



Introduction to Children's Immigration Matters

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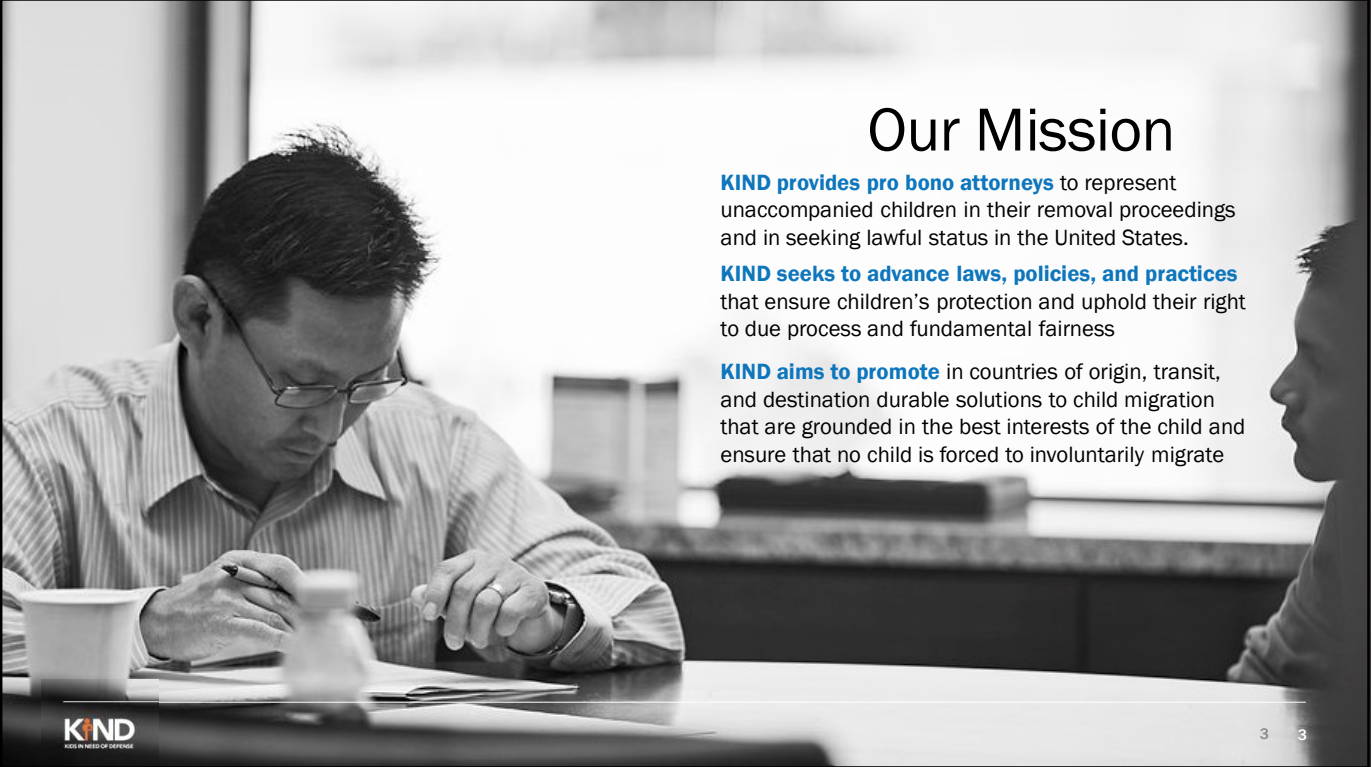
Agenda

1. Introduction
2. Overview of Immigration System and Removal Proceedings
3. Common Forms of Immigration Relief
 - a. Special Immigrant Juvenile Status
 - b. T visa
 - c. U visa
 - d. Asylum
4. Cultural Responsiveness
5. What Can Social Workers and Case Managers Do?
6. Q&A



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Our Mission

KIND provides pro bono attorneys to represent unaccompanied children in their removal proceedings and in seeking lawful status in the United States.

KIND seeks to advance laws, policies, and practices that ensure children's protection and uphold their right to due process and fundamental fairness

KIND aims to promote in countries of origin, transit, and destination durable solutions to child migration that are grounded in the best interests of the child and ensure that no child is forced to involuntarily migrate

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ABOUT KIND

Our Programs


Legal Services

Provides representation to children in deportation proceedings.




Social Services

Ensures the safety and well-being of our child clients.




International Programs

Work in Mexico, Central America, Europe Initiative and KIND UK.



Policy and Advocacy

Advocates for the fair and appropriate treatment of children alone.



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KIND in the United States

**17 Offices in 12 states
and 1 District in the U.S.**

Atlanta, GA
Baltimore, MD
Boston, MA
El Paso, TX
Fresno, CA
Hartford, CT
Houston, TX
Jacksonville, FL*
Los Angeles, CA
New York, NY
Newark, NJ
Northern Virginia
Orlando, FL
Providence, RI*
San Francisco, CA
Seattle, WA
Washington, DC (HQ)

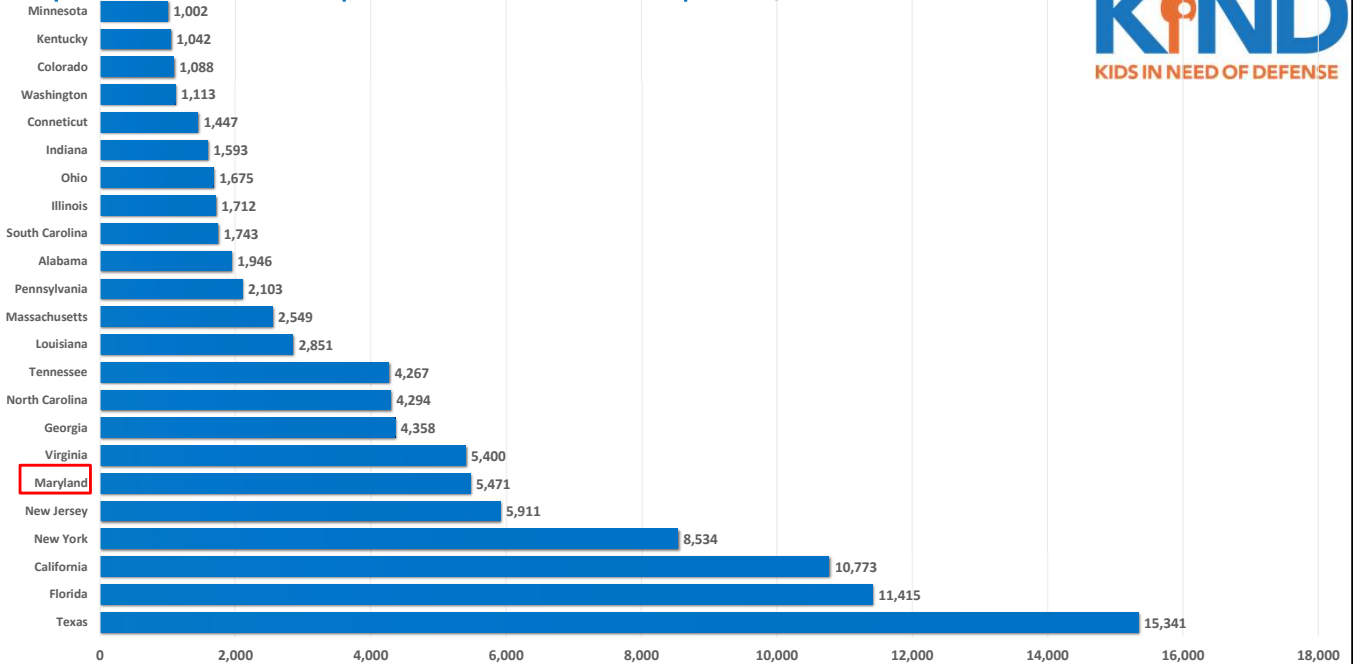
* Satellite offices



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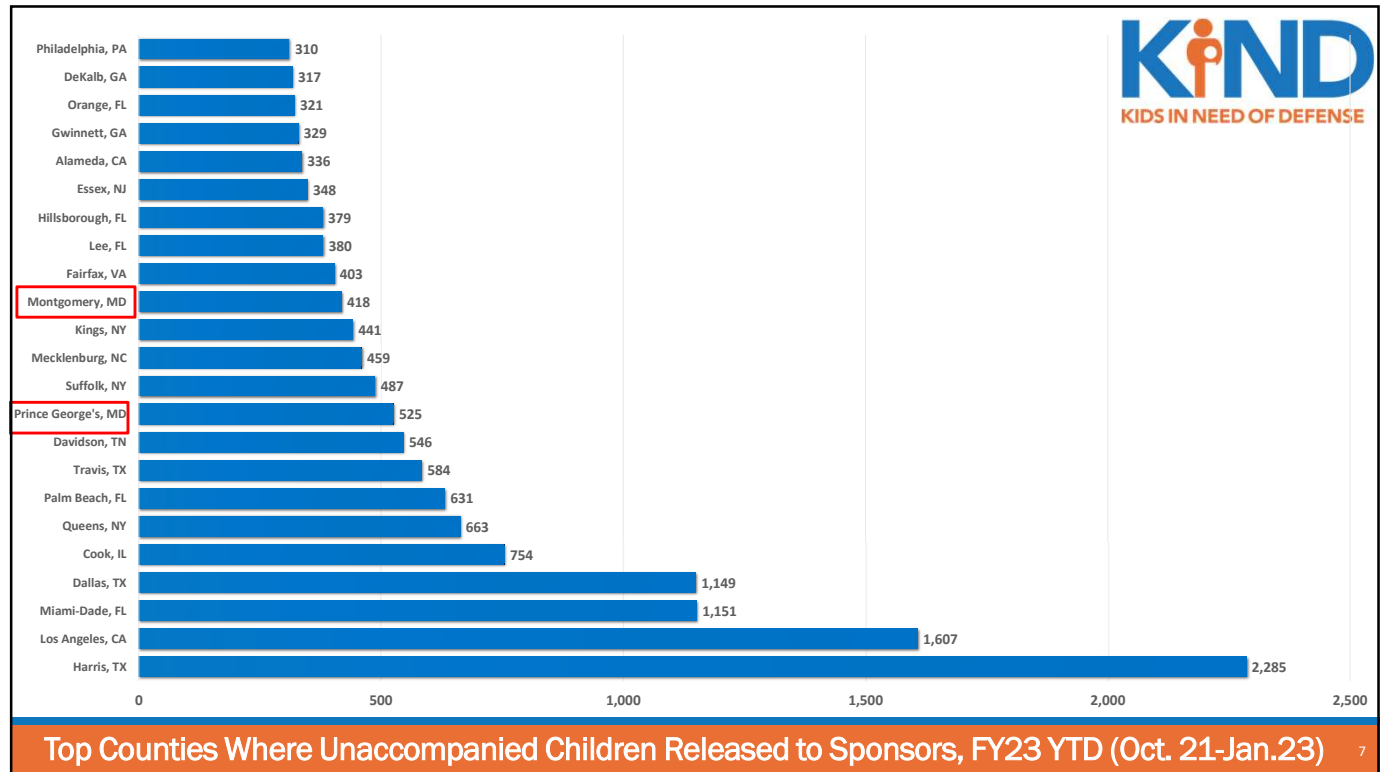
Top States Where Unaccompanied Children Released to Sponsors, FY22



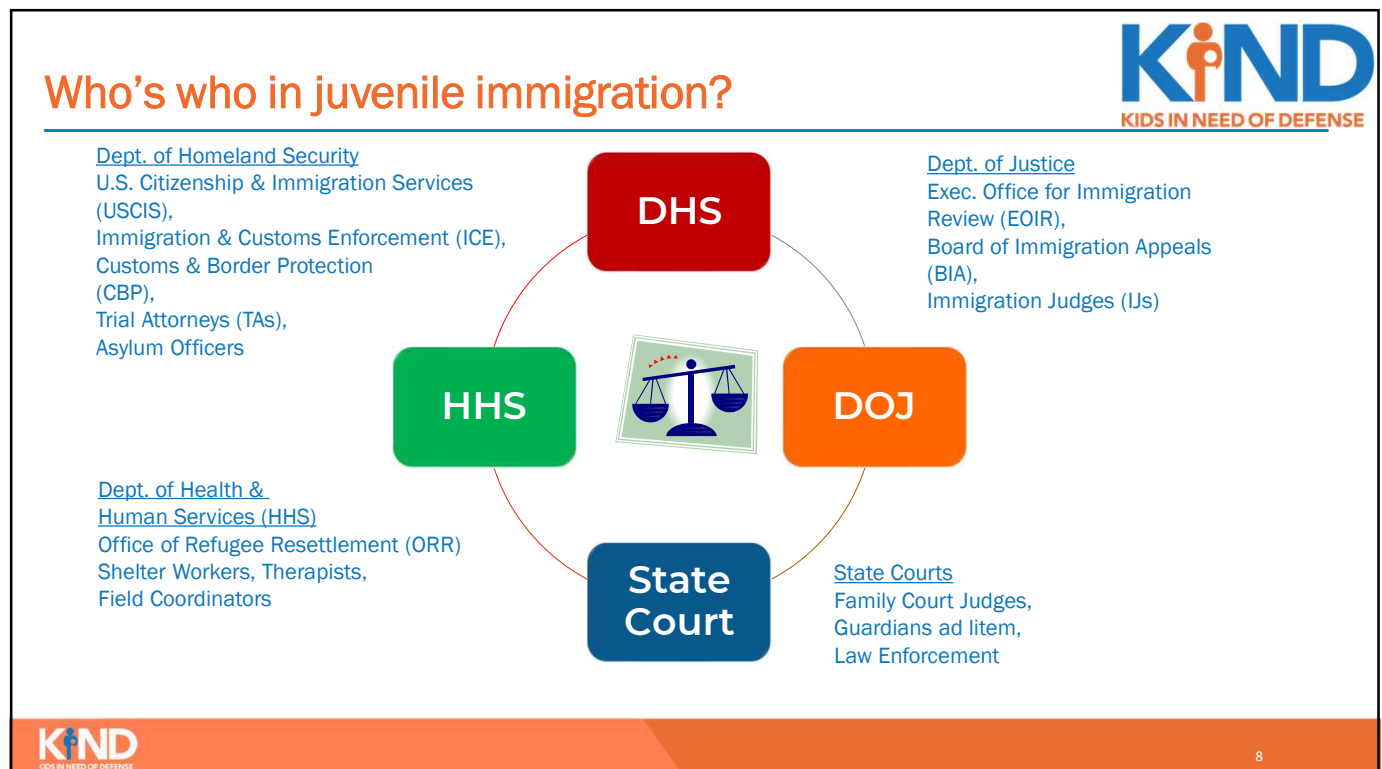
Total Number of Unaccompanied Children Released to all States: 107,686

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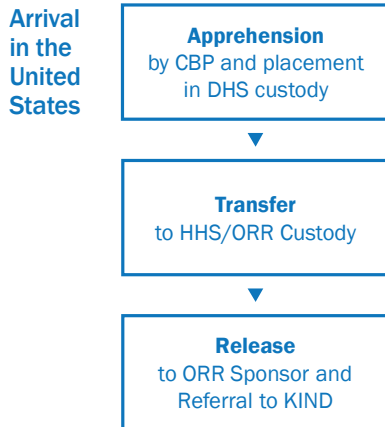
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Post-Arrival Process for Unaccompanied Children

Physical Custody Process



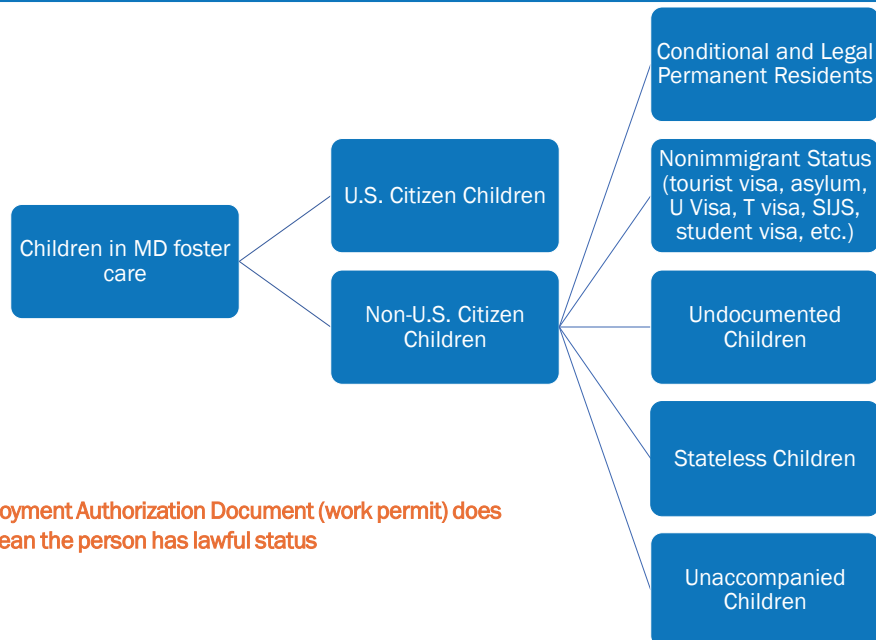
Removal Proceedings and Applications for Relief



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Immigrant Children in Maryland State Care

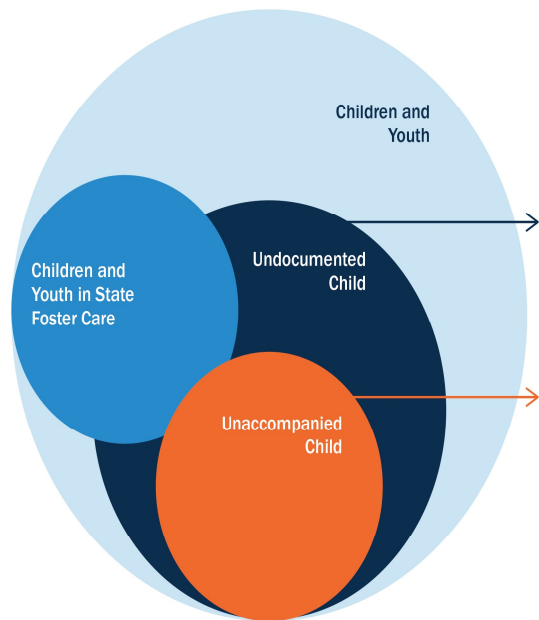


* Having an Employment Authorization Document (work permit) does not necessarily mean the person has lawful status



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A child who is present in the U.S. who:

- Has no lawful immigration status, and may have entered the U.S. without authorization or overstayed their visa, and
- For immigration legal matters is unmarried and under the age of 21, and
- May have parent(s), legal guardians, or caregivers in the U.S., or
- May be under the state's custody

A child who at the time of apprehension:

- Has no lawful immigration status, and
- Is under the age of 18, and
- Has no parent or legal guardian in the U.S., or
- Has no parent or legal guardian in the U.S. who is available to provide care and physical custody
- Legal Definition found at 6 U.S.C. 279(g)(2)

*Reunification with parent or family member does not remove legal determination as unaccompanied child, and child most likely needs to fight deportation case.



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Unaccompanied Child

A child who at the time of apprehension has:

- No lawful immigration status;
- Is under the age of 18;
- Has no parent or legal guardian in the U.S., or
- Has no parent or legal guardian in the U.S. who is available to provide care and physical custody

Homeland Security Act 6 U.S.C. § 279(g)(2)

Reunification with parent/guardian does not automatically remove legal determination as unaccompanied child, and child most likely needs to fight deportation case.

Undocumented Child

A child who is present in the U.S. who:

- Has no lawful immigration status;
- May have entered the U.S. without authorization or overstayed their visa;
- For immigration legal matters is unmarried and under the age of 21;
- May have parent(s), legal guardians, or caregivers in the U.S., or
- May be under the state's custody



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Why are children coming to the U.S. alone?

To escape:

- Gang violence
- Gang forced recruitment
- Severe abuse
- Domestic Violence
- Gender-based violence
- Natural disasters
- Abandonment
- Neglect
- Deep poverty
- Trafficking
- Political strife/war

Seeking:

- Reunification with caretaker/family
- Economic opportunities
- Education
- Safety and security



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Unaccompanied children with counsel were almost 100 times more likely to successfully obtain legal relief in immigration court than those without

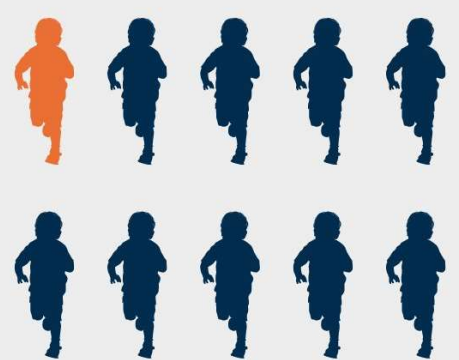
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As of 2019, only 1 out of 4 UCs receive post-release services, including legal services

A median of almost 4.5 years to complete a UC's case as FY21

Approximately 15.77% of all pending UC cases in FY2021 were rendered a decision

Must consider the building of capacity and sustainability of expert, developmentally appropriate, child-centered, multilingual, and multicultural legal and social services



Data based on Executive Office of Immigration Refugee (EOIR) data published by the Congressional Research Service in its report titled "Unaccompanied Alien Children: An Overview," p. 15 (Oct. 9, 2019) <https://fas.org/spp/crs/homesec/R43599.pdf>

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Common Legal Remedies for UACs

Special Immigrant Juvenile Status (SIJS)

T-Visa

U-Visa

Asylum

Violence Against Women Act (VAWA)

Prosecutorial Discretion (PD)

Voluntary Departure

Family-based petitions



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Special Immigrant Juvenile Status (SIJS)

Special Immigrant Juvenile Status is a form of immigration relief for Abused, Abandoned or Neglected Children

Hybrid process involving a state court proceeding and federal immigration process

Three step process allows the child to apply to be a Lawful Permanent Resident



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Three Key Steps in SIJS Cases

6 months – 1 year

Step 1
Obtain a
Qualifying
Juvenile
Court Order



3 – 8 months

Step 2
Petition for
Special Immigrant
Juvenile Status
with USCIS



Once a visa is available

Step 3
Apply for Lawful
Permanent
Residence



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THREE KEY STEPS IN SIJS CASES

1. Obtain a Juvenile Court Order in State Court

Findings

- Under 21;
- Unmarried;
- *Dependent* on state "juvenile court" **OR** *placed in custody* of individual/entity;
- Reunification with one or both parents not viable due to abuse, neglect, abandonment **OR** similar basis; and
- Not in the child's best interest to return to home country.

Especially applicable in CINA cases:

- To be found CINA, there is a two part test:
- Child has been:
 - Abused
 - Neglected
 - Has a developmental disability, or
 - Has a mental disorder
- The child's parents are unable or unwilling to give proper care and attention to the child and the child's needs.

Step 1
Obtain a
Qualifying
Juvenile
Court Order



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Viability of Reunification

The federal SIJS statute requires a state juvenile court finding that reunification with one or both parents is not viable.

- State court is **required** to make under state law.
- To qualify for SIJS, the juvenile court must find that the child cannot reunify with **one or both** parents due to abuse, abandonment, neglect, or a similar basis under state law.
- Only **one ground** is necessary.
- The Court should **not** consider:
 - Immigration policy
 - Whether the parent's conduct was legal (e.g. child labor) or accepted (harsh corporal punishment) in home country.



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Best Interest Analysis

The court will consider any facts about how being in the U.S. versus home country affects the child's well-being.

- **Lack of caregivers** and supportive family networks in home country versus U.S.
- **Access** to education, therapy, medical care
- Any **specific threats to child's safety** from gangs, abusive parent or relative, etc.
- General **violence** in home country



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THREE KEY STEPS IN SIJS CASES

2. Petition for SIJS with USCIS

- Self-petition filed with USCIS- must be filed prior to 21st birthday
 - underlying basis to eventually apply for lawful permanent residency
- Does not confer permanent benefits- must apply for lawful permanent residency to acquire lawful status
- Filed and adjudicated by mail
 - option for Deferred Action and Employment Authorization once granted

Prerequisite

- Valid state court predicate order with 5 findings

Step 2
Petition for
Special Immigrant
Juvenile Status
with USCIS



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THREE KEY STEPS IN SIJS CASES

3. Apply for Lawful Permanent Residence

Filed with USCIS or Immigration Court on Form I-485
Limited number of visas - backlog

Prerequisite

- SIJS classification (approved or pending I-360)
- Child must be "Admissible" to the U.S.
- Legal test needed for legal "admission" or visa to US
- Selected grounds inapplicable by law to SIJ applicants
- Medical Exam (Civil Surgeon Exam)

Once granted- obtain "green card"

- May travel out of country
- Can apply for citizenship after 5 years (and once 18 y.o.)
- Can never petition for either parent

Step 3
Apply for Lawful
Permanent
Residence



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- SIJS is a multi-step process involving the Juvenile Court, USCIS, and in most cases immigration court.
- Prolonged backlogs of visa availability and inability to get to residency results in multiple vulnerabilities as they navigate the process and wait.
- Frequent denials of continuances by immigration court result in removal orders despite being SIJS eligible or approved.

Delays in seeking SIJS
can have heavy
consequences



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SIJS Takeaways

1. SIJS is age-limited, so children need to receive legal assistance as soon as possible.
2. To apply for SIJS, children need a juvenile court order with particular findings.



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T Visa



- Must be present in the U.S., American Samoa, or the Commonwealth of Northern Mariana Islands on account of the trafficking
- Must be a victim of a severe form of trafficking
- Have complied with reasonable requests for assistance in investigation or prosecution
- Show they would suffer extreme hardship involving unusual and severe harm if deported

Smuggling v. Trafficking

Purpose	Obtain unlawful entry into the U.S.	Exploit a person for labor, sex, or services
Consent	Typically, consent to be smuggled	No consent, or initial consent rendered meaningless by coercive or abusive actions of the traffickers
Result	Ends with arrival in U.S.	Involves ongoing exploitation

Labor Trafficking v. Sex Trafficking

Action	The recruitment, harboring, transportation, provision, or obtaining of a person	The recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person
Means	Through the use of force, fraud, or coercion	[No means requirement to establish severe sex trafficking of children under 18]
Purpose	For the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery	For the purpose of a commercial sex act



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Questions to Help Spot Trafficking:

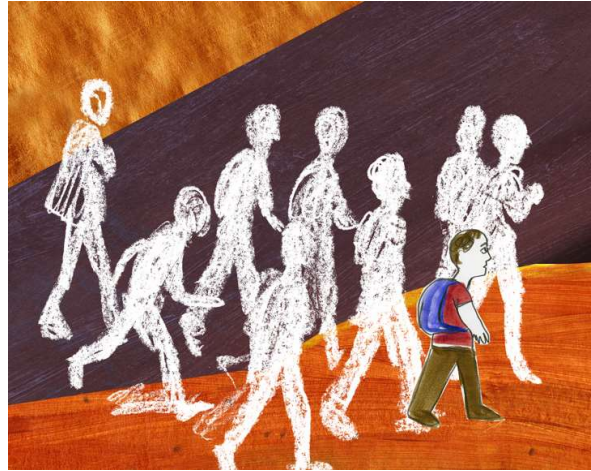
- ✓ Does the child feel they owe money to anyone?
- ✓ Is the child made to pay rent or other living expenses?
- ✓ Is the child working? Did they recently drop out of school?
- ✓ If working: Who arranged the job? Who takes child to/from work? Who receives the money? If child receives money, what do they do with it?



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Questions to Help Spot Trafficking:

- ✓ Does the child have access to her/his identity/travel documents?
- ✓ Does the child have an independent means of communication?
- ✓ Does the child have freedom of movement? Can s/he go out with friends? Go to the store?



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T Visa Takeaways

1. If you encounter a child who is working or is being sexually abused, they may be trafficked.
2. If the child was trafficked, they can receive federal benefits through the Office on Trafficking in Persons including Medicaid, housing, and counseling services.
3. If you suspect trafficking, you should refer them to an immigration attorney and a victim's assistance organization (like University of Maryland SAFE Center, MCVRC, or TurnAround)



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U Visa

- Must be a **victim**
- Possess information about a **qualifying crime** that violated the laws of the United States or occurred in the U.S.
 - Examples of qualifying crimes: felonious assault, domestic violence, sexual assault, involuntary servitude, trafficking
- Suffered **substantial physical or mental harm**
- **Has been, is being, or is likely to be helpful** in the investigation or prosecution of the crime



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What does a U Visa Provide?

- Permission to remain in the United States
- Eligibility for an Employment Authorization Document (“work permit”)
- Eligibility for lawful permanent status (“green card”)
- Ability to help family members obtain lawful immigration status

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U Visa Takeaways

1. U Visa has a generous waiver that can pardon a lot of immigration violations.
2. There is a very long wait time for a U visa as there are only 10,000 U visas available each year. On average will need to wait
 - a. About 5 years to obtain work authorization
 - b. About 10 years to obtain the U visa
3. Must have law enforcement certification to apply.



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Asylum

Humanitarian protection available to immigrants who fear return to their home country.

Defined under INA § 208; 8 USC § 1158.

Elements

- Physical presence in the United States;
- Meet the definition of a refugee;



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Asylum

Well-founded fear of future persecution
based on

Past persecution

Risk of future
persecution

On account of 5 protective grounds:



Race



Religion



Nationality



Political
Opinion



Particular
Social Group



By government actor or non-governmental actor that government is unwilling or unable to control

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Common Asylum Fact Patterns for Children

Severe child abuse

Resistance to or
witness to gang activity

Domestic violence
(including gang-related)

Family claims



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Asylum Takeaways

1. If you encounter a child who is afraid of returning to home country, they may have an asylum claim.
2. If the child may (in the future) or has already filed an asylum application, you should not disclose this to their consulate.



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Other Forms of Relief

VAWA (Violence Against Women Act)

Abuse by Citizen
or LPR parent
or step-parent



Prosecutorial Discretion

Authority of the U.S. Department of
Homeland Security to choose whether or
not to enforce immigration laws against a
person or a group of people



Voluntary Departure

Process that allows non-citizens
facing deportation to leave the U.S.
at their own expense within a
specific time frame to avoid a
deportation order.



Family-Based Petitions



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Cultural Responsiveness

“Cultural responsiveness is the ability to learn from and relate respectfully with people of your own culture as well as those from other cultures.”

National Center for Culturally Responsive Educational Systems



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Sample Contributing Traumatic Factors for Immigrant Children

Immigration Status
Fear for Self &
Family Members

Gender-based
Violence

Poverty &
Economic Stress

Family Dynamics

Discrimination &
Racism

Lack of
Educational &
Vocational
Opportunities

Family History

Family
Separation

Supervision



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Service providers must consider:



- Developmental stages
- Language, vocabulary, comprehension
- Cultural and Educational Context
- Physical and learning disabilities
- Impact of custody status/ detention
- Pre-migration, migration, and current stressors
- Systemic racism and inequities
- Household composition and their relationship to the adults in the home
- Client's strengths
- Service Providers' own biases

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Navigating Systems and Understanding Fear of Government Officials

- Tensions between a child wanting to seek help and family being fearful of potential interaction with immigration, law enforcement or government officials.
- Placement and reunification can be impacted when family members fear contact with ORR including home checks.
- Children and immigrant families may fear government agencies due to past negative experiences in home country.
- Fear of foster care that ties to a child's negative experience in CBP or ORR

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Culturally Responsive Interventions

- Validate young person's experience and build on their strengths
- Understands power dynamics and past experiences with authorities
- Incorporates cultural values, norms
- Do not make assumptions; take into account our own personal history and privilege



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Protective Factors and Resilience

- Attachment to at least one caring adult and a stable home environment
- Individual protective factors such as high intelligence, good coping skills
- Community organizations, place of worship, schools
- Involvement in activities that bring joy and purpose, such as a soccer team or art class



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Social Workers and Case Managers can:

- Identify and flag undocumented children's cases.
- Identify and flag potential abuse and trafficking cases—ask good questions.
- Contact an immigration attorney as soon as possible and send case information and immigration documents.⁴⁵
 - KIND referral
 - Nonprofit organizations
 - Private attorneys



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Social Workers and Case Managers can:

- Refer children suspected of being trafficked to victim assistance programs.
- Communicate with children directly and in their language to determine what they want and what is in their best interests.⁴⁶



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Social Workers and Case Managers can:

- If the child has immigration court, bring them to hearings.
 - Notice to Appear
 - A# lookup on the EOIR Portal
 - Can also call 1-800-898-7180
- If the child has check-ins with the Department of Homeland Security, bring them to appointments.

EOIR | Automated Case Information

Court Closures Today January 18, 2022 | Please check <https://www.justice.gov/eoir/operational-status> for up to date closures.

Automated Case Information

Welcome to the Automated Case Information system. The following information relates to the primary case only. Please contact your local court if you need bond hearing information.

If you are a recent arrival and were apprehended between ports of entry on or after May 28, 2021, placed in removal proceedings, and enrolled in Alternatives to Detention, please see [FAQs](#).

Announcements

ATTENTION ANDROID USERS - Please use the Firefox browser for this site while an issue with the Android default browser is being fixed. Firefox can be downloaded for free from Google Play.

Due to the coronavirus pandemic, some immigration courts may be closed and some hearings may be postponed. While new hearing dates are being scheduled, case status and hearing date information may not be updated in this system. Respondents or their representatives who are affected will be sent notice of their new hearing date at least 10 days before the new hearing date. This system will be updated after the issuance of the new hearing notice. As always, court documents such as notices are your official source of information. Roll over to an immigration court for more.

Enter your A-Number

A-Number *Required*

What's an A-Number?

SUBMIT

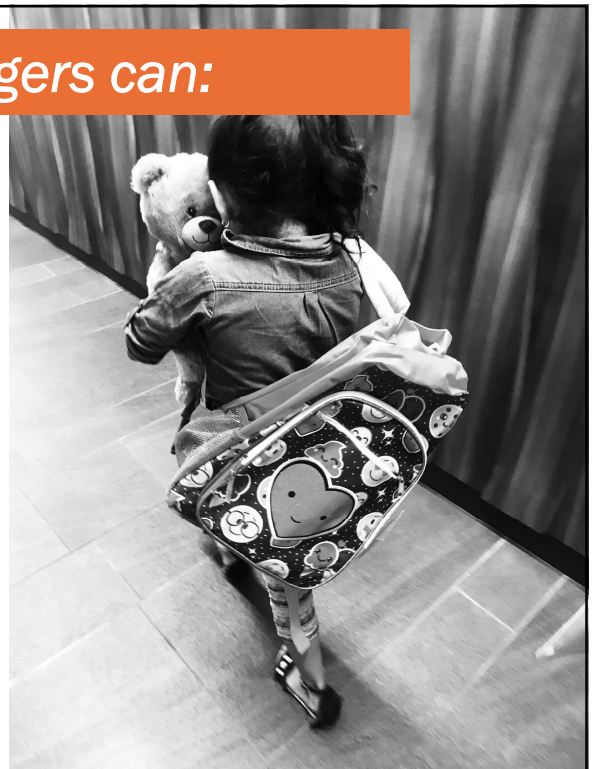
Case information from this automated resource is provided for convenience only. Documents the immigration court or Board of Immigration Appeals issue to you or your representative are the only official determinations related to your case.



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Social Workers and Case Managers can:

- If SIJS is a form of relief, help obtain the needed language in custody orders in consultation with an immigration attorney.
- Explain how immigration status can affect a child's case (and life) to juvenile judges and others.
- Keep the immigration attorney updated and included in the child's case.



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Potential Benefits of Having Legal Status in Maryland

- Federal and State Benefits
 - E.g. Health care (Medicaid), Independent Living Program (ILP), CARES Act
- Housing
- Work Authorization
- Financial Aid for Higher Education
- Driver's License
- Travel
- Psychosocial and Emotional Effects



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Helpful Resources

- Referring cases to KIND Baltimore's office:
 - email infobaltimore@supportkind.org
- Consider joining the Center on Immigration and Child Welfare Network
- Review the handouts provided



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