

California Special Immigrant Juvenile Status (SIJS) Petition Framework: A Guide for State Court Proceedings

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FINDINGS

CALIFORNIA SPECIAL IMMIGRANT JUVENILE STATUS (SIJS) PETITION FRAMEWORK: A COMPREHENSIVE GUIDE FOR STATE COURT PROCEEDINGS

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Executive Summary

Special Immigrant Juvenile Status (SIJS) represents a unique federal immigration relief pathway designed exclusively for undocumented immigrant youth under age 21 who have been abandoned, abused, or neglected by one or both parents, and for whom returning to their country of nationality or last habitual residence would not be in their best interest.[1] Unlike most immigration benefits that originate through federal agencies, SIJS requires an initial state court proceeding to establish three specific judicial findings before an applicant may petition the United States Citizenship and Immigration Services (USCIS) for the federal classification.[1][2] California law has established comprehensive statutory and procedural frameworks through California Code of Civil Procedure § 155 and Senate Bill 873 (effective 2014) to govern these state court proceedings, and more recently, Assembly Bill 2224 (2023) has expedited the certification timeline for court orders.[3][4] California Superior Courts in multiple divisions-including juvenile dependency courts, delinquency courts, family courts, and probate courts-possess jurisdiction to make SIJS predicate findings when presented with evidence supporting eligibility, and courts have an affirmative duty to issue such findings when the statutory criteria are satisfied.[3][5] This report addresses the comprehensive California state court framework for obtaining SIJS predicate orders, including jurisdictional issues, evidentiary standards, required forms, procedural timelines, and recent statutory developments affecting the process.

Overview of Special Immigrant Juvenile Status and Its Federal Foundation

Special Immigrant Juvenile Status emerged from federal immigration law as a humanitarian classification designed to protect particularly vulnerable children who cannot safely remain with their parents.[1][2] The classification originates in section 101(a)(27)(J) of the Immigration and Nationality Act (INA), codified at 8 U.S.C. § 1101(a)(27)(J), which defines a special immigrant juvenile as an alien who has been declared dependent on a juvenile court or who has been legally committed to or placed under the custody of a state agency or department, or an individual or entity appointed by such a court.[1][2] Congress created this category with the understanding that state courts, not federal agencies, possess the institutional expertise and procedural mechanisms to make determinations about child welfare, dependency, abuse, neglect, and abandonment.[3] Unlike other immigration benefits rooted in federal adjudication, SIJS operates as a hybrid system wherein the state court makes critical factual and legal determinations about child protection, and the federal government then exercises a limited consent function to review whether those determinations satisfy federal statutory requirements and whether the application was pursued in good faith primarily to obtain relief from parental abuse, neglect, or abandonment.[2][4] The intended consequence is that youth who qualify for SIJS may eventually adjust status to become lawful permanent residents (green card holders) and, after satisfying residence requirements, apply for naturalization to become U.S. citizens.[5] Notably, SIJS applicants are excused from numerous requirements imposed on other adjustment applicants, including the requirement to demonstrate lawful entry into the United States, making SIJS uniquely accessible to undocumented youth.[2]

The federal regulations implementing SIJS, found at 8 Code of Federal Regulations § 204.11, establish that a petitioner must meet multiple eligibility criteria, including being under 21 years of age and unmarried at the time of filing and adjudication, being physically present in the United States, being the subject of a qualifying juvenile court order, and obtaining DHS consent to classification.[2][6] The requisite juvenile court order must establish three independent judicial determinations: first, that the child has been declared dependent on or placed under the custody of a juvenile court, state agency, or court-appointed individual; second, that reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and third, that it is not in the child's best interest to be returned to the country of nationality or last habitual residence.[1][2][4][6] Critically, the federal regulations require that the juvenile court order include or be supplemented with factual findings establishing a reasonable basis for each determination, as USCIS may withhold consent if evidence materially conflicts with eligibility requirements such that the request for SIJS classification does not appear bona fide.[2][6]

California's Statutory Framework for SIJS State Court Proceedings

California has enacted multiple statutory provisions to clarify state court authority and responsibility in SIJS proceedings, removing historical ambiguity about whether state courts should participate in making immigration-related determinations. The foundational statute is California Code of Civil Procedure § 155, which was substantially enhanced through Senate Bill 873 (Stats. 2014, ch. 685) and further amended by Assembly Bill 2224 (Stats. 2024, ch. 955).[3][4][5] This statute represents California's legislative affirmation that state courts have jurisdiction to make judicial determinations regarding the dependency, custody, and care of children necessary to enable those children to petition USCIS for SIJS classification.[3][4] Code of Civil Procedure § 155 subdivision (a) explicitly identifies that the juvenile, probate, and family court divisions of the superior court all possess jurisdiction to make the judicial determinations necessary for SIJS eligibility.[3][4][5] This language represents significant statutory clarity because prior to SB 873, some trial courts, particularly in family law and probate divisions, expressed hesitation about their role in making findings related to federal immigration status, leading to inconsistent application of SIJS procedures across California counties.[3][5]

The statute further provides that the judicial determinations for SIJS may be made for a child up to age 21 at any point in a proceeding, regardless of the division of the superior court or type of proceeding, provided the prerequisites are met.[4] Importantly, the statute permits a nunc pro tunc entry (retroactive entry) of SIJS findings without requiring proof of any clerical or other error, as long as the determinations could have been made as of the nunc pro tunc date.[4] This provision is valuable for situations where SIJS eligibility existed but findings were not requested or made at the original hearing, allowing courts to issue findings at a later date to facilitate the child's immigration application.[4]

Beyond jurisdictional clarification, Code of Civil Procedure § 155 subdivision (b) establishes mandatory procedural requirements for courts when requested to make SIJS determinations.[3][4] The statute provides that when an order is requested from the superior court making necessary determinations regarding SIJS and there is evidence to support those determinations—which may consist solely of, but is not limited to, a declaration by the child who is the subject of the petition—the court shall issue the order.[3][4] The use of "shall" creates an affirmative duty; courts cannot exercise discretion to deny SIJS findings when evidence supports them, contrary to the approach some courts historically took by framing SIJS determinations as optional or discretionary.[3] The statute explicitly requires that the order shall include all three determinations, each of which shall be supported by reference to relevant provisions of California law.[4] Additionally, the statute permits the court to make additional determinations beyond the three mandatory findings if those

additional determinations are supported by evidence and requested by a party.[4]

A critical protective provision in Code of Civil Procedure § 155 prohibits consideration of the child's asserted, purported, or perceived motivation for seeking SIJS classification in making the required findings.[4] The statute provides that such motivation shall not be admissible in making the findings.[4] This provision addresses a persistent concern in SIJS litigation: whether a court should deny SIJS findings on the grounds that the child's primary motivation is immigration-related rather than child welfare-related. The statute forecloses this line of inquiry for state court proceedings, recognizing that obtaining relief from parental abuse, neglect, or abandonment inherently has immigration consequences and that this dual purpose does not render the state court's child welfare findings invalid. Notably, this protection operates at the state court level; federal law allows USCIS to consider motivation in determining whether to grant consent to SIJS classification at the federal level, but the state court cannot condition its findings on motivation.[4]

Senate Bill 873, codified primarily in Code of Civil Procedure § 155, also established enhanced confidentiality protections for SIJS proceedings.[3][5] The statute provides that information regarding a child's immigration status that arises in a judicial proceeding in response to a request for SIJS findings and that is not otherwise protected by state confidentiality laws shall remain confidential and shall be available for inspection only by the court, the child, the parties, attorneys for the parties, the child's counsel, and the child's guardian.[3][4] Additionally, records of proceedings involving SIJS requests that are not otherwise protected by state confidentiality laws may be sealed using the procedure set forth in California Rules of Court 2.550 and 2.551.[3][4] These confidentiality provisions recognize the vulnerability of undocumented immigrant children and provide protections similar to those afforded in dependency proceedings.

Assembly Bill 2224 addressed a significant practical concern: the delays some courts experienced in issuing certified copies of SIJS orders after granting requests for findings.[3] The bill amended Code of Civil Procedure § 155 to require that if a court grants an order including the required SIJS determinations and the person requesting the findings has submitted a request for expedited processing accompanied by a properly conformed proposed order, the court shall provide a certified copy of the order within three court days of the date of the hearing at which the findings were made, or the date the properly conformed proposed order was submitted, whichever is later.[3][4] This provision recognizes that delays in obtaining certified copies can cascade into delays in USCIS processing, contributing to the massive backlog of pending SIJS cases, and establishes a clear procedural requirement for prompt issuance of orders when expedited processing is requested.

Multiple California Court Divisions with SIJS Jurisdiction

California Superior Court encompasses multiple divisions with distinct jurisdictional and procedural characteristics, yet all divisions possess authority to make SIJS findings when presented with evidence supporting eligibility. Understanding which division is most appropriate for a particular case requires analyzing the child's current legal status, living situation, and the factual basis for SIJS eligibility.[1][2][5] The judicial council forms available for requesting SIJS findings vary by court division, and practitioners must select the appropriate form and procedural pathway.

Juvenile Dependency Court

Juvenile dependency proceedings under Welfare and Institutions Code § 300 represent one of the most common contexts in which SIJS findings are made in California.[1][2][5][7] A child may be brought within juvenile dependency court jurisdiction when social workers or law enforcement determine that the child is being abused, neglected, or abandoned by a parent or guardian, triggering the initiation of a Welfare and

Institutions Code § 300 petition.[7][8] Within these dependency proceedings, the juvenile court may make SIJS findings when a child demonstrates the requisite abuse, neglect, or abandonment and meets the other SIJS eligibility criteria.[1][2][5] Dependency proceedings are particularly suitable for SIJS because the court is already engaged in making determinations about the child's best interest, custody, and welfare, and the factual record regarding parental maltreatment has typically been developed through the dependency process.[5][8] In dependency proceedings requesting SIJS findings, practitioners file the form JV-356 (Request for Special Immigrant Juvenile Findings), which allows the court to make the three required SIJS determinations based on evidence already in the dependency case file or supplemental evidence submitted in connection with the SIJS request.[8][11] The resulting order uses the form FL-357/GC-224/JV-357 (Special Immigrant Juvenile Findings) with a section for dependency-specific findings.[17][22]

The advantages of pursuing SIJS findings through dependency court include the substantial evidentiary record typically developed in dependency cases, the court's existing expertise in child welfare matters, and the likelihood that the child is already receiving protective services and stable placement through the dependency system.[5] However, certain challenges arise in dependency SIJS cases, particularly regarding the "best interest" determination. Courts must apply California law regarding best interest factors, considering the child's safety, health, and welfare in both the United States and the country of origin, drawing on evidence specific to the child's circumstances rather than generalizations about country conditions.[5][20] Additionally, some dependency courts have taken the position that if the child is safely placed in the United States with a responsible caretaker, the child may not need dependency court protection going forward, raising questions about continuing jurisdiction relevant to SIJS certification requirements.

Delinquency (Welfare and Institutions Code § 602) Court

Juvenile delinquency proceedings, initiated under Welfare and Institutions Code § 602 when a youth is alleged to have committed a crime and is subject to juvenile court jurisdiction, also provide a viable context for SIJS findings.[2][5][7][39] When a youth is found to have committed a delinquent act and is committed to probation or detention, that youth is considered to be placed under the custody of a state agency (the probation department or detention facility), thereby satisfying the first SIJS predicate requirement.[2][5] California appellate courts have upheld SIJS findings in delinquency cases, recognizing that a youth's involvement in the juvenile justice system does not preclude SIJS eligibility if abuse, neglect, or abandonment by a parent was contributory to the youth's involvement in delinquency.[5][7][37] Some research indicates that undocumented youth, particularly those separated from family networks and community support systems, may be more vulnerable to involvement in the juvenile justice system, making delinquency court a significant venue for SIJS identification and proceedings.[5]

In delinquency proceedings, SIJS findings are requested using form JV-356 (the same form used in dependency cases), and the resulting order is entered on form FL-357/GC-224/JV-357 with appropriate delinquency-specific language.[8][11][22] One particular advantage of delinquency proceedings is that the factual record regarding the youth's background and family circumstances may have been developed in presentence reports or disposition hearings, providing evidence relevant to abuse, neglect, or abandonment claims.[5] However, practitioners must be attentive to the criminal law implications for the youth and ensure that requesting SIJS findings does not inadvertently create additional consequences in the criminal proceeding. Additionally, a practical consideration in delinquency cases is that detention or commitment periods are often finite, meaning the youth may age out of delinquency court jurisdiction before USCIS completes its SIJS adjudication, raising continuing jurisdiction issues addressed below.

Probate Guardianship Court

Probate court guardianship proceedings represent an increasingly important venue for SIJS findings, particularly for youth who are not involved in the dependency or delinquency systems but who are living with relatives or other trusted adults and seeking legal protection and status regularization.[1][2][5] The California Probate Code historically limited guardianship authority to minors under age 18, but Assembly Bill 900 (effective January 1, 2016) extended probate court authority to appoint guardians of the person for unmarried youth ages 18 to 20 when the youth consents and is seeking SIJS findings.[1][25][28] This extension directly addressed the reality that many undocumented youth do not qualify for SIJS until they reach age 18 and develop the legal capacity to consent to guardianship arrangements, yet the federal SIJS statute permits applications until age 21.[1][25]

In probate guardianship proceedings seeking SIJS findings, practitioners file form GC-220 (Petition for Special Immigrant Juvenile Findings), which simultaneously requests appointment or extension of a guardianship of the person and makes the three SIJS predicate findings.[4][14][22] The resulting order is entered on form GC-224 (Order Regarding Eligibility for Special Immigrant Juvenile Status-Probate Guardianship).[14][22] Probate proceedings offer significant advantages for youth who have stable placements with relatives or other caregivers but lack formal legal documentation. The guardianship appointment provides the youth with a legally recognized custodian responsible for providing food, clothing, shelter, education, and medical care, directly satisfying the first SIJS requirement (legal custody of the child by an individual or entity appointed by the court).[25][28] Probate proceedings also tend to be less contentious than dependency proceedings because they are typically initiated by the caretaker and the youth acting collaboratively, rather than by government agencies alleging parental maltreatment.[5] However, probate courts require strict compliance with notice and service requirements before appointing guardians, including personal service on parents and mail service on designated relatives and agencies.[18][20][42]

Family Law Court

Family law proceedings, including actions for divorce, legal separation, parentage determination, and custody and support, have emerged as significant venues for SIJS findings, particularly in one-parent SIJS cases where the child is living safely with one parent but experienced abandonment, abuse, or neglect by the other parent.[1][3][5][36][38] Senate Bill 873 explicitly identified family law custody, visitation, parentage, and adoption proceedings as appropriate contexts for SIJS findings, validating the approach of issuing SIJS findings in family law cases and providing examples of scenarios such as custody proceedings in which one parent is awarded sole custody based on another parent's conduct.[3][5][38]

In family law proceedings requesting SIJS findings, practitioners file form FL-356 (Confidential Request for Special Immigrant Juvenile Findings-Family Law), which is filed confidentially and requests that the court make the three SIJS predicate findings as part of or in conjunction with a custody determination.[13][16][40] The resulting order is entered on form FL-357 (Special Immigrant Juvenile Findings), which is also maintained as a confidential part of the family law case file.[19][40] One-parent SIJS cases present particular complexity because the child is not in danger of reunification with both parents; rather, the child is safely residing with one parent and needs protection from the other parent's abuse, neglect, or abandonment. Courts must carefully analyze whether a one-parent scenario satisfies the SIJS statutory requirement that "reunification with one or both of the child's parents is not viable due to abuse, neglect, abandonment, or a similar basis." [2][4][6] California case law, particularly the landmark decision in *Eddie E. v. Superior Court* (2015) 234 Cal. App. 4th 319, established that the statutory language "one or both" is disjunctive, meaning that a child can satisfy this requirement by demonstrating inability to reunify with one parent due to abuse, abandonment, neglect, or a similar basis.[45] This clarification has enabled many one-parent SIJS cases to proceed through family law courts.[45]

Family law proceedings offer particular advantages for children already in safe family arrangements because the court is accustomed to making custody determinations based on the child's best interest and can readily incorporate SIJS findings into existing family law orders.[5] However, certain complications arise in family law SIJS cases, including the involvement of non-abusive parents who may contest SIJS findings, concerns about the confidentiality of sensitive information regarding abuse or abandonment in family law files, and the practical reality that some family law courts have historically been less experienced with immigration-related determinations than dependency or delinquency courts. Practitioners must also attend to notice requirements in family law cases to ensure that all necessary parties receive notice of the SIJS findings request, as failure to provide proper notice can result in the court denying the request or issuing findings vulnerable to collateral attack.

The Three Mandatory SIJS Predicate Findings

Before a child may apply for SIJS with USCIS, a state court must issue an order making three specific judicial determinations, each of which must be supported by reference to relevant California law. These determinations are mandatory when evidence supports them, not discretionary.[3][4] Understanding each determination and the evidentiary foundation required for each is essential for practitioners seeking SIJS findings.

First Finding: Legal Custody or Dependency Determination

The first predicate finding requires that the child has been declared a dependent of the court or legally committed to or placed under the custody of a state agency or department, or an individual or entity appointed by the court.[1][2][4][6] In dependency proceedings, this finding typically emerges straightforwardly because the court has already declared the child a dependent under Welfare and Institutions Code § 300.[2][5][7] In delinquency proceedings, the first finding is satisfied by the youth's placement in custody of a probation department or detention facility as a result of delinquent findings.[2][5][7] In probate guardianship proceedings, the first finding is satisfied by the court's appointment of a guardian of the person.[4][14][28] In family law proceedings, the first finding is satisfied by the court's order placing the child in the custody of an individual (such as the non-abusive parent) appointed by the court through custody orders.[1][5][16]

The statute requires that when making this determination, the court shall indicate the date on which the dependency, commitment, or custody was ordered and the factual basis for making the order.[4] This requirement ensures that the SIJS predicate order contains sufficient detail to allow USCIS to verify that the state court exercised proper jurisdiction and made an informed determination based on evidence.[4][21][27]

Second Finding: Non-Viability of Reunification

The second predicate finding-that reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law-represents the most fact-intensive and legally complex of the three SIJS determinations.[1][2][4][6] The statute requires that the court indicate the date on which reunification was determined not to be viable and the factual basis for making the determination.[4] This finding requires the court to assess the likelihood that the child could be reunified with each parent, given the nature and severity of the parental maltreatment and other relevant factors.

California case law has clarified what "not viable" means in this context. The foundational California Supreme Court decision in *Guardianship of Saul H.* (2022) 13 Cal.5th 827 established that "not viable" means not "workable or practical to force the child to return to live with the parent," recognizing that viability must be assessed based on actual family circumstances rather than theoretical possibilities.[31][48] The *Saul H.* court rejected narrow interpretations of neglect and abandonment, holding that courts must apply California law

definitions of abuse, neglect, abandonment, and similar bases without adding restrictions beyond what state law establishes.[31][48]

Third Finding: Best Interest Determination

The third predicate finding requires that it is not in the child's best interest to be returned to the child's or the parent's previous country of nationality or country of last habitual residence.[1][2][4][6] This determination requires the court to assess and compare the child's circumstances and well-being in the United States with what the child's circumstances would likely be if returned to the country of origin, considering factors such as the child's age, health, education, family relationships, safety concerns, and available support systems in each location.[4][21][27] The statute requires that the court indicate the factual basis for this determination.[4]

Courts must apply California law regarding best interest determinations, which generally focus on the child's health, safety, and welfare.[4][17][20][27] California Family Code § 3011 and related statutes provide the framework for analyzing best interest in custody and guardianship contexts, and these same principles apply to SIJS best interest determinations.[4][17][20][27] Importantly, courts cannot speculate about conditions in the country of origin or rely on extra-record evidence or generalized assumptions about countries; instead, courts must base best interest findings on specific evidence regarding that child's circumstances and the conditions relevant to that child in the country of origin.[4][17][31] The Guardianship of Saul H. decision clarified that when a court has made one-parent SIJS findings (where the child is safe with one parent in the United States), the court must still address whether returning the child to the country of origin would be in the child's best interest, even if the child could theoretically reunify with the non-abusive parent in the country of origin.[31][48]

Statutory Definitions of Abuse, Neglect, Abandonment, and Similar Bases

Because SIJS determinations rest on state law definitions of abuse, neglect, and abandonment, California courts must apply the definitions found in California statutes rather than federal immigration law definitions. The relevant definitions appear in multiple California code sections, and practitioners must carefully analyze which definitions support the particular facts of each case.

Abuse

California law defines abuse in multiple contexts. Under Welfare and Institutions Code § 300(a), a child comes within juvenile court jurisdiction if the child has suffered or there is substantial risk that the child will suffer serious physical harm inflicted nonaccidentally upon the child by the parent or guardian.[26][30] Additionally, Welfare and Institutions Code § 300(b)(2) addresses victims of sexual trafficking.[27][30] The Penal Code § 11165.2 provides definitions of abuse for mandatory reporting purposes, including physical injury inflicted nonaccidentally, serious emotional damage, and sexual abuse.[27][30] California Family Code § 7823(a) addresses abuse in the context of parental fitness determinations.[27][30] For SIJS purposes, courts apply these statutory definitions to determine whether the parent engaged in conduct satisfying the legal definition of abuse under California law, without requiring the court to make moral judgments about parental "blameworthiness" but rather focusing on the legal elements of the abuse definition.[4][31][48]

Neglect

Neglect under California law encompasses several distinct forms of parental failure. Welfare and Institutions Code § 300(b) addresses harm or substantial risk of harm resulting from parental failure or inability to supervise or protect the child.[26][30][27] Welfare and Institutions Code § 300(c) addresses children who have suffered or are at substantial risk of suffering serious emotional damage as a result of conduct by the

parent or guardian.[26][30][27] California Family Code § 7823(a) addresses neglect and cruel treatment in the context of parental fitness.[27][30] Penal Code § 270 and § 11165.2 provide additional definitions of criminal child neglect and failure to provide adequate support.[27][30] For SIJS purposes, courts analyze whether the parent's conduct meets the statutory definition of neglect, which may encompass failure to provide adequate supervision, failure to protect from known dangers, failure to provide necessities, or emotional maltreatment.[4][21][27]

Abandonment

Abandonment under California law is defined in multiple code sections with slightly different phrasings. Welfare and Institutions Code § 300(g) provides that a child may come within juvenile court jurisdiction if the child has been left without provision for reasonable and necessary care or supervision by a parent or guardian who intends to abandon the child.[26][30][27] California Family Code § 3402(a) defines abandoned as "left without provision for reasonable and necessary care or supervision." [27][30] California Family Code § 7822 addresses abandonment in the context of parental rights termination, providing that abandonment may be demonstrated by the child being left in the care of one parent or non-parent with failure by the abandoning parent to provide support or without communication from that parent with intent to abandon, or by failure to provide identification or support or failure to communicate being presumptive evidence of intent to abandon.[27][30] Significantly, the Guardianship of Saul H. decision clarified that a showing of parental intent to abandon is not always required for SIJS purposes; in particular, when a parent has died, the child may have been abandoned (left without provision for support) even without evidence of the deceased parent's intent to abandon.[31][48] This clarification proved critical for youth whose parents died before the youth migrated to the United States.

Similar Basis Under State Law

In addition to abuse, neglect, and abandonment, the SIJS statute permits courts to find that reunification is not viable due to "a similar basis found under state law." [1][2][4][6] This language provides flexibility for factual situations that do not neatly fit the traditional abuse, neglect, or abandonment definitions but that still warrant SIJS protection. The Guardianship of Saul H. decision identified several "similar bases" that courts may consider. The court held that parental failure or inability to adequately supervise or protect under Welfare and Institutions Code § 300(b)(1) constitutes a similar basis to neglect for SIJS purposes.[31][48] Additionally, a determination that placement with a parent would be detrimental to the child's health, safety, or welfare under Family Code § 3041 may constitute a similar basis.[27][30][31] The court also recognized that inability to protect the child may constitute a similar basis.[31][48] These similar bases have enabled SIJS findings in cases where, for example, a parent is incapacitated by mental illness, substance abuse, or disability such that the parent cannot adequately supervise or protect the child, or where environmental conditions in the country of origin make adequate supervision impossible.[31][48]

Evidence Supporting SIJS Predicate Findings

California law explicitly addresses what evidence may support SIJS predicate findings, and this guidance represents an important recognition of the practical challenges practitioners face in obtaining comprehensive documentation of abuse, neglect, or abandonment that occurred in foreign countries before the child migrated to the United States. The statute provides that evidence to support the SIJS findings "may consist solely of, but is not limited to, a declaration by the child who is the subject of the petition." [3][4] This language means that a child's own sworn declaration regarding abuse, neglect, or abandonment can, standing alone, provide a sufficient evidentiary foundation for SIJS findings.[3][4] This provision represents significant recognition that

children who have fled dangerous family situations often lack documentary evidence-court records, police reports, medical documentation-because such documentation does not exist in their countries of origin or is inaccessible to the child.[3][5][27]

Practitioners may also submit various other forms of evidence to support SIJS findings. Supporting documents may include any documentation previously submitted to the court (such as in the underlying dependency, delinquency, family law, or probate proceeding), the petition or complaint that initiated the court proceedings, court transcripts, affidavits summarizing evidence presented to the court, records from the judicial proceedings, medical or psychological evaluations, expert testimony regarding country conditions when relevant to the best interest determination, or other evidence establishing the factual basis for the findings.[4][20][21][27] Importantly, evidence supporting the best interest determination may include country conditions documentation, country-specific expert testimony, photographs or video evidence of conditions in the country of origin, or other evidence regarding social, economic, security, or environmental conditions relevant to the particular child's likely circumstances if returned.[4][21][27] However, courts cannot speculate about such conditions; the evidence must be specific to the child's circumstances and the country of origin.[4][31][48]

The evidentiary standard for SIJS findings is preponderance of the evidence, meaning that the facts supporting each finding need only be "more likely than not" to be true.[31][48] This standard is less stringent than the clear and convincing evidence standard applicable in some child welfare contexts, but more stringent than the "probable cause" standard applicable in detention decisions.[31][48] The Guardianship of Saul H. decision clarified that courts must base SIJS findings on evidence presented and cannot rely on extra-record information or speculation.[31][48] When evidence is contradictory or disputed, the court must weigh the evidence and make credibility determinations based on the evidence actually presented.[31][48]

Judicial Council Forms for SIJS Proceedings

California has adopted standardized Judicial Council forms for SIJS proceedings in each court division, promoting consistency and clarity in the SIJS predicate order issuance process. These forms guide practitioners and courts in organizing the necessary information and ensuring that all three predicate findings are included with appropriate factual support and citations to applicable law.

In juvenile dependency and delinquency proceedings, practitioners request SIJS findings using form JV-356 (Request for Special Immigrant Juvenile Findings).[8][11] This form guides the practitioner in identifying the child, the child's parents, the basis for the court's jurisdiction (whether under Welfare and Institutions Code § 300 for dependency or § 602 for delinquency), the child's current status in the court's custody, and factual support for each of the three SIJS findings. The court's resulting order is entered on form FL-357/GC-224/JV-357 (Special Immigrant Juvenile Findings), which consolidates the order format for all three court divisions, with section markings indicating whether it applies to family law (FL-357), probate (GC-224), or juvenile proceedings (JV-357).[17][22]

In probate guardianship proceedings, practitioners simultaneously request appointment of a guardian and SIJS findings using form GC-220 (Petition for Special Immigrant Juvenile Findings).[4][14] This form is designed to allow concurrent filing of the guardianship petition and SIJS findings request as separate documents (rather than as attachments to the guardianship petition), though they may be heard together.[4][14][28] The court's resulting order is entered on form GC-224 (Order Regarding Eligibility for Special Immigrant Juvenile Status-Probate Guardianship).[14][22]

In family law proceedings, practitioners file form FL-356 (Confidential Request for Special Immigrant

Juvenile Findings-Family Law) as a confidential component of the case file.[13][16][40] This form is filed in conjunction with or at the same time as the family law petition requesting custody orders (such as a petition for divorce and custody, a petition to determine parentage, or a petition for custody and support). The form guides practitioners in establishing that the court has jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act, identifying the child and parents, identifying the family law proceeding in which the request is being made, describing how the custody orders will place the child in the custody of a court-appointed individual, and providing factual support for the reunification and best interest findings. The court's resulting order is entered on form FL-357 (Special Immigrant Juvenile Findings), which is also maintained as a confidential document.[19][40]

All of these forms require the court to make specific findings with citations to applicable law, to indicate dates of key events (such as when custody or dependency was ordered), and to describe the factual basis for each finding. The standardized format promotes clarity and completeness, reducing the likelihood that USCIS will request supplemental evidence or deny consent based on insufficient factual findings in the state court order.

Procedural Timelines and the Impact of Assembly Bill 2224

Prior to the enactment of Assembly Bill 2224 in 2024, one significant practical problem affecting SIJS cases was that some California courts issued favorable decisions on SIJS requests but then delayed issuing certified copies of the SIJS predicate order for weeks or even months.[3][9][12] These delays cascaded into delays in filing the federal I-360 petition with USCIS, contributing to the massive backlog of pending SIJS applications and extending the period during which undocumented youth remained without formal immigration status or work authorization.[3][9][12] Assembly Bill 2224 directly addressed this concern by establishing an expedited issuance requirement.[3][4][12]

Under the amended Code of Civil Procedure § 155, if a court grants an order that includes the required SIJS determinations and the person requesting the findings has submitted a request for expedited processing accompanied by a properly conformed proposed order, the court shall provide the person requesting the findings with a certified copy of the order within three court days of the date of the hearing at which the findings were made, or the date the properly conformed proposed order was submitted, whichever is later.[3][4] This provision creates a clear, administratively manageable timeline for courts. The "three court days" language means three days on which the court is open, excluding weekends and court holidays, effectively creating a maximum window of approximately one business week for certification once the hearing has occurred and a properly prepared order has been submitted.[3][4][12]

The requirement emphasizes the importance of practitioners submitting a properly conformed proposed order with the SIJS request. A "properly conformed" order is one that accurately reflects the evidence presented at the hearing, tracks the statutory language regarding the three required findings, includes factual support for each finding, and cites applicable law.[3][4] Practitioners are advised to prepare proposed orders substantially in advance of the SIJS hearing, reflecting careful attention to statutory requirements and available evidence. When the proposed order is substantially complete and accurate, submission with the SIJS request signals to the court that expedited processing is being requested and provides the court with a ready-to-sign document, facilitating prompt certification.[3][4][12]

The three-court-day timeline applies only when expedited processing is specifically requested and a properly conformed proposed order is submitted. If expedited processing is not requested or if the proposed order is not properly conformed, the statute does not specify an issuance timeline, and standard civil procedure rules govern. However, practitioners should recognize that timely issuance of certified SIJS orders is important

because it allows clients to promptly file I-360 petitions with USCIS, filing dates matter for establishing priority dates for visa availability purposes, and delays in obtaining certified orders can result in youth aging out of SIJS eligibility (the statute permits applications until age 21) or facing other time-sensitive consequences.[3][4][43]

Recent Federal Developments: Deferred Action for SIJS Applicants

A significant development affecting California SIJS cases occurred in 2025 when USCIS initially rescinded its policy of granting deferred action to SIJS recipients awaiting adjustment of status due to visa number unavailability, but litigation resulted in a court order in November 2025 requiring USCIS to reinstate the policy.[23][46] This development illustrates the dynamic nature of SIJS-related federal policy and the importance for practitioners to remain current on federal developments affecting clients.

Beginning in March 2022, USCIS had implemented policy to automatically consider granting deferred action on a case-by-case basis to SIJS applicants with approved Form I-360 petitions who were unable to adjust status because visa numbers were unavailable in their immigrant category.[23][46] Deferred action provided SIJS youth with protection from removal and eligibility for employment authorization (typically under the (c)(14) category), creating a crucial bridge while youth waited for visa availability.[23][46] Many SIJS youth were routinely granted deferred action and work authorization upon I-360 approval, and in 2024, USCIS revised Form G-325A to allow renewal of deferred action once it expired.[23][46]

On June 6, 2025, USCIS rescinded this deferred action policy, announcing that it would no longer grant deferred action based on SIJS classification and that it might terminate deferred action and revoke SIJS-based employment authorization before the validity period expired at USCIS's discretion.[23][46] This rescission created significant hardship for thousands of SIJS youth who had been relying on deferred action for work authorization and removal protection while awaiting visa availability.[23][46]

On July 17, 2025, a class action lawsuit was filed challenging the rescission.[23][46] The named plaintiffs included nine immigrant youth, Centro Legal de La Raza (a legal services organization based in Oakland), CARECEN-NY and the National Immigration Project, Kids in Need of Defense (KIND), Public Counsel, Davis Wright Tremaine LLP, and Lowenstein Sandler LLP.[23][46] On November 19, 2025, the court issued an order staying USCIS's rescission of the SIJS-based deferred action policy, rendering the 2022 USCIS policy in effect and providing that USCIS must conduct SIJS-based deferred action and employment authorizations pursuant to USCIS's 2022 policy.[23][46] The court order stated that "the government must therefore conduct deferred-action and employment-authorization adjudications pursuant to the 2022 Policy Alert." [23][46] As a result of this litigation, USCIS should process deferred action adjudications and renewals for SIJS youth, and youth with SIJS-based deferred action can apply for work authorization.[23][46]

This development underscores the importance for practitioners of monitoring federal SIJS policy developments and communicating with clients about the status of federal deferred action policies. While state court SIJS predicate orders are not directly affected by federal policy changes regarding deferred action, the availability or unavailability of deferred action can significantly impact the practical benefits and timeline for SIJS youth awaiting adjustment of status.

Northern California Implementation: San Francisco Considerations

For immigration practitioners in the San Francisco office of The Law Offices of Fernando Hidalgo, Inc., certain Northern California-specific considerations are relevant to SIJS practice. San Francisco and surrounding Bay Area counties have significant populations of undocumented youth from Central America,

Mexico, and other countries, creating substantial SIJS caseloads in juvenile dependency, family law, and probate courts throughout the region. Northern California immigration courts and USCIS field offices interact with state courts in specific ways that merit attention.

The San Francisco Superior Court has multiple divisions handling SIJS cases. Juvenile dependency and delinquency cases proceed through the Juvenile Delinquency and Dependency Court located at 100 Montgomery Street, Suite 800, San Francisco, CA 94104, and at additional hearing locations in the Bay Area. Family law matters proceed through family law divisions at various courthouse locations depending on the county. Probate guardianship cases proceed through probate courts with locations in each Bay Area county. Practitioners should become familiar with the local rules, scheduling practices, and judge preferences in their particular counties and divisions.

Furthermore, the San Francisco Immigration Court (also referred to as the Executive Office for Immigration Review, or EOIR, Hearing Site), located at multiple addresses in the Bay Area including 100 Montgomery Street, Suite 800, in San Francisco and additional locations, interacts with Bay Area state courts through asylum cases, removal proceedings, and related matters. Immigration judges in the San Francisco district are familiar with SIJS cases and generally apply consistent standards for recognizing and crediting SIJS predicate orders. However, practitioners should remain aware of any local practices or procedures that might affect timing or procedure for state court SIJS proceedings.

Evidentiary Challenges and Practical Considerations

Practitioners pursuing SIJS findings face several recurring evidentiary and practical challenges that merit careful attention. First, many SIJS applicants have limited documentary evidence of abuse, neglect, or abandonment. Youth who fled dangerous family situations may have left without documentation, may not have access to foreign government records, or may fear that contact with foreign government agencies to obtain documentation could expose them or their families to additional danger.^{[3][5][27]} The statutory permission to rely on a child's declaration alone alleviates some of these concerns, but practitioners should recognize that courts may request additional evidence even when a child provides a detailed and credible declaration.^{[3][5][27]} Practitioners are advised to prepare comprehensive declarations from the child that address each element of the applicable state law definition of abuse, neglect, abandonment, or similar basis, and to gather any available corroborating evidence such as medical records, school records, photographs, or third-party affidavits from individuals with knowledge of the family situation.^{[4][21][27]}

Second, practitioners must carefully document country conditions relevant to the best interest finding. Courts cannot rely on generalized assumptions about countries of origin but must base best interest determinations on evidence specific to the particular child's circumstances.^{[4][31][48]} This may require obtaining country conditions reports, expert testimony from individuals familiar with the particular country and regions relevant to the child, or other specific evidence.^{[4][21][27]} Practitioners should consider obtaining expert evidence addressing the child's likely circumstances if returned to the country of origin, the availability and quality of educational, healthcare, and social services, the security situation in particular regions, and the likelihood that the child would have adequate adult supervision and financial support.^{[4][21][27]}

Third, practitioners must be attentive to notice and service requirements. Depending on the court division and proceeding type, failure to provide proper notice to parents, relatives, or other interested parties can result in the court denying the SIJS request or issuing findings vulnerable to collateral attack.^{[4][18][20][40]} Probate guardianship proceedings have particularly strict notice requirements, including personal service on parents and mail service to designated relatives and agencies.^{[18][20]} Family law proceedings require proper notice

under the Uniform Child Custody Jurisdiction and Enforcement Act and local court rules.[40] Practitioners should carefully review applicable rules for the particular court division and ensure strict compliance with notice requirements.[4][18][20][40]

Fourth, practitioners must consider the interaction between state law custody determinations and federal SIJS consent requirements. While state courts make the three predicate findings based on state law, USCIS must ultimately consent to SIJS classification based on federal criteria.[2][6] USCIS reviews state court orders to determine whether the request for SIJS classification appears bona fide and whether there is reasonable factual support for the state court's determinations.[2][6][21] This means that state court orders should include clear factual findings and citations to state law to facilitate USCIS's review and consent determination.[2][6][21] Practitioners are advised to prepare state court orders that include specific factual support for each finding, identify the state law provisions upon which the court relied, and document that the court made an informed decision based on evidence.[2][6][21][27]

Conclusion and Strategic Framework

California's statutory framework for SIJS state court proceedings, established through Code of Civil Procedure § 155 and enhanced through Senate Bill 873 and Assembly Bill 2224, provides a comprehensive pathway for undocumented immigrant youth under age 21 to obtain the state court predicate findings necessary for federal SIJS classification.[1][3][4][5] The framework recognizes that state courts, not federal agencies, possess expertise in child welfare determinations, and it imposes an affirmative duty on courts to issue SIJS findings when evidence supports eligibility.[3][4] The framework operates across multiple California court divisions—juvenile dependency, delinquency, family law, and probate guardianship—creating flexibility to pursue SIJS findings through the proceeding type most appropriate to each child's circumstances.[1][2][4][5]

The three mandatory SIJS predicate findings—dependency or custodial placement, non-viability of reunification due to abuse, neglect, abandonment, or a similar basis under state law, and best interest determination regarding return to the country of origin—require courts to make child welfare determinations grounded in California law and specific evidence rather than federal immigration law or speculation about circumstances.[1][2][4][6] California law explicitly permits evidence in the form of a child's sworn declaration alone to support findings, recognizing the practical reality that youth who have fled dangerous family situations often lack documentary evidence.[3][4] Standardized Judicial Council forms guide practitioners and courts through the process, and Assembly Bill 2224's expedited certification requirement ensures that certified orders are issued promptly, facilitating timely federal applications.[3][4]

For immigration practitioners in Northern California, understanding this state court framework is essential to serving undocumented immigrant youth seeking SIJS protection. The pathway begins with identifying whether a youth meets SIJS eligibility criteria, determining which state court proceeding provides the most appropriate venue for SIJS findings, preparing comprehensive evidence supporting each predicate finding, filing the request using the appropriate Judicial Council form, securing favorable findings from the state court, and obtaining a certified copy of the SIJS predicate order to submit with a federal I-360 petition to USCIS. Success at the state court level creates the foundation for federal SIJS approval, adjustment of status to lawful permanent residency, and eventual eligibility for naturalization. Recent federal developments affecting deferred action policies underscore the importance of remaining current on federal SIJS-related guidance while maintaining focus on the state court framework that initiates the SIJS process.

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