

## **The Reuniting Immigrant Families Act** **Immigration Relief Options for Dependent Children and their Families**

The Reuniting Immigrant Families Act (“SB 1064” or “the Act”), enacted September 30, 2012, is the nation’s first law addressing the many barriers faced by immigrant families in the child welfare system. This fact sheet provides information on the provision of SB 1064 encouraging child welfare agencies to assist children eligible for certain immigration legal relief options.

The Act requires the State Department of Social Services to provide guidance to child welfare agencies on assisting children eligible to apply for certain immigration legal relief options, including Special Immigrant Juvenile Status (SIJS), T and U-visas, and the Violence Against Women Act self-petitions.<sup>1</sup> As social workers come into contact with immigrant children and families early in child welfare cases, they can be important resources for critical immigration relief information.

This fact sheet includes brief summaries of the forms of immigration relief identified by SB 1064, as well as others (Asylum, DACA) that may be available to dependent immigrant children and their families. Each is a discretionary form of immigration relief that allows the applicant to live and work in the United States for the duration of the visa or status granted. As a best practice, workers should consider not only the relief options available directly to children, but also the relief available to parents, since children can derive certain forms of status from their parents.

### ***Special Immigrant Juvenile Status (SIJS)***

Special immigrant juvenile status is a pathway to lawful permanent residency for an unmarried non-citizen under age 21 for whom a juvenile court has made the following findings:

- the child has been declared dependent on a juvenile court, or the court has placed the child under the custody of an agency, department of a state, individual, or entity appointed by a state or juvenile court;
- the child’s reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and
- it is not in the child’s best interest to return to his/her country of origin.

Please see detailed fact sheet on SIJS at <http://www.ilrc.org/info-on-immigration-law/remedies-for-immigrant-children-and-youth>.

### ***T Visas (Victims of Human Trafficking)***

The T Visa is available for a victim of human trafficking in the United States who meets the following requirements:

- is or has been a victim of severe trafficking;
- is physically present in the U.S. as a result of the trafficking;
- if 18 years of age or above, is complying with any reasonable request for assistance in the investigation or prosecution of traffickers; and
- would suffer extreme hardship involving unusual and severe harm upon removal.

### ***U Visas (Crime Victims)***

The U Visa is available to a noncitizen who:

- was the victim of certain qualifying criminal activity;
- suffered substantial physical or mental abuse as a victim of that criminal activity;
- has information regarding the criminal activity;

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<sup>1</sup> Cal. Welf. & Inst. § 10609.97



- has been, is being, or is likely to be helpful to a federal, state, or local investigation or prosecution of the criminal activity;
- has certification from a federal, state, or local judge, prosecutor, law enforcement officer, or other justice system official involved in investigating or prosecuting the criminal activity that he or she has been or is likely to be of help to the investigation or prosecution of the criminal activity;<sup>2</sup> and
- the crime occurred in the United States or violated U.S. law.

### ***Violence Against Women Act (VAWA)***

A person can petition for lawful permanent residency under VAWA if the person can show:

- she has been battered or subjected to extreme cruelty by a U.S. citizen or Lawful Permanent Resident (LPR) spouse or parent or is the child (whether abused or not) of parent who was abused by a citizen or LPR spouse;
- she lived at some point in time with the abuser, in or out of the U.S.;
- if she is self-petitioning based on abuse by a spouse, the marriage must have been legal and valid in the location in which it took place;
- she has good moral character; and
- for abused children, they must be unmarried and under the age of 21 (although certain exceptions are available for abused children to self-petition up to age 25).

### ***Asylum***

A person may qualify for asylum if he or she has experienced past persecution or has a well-founded fear of persecution in his or her home country on account of race, religion, nationality, political opinion, or membership in a particular social group. Although many children and their families may be afraid to return to their home country, they are only eligible for asylum if they can show that the persecution was or will be by the government or by a group that the government is unable or unwilling to control.

### ***Deferred Action for Childhood Arrivals (DACA)***

DACA<sup>3</sup> is available to an individual who:

- was under the age of 31 on June 15, 2012;
- came to the U.S. before reaching his or her 16<sup>th</sup> birthday;
- has continuously resided in the U.S. since June 15, 2007, up to the present time;
- was physically present in the U.S. on June 15, 2012, and at the time of making the request for consideration of DACA with USCIS;
- entered without inspection before June 15, 2012, or the lawful immigration status expired as of June 15, 2012;
- is currently in school, has graduated or obtained a certificate of completion from high school, has obtained a GED certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the U.S.; and
- has not been convicted of a felony, significant misdemeanor, or three or more other misdemeanors, and does not otherwise pose a threat to national security or public safety.

For fact sheets on immigration options for youth go to: <http://www.ilrc.org/info-on-immigration-law/remedies-for-immigrant-children-and-youth>.

U.S. Citizenship and Immigration Services provides information about and relevant documents for each form of relief at [www.uscis.gov](http://www.uscis.gov).

<sup>2</sup> Certification from a child welfare agency has been found acceptable by CIS.

<sup>3</sup> DACA protects a person from deportation and provides work authorization, but is not a permanent immigration status.

