

National Council of Juvenile and Family  
Court Judges Annual Conference  
**Issues Surrounding Special Immigrant  
Juvenile Status (SIJS) Petitions**

Judge Gayl Y. Branum Carr  
Leslye Orloff, JD  
Marissa Anderson, JD  
July 23, 2024  
Phoenix, AZ

# Agenda

Introduction

Learning Objectives

Questions or Comments

- Please write your Questions or Comments on the Note Pad at your table
- Staff will Collect the Questions or Comments for the panelist during the Questions or Comments Time at the end

# Faculty Introductions

- Judge Gayl Y. Branum Carr, President, NCJFCJ Fairfax County Juvenile and Domestic Relations District Court, 19th Judicial District of Virginia
- Leslye Orloff, J.D., Adjunct Professor and Director NIWAP, American University, Washington College of Law and the National Judicial Network
- Marissa Anderson, J.D. Managing Attorney, Arizona Legal Women and Youth Services (ALWAYS)

# Become a National Judicial Network (NJNI) Participant

- Forum on Human Trafficking and Immigration in State Courts
- What is the NJN (390 judges – 42 states & territories)
  - Opportunity to engage in discussions with other judges
  - Receive latest information
  - Peer-to-Peer training opportunities
  - Get your questions answered
  - Receive the information you need through
    - Monthly webinars or peer-to-peer sessions, and technical assistance
    - Bench cards, tools and training materials

Please sign the sign in sheet we are circulating.

# Learning Objectives

**By the end of this session participants will be better able to**

- Issue well drafted court orders containing the required judicial determinations (findings of fact and conclusions of law) children eligible must obtain as a requisite to filing for Special Immigrant Juvenile Status.
- Apply state laws regarding jurisdiction, UCCJEA, notice, and service of process to cases in which children seek SIJS judicial determinations.
- As Congress intended, use state court judges' expertise on child welfare and apply state best interests of the child laws when deciding the facts as to a child's parental maltreatment without regard to where the maltreatment took place.
- Understand how SIJS cases are part of a trauma informed state and federal approach that provides child victims with humanitarian immigration relief needed stabilize lives and help children heal and thrive.

# Intent of the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)



Avoid

✓ Avoid **jurisdictional competition and conflict with courts in other states** in child custody cases

Promote

✓ Promote **cooperation with the courts of other states** so that a custody determination is made in the state that is in the best position to do so

Ensure

✓ Ensure **litigation occurs in the state with which the child and his/her family has the closes connection and where relevant evidence is most readily available**

Discourage

✓ **Discourage continuing child custody disputes**

# Intent of the UCCJEA



Deter

✓ **Abductions** and other unilateral removals of children by a party to obtain a custody award

Avoid

✓ **Re-litigation** of custody disputes

Promote

✓ Promote and expand the exchange of information and other mutual assistance between the courts of different states regarding the child

Make

✓ Uniformity in laws of the states that enact the UCCJEA

# Overview of the UCCJEA

- ✓ Applies to a range of proceedings in which **custody or visitation is at issue**
- ✓ Grants priority to Home State jurisdiction
- ✓ Preserves Exclusive, Continuing Jurisdiction in the decree State if that State determines it has a basis for exercising jurisdiction
  - ✓ Such jurisdiction continues until the child, his or her parents (or any other person *in loco parentis*) moves away from the decree state



# Key: UCCJEA is **not** a Substantive Custody Statute



- ✓ The UCCJEA does not dictate **standards** for making or modifying child custody and visitation decisions; instead,
- ✓ The UCCJEA **determines:**
  - ✓ Which **State courts have**, and
  - ✓ What **State Should exercise jurisdiction** to make or modify custody and visitation

# UCCJEA: 4 Bases for Initial Jurisdiction

1. Home State
  2. Significant connection(s)
  3. More appropriate forum, and
  4. Vacuum Jurisdiction
- ✓The UCCJEA also authorizes courts to issue temporary relief on emergency grounds

# Initial Jurisdiction: **Home** State Jurisdiction

✓ Priority is given to Home state jurisdiction

✓ Initial Determination

- For example: Under the UCCJEA home state is **where the child has lived the past six months at the time of the filing of the custody petition; or**
- **The child lived in the state for 6 months prior and his or her parent continues to live in the state even after the child has been removed**
- Example: A three-year-old child born in Honduras, came to Arizona where he has been living with his parents for 2 years. He is abducted by his mother before either parent has filed for custody. The child and his mother move to Wisconsin. The father who lives in Arizona, may file for custody in Arizona (which has home state jurisdiction)

# Significant Connection Jurisdiction

- Initial Determination
- When the child does not have a home state, or the home state declines jurisdiction
- Another state may exercise jurisdiction if
  - The child has significant connections or ties to the state, and
  - Substantial evidence concerning the child is available in the state
  - The child need NOT be physically present in the state
  - More than one state may have jurisdiction **BUT**
    - Only one state may exercise jurisdiction over the child

# Exclusive, Continuing Jurisdiction

- ✓ Modification Jurisdiction
- ✓ Under the UCCJEA, an **original decree court** that exercised jurisdiction consistent with the Act
  - ✓ Has exclusive, continuing jurisdiction
  - ✓ To modify its decree
- ✓ Until one of the following occurs:
  - ✓ The original decree court **loses significant connection** jurisdiction, or
  - ✓ The child, the child's parents and any person acting as the child's parents no longer live in the state

**Key:** Only the decree State may determine whether it has significant connection jurisdiction

# UCCJEA Affidavit

Contains  
information  
critical to SIJS  
cases

**AFFIDAVIT** (Uniform Child Custody Jurisdiction and Enforcement Act)  
COMMONWEALTH OF VIRGINIA Va. Code § 20-146.20

Case No. JP62095-01-08; 02-60

Fairfax County  Circuit Court  
 Juvenile and Domestic Relations District Court

In re: Joana Abigail [REDACTED], Richard A. Ramos Alvarez, et al. v. Ramos Alvarenga, Setareh G. [REDACTED]  
JUVENILE

MARIA DEYSI [REDACTED] v. JOSE ANTONIO [REDACTED]

i, Maria Deysi [REDACTED], the undersigned affiant, state the following information under oath:

Certain information has been omitted from this form and submitted under seal because I allege that the health, safety or liberty of a party or child would be jeopardized by disclosure. Another party may request that a hearing be held to determine whether this information should be disclosed.

1. The child presently resides at: 2806 Hollywood Road, Apt. 201, Falls Church, VA 22043  
ADDRESS

The child commenced residing there on March 20, 2020 and has resided there continuously to this date.  
DATE

2. The other places where and persons with whom this child has lived during the last five (5) years: (please complete reverse side).

3. I  have  have not participated, either as a party, witness, or in any other capacity in any other litigation (court proceeding) concerning custody of or visitation with this child, in any State or foreign country. If yes, complete below:

a. Name of Court and State or foreign country in which litigation occurred: \_\_\_\_\_  
b. When did the litigation occur: \_\_\_\_\_  
c. What was the outcome of the litigation: \_\_\_\_\_  
d. Attach a copy of all pleadings and Orders filed in this litigation.

4. I  do  do not have knowledge or information of any proceeding that could affect this proceeding, including but not limited to custody, visitation, paternity, support, enforcement proceedings, proceedings related to domestic violence, protective orders, abuse and neglect, termination of parental rights and adoptions, which is pending in a court of this or any other State or foreign country. If yes, complete below:

a. Name of Court and State or foreign country in which proceeding is pending: \_\_\_\_\_  
b. Attach a copy of all pleadings filed in the litigation.

5. I  do  do not know of any person who is not already named as a party in this proceeding who has physical custody of this child or who claims to have custody or visitation rights with respect to child. If yes:

a. Name and address of person: \_\_\_\_\_  
b. Does this person have physical custody of the child?  Yes  No  
c. State why you believe this person claims to have custody/visitation rights to the child: \_\_\_\_\_

6. I understand that I have an obligation to promptly inform this court if I later become aware of any other proceedings, including but not limited to custody, visitation, paternity, support, enforcement proceedings, proceedings related to domestic violence, protective orders, abuse and neglect, termination of parental rights and adoptions, either in this or any other State or foreign country that could affect the current proceeding.

Subscribed and sworn to before me on 09/21/2023 DATE

[Signature] SIGNATURE OF AFFIANT

Fairfax JDR OCT 2 '23 13:46

Title: \_\_\_\_\_ SIGNATURE

**FOR NOTARY PUBLIC'S USE ONLY:**  
State of Virginia County of Arlington  
Acknowledged, subscribed and sworn to before me this 21st day of September, 2023  
7576719 MY COMMISSION EXPIRES 9/30/2025  
NOTARY REGISTRATION NUMBER COMMONWEALTH OF VIRGINIA

[Signature] NOTARY PUBLIC  
(My commission expires: 09/30/25)  
Fairfax JDR OCT 2 '23 13:46

ORIGINAL DOCUMENT  
STAMPED IN RED

FORM DC-620 (FRONT) 6/4/03

# Importance of the UCCJEA Affidavit In Special Immigrant Juvenile Status Family Court Cases

- ✓ 20-146.20. Information to be submitted to court (Virginia).
- ✓ A. In a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the past five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:
  - ✓ **Has participated**, as a party or witness or in any other capacity, in **any other proceeding** concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child custody determination, if any;

# Importance of the UCCJEA Affidavit

- ✓ 20-146.20. Information to be submitted to court.
- ✓ 2. Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions, and, if so, identify the court, the case number, and the nature of the proceeding; and
  - ✓ A. Knows the names and addresses of any persons not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons
  - ✓ B. If the information required by subsection A is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished



# The Bridge: Connecting Two Worlds From A Stormy to Sunny Land



# What is Special Immigrant Juvenile Status (SIJS)?


Special Immigrant Juvenile Status (SIJS) is form of humanitarian immigration relief



Available to certain undocumented immigrants under the age of 21



Who have been abused, neglected, or abandoned by one or both parents



SIJS is a way for immigrants under twenty-one to apply for and obtain legal permanent residence in the United States

# Specific Requirements for a Child to Qualify for SIJS

- The applicant child must
  - Be under the age of 21 at filing
  - Be unmarried and physically present in the U.S. at the time of filing and USCIS adjudication
  - Submit a state court order containing judicial determinations required by federal SIJS statutes and regulations
- 8 U.S.C. 1101(a)(27)(J)

# SIJS Required Judicial Determinations

- SIJS Judicial Determinations are specific findings of fact and conclusions of law
  - Issued by a court with jurisdiction *under state law* to make decisions about dependency, placement, and/or care and custody of the child
  - That apply state law to issue a court order that includes all of the following:
    - Findings of fact about the parent perpetrated abuse, neglect, or abandonment the child suffered
    - An award of custody, placement, or dependency of the child
    - Conclusions of law based on facts found determining & describing
      - That it is not in the child's best interests to return to their or their parent's home country; and
      - That reunification with at least one of the child's parents is not viable due to abuse, neglect, abandonment or other form of maltreatment against which children are protected under state law
- 8 C.F.R. § 204.11(a) (2023).



# USCIS 2024 SIJS Brochure

Immigration Relief for  
Abused, Abandoned, or  
Neglected Children

## SPECIAL IMMIGRANT JUVENILE CLASSIFICATION

Information for Juvenile  
Court Judges and Child  
Welfare Professionals

### OVERVIEW

Special Immigrant Juvenile (SIJ) classification is an immigration benefit available to certain noncitizen children who have been subject to state juvenile court proceedings related to parental abuse, neglect, abandonment, or similar maltreatment under state law. Children may be eligible for SIJ classification if they are the subject of juvenile court or administrative orders that make required determinations regarding:

- Their court-ordered custody and/or dependency;
- The non-viability of parental reunification; and
- The best interests of the child.

Children eligible for SIJ classification may include those who are:

- In a state's child welfare system;
- Currently (or previously) in federal custody due to their undocumented status; or
- Living with a foster family, an appointed guardian, or a non-abusive custodial parent.

SIJ classification allows these children to apply for lawful permanent resident status (also known as a Green Card), if a visa in the employment-based fourth preference (EB-4) immigrant visa category is immediately available.

If a child has been granted SIJ classification, USCIS may also consider granting deferred action. Deferred action makes the child a lower priority for removal from the United States. If a child receives deferred action, they may apply for an Employment Authorization Document, which is a form of legal identification that will show they are authorized to work in the United States.



U.S. Citizenship  
and Immigration  
Services

# Benefits of Obtaining SIJS

SIJS waives several types of inadmissibility requirement that would otherwise prevent an immigrant from becoming a **lawful permanent resident** (getting a **green card**). Examples:

Waives unlawful entry

Work without authorization

Exempt from Public charge

Certain Immigration Violations



Once a child receives SIJS, he/she will be able to adjust his/her status to that of a **lawful permanent resident**, obtain work authorization, and eventually apply for U.S. citizenship

# Once an Immigrant Child Files for SIJS

- Applicants are lawfully present which gives them access to health care exchanges and subsidies in 30+ states
- Have their SIJS cases adjudicated in 180 days
- When approved child gets
  - Legal work authorization
  - A federally recognized driver's license or ID
  - Formal protection from deportation through deferred action
- Once SIJS is approved the child is in a several year SIJS Backlog awaiting green card availability
  - Approved SIJS children cannot travel abroad until they are granted lawful permanent residency

# Going to Court





# Process of Obtaining SIJS



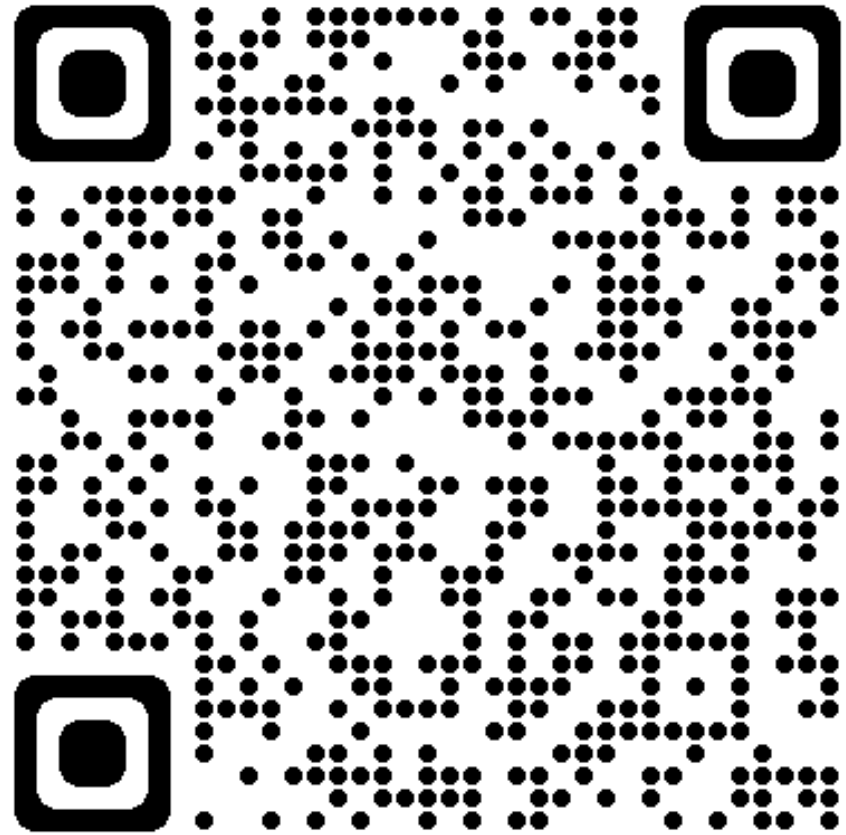
There are two main stages to obtaining SIJS

1. The child must engage in a juvenile, family, domestic relations, or Surrogate court where the county where child resides

- ✓ As part of that proceeding the child must obtain a court order containing findings of fact and special SIJS judicial determinations
- ✓ Commonly SIJS orders are issued in custody, guardianship, abuse/neglect, adoption, probate, orphans, protection order, probate, or children in need of supervisions cases
- ✓ Obtaining an SIJS order is a prerequisite to applying for SIJS

2. After obtaining the SIJS judicial determination the child applies to USCIS that is responsible for adjudicating and granting or denying the SIJS case

# Eligibility for Special Immigrant Juvenile Status



# Code of Virginia and SIJS

## Virginia Code §16.1-241(A)(1)

(Jurisdiction and Venue)

- ✓ Each juvenile and domestic relations district court **shall have . . . Exclusive original jurisdiction . . .** Over all cases, matters and proceedings involving:
  - ✓ “Making specific findings of fact
  - ✓ Required by state or federal law
  - ✓ To enable a child to apply for or receive a state or federal benefit
- ✓ For purposes of this subsection only, when the court has obtained a jurisdiction over the case of any child, the court **may continue to exercise its jurisdiction until such person reaches 21 years of age, for the purpose of entering findings of fact or amending past orders, to include findings of fact necessary for the person to petition** the federal government for status as a special immigrant juvenile as defined by 8 U.S.C. §1101(a)(270(J))”

Virginia's law is consistent with USCIS regulations and settled law across the U.S.



# Jurisdiction Mandates

## Petition and Notice – Need Underlying Action

- ✓ Virginia Code §16.1-260(A)
  - ✓ “All matters alleged to be within the jurisdiction of the court **shall be commenced by the filing of a petition**”
  - ✓ **Common Practice:**
    - ✓ Petition for Custody and a Motion to Make SIJS Finding, or
    - ✓ Attorney Petitions for Custody and requests SIJS Findings in the Petition
    - ✓ **Best Practice: Must Have A Petition**
      - ✓ A Motion for SIJS Findings must be requested in the Petition or via separate Motion

# Jurisdiction Mandates Petition and Notice - Summons

- ✓ Virginia Code §16.1-263(A)
  - ✓ After a petition has been filed, the court shall direct the issuance of summons . . . To at least one parent, guardian, legal custodian or other person standing in loco parentis, and
  - ✓ Such other persons as appear to the court to be proper or necessary parties to the proceedings and
  - ✓ Legal notification must be given to both parents whether there are in the Commonwealth of Virginia, outside of the Commonwealth or in another country
- ✓ *See, All State Family Law service of process requirements for all case types that could issue SIJS orders*



# Applicability of UCCJEA

- ✓ Always **review the mandatory UCCJEA Affidavit** (In ALL custody and visitation matters) and in all SIJS matters
- ✓ Va. Code §20-146.20: Information to be Submitted to court:
  - ✓ “In a child custody proceedings, each party, in its first pleading or in an attached affidavit, **SHALL** give information, if reasonably ascertainable, **under oath as the child child’s present address or whereabouts, the places where the child has lived during the past FIVE years, and the names and present addresses o the person with whom the has lived during that period . . .**
- ✓ Va. Code §20-146.1: Definitions~~Home State means:
  - ✓ “The **state** in which a child lived with a parent or person acting as a parent for at least six consecutive months immediately before the commencement of the child custody proceeding

# Jurisdiction Mandates

## Petition and Notice – Common Practice

- ✓ Virginia Code §16.1-263(A): Legal Notification
  - ✓ Common Practice
    - ✓ The whereabouts of One or Both of the Parents is Unknown
    - ✓ One or Both of the Parents reside in another country
    - ✓ One or Both of the Parents reside in the United States
    - ✓ Petitioner alleges she/he **does not know the whereabouts** of one or both parents and seeks authorization for an **Order of Publication**
    - ✓ Has There Been a Showing of **Due Diligence?**



# Service By Publication: Va. Code § 8.01-316

- ✓ Service by Publication is available when:
  - ✓ b. **Diligence** has been used without effect to ascertain the location of the party to be served; or
  - ✓ c. That the **last know residence of the party to be served** was in the county or city in which service is sought and that a return has been filed by the sheriff that the process has been in his hands for twenty-one days and that he has been unable to make service



# Jurisdiction Mandates Petition and Notice – Waiver of Service and Consent

- ✓ Virginia Code §16.1-263(A): Legal Notification
- ✓ **“Waiver of Service” and Consent**
  - ✓ Many Petitioners, particularly when there is an attorney involved, will submit a **“Waiver of Service”** by one or both parents of the child seeking SIJS
    - ✓ One or both parents is often **residing in another country**
    - ✓ Sometimes, and less frequently, **one or both parents may reside in your city or county or a neighboring city or county, or**
    - ✓ Sometimes, and less frequently, **one or both parents may reside in another state**
    - ✓ **One or both parents, after legal notification, may appear in court and contest the allegations of abuse, neglect or abandonment**

# Waivers

- ✓ Common Practice
- ✓ “Waiver of Service” Consent
  - ✓ Best Practice:
    - ✓ Waiver must Notarized
    - ✓ Waiver Must be an Original
    - ✓ If the Waiver is in a **language other than English**,
      - ✓ It must be translated and
      - ✓ The court is given both an English and the version in Spanish or the parent’s other language

# Age of the Child Seeking SIJS

## ✓ Best Practice

- ✓ Fairfax CSU: A Birth Certificate must be submitted regarding Custody
- ✓ Verify the Child Seeking SIJS is:
  - ✓ Under Age 18 regarding a Custody Petition
  - ✓ If the Child Seeking SIJS Has **Emancipated**, the court **lacks jurisdiction** to enter a custody order
- ✓ Under Age 21 regarding SIJS Findings
  - ✓ If the Petition was filed before the Child reached majority, the
    - ✓ Court retains the authority to make factual findings
- ✓ Residing in your City or County
  - ✓ Key: **Where is the Child attending school**
    - ✓ Is the Child enrolled and attending School?

# One of the Biological Parents is Deceased

- ✓ Is There a Custody Controversary?
- ✓ Virginia Code §16.1-241 (A) (3) provides *JDRDCJ* shall have . . . Exclusive original jurisdiction . . . Over all cases, matters and proceedings involving:
  - ✓ The custody, visitation, support, control or disposition of a child:
    - ✓ B. “Whose custody, visitation . . . is a **subject of controversary or requires determination**”
- ✓ Virginia Code § 64.2-1700 provides
  - ✓ “Upon the death of either parent, the survivor shall be the natural guardian of the person of such child. If either parent has abandoned the family, the other parent shall be the natural guardian of the person of such child”

# Petitions or Motions to Modify

- ✓ Child Seeking SIJS is Still Under Age 18
  - ✓ Prior determination of Custody (prior to July 1, 2019)
    - ✓ Order does not address SIJS Findings
    - ✓ Seeks SIJS Findings
      - ✓ May File a Petition To Modify Custody
        - ✓ Filed by the Legal Custodian and a new spouse, paramour or step-parent
- ✓ Standard: Is there is a **Material Change in Circumstance?**
  1. Whether there has been a change in circumstances since entry of the most recent custody order, and
  2. Whether a change in custody would be in the best interests of the child

# Solution When No Controversy Or Prior Order Without Needed Judicial Determinations

- Does not further Congressional intent to leave the child without a forum to obtain SIJS orders
  - Consider full range of proceedings in which courts can issue SIJS judicial determinations including:
    - Guardianship
    - Declaratory Judgements
    - Protection Orders
- *SIJS Bench Book*
  - *Range of cases*
  - *Proposed orders*



# Third Party Custody Petitions

- ✓ Who is the Petitioner?
  - ✓ Biological Parent, or
  - ✓ Custody Petitions filed by Non-Parents or Third Parties
    - ✓ Confirmed “Blood Relative”
    - ✓ “Third Party” not “Blood Relative”
- ✓ Best Practice
  - ✓ Appoint a *Guardian ad litem* for an Investigation and Report (I&R)
  - ✓ **All** “Third Party Custody Petitions”
  - ✓ Protects against the possibility of fraud on the court, sexual exploitation or other maltreatment
  - ✓ DHS does not do a full best interest evaluation before releasing a child from detention – the court will be the first one doing this



# Child Seeking SIJS is Over the Age of Eighteen Must Follow Your State Law – Virginia Example

- ✓ Immigration Advocates
  - ✓ Best Practice: Custody Orders Entered Before the Child Turns 18
- ✓ Under Age 18 regarding a Custody Petition
  - ✓ If the Child Seeking SIJS Has Emancipated, the court lacks jurisdiction to enter a custody order
- ✓ Under Age 21 regarding SIJS Findings
  - ✓ If the Petition was filed before the Child reached majority, the court retains authority to make factual findings
- ✓ Immigration Advocates may rely on Virginia Code §16.1-242
  - ✓ Jurisdiction in juvenile delinquency may be retained by the court until such person reaches the age of 21

# Factual Findings After the Child Reaches Majority Must Follow Your State Law – Virginia Example

- ✓ Code of Virginia and SIJS: Virginia Code §16.1-241(A)(1)
- ✓ For purposes of this subsection only, when the court has obtained a jurisdiction over the case of any child, the court:
  - ✓ “May continue to exercise its jurisdiction until such person reaches 21 years of age, for the purpose of entering findings of fact or amending past orders, to include findings of fact necessary for the person to petition the federal government for status as a special immigrant juvenile as defined by 8 U.S.C. §1101(a)(270(J))”

# SIJS Petitions and Motions are Evidentiary Hearings

- ✓ Examine the pleadings for accuracy
- ✓ Confirm Legal Notification to all Parties
- ✓ Evidence should be reviewed and submitted under oath
- ✓ Utilize a *Guardian ad Litem* (GAL) for Third Party Custody Petitions and as needed in any custody petition
  - ✓ GAL should speak with both parents (wherever they are located)
  - ✓ Visit the child's home
  - ✓ Confirm child's attendance in school
- Immigration officials and Congress believe JDRDCJ/Family Courts are the experts in determining custody

# Importance of Judge's Role on SIJS

- Included a role for state court judges as experts in child best interests, custody, and child welfare matters.
- This state court expertise is an inherent part of courts' decision-making when courts:
  - Adjudicate facts of child abuse, neglect and abandonment
  - Issue orders regarding care, custody, and placement that further the best interests of children

# SIJS: State and Federal Roles

## State Courts With Jurisdiction Over Children

- Issue required SIJS judicial determinations providing *evidence* to help DHS adjudicate SIJS application
- ***Applying state laws and procedures***
- Making findings of fact and conclusions of law
  - Custody, dependency, placement, care of a child
  - Child suffered abuse, abandonment, or neglect by at least one parent
  - Parental reunification
  - Child's best interests

## DHS Adjudicators (Not Immigration Judges)

- Adjudicate application filed by child
- Reviews evidence, including the state court's order, to determine if the child applicant is eligible for SIJS
- Grant or deny the child SIJS
- Determine if one primary reason for the state court order was
  - To provide the child relief from harm caused by abuse, abandonment or neglect
  - Child can have mixed motives for the court order including SIJS

# State Law Definitions Apply:

- Use and apply state law
  - Definitions of abuse, abandonment, neglect, or other maltreatment
  - Apply state best interest factors to all conclusions of law
    - Custody, placement, dependency, delinquency
    - The not in best interests for child to return to home country
    - Reunification not viable with abusive parent
  - With regard to facts occurring abroad and/or in the U.S
  - Cite state law code sections
- Describe how the actions of the parent fit the state law definition of abuse, abandonment, neglect or similar basis
- Describe best interests factors relied upon for
  - Custody, placement and not in best interests to return to home country

# Best Practices For State Court Orders

- Make specific detailed findings of fact as to
  - Age of the child and evidence relied upon
  - Child's parentage
  - That parent's identify is unknown (e.g. rape)
  - Abuse, abandonment, neglect suffered & impact on child
    - Address each parent separately and
    - Incidents occurring abroad and/or in the U.S.
  - Details of who the court awarded custody to and why
  - Include no-contact and other protective provisions
- Based on those findings make conclusions of law

# Removal Proceedings and SIJS Children

- When SIJS children have open removal cases
  - They are still SIJS eligible
- Steps that prevent removal
  - Court orders that grant child custody, guardianship, or placement
  - Child files their SIJS application
- Due to DHS policies -
  - DHS Victim Centered Approach
  - Victim witness policies
  - DHS enforcement priorities
  - Parent and Guardian Interests Directives



# Representing the SIJS Eligible Child



What is USCIS looking  
for in the SIJS order?

What traumas have our  
clients experienced?

MARISSA ANDERSON / MANAGING ATTORNEY  
ARIZONA LEGAL WOMEN AND YOUTH SERVICE



# About Arizona Legal Women and Youth Services (ALWAYS)

Who do we serve?

- Trafficking survivors of all ages; and
- People under 25 who have experienced crime, homelessness, and/or the foster care system.

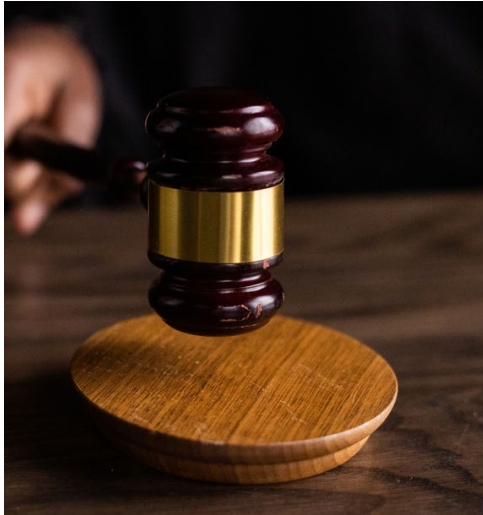
What do we help with?

- Family Law Issues;
- Immigration Applications; and
- Criminal History Repair.



# The State Court Order

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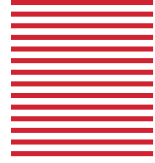


What is a USCIS officer looking for when they review the state juvenile or family court order?





**FACTS!**



# Trauma Informed Representation of SIJS Eligible Children



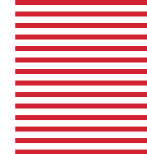
Where are they  
experiencing trauma?

In their home country

On their journey to the United States

In the United States

Thank you for  
having me!



## Questions?

Visit [www.alwaysaz.org](http://www.alwaysaz.org)

Call (602) 248-7055

Email [marissa@alwaysaz.org](mailto:marissa@alwaysaz.org)

MARISSA ANDERSON / MANAGING ATTORNEY  
ARIZONA LEGAL WOMEN AND YOUTH SERVICES

Thank you!

Questions and Comments





# Contact Information

Judge Gayl Y. Branum Carr, President,  
NCJFCJ [gayl.carr@fairfaxcounty.gov](mailto:gayl.carr@fairfaxcounty.gov)

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