



Judicial Community of Practice Series Presents:
**Introduction to
Special Immigrant Juvenile Status**
for State Courts

April 17, 2024
12:15 PM - 1:15 PM

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Agenda

- 1. Introduction to KIND**
- 2. The New SIJ Bench Book and Card**
- 3. Unaccompanied Children (UC's) and more**
- 4. The Care and Custody of UC's**
- 5. What is Special Immigrant Juvenile Status?**
- 6. The Unique Role of State Courts**
- 7. Special Immigrant Juvenile (SIJ) Classification and SIJ Predicate Orders**



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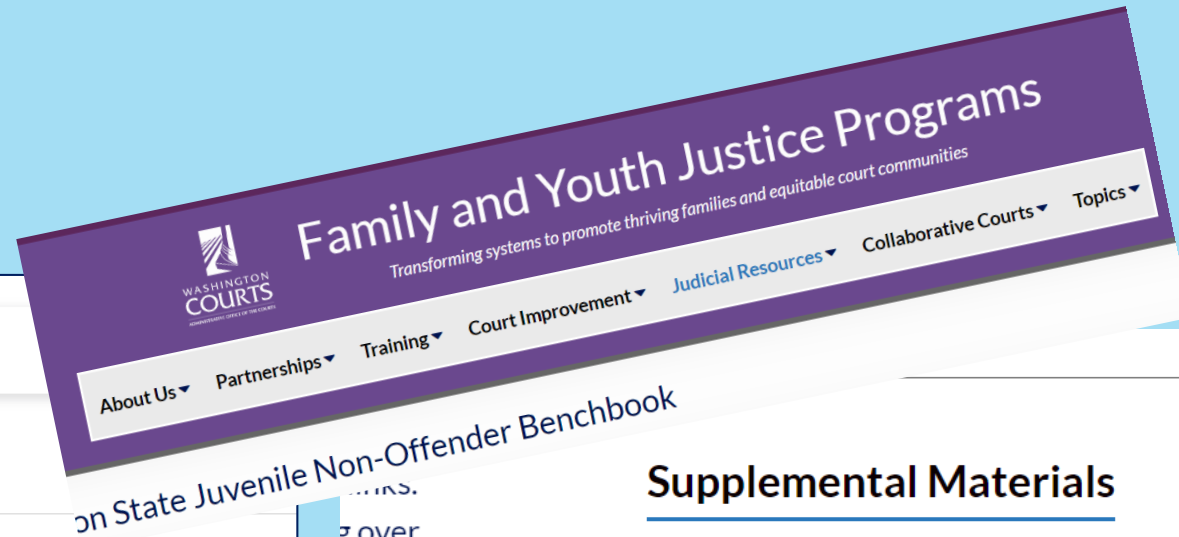
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Advocates for the fair and appropriate treatment of children alone.

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Introducing The New SIJ Bench Book & Card



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Washington State Courts (.gov)
https://www.courts.wa.gov > committee > pdf > SI... PDF

Washington State Court SIJS Bench Book and Resource Guide

420 (2012) ("The **SIJ** statute affirms the institutional competence of state courts as the appropriate forum for child welfare determinations regarding abuse, ...

Supplemental Materials

- WA Guide on Reasonable & Active Efforts
- Special Immigrant Juvenile (SIJ) Classification Bench Book and Resource Guide
- Special Immigrant Juvenile (SIJ) Classification Benchcard
- Ten Recommendations for Ensuring Adequate Findings of Fact in Dependency & Termination Cases
- Checklist to Promote Perpetrator Accountability in Dependency Cases Involving Domestic Violence (NCJFCJ)

Search the Benchbook

on State Juvenile Non-Offender Benchbook

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Review of Special Immigrant Juvenile Classification Under Federal law

INA § 101(a)(27)(J), 8 U.S.C. § 1101(a)(27)(J)
8 CFR § 204.11

Special Immigrant Juvenile (SIJ) Classification

Elements

- Under 21;
- Unmarried;
- “Juvenile court” must find the following under **STATE** law:
 - ✓ Child is dependent on the court **OR** has been placed in the custody of an individual or entity; **AND**
 - ✓ Child’s reunification with **one OR both** parents is not viable due to abuse, abandonment, neglect, and/or a similar basis under **STATE LAW**; **AND**
 - ✓ It is not in child’s best interest to return to child’s (or child’s parents’) country of nationality or last habitual residence.

SIJ CLASSIFICATION IN A NUTSHELL: 3 STEP PROCESS

1. Seek State Juvenile Court Predicate Order

2. Petition for SIJ Classification to USCIS Before 21

3. Apply to Adjust Status to Legal Permanent Resident

*When no LPR visa currently available, wait for priority date to become current (for youth from Guatemala, El Salvador, Honduras, as of April 2024, the wait will be around 4.5 years).

** POLICY CHANGE IN MAY 2022: Some youth may be eligible for SIJ deferred action upon the approval of their petition for SIJ Classification, which makes them eligible to apply for employment authorization and Social Security cards while they wait for their priority dates to become current.



Unique Role of State Court

- Federal law entrusts the state court to make findings on child welfare per state law and procedure
 - The sole purpose of the state court is to make factual findings listed in the regulations and not to adjudicate the child's application for SIJS status.
 - *H.S.P. v. J.K. and K.G. v. M.S., 23 N.J. 196 (2015).*
 - The SIJ process *"is a unique hybrid procedure that directs the collaboration of state and federal systems."*
 - *In re Marisol N.H., 115 A.D. 3d 185, 188 (N.Y. App. Div. 2014)*
- Note: If child is still in ORR (federal) custody, the state court cannot change child's placement without HHS consent

Who is eligible for SIJ Classification?

Some SIJ-eligible children come to the U.S. “accompanied” by a parent(s) or guardian(s)

- With a non-abusive parent to escape domestic violence by a parent in the country of origin
- With a legal guardian to seek opportunity and security
- With both parents, one abusive and one not, who then separate or divorce in the U.S.
- With both parents, who then both abandon the child in the U.S.

Some SIJ-eligible children come to the U.S. as “Unaccompanied Children”



“Unaccompanied Alien [Noncitizen] Child” defined under Homeland Security Act, 6 USC §279(g). Also known as an “Unaccompanied Child,” “UAC” or “UC”.

- “No lawful immigration status”
- Under 18 –AND –
 - (i) No parent or legal guardian in the U.S. –OR –
 - (ii) none available to provide care and physical custody in US

More on Unaccompanied Children

- Nearly 750,000 unaccompanied children have arrived in the United States since 2012.
- Where do they come from?
- UCs come from all over the world
 - **Most in Washington State are from: El Salvador, Guatemala, and Honduras**
- What Languages do they speak?
 - Mostly Spanish, but also indigenous languages, including Mam, Kaqchikel, Garifuna, and many others

1,350 UCs were released to sponsors in Washington State in FY23. So far, 659 UCs were released to sponsors in Washington State in FY24, with 273 children released to sponsors in King County.



Push and Pull Factors for Children

■ To escape:

- Domestic Violence
- Sexual Exploitation
- Life living on the streets
- Threats by Gangs/Gang Violence
- Threats/Abuse/Violence due to Sexual Orientation
- Gender-based Threats/Abuse/Violence
- Child Marriage
- Female Genital Mutilation
- War
- Poverty or Famine

■ To find:

- **Safety and security**
- Access to healthcare and mental health services
- Access to education
- Stability

Entities involved with CARE AND CUSTODY OF migrant children



DHS

DEPT OF HOMELAND SECURITY (DHS)

- Customs & Border Protection (CBP)
- Immigration & Customs Enforcement (ICE)
- Trial Attorneys (TAs)
- Citizenship & Immigration Services (USCIS)
- Asylum Office (AO)

DOJ

DEPT. OF JUSTICE (DOJ)

- Exec. Office for Immigration Review (EOIR)
- Board of Immigration Appeals (BIA)
- Immigration Court & Judges (IJs)

HHS

DEPT. OF HEALTH & HUMAN SERVICES (HHS)

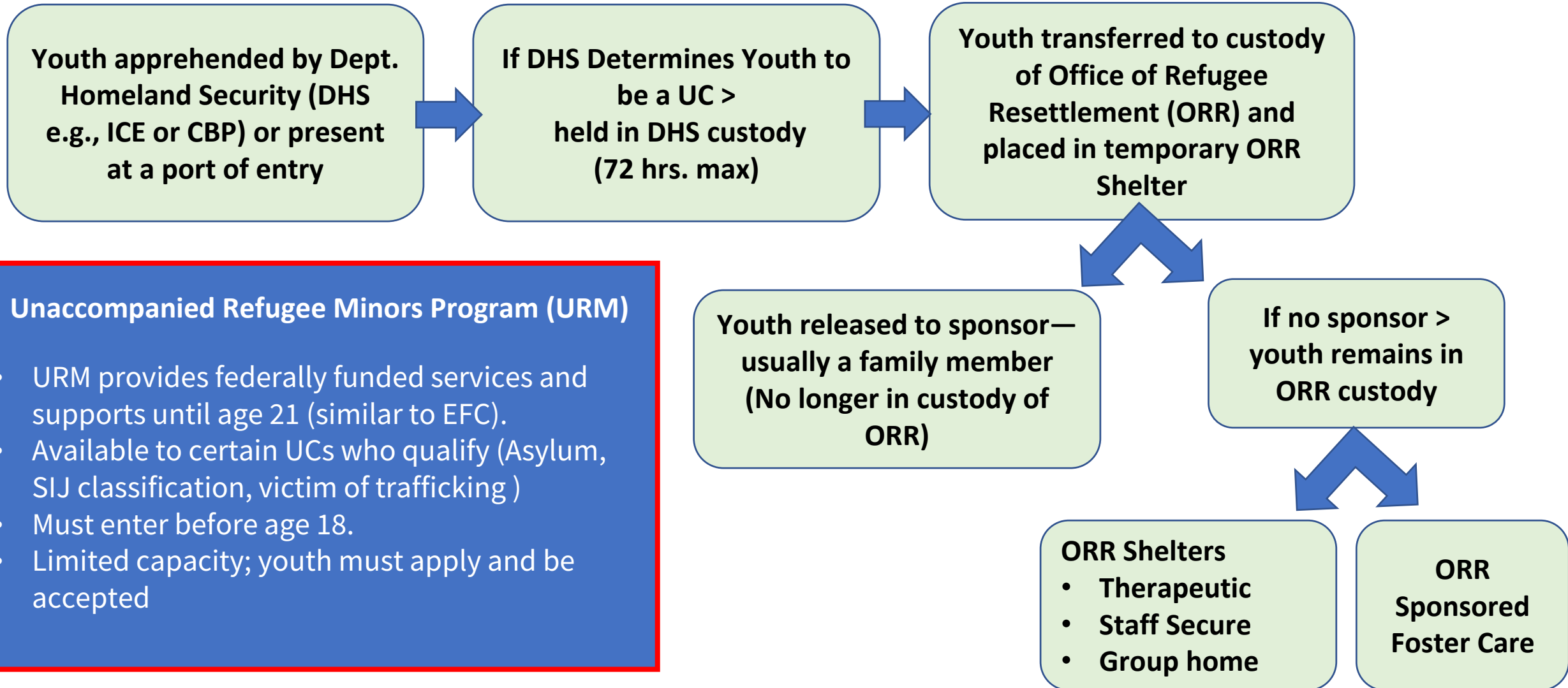
- ORR - Office of Refugee Resettlement Shelter Workers, Therapists, Field Coordinators

State Court

STATE COURTS

- Juvenile and Family Court Judges
- Guardians ad litem (GAL)
- Law Enforcement

Care and Custody of UCs



Unaccompanied Refugee Minors Program (URM)

- URM provides federally funded services and supports until age 21 (similar to EFC).
- Available to certain UCs who qualify (Asylum, SIJ classification, victim of trafficking)
- Must enter before age 18.
- Limited capacity; youth must apply and be accepted

Overview of SIJ Classification

Step 1: State Court Findings & Order

See SIJ Bench Card

WA State SIJ Judicial Bench Card

Overview of Special Immigrant Juvenile (SIJ) Classification for Washington State Courts

Congress designed Special Immigrant Juvenile (SIJ) visa classification to protect certain vulnerable youth who cannot reunify with one or both parents because of abuse, abandonment, neglect, or a similar maltreatment. This federal humanitarian protection enables SIJ-classified youth to apply for Lawful Permanent Residence (LPR) in the United States, a critical step toward securing their safety, permanency, long-term stability, and well-being. To be eligible, a youth must have been under the jurisdiction of a qualifying state court and been the subject of several required state court findings. The SIJ petition and application for LPR status are then adjudicated separately by immigration authorities.

SIJ Eligibility Requirements & Role of State Court

In creating SIJ, Congress intentionally deferred to state courts to make certain findings, including those relating to the youth's custody or care, parental relationship, and best interests. For purposes of entering SIJ findings, federal law defines a "Juvenile Court" as any state court that has authority under state law to make determinations about a child's dependency and/or custody and care. See 8 CFR 204.11(a).

To file a petition for SIJ with immigration authorities, a youth must be:

- Physically present in the U.S., under 21, and unmarried;
- The subject of a juvenile court order with the following findings:
 - The youth has been either declared dependent, OR legally committed to or placed under the custody of an agency, department of a State, or individual or entity;
 - 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 youth's best interest to be returned to the youth's or parent's country of nationality or country of last habitual residence.

See INA § 101(a)(27)(J); 8 USC § 1101(a)(27)(J); 8 CFR § 204.11(c)

SIJ Process

STEP 1: Obtain State Court Order

Examples of proceedings in which SIJ findings may be entered in Washington:

- Dependency (RCW § 13.34)
- Vulnerable Youth Guardianship (RCW § 13.90)
- Appointment of Guardian or Dependency Guardianship (RCW §§ 11.130, 13.36)
- Adoption (RCW § 26.33)
- Dissolution of Marriage/Legal Separation (RCW § 26.09)
- Paternity/Parentage Determinations (RCW § 26.26)
- Petition for a Parenting Plan (RCW § 26.09)
- De Facto Parentage (RCW § 26.26A,440)
- Civil Protection Order (RCW § 7.105)
- BECCA proceedings (RCW § 13.32A)

STEP 2: Petition for SIJ

A youth files a petition for SIJ classification with U.S. Citizenship and Immigration Services (USCIS), together with evidence of age, identity, and a copy of the state court order reflecting the required findings.

STEP 3: Apply for LPR status

A youth files an application for Lawful Permanent Residence with USCIS or the Immigration Court.

**Many SIJ recipients must wait for several years before they can apply for LPR status. The U.S. government places a yearly limit on how many individuals may be granted LPR status, based on country and category. SIJ-classification is grouped with employment categories, where the demand for LPR status exceeds the limit. This predicament causes what is known as the "visa backlog" and long delays.

Quick Reference On Required SIJ Findings Washington Court Pattern Form JU 11.0500

#1 Under 21 and Unmarried

- Youth is both under 21 and unmarried
- Eligibility is not limited to youth under 18 where state law provides for jurisdiction to enter required findings for youth ages 18-21

Examples in WA (SIJ findings for 18+ youth):

- Dependent youth 18+ in EFC, RCW § 13.34.267
- Youth 18+ who are subject to Vulnerable Youth Guardianship, RCW § 13.90
- Youth 18+ under extended jurisdiction via diversion agreement, RCW § 13.40.080(5)(a)

#2 Custody or Dependency

- Either a dependency determination OR a custody or placement determination (both are not required)
- Custody may encompass legal OR physical custody

Examples in WA:

- Dependency findings, RCW § 13.34
- Appointment of a Vulnerable Youth Guardian, RCW § 13.90
- Custodial placement with an individual in adoption, dissolution, parenting plan, civil protection order, or BECCA proceedings, etc.
- Custodial placement with a state agency (e.g., DCYF Child Welfare or Juv. Rehabilitation) in dependency or juvenile offender proceedings.

#3 Abuse, Abandonment, Neglect, or Similar Basis Under State Law

- Abuse, abandonment, or neglect as defined in State law
- Finding needed only as to one parent
- If "similar basis," court should make explicit determination that basis is legally similar to abuse, neglect, or abandonment, under WA law
- Court order should include summary of factual basis

Examples in WA ("similar basis"):

- A dependency finding under RCW § 13.34.030(6)(c)
- Restrictions on the parental relationship in minor guardianship or family law proceedings, RCW §§ 26.09.191 or 11.130.215(4)
- No parent is willing or able to exercise parenting functions in minor guardianship proceedings, RCW § 11.130.185
- The youth risks physical or psychological harm if returned home in vulnerable youth guardianship proceedings, RCW §§ 13.90.901(2) and 13.90.010(6)

#4 Non-viability of Reunification with One or Both Parent(s)

- Termination of parental rights not required
- Finding only needed as to one parent
- Court order should include summary of factual basis

Examples in WA:

- A court orders a child into protective custody and placement, RCW §§ 13.34.050, 060, or 130
- A court restricts access to or placement with a parent in minor guardianship or family law proceedings, RCW §§ 26.09.191 or 11.130.215(4)

#5 Not in Child's Best Interest to Return to Country of Nationality

- No federal statutory definition
- Requires individualized assessment
- State courts should analyze best interests using the factors they typically consider when making these determinations

See, e.g., best interests as contemplated under WA law:

- Family law proceedings, RCW § 26.09.002; Minor Guardianships, RCW § 11.130.185, .190; and Dependency proceedings, RCW § 13.34.020
- *In re Dependency of J.B.S.*, 123 Wn. 2d 1, 9 (1993); *Matter of Custody of A.N.D.M.*, 26 Wn. App. 2d 360, 376 (2023)
- Etc.

SIJ Predicate Order: 5 required findings by juvenile court

Washington State Court Form – JU 11.0500 - Findings and Order Regarding Eligibility for Special Immigrant Juvenile Status (FOSIJS)

FOSIJS is an eligibility finding/judicial determination (like a declaratory judgment), speaks to whether child meets the federal, statutory criteria for SIJ classification. *See* 8 U.S.C. §1101(a)(27)(J).

1. Under 21;
2. Unmarried;
3. Declared dependent on “juvenile court” OR placed in custody of individual/entity;
4. Reunification with one OR both parents not viable due to abuse, neglect, abandonment OR similar basis under state law;
5. Not in best interest to return to home country.

STEP 1: Obtain State Court Order

Examples of proceedings in which SIJ findings may be entered in Washington:

- **Dependency or Dependency Guardianship** (13.34 RCW; 13.36 RCW)
- **Vulnerable Youth Guardianship (VYG)** (13.90 RCW)
- **Becca matters, including:**
 - **At Risk Youth (ARY)** (RCW 13.32A.191-270)
 - **Child in Need of Services (CHINS)** (RCW 13.32A.140-190)
 - **Truancy** (28A.225 RCW)
- **Offender matters** (13.40 RCW)
- **Adoption** (26.33 RCW)
- **Dissolution, Legal Separation, & Parenting Plans** (26.09 RCW)
- **Paternity/Parentage determinations** (26.26A RCW; 26.26B RCW)
- **De Facto Parentage** (RCW 26.26A.440)
- **Minor Guardianship** (RCW 11.130.185-260)
- **Civil Protection Orders** (7.105 RCW)

#1. Under 21 and Unmarried

Quick Reference On Required SIJ Findings Washington Court Pattern Form JU 11.0500

#1 Under 21 and Unmarried

- Youth is both under 21 and unmarried
- Eligibility is not limited to youth under 18 where state law provides for jurisdiction to enter required findings for youth ages 18-21
- Must be unmarried at the time of filing the SIJ petition through approval of SIJ

Examples in WA (SIJ findings for 18+ youth):

- Dependent youth 18+ in EFC, RCW 13.34.267
- Youth 18+ who are subject to Vulnerable Youth Guardianship, 13.90 RCW
- Youth 18+ under extended jurisdiction via diversion agreement, RCW 13.40.080(5)(a)

Vulnerable Youth Guardianship fills gap between state and federal law protections for youth ages 18-21

#2. Custody or Dependency

#2 Custody or Dependency

- One of the following is required: (1) a dependency determination; (2) custody or placement with an individual or entity; OR (3) legal commitment to a state agency or department
- Custody may encompass legal OR physical custody
- Custody or placement may be with a parent (where SIJ-required findings are made as to the other parent)
- Cite to the state law or authority governing the determination
- Name the individual, entity, or state agency with whom custody or placement is ordered

Examples in WA:

- Dependency findings, 13.34 RCW
- Appointment of a Vulnerable Youth Guardian, 13.90 RCW
- Custodial placement with an individual in adoption, dissolution, parenting plan, civil protection order, or Becca proceedings, etc.
- Custodial placement with a state agency (e.g., DCYF Child Welfare or Juv. Rehabilitation) in dependency or juvenile offender proceedings.
- Establishment of minor guardianship, 11.130 RCW

#3 Abuse, Abandonment, Neglect, or Similar Basis

#3 Abuse, Abandonment, Neglect, or Similar Basis Under State Law

- Abuse, abandonment, or neglect as defined in State law
- Finding needed only as to one parent
- If “similar basis,” court should make explicit determination that basis is legally similar to abuse, neglect, or abandonment, under WA law
- Court order should include summary of factual basis for the finding
- State court order should include a summary of the factual basis for the finding

Examples in WA (“similar basis”):

- A dependency finding under RCW 13.34.030(6)(c)
- Restrictions on the parental relationship in minor guardianship or family law proceedings, RCW 26.09.191 or RCW 11.130.215(4)
- No parent is willing or able to exercise parenting functions in minor guardianship proceedings, RCW 13.34.030(6)(c)
- The youth risks physical or psychological harm if returned home in vulnerable youth guardianship proceedings, RCW 13.90.901(2) and RCW 13.90.010(6)

#4. Non-viability of Reunification

#4 Non-viability of Reunification with One or Both Parent(s)

- Termination of parental rights not required
- Finding only needed as to one parent
- Court order should include summary of factual basis
- Non-viability of reunification must be connected to the abandonment, abuse, neglect, or similar basis

Examples in WA:

- A court orders a child into protective custody and placement, RCW 13.34.050, .060, or .130
- A court restricts access to or placement with a parent in minor guardianship or family law proceedings, RCW 26.09.191 or RCW 11.130.215(4)

#5. Not in Child's Best Interest to Return

#5 Not in Child's Best Interest to Return to Country of Nationality

- No federal statutory definition
- Requires individualized assessment
- State courts should analyze best interests using the factors they typically consider when making these determinations
- The state court order should include a summary of the factual basis for the determination

See, e.g., best interests as contemplated under WA law:

- Family law proceedings, RCW 26.09.002; Minor Guardianships, RCW 11.130.185, .190; and Dependency proceedings, RCW 13.34.020
- *In re Dependency of J.B.S.*, 123 Wn. 2d 1, 9 (1993); *Matter of Custody of A.N.D.M.*, 26 Wn. App. 2d 360, 376 (2023)
- Etc.

Pattern Form JU 11.0500 (FOSIJS)

Court Forms: Miscellaneous – including Mandatory Pattern Forms

To download these forms, right click the mouse and choose "Save Target As" (for Mozilla/Firefox choose "Save Link As"). [\[More...\]](#)

JUVENILE COURT FORMS

- [Emancipation](#)
- [Shelter Care Proceedings](#)
- [Dependency Proceedings](#)
- [Termination and Reinstatement of Parent-Child Relationship](#)
- [CHINS/At-Risk Youth](#)
- [Juvenile Offense – Diversion Agreements](#)
- [Juvenile Offense Proceedings in Juvenile court](#)
- [Declining Juvenile Court Jurisdiction](#)
- [Juvenile Court Records](#)
- [Miscellaneous](#)
- [Relief from Offender Registration Requirements](#)
- [Title 13 RCW Guardianship](#)
- [Truancy](#)
- [Vulnerable Youth Guardianship](#)
- [Juvenile Court Forms](#)
- [King County Truancy, At-Risk Youth & CHINS Forms](#)

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Miscellaneous – including Mandatory Pattern Forms

Form	Title	Download	Revised
JU 11.0100	Notice of Hearing (NTHG)	WF	09/2000
JU 11.0200	Declaration (DCLR)	WF	09/2000
JU 11.0300	Subpoena (SB)	WF	09/2000
JU 11.0310	Subpoena Duces Tecum (SBTD)	WF	09/2000
JU 11.0320	Return of Subpoena (RTSB)	WF	09/2000
JU 11.0400	Motion and Declaration for Change of Judge (MTAF)	WF	09/2000
JU 11.0410	Order for Change of Judge [] Granting Motion [] Denying Motion (ORC)(ORDYMT)	WF	09/2000
JU 11.0500	Findings and Order Regarding Eligibility for Special Immigrant Juvenile Status (FOSIJS)	WF	06/2018
JU 11.0700	Declaration re: Service Members Civil Relief Act (AFSCR)	WF	06/2018
JU 11.0720	Notice re Military Dependent (NTDMP)	WF	06/2018
JU 11.0750	Findings/Order re Service Members Civil Relief Act (ORSMCRA)	WF	06/2018

Mandatory Pattern Forms:

JU 11.0900	Motion for Order Transferring Jurisdiction to Tribal Court (MTAFTC)	WF	07/2011
JU 11.0920	Order re Transferring Jurisdiction to Tribal Court (ORGTC, ORDYMT)	WF	07/2011
JU 11.0940	Cover Sheet for Order Transferring Jurisdiction to Tribal Court (TSCCYO)	WF	07/2011
JU 11.0960	Tribal Court's Order Accepting/Declining Jurisdiction (RSPT)	WF	07/2011

Note: Additional documents may be required by local county superior court rules.

Important: To obtain legal advice you should hire a lawyer (for "full service" representation or for "limited" representation) or, if you cannot afford one, contact a low cost or free legal service program. For a referral to a lawyer or a legal service program, call CLEAR (888) 201-1014. Your county may also have a courthouse facilitator who cannot provide legal advice, but who can offer limited assistance in completing necessary paperwork. This list of forms is not legal advice and is provided only for reference purposes.

- ▶ The form is categorized as "Juvenile"
- ▶ Can be adapted to many case types

Superior Court of Washington County of _____ Juvenile Court	NO: Findings and Order Regarding Eligibility for Special Immigrant Juvenile Status (FOSIJS)
In re:	

The Court, having reviewed the supporting material on file, including motion papers and supporting affidavits, all the pleadings and prior proceedings in this matter, and/or hearing testimony and argument, if any, enters the following:

I. Findings:

- 1.1 This court has jurisdiction under State law to make judicial determinations about the custody and care of _____ (child's name) who was found to be within the jurisdiction of this court and remains under this court's jurisdiction.
- 1.2 This child is under 21 years of age.
- 1.3 This child is unmarried.
- 1.4 This child was:
declared dependent by a juvenile court on _____ (date); or
legally committed to or placed in the custody of a state agency or department, on _____ (date); or
placed under the custody of an individual or entity _____ (name of individual or entity), appointed by a state or juvenile court, on _____ (date).
- 1.5 Reunification of the child with one or both of his or her parent/s

Form JU 11.0500: Section 1.5

Must include factual and legal basis of the **mistreatment** by one or both parents

1.5 Reunification of the child with one or both of his or her parent/s DAD
(name of parent/s who child cannot reunify with) was found not to be viable on
_____ (date). This finding was based on a finding of [x] abuse,
neglect, or abandonment, or a similar basis under Washington State Law (*RCW or
case cite*) in that: (*Provide brief description of supporting facts:*)

Antonio's father, DAD, a heavy drinker, would often come home drunk and physically harm the mother. He often flared up at Antonio, chased him, threw him down, beat him with whatever objects might be at hand. The father threatened to hide Antonio from his mother so that the mother would never see him. He threatened to use his connections with local gang members to hunt the mother and boy if they tried to leave. Antonio developed diabetes at about age 10 from the stress. The mother managed to flee to Washington state with Antonio in 2020 when he was 13.

The father's behavior meets the definition of child abuse under RCW 26.44.020(1): "Abuse . . . means . . . injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety . . ."

Specific facts



Citation to law



Form JU 11.0500 Section 1.6

1.6 Explain why it is not in the **best interests** of the child to return to the home country:

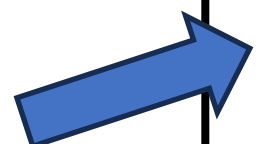
1.6 It is not in this child's best interest to return to his or her previous country of nationality or country of last habitual residence, Mexico (name of country or countries) or to the country or countries of his or her parent(s) Mexico (name of country or countries). It is in the child's best interest to remain in the United States in that
(Provide brief description of supporting facts:) _____

The mother, MOM, has always provided all the daily care for the child. With the mother, the child has a safe and stable home and is well-cared for. She helped him enroll in school and found a doctor for his diabetes. The child consistently gets good grades and participates in school activities. He hopes to go to college.

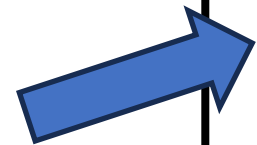
Return to Mexico would disrupt the stability of the child's current life and educational path. Furthermore, the mother's family in Mexico has been further threatened by gangs. The child would have no parental protection from DAD and could suffer physical harm or death by gang members.

Return to Mexico is not in the child's best interests as per RCW 26.09.002: ". . . the best interest of the child is ordinarily served when the existing pattern of interaction between a parent and child is altered only to the extent necessitated by the changed relationship of the parents or as required to protect the child from physical, mental, or emotional harm."

Specific facts



Citation to law



Closer Look at SIJ in Various State Court Proceedings

See Bench Book & Card

SIJ Classification In Dependency Proceedings (RCW 13.34)

- Court is already directly charged with making findings about abuse, neglect, abandonment, and other findings relating to a parent's ability to care for the child.
- Usually initiated by DCYF to prevent harm to a child's health, welfare, or safety.
- BUT "any person" (including the child) may file a petition showing that there is a dependent child within the county and requesting that the court remedy the child's circumstances. These are "privately-filed" dependency petitions.
- A dependency finding as to at least one parent under RCW 13.34.030(6)(a), (b), or (c) generally gives rise to a child's SIJ eligibility.

Examples of when SIJ Findings might be sought in a Dependency

- Child is still in custody of Office of Refugee Resettlement.
 - State courts do not have jurisdiction over custody status and placement decisions, unless HHS consents to the state court having this jurisdiction. 8 USC §1101(a)(27)(J)(iii)(I).
 - Division of Children's Services or Unaccompanied Refugee Minors Program
- Child is living with no parents.
- Other living situations (shelter, other relatives/adults, unhoused).
- Child is in DCYF custody – dependency already started or established.

History of Vulnerable Youth Guardianship (VYG)

- SHB 1988 –aligned Federal law with state law; effective date 07/23/17
Codified as RCW 13.90.
- “[I]t is necessary to provide an avenue for these vulnerable youth to petition the superior courts to appoint a guardian of the person, even if the youth is over eighteen years old. This is particularly necessary in light of the vulnerability of this class of youth, and their need for a custodial relationship with a responsible adult as they adjust to a new cultural context, language, and education system, and recover from the trauma of abuse, neglect, or abandonment.”
- “These custodial arrangements promote the **long-term well-being and stability of vulnerable youth** present in the United States who have experienced abuse, neglect, or abandonment by one or both parents.”

Review of Vulnerable Youth Guardianship

- **Youth ages 18-20** can request that a proposed guardian be granted custody of them

NOTE: No service on parents required because youth over 18 are adults under the law

- **Petition must allege and show:**

- Both the petitioner and proposed guardian agree to the establishment of a guardianship
- Youth is between the ages of 18 and 21
- Youth is prima facie eligible for classification under 8 USC Sec. 1101(a)(27)(J) (Special Immigrant Juvenile)
- Youth requests the support and mentorship of a responsible adult
- Proposed guardian agrees to serve as guardian and is a suitable adult over 21 who is capable of performing the duties of a guardian

Seeking SIJ findings in a Minor Guardianship RCW 11.130

- Minor Guardianship is probate proceeding in which a court may confer legal custody of a child on a nonparent
- Awards powers a parent would have regarding support, care, education, health, safety, and welfare
- Guardianship must be in the child's best interests and that at least one of three criteria are met: the parents consent; all parental rights have been terminated; or no parent is "willing or able to exercise parenting functions as defined in RCW 26.09.004."
- Facts that support findings under the legal standard for a minor guardianship are often consistent with those necessary to obtain SIJ findings.
- When the court orders a custodial placement with a guardian that is in the child's best interests, it may also find that parental misconduct such as abuse, neglect, or abandonment, has occurred

Seeking SIJ findings in Dissolution or Parenting Plan Proceedings

- A variety of family law cases may result in findings that are consistent with SIJ requirements
- Dissolution or legal separation with children:
- SIJ orders may be appropriate when court orders parenting plan with restrictions under RCW 26.09.191(2)
 - Findings of domestic violence, neglect, willful abandonment, sexual assault, or other misconduct may allow for an SIJ predicate order.
 - Discretionary limitations on a parent's contact with children under RCW 26.09.191(3) may also be sufficient to issue SIJ findings due to a substantial nonperformance of parenting functions, long-term emotional impairment or substance abuse that interferes with parenting, withholding the child from the other parent, and other factors found to be adverse to the best interests of the child.

Seeking SIJ findings in Delinquency proceedings

- Any state court that hears a juvenile offender matter meets the definition of a juvenile court under the SIJ standards.
- A court qualifies as a juvenile court under SIJ standards not only if it adjudicates trials and sentencings, but also if it decides any other portion of the offender matter—including release motions, commitments to detention, probation violations, etc.
- If a court qualifies as a juvenile court under the SIJ standards, it can make and enter findings and conclusions regarding SIJ eligibility.

Seeking SIJ Findings in Adoption Proceedings RCW 26.33

- Adoption is a proceeding where a person other than the biological parent(s) becomes the permanent legal parent of the child.
- SIJ predicate findings may be obtained during a dependency or termination of parental rights proceeding, citing evidence of abuse or neglect that is already part of the record.
- SIJ predicate findings may include evidence of abandonment, abuse, or neglect that is included in the Home Study.
- When an adoption was finalized after a child's 16th birthday and the adoptive parents are unable to establish two years of legal and physical custody of the child, it may be that the child is only eligible for immigration benefits through SIJ classification.
- Some limitations prevent some children from adjusting status to lawful permanent resident status through a family petition. If a child is eligible for SIJ classification, then that may be the best and fastest option for the child to obtain lawful status.



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