

Date of Hearing: April 9, 2024

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Alex Lee, Chair

AB 2224 (Santiago) – As Amended March 12, 2024

SUBJECT: Human services: special immigrant juvenile status

SUMMARY: Requires the court to provide the petitioner for Special Immigrant Juvenile Status (SIJS) with a certified copy of the order on the same day it is issued, if the court makes the necessary determinations. Authorizes a court to appoint a parent as the guardian of their unmarried child who is between 18 and 21 years of age, and clarifies that a parent can file a petition to extend guardianship of that child. Expands eligibility for public social services and healthcare services to noncitizens who have been abused, neglected, or abandoned, including those who filed a petition for SIJS, who received a court order that enables them to file a petition for SIJS, and those who are seeking a court order to file for SIJS. Requires public social services and healthcare services to be discontinued if all pending applications or petitions are administratively denied. Specifically, **this bill**:

- 1) Requires, if the court issues an order making the necessary determinations regarding SIJS, a certified copy of the order to be provided to the petitioner on the same day the order issued by the court.
- 2) Authorizes the court to appoint a parent as the guardian of the person of their unmarried child who is 18 years of age or older, but who has not yet attained 21 years of age.
- 3) Permits a parent on behalf of a ward, or the ward, to file a petition to extend the guardianship of the person for a period of time not to extend beyond the ward attaining 21 years of age.
- 4) Expands eligibility for public social services and health care services, including access to refugee cash assistance, refugee social services, and the Refugee Resettlement Program for healthcare services, to noncitizen victims of trafficking, domestic violence, and other serious crimes and noncitizens who have been abused, neglected or abandoned.
- 5) Requires public social services and healthcare services to be discontinued if there is a final administrative denial of all pending applications or petitions by an individual, including an application for T nonimmigrant status (T visa), a petition for U nonimmigrant status (U visa), or a petition for SIJS, as applicable.
- 6) Expands the term “noncitizen victims of trafficking, domestic violence, and other serious crimes” to include “noncitizens who have been abused, neglected, or abandoned.”
- 7) Expands definition of “noncitizen victims of trafficking, domestic violence, and other serious crimes, and noncitizens who have been abused, neglected, or abandoned” to include:
 - a) Individuals who have filed a petition with the appropriate federal agency for SIJS;
 - b) Individuals who received an order from the superior court making the necessary determinations to enable the individual to file the petition described in a) above; and,

c) Individuals who have made, or are preparing to make, a request for an order from the superior court making the necessary determinations to enable the individual to file the petition described in a) above.

8) Makes technical changes.

EXISTING LAW:

State law:

- 1) Authorizes various public social services programs for which eligible low-income persons may qualify, including refugees: California Work Opportunity and Responsibility to Kids (CalWORKs), Medi-Cal, Healthy Families, Cash Assistance for Immigrants and California Food Assistance Program. (Welfare and Institutions Code [WIC] § 10000 – 18999.98)
- 2) Provides that "refugee social services" include, but are not limited to, English language and employment training funded through federal appropriations. (WIC § 13275(c))
- 3) Establishes the "CalFresh program" for the administration of federal Supplemental Nutrition Assistance Program (SNAP) benefits to eligible individuals. Provides program requirements and eligibility, as specified. (WIC § 18900 et seq.)
- 4) Establishes the CalWORKs program within California to provide Temporary Assistance for Needy Families (TANF) funds for welfare-to-work (WTW) services to eligible families. (WIC § 11200 *et seq.*)
- 5) Requires all individuals over 16 years of age, unless they are otherwise exempt, to participate in WTW activities as a condition of eligibility for CalWORKs. (WIC § 11320.3)
- 6) Establishes the "Electronic Benefits Transfer (EBT) Act" and defines the EBT system as the program designed to provide benefits to those eligible to receive public assistance benefits such as CalWORKs and CalFresh. (WIC § 10065 *et seq.*)
- 7) Requires the California Department of Social Services (CDSS) to allocate appropriated federal funds for refugee social services programs to each eligible county and, if the department exercises its discretion, to a qualified nonprofit organization, based on the number of refugees receiving aid in the eligible county or the number of refugees that reside in the eligible county. (WIC § 13276)
- 8) Requires a county, to the extent permitted by federal law, to utilize funds to pay for the costs of any services provided to, or activity performed on behalf of, any refugee participating in the Refugee Cash Assistance Program. (WIC § 13278)
- 9) Requires that refugee social services programs be available to recipients of refugee cash assistance and refugees receiving county general assistance in eligible counties. If the county does not provide these services, a portion of the funds allocated to the county may be used to provide services to recipients of refugee cash assistance and refugee recipients of general assistance based on federal requirements and service needs. (WIC § 13279)
- 10) Provides that, in counties receiving federal refugee social services funding, the county welfare department shall include in its CalWORKs plan a section that specifically addresses

the provision of services for refugee applicants for, and recipients of, aid and the orderly transition of those applicants and recipients into the CalWORKs program. (WIC § 13280)

- 11) Authorizes CDSS, notwithstanding any other law, and to the extent permitted by federal law, to contract with, or issue grants to, qualified nonprofit organizations for the purpose of administering federally funded refugee cash assistance within a county. (WIC § 13284)
- 12) Authorizes the provision of aid to eligible legal immigrants who have been lawfully admitted for permanent residence or are otherwise permanently residing in the United States (U.S.), to the extent permitted by federal law. (WIC § 11104)
- 13) Provides eligibility for public social services, benefits, and health care services provided through the state to noncitizen victims of trafficking, domestic violence, and other serious crimes, as specified. (WIC § 18945)
- 14) Allows a probate court to appoint a guardian of the person, the estate, or both for a child under 18 years of age, taking into consideration the best interest of the proposed ward. However a court may, with the consent of the proposed ward, appoint a guardian for an unmarried individual who is 18 years of age or older, but who has not yet attained 21 years of age, in connection with a petition to make necessary findings regarding SIJS, as specified. (Probate Code § 1501; 1501.1)
- 15) Provides that the superior court (including a juvenile, probate, or family court department or division of the superior court) has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act. Requires the superior court to make an order containing the necessary findings regarding SIJS pursuant to federal law, if there is evidence to support those findings. (Code of Civil Procedure § 155)

Fiscal law:

- 16) Establishes the federal SNAP, pursuant to the Food Stamps Act of 1964, to provide benefits to families and individuals meeting specified criteria. (7 United States Code Section [U.S.C.] § 2011)
- 17) Establishes the federal TANF program to provide aid and WTW services to eligible families. (42 U.S.C. § 601 *et seq.*)
- 18) Defines "special immigrant juvenile" as a person under 21 years of age who is declared a dependent by a juvenile court or committed to the custody of a state agency or a court-appointed individual, whose reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law, and whose return to their country of nationality or last habitual residence is not in the juvenile's best interest. Allows such person to obtain SIJS and, based on that, apply for a visa for lawful permanent residency. (8 U.S.C. § 1101(a)(27)(J); 8 Code of Federal Regulations § 204.11)
- 19) Prohibits the federal government from returning to their home countries people whose life or freedom would be threatened because of the person's race, religion, nationality, membership in a particular social group, or political opinion. (8 U.S.C. § 1231(b)(3))

FISCAL EFFECT: Unknown, this bill has not been analyzed by a fiscal committee.

COMMENTS:

Background. *Special Immigrant Juvenile Status* is a classification used at the federal level to help undocumented youth remain in the country under specified protections. SIJS was established in 1990 at the federal level and has been expanded upon by several states to allow access to services for immigrant children, including allowing for lawful permanent resident (LPR) status. The Immigrant Legal Resource Center, San Francisco Public Defender's Office and Public Counsel provide an overview of the SIJS eligibility requirements in a 2017 presentation as follows:

First, a juvenile court must establish the child's eligibility for immigration relief. Without the court's findings, the child is unable to apply for SIJS. A "juvenile court," for SIJS purposes, is "a court located in the United States having jurisdiction under State law to make judicial determinations about the custody and care of juveniles." Since this is a federal definition, includes different types of California courts, including those overseeing dependency and delinquency proceedings, as well as those presiding guardianships, adoptions, and even family law cases. What matters is the jurisdiction of California courts, not the labels they use for themselves.

Second, the juvenile court must have either 1) declared the child dependent on the court, 2) legally committed the child to, or placed the child under the custody of, an agency or department of a state, or 3) legally committed the child to, or placed the child under the custody of, an individual or entity appointed by the court. Juvenile court dependents meet this requirement. A child whose custody is entrusted to a guardian, whether an institutional guardian or a prospective adoptive parent, also meets this requirement.

In addition to the criteria above, the court must also find that the child's reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law. "Under California law, children have met this requirement when, for example, their parents are deceased; their parents' identities are unknown; their parents have sexually, physically, or emotionally harmed them; or their parents have not provided appropriate care, support, or protection. By definition, SIJS-eligible children have suffered the lack of a stable and safe two-parent household." Additionally, the court must determine that it is not in the child's best interest to be returned to their or their parent's country of nationality.

In short, any unmarried, undocumented individual under 21 years of age who has been abused, neglected, or abandoned by one or both parents and has been declared a dependent of the juvenile court or been committed to the custody of specified entities may seek SIJS classifications. Through current requirements, a large portion of undocumented unaccompanied minors in California would qualify for SIJS; however, many are unaware of the application process regulations and do not receive their right to service. SIJS may also apply to many unaccompanied minors, or those youth who arrived in the U.S. without lawful status, had not yet reached 18 years of age, and with respect to whom either there is no legal parent or guardian in the U.S., or no parent or legal guardian in the U.S. is available to provide care and physical custody.

Once the child's eligibility for immigration relief has been determined and is authorized to petition for SIJS by a state court, it is federal immigration authorities that ultimately decide

whether a minor will be granted SIJS. After SIJS applicants submit their petition to U.S. Citizenship and Immigration Services (USCIS), USCIS has 180 days to make a decision, per federal law. However, the USCIS' adjudication timeline is often delayed, leaving this vulnerable population without access to any social services. According to a report titled, "*False Hopes: Over 100,000 Immigrant Youth Trapped in the SIJS Backlog*" published by the End SIJS Backlog Coalition, in fiscal year 2023, SIJS applicants waited on average 263 days to receive a decision on their petition. This means applicants are required to wait an additional three months past the USCIS deadline for any news. Additionally, there are no derivative applications for SIJS applicants, meaning parents, siblings, or even minor children cannot apply for SIJS throughout the SIJS process.

If these young adults receive SIJS approval by federal authorities, the next step is filing their LPR petition, which also comes with additional delays. Despite SIJS' humanitarian intent, LPR petitions are processed under the employment-based immigration visa system, which is subject to annual visa caps. Given these caps, SIJS young adults have to wait years for a decision on their LPR petition, solely due to visa unavailability. A youth who gains LPR through SIJS can never petition for a parent (even a non-abusive parent in a one-parent SIJS case), but can petition for a spouse or minor children.

As of March 2023, 107,693 youth with approved SIJS petitions were waiting for a visa to become available so that they may apply for LPR, with California being one of the top states with the most impacted youth. This bill requires the court to provide petitioners of SIJS with a certified copy of the order on the same day it is issued, which addresses the critical need for timely access to legal documentation. This provision streamlines the process for petitioners, reducing potential delays and ensuring efficient handling of SIJS proceedings.

Parent as Guardian in SIJS Cases. As previously discussed, according to federal law, a youth qualifies for SIJS if reunification with "one or both" parents is not feasible due to abuse or neglect, and returning the child to their country of origin is not in their best interest. Essentially, federal law envisions a scenario where one non-abusive parent resides in the U.S., while the abusive parent remains in the child's country of origin. Without the protection afforded by SIJS, the child could face deportation to the abusive parent, separating them from a fit parent in the U.S.

To address this situation and provide the child with the opportunity to apply for SIJS, AB 2090 (Gonzalez-Fletcher), Chapter 209, Statutes of 2018, amended existing statute to include the word "parent." This amendment would enable the court to appoint a parent as a guardian for the sole purpose of pursuing SIJS. By doing so, the child would be able to access federal protection for which they are eligible and deserving. Without this provision, the child may be compelled to leave a fit parent in the U.S. and be deported to the custody of an abusive parent abroad.

This bill grants courts the authority to appoint parents as guardians for their unmarried children 18 to 21 years of age, which aligns with current law, and allows parents or wards to petition for the extension of guardianship until the ward reaches 21 years of age, particularly for those seeking SIJS.

Refugee Resettlement Program. In California, the Refugee Resettlement Program assists refugees, Cuban and Haitian entrants, asylees, human trafficking victims, Special Immigrant

Visa holders, and Amerasians establish themselves in the state after approval of eligibility. The Refugee Programs Bureau within CDSS has statewide administrative responsibility for the program. Program benefits and services are delivered at the local level by county welfare departments and refugee service providers. Certain counties where large populations of refugees reside are designated as refugee-impacted. These refugee-impacted counties offer additional employment and social services to refugees. Refugees who live in these counties may be eligible for special employment services and training. The Counties of Alameda, Los Angeles, Orange, Sacramento, San Diego, San Francisco, Santa Clara, and Stanislaus are currently considered refugee-impacted counties.

Public Social Services. Under current state law, noncitizen victims of trafficking, domestic violence, and other serious crimes, as defined, are eligible for certain public social services and health care services to the same extent as individuals who are admitted to the U.S. as refugees. Noncitizen victims who have applied for certain federal visas related to survivors of crimes are eligible for services. Existing law requires that these services be paid from state funds to the extent federal funding is unavailable, and that those services discontinue if there is a final administrative denial of a visa application, as specified. However, for those petitioning and applying for SIJS, SIJS young adults are ineligible for benefits until they become LPRs.

California Food Assistance Program (CFAP). The federal government imposed restrictions on federal food assistance by prohibiting eligibility for LPRs until they had resided in the U.S. for five years. States were granted the option by the federal government to offer state-funded food assistance to this population, including LPRs who had arrived less than five years prior. In response, California established CFAP to provide state-funded food assistance to eligible noncitizens using the same EBT and California Statewide Automated Welfare Systems as CalFresh to distribute benefits. Through the EBT system, the federal government directly deposits funds into the accounts of participating households, with the state later reimbursing the federal government for these expenditures.

CFAP benefits are equivalent to those provided by CalFresh and vary based on factors such as household size, income, and deductible expenses. In the 2022-23 fiscal year, CFAP benefits amounted to \$78 million from the General Fund, with an average monthly benefit of \$159 per person. In April 2023, the Public Policy Institute of California (PPIC) reported that CFAP served about 42,000 noncitizens. Certain noncitizens, such as those who are undocumented, are currently ineligible for CFAP based on their immigration status.

According to CDSS, examples of individuals eligible for CFAP include noncitizens who are:

- LPRs who have not met the five-year U.S. residency requirements or 40 qualifying work quarters criteria;
- Parolees;
- Conditional entrants; or,
- Battered or abused.

The April 2023 PPIC report further revealed that California is home to 10.5 million immigrants, representing almost 25% of the entire U.S. immigrant population. As of 2019, data from the

Center for Migration Studies indicated that 22% of these immigrants were undocumented, while the remaining 78% possessed legal status, such as being naturalized citizens, visa holders, or LPRs. Recent spending plans have allocated funding to extend CFAP to all income-eligible noncitizens 55 years of age and older, regardless of immigration status, to begin in October 2025. The Legislative Analyst's Office reports that CalFresh and CFAP served about 3.2 million households total in June 2023.

Refugee Cash Assistance (RCA) Program. RCA is a federally funded cash assistance program for refugees who are not otherwise eligible for any other cash aid. RCA includes employment and various social services aimed at aiding refugees in achieving self-sufficiency. Populations eligible for the RCA encompasses all of the following groups: Refugees, Asylees, Cuban and Haitian entrants, Special Immigrant Visa holders, Afghan and Ukrainian Parolees, Amerasians, and certified victims of human trafficking.

RCA is available for up to 12 months from date of admission to the U.S. in qualifying status, date of final grant of asylum or date of certification by the Office of Refugee Resettlement (ORR) as victim of trafficking. Victims of human trafficking may be eligible for additional services before they have a certification by the Office of Trafficking in Persons (OTIP) as a victim of trafficking.

Under current law, U and T visa holders, are eligible for social services. These visas apply to undocumented crime victims and trafficking victims. By expanding the definition of "noncitizens victims" to include individuals who have filed petitions or received court orders related to SIJS enables access to social services for this population. Overall, this bill would correct this injustice and ensure parity within our social safety net by providing those same opportunities for support to children and young adults pursuing SIJS.

Author's Statement. According to the Author, "Special Immigrant Juvenile Status applicants are vulnerable children and young people who have endured parental abuse, neglect, or abandonment. Unfortunately, while seeking immigration relief, they often face lengthy delays in their application process without access to any public social services. [This bill] would correct this inequity by ensuring parity with similarly situated immigrant groups and make clarifying, procedural changes."

Equity Implications. This bill represents a comprehensive approach to addressing the needs of vulnerable noncitizens, particularly those seeking SIJS and those who have experienced abuse, neglect, or abandonment. Streamlining procedures, expanding eligibility criteria, and ensuring the provision of essential services to noncitizens who have experienced abuse, neglect, or abandonment, including those seeking SIJS, represents a crucial step towards addressing the needs of marginalized populations.

Double-referral. Should this bill pass out of this committee, it will be referred to the Assembly Committee on Judiciary.

RELATED OR PRIOR LEGISLATION:

AB 325 (Reyes) of 2023, would have expanded eligibility for public social services to certain noncitizens, as specified. *AB 325 was held on the Senate Appropriations Committee suspense file.*

AB 1461 (Reyes) of 2021, would have provided that specific applicants are eligible for certain public social services, as specified. *AB 1461 was substantially similar to this bill and was vetoed by Governor Newsom because “bills with a significant fiscal impact, such as this, are best considered in the annual budget process.”*

AB 2642 (Levine), Chapter 103, Statutes of 2018, provided that a nonprofit charitable corporation not incorporated in this state may be appointed as the guardian of a minor if specified requirements are met, which include that the nonprofit charitable corporation is licensed by this state to provide care for minors; the nonprofit charitable corporation is contracted by the federal Department of Health and Human Services, ORR to provide care and custody of the minor; and the petition for guardianship is filed in connection with a petition to make the necessary findings regarding SIJS.

AB 2090 (Gonzalez-Fletcher), Chapter 209, Statutes of 2018, specified that a parent may be appointed as a guardian of his or her own child in connection with a petition to make necessary findings regarding SIJS.

AB 900 (Levine) Chapter 694,, Statutes of 2015, authorized, with the consent of the proposed ward, a probate court to establish or extend a guardianship of the person for an unmarried individual, who is at least 18 years of age, but not yet 21, in connection with a petition to make necessary findings for the youth to pursue SIJS immigration relief.

AB 2345 (Gonzalez) of 2014, would have expanded eligibility for noncitizens who are lawfully in the U.S. for aid under the CalWORKs program and nutrition assistance under the California Food Assistance Program. *AB 2345 was held on the Assembly Appropriations Committee suspense file.*

SB 873 (Committee on Budget and Fiscal Review), Chapter 685, Statutes of 2014, strengthened protections for immigrant children by making it clear that all California courts have jurisdiction to make SIJS findings.

SB 1569 (Kuehl), Chapter 672, Statutes of 2006, provided temporary and immediate access to social services, including CalWORKs and CFAP, for noncitizen survivors of human trafficking, domestic violence, and other serious crimes.

REGISTERED SUPPORT / OPPOSITION:

Support

Bet Tzedek Legal Services (Co-Sponsor)
Coalition to Abolish Slavery and Trafficking (CAST) (Co-Sponsor)
Immigrant Legal Resource Center (Co-Sponsor)
Los Angeles Center for Law and Justice (Co-Sponsor)
California Immigrant Policy Center

Opposition

None on file.

Analysis Prepared by: Bri-Ann Hernández / HUM. S. / (916) 319-2089