIT COURT OF THE NUMBER JUDICIAL CIRCUIT  
IN AND FOR NAME COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

LAST NAME, FIRST NAME

CASE NO.

DOB: 08/13/2007

MINOR CHILD

-----/

#### PRIVATE PETITION FOR ADJUDICATION OF DEPENDENCY

COMES NOW, Name Last Name (Petitioner)<sup>51</sup>, Staff Attorney at the non-profit law firm Organization, Inc., and next friend of the minor child, FIRST NAME LAST NAME<sup>52</sup>, and hereby petitions the Court to declare the child dependent within the meaning and intent of Chapter 39, Florida Statutes. Petitioner alleges the following as the foundation for this dependency adjudication request:

1. The Court has jurisdiction over the minor child.
2. First Name Last Name (hereinafter, "Name" or "the child"), a male child, whose date of birth is August 13, 2007, who resides at 123 Fairview Drive, City, FL 32xxx, and who at the time the dependency arose was in the care of his mother.

*"All proceedings seeking an adjudication that a child is dependent shall be initiated by the filing of a petition by an attorney for the department, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true." § 39.501(1), Fla. Stat. (2022).*

*Remember that as the petitioner, you are a Party to the proceedings. It seems strange to have to say that, but occasionally stakeholders will challenge your presence on a Dependency case. § 39.01(58), Fla. Stat. (2022).*

*"A dependency petition may be filed as provided by law. Each petition shall be entitled a petition for dependency and shall allege sufficient facts showing the child to be dependent based upon applicable law." Fla. R. Juv. P. 8.310(a)(1).*

*"The petition shall identify the age, sex, and name of the child. Two or more children may be the subject of the same petition." Fla. R. Juv. P. 8.310(a)(3).*

<sup>51</sup> The child cannot be the petitioner but must instead petition through a guardian or next friend. See *Kingsley v. Kingsley*, 623 So. 2d 780 (Fla. 5<sup>th</sup> DCA 1993).

<sup>52</sup> First Name's birth certificate and translation are attached herewith as EXHIBIT 1.



3. First Name’s natural mother is mom, resident of Tegucigalpa, Honduras, who abused and neglected First Name as described below.<sup>53</sup> First Name was also often in the care of his maternal grandmother, Grandma who lived in a different house in the same neighborhood in the city of Tegucigalpa, Honduras.
4. First Name’s natural father is dad, who abandoned First Name before First Name was born.<sup>54</sup>
5. The UCCJEA Affidavit is attached and is incorporated by reference. The affidavit states that Petitioner has no information of any custody proceeding pending in a court of this or any other state (or country) concerning First Name.
6. First Name is “dependent” within the meaning of §§ 39.01(15)(a) and (e), Florida Statutes (2022) in that he is an abandoned, abused, and neglected child and a child with no parent or legal custodian capable of providing supervision and care. “Abandonment” occurs when a parent has made no significant contribution to the child’s wellbeing or maintained a relationship with the child, or both. § 39.01(1), Fla. Stat. (2022). “Abuse” means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. § 39.01(2), Fla. Stat. (2022). “Neglect” occurs when a child is deprived of, or is

*“The petition shall contain allegations as to the identity and residence of the parents or legal custodians, if known.” Fla. R. Juv. P. 8.310(a)(2).*

*Any pleading commencing proceedings under Chapter 39, Florida Statutes must be accompanied by a UCCJEA affidavit conforming to § 61.522.*

*“The petition must specifically set forth the acts or omissions upon which the petition is based and the identity of the person or persons alleged to have committed the acts or omissions, if known. The petition need not contain allegations of acts or omissions by both parents.” § 39.501(3)(c), Fla. Stat. (2022).*

*It is a best practice to connect the relevant Florida Statutes to the facts of your case often...*

<sup>53</sup> Notice to mother (or Consent and Waiver) attached herewith as EXHIBIT 2.

<sup>54</sup> Affidavit of Diligent Search for Father is attached herewith as EXHIBIT 3.

allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. § 39.01(50), Fla. Stat. (2022).

7. First Name's circumstances are those of a child that has been abandoned by his father and abused and neglected by his mother and that has been left with no parent or legal custodian capable of providing supervision and care. §§ 39.01(1), 39.01(2), 39.01(15)(a), 39.01(15)(e), and 39.01(50) Fla. Stat. (2022). The evidence for First Name's abandonment, abuse, and neglect is as follows:

a. First Name is a native and a citizen of Honduras. He is currently residing at 123 Fairview Drive, City, FL 32xxx, with his paternal uncle, Paternal Uncle.<sup>55</sup>

i. First Name was abandoned by his natural father at birth. His parents were not married, and his father simply left. First Name does not know anything about the present whereabouts of his father and his father has not tried to communicate with First Name. First Name's mother and grandmother also do not know anything about the present whereabouts of First Name's father. First Name's

*...and to point out each and every independent ground for which the child is dependent.*

*This is the part of the petition that should track with your well-written personal statement and other evidence of dependency. At the end of each paragraph, be sure to cite to the relevant Florida Statute corresponding to the facts as either abandonment, abuse, and/or neglect. For example, in this paragraph, the facts show a case of paternal abandonment for which we have cited the abandonment statute.*

<sup>55</sup> Notice of Release from ORR is attached herewith as EXHIBIT 4.

father has never provided any support of any kind to First Name or to First Name's mother. First Name's natural father has made no significant contribution to First Name's wellbeing or maintained a relationship with First Name. § 39.01(1), Fla. Stat. (2022).<sup>56</sup>

- ii. First Name explains in his personal statement that he sometimes lived with his natural mother and other times with his maternal grandmother. First Name had to leave his home with his mother often to live with his grandmother because his mother was violent and abusive with him. First Name did not like living with his mother because she yelled at him and hit him hard. First Name's mother often hit him with her fist and with belts/girdles. First Name's mother also often yelled at, threatened, insulted, and used terrible curse words against First Name. As is apparent in the UCCJEA, because of the abuse from his mother, First Name frequently left his home to go stay with his grandmother. After a time, First Name's mother would ask for First Name to return, and First Name would go back to living with his

*In contrast, this paragraph highlights facts showing maternal abuse for which the abuse statute is cited.*

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<sup>56</sup> First Name's personal statement, handwritten statement, and intake questionnaire are attached herewith as COMPOSITE EXHIBIT 5.



mother until the next outburst. The UCCJEA shows First Name moving back and forth between his mother's and grandmother's homes because of the abuse § 39.01(2) Fla. Stat. (2022).

- iii. The insults, threats, and physical abuse from First Name's mother took its toll on First Name. He describes how unpredictable and unstable his childhood was living with his mother. He was always nervous and afraid and did everything he could not to make her angry. No matter what First Name did, his mother would continue abusing him. He felt that it was very unfair and that there was no reason for her to hit him. He felt very depressed. She treated him like an animal. The UCCJEA shows four instances of First Name leaving home between 2015 and 2021 due to his mother's abuse. First Name explains that there were more times that he left his mother's house, but he doesn't remember all of them. During one of his mother's violent outbursts in June 2019, First Name ran away and stayed on the street for a month. He did not go to stay with his grandmother that time because she was getting too old and could not care for First

*It is important to reflect on how the abandonment, neglect, and/or abuse has affected the child. The child's reactions and feelings to these acts of abandonment, neglect, and/or abuse are already in the personal statement and should be included to give substance to the petition.*



Name anymore. That constant abuse from First Name's mother negatively impacted First Name's mental and emotional health. § 39.01(2) Fla. Stat. (2022).<sup>57</sup>

- iv. First Name stopped going to school when he was seven years old. His mother stopped signing him up for school and made him go to work. The United States Department of Labor (DOL) tracks the exploitation of children through its Child and Forced Labor Reports published by DOL's Bureau of International Labor Affairs. In its 2021 Findings on the Worst Forms of Child Labor for Honduras, DOL states that the compulsory education age for children in Honduras is seventeen (17). First Name's natural mother did not let First Name complete even his primary schooling even though there is free public education in Honduras. This negligence on the part of First Name's mother has deprived First Name of a basic education that has left First Name mentally and emotionally impaired. § 39.01(50) Fla. Stat. (2022).<sup>58</sup>

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<sup>57</sup> *Id.*

<sup>58</sup> *Id.* and U.S. Department of Labor, Bureau of International Labor Affairs, "Honduras – 2021 Findings on the Worst Forms of Child Labor" attached herewith as EXHIBIT 6.



- v. First Name started working as a garage mechanic on cars when he was thirteen years old. First Name became the primary breadwinner for his family at age thirteen and had to give most of his money to his mother to support his family. The work was dangerous and required the use of dangerous tools around heavy automobiles and automobile parts. According to the DOL, the minimum age for work in Honduras is eighteen. Similarly, the minimum age for hazardous work in Honduras is also eighteen. First Name's mother forced First Name into unlawful, difficult, and hazardous child labor from a young age. § 39.01(50) Fla. Stat. (2022).<sup>59</sup>
- vi. The last time First Name's mother hit him was a month before he left Honduras to come to the United States in March 2021. First Name had just returned from work at the automobile garage and First Name's mother started yelling at him. She yelled at him, "Why are you late?" First Name told his mother that he was not late and that he had arrived at the usual time. This response made First Name's mother angry, and she grabbed a belt and

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<sup>59</sup> *Id.*



started hitting him. First Name asked his mother, “Why are you hitting me?” And she just answered with insults, yelling, “Because you’re a jackass!” First Name’s mother kept hitting him and left his back scarred and bruised. He left home again and went one last time to stay with his grandmother. But his grandmother was too old and could no longer care for him. That’s when First Name decided to leave the abuse from his mother in Honduras and travel with his young cousin to the United States. § 39.01(2) Fla. Stat. (2022).<sup>60</sup>

- vii. Life is a lot better for First Name living with his uncle in Florida. His uncle and family are giving First Name a lot of support. He still has contact with his mother, but his mother continues to insult him and is trying to extort him. Before filing this Petition, the undersigned attorney and office staff were attempting service of process in Honduras through a local attorney/process server. When First Name’s mother learned of this Petition, she began texting insults and leaving intimidating voice messages via First Name’s WhatsApp voice and messaging

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<sup>60</sup> *Id.*

application. First Name's mother wrote, "[w]ell, since you won't help me for dick, and you're getting rich, I told you, to me you're over there. If you want my signature, it'll be one thousand dollars. If not, I will not sign because the person that's getting rich is someone that's not me. I'll sign and keep quiet about it. I ask for money because I don't have any money. So if your little girlfriend wants to help you, then she can also help you in getting my signature and you help me. If you help me, I will send the signature, if not then No."<sup>61</sup>

8. It is not in the best interest of First Name to be returned to the care of his father since he abandoned First Name at birth; nor is it in the best interest for First Name to be returned to the care of his mother since she abused and neglected First Name. It is also not in the best interest of First Name to be returned to Honduras, where he was abandoned, neglected, and abused by his parents, where his elderly grandmother is no longer to care for him, and where he no longer has any family to speak of.

9. As required by section 39.501 of the Florida Statutes, Petitioner states that (a) First Name's mother and father have not previously participated in voluntary services offered by the Department of

*"The petitioner must state in the petition, if known, whether:*

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<sup>61</sup> Transcription and translation of voice message sent by First Name's mother to First Name on January 18, 2023 attached herewith as EXHIBIT 7.



Children and Family Services (DCF); (b) First Name's mother and father have not participated in mediation; (c) First Name's mother and father have not been offered voluntary services by DCF; and (d) DCF has not determined that voluntary services are inappropriate for the mother and father.

10. The Petitioner and undersigned attorney is representing First Name before the Immigration Courts (EOIR) and Immigration Agency (USCIS) to obtain legal status for him in the United States so that the child is not forced to return to the place where he was abandoned, neglected, and abused by his parents.

11. Petitioner is not currently requesting services of the department.

12. A dependency order entered by this Court will be considered by USCIS when the child applies for immigration status as a Special Immigrant Juvenile.

13. A dependency adjudication due to abandonment, abuse or neglect by a state Juvenile Court is one of many factors USCIS will consider necessary in adjudicating an application for lawful permanent residence for a non-citizen child.

14. Petitioner respectfully asks this Court for a judicial determination that (a) First Name is an abandoned, neglected, and abused child within the meaning of Chapter 39, Fla. Stat., that (b) there is no viable option for family reunification with his mother or father due to abuse, neglect, and abandonment, and that (c) it is not in First

1. A parent or legal custodian named in the petition has previously unsuccessfully participated in voluntary services offered by the department [i.e. DCF];  
2. A parent or legal custodian named in the petition has participated in mediation and whether a mediation agreement exists;  
3. A parent or legal custodian has rejected the voluntary services offered by the department." § 39.501(3)(d), Fla. Stat. (2022).



Name's best interest to be returned to his parents' country of nationality or last habitual residence and that it is in First Name's best interest to remain in the United States.

**WHEREFORE**, Petitioner respectfully requests that this Honorable Court take jurisdiction over the minor child, First Name Last Name, that First Name be adjudicated dependent, and that a special interest order be entered on First Name's behalf.

Respectfully submitted this \_\_<sup>th</sup> day of Month 2023.

Esq. Name A. Last Name,

FL Bar: XXXXXX  
Next Friend of Child  
Organization  
Address,  
City, FL 32xxx  
xxx.xxx.xxxx

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was sworn to and subscribed before me by means  of physical presence /  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by \_\_\_\_\_, who is  personally known to me /  has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

My commission expires: \_\_\_\_\_

*"The petition shall be in writing, shall identify and list all parents, if known, and all current legal custodians of the child, and shall be signed by the petitioner under oath stating the petitioner's good faith in filing the petition. When the petition is filed by the department, it shall be signed by an attorney for the department." § 39.501(3)(a), Fla. Stat. (2022).*

*Make sure that your notary block is current. § 117.05, Fla. Stat. (2022). The notary block law changed during the pandemic to include the possibility of performing online notarization, and this language should now be included in the block.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Petition has been provided via e-service to: the Florida Department of Children and Families by e-service at: [cnr.cls.seminole@myflfamilies.com](mailto:cnr.cls.seminole@myflfamilies.com) on January 27, 2023.

Esq.

Name A. Last Name,

FL Bar: XXXXXX  
Next Friend of Child  
Organization  
Address,  
City, FL 32xxx  
xxx.xxx.xxxx

## B. Drafting the Family Law Petition

There are several different processes that may fall under family law. Please refer to the family law petition samples in the Appendix below.

## C. Additional Documents to File

We have already discussed above the importance of the personal statement and of other kinds of evidence. Below we will consider the other essential documents that you will need to file to complete your dependency or family law filing packet.

### *i. Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) Affidavit*

Dependency proceedings are included in the UCCJEA's definition of "custody proceeding" and as a result are subject to the UCCJEA.<sup>62</sup> Any pleading commencing proceedings under Section 39.013, Florida Statutes (2022) must be accompanied by an affidavit conforming to Section 61.522, Florida Statutes (2022). A Sample UCCJEA affidavit is included in the Appendix below. **REMEMBER:** Under Section 61.517, Florida Statutes (2022), Florida courts may exercise temporary emergency jurisdiction if the child is physically in Florida and has been abandoned or it is necessary in an emergency to protect the child from actual or threatened mistreatment or abuse. Florida courts may also exercise jurisdiction if the child, the child's parents, or the child and at least one parent or person acting as parent enjoy a significant connection with Florida and there is substantial evidence concerning the child's present or future care, protection, personal relationships, and training in Florida.<sup>63</sup>

<sup>62</sup> §§ 61.501-61.503, Fla. Stat. (2022).

<sup>63</sup> § 61.514, Fla. Stat. (2022).

## ii. Notice of Filing Evidence

As a courtesy to the judge and to help keep the proceeding organized, the Notice of Filing Evidence lists all the evidence for the case in a single document. A sample Notice of Filing Evidence is included in the Appendix below.

## iii. Child's birth certificate with certified translation

Depending on your county, a birth certificate may be essential to include in the petition. For example, most judges in Miami-Dade will not accept a filing as complete unless a birth certificate is on file. A sample birth certificate with certified translation is included in the Appendix below.

## iv. Service of Process

Service of process issues in a Florida dependency case can be complex. The primary sources of law on service in dependency are found in Chapters 39 and 61, Florida Statutes (2022) and in the Florida Rules of Juvenile Procedure.<sup>64</sup> It is easy to see the importance of proper service of notice on a parent or parents accused of abandoning, neglecting, and/or abusing their child. Parents have a right to know about such accusations, to respond to the accusations, and to defend themselves if they so choose. The stakes in a dependency case are high because the proceedings may result in the termination of parental rights. Although Florida sources of law do not explicitly require DCF to be served a private petition, many judges and DCF attorneys expect service upon DCF. As a result, many practitioners serve DCF as a pro forma courtesy.

Paragraph (7) of Section 39.502, Florida Statutes (2022) states that, “[s]ervice of the summons and service of pleadings, papers, and notices subsequent to the summons on persons outside this state must be made pursuant to s. 61.509.” In most of our dependency cases, the parents of the child are located outside the United States, therefore triggering the requirement to comply with Section 61.509, Florida Statutes (2022). Paragraph (1) of Section 61.509, Florida Statutes (2022) states that, “[n]otice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the laws 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 made by publication if other means are not effective” (emphasis added). The statute implicitly states that there are a range of acceptable means to satisfy the service requirement, but it does not explicitly list them. The means are effective as long as “[n]otice [...] is given in a manner reasonably calculated to give actual notice.” Similarly, paragraph (4)(A) of Florida Rule of Juvenile Procedure 8.225 states in relevant part that, “[s]ervice of the summons and other process on parents, parties, participants, petitioners, or persons outside this state *shall be in a manner reasonably calculated to give actual notice*” (emphasis added).

There is also relevant persuasive authority from the U.S. Department of Justice and the U.S. Department of State regarding service of process in El Salvador, Guatemala, and Honduras, the countries from which the majority of our child clients originate.<sup>65</sup> None of these three countries is a

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<sup>64</sup> §§ 39.502, 61.509 Fla. Stat. (2022) and Fla. R. Juv. P. 8.225. The interplay of these three sources of law is explored in the subsequent paragraph.

<sup>65</sup> See <https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-Information/ElSalvador.html> for information on service of process in El Salvador, <https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-Information/Guatemala.html> for information on service of process in Guatemala, and <https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-Information/Honduras.html> for information on service of process in Honduras.

party to the Hague Service Convention, but two of these countries—El Salvador and Guatemala—are parties to the Inter-American Convention on Letters Rogatory and Additional Protocol.<sup>66</sup> This means that service of process in these two countries may be undertaken through a contractor working for the U.S. Department of Justice. Practitioners rarely, if ever, attempt service of process in this manner in these countries, but it is important to mention that this avenue for potential service of process exists. For Honduras, however, the U.S. Department of State affirms that, “[i]n the absence of any prohibition against it, service of process in Honduras may be effected by mail, by agent, such as a local attorney, or through letters rogatory. Litigants may wish to consult an attorney in Honduras before pursuing a particular method of service of process, particularly if enforcement of a U.S. judgment is contemplated in the future.”<sup>67</sup>

Considering the above, and through years of experience, Florida SIJS practitioners have relied on four (4) customary ways to achieve proper service in dependency court: (1) consent to dependency and waiver of notice, (2) personal service, (3) affidavit of diligent search<sup>68</sup>, and (4) personal appearance. We will address each of these in turn below.

### **Parent’s Consent to Dependency and Waiver of Notice<sup>69</sup>**

The first way is to gain the parent’s consent to the dependency proceeding and to waive notice of service of process and notice of hearings. This consent and waiver tool eliminates the need to achieve proper service since the parent has waived the service requirement. A Sample Consent to Dependency and Waiver of Notice is included in the Appendix below. We have found that the consent and waiver sometimes satisfy the service requirement in the opinion of the dependency court Judge. **However, be aware in certain family law proceedings, filing a consent could harm your case.**<sup>70</sup>

Even though the consent and waiver is robust—requiring the services of a civil law notary (attorney) and two witnesses—a judge may still choose to challenge the legal sufficiency of any substitute for actual service of process consisting of a Summons and Petition and traditional service via a process server. In such cases, your first alternative is to try to persuade the parent(s) to attend the arraignment hearing telephonically to provide testimony directly to the judge. The judge will likely then perform a Dependency Consent Colloquy to determine that the consent and waiver were signed freely, voluntarily, without coercion, and with a full understanding of the consequences of the document. An example of the Dependency Consent Colloquy may be found in *Florida’s Dependency Benchbook*. The link to the Benchbook is included in the Resources Section below. If the parent will not cooperate and will not attend the arraignment hearing telephonically, then you are going to have to converse with the judge to determine what would constitute proper service under the circumstances.

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<sup>66</sup> *Id.*

<sup>67</sup> U.S. Department of State, Judicial Assistance Country Information Honduras, available at <https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-Information/Honduras.html>.

<sup>68</sup> IMPORTANT: A diligent search is not sufficient in paternity cases. Here, personal service must be perfected.

<sup>69</sup> IMPORTANT: Do NOT file consent and waivers in family court in Miami-Dade County. Instead, use an answer and waiver.

<sup>70</sup> See *Mendez v. Mendez Lopez*, 271 So. dd 72 (Fla. 3<sup>rd</sup> DCA 2019).

### **Service Abroad through a Civil Law Notary/Lawyer**

The second customary way to achieve proper service is to undertake service abroad through a Civil Law Notary/Lawyer in the country where the parents reside. Service must be made at least 72 hours before a scheduled Arraignment Hearing.<sup>71</sup> You will first have to file your private dependency petition, usually through the Florida ePortal. Once the petition is accepted by the clerk of court, the case will be assigned a case number. You will then request a summons from the clerk of court. The case number will also allow you to reach out to the judicial assistant of the judge assigned to the case to schedule an arraignment hearing.

You will be sending three (3) documents to the civil law notary/lawyer to complete service of process: (1) the summons and copy of the original petition, (2) a certified translation of the petition, and (3) a certified translation of the notice of hearing.<sup>72</sup> Explain to the civil law notary/lawyer that you need to have these three (3) documents served on the parent(s) at their home address in the same manner as if it were a lawsuit originating from that country. The civil law notary/lawyer will be able to achieve service in this way and will also be able to write precisely how and to whom service was accomplished. An example of this kind of service of process is included in the Appendix below.<sup>73</sup> If the parent is served but fails to appear at the arraignment hearing, this constitutes consent to the dependency petition.<sup>74</sup>

### **Affidavit of Diligent Search**

The third customary way to achieve proper service is through an Affidavit of Diligent Search, **except in cases of paternity** as mentioned above. If parental location is unknown, and a permanent address designation has not been filed with the court by that person, then a diligent search shall be conducted by the petitioner.<sup>75</sup> If the court finds that the petitioner has conducted a diligent search, failure to serve parents with unknown identity or location shall not affect the validity of an order of adjudication or disposition.<sup>76</sup> The Affidavit of Diligent Search must include, at a minimum, inquiries of:

- all relatives of parents or prospective parents known to the child and petitioner;
- all offices of program areas of the department that are likely to have information regarding parents or prospective parent;
- other state and federal agencies likely to have information regarding parent or prospective parent;
- a thorough search of at least one electronic database specifically designed for locating persons;
- appropriate utility and postal providers; and appropriate law enforcement agencies.<sup>77</sup>

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<sup>71</sup> § 39.501(4), Fla. Stat. (2022).

<sup>72</sup> § 39.502, Fla. Stat. (2022). §§ 39.502 and 61.509 Fla. Stat. (2022) and Fla. R. Juv. P. 8.225.

<sup>73</sup> § 61.509(1)-(2), Fla. Stat. (2022). *See also* § 39.502(7), Fla. Stat. (2022) and Fla. R. Juv. P. 8.225(a)(4)(A)(i)-(iv).

<sup>74</sup> § 39.506(3), Fla. Stat. (2022). The Notice of Hearing, a sample of which is found below in the Appendix, contains the specific statutory language as cited in § 39.506(3) warning that failure to appear may result in loss of custody of the child.

<sup>75</sup> §§ 39.01(23), Fla. Stat. (2022) and Fla. R. Juv. P. 8.225(c).

<sup>76</sup> Fla. R. Juv. P. 8.225(b)(5)(A).

<sup>77</sup> § 39.503(6), Fla. Stat. (2022).

This diligent search inquiry is geared toward locating a parent missing in the United States, not a parent missing in another country. Even though we still must comply with the diligent search requirement by making an exhaustive search for the parent here in the United States, we should use additional search techniques that encompass the foreign country. In our experience, searching through social media has been perhaps the most successful way to locate a missing parent—and to encourage that parent to sign a Consent to Dependency and Waiver of Notice. We also reach out via e-mail to request the assistance of the local consulate in Florida of the parent’s country.

If parental location is still unknown after the completion of this expanded diligent search, then an affidavit of diligent search shall be executed and filed with the court by the person who conducted the search and inquiry.<sup>78</sup> A sample Affidavit of Diligent Search is included in the Appendix below. Until excused by the court, the petitioner and the department (if required by the court) are under a continuous duty to search for and attempt to serve the parent of unknown location after an affidavit of diligent search has been filed in a dependency proceeding. The petitioner shall report on the results of the continuing search at each court hearing until the person is located or until further search is excused by the court.<sup>79</sup>

### **Personal Appearance**

The fourth customary way to achieve proper service is to have the parents appear telephonically at the arraignment hearing. Often, judges will insist that parents appear via Zoom or similar type of video conferencing service. “Personal appearance of any person in a hearing before the court obviates the necessity of serving process on that person.”<sup>80</sup>

## **VII. Hearing(s), Order(s), and Aftermath**

### **A. Preparing for your Hearing**

#### ***i. Don’t Review your Trial Advocacy Notes from Law School***

Our dependency hearings are usually not adversarial in the usual sense that you are confronting parents represented by an attorney fighting against a dependency adjudication. You do not need to become a trial advocacy expert to represent your client effectively. Your purpose is to demonstrate through a preponderance of evidence—a relatively low threshold—that your client is dependent based on abandonment, neglect, and/or abuse.<sup>81</sup> This is usually accomplished by taking testimony from the child in court. Using the personal statement as a guide, create a thorough list of questions to ask the child to ensure that you have covered all the evidence of abandonment, neglect, and/or abuse. Build trust and confidence with the child before the hearing through role plays/rehearsals. Remember that you will probably be using the services of a language interpreter in the court, so you need to prepare the child not to be alarmed by being in front of a bunch of adults speaking English in a courtroom hearing.

In our experience, Florida judges expect children to participate in and provide testimony in dependency proceedings. Unless it is against the best interest of a child, the expectation of providing

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<sup>78</sup> Fla. R. Juv. P. 8.225(b)(3).

<sup>79</sup> Fla. R. Juv. P. 8.225(b)(4).

<sup>80</sup> § 39.502(2), Fla. Stat. (2022).

<sup>81</sup> § 39.507(1)(b), Fla. Stat. (2022).



testimony is part of judicial practice and is implicit in Florida’s Dependency Benchbook.<sup>82</sup> As the Benchbook states in relevant part, Florida courts are “implementing practices that help [children] actively participate in dependency proceedings.”<sup>83</sup> We have seen judges hew closely to the Dependency Benchbook. There is a section in the Benchbook dedicated to “Taking Testimony from Children” that provides additional guidance. It is important to emphasize that taking testimony may be expected, but is in no way required. There are many good reasons for children not to testify in many instances, and these reasons are covered in the Benchbook.<sup>84</sup>

### ii. Prepare to Proffer

It is inevitable that some children will be unable to testify because of tender age, trauma, or other issues. In Florida, protecting children from unnecessary emotional trauma through appearance in judicial settings has been a substantial goal of the Florida Legislature.<sup>85</sup>

If the child is expected to or intends to be present at the hearing, be sure to prepare them in advance for what to expect at the hearing. Keep in mind too that it is possible for the judge to ask the child questions at the hearing even if they do not intend to testify.

Your main focus should always be on the wellbeing of the child, and you will advocate accordingly. Explain to the judge that attempting to elicit testimony will harm the child and that you will instead “proffer” the child’s testimony on the child’s behalf. As long as there is sufficient justification (e.g., avoiding emotional or mental harm to a child), the proffered testimony of a child victim is permissible as a hearsay exception.<sup>86</sup> In making your proffer, remember to go over all the relevant facts showing abandonment, neglect, and/or abuse from the personal statement. At the conclusion of the proffer, ask the judge to admit the personal statement into evidence since it mirrors the testimony you have just proffered.<sup>87</sup>

### iii. Exactly What Kind of Hearing Is It, Anyway?

Depending on the judge, your hearing may be an arraignment hearing, a combined arraignment/adjudication hearing, or an evidentiary hearing. Arraignment hearings allow parents/legal custodians to enter pleas in response to the dependency petition.<sup>88</sup> The parent or legal custodian can admit, deny, or consent to findings of dependency alleged in the petition. This hearing is like an arraignment in criminal court, except the court also reviews issues related to the child such as placement and appointing a temporary legal custodian. If the parent enters a denial to the dependency petition, an adjudicatory hearing must be conducted by the court as soon as practicable and no more than 30 days after the arraignment hearing to determine whether the child is dependent by a preponderance of evidence.<sup>89</sup> Rules of evidence in use in civil cases apply at the

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<sup>82</sup> *Dependency Benchbook Unabridged*, Florida Courts, Office of the State Courts Administrator, (June 26, 2023), <https://www.flcourts.gov/Resources-Services/Office-of-Family-Courts/Family-Court-in-Florida/Dependency/Dependency-Benchbook>.

<sup>83</sup> *Id.* at 4-1.

<sup>84</sup> *Id.* at 4-1 to 4-12.

<sup>85</sup> Fla. R. Juv. P. 8.225.

<sup>86</sup> See *inter alia* §§ 90.803, 92.53, 92.54, 92.55, Fla. Stat. (2022).

<sup>87</sup> *Id.*

<sup>88</sup> § 39.506(1), Fla. Stat. (2022).

<sup>89</sup> § 39.507(1)(a), Fla. Stat. (2022).



adjudicatory hearing.<sup>90</sup> A party may call any person as a witness.<sup>91</sup> The child and the parents, caregivers or legal custodians may be examined separately and apart from each other.<sup>92</sup> All parties have the right to be present at all hearings. This can be by audio or audiovisual at the court's discretion.<sup>93</sup>

Regardless of the type of hearing, your goal is to present the child's evidence as quickly as possible (get it on the record) and obtain a dependency adjudication. Judges have a great deal of power regarding how they run their dependency dockets. Some judges will not agree to make a dependency adjudication during the first hearing—usually an arraignment hearing—even in the face of overwhelming evidence that your child is dependent. In such a case, try to politely propose to the judge that Florida Rule of Juvenile Procedure 8.315(a)(2) authorizes judges to find children dependent upon an admission or consent of dependency by any parent. Some judges prefer that magistrates first hear a dependency case to gather pleas from the parents (arraignment hearing) and perform consent colloquies before scheduling a follow-up hearing on the merits of the case. Other judges perform both arraignment and adjudication functions in a single hearing. In any case, always be courteous in encouraging the judge to move toward a dependency adjudication as efficiently and expeditiously as possible.

## KEEPING IT SIMPLE

- Review the petition and evidence.
- Prepare the child to testify effectively.
- Prepare a list of questions you will ask witnesses – only as a guide.
- Use the Key Florida Cases section above as a cheat sheet to respond to objections.
- Have a computer with statutes/procedure ready to review in a hurry.
- Have a brief opening statement and closing argument.

### B. Anticipating the Objections

As we mentioned in the beginning of this section, dependency hearings for SIJS cases are usually not adversarial, but sometimes judges, DCF attorneys, and/or GALs may act in an adversarial manner. Use the cheat sheet in the Key Florida Cases section above to respond to questions and objections made by these stakeholders. Try to maintain a positive and non-defensive approach even in the face of anti-immigrant hostility.

### C. Types of Outcomes and Orders

It is often the case that a judge will not find the child dependent during the first hearing and will order a follow-up hearing, usually within a few weeks at most. The judge will ask you to prepare a combined Order and Notice of Next Hearing, a sample of which is included in the Appendix below. The judge will usually ask for the order to be prepared within a day or two. In other cases, the judge will find your client dependent, in which case the judge shall enter a written order stating: (1) the legal basis for the dependency finding; (2) facts upon which the dependency is based; and (3)

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<sup>90</sup> § 39.507(1)(b), Fla. Stat. (2022), Fla. R. Juv. P. 8.330(a).

<sup>91</sup> Fla. R. Juv. P. 8.330(b).

<sup>92</sup> *Id.*

<sup>93</sup> Fla. R. Juv. P. 8.330(c).

whether the court made the finding by the preponderance of the evidence or clear and convincing evidence.<sup>94</sup> Depending on the judge, you may be asked to prepare any number of orders. For example, the judge may be satisfied with a single Special Interest Order that is ready-made to be used in your subsequent SIJS filing. Alternatively, some judges insist on having separate Dependency Adjudication Orders, Orders appointing a Temporary Legal Custodian, Orders for a Case Plan, etc. A sample of these and all other order types are included in the Appendix. Depending on the judge, you will either have to upload the proposed order(s) via the ePortal or give it directly to the judge via a judicial assistant.

Most importantly, always be sure that you have an order meeting all of the statutory SIJS requirements. As explained in Section II, a youth applying for SIJS must be the subject of a qualifying state court order with the required judicial determinations.<sup>95</sup> In assessing a SIJS application, USCIS will evaluate whether the request is bona fide, or that the primary reason for seeking the state court order was to obtain relief from parental mistreatment.<sup>96</sup> For a state court order to be valid, it must be issued under state law.<sup>97</sup> Additionally, the child must remain under the jurisdiction of the court through the adjudication of the petition.<sup>98</sup> Therefore, the proposed order must be rooted in state law, but understanding the SIJS requirements of federal law is crucial to ensuring that the order will meet USCIS requirements when the youth submits their SIJS application.

**PRACTICE TIP:** While it is important to know the SIJS requirements for the final order, the order itself should only cite to state law, not immigration law.

#### D. Educational, Vocational, Medical, Psychological, and other Needs

Always be sure to ask for assistance and/or services for educational, vocational, medical, psychological, and other needs at the conclusion of your arraignment hearing or during any of your subsequent Judicial Review Report hearings. You should have a very clear idea of what kind of assistance the child needs in these areas and be prepared to advocate accordingly. It is best practice to request a separate order for the child allowing the court, the legal custodian, and you (the attorney) to have access to any and all educational, vocational, medical, and psychological records. It is often the case that you will find sufficient services available to help the child from local school and community organizations. However, for children with more serious and long-term needs, it is best to ask the judge include DCF and a guardian ad litem (GAL) on the case. DCF and the GAL have the authority and experience to obtain specialized services for the child, and it is the judge that must order DCF and/or its contractors to provide services for the child. There is not a specific form to fill out to request services, and requesting services does not have to be made through a formal petition. Remember that you are doing more to help the child than obtain a dependency adjudication and SIJS—you are helping the child succeed and thrive in their new country. You will become familiar with local school systems, technical schools, and colleges as well as psychologists, nurses, doctors, and dentists. In cases including DCF and/or GAL as a party, you will be expected to take the lead on

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<sup>94</sup> Fla. R. Juv. P. 8.332.

<sup>95</sup> 8 C.F.R. § 204.11(a); INA § 101(a)(27)(J)(i).

<sup>96</sup> 8 C.F.R. § 204.11(b)(5).

<sup>97</sup> *Id.* § 204.11(c)(3)(i).

<sup>98</sup> *Id.* § 204.11(c)(3)(ii).

the SIJS portion of the case. Use the opportunity working closely with DCF and GAL colleagues to spread awareness of SIJS and to change hearts and minds regarding immigrant children and youth.

### E. Aftermath – Judicial Review Reports in Dependency Cases

As we already discussed previously, judicial review hearings are crucial hearings in a dependency proceeding because they allow the court and the parties to review all aspects of the case. The JRR is the key document for these hearings.<sup>99</sup> In addition to providing an update on the SIJS case, always include placement, educational, vocational, medical, psychological, and other kinds of information. The judge or magistrate will want to know how the child is doing in their placement with their court-ordered temporary legal custodian or guardian. Your first JRR hearing will most likely be scheduled within 90 days after the dependency adjudication.<sup>100</sup> Barring serious issues, subsequent JRR Hearings will be scheduled at six-month intervals.<sup>101</sup> You will be asked to send the JRR at least three days before the JRR Hearing. In most areas of the state, the judge refers JRR hearings to a magistrate. Remember that you should keep the state court case open until the SIJS has been granted by USCIS and the child has adjusted status or until the child turns twenty-two.<sup>102</sup>

### VIII. Conclusion: What Happens After State Court?

The purpose of this manual is to provide a guide for the state court proceedings that will need to occur to obtain SIJS relief for your client. These state court proceedings are a core part of the SIJS process, but they are not the entire process. **In all SIJS cases, youth must submit an I-360 petition after obtaining the final order from the state court.** The I-360 petition must be filed before the client turns 21. However, it is best to file the I-360 petition as soon as possible after receiving the final order for purposes of the client's priority date, which is the date the petition is properly filed with USCIS. Having an earlier priority date can allow the client to apply for their green card months earlier than if this process is delayed. Keep in mind too that for some youth there may be other ongoing proceedings that can impact the state court proceedings as well. Youth in removal proceedings will have ongoing proceedings in immigration court, while others may be applying for alternative forms of legal protection with USCIS. SIJS is a valuable resource for youth. We hope this manual provides guidance for how to navigate the state court proceedings in Florida. We thank everyone for your time and effort in helping youth obtain this humanitarian protection.

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<sup>99</sup> Section 39.701, Florida Statutes (2022) and Fla. R. Juv. P. 8.415.

<sup>100</sup> Section 39.521(1)(d), Florida Statutes (2022).

<sup>101</sup> Section 39.701(1)(a), Florida Statutes (2022).

<sup>102</sup> Florida Statute § 39.013(d), "If a petition for special immigrant juvenile status and an application for adjustment of status have been filed on behalf of a foster child and the petition and application have not been granted by the time the child reaches 18 years of age, the court may retain jurisdiction over the dependency case solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. Review hearings for the child shall be set solely for the purpose of determining the status of the petition and application. The court's jurisdiction terminates upon the final decision of the federal authorities. Retention of jurisdiction in this instance does not affect the services available to a young adult under s. 409.1451. The court may not retain jurisdiction of the case after the immigrant child's 22nd birthday."

## IX. Additional Resources

### A. Florida State Law Resources

[Florida Statutes](#): Dependency (Ch. 39), Temporary Custody by a Relative (Ch. 751), Paternity (Ch.742), Delinquency (Ch. 985), Adoption (Ch. 63), Domestic Violence (Ch. 741), Dissolution of Marriage (Ch. 61), Guardianship (Ch. 744), etc.

[Florida Code 65C-9.003](#), Procedure for Handling Undocumented Foreign National Children Alleged to Be Abused, Neglected or Abandoned.

[Interstate Child Custody](#), A Practitioner's Guide to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).

[Florida Rules of Juvenile Procedure](#)

[Florida's Dependency Benchbook](#) – Children in Court.

[Refugees Participating in Refugee Employment and Training \(E&T\) or Match Grant Program for Food Assistance](#).

[Judges Behaving Badly - Clinics Fighting Back: The Struggle for Special Immigrant Juveniles in State Dependency Courts in the Age of Trump](#), *Bernard P. Perlmutter*.

### B. Immigration Law Resources

NIP/NLG, End SIJS Backlog, [Frequently Asked Questions About USCIS's SIJS Deferred Action Policy](#)

SIJS statute: [8 U.S.C. § 1101\(a\)\(27\)\(J\)](#)

SIJS adjustment statute: [8 U.S.C. § 1255\(h\)](#)

SIJS regulations: [Final rule \(4/7/2022 effective date\) published at 87 Fed. Reg. 13066; codified at 8 C.F.R. §§ 204.11; 205.1\(a\)\(3\)\(iv\); 245.1\(e\)\(3\)](#).

USCIS Policy Manual provisions on SIJS\*: [USCIS Policy Manual, Vol. 6, Pt. J](#)

USCIS Policy Manual provisions on SIJS-based adjustment of status\*: [USCIS Policy Manual, Vol. 7, Pt. F, Ch. 7](#)

USCIS policy on deferred action for SIJS beneficiaries (went into effect on May 6, 2022): PA-2022-10, "[Special Immigrant Juvenile Classification and Deferred Action](#)" (Mar. 7, 2022).

[USCIS Policy Alert](#), SIJS and AOS

## X. Appendix with Useful Tools and Document Samples

**Disclaimer:** These samples are provided as tools to help practitioners in the drafting process. These samples are not formatted in compliance with Florida state court rules and should not be filed as is. Practitioners have a duty to prepare filings in accordance with local rules and to adapt filings to the

needs of their cases. Practitioners are responsible for reviewing the law and local rules for any necessary updates.

### A. SAMPLE Request for Specific Consent to Juvenile Court Jurisdiction

#### OFFICE OF REFUGEE RESETTLEMENT Division of Unaccompanied Children's Services

Please submit this *Request for Specific Consent to Juvenile Court Jurisdiction* electronically to [DUCSconsent@acf.hhs.gov](mailto:DUCSconsent@acf.hhs.gov)

DATE OF REQUEST FOR CONSENT	September 9, 2022
SUBMISSION BY: NAME TITLE ORGANIZATION TELEPHONE FACSIMILE EMAIL	Name Last Name Staff Attorney Organization, Inc. xxx.xxx.xxxx xxx.xxx.xxxx Last Name@domain.org
CASE PRIORITY: NORMAL  <b>X URGENT</b>	If the case is urgent, please explain here:  Child has no sponsor. Filing with the state dependency court is urgently needed for this child.

#### SECTION 1: BASIC DATA OF UNACCOMPANIED ALIEN CHILD

FULL NAME	
ALIAS	None
ALIEN NUMBER	A
DATE OF BIRTH	
PLACE OF BIRTH	
CURRENT ADDRESS (Name of HHS-funded facility or program)	Tampa, Florida, the child is under the ORR's census for Tampa, FL with Urban Strategies
SCHEDULED STATE OR IMMIGRATION COURT HEARING RELEVANT TO REQUEST	Please provide date, city, and state: Immigration Master Hearing, EOIR @ El Paso, Texas has not been set. <b>Pending this Request for Consent to file in State Court</b>

#### SECTION 2: REQUEST FOR SPECIFIC CONSENT TO JUVENILE COURT JURISDICTION TO DETERMINE CUSTODY STATUS OR PLACEMENT

**REQUIRED:** Please attach a G-28, EOIR-28 or EOIR-29, or other form of authorization to act on behalf of the unaccompanied alien child.

I am seeking a change in custody status or placement on behalf of the unaccompanied alien child.

Please provide a brief statement below concerning the reasons for this request to change custody status or placement.

Child has no reunification options. The child was a victim of neglect and abandonment by his parents. The child needs to be adjudicated dependent. Child is detained and a detention center is not a child welfare agency. This child is in need of placement with a state agency.

Signature	Print Complete Name NAME LAST NAME
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**NEXT STEPS:**

- The Office of Refugee Resettlement will electronically acknowledge receipt of this request in no more than two business days to the email listed herein, and will provide a decision within thirty business days, unless the request is marketed “urgent.”
- In the event the request is denied, the Attorney of Record or other individual or entity authorized to act for the child will have thirty business days from the date of receipt of the denial to submit a request for reconsideration. The request for reconsideration should be sent to: Assistant Secretary, Administration for Children and Families, 370 L’Enfant Promenade, 6<sup>th</sup> Floor, Washington, DC, 20447, ATTENTION: SIJ Specific Consent Reconsideration.
- The ACF Assistant Secretary will send his/her decision on the reconsideration to the Attorney of Record or other individual or entity authorized to act for the child within fifteen business days from the date of the receipt of the reconsideration request. This will be considered a final administrative decision.

B. **SAMPLE** Dependency Petition

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

LAST NAME, FIRST NAME  
DOB: 00/00/0000

CASE NO.

MINOR CHILD

\_\_\_\_\_ /

PRIVATE PETITION FOR ADJUDICATION OF DEPENDENCY

COMES NOW, Name Last Name (Petitioner)<sup>103</sup>, Staff Attorney at the non-profit law firm Organization, Inc., and next friend of the minor child, FIRST NAME LAST NAME, (“the child”), and hereby petitions the Court to declare the aforementioned child dependent within the meaning and intent of Chapter 39, Florida Statutes. Petitioner alleges the following as the foundation for this dependency adjudication request:

1. The Court has jurisdiction over the minor child.
2. First Name Last Name (hereinafter, “First Name” or “the child”), a male child, whose date of birth is X, Y Z, and who, at the time the dependency arose was in the custody of his natural father/mother.
3. First Name’s natural mother is Mom (hereinafter, “Mom”), whose current whereabouts are unknown, but is suspected to be living somewhere in Guatemala.
4. First Name’s natural father is Dad (hereinafter, “Dad”), who died last year on X, Y Z in Orlando, Florida of a heart attack at the age of 0.

<sup>103</sup> The child cannot be the petitioner, but must instead petition through a guardian or next friend. See *Kingsley v. Kingsley*, 623 So. 2d 780 (Fla. 5<sup>th</sup> DCA 1993).

5. The UCCJEA Affidavit is attached and is incorporated by reference. The affidavit states that Petitioner has no information of any custody proceeding pending in a court of this or any other state concerning First Name.
6. First Name is “dependent” within the meaning of § 39.01(15)(a) and (e) of the Florida Statutes. First Name meets the definition of an abandoned child (§ 39.01(15)(a)) and as a child who has no parent or legal custodian capable of providing supervision and care (§ 39.01(15)(e)). “Abandonment” occurs when a parent has made no significant contribution to the child’s wellbeing or maintained a relationship with the child, or both. First Name’s circumstances are those of a child that has been “abandoned” by his mother, Mom. Because First Name’s father died last year, First Name currently has no parent or legal custodian capable of providing supervision and care.<sup>104</sup> The evidence for First Name’s dependency is as follows:
  - a. First Name is a native and a citizen of Guatemala. He is currently residing at 10 North Street, Orlando, Florida 32835 with his paternal aunt, Aunt.
    - i. First name’s mother has not been in his life since First Name was an infant. First Name has no memory of his mother and has never met his mother. First Name’s mother never attempted to contact and/or provide support for First Name. He does not even have a photograph of his mother. When First Name was a child, he used to ask his father what had happened to his mother, but First Name’s father did not disclose what had happened until First Name was approximately 13 years old. At that time, First Name’s father explained that the mother had abandoned them and left their town with another man. First Name’s father told him many

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<sup>104</sup> See *In Re TJ*, 59 So. 3d 1187 (Fla. Dist. Ct. App. 2011) for a very similar case fact pattern.



years ago that First Name's maternal grandfather lived in a faraway village, but First Name has never met relatives from his natural mother's family.

- ii. First Name's mother has been absent from his life and since 2005 has not lived with First Name. Although First Name's mother has presumably been able, she has not been present in First Name's life, has made no contribution to his care and maintenance, and has failed to establish a substantial and positive relationship with him. Fla. Stat. § 39.01(1), Fla. Stat. § 39.01(15)(a).
- iii. First Name's father took care of him and was a good parent raising his only son for many years in the town of X, Guatemala. In May 2019, First Name's father decided that it would be best for him and his son to leave Guatemala for the United States. First Name and his father entered the United States on May 27, 2019. Soon after arriving, they moved in with First Name's paternal aunt at the address mentioned above in Orlando, Florida. Sadly, First Name's father died of a heart attack less than a year later on April 7, 2020. Since the death of his father, First Name has had no parent or legal custodian capable of providing supervision or care. Fla. Stat. § 39.01(15)(e).
- iv. First Name's paternal aunt, Aunt, does not have legal custody over First Name. Fla. Stat. § 39.01(35). Furthermore, a diligent search for First Name's natural mother through the Guatemalan Consulate in Lake Worth, Florida has been unsuccessful to date. Fla. Stat. § 39.01(24). Given the fact that First Name's natural mother abandoned him long ago, it is not inaccurate to say that First Name became orphaned once his father passed away.

7. It is not in the best interest of First Name to be returned to Guatemala, where he has no family to speak of and where his mother abandoned him long ago; nor would it be in the best

interest of the First Name to be returned to his natural mother after 15 years of abandoning her infant child even if she were located.

8. As required by section 39.501 of the Florida Statutes, Petitioner states that (a) First Name's mother and father have not previously participated in voluntary services offered by the Department of Children and Family Services (DCF); (b) First Name's parents have not participated in mediation; (c) First Name's mother or father have not been offered voluntary services by DCF; and (d) DCF has not determined that voluntary services are inappropriate for the mother or father.
9. The undersigned pro bono attorney and petitioner is representing First Name before the EOIR, USCIS, and ICE to obtain legal status for him in the United States so that the child is not forced to return to the place where he was abandoned by his mother.
10. Petitioner is not requesting services of the department at this time.
11. A dependency order entered by this Court will be considered by the USCIS when the child applies for immigration status as a Special Immigrant Juvenile.
12. A dependency adjudication due to abandonment, abuse or neglect by a state Juvenile Court is one of many factors USCIS will consider necessary in adjudicating an application for lawful permanent residence for a non-citizen child.
13. Petitioner respectfully asks this Court for a judicial determination that (a) First Name is abandoned and has no parent or legal custodian capable of providing supervision and care within the meaning of Chapter 39, Fla. Stat., that (b) there is no viable option for family reunification with his mother, and that the child is thus eligible for long-term foster care within the meaning of 8 C.F.R § 204.11(a).
14. Chapter 39 provides this Court an opportunity to protect First Name and to allow him to remain safely in the United States.

WHEREFORE, Petitioner respectfully requests that this Honorable Court take jurisdiction over the minor child, First Name Last Name, that First Name be adjudicated dependent, and that a special interest order be entered on First Name's behalf

Respectfully submitted this \_\_\_\_ day of Month, 2023

\_\_\_\_\_  
Name A. Last Name, Esq.  
FL Bar: XXXXXX  
Next Friend of Child  
Organization  
Address,  
City, FL 32xxx  
xxx.xxx.xxxx

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was sworn to and subscribed before me by means  of physical presence /  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2023 by \_\_\_\_\_, who is  personally known to me /  has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

My commission expires: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Petition has been provided via e-service to the Florida Department of Children and Families by e-service at:

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Name A. Last Name, Esq.  
FL Bar: XXXXXX  
Next Friend of Child  
Organization  
Address,  
City, FL 32xxx  
(xxx) xxx-xxxx

C. SAMPLE UCCJEA Affidavit

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

LAST NAME, FIRST NAME  
DOB: 05/27/2004

CASE NO.

MINOR CHILD

-----/

UNIFORM CHILD CUSTODY JURISDICTION AND  
ENFORCEMENT ACT (UCCJEA) AFFIDAVIT

I, Name A. Last Name, being first duly sworn, hereby certify that the following allegations of fact are true:

- The number of minor children subject to this proceeding is one (1). The name, place of birth, birthdate and sex of the child, the present address, periods of residence and places where the child has lived within at least the five (5) past years, and the name, present address and relationship of the person with whom the child has lived during that time are:

Child's Name	First Name LAST NAME	
Child's Place of Birth	Village/City, Country	
Child's Birthdate	05/27/2004	
Sex	Male	
Place of Residence	Period of Residence	Name & Relationship
10 North Street, Orlando, FL 32835	June 1, 2020 - to date	Aunt (paternal aunt)  Dad (father) until his death on DATE
Immigration and Customs Enforcement (ICE) Detention Facility in Texas	May 25, 2020 - June 1, 2020	Immigration and Customs Enforcement (ICE)  Detained together with Dad

		(father)
Transit – from City, Country to Mexico, and from Mexico to the United States.	May 3, 2020 – May 25, 2020	Dad (father)
Rented house in City, Country (house does not have an address and is on a nameless unpaved path/street)	May 27, 2004 – May 3, 2019	Dad (father)

2. I have not participated as a witness or in any other capacity in any other litigation or custody proceeding in this or any other state concerning the custody of the child subject to this proceeding.
3. I have no information of any custody proceeding pending in a court of this or any other state concerning the child to this proceeding.
4. I know that the following named person has physical custody of the child subject to this proceeding: paternal aunt, Aunt.
5. The child described in this affidavit is not subject to an existing child support order in this state or any state or territory.
6. I acknowledge that I have a continuing duty to advise the Court of any custody, visitation, child support, or guardianship proceeding (including dissolution of marriage, separate maintenance, child neglect, or dependency) concerning the children in this state or any other state about which information is obtained during these proceedings.

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this affidavit and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Dated:

-----  
Name A. Last Name, Esq.  
ORGANIZATION

Fla. Bar No. XXXXXX  
Address, Ste 120  
Orlando, FL 32825  
xxx.xxx.xxxx

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was sworn to and subscribed before me by means  of physical presence /  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by \_\_\_\_\_, who is  personally known to me /  has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

My commission expires: \_\_\_\_\_

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Petition has been provided via e-service to the Florida Department of Children and Families by e-service at:

\_\_\_\_\_  
Name A. Last Name, Esq.  
FL Bar: XXXXXX  
Next Friend of Child  
Organization  
Address  
City, FL 32xxx  
xxx.xxx.xxxx

D. **SAMPLE Notice of Filing Evidence**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

LAST NAME, FIRST NAME  
DOB: 05/27/2004

CASE NO.

MINOR CHILD  
-----/

NOTICE OF FILING EVIDENCE IN SUPPORT OF PRIVATE  
PETITION FOR ADJUDICATION OF DEPENDENCY

COMES NOW, Name A. Last Name, next friend of the minor child, First Name Last Name (hereinafter, "the child" or "First Name"), and hereby gives notice of filing the following documents in support of the child's Private Petition for Adjudication of Dependency:

- First Name's birth certificate and translation attached as Exhibit 1.
- Death Certificate of First Name's father attached as Exhibit 2.
- Diligent Search Affidavit and related e-mails and letters to and from the Guatemalan Consulate in addition to other information regarding diligent search to locate First Name's mother, Mom, attached as Composite Exhibit 3.
- First Name's statement attached as Exhibit 4.

Respectfully submitted this \_\_\_\_ day of December 2023.

-----  
Name A. Last Name, Esq.  
Organization  
Fla. Bar No. XXXXXX  
Address  
City, FL 32xxx  
xxx.xxx.xxxx



## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Petition has been provided via e-service to the Florida Department of Children and Families by e-service at:

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Name A. Last Name, Esq.  
Organization  
Fla. Bar No. XXXXXX  
Address  
City, FL 32xxx  
xxx.xxx.xxxx

E. **SAMPLE Diligent Search Affidavit**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

LAST NAME, FIRST NAME  
DOB: 05/27/2004

CASE NO.

MINOR CHILD  
-----/

**AFFIDAVIT OF DILIGENT SEARCH AND INQUIRY**

BEFORE ME, the undersigned authority, personally appeared Name A. Last Name, who being first duly sworn, deposes and says that he has made a diligent search and inquiry to determine the residence of **Mom**, the natural mother and only presumed living parent of **First Name Last Name**, and says the following:

1. I received the name of the natural mother, **Mom**, from the Child's paternal aunt, Aunt, in Orlando, FL via the child's birth certificate.
2. I verified with the child and the paternal aunt, Aunt, the name of the child's natural mother; the child and his aunt do not know the whereabouts of the child's mother.
3. First Name has no memory of and has never had any contact of any kind with his mother since she abandoned him when he was an infant; First Name's aunt has not had any contact with First Name's mother, either, since the natural mother abandoned First Name more than fifteen years ago.
4. On April 25 and 26, 2021, I wrote the Guatemalan Consulate in Lake Worth, FL, which is the consulate that handles inquiries from Orange County. On April 30, 2021, Guatemalan Consul, First Name Last Name responded to me through her Assistant that the Guatemalan Government was going to conduct a search to locate and

provide me with the address of **Mom**. After some follow up e-mails from the undersigned in mid-June, Guatemalan Consul, First Name Last Name sent me a letter through her Assistant stating that the Guatemalan Government conducted a diligent search but was unable to locate First Name's natural mother. (E-mails and letters below).

5. I have asked the following state and federal agencies about the whereabouts of the child's mother:

**Immigration, Customs and Enforcement** – need birthdate or alien number to search, I have neither

**Federal Bureau of Prisons** - <https://www.bop.gov/inmateloc/> - nothing found

6. After a diligent search and inquiry, I was unable to determine a general address or phone number to deliver mail to in Guatemala for the mother.

Dated:

-----  
Name A. Last Name, Esq.  
Organization  
Fla. Bar No. XXXXXX  
Address  
City, FL 32xxx  
xxx.xxx.xxxx

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was sworn to and subscribed before me by means  of physical presence /  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by \_\_\_\_\_, who is  personally known to me /  has produced \_\_\_\_\_ as identification.

-----  
Signature of Notary Public  
-----

Printed Name of Notary Public

My commission expires: \_\_\_\_\_

F. **SAMPLE** Consent and Waiver

IN THE CIRCUIT COURT OF THE XXXXXXXX JUDICIAL CIRCUIT  
IN AND FOR XXXXXXXX COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

LAST NAME, FIRST NAME  
DOB: XX/XX/XXXX

CASE NO.

LAST NAME, FIRST NAME  
DOB: XX/XX/XXXX

MINOR CHILDREN.

-----/

CONSENT TO DEPENDENCY PETITION AND WAIVER OF NOTICE

BY PARENT

1. I, **PARENT**, am the father/mother of the minor child who is the subject of this Dependency Petition. *Yo, PARENT soy la madre/el padre del(a) niñ@ menor que está sujet@ a la presente petición de dependencia.*  
  
Name/nombre: FIRST NAME LAST NAME  
Gender/sexo: Male, masculino  
D.O.B./fecha de nacimiento: date in English / date in Spanish  
Birthplace/lugar de nacimiento: City, Department/State, Country
2. I have been given and read a copy of the Dependency Petition in this matter. *Me entregaron y he leído la copia de la petición de dependencia en este caso.*
3. I consent to a finding of dependency and entry of an order adjudicating the children dependent. *Doy mi consentimiento a una declaración de dependencia y un orden de adjudicación del(a) niño como dependiente.*
4. I waive all notice of any hearing on this matter. *Yo renuncio a cualquier aviso de audiencia en este caso.*
5. I understand the allegations in the Dependency Petition and the possible consequences of this consent. *Yo entiendo las alegaciones en esta petición y las posibles consecuencias de dicho consentimiento.*
6. I understand that my consent in this matter may result in a loss of custody of my children. *Yo entiendo que mi consentimiento en este caso puede resultar en la pérdida de custodia de mi niño.*

7. I understand that I have the right to an attorney if I cannot afford one, and I waive the right to an attorney. *Yo entiendo que tengo el derecho a un abogado si no tengo recursos para pagar un abogado, y renuncio a mi derecho a un abogado.*
8. I am entering this consent knowingly, freely and voluntarily. *Yo estoy entrando en este consentimiento conscientemente, libremente y voluntariamente.*
9. This consent and waiver is not given under any duress or fraud. *Mi consentimiento y mi acto de renuncia no se da bajo ninguna coacción ni fraude.*

Dated/fecha: \_\_\_\_\_

Signature of Parent/firma de la madre/del padre:  
PARENT'S NAME HERE

Address/dirección postal:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Witness Information goes here/ Información de los testigos aquí:**

We, the undersigned witnesses, declare that the foregoing instrument was signed by **PARENT** in our presence. **PARENT** is known to us and we believe her/him to be of sound mind.

*Nosotros, los testigos abajo firmantes, declaramos que el instrumento anterior fue firmado@ por **PARENT** en nuestra presencia. **PARENT** es una conocida/un conocido y creemos que está en su sano juicio.*

**WITNESS 1/TESTIGO 1**

**WITNESS 2/TESTIGO 2**

\_\_\_\_\_

\_\_\_\_\_

Signature/Firma

Signature/Firma

Name/Nombre \_\_\_\_\_

Name/Nombre \_\_\_\_\_

Address/Dirección \_\_\_\_\_

Address/Dirección \_\_\_\_\_

Ciudad/Ciudad \_\_\_\_\_

Ciudad/Ciudad \_\_\_\_\_

Tel.: \_\_\_\_\_

Tel.: \_\_\_\_\_

**Notary Information goes here/Información de Notario aquí:**

G. **SAMPLE Emergency Motion to Change Venue**

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
IN AND FOR MARTIN COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

FIRST NAME LAST NAME  
DOB: XX/XX/20XX

CASE NO. 20XX-DP-XXX

MINOR CHILD  
-----/

JOINT EMERGENCY MOTION TO CHANGE VENUE

COMES NOW, Name Last Name, counsel on behalf of and next friend<sup>105</sup> of the minor child, FIRST NAME LAST NAME, (“the child”), together with the Department, who file this JOINT EMERGENCY MOTION TO CHANGE VENUE from Martin County to Hillsborough County pursuant to Florida Rule of Juvenile Procedure 8.205, “Transfer of Cases.” As grounds, counsel states as follows:

1. The child has a pending Dependency Petition in Martin County, but there are currently no available hearing dates in Martin County for Dependency hearings prior to the child’s 18<sup>th</sup> birthday.
2. Upon information and belief of the undersigned, the Hillsborough County Dependency Court is able to arrange an Emergency Dependency Hearing for the child prior to his aging out.

---

<sup>105</sup> Fla. R. Civ. P. 1.210(b).

3. Florida Rule of Juvenile Procedure 8.205(b)<sup>106</sup> permits the transfer of cases between counties “[...] for the best interest of the child and to promote the efficient administration of justice.”
4. Transferring NAME’s case to Hillsborough will provide the child with the opportunity to have his Dependency Petition heard prior to his turning 18 years old; having his Dependency case heard in Hillsborough County is in his best interest and will promote the efficient administration of justice.
5. The Department has agreed to the transfer.<sup>107</sup>

**WHEREFORE**, the undersigned counsel and next friend of the child respectfully request this Honorable Court to enter an ORDER transferring its jurisdiction and certifying the case to the attention of Judge XXXXXXXX, Hillsborough County Court.

Respectfully submitted this 2<sup>nd</sup> day of May, 2023

*s/Name A. Last Name, Esq.*

---

Name A. Last Name, Esq.  
 FL Bar: XXXXXX  
 Attorney & Next Friend of Child  
 Organization  
 Address,  
 City, FL 32xxx  
 xxx.xxx.xxxx

### CERTIFICATE OF SERVICE

---

<sup>106</sup> RULE 8.205(b), “Transfer of Cases Within the State of Florida.” The court may transfer any case after adjudication, when adjudication is withheld, or before adjudication where witnesses are available in another jurisdiction, to the circuit court for the county in which is located the domicile or usual residence of the child or such other circuit as the court may determine to be for the best interest of the child and to promote the efficient administration of justice. The transferring court shall enter an order transferring its jurisdiction and certifying the case to the proper court, furnishing all parties, the clerk, and the attorney’s office handling dependency matters for the state in the receiving court a copy of the order of transfer within 5 days. The clerk shall also transmit a certified copy of the file to the receiving court within 5 days.

<sup>107</sup>Please see attached e-mail from the Department regarding its agreement to this transfer.



I HEREBY CERTIFY that a copy of the foregoing Notice of Appearance has been provided via e-service on this 2<sup>nd</sup> day of May, 2023, for delivery to:

*s/Name A. Last Name, Esq.*

---

Name A. Last Name, Esq.  
FL Bar: XXXXXX  
Attorney & Next Friend of Child  
Organization  
Address  
City, FL 32xxx  
xxx.xxx.xxxx

H. **SAMPLE Notice of Appearance of Co-Counsel**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

LAST NAME, FIRST NAME  
DOB: 05/27/2004

CASE NO.

MINOR CHILD  
\_\_\_\_\_ /

NOTICE OF APPEARANCE OF CO-COUNSEL

COMES NOW, First Name Last Name, Staff Attorney at the non-profit law firm Organization, Inc., and hereby gives notice of her appearance as *pro bono* co-counsel on behalf of and next friend<sup>108</sup> of the minor child, FIRST NAME LAST NAME, ("the child"), and requests that copies of all notices, orders, and other papers in this cause be provided to the undersigned as co-counsel and next friend of the minor child.

Respectfully submitted this \_\_\_<sup>st</sup> day of MONTH, 2023

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Notice of Appearance has been provided via e-service on this \_\_\_<sup>st</sup> day of MONTH 2023, for delivery to the following parties:

s/Attorney  
Attorney, Esq.  
FL Bar:  
Attorney & Next Friend of Child  
Organization, Inc.  
Address  
City, FL 32xxx  
xxx.xxx.xxxx

<sup>108</sup> Fla. R. Civ. P. 1.210(b).

I. **SAMPLE Notice of In-Person Hearing**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

LAST NAME, FIRST NAME  
DOB: xx/xx/200x

CASE NO.

MINOR CHILD  
-----/

**NOTICE OF EVIDENTIARY HEARING**

There will be an **in-person Evidentiary Hearing** in this matter before Judge XXXXXXXX on DAY, MONTH AND DAY, 2023, at TIME AM/PM in Courtroom 6 at the Thomas S. Kirk Juvenile Justice Center, 200 E. Michigan Street, Orlando, FL 32806, on the following issue: **Private Dependency Petition.**

**A SPANISH-ENGLISH INTERPRETER WILL BE REQUIRED.**

*If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Judicial Assistant for Judge XXXXXX at xxx.xxx.xxxx at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711. If you are represented by an attorney or plan to retain an attorney for this matter, you should notify the attorney of this hearing.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Petition has been provided via e-service to Florida Department of Children and Families by e-service at and the Guardian Ad Litem Program by e-service at on MONTH AND DAY, 2023.

-----  
Name Last Name, Esq.  
FL Bar No.: XXXXXX  
Next Friend of Child  
Organization, Inc.  
Address  
City, FL 32xxx  
xxx.xxx.xxxx

J. **SAMPLE Notice of Virtual Hearing**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

LAST NAME, FIRST NAME  
DOB: xx/xx/20xx

CASE NO.: 20XX-DP-000XXX-O  
DIVISION: 07

MINOR CHILD.

-----/

**NOTICE OF HEARING VIA ZOOM**

There will be a hearing **via Zoom** before Judge XXXXXXXX on Day, Date and Year, at Time on the following issue: Private Dependency Petition.

**A SPANISH-ENGLISH INTERPRETER WILL BE REQUIRED.**

1. You may connect via ZOOM hearing with the following URL and Meeting ID:

**Zoom Hearing Direct URL:**

2. If you do not have video capability you may use the following information to call in:

**Call in phone number**

3. If you have a smart phone with a camera, you may use the following QR code:



If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Judicial Assistant for Judge XXXXX at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711. If you are represented by an attorney or plan to retain an attorney for this matter, you should notify the attorney of this hearing.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Petition has been provided via e-service to: Florida Department of Children and Families by e-service at:

-----  
Name Last Name, Esq.  
FL Bar No.: XXXXXX  
Next Friend of Child  
Organization, Inc.  
Address  
City, FL 32xxx  
xxx.xxx.xxxx

K. **SAMPLE Special Interest Order**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR OSCEOLA COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

LAST NAME, FIRST NAME  
DOB: XX/XX/20XX

CASE NO. 202X DP 000XXX  
DIVISION: C

MINOR CHILD.

-----/

**SPECIAL INTEREST ORDER**

1. In cases of undocumented non-citizen children who have been adjudicated dependent, the custodian is required to obtain a judicial determination of best interest, also known as a special interest order. Fla. Admin. Code R. 65C-9.003(7) and Section 39.5075, Florida Statutes (2021).
2. The Child, First Name LAST NAME is an undocumented non-citizen who was adjudicated dependent pursuant to Chapter 39, Florida Statutes (202X) on MONTH XX, 202X due to abandonment/negligence/abuse by [mention parents/caretakers by name and summarize the factual basis for the finding of dependency together with exact references to Chapter 39, Florida Statutes] and remains under the Court's jurisdiction.
3. Because of the abandonment/negligence/abuse described in paragraph 2, reunification of The Child, First Name LAST NAME, with her/his parents is not viable.
4. Because of the abandonment/negligence/abuse described in paragraph 2, it is in the best interest of the Child to be placed under the custody of First Name, LAST NAME.
5. It is not in the best interest of the Child, First Name LAST NAME to be returned to the country of their nationality or last habitual residence, NAME OF COUNTRY, because [mention parents/caretakers by name and give specific reasons why it is not in the Child's best interest to return to her/his country of origin and why s/he should remain in the United States].
6. Upon the entry of this Special Interest Order, a party is obligated, directly or pursuant to a service contract, to handle the application for a Special Immigrant Juvenile Status (SIJS) on behalf of the Child for whom a special interest order has been obtained.

WHEREFORE it is hereby **Ordered and Adjudged** that,

1. The Child is adjudicated dependent of the Juvenile Court as of MONTH XX, 202X, due to abandonment/negligence/abuse by [mention parents/caretakers by name] and the Child has no viable option of family reunification with her/his parents.

2. The Court finds that it is not in the Child's best interest to be returned to her/his country of nationality, NAME OF COUNTRY, and that it is in the Child's best interest to remain in the United States.
3. The Child shall remain in her/his current placement, until further order of this Court.
4. As soon as practicable, XXXXXXXXXXXX shall file the appropriate immigration application and related paperwork for the Child to the United States Citizenship and Immigration Service (USCIS), shall represent the Child at any immigration hearings relating to her/his present case.
5. This Court may retain jurisdiction in this matter pursuant to Section 39.5075, Florida Statutes (2022) until USCIS adjudicates the Child's application for special immigrant juvenile status and reaches a final decision on the Child's application for lawful permanent residence in the United States and to enter any such further orders that may be deemed necessary for the best interest and welfare of the Child, up to her/his 22<sup>nd</sup> birthday.

DONE AND ORDERED at Kissimmee, Florida this \_\_\_\_ day of \_\_\_\_\_, 202X.

---

Circuit Judge XXXXXX

Copies to:

Certified Copy of Order for SIJS application to XXXXX

---

Judicial Assistant / Deputy Clerk

L. **SAMPLE Order on Arraignment**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

LAST NAME, FIRST NAME  
DOB: 08/19/2010

CASE NO.

MINOR CHILD.

-----/

ORDER ON ARRAIGNMENT HEARING  
AND NOTICE OF ADJUDICATORY HEARING

**THIS CAUSE** coming to be heard on the **DATE** for an Arraignment Hearing on the Private Petition filed by Next Friend/Attorney in this cause under Chapter 39, Florida Statutes. The Court otherwise duly advised in the premises finds as follows:

1. **Jurisdiction:** The child who is the subject matter of these proceedings is a resident of Orlando, Florida and is of an age subject to the jurisdiction of the court.
2. **Persons Present:** The following persons were present: the CHILD, Next of Friend/Attorney for the child; XXXXXXXX, a representative of the Department of Children and Families was present but is not a party to the case. The following persons were not present: the child's father and mother.
3. **Consideration:** The following matters were considered by the court: The Petition and the death of the children's father and mother, and the child's present circumstances in residing with her eldest sibling.

Accordingly, it is **ORDERED AND ADJUDGED** that:

1. The evidence mentioned above has been accepted into the record, and
2. **The case is set for an in-person Evidentiary Hearing** scheduled for DAY, DATE, TIME, AND PLACE with Judge XXXXXX.

**DONE AND ORDERED** in Orange County, Florida, this \_\_\_\_ day of MONTH, 2023.

-----

JUDGE XXXXX

Copies to:



M. **SAMPLE Order of Adjudication and Disposition**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR OSCEOLA COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

LAST NAME, FIRST NAME  
DOB: 00/00/2022

CASE NO. 20XX DP 000XXX  
DIVISION: C

LAST NAME, FIRST NAME  
DOB: 00/00/2022

MINOR CHILDREN.

\_\_\_\_\_ /

ORDER OF ADJUDICATION, DISPOSITION, ACCEPTANCE OF CASE PLAN,  
AND NOTICE OF HEARING

THIS CAUSE came before this Court on XX/XX/2022 under Chapter 39, Florida Statutes, for the Arraignment Hearing and for the Disposition of the Petition for Dependency and acceptance of the Case Plan filed. The Court, having reviewed the Petition, having heard testimony and argument of counsel, finds by a preponderance of the evidence as follows:

1. **Present before the Court were:**

Mother: First Name Last Name  
Father: First Name Last Name  
Petitioner/Next Friend: Name Last Name, Esq.  
DCF//Attorney:  
GAL:  
Attorney for Mother:  
Attorney for Father:  
Other:

2. **Counsel for Parents and notice of hearing:** The mother and father of the Children were advised of the hearing and the right to be represented by counsel throughout all hearings of the dependency proceedings; the mother was represented by First Name Last Name, Esq., and the father was represented by First Name Last Name, Esq.

**The mother**, First Name Last Name  
( X ) was noticed of the hearing, and  
( X ) appeared in Court with counsel.

**The father**, First Name Last Name  
( X ) was noticed of the hearing, and  
( X ) appeared in Court with counsel.

3. **Adjudication Based on Plea:** The Children are dependent based on the following pleas:

**Mother:** First Name Last Name

X  Consented freely, knowingly, voluntarily, and intelligently to the Petition.

The mother, while neither admitting nor denying the truth of the allegations, has consented to dependency based upon the allegations contained in the Private Petition. The mother was advised of the possible consequences of consenting to dependency including: the need to complete a Case Plan; that the children will not be returned to her custody until further Court order and may never be returned; and the possibility that the Next Friend may seek, at some future date, to terminate her parental rights to the children.

The mother was advised of her right to have a trial on the issue of dependency. The mother freely, knowingly and voluntarily waived the right to trial. The mother is not under the influence of alcohol or drugs and has no mental condition that may impair her thinking and ability to consent. The mother testified that she has not been coerced, threatened, or forced to consent, nor has the mother been promised anything to consent. The court accepts the consent of the mother.

**Father:** First Name Last Name

X  Consented freely, knowingly, voluntarily, and intelligently to the Petition.

The father, while neither admitting nor denying the truth of the allegations, has consented to dependency based upon the allegations contained in the Private Petition. The father was advised of the possible consequences of consenting to dependency including: the need to complete a Case Plan; that the children will not be returned to his custody until further Court order and may never be returned; and the possibility that the Next Friend may seek, at some future date, to terminate his parental rights to the children.

The father was advised of his right to have a trial on the issue of dependency. The father freely, knowingly and voluntarily waived the right to trial. The father is not under the influence of alcohol or drugs and has no mental condition that may impair his thinking and ability to consent. The father testified that he has not been coerced, threatened, or forced to consent, nor has the father been promised anything to consent. The court accepts the consent of the father.

**Adjudication Based on the Court's Findings after an Adjudicatory Hearing:**

Based on a preponderance of the evidence that the children are dependent at the Adjudicatory Hearing, the Court has entered an adjudication of dependency for the children with regards to the actions of the:

Mother, First Name Last Name

and the

Father, First Name Last Name

4. **Findings of Fact:** The Court after review of the Petition of Dependency, finds a factual basis exists to accept the consents of the mother and the father. The factual basis for the adjudication of dependency is as follows:

Pursuant to Florida Statutes 39.01(14)(a) in that the children have been abused, abandoned or neglected.

5. **Jurisdiction:** The minor children are of an age subject to the jurisdiction of this Court.

6. **Family Functioning Assessment:** Pursuant to section 39.521(1)(a), Florida Statutes.

\_\_X\_\_The FFA was not filed with the court. All the family and child information required by section 39.521(2) Florida Statutes, is available in other documents that will be filed with the court.

7. **Case Plan:** The Next Friend filed a case plan with the court. The case plan, permanency goal and tasks are incorporated into this order by reference. The terms of the case plan are consistent with the requirements of law and previous orders of this court. The case plan and goal is meaningful, reasonable and designed to address the facts and circumstances on which the Court based the finding of dependency. The case plan is in the best interest of the children. The mother and father were notified of the right to participate in the preparation of the case plan and of the right to receive assistance from any other person in the preparation of the case plan. The permanency goal of the case plan is **PERMANENT GUARDIANSHIP with an expiration date of the children reaching the age of majority.**

8. **Placement:**

X **Out-of-Home Placement:** It is in the best interests of the children to remain out of the mother and father's home at this time. The children are receiving safe and proper care. The children's current placement is the least restrictive, is appropriate, is in a setting that is family-like, is consistent with the children's best interest and special needs and is designed to maintain stability in the children's educational placement. Continuation of the children in their former home with their mother and father is contrary to the welfare of the children because the home situation presents a substantial and immediate danger to the children which cannot be mitigated by the provision of the preventative services at this time.

**Type of Out-of-Home Placement:** The out-of-home placement is with the children's older sister, First Name Last Name. **First Name Last Name has cared for the children since Month, 20XX, and has a strong commitment and attachment to the children and desire to permanently care for the children.**

**THEREFORE**, based upon the foregoing findings, it is hereby **ORDERED AND ADJUDGED** that:

1. The minor children, named above are adjudicated dependent and placed in the temporary custody of their older sister, First Name Last Name.

2. **Contact with Mother and Father:** Mother and Father's telephone contact shall be: unsupervised at the discretion of the Temporary Legal Custodian, First Name Last Name.

3. The Family Functioning Assessment is:

X Waived as all family and child information will be filed with the court.

4. **The Case Plan is:**

X  Accepted. The parties are hereby ordered to comply with the Case Plan.

The parties are hereby ordered to comply with the Case Plan. **IF THE PARENTS FAIL TO SUBSTANTIALLY COMPLY WITH THE CASE PLAN, THEIR PARENTAL RIGHTS MAY BE TERMINATED AND THE CHILDREN'S OUT OF HOME PLACEMENT MAY BECOME PERMANENT.**

5. **Consent to Treatment:** The Temporary Legal Custodian, First Name Last Name, may consent to the ordinary and necessary medical and dental examinations and treatment, including Early Periodic Screening, Diagnosis and Treatment (EPSDT) blood testing and other blood testing deemed diagnostically necessary by documented history or symptomatology; preventive care including ordinary immunizations, tuberculin testing, well-child care, as well as any extraordinary care including but not limited to surgery, general anesthesia, HIV, and controlled substance blood testing, or other extraordinary procedures.

6. **School, Medical, Mental, Developmental Health Information:** The Temporary Legal Custodian, First Name Last Name and the Private Petitioner, Name Last Name, Esq., are hereby authorized to obtain copies of the children's school and medical records from any entity, including but not limited to public and private providers and facilities, and may execute appropriate authorizations to release the child's school, medical, dental, psychological, and developmental health information and records. Providers and facilities may require identification and a signature to ensure compliance with state and federal education and medical records laws.

7. **Children's Records:** The mother and father shall make all medical, dental, psychological, psychiatric records and school records of the children available to the Temporary Legal Custodian and the Private Petitioner.

8. **Prior Orders:** All prior orders not inconsistent with this present order shall remain in full force and effect.

9. **Retention of Jurisdiction:** The Court retains jurisdiction over the parties hereto and subject matter hereof to make such other and further Orders as the Court may deem necessary and proper for the best interest and welfare of the child.

10. **Judicial Review Hearing:** A Judicial Review hearing is scheduled for Month, 20XX, at 9:30 AM with Judge XXXXXX.

11. **Best Interest Determination:** The Court finds that the Children are Dependent, that reunification with the mother and the father is not viable due to neglect (failure to protect), and that it is not in the Children's best interest to be returned to their country of nationality (Guatemala) and that it is in the Children's best interest to remain in the United States.

12. **SIJS:** As soon as practicable, the Private Petitioner shall file the appropriate immigration application and related paperwork for the Children to the United States Citizenship and Immigration Service (USCIS), and shall represent the child at any immigration hearings relating to their present case.

DONE AND ORDERED at Kissimmee, Florida this \_\_\_\_ day of \_\_\_\_\_, 2022.

---

Circuit Judge XXXXXXXX

NOTICE

Under section 39.815, Florida Statutes, any child, parent, legal custodian of any child, or any other party to the proceeding who is affected by an order of this court may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure, which is 30 days from the date this order is rendered (filed).

Copies to:

Mother's Attorney

Temporary Legal Custodian

Certified Copy of Order for SIJS application to

---

Judicial Assistant / Deputy Clerk

N. **SAMPLE Placement Order**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA  
JUVENILE DIVISION

IN THE INTEREST OF:

LAST NAME, FIRST NAME  
DOB: xx/xx/20xx

CASE NO.

MINOR CHILD  
-----/

PLACEMENT ORDER

**THIS CAUSE** coming before the upon a Private Petition for Adjudication of Dependency, and the Court being fully advised on the premises and good cause appearing, in consideration of the best interests of the child:

It is hereby **ORDERED AND ADJUDGED**:

1. The minor child, First Name LAST NAME, shall be placed with her eldest sibling. NAME. The minor child is to remain in the temporary legal custody of NAME under the supervision of the **State of Florida, Department of Children and Families**.
2. The temporary custodian, NAME, shall have all the rights and duties of a parent, including but not limited to the right, duty, and authority to protect, train, and discipline the minor child, to provide the minor child with food, shelter and education and to obtain all records regarding the minor child including medical, mental health and educational records. The custodian shall have the right to consent to necessary medical, dental, psychiatric and psychological examination and treatment.
3. The current placement of the child is the least restrictive and most appropriate and family like placement available consistent with the best interests and of the needs of the child. The temporary legal custodian, NAME, is committed to caring for the minor child, First Name LAST NAME.
4. The State shall have placement and care responsibility while the child is under protective supervision in an out of home placement.
5. The child shall not leave the Court's jurisdiction without first obtaining a Court order. The legal custodian of the child shall have the authority to travel within the State of Florida for a period not to exceed 7 days. Travel outside the State of Florida shall require a separate Court order.


6. When the legal custodian is not available to consent to medical care, notwithstanding a reasonable effort to obtain such consent, a legal custodian appointed in these proceedings, or in the absence of such a legal custodian, the State, its Community Based Care contracted providers, including shelter/foster parents, or the person primarily responsible for the case management of the child, is hereby authorized to consent to the ordinary and necessary medical, dental, and psychological examination and treatment of the child, including blood testing, preventive care, ordinary immunizations, tuberculin testing and well-child care without further court order. Immunization includes, but is not limited to influenza and COVID-19 vaccines. **Surgery, general anesthesia, provision of psychotropic medications, or other extraordinary medical procedures will require a separate court order. Providers and facilities may require identification and a signature to ensure compliance with applicable state and federal law.**
  
7. The legal custodian of any child subject to the jurisdiction of this Court is hereby directed to notify local law enforcement and the State immediately at any time the child is determined to be missing or that the child's whereabouts are unknown.

**DONE AND ORDERED**, in Chambers in Orlando, Orange County Florida, this \_\_\_\_ day of MONTH, 2023.

-----  
Honorable XXXXXXXX  
Circuit Judge

Copies to:

O. SAMPLE I-360 Cover Letter

<p style="text-align: center;"> ORLANDO CENTER FOR JUSTICE</p> <p>April 5, 2021 USCIS P.O. Box 805887 Chicago, IL 60680-4120</p> <p>RE: Form I-360, Petition for Special Immigrant Juvenile Status [REDACTED]</p> <p>Dear Immigration Officer,</p> <p>My name is [REDACTED], and I represent [REDACTED] in her petition for Special Immigrant Juvenile Status. The applicant's SIJ5 predicate order was issued by Judge [REDACTED] of the Juvenile Dependency Division of Hillsborough County Court in Tampa, Florida based on abuse, abandonment, and neglect by [REDACTED] mother and father. The order contains the necessary Special Immigrant Juvenile Status factual findings in accordance with INA §101(a)(27)(J).</p> <p>In support of this application, please find the following documents enclosed:</p> <p><b>FORM I-360, PETITION FOR SPECIAL IMMIGRANT JUVENILE STATUS</b></p> <ol style="list-style-type: none"><li>1. Form G-28</li><li>2. Form I-360 (Please note that because the applicant is applying for Special Immigrant Juvenile Status, there is no filing fee)</li><li>3. Judge [REDACTED]'s Special Interest Order Adjudicating Dependency (Certified Copy)</li><li>4. Judge [REDACTED]'s Order Authorizing Access to [REDACTED] Medical and Educational Records</li><li>5. Psychosocial Assessment for [REDACTED] performed by [REDACTED]</li><li>6. Therapy referral ordered by Judge [REDACTED] for [REDACTED] to the [REDACTED] of Tampa, Florida</li><li>7. Copy of applicant's birth certificate with English translation</li></ol> <div style="background-color: gray; width: 150px; height: 80px; margin: 10px 0;"></div> <p>Enclosure</p> <p style="text-align: center; font-size: small;">1320 N. Semoran Blvd Suite 202 Orlando, FL 32826-(407)279-1802-orlandojustice.org</p>	<p style="text-align: center;"><b>CASE SUMMARY</b></p> <p>Minor: [REDACTED]</p> <p>DOB: <b>03/14/2003</b></p> <p>Minor [REDACTED] is under the jurisdiction of a juvenile court in Florida and was found dependent as to her natural mother and natural father. [REDACTED] entered the U.S. fleeing physical abuse, neglect, and abandonment of her mother, [REDACTED], and the abandonment of her father, [REDACTED]. The abuse was egregious and continuous. The court has determined it is in [REDACTED]'s best interest to remain in the United States and not to be returned to [REDACTED], her country of origin.</p> <p>The Court found that, "[t]he father abandoned the child, [REDACTED]. The child's father, who is in [REDACTED] was absent in the child's life, made no contribution to the child's care and maintenance, failed to establish a substantial and positive relationship with the child, and in spite of knowing about the alcohol and substance abuse problems of the child's mother, did nothing to protect the child from the consequences of mother's egregious behavior."</p> <p>The Court also determined that, "[t]he mother abandoned, abused, and neglected the child, [REDACTED]. The child's mother, who is in [REDACTED] abandoned the child by harming the child's wellbeing, abused the child by beating her and exposing her to [REDACTED], and neglected the child by causing the child to live in a dangerous environment that impaired the child's physical, mental, and emotional health."</p> <p>Today, [REDACTED] is a model student at her high school, is in intensive therapy, and plans to have a career in healthcare, law, or psychology to help others.</p>
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## P. SAMPLE Objection from DCF

<p style="text-align: center;">[REDACTED]</p> <p style="text-align: center;">IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT IN AND FOR [REDACTED] COUNTY, FLORIDA JUVENILE DEPENDENCY DIVISION</p> <p>IN THE INTEREST OF: [REDACTED] CASE NO.: [REDACTED] [REDACTED] DOB: [REDACTED] CHILDREN</p> <p style="text-align: center;"><b>NOTICE OF OBJECTION TO DEPENDENCY PETITION</b></p> <p>The State of Florida, Department of Children and Families, hereby notifies this Court and all parties that it does object to the dependency petition filed by the Child. The State says:</p> <ol style="list-style-type: none"> <li>The Child has filed a petition for dependency seeking to have himself declared to be a dependent child.</li> <li>The Child does not seek the services or supervision of the Department of Children and Families in the petition for dependency.</li> <li>The dependency petition as filed fails to state a cause of action.</li> <li>Although it will not be litigating the allegations of the dependency petition, the Department of Children and Families offers the following memorandum of law to provide general guidance to the Court.</li> </ol> <p style="text-align: center;"><b>MEMORANDUM OF LAW</b></p> <p>Section 39.501(3)(c), Florida Statutes (2022) provides that a petition seeking an adjudication that a child is dependent must:</p> <p style="padding-left: 40px;">specifically set forth the acts or omissions upon which the petition is based and the identity of the person or persons alleged to have committed the acts or omissions, if known. The petition need not contain allegations of acts or omissions by both parents.</p> <p style="text-align: center;">1</p>	<p>Section 39.01(15) defines a "[c]hild who is found to be dependent" as a child who is found by the court:</p> <ol style="list-style-type: none"> <li>To have been abandoned, abused, or neglected by the child's parent or parents or legal custodians;</li> <li>To have been surrendered to the department, the former Department of Health and Rehabilitative Services, or a licensed child-placing agency for purpose of adoption;</li> <li>To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the department, or the former Department of Health and Rehabilitative Services, after which placement, under the requirements of this chapter, a case plan has expired and the parent or parents or legal custodians have failed to substantially comply with the requirements of the plan;</li> <li>To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption, and a parent or parents have signed a consent pursuant to the Florida Rules of Juvenile Procedure;</li> <li>To have no parent or legal custodians capable of providing supervision and care;</li> <li>To be at substantial risk of imminent abuse, abandonment, or neglect by the parent or parents or legal custodians; or</li> <li>To have been sexually exploited and to have no parent, legal custodian, or responsible adult relative currently known and capable of providing the necessary and appropriate supervision and care.</li> </ol> <p>Section 39.01(2) defines "abuse" to mean:</p> <p style="padding-left: 40px;">any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.</p> <p>Section 39.01(1) defines "abandoned" or "abandonment" to mean:</p> <p style="padding-left: 40px;">a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child's care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. For purposes of this subsection, "establish or maintain a substantial and positive relationship" includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child.</p> <p style="text-align: center;">2</p>
<p>Section 39.01(44) provides that "neglect" occurs when:</p> <p style="padding-left: 40px;">a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired.</p> <p>The Fourth District Court of Appeal in <u>E.L.M. v. Department of Children &amp; Families</u>, 912 So. 2d 1264 (Fla. 4th DCA 2005), explained that when a child is orphaned and has no legal custodian, the child is dependent. In that case, the child was an orphan from Guatemala, who was living with a family that was voluntarily furnishing him with a place to stay. The court concluded that it was not an abandonment case, because abandonment is not appropriate when the parents have died and are no longer able to do anything. However, the court held that the child did meet the requirements of what is now section 39.01(15)(e) because the child had no parent or legal custodian capable of providing supervision or care, and the child was entitled to a finding of dependency. <u>Id.</u> at 1268-69.</p> <p>The Fifth District Court of Appeal in <u>L.T. v. Department of Children &amp; Families</u>, 48 So. 3d 928 (Fla. 5th DCA 2010), also held that a child is dependent if the child is an orphan and has no legal custodian. In <u>L.T.</u>, the minor child was an orphan from Haiti. The Department of Homeland Security released the child to his uncle, who was the only relative able to care for the child. The uncle filed the dependency petition on behalf of the child because an adjudication of dependency would allow the child to petition as a special immigrant juvenile. The child was not requesting any services from the Department. Although the child was placed with the uncle, the uncle was not the child's legal custodian. Because the child was an orphan and had no legal custodian, the court held that the minor child was dependent. <u>Id.</u> at 930.</p> <p style="text-align: center;">3</p>	<p>In contrast, the Fourth District Court of Appeal in <u>S.H. v. Department of Children &amp; Families</u>, 880 So. 2d 1279 (Fla. 4th DCA 2004), held that an undocumented alien child whose parents were still alive did not meet the requirements to be adjudicated dependent. The petition alleged that the child's parents lived in Guatemala, and the father forced him to leave in order to obtain work in the United State and support his family in Guatemala. At the time of the petition, the child was living with his uncle, and the mother and father had not supported him but did have contact by telephone. The Fourth District held that the alleged facts did not constitute abandonment to merit an adjudication of dependency. <u>Id.</u> at 1281. The court explained that the uncle met the definition of "caregiver" under section 39.01(10), and there was no proof that the uncle abandoned the child.</p> <p><b>WHEREFORE</b>, the Department of Children and Families respectfully requests that this Court evaluate the petition for dependency in light of the above law based upon the evidence that the Child presents to this Court.</p> <p style="text-align: right;">[REDACTED] Children's Legal Services Department of Children &amp; Families 3600 Commerce Blvd, Suite 200 Kissimmee, FL 34741 [REDACTED]</p> <p style="text-align: center;">4</p>

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished in open court on the 23rd day of August, 2022:

[REDACTED] Esq., Attorney for the Child, [REDACTED]@ [REDACTED]

Q. SAMPLE Petition for Temporary Custody by Extended Family

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT,  
IN AND FOR ORANGE COUNTY, FLORIDA

Case No: \_\_\_\_\_

Division: \_\_\_\_\_

IN THE INTEREST OF

LAST NAME, FIRST NAME,  
DOB: 05/15/2008  
Child

LAST NAME, FIRST NAME

Petitioner,

and

Respondent Parents are both Deceased.

\_\_\_\_\_ /

PETITION FOR TEMPORARY CUSTODY BY EXTENDED FAMILY

The undersigned *pro bono* attorney of record files this Petition for Temporary Custody on behalf of Petitioner, First Name Last Name, who being sworn, certifies that the following information is true:

1. This is an action for temporary custody for the Petitioner and maternal aunt, First Name Last Name to care for her nephew, minor Child First Name Last Name pursuant to Chapter 751, Florida Statutes.
2. Petitioner (maternal aunt of Child) requests temporary custody of the following minor Child:

Name Date of Birth Child resides with Petitioner at

FIRST NAME LAST NAME 05/15/2008 Address

First Name's birth certificate and translation are included herewith as **EXHIBIT 1.** § 751.03(1) and (6), Fla. Stat. (2022).

3. First Name's parents both died on May 15, 2016 in Guanajuato, Mexico; First Name's mother's name was FIRST NAME LAST NAME, and First Name's father's name was FIRST NAME LAST NAME. The death certificates and translations for First Name's parents are included herewith as **COMPOSITE EXHIBIT 2**. § 751.03(2), Fla. Stat. (2022).

4. Petitioner completed a Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) Affidavit, which was filed with this Petition. The affidavit includes the names and current addresses of the persons with whom First Name has lived during the past 5 years, the places where First Name has lived during the past 5 years, and information concerning any custody proceeding in this or any other state with respect to First Name. The UCCJEA is attached herewith as **EXHIBIT 3**. § 751.03(3), (4), and (5), Fla. Stat. (2022).

5. Petitioner, First Name Last Name, is First Name's aunt and sister of First Name's natural mother (deceased). First Name Last Name is an extended family member who is related to the minor Child within the third degree by blood or marriage to a parent. Translated copies of the birth certificates First Name's natural mother, and First Name's maternal aunt are attached herewith as **COMPOSITE EXHIBIT 4**. § 751.03(7), Fla. Stat. (2022).

6. The Child's parents are deceased and are therefore unable to consent to this request for Temporary Custody. There are no temporary or permanent orders for Child support for the Child and there are no temporary or permanent orders for protection from any court entered on behalf of or against the deceased parents, the Petitioner, or the Child. § 751.03(9), (10) and (11), Fla. Stat. (2022).

7. Petitioner is a proper person to be awarded temporary custody because both minor Child's natural parents are deceased, because Petitioner is morally fit and physically and mentally sound, because Petitioner is providing a stable and nurturing environment in caring full time for the Child in the role of a substitute parent, and because the Child has been living with the Petitioner for more than eleven months; it is therefore in the best interest of the Child that the Petitioner have temporary custody of First Name. §§ 751.03(12) and 61.13(3), Fla. Stat. (2022).

8. Petitioner is requesting Temporary Custody over the Child until the Child reaches the age of majority upon reaching his 18<sup>th</sup> birthday. § 751.03(13), Fla. Stat. (2022).

9. Petitioner had originally attempted to gain temporary legal custody over the Child in Dependency Court, Case XXXX-DP-XXXXXX-X, but the presiding Judge denied the petition and recommended refiling in Family Court.

10. Since the Child's parents are deceased, service of process, notice, opportunity to be heard, and similar matters are moot.

11. Petitioner requests temporary custody be granted until First Name reaches the age of majority (18) since First Name is currently without parents, guardians, or legal custodians with the authority to help him with his educational, healthcare, and other essential needs normally provided by a parent.

WHEREFORE, Petitioner requests that this Court grant the Petitioner temporary custody of the Child subject to this proceeding; award the Petitioner other relief as requested; and award any other relief that the Court deems necessary.

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this petition and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Dated: \_\_\_\_\_

Signature of Petitioner

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, appeared \_\_\_\_\_, by means of  physical presence /  online notarization, who is either  personally known to me /  produced \_\_\_\_\_ as identification, and who stated that this \_\_\_\_\_ is filed in good faith and on information and knowledge and belief that it is true.

Sworn to and subscribed before me on this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_

Signature of Notary Public

\_\_\_\_\_

Printed Name of Notary Public

My commission expires: \_\_\_\_\_

Respectfully submitted this \_\_\_ day of December, 2022

\_\_\_\_\_

R. **SAMPLE Petition for Temporary Custody by Extended Family**

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT  
IN AND FOR LEON COUNTY, FLORIDA

Case No:  
Division:

XXXX

Petitioner,

vs.

XXXX

Respondent/Mother.

---

**PETITION FOR CUSTODY BY EXTENDED FAMILY MEMBER**

Petitioner, being sworn, certifies that the facts alleged in this Petition are true:

1. This is an action for custody pursuant to Chapter 751, Florida Statutes. This action is being brought by XXXX (hereinafter "Petitioner").
2. Petitioner requests custody of the following minor child:

**Name**  
XXXX

**Date of Birth**  
XXXX

**Current Address**  
XXXX

3. XXXX is a female minor child born in San Salvador, El Salvador on XXXX. Her birth is recorded with the Bureau of Vital Statistics in the country of El Salvador. See XXXX's Birth Certificate and Translation attached hereto as Exhibit A.
4. Petitioner has completed a Uniform Child Custody Jurisdiction and Enforcement Act Affidavit, Florida Supreme Court Approved Family Law Form 12.902(d), which was filed with this Petition. The affidavit includes the names and current addresses of the persons with whom the child has lived during the past 5 years, the places where the child has lived during the past 5 years, and information concerning any custody proceeding in this or any other state with respect to the child.
5. Petitioner is an extended family member who is related to the minor child within the third degree by blood or marriage to a parent.
6. Petitioner's relationship to the child is her biological sister.



7. The residence and post office address of both the Petitioner and the minor child is XXXX.
8. Petitioner is a proper person to be awarded custody because she is the only family member in the United States related to the minor child within the third degree by blood or marriage to a parent. Petitioner provides for, supervises, and maintains the minor child's physical and mental health. Petitioner is able to create an environment that ensures the child can live a stress-free youth that allows the child to gain a high school education without fear of harm or neglect.
9. The mother of the child, XXXX, currently resides in Ahuachapán, El Salvador.
10. The father of the child, XXX, is deceased. See XXXX's Death Certificate and Translation attached hereto as Exhibit B.
11. Reunification with the child's mother is not viable due to her neglect of the minor child. Respondent, the child's mother, XXXX, has neglected the minor child within the meaning of Chapter 39 of the Florida Statutes.
12. Neglect occurs when a child is permitted to live in an environment that causes the child's physical, mental, or emotional health to be in danger of being significantly impaired. § 39.01(50), Fla. Stat. (2021). The child's father and paternal grandmother were murdered by members of the MS 13 gang, after which the child lived exclusively with her mother. See Homicide Report for XXXX and Translation attached hereto as Exhibit C; XXXX's Death Certificate and Translation attached hereto as Exhibit D; and Affidavit of XXXX and Translation attached hereto as Exhibit E. The child's mother left the home early each day to sell tamales, leaving the child unsupervised for extended periods of time. The child suffered escalating verbal and physical abuse from gang members as she grew into adolescence. In 2019, when the child was fourteen years old, a gang member attempted to abduct the minor child after she refused his sexual advances. She managed to slip away and lock herself in her house for protection. The gang member wrote a note threatening to hurt her family if she did not give into his sexual advances. The child was terrified of reporting the incident to anyone and desperate for an end to the situation. While her mother was at work, the child attempted to commit suicide using sleeping pills found in the home. The child was hospitalized for several days. See XXXX's Hospital Records, Medical Appointment Card, and Hospital Discharge Sheet attached hereto as Exhibit F. After returning home, the Respondent continued to leave the minor child at home unsupervised with no protection. The Respondent did not report the gang members to the police or provide any extra support to the child. The child continued to live in fear until she fled the country using only her personal savings to complete the journey to the United States.
13. It is not in the best interest of the child to return to El Salvador; it is in her best interest to remain in the United States in the custody of her sister, the Petitioner. The Petitioner provides the minor child with a safe home, food, clothing, security, and access to education. The safest place for the child to reside is in the care of the Petitioner in the United States. A custodial placement in El Salvador would not be in the best interest of

the child, as she would be returned directly to the parental neglect and violent conditions from which she fled. The child's mother cannot protect her from the gang violence endemic in El Salvador nor can she obtain any other form of protection for her daughter due to her limited financial means. In El Salvador, the child would have to choose between being left unprotected at home or making the unsafe journey to school while suffering the verbal and physical abuse of gang members. Therefore, it is not in the child's best interest to return to El Salvador.

#### ORDER OF PROTECTION

14. Petitioner **IS NOT** aware of any temporary or permanent order for protection entered on behalf of or against the Respondent Mother, the Petitioner, or the child in Florida or any other jurisdiction.

#### TEMPORARY OR PERMANENT CHILD SUPPORT ORDERS

15. Petitioner **IS NOT** aware of any temporary or permanent orders for child support for the minor child.

#### CHILD SUPPORT

16. Petitioner does not request that the Court order the Respondent Mother to pay any child support.

#### VISITATION

17. Petitioner does not request that the Court establish reasonable visitation or a time-sharing schedule with the Respondent Mother.

18. Petitioner requests custody be granted until the minor child reaches the age of majority or upon further order of this Court.

19. The Petitioner requests custody because it would benefit the minor child for Petitioner to have the authority to make reasonable and necessary decisions on the behalf of the Minor Child, including but not limited to:

- a) Consent to all necessary and reasonable medical and dental care for the Child, including nonemergency surgery and psychiatric care;
- b) Secure copies of the child's records, held by third parties, that are necessary for the care of the child, including, but not limited to:
  - i. Medical, Dental, and psychiatric records;
  - ii. Birth certificates and other records; and
  - iii. Educational records.
- c) Enroll the child in school and grant or withhold consent for the child to be tested or placed in special school programs, including exceptional education; and
- d) Do all other things necessary for the care and protection of the child.



20. Petitioner requests that the Court enter a best interest order under Chapter 39 finding that it is in the child's best interest to remain in the United States in the custody of XXXX, and that reunification with the Respondent is not viable before the age of majority due to her neglect.
21. The Petitioner will provide a copy of this Petition and all other filings to the Respondent Mother through certified mail at ADDRESS and through WhatsApp messaging at NUMBER. The Petitioner anticipates the Respondent will provide a notarized waiver of service of process as well as an answer to the Petition stating that she consents to the Court granting the Petitioner custody of the minor child and will not contest the allegations contained herein. Petitioner will file Respondent's waiver of service of process and answer as soon as they are received.

WHEREFORE, Petitioner requests that this Court grant the Petitioner custody of the minor child subject to this proceeding; award the Petitioner other relief as requested; and award any other relief that the Court deems necessary.

Filed this 8th day of June 2022.

Respectfully Submitted,

-----

STATE OF FLORIDA  
COUNTY OF LEON

VERIFICATION

Before me, the undersigned authority, personally appeared XXXX who, being sworn, states that the Petition is filed in good faith and that the facts stated in said Petition are true to the best of her information, knowledge, and belief.

-----

XXXX

STATE OF FLORIDA, COUNTY OF LEON

Sworn to or affirmed and signed before me on \_\_\_\_\_, 2022,

by \_\_\_\_\_

-----  
Signature of Notary or Deputy Clerk

-----  
(Print, type, or stamp commissioned name of  
Notary or Deputy Clerk)

\_\_\_\_ Personally known

\_\_\_\_ Produced the following identification \_\_\_\_\_



S. **SAMPLE Answer to Petition for Custody by Extended Family Member and Order Regarding the Best Interest of the Minor Child**

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,  
IN AND FOR GADSDEN COUNTY, FLORIDA

Case No: XXXX  
Division: Family  
XXXX,  
Petitioner,

vs.

XXXX  
Respondent/Mother,

and

XXXX,  
Respondent/Father.

-----/

**ANSWER TO PETITION FOR CUSTODY BY EXTENDED FAMILY MEMBER AND ORDER REGARDING THE BEST INTEREST OF THE MINOR CHILD**

I, XXXX ("Respondent" or "Father"), the father of XXXX ("Child"), being sworn, certify that the following information is true:

1. I have received a copy of the Petition for Custody by Extended Family Member and Order Regarding the Best Interest of the Minor Child that was filed on XXXX. I have executed a Waiver of Service of Process in this case. I have received a translated copy of the Petition filed in this case in Spanish and I have reviewed it.
2. I agree with the Petitioner as to the allegations raised in the Petition and admit all the allegations.
3. I request that the court make a finding regarding the best interests of the Child. I will make no response to this Petition beyond this answer.
4. I further agree that this Court should retain continuing, exclusive jurisdiction over any subsequent action for parental responsibility, custody, time-sharing, or visitation in reference to the Child.
5. I understand that if this Court chooses to enter a custody order and make a finding that it is in the Child's best interest to remain in Petitioner's custody, that the Petitioner may:
  - a. Consent to all necessary and reasonable medical and dental care for the Child, including non-emergency surgery and psychiatric care.
  - b. Secure copies of protected records of the Child, held by third parties, that are necessary for the care of the Child, including but not limited to:
    - i. Medical, dental, and psychiatric records;
    - ii. Birth certificates and other documents; and
    - iii. Educational records.



- c. Enroll the Child in school, and give or withhold consent for the Child to be tested or placed in special school programs, including exceptional education; and
  - d. Do all other things necessary for the care of the Child.
6. I further understand that if the Court chooses to enter a custody order in this case that I may petition the Court to issue a decision altering the custody allotted by the petition.
  7. I certify that a copy of this Answer was mailed to the Petitioner.
  8. I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this Answer and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

-----  
XXXX

-----  
Respondent's Address

-----  
Respondent's Phone Number

**VERIFICATION**

Before me, the undersigned authority, personally appeared XXXX who, being sworn, states that the Answer is filed in good faith and that the facts stated in said Answer are true to the best of her information, knowledge, and belief.

-----  
XXXX

Sworn to or affirmed and signed before me on \_\_\_\_\_, 2022,

in \_\_\_\_\_ [LOCATION]

-----  
Signature of Notary or Deputy Clerk

-----  
(Print, type, or stamp commissioned name of Notary or Deputy Clerk)

\_\_\_\_ Produced the following identification \_\_\_\_\_

T. SAMPLE Notice of Filing Waiver of Service

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,  
IN AND FOR LEON COUNTY, FLORIDA

Case No: XXXX

Division: Domestic Relations/Family

XXXX

Petitioner,

vs.

XXXX

Respondent/Mother.

---

**NOTICE OF FILING**

The undersigned counsel hereby gives notice of filing of the attached: Respondent's Waiver of Service of Process of Verified Petition for Custody by Extended Family Member signed before a public notary by Respondent XXXX, the biological mother of the Minor, XXXX.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the original of this Waiver of Service of Process of Verified Petition for Custody by Extended Family Member has been electronically filed on July 6, 2022.

Respectfully Submitted,

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## U. SAMPLE Notice of Related Cases

### IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT IN AND FOR LEON COUNTY, FLORIDA

Case No:  
XXXX  
Petitioner,  
vs.

Division:

XXXX  
Respondent/Mother.

---

#### NOTICE OF RELATED CASES

1. Petitioner submits this Notice of Related Cases as required by Florida Rule of Judicial Administration 2.545(d). A related case may be an open or closed civil, criminal, guardianship, domestic violence, juvenile delinquency, juvenile dependency, or domestic relations case. A case is "related" to this family law case if it involves any of the same parties, children, or issues and it is pending at the time the party files a family case; if it affects the court's jurisdiction to proceed; if an order in the related case may conflict with an order on the same issues in the new case; or if an order in the new case may conflict with an order in the earlier litigation.
2. Petitioner DOES NOT assert that there are related cases at this time.
3. Petitioner DOES NOT request coordination of litigation with any case.
4. Petitioner acknowledges a continuing duty to inform the court of any cases in this or any other state that could affect the current proceeding.

Filed this 8th day of June 2022.

Respectfully Submitted,

STATE OF FLORIDA  
COUNTY OF LEON

#### VERIFICATION

Before me, the undersigned authority, personally appeared XXXX who, being sworn, states that the Notice is filed in good faith and that the facts stated in the Notice are true to the best of her information, knowledge, and belief.

XXXX

STATE OF FLORIDA, COUNTY OF LEON

Sworn to or affirmed and signed before me on \_\_\_\_\_, 2022,

by\_\_\_\_\_

\_\_\_\_\_  
Signature of Notary or Deputy Clerk

\_\_\_\_\_  
(Print, type, or stamp commissioned name of  
Notary or Deputy Clerk)

\_\_\_ Personally known

\_\_\_ Produced the following identification\_\_\_\_\_



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V. **SAMPLE Order on Custody, the Best Interest of the Minor Child, and Special Immigrant Juvenile Status Findings**

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,  
IN AND FOR GADSDEN COUNTY, FLORIDA

Case No: XXXX  
Division: Family  
XXXX  
Petitioner,  
vs.

XXXX  
Respondent/Mother,  
and

XXXX  
Respondent/Father.

-----/

**ORDER ON CUSTODY, THE BEST INTEREST OF THE MINOR CHILD, AND SPECIAL IMMIGRANT JUVENILE STATUS FINDINGS**

A duly noticed hearing on Petitioner XXXX's ("Petitioner") Verified Petition for Custody by Extended Family Member was held before Judge XXXX on XXXX, at XXXX, in XXXX. Petitioner appeared in Court and was represented by her attorney, XXXX. The minor child XXXX ("Minor Child" or "XXXX") was also present and consented to the order granting custody. The Court, having reviewed the pleadings of the parties, heard the sworn testimony, and being fully advised on the premises, makes these findings of fact and reaches these conclusions of law:

**I. FINDINGS:**

1. This Court is duly authorized and has jurisdiction to make findings regarding the appointment of a custodian for the Minor Child.
2. The Minor Child at issue in this matter is:

Name

Date of Birth

3. The Minor Child was born on XXXX, in El Salvador, is a citizen of El Salvador, and is an unmarried minor under the age of eighteen. The Minor Child currently resides at XXXX.
4. The Petitioner is XXXX, the Minor Child's Paternal Aunt, who is an extended family member related to the Minor Child within the third degree by blood or marriage to a parent and who is caring full time for the Minor Child in the role of a substitute parent and with whom the Minor Child is presently living.
5. Petitioner is unable to give complete care to the Minor Child because she lacks a legal document that explains and defines her relationship to the Minor Child, and she is unable to effectively consent to the care of the Minor Child by third parties.
6. The biological mother of the Minor Child, XXXX ("Mother"), currently resides in El Salvador. Pursuant to Florida Statutes § 48.197(1)(c), Petitioner effectuated personal service of process on Respondent Mother through registered mail at her



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residence, XXXX. Respondent Mother failed to file a responsive pleading within twenty (20) days of receiving notice and, after a duly noticed hearing on Petitioner's Motion for Default, an order of default was entered against her.

7. The biological father of the Minor Child, XXXX ("Father"), currently resides in El Salvador. He has submitted a Waiver of Service of Process and an Answer wherein he does not object to the Petition, and he admits the allegations set forth in said petition.

## II. CUSTODY

8. The Petitioner, XXXX, is granted custody of the Minor Child until the Minor Child reaches the age of majority or upon petition by either or both of the Minor Child's parents to modify or terminate the Order granting custody, pursuant to Florida Statutes, Chapter 751.05.
9. The Petitioner shall have all the rights and responsibilities of a legal parent.
10. The Petitioner is authorized to make all reasonable and necessary decisions for the Minor Child, including but not limited to:
  - a. Consent to all necessary and reasonable medical and dental care for the Minor Child, including nonemergency surgery and psychiatric care;
  - b. Secure copies of the Minor Child's records, held by third parties, that are necessary for the care of the Minor Child, including, but not limited to:
    - i. Medical, Dental, and psychiatric records;
    - ii. Birth certificates and other records; and
    - iii. Educational records.
  - c. Enroll the Minor Child in school and grant or withhold consent for the Minor Child to be tested or placed in special school programs, including exceptional education; and
  - d. Do all other things necessary for the care and protection of the Minor Child.

## III. REUNIFICATION IS NOT A VIABLE OPTION

11. After conducting an evidentiary hearing and based on the witnesses' sworn testimony, the Court finds that reunification with the Minor Child's Father and Mother is not viable due to their neglect of the Minor Child, pursuant to Chapter 39 of the Florida Statutes.
12. Under Florida law, neglect occurs when a child is permitted to live in an environment that causes the child's physical, mental, or emotional health to be in danger of being significantly impaired. § 39.01(50), Fla. Stat. (2021). The Court finds that the Mother and Father have neglected the Minor Child within the meaning of Chapter 39 of the Florida Statutes.
13. XXXX's Mother has neglected the Minor Child within the meaning of Chapter 39 of the Florida Statutes. XXXX testified that he lived on and off with his Mother in El Salvador before coming to the United States, during which time she subjected him to physical and psychological abuse. XXXX testified that his Mother would hit him with objects such as pots, sticks, and brooms. He testified that the Mother stabbed him with a knife on one occasion and bit him on another occasion, from which he has scars on both arms. The Mother did not allow XXXX to attend school after the seventh grade. Instead, XXXX worked from a young age in carpentry. He was abused at his workplace and the Mother failed to protect him from such abuse by other adults. The facts show that the Mother has caused XXXX to live in an environment that endangered his physical, mental, and emotional health and failed to provide care, supervision, and services necessary to maintain his physical and mental health.



14. XXXX's Father has neglected the Minor Child within the meaning of Chapter 39 of the Florida Statutes. XXXX testified that his Father has been diagnosed with Schizophrenia and has no relationship with the Minor Child because his mental health condition prevents him from recognizing people. The Minor Child's paternal grandmother is the Father's primary caregiver. The Father has not made a reasonable effort to protect the Minor Child from the Mother's abuse and neglect. The Father has also failed to provide the Minor Child with care, supervision, and services necessary to maintain the Minor Child's physical and mental health.
15. Therefore, the Court finds that the Minor Child's reunification with the Respondent Mother and Respondent Father is not a viable option due to neglect as defined in Chapter 39, Florida Statutes.

**IV. CHILD SUPPORT**

16. The Petitioner, XXXX, did not request the establishment of child support.

**V. BEST INTEREST OF THE MINOR CHILD**

17. Under Chapter 39 and Chapter 751, Florida Statutes, and this Court's authority to make findings as to the custody and best interest of the Minor Child, the Court finds that it is not in the Minor Child's best interest to return to his home country, El Salvador, because he is under substantial risk of neglect and harm.
18. A custodial placement in El Salvador would not be in the best interest of the Minor Child, as both the Mother and Father of the Minor Child have neglected him in the past, and there is no suitable placement for the Minor Child in El Salvador. The Minor Child's only remaining family member in El Salvador is the Minor Child's Paternal Grandmother, who is elderly and unable to care and provide for him. The Minor Child also faces imminent abuse, neglect, and unsafe working conditions. It is not in the best interest of the child to return to El Salvador; it is in his best interest to remain in the United States in the custody of his Paternal Aunt, the Petitioner, who can protect him from further neglect and ensure his long-term stability and well-being.
19. Therefore, the Court finds that it is not in the Minor Child's best interest to return to El Salvador. It is in his best interest to remain in the custody and care of the Petitioner.
20. The Court reserves jurisdiction to enforce this Order for Custody until Child reaches the age of majority, and to enter orders for the welfare of the Child. This Order may only be modified by petition of the parties, and upon the consent of this Court.

DONE and ORDERED at Quincy, Gadsden County, Florida on this XXth day of XXXX 2023.

---

Honorable XXXX  
Circuit Judge

The

Copies furnished to:

## W. SAMPLE Letter to Parents

[DATE]

Sent via [xxx]

[PARENT NAME]

[ADDRESS]

[EMAIL]

[PHONE]

**RE: Paternidad y Custodia; Renuncia al Emplazamiento**  
**RE: *Paternity and Custody; Waiver of Service***

Estimada Sra. [PARENT NAME]:

Encuentre adjuntada una Petición de Paternidad, Custodia Exclusiva, Renuncia al Servicio de Emplazamiento, y Consentimiento a Custodia Exclusiva, del Sr. [PETITIONER], padre del menor [CHILD]. Nuestra oficina le informó al señor [PETITIONER] de la necesidad de obtener algún tipo de documento que le otorgue custodia sobre el niño para garantizarle la autoridad legal que le permita brindar la mejor calidad de atención al menor. Por favor, tenga en cuenta, como se indica en la Renuncia, que esta Renuncia es para el Emplazamiento y que la Petición de Paternidad es para el mejor interés del niño. Usted puede al cualquier momento presenta una petición de custodia del niño.

*Please find enclosed a Petition for Paternity and Sole Parental Responsibility and Waivers of Service of Process and Consent to Petition for Paternity and Sole Parental Responsibility, from Mr. [PETITIONER], father of the minor child [CHILD]. Our office has informed Mr. [PETITIONER] of the need to obtain a document granting custody over the child to vest in him the legal authority to provide a better quality of care to the child. Please note, as stated in the Waiver, that this Waiver addresses Service and the Paternity Petition is in the best interest of the child. You may at any time, petition the court to return legal custody to you.*

Esta autorización a la custodia no solicita manutención infantil. Por el contrario, su consentimiento le permitirá al Sr. [PETITIONER] brindar toda la atención médica y dental necesaria y razonable para el menor. Incluida, entre otras, cirugía y atención médica que no sea de emergencia. Permitirá obtener copias de los documentos del menor en poder de terceros que son necesarios para el cuidado del niño, incluidos, entre otros, registros médicos, dentales y psiquiátricos, certificados de nacimiento, registros de nacimiento y registros educativos. Permitirá dar su consentimiento para la inscripción del menor a la escuela y otorgar o retener el consentimiento para que el menor sea evaluado o colocado en programas escolares especiales. La custodia, también permitirá al señor Lemuz Jovel hacer todas las cosas que sean necesarias para el cuidado del menor. Esto garantiza las mejores atenciones para su hijo menor.

This authorization to sole parental responsibility does not ask for child support. Rather, your consent will allow Mr. [PETITIONER], as the father, to provide all necessary and



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*reasonable medical and dental care for the minor child including, but not limited to, non-emergency surgery and medical care; to obtain copies of the minor child's records held by third parties, that are necessary to the care of the child, including, but not limited to, medical, dental, and psychiatric records, birth certificates, birth records, and educational records; to consent to school enrollment and grant or withhold consent for the minor child to be tested or placed in special school programs. Sole parental responsibility will also allow Mr. [PETITIONER] to do all other things necessary for the care of the minor child. This ensures the best care for your minor child.*

Por favor firme y devuelva los documentos adjuntos a la mayor brevedad posible al Sr. [PETITIONER] o directamente a mí por correo electrónico, [e-mail here](#). Si tiene alguna pregunta sobre los documentos adjuntos, le recomiendo que hable con un asesor legal independiente. Yo no podré aconsejarlo a usted dado que aconsejado al [PETITIONER] con esta solicitud de custodia.

*Please sign and return the enclosed documents as soon as possible to Mr. [PETITIONER]. Should you have any questions about the enclosed documents, I do encourage you to speak with independent legal counsel, as I have advised Mr. [PETITIONER] with this request for paternity and cannot offer you legal advice.*

Sinceramente,  
Sincerely,

X. **SAMPLE Waiver of Service**

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT,  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

Case No: XXX  
Division: XXX  
XXXXXX,  
Petitioner,

vs.

XXXXXX,  
Respondent/Mother.

\_\_\_\_\_ /

**WAIVER OF SERVICE OF PROCESS OF VERIFIED PETITION BY FATHER  
FOR PATERNITY, SOLE PARENTAL RESPONSIBILITY, AND ORDER  
REGARDING THE BEST INTEREST OF THE MINOR CHILD**

I, XXXX ("Respondent" or "Mother"), the mother of First Name Last Name ("Child"), named as respondent in the above-styled case, have received a copy of the Verified Petition by Father for Paternity, Sole Parental Responsibility, and Order Regarding the Best Interest of the Minor Child in English and Spanish. At this time, I freely and voluntarily waive service of process of the Petition. I waive any further service of motions or other pleadings in this case.

\_\_\_\_\_ Respondent's Name

\_\_\_\_\_  
Respondent's Address

\_\_\_\_\_  
Respondent's Phone Number

**VERIFICATION**

Before me, the undersigned authority, personally appeared RESPONDENT who, being sworn, states that the Waiver of Service of Process is filed in good faith and that the facts stated in said Waiver of Service of Process are true to the best of her information, knowledge, and belief.

\_\_\_\_\_  
Respondent's Name

Sworn to or affirmed and signed before me on \_\_\_\_\_, 2022,

in \_\_\_\_\_ [LOCATION]

\_\_\_\_\_  
Signature of Notary or Deputy Clerk

\_\_\_\_\_  
(Print, type, or stamp commissioned name of  
Notary or Deputy Clerk)

\_\_\_\_\_Produced the following identification\_\_\_\_\_

Y. **SAMPLE Answer to Petition**

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT,  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

Case No: XXX  
Division: XXX  
XXXXXX,  
Petitioner,

vs.

XXXXXX,  
Respondent/Mother.

-----/

**ANSWER TO PETITION FOR CUSTODY BY FATHER FOR  
PATERNITY, SOLE PARENTAL RESPONSIBILITY, AND  
ORDER REGARDING THE BEST INTEREST OF THE MINOR CHILD**

I, XXXXX (“Respondent” or “Mother”), the mother of XXXXX (“Child”), being sworn, certify that the following information is true:

9. I have received a copy of the Petition by Father for Paternity, Sole Parental Responsibility, and Order Regarding the Best Interest of the Minor Child that was filed on August 2, 2021. I have executed a Waiver of Service of Process in this case. I have received a translated copy of the Petition filed in this case in Spanish and I have reviewed it.
10. I agree with the Petitioner as to the allegations raised in the Petition and admit all of the allegations.
11. I request that the court make a finding regarding the best interests of the Child. I will make no response to this Petition beyond this answer.
12. I further agree that this Court should retain continuing, exclusive jurisdiction over any subsequent action for parental responsibility, custody, time-sharing, or visitation in reference to the Child.
13. I understand that if this Court chooses to enter a custody order and make a finding that it is in the Child’s best interest to remain in Petitioner’s custody, that the Petitioner may:
  - a. Consent to all necessary and reasonable medical and dental care for the Child, including non-emergency surgery and psychiatric care.
  - b. Secure copies of protected records of the Child, held by third parties, that are necessary for the care of the Child, including but not limited to:
    - i. Medical, dental, and psychiatric records;
    - ii. Birth certificates and other documents; and
    - iii. Educational records.
  - c. Enroll the Child in school, and give or withhold consent for the Child to be tested or placed in special school programs, including exceptional education; and
  - d. Do all other things necessary for the care of the Child.



14. I further understand that if the Court chooses to enter a paternity order in this case that I may petition the Court to issue a decision altering the time-sharing allotted by the petition.
15. I certify that a copy of this Answer was mailed to the Petitioner.
16. I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this Answer and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

-----  
Respondent's Name

-----  
Respondent's Address

-----  
Respondent's Phone Number

**VERIFICATION**

Before me, the undersigned authority, personally appeared RESPONDENT who, being sworn, states that the Answer is filed in good faith and that the facts stated in said Answer are true to the best of her information, knowledge, and belief.

-----  
Respondent's Name

Sworn to or affirmed and signed before me on \_\_\_\_\_, 2022,

in \_\_\_\_\_ [LOCATION]

-----  
Signature of Notary or Deputy Clerk

-----  
(Print, type, or stamp commissioned name of  
Notary or Deputy Clerk)

-----Produced the following identification-----



Z. SAMPLE Final Judgment

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT,  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

Case No: XXXX  
Family Division: XXXX  
XXXXXX,  
Petitioner/Father,

vs.

XXXXXX,  
Respondent/Mother.

-----/

FINAL JUDGMENT OF PATERNITY AND BEST INTEREST ORDER

This case came before this Court for a hearing on a Verified Petition to Determine Paternity and for Related Relief, under chapter 742, Florida Statutes. The Court, having reviewed the file and heard the testimony, makes these findings of fact and reaches these conclusions of law:

**SECTION I. FINDINGS:**

21. This Court is duly authorized and has jurisdiction to determine paternity and parental responsibility and to adopt or establish a Parenting Plan regarding the child listed in paragraph 3 below. Fla. Sta. Ch. 742 gives the Court jurisdiction to make such findings when upon the petition of “[a]ny woman who is pregnant or has a child, any man who has reason to believe that he is the father of a child, or any child may bring proceedings in the circuit court, in chancery, to determine the paternity of the child when paternity has not been established by law or otherwise.” Fla. Stat. § 742.011.

22. The purpose of this Order is to define the relationship between the Petitioner and the Minor Child, such that the Petitioner is awarded sole parental responsibility of the Minor Child.

23. The minor child at issue in this matter is:

Name:

Date of Birth:

Current Address:

24. **Paternity.** The Court finds that FATHER is the natural and biological father of the Minor Child.



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25. The mother of the Minor Child, MOTHER, has submitted a Waiver of Service of Process and an Answer wherein she does not object to the petition filed in the instance case, and she admitted the allegations set forth in said petition.
26. No Court in Honduras or the United States has granted legal custody of the Minor Child to an adult or relative since his arrival to the United States. No adult or relative, apart from the Petitioner, has initiated proceedings to obtain legal custody of the Minor Child since his arrival to the United States.
27. Having no prior, legally compelled parental agreement between the Petitioner and the Respondent for parental responsibility of the Minor Child, it is in the Minor Child's best interests that sole parental responsibility be awarded to the Petitioner because of Respondent's abandonment of the child, lack of "significant contribution to the child's care and maintenance," and failure to maintain a substantial and positive relationship with the Minor Child. See Florida Statutes § 39.01 (1).

## SECTION II: PARENTAL RESPONSIBILITY AND PARENTING PLAN

1. The Petitioner, FATHER, is granted sole parental responsibility of the Child until the child reaches the age of majority.
2. The parties shall comply with the Parenting Plan which is attached hereto and incorporated herein as Exhibit A.
3. The Petitioner is authorized to make all reasonable and necessary decisions for the Minor Child, including but not limited to:
  - a) Consent to all necessary and reasonable medical and dental care for the Child, including nonemergency surgery and psychiatric care;
  - b) Secure copies of the child's records, held by third parties, that are necessary for the care of the child, including, but not limited to:
    - i. Medical, Dental, and psychiatric records;
    - ii. Birth certificates and other records; and
    - iii. Educational records.
  - c) Enroll the child in school and grant or withhold consent for the child to be tested or placed in special school programs, including exceptional education; and
  - d) Do all other things necessary for the care and protection of the Child.

## SECTION III. REUNIFICATION IS NOT A VIABLE OPTION

4. The Minor Child cannot be reunified with Respondent because she abandoned the Minor Child when he was four years old and did not make any attempt to care for him after the death of his maternal grandmother and caregiver in Honduras.

5. The Court's finding that Minor Child's reunification with his mother is not a viable option due to abandonment as defined in chapter 39 is final until the Child reaches the age of majority and/or until further order from this Court, if any.

#### SECTION IV. TIME-SHARING WITH MINOR CHILD

6. Respondent shall have no time-sharing with the Minor Child.

#### SECTION V. BEST INTEREST OF THE CHILD

7. It is in the Minor Child's best interest that the Petitioner be granted sole parental responsibility of the Minor Child until he reaches the age of majority.
8. Petitioner is the Minor Child's natural father, and it is in the Minor Child's best interest to remain in the United States with his father. The Minor Child currently lives with and is cared for by the Petitioner. Petitioner is the Minor Child's sole caregiver. It is the best interest of the Minor Child that Petitioner be awarded sole parental responsibility of the Minor Child.
9. It would not be in the Minor Child's best interest to return to Honduras because Respondent has completely abandoned him. Additionally, a custodial placement in Honduras would not be in the best interest of the Minor Child as there is no suitable placement for the Minor Child in Honduras. Therefore, it is not in the best interest of the Minor Child to be returned to Honduras because he has no adequate caretakers there and because doing so would likely expose him to imminent risk of abuse and exploitation.
10. This Court makes the following findings related to the Child's care and custody: Under Chapter 39, and this Court's authority to make findings as to the custody and best interest of the child, it is not in the Child's best interest to return to his home country, Honduras, because the Child is under substantial risk of abuse and exploitation without an adult caregiver. The Child's best interest is to remain in the United States where he can be protected from the abandonment he suffered.

#### SECTION VI. CHILD SUPPORT

11. The Petitioner did not request the establishment of child support.

#### SECTION VII. METHOD OF PAYMENT

12. A method for and timing of payments is not ordered as child support has not been requested.

#### SECTION VIII. ATTORNEY'S FEES, COSTS, AND SUIT MONEY

13. The Petitioner did not request attorney's fees, cost, or suit money. Counsel for the Petitioner has likewise not requested fees, costs, or suit money.

**SECTION IX. OTHER PROVISIONS**

14. The Court reserves jurisdiction to enforce this Order for Custody until Child reaches the age of majority, and to enter orders for the welfare of the Child. This Order may only be modified by petition of the parties, and upon the consent of this Court.

**DONE AND ORDERED** in Miami-Dade County, Florida on this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

---

THE HONORABLE XXXXXXXXXXXX  
CIRCUIT COURT JUDGE

Electronically served:

AA. **SAMPLE Memorandum of Law in Support of Amended Final Judgment of Adoption and for Related Relief**

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, STATE OF FLORIDA  
FAMILY LAW DIVISION

IN THE MATTER OF THE ADOPTION OF:

XXXXXXXXXXXXXXXXXXXXX  
DOB: XXXXXXXXXXXXXXXXX

CASE NO: XXXXXXXXXXXXX

DIVISION: XXXXXXXX

A MINOR CHILD.

-----/

MEMORANDUM OF LAW IN SUPPORT OF AMENDED FINAL JUDGMENT OF ADOPTION AND FOR RELATED RELIEF

I. INTRODUCTION

This cause was heard on XXXXXXXXXXXX, on the Petition for Relative Adoption filed by Petitioners, XXXXXXXXXXXX and XXXXXXXXXXXX. This Court found that the Joint Petition for Termination of Parental Rights and Adoption contained all the information required under Florida Statute §63.087, and all affidavits required under Florida Statute §63.088 were appropriately filed with Court. A final judgment of adoption was ordered on XXXXXXXXXXXX.

II. STATEMENT OF FACTS

CHILD was born on XXXXXXXX, in XXXXXXXX, XXXXXXXX. He has been residing with her XXXXX, XXXXXXXXXXXX and XXXXXXXX since he was XXXXXX years old. Since then her parents (FACTS NECESSARY FOR SIJS).

III. ISSUE

Whether, in addition to granting adoption the child, the Court should also make the necessary factual findings to allow the minor child to apply for Special Immigrant Juvenile Status through the U.S. Citizenship and Immigration Services.

IV. THIS COURT HAS JURISDICTION TO MAKE THE NECESSARY FINDINGS FOR SPECIAL IMMIGRANT JUVENILE STATUS

The factual findings that petitioner requests this Court to make are in relation to the child's ability to apply for Special Immigrant Juvenile Status (hereinafter "SIJS" or "SIJ Status") pursuant to 8 U.S.C. § 1101(a)(27)(J) and 8 C.F.R. § 204.11. This Court would not be making any type of immigration decision by making the requested findings of fact. The United States Citizenship and Immigration Services (hereinafter "USCIS") has sole discretionary authority to grant or deny SIJ Status to a child. If the necessary findings of fact are made by this Court, it would only allow the child to apply for SIJS, nothing more. A making of the requested



factual findings—alone —will not entitle the children to any immigration benefit. Rather, the requested findings are preliminary determinations that are prerequisites to the filing of an application for SIJ Status with USCIS.

SIJ Status is an immigration classification permitting certain children to eventually apply for lawful permanent residence. The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008 (Pub. L. No. 110-457, 122 Stat. 5044) amended the definition of a “Special Immigrant Juvenile” at INA § 101(a)(27)(J) (8 U.S.C. § 1101(a)(27)(J)). A child is now eligible for SIJ status if he or she is under 21 years old, unmarried and:

1. Has been declared dependent on a juvenile court;
2. Whom a juvenile court has legally committed to, or placed under the custody of, an agency or department of a State; or
3. Who has been placed under the custody of an individual or entity appointed by a State or juvenile court.

The Court must additionally find that reunification with one or both parents is not a viable option due to abuse, neglect, abandonment, or a similar basis found under State law and that it would not be in the child’s best interest to be returned to her country of nationality or country of last habitual residence.

The child would be eligible to apply for SIJ Status if the Court places the child in the custody of the adopting parents and finds that reunification with the biological parents is not a viable option since the parents have (ABUSED, ABANDONED, NEGLECTED). The parents consented to the adoption and relinquished their parental rights. In addition, the parents abandoned the child in that prior to consenting to the adoption the parents, “while being able, makes little or no provision for the child’s support or makes little or no effort to communicate with the child, which situation is sufficient to evince an intent to reject parental responsibilities.” Florida Statute 63.032(1). (DETAIL OF FACTS). (IF ABUSE/NEGLECT DEFINE AND PUT FACTS). The Court must also find that it is not in the child’s best interest to return to XXXXXXXXXX. Each specific findings needs to be placed in a court order that is then submitted to USCIS.

The Code of Federal Regulations defines a “juvenile court” as a court located in the United States having jurisdiction under state law to make determinations about the custody of a child. 8 C.F.R. § 204.11 (a). This Court has jurisdiction under Chapter 63, Florida Statutes to make determinations to terminate parental rights pending an adoption, and as such decide child welfare or custody matters. As such, this Court falls under the definition of “juvenile court” under 8 C.F.R. § 204.11 (a).

## V. CONCLUSION

For the above reasons, petitioners XXXXXXXXXX and XXXXXXXX requests that this Court make the factual findings that (1) petitioners are granted custody over the minor child, (2) that reunification with the child’s biological parents is not a viable option as the child has been abandoned by her parents and (3) that it is not in the child’s best interest to return to XXX, her country of birth.

Respectfully Submitted,

-----  
Adriana M. Dinis, Esq.  
Immigration Law Group of Florida, P.A.  
721 1st Avenue North  
St. Petersburg, Florida 33701  
Phone: (727) 471-0677  
Fax: (727) 350-1042

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, STATE OF FLORIDA  
FAMILY LAW DIVISION

IN THE MATTER OF THE ADOPTION OF:

XXXXXXXXXXXXXXXXXX  
DOB: XXXXXXXXXXXXX

CASE NO: XXXXXXXXXXXXX

DIVISION: XXXXXXXXXXX

A MINOR CHILD.

-----/

AMENDED FINAL JUDGMENT OF ADOPTION

**THIS CAUSE** came on to be heard on XXXXXXXXXXX, for Final Hearing upon the verified Petition for Relative Adoption filed by Petitioners, XXXX and XXX. The Court having reviewed the file and hearing testimony of the witnesses, and being otherwise fully advised of the premise, makes the following findings and facts and conclusion of law:

The Court has jurisdiction over the subject matter and over the parties.

That the minor child subject to these proceedings is XXXX a female child born on XXXXX, in XXXXXXX.

That the venue is proper in Hillsborough County because the Petitioners and the minor child reside in Hillsborough County.

That the Petitioners are the Paternal grandmother, XXXX and her Husband, XXXXXX. No home study is required as this is a relative adoption, the Petitioner being the Paternal grandmother of the adoptee.

That there is no pending litigation regarding this minor in Florida or any other State, nor is there any other person not a party to these proceedings who has, or claims to have, physical custody or visitation rights to this minor child.

That the mother, XXXXXXX, and the father, XXXXX, of the subject minor have executed a Consent to Adoption and Acknowledgement of Parental Rights in accordance with Section 63.082 of the Florida Statutes. The original Consent for Adoption and Acknowledgment of Parental Rights was filed with the Court and the mother and father did not revoke consent within the period of time prescribed by law.

That the mother, XXXXXXX, and the father, XXXXXXXXXXX, have waived Service of Process and Notice of Further Proceedings in this matter.

Reunification of the minor child, XXXXXXXXXXX, with her biological parents, would not be in the child's best interests as the birth parents have effectively abandoned the minor child by virtue of:

Failing to provide support for the minor child;



Failure to show any interest in the minor child and their withdrawal of parental duties and responsibilities;

Their consent to termination of their parental rights, and the subsequent adoption of the minor child by the Petitioners, XXXX and her Husband, XXXXX.

As such, reunification with the biological parents is not a viable option.

The minor child, XXXXXXXXX, has been in the care, custody, and control of the Petitioners for almost the entire duration of the child's life and is doing extremely well, and it would not be in her best interest to be returned to XXX, her country of birth.

That the minor child, XXXX, is over the age of 12, and he has executed a Consent to Adoption for Relative Adoption by her Paternal grandmother, XXXX and her Husband, XXXXX.

It now appears to be manifestly in the best interest of the child that the Final Judgment of Adoption be entered and the Petitioners desire the permanent responsibility of parents in this adoption.

It is therefore **ORDERED AND ADJUDGED:**

Reunification with the birth parents is not a viable option since the parental rights of the mother XXXXXXXX, and father, XXXXXXXX, as to the subject a female child born on XXXXXXXX, in XXXXX, are hereby terminated due to abandonment.

That the minor child presently known as XXX involved herein is to be placed in the custody of and declared to be the legal child of the Petitioners, XXX and XXXX, and shall be given the name of XXXXX, by which the minor child shall hereafter continue to be known. As such it is not in the best interest of the child to be returned to XXXX, her country of birth.

That this Amended Final Judgment of Adoption creates a relationship between the adoptee and the Petitioners and all relatives of Petitioners that would have existed if the adoptee were a blood descendant of the Petitioners, born within wedlock, entitled to all rights and privileges thereof, and subject to all obligations of a child being born to the Petitioners.

A new birth certificate shall be issued from the Office of Vital Statistics, which names the Petitioners, XXX and XXX, as the parents of the minor child. The new birth certificate shall modify the minor child's legal name to that of XXX by which said minor shall hereafter be known.

The Court reserves jurisdiction so that the Petitioners may petition the Court to unseal the file, for purposes of obtaining another Supplemental Final Judgment of adoption necessary for immigration purposes.

**DONE AND ORDERED** in Chambers of Tampa, Hillsborough County, Florida, this \_\_\_ day of XXXXX, nunc pro tunc to XXXXXXXXX

\_\_\_\_\_  
HONORABLE XXXXXXXXXXXX  
CIRCUIT JUDGE

Copies furnished to:



AMERICAN BAR ASSOCIATION

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