



DCBAR

**2023
District of Columbia
Judicial & Bar Conference**

APRIL 28, 2023



Representing Vulnerable Immigrant Youth: Best Practices in Our Changing Political Climate

April 28, 2023
4:00 p.m. – 5:00 p.m.



Continuing Legal Education

Representing Vulnerable Immigrant Youth: Best Practices in Our Changing Political Climate

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¹ These numbers correspond to those in bold at the lower-right corner of each page.

Representing Vulnerable Immigrant Youth: Best Practices in Our Changing Political Climate

**About the Speakers
(Listed Alphabetically)**

Hannah Ferguson serves as the Associate Director for Foster Care at Lutheran Immigration and Refugee Service (LIRS). Ms. Ferguson received her Master of Arts in Global Policy from the Paul H. Nitze School of Advanced International Studies (SAIS) of Johns Hopkins University and a Bachelor of Arts in International Relations from American University. Ms. Ferguson has prior experience in direct service working with immigrant and refugee youth in the Unaccompanied Refugee Minor (URM) program and now focuses on the program management of several foster care programs in her current position with LIRS.

June K. Lee is the director of the Immigrant Rights Legal Services Project at Legal Aid DC. She oversees Legal Aid's Immigration Law practice and community outreach. Prior to joining Legal Aid in 2018, June spent five years representing survivors of domestic violence and labor trafficking in family law and immigration matters, first at Queens Legal Services and then at Asian Pacific American Legal Resource Center. From 2015 to 2017, June served as co-chair of the Pro Bono and Community Service Committee at the Asian American Bar Association of New York, where she helped establish a free legal advice clinic in Manhattan's Chinatown.

June graduated with a B.A., cum laude, from Bowdoin College. She received her J.D. from Brooklyn Law School.

Jessalyn Schwartz is a Senior Attorney in KIND's DC office. Prior to joining KIND in 2019, Jessalyn worked in Boston as a court-appointed attorney for children and parents involved in child protection proceedings, students facing school offender and truancy petitions, and adults in mental health guardianship and commitment cases. Jessalyn serves on the Citizens Review Board for Children in Prince George's County, MD, and is active in other professional organizations and advocacy roles pertaining to the welfare of youth and undocumented residents in Washington D.C.

Jessalyn is a DC-area native and earned her JD from Northeastern University School of Law in Boston and her BA from Pennsylvania State University.

TAB ONE

DC JUDICIAL AND BAR CONFERENCE 2023

Representing Vulnerable Immigrant Youth: Best Practices in Our Changing Political Climate

April 28, 2023



1

Agenda

- Representing Immigrant Children
 - Potential forms of relief
 - Who are these children?
 - Practice considerations
- Unaccompanied Children (UCs) and Unaccompanied Refugee Minors (URMs)
- What is Special Immigrant Juvenile Status (SIJS)?
 - SIJS Overview
 - SIJS Practice in DC Courts
 - SIJS for Unaccompanied Children (UCs) v. Unaccompanied Refugee Minors (URMs)
 - Vulnerable Youth Guardianship Bill
- Asylum and Other Forms of Relief
- Pro Bono Service for Immigrant Youth



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Potential Forms of Relief

- **Special Immigrant Juvenile Status (SIJS)**
- **Asylum**
- **U Visas**
- **T Visas**
- **Voluntary Departure**

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Who Are These Children?



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Why are children coming to the U.S.?

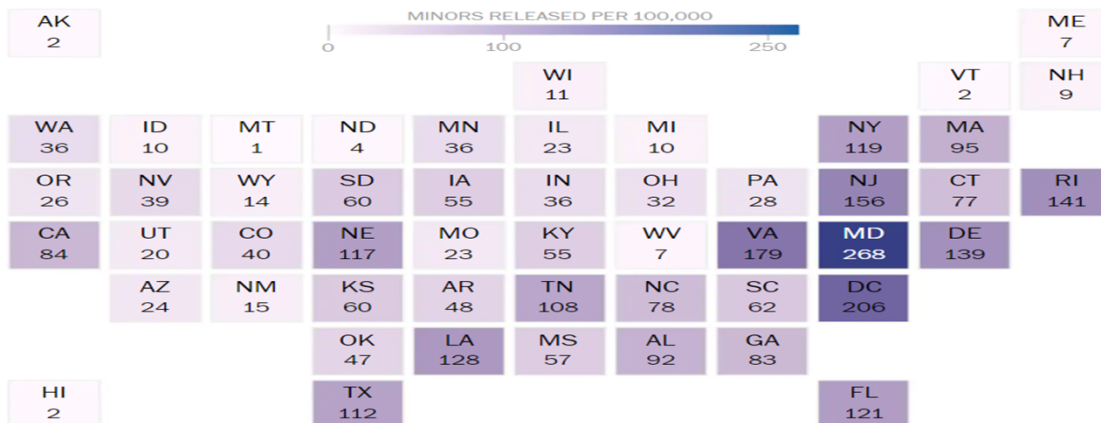
- Reunify with family members
- Child abuse, abandonment, and/or neglect
- Gang & cartel violence
- Gender-based violence
- Poverty and lack of opportunities and resources, such as health and education



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Unaccompanied minors released to sponsors by state, per 100,000 residents

From October 2014 through December 2020, more than 250,000 minors were released to sponsors in the United States. In raw numbers, almost half went to sponsors in the largest states, but when adjusted for population Maryland, D.C. and Virginia were the top destinations.



Source: Department of Health and Human Services

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Interviewing/Meeting with Child Clients

Explain your role

- Do they know what an attorney does? Do they understand why they are there?
- Highlight why you may need to ask some sensitive questions and what the importance is of them sharing difficult information.

Empower the child

- Tell them they don't have to answer your questions. They are "the boss" and direct the representation.

Highlight confidentiality

- Explain who information might be shared with

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Tips and Techniques for Representing Child Clients

Interview Tips and Techniques

- Speak simply and slowly. Do not ask compound questions. Use follow ups as needed.
- Build on the child's answers.
- Ask questions to gauge understanding---ask the child to repeat in their own words what you have asked them.
- Allow for breaks---don't be afraid of silences!
- Use active listening techniques---pay attention to the child's word choice, mimic them and use age-appropriate terms.
- Destigmatize triggers and sensitive topics
- Utilize alternatives to standard Q&A format---allow child to draw or write their responses, use a chronology, focus on most important events
- Make sure to DEBRIEF

8

Working with Immigrants

Unique Considerations

Culture

Language

Education

Income

Uncertainty

9

How Does Trauma Impact Representation?

- Things Children's Attorneys Need to Know About Trauma (ABA Children's Rights Litigation Committee)
 - Trauma can lead to a substantial disruption in child's brain and developmental milestones
 - Chronic trauma may create frequent unsettled flight, fright, or freeze responses, leading the child to view adults and the world around them as unsafe
 - When considering the impact of trauma in a child's case, be prepared to present evidence on how trauma effects the wiring of a child's brain and how appropriate treatment can remediate impacts of trauma
 - Clients who have experienced chronic trauma require significant support and it is important to focus on safety and stability in your interactions with your client



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Unaccompanied Children and Unaccompanied Refugee Minors

Unaccompanied Children (UC):

- Live in community (often with family members, sponsors)
- Often not connected with community resources
- May be matched with a legal service provider (LSP)
- Some UC may qualify for the URM program

Unaccompanied Refugee Minors (URM):

- No viable sponsor/reunification option
- Are placed in foster care
- Receive case management, clinical, education and living skills services
- Are matched with a LSP

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SPECIAL IMMIGRANT JUVENILE STATUS (SIJS)

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Special Immigrant Juvenile Status (SIJS)

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

- ❑ Unmarried through the approval of the I-360
- ❑ Under age 21 (but per DC Code, must be under age 18)
- ❑ Dependent on juvenile court or placed in custody
- ❑ Not viable to reunify with one or both parent(s) because of **abuse, abandonment, neglect**
- ❑ Not in best interest to return to country of **nationality** or last habitual residence (of child and parents)



Lutheran Immigration and Refugee Service

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WHAT IS SPECIAL IMMIGRANT JUVENILE STATUS?

SIJS is a form of immigration protection for children in the U.S. who have been abused, abandoned, or neglected by one, or both, parents. To receive SIJS, the child must appear before state family court to prove that it is unsafe for them to be returned to their home country.

SIJS Process for a Child



1. Obtain a State Predicate Order

A state court judge issues a written order finding that the child had been abused, abandoned or neglected under state child welfare law and that it is not in their best interest to return to their country of origin. The order is called a Predicate Order (PO).



2. Obtain Approved I-360 from USCIS

The child then submits this PO to USCIS to be designated Special Immigrant Juvenile Status (SIJS). Once approved the child can apply for a green card and have their deportation proceedings terminated.



3. Adjusting Status to obtain Green Card

An immigration judge must either adjudicate the child's adjustment of status or terminate their court case so USCIS can. Obtaining lawful permanent residency is the important process ensuring a child can remain safely in the U.S. and not be deported to the country where they experienced the violence.



Lutheran Immigration and Refugee Service

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SIJS IN DC COURT: Relevant Law

- Immigration and Nationality Act s. 101(a)(27)(J)
- DC Code sections:
 - Governing jurisdiction and general definitions related to child custody: §11-1101; §16-4602.01; and §16-4601.01.
 - governing custody or guardianship: D.C. Code § 16-914 (for parents) and §16-831.02 (for third parties)
 - defining abuse, abandonment and/or neglect (D.C. Code § 16-2301)
 - Findings re: parental presumption: §16-831.07
 - outlining the best interests of the child in your proceeding: D.C. Code §16-914(a)(3) (for parents) and D.C. Code § 16-831.08 (for third parties)
- DC procedural rules governing notice and service for Domestic Relations <https://www.dccourts.gov/superior-court/rules>

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OBTAINING ORDERS FROM DC SUPERIOR COURT

- In DC, you need two SEPARATE orders:
 - One custody order AND
 - A separate order containing SIJS findings (predicate order)
- Some other points
 - Parent petitioner v. third party
 - Youth in foster care or with existing custody order

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SIJS for Youth the Unaccompanied Refugee Minor (URM) Program

1. Unaccompanied minor in ORR Custody is matched with LSP
 - a. Immigration proceedings have been dismissed
 - b. Adjudicated into local court and obtains SIJS predicate order
 - c. SIJS application is filed
2. Minor receives I-360 approval and becomes eligible for URM program
3. Minor transfers to URM program
 - a. Matched again with LSP (if in new foster care program)
 - b. LSP continues application process for adjustment of status

US citizens are not eligible for the URM program

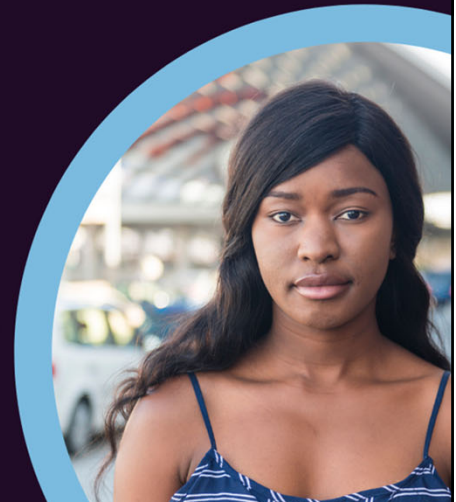


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THE VULNERABLE YOUTH GUARDIANSHIP PROTECTION AMENDMENT ACT

This bill will ensure immigrant youth are better situated to pursue education, qualify for certain federal benefits, seek employment and afford to live and remain active members of the community.



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ASYLUM AND OTHER FORMS OF RELIEF

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Asylum

An **asylee** is defined in the Immigration and Nationality Act as:

“Any person who is outside any country of such person’s nationality . . . and who is unable or unwilling to avail himself or herself of the protection of that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.”

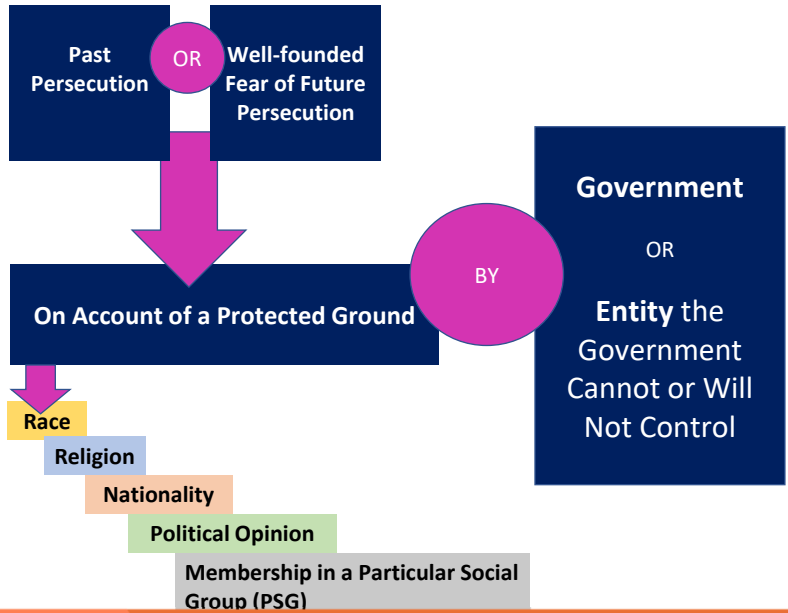
INA § 101(a)(42)(A)

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4 Basic Elements of Asylum

8 USC § 1101(a)(42)



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Protected Grounds

Race	Religion	Nationality	Political Opinion	Particular Social Group
Indigenous Group	Devout Evangelical or Catholic	Indigenous Nation (e.g. Mayans)	Feminism or Anti-gang/for rule of law	See Next Slide...

22

What is a Particular Social Group (PSG)?

Any group that meets 3 elements...

1. Members of the group share a common **immutable** characteristic
2. Group is **socially distinct**
 - Recognized by the community as a social group
3. Group is defined with **particularity**
 - Not amorphous

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Other Forms of Relief

U Visas: For victims of a U.S. crime

- Must cooperate with investigation or prosecution of the crime

T Visas: For victims of sex and labor trafficking

Voluntary Departure: For those who wish to voluntarily return to their home country.

24

Interested in Pro Bono?



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How Does KIND Partner with *Pro Bono* Attorneys?

- The majority of KIND's Pro Bono Attorneys are *not* immigration attorneys, and not even litigators!
- KIND assigns mentor to every case to be your go to contact for case questions, samples, and feedback.
- KIND also conducts a variety of trainings, office hours, webinars, and quick topic calls to make sure pro bono attorneys are informed throughout the life of a case.



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Thank you for attending!



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TAB TWO



Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Brianne K. Nadeau
Councilmember, Ward 1

Statement of Introduction Vulnerable Youth Guardianship Protection Amendment Act of 2023

January 18, 2023

Nyasha Smith, Secretary
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Dear Secretary Smith,

Today along with Councilmembers Allen, Gray, R. White, Bonds, and Pinto, I am introducing the “Vulnerable Youth Guardianship Protection Amendment Act of 2023”. This bill will promote stability and provide protection for the lives of vulnerable youth up to age of 21 who have been subject to parental abuse, abandonment, neglect, or similar mistreatment. While this legislation applies to all vulnerable youth, it would especially support undocumented immigrant youth.

District courts do not currently have jurisdiction over youth aged 18 to 21 unless they are already in the Child and Family Services Agency’s (“CFSA”) custody or were previously found to be neglected. The Vulnerable Youth Guardianship Protection Amendment Act thus makes two critical changes to D.C. Superior Court jurisdiction. First, the bill aligns District and federal law to allow the Court to review and approve findings for certain youth up to age 21, allowing them to then be eligible to petition the federal government for Special Immigrant Juvenile Status (“SIJS”). SIJS is a special humanitarian visa applying to abused, abandoned, or neglected immigrant youth under age 21.¹ Upon approval from the Court, SIJS youth become eligible for a certain benefits like work authorization, a Social Security number, housing assistance, and federal financial aid for education. They may also begin their path towards seeking permanent residency or citizenship.

Second, this bill grants the D.C. Family Division authority to appoint legal guardians for the newly created class of “vulnerable youth,” defined as “an unmarried noncitizen who is under 21 years of old.” These changes do not alter or repeal existing law, thereby circumventing any impact to minor children under the age of 18 or those already in the care and custody of CFSA. Numerous child welfare and advocacy groups have spoken on the benefits of these guardian relationships, which can reduce the

¹ U.S. Citizenship and Immigration Services, *Special Immigrant Juveniles* (last accessed Dec. 6, 2022), <https://www.uscis.gov/working-in-US/eb4/SIJ>.

risk of further harm of trafficking and abuse and provide critical stability and support while the youth enters young adulthood and integrates into their new community.² Additionally, because most SIJS youth typically lack the resources to navigate the court system, establishment of a guardianship for youth can provide a critical support for those seeking SIJS.

This legislation will ensure that the District continues to reinforce its status as a sanctuary city, while extending supports specific to the needs of undocumented youth. Federal data suggests that more than a third of the unaccompanied immigrant children between the ages of 0-17 arriving in the U.S. were already 17 years old.³ the District's Kids in Need of Defense ("KIND") office has handled nearly 90 cases in which a D.C. predicate order was approved less than 6 months before the client's 18th birthday. Of those, nearly 50 were approved a month or less before the client's birthday. Additionally, KIND has been unable to serve more than 40 youth since 2019 because of District laws cutting off SIJS eligibility after the age of 18. In a recent example shared with the Committee on Human Services, a 17-year-old woman missed the deadline to complete her custody hearings before aging out by a matter of weeks after her sponsor was hospitalized with COVID. Had this legislation been in effect, this young person would have had the opportunity to seek SIJS protection.

To date, more than a dozen states, including Maryland and Virginia, have taken action to permit juvenile courts to appoint guardians or otherwise issue SIJS determinations for immigrant youth aged 18 up to 21.⁴ This bill is supported by experts and practitioners in cross-cutting disciplines, including child welfare services, immigration legal services, educators, and abuse and trafficking service providers. It provides a path forward for some of our most vulnerable youth while creating a stable foundation from which they can build a future education, home, career, and lives in the District. I look forward to working with my colleagues to pass this critical legislation.

Sincerely,



Brianne K. Nadeau
Councilmember, Ward 1
Chairperson, Committee on Public Works & Operations


² See e.g., Wa. Dept. of Comm., *Vulnerable Youth Guardianships*, (Jan. 2019), <http://www.commerce.wa.gov/wp-content/uploads/2019/03/Commerce-Vulnerable-Youth-Guardianship.pdf>; CT Gen. Assembly, *Joint Favorable Report: An Act Concerning Guardianship Appointments for Individuals Seeking Special Immigrant Juvenile Status* (Mar. 23, 2018), <https://www.cga.ct.gov/2018/JFR/h/2018HB-05185-R00KID-JFR.htm>

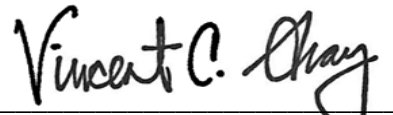
³ U.S. Dept. of Health and Human Services, *Unaccompanied Children: Fact Sheets and Data* (last accessed Dec. 6, 2022), <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data>.

⁴ Project Lifeline, *Predicate Order State-by-State Age-Out Analysis* (last accessed Dec. 6, 2022) <https://projectlifeline.us/resources/state-by-state-analysis>. (The map is not up to date, as Virginia and Minnesota have also recently taken action to achieve this goal.)


Councilmember Charles Allen


Councilmember Brianne K. Nadeau


Councilmember Robert C. White, Jr.


Councilmember Vincent C. Gray


Councilmember Brooke Pinto


Councilmember Anita Bonds

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

1 To amend Chapter 23 of Title 16 of the District of Columbia Official Code to give the Family
2 Division of Superior Court jurisdiction to appoint, modify, and terminate a new class of
3 legal guardianship for vulnerable youth so defined.

4
5 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
6 act may be cited as the “Vulnerable Youth Guardianship Protection Amendment Act of 2023”.

7 Sec. 2. Section 13-336(b) of the District of Columbia Official Code is amended as
8 follows:

9 (a) Paragraph (7) is amended by striking the phrase “; and” and inserting a semicolon in
10 its place.

11 (b) Paragraph (8) is amended by striking the period and inserting the phrase “; and” in its
12 place.

13 (c) A new paragraph (9) is added to read as follows:

14 “(9) actions for the appointment of a vulnerable youth guardian under Subchapter
15 VI of Chapter 23 of Title 16 of the District of Columbia Official Code.”.

16 Sec. 3. Title 16 of the District of Columbia Official Code is amended as follows:

17 (a) The table of contents for Chapter 23 is amended by adding a new designation for
18 Subchapter VI to read as follows:

19 “Subchapter VI. Vulnerable Youth Guardian.

20 “§ 16-2399.01. Definitions.

21 “§ 16-2399.02. Guardianship petition.

22 “§ 16-2399.03. Parties.

23 “§ 16-2399.04. Timing and notice.

24 “§ 16-2399.05. Adjudicatory hearing.

25 “§ 16-2399.06. Order appointing a guardian of a vulnerable youth.

26 “§ 16-2399.07. Jurisdiction.

27 “§ 16-2399.08. Additional available remedies.”.

28 (b) Chapter 23 is amended by adding a new subchapter VI to read as follows:

29 “Subchapter VI. Vulnerable Youth Guardian.

30 “§ 16-2399.01. Purpose

31 ““The general purpose this subchapter is to:

32 “(1) Promote stability and protection in the lives of certain vulnerable youth who

33 have been subject to parental abuse, abandonment, neglect or similar circumstances under

34 District law by one or both parents by providing judicial procedures to protect their best interests

35 through appointment of a guardian in the circumstances set forth in this subchapter;

36 “(2) Increase the opportunities for such vulnerable youth to receive appropriate
37 care, supervision, and support, especially from relatives, without ongoing government
38 supervision.

39 “(3) This subchapter shall be liberally construed to promote the best interests of
40 the vulnerable youth.

41

42 “§ 16-2399.02. Definitions.

43 “For purposes of this subchapter, the term:

44 “(1) “Guardian” means a person designated by the court pursuant to this
45 subchapter as the legal guardian of a vulnerable youth..

46 “(2) “Noncitizen” means a person who is not a United States citizen.

47 “(3) “Petitioner” means a person seeking to be appointed guardian of the
48 vulnerable youth.

49 “(4) “Person” means an individual, business or nonprofit entity, public
50 corporation, government or governmental subdivision, agency, or instrumentality, or other legal
51 entity whether or not a citizen or domiciliary of the District of Columbia and whether or not
52 organized under the laws of the District of Columbia.

53 “(5) “Similar circumstances” means conditions that have an effect on a minor
54 comparable to abuse, neglect, or abandonment, including the death of a parent.

55 “(6) “Vulnerable youth” means an unmarried noncitizen who is under 21 years
56 old.

57 “§ 16-2399.03. Guardianship petition.

58 “(a) A vulnerable youth or petitioner may file a petition with the Family Court to appoint
59 a guardian and to request that the court make the findings described in 8 U.S.C. 1101(a)(27)(J)
60 under District law. The petition must name the proposed guardian and describe why:

61 “(1) The appointment is in the best interests of the vulnerable youth;

62 “(2) Reunification of the vulnerable youth with one or both parents are not viable
63 due to abuse, neglect, abandonment, or similar circumstances under District law; and

64 “(3) It is not in the best interests of the vulnerable youth to be returned to the
65 vulnerable youth’s or vulnerable youth’s parents’ country of nationality or last habitual
66 residence.

67 “(b) The court shall determine whether it is in the vulnerable youth’s best interests that a
68 guardian be appointed by considering:

69 “(1) The vulnerable youth’s need for continuity of care and caretakers, and for
70 timely integration into a stable home, taking into account the differences in the development and
71 the concept of time of youth of different ages and nationalities;

72 “(2) The physical, mental, and emotional health of all individuals involved to the
73 degree that each affects the welfare of the vulnerable youth, the decisive consideration in regard
74 to this factor being the physical, mental, and emotional needs of the vulnerable youth;

75 “(3) Access to stability, safety, supports or services to remedy the impacts of prior
76 abuse, abandonment, neglect, or similar circumstances;

77 “(4) The quality of the interaction and interrelationship of the vulnerable youth
78 with his or her parents, siblings, relatives, and caretakers, including the proposed guardian; and

79 “(5) The vulnerable youth’s opinion of their own best interest.

80 “§ 16-2399.04. Timing and Notice.

81 “(a) The following individuals, if there are any for the vulnerable youth, and their
82 attorneys, shall be provided notice of, and an opportunity to be heard in, the guardianship
83 proceedings:

84 “(1) The vulnerable youth;

85 “(2) The vulnerable youth’s parent; and

86 “(3) The proposed guardian.

87 “(b) When a petitioner files a petition to appoint a guardian of a vulnerable youth
88 pursuant to this subchapter, the court shall set a time for an adjudicatory hearing, as soon as
89 administratively feasible, prior to the vulnerable youth reaching 21 years of age.

90 “§ 16-2399.06. Order appointing a guardian of a vulnerable youth.

91 “(a) After consideration of all the relevant, material, and competent evidence, the court
92 shall issue an order establishing a guardianship if the court finds that the guardianship is in the
93 youth’s best interests.

94 “(b) After the guardianship is established, upon request by the petitioner or the vulnerable
95 youth, the court shall, if the court finds that the allegations in the petition pursuant to §16-
96 2399.03(a) are supported by a preponderance of the evidence, enter a special findings order
97 containing the following judicial determinations supported by relevant state statutory citations
98 and findings of fact:

99 “(1) Where the identity is known, the specific identity of the parent or parents
100 whom the court finds have abused, abandoned, or neglected, or similarly mistreated the
101 vulnerable youth;

102 “(2) That the vulnerable youth is dependent on the court and has been placed
103 under the care and custody of an individual or entity appointed by the court through the
104 appointment of a guardian;

105 “(3) That reunification of the vulnerable youth with one or both parents is not
106 viable due to abuse, abandonment, neglect or similar circumstances under District law;

107 “(4) That it is not in the best interest of the vulnerable youth to be returned to the
108 vulnerable youth or vulnerable youth’s parents’ country of nationality or last habitual residence.

109 “(c) The court may, upon motion of a party, modify or terminate a guardianship order
110 when the modification or termination of the guardianship order is in the vulnerable youth’s best
111 interests.

112 “(d) The entry of a guardianship order under this subchapter shall not impinge on the
113 vulnerable youth’s fundamental rights to make their own medical, educational, financial, or other
114 such decisions.

115 “(e) A guardianship order entered under this subchapter shall automatically terminate
116 when the youth reaches age 21.”

117 “§ 16-2399.08. Additional available remedies.

118 “Nothing in this subchapter shall prevent a petitioner or vulnerable youth from seeking
119 any other remedy or protections available under other subparts of Title 16 or any other laws of
120 the District intended to promote the welfare of children and youth, to protect children and minors
121 from abuse or other harm, or to provide support. Nothing in this section prevents the court from
122 issuing judicial determinations similar to those in subsections §16-2399.06(b) in any other
123 proceeding concerning a noncitizen minor.

124 Sec. 5. Fiscal impact statement.

125 The Council adopts the fiscal impact statement in the committee report as the fiscal
126 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
127 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

128 Sec. 6. Effective date.

129 This act shall take effect following approval by the Mayor (or in the event of veto by the
130 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
131 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
132 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
133 Columbia Register.



FREQUENTLY ASKED QUESTIONS

Vulnerable Youth Guardianship Protection Amendment Act of 2023

What does this bill do?

The Vulnerable Youth Guardianship Protection Amendment Act establishes equal access to DC's courts for all vulnerable youth and survivors of child abuse, neglect, or abandonment by allowing them to have a guardian appointed for them up until to the age of 21. This guardianship can ease integration into the community, cultural navigation, and pave a way for applying for a form of federal humanitarian relief called Special Immigrant Juvenile Status (SIJS). Currently, only youth up to 21 years of age who remain in Child and Family Services Administration (CFSA) custody have access to the District's courts to seek the determination necessary to apply for SIJS. With access to lawful status through SIJS, eligible young DC residents will be able to pursue higher education, qualify for certain federal benefits, seek employment in the District, and afford to live and remain active members of our community.

Who are the primary beneficiaries of this legislation?

Youth up to 21 years of age living in DC are the primary beneficiaries of this legislation. In particular, youth without immigration status would benefit from guardians to aid in their integration to DC, such as enrolling in school or accessing health benefits.

What is Special Immigrant Juvenile Status (SIJS)?

Under U.S. immigration law (8 CFR 204.11), a young person is eligible to seek SIJS if they are under 21 years old and unmarried, are physically present in the United States, and have obtained findings from a juvenile court determining that they cannot be reunited with their parent(s) due to abuse, abandonment, or neglect. The involvement of the DC Superior Court in the SIJS process reflects a judgment that the DC Superior Court, rather than the federal immigration service, is best suited to make findings relating to family law or child protection of its residents. Once granted, SIJS provides a pathway to seek legal permanent residency (a green card) and U.S. citizenship, provides work authorization, and allows youth to access additional federal benefits and services like healthcare, financial aid, and the ability to terminate deportation proceedings.

What is Special Immigrant Juvenile Status?

SIJS is a form of immigration protection for children in the U.S. who have been abused, abandoned, or neglected by one, or both, parents. To receive SIJS, the child must appear before state family court to prove that it is unsafe for them to be returned to their home country.

SIJS Process for a Child



Obtain a state predicate order

A state judge issues a written order finding that the child has been abused, abandoned, or neglected under state child welfare law and that it is not in their best interest to return to their country of origin. The order is called Predicate Order (PO).



Obtain approved I-360 from USCIS

The child then submits this PO to U.S. Citizenship and Immigration Services (USCIS) to be designated Special Immigrant Juvenile Status (SIJS). Once approved the child can apply for a green card and have their deportation proceedings terminated.



Adjusting status to obtain Green Card

An immigration judge must either adjudicate the child's adjustment of status or terminate their court case so USCIS can. Obtaining lawful permanent residency ensures a child can remain safely in the U.S. and not be deported to the country where they experienced the violence.

Is the DC Superior Court making any immigration determinations?

No, the DC Superior Court will never make any immigration determinations, and cannot determine who is granted SIJS or a green card. The DC Superior Court uses its expertise in children's best interests to evaluate the youth's situation and determine the facts of their past abuse, neglect, or abandonment, and whether or not they should be placed with this guardian. The federal government has the sole discretion of reviewing and adjudicating immigration applications like SIJS and making immigration related decisions.

Are DC superior courts already making SIJS factual findings?

Yes. But they are currently only doing so only for youth up to 21 years of age who remain in Child and Family Services Administration (CFSA) custody because of jurisdictional issues.

Does this change the definition of a "child" in DC code?

No. The bill creates a new definition of "vulnerable youth" as an unmarried noncitizen up to 21 years of age.

Does this bill change the rights, services, and resources available to children in foster care?

No. This bill creates provisions in the law designed to benefit vulnerable youth without altering, disturbing, or changing any existing rights, services, and resources to children in foster care or any other child in the care and custody of CFSA.

Who is and what is the role of the guardian in a Vulnerable Youth Guardianship?

The guardian is most likely to be a relative or trusted adult, and in many cases, the youth may already be living with this guardian. In certain circumstances, an organization may be the most appropriate guardian. Examples include an organization that acts as a home-placing agency for the youth, or an organization caring for the youth while they are in federal custody. Organizations acting as guardians for this population are also allowed in other jurisdictions such as California and Washington.

Does this bill take away any rights from youth or young adults?

No, this bill does not take away any rights from youth. This only extends the jurisdiction of the DC Superior Court as needed to make and issue an order of factual findings, which is needed to apply for SIJS. The guardianship automatically terminates at the age of 21. As the complainants, the youth have a right to modify, amend, and terminate the guardianship before they turn 21.

Does this make more work for Guardian Ad Litem (GALs) or CFSA?

No. A GAL is not required for the court to issue an order containing these factual findings. Because this legislation would allow young people to secure appointment of a private guardian in DC courts, such as a family member or sponsor, CFSA is not a necessary party to these actions.

How does this bill prevent further abuse, exploitation, and hardship for vulnerable youth?

This bill allows for a youth who may have experienced trauma and abuse to receive additional guidance and placement with a guardian, who can help them integrate, access resources and referrals, and navigate cultural and linguistic differences. For those who are able to apply for SIJS, it can provide relief for the youth, such as stable housing, work authorization, and increased financial resources. These protective factors can help prevent a youth's abuse, exploitation, and trafficking.

What other jurisdictions allow juvenile courts to appoint guardians for young adults?

More than a dozen other states have taken action to permit juvenile courts to appoint guardians for immigrant youth up to 21 years old, such as Virginia, Maryland, California, Colorado, Connecticut, Hawaii, Maine, Massachusetts, Minnesota, Mississippi, Nevada, New Jersey, New York, and Washington state. Bringing the District of Columbia into alignment with our neighbors and other states will mean that DC residents will not be forced to relocate their families and lives in order to pursue humanitarian protection and stability.

What will this bill cost the District government, courts, or CFSA?

Like in many other jurisdictions and states that have already passed legislation to protect these youth, this bill should not require any, or at most a limited appropriation of funds. Because this legislation would allow young people to secure appointment of a private guardian in DC courts, such as a family member or sponsor, CFSA is not a necessary party to these actions. The court system, which is already familiar with making SIJS factual findings, should be able to absorb the limited additional caseload created by the bill without overloading the docket or compromising the integrity of present services, resources, or staff.

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Bill 24-0044

introduced 1/19/2023 by Councilmembers Nadeau, Pinto, Gray, R. White, Bonds, and Allen, available at ims.dccouncil.gov/Legislation/B25-0044

Vulnerable Youth Guardianship Protection Amendment Act of 2023

Background and Problem

Currently, DC and federal law are misaligned in a way that harms vulnerable immigrant youth age 18 up to 21 living in DC. Existing federal law allows abandoned, abused, or neglected immigrant youth under age 21 who are placed in the custody of an individual or entity, or otherwise dependent on a state court, to seek legal status through a humanitarian visa called Special Immigrant Juvenile Status (SIJS). However, without the necessary court findings, youth cannot petition the federal government for SIJS. DC Superior Court currently does not have jurisdiction over youth age 18 up to age 21 residing in DC unless they are already in Child and Family Services Agency's (CFSA) custody or were previously found to be neglected by the court. As a result, these youth are unable to access the protection SIJS was intended to afford them only because they live in DC.

Immigrant youth face language access and literacy barriers, financial challenges, and difficulty finding legal counsel. These stressors, compounded by the pandemic, often force youth to delay pursuing legal representation while they focus on immediate needs. By remaining without legal status, these vulnerable youth are put at risk of further harm, abuse, exploitation, and trafficking. Older immigrant youth will benefit from having a guardianship relationship with a responsible adult to reduce the risk of further abuse, provide ongoing support while they enter into young adulthood, and integrate into the community.

JENNY'S STORY

At a young age, Jenny was made to work long hours in the field, and was unable to attend school much. Her parents then abandoned her, and she was placed in the care of her grandparents, who both passed away from COVID-19 complications in Guatemala. **She journeyed to the U.S., was placed into removal proceedings, and was released to the custody of her aunt in DC.** Jenny arrived in DC only two months before turning 18 and focused on getting enrolled at Cardozo High School and settling into her new home. With so much on their plates, Jenny and her aunt could not secure legal counsel before she turned 18, and **she lost the opportunity to pursue legal status through SIJS.**

Solution: Vulnerable Youth Guardianship Protection Amendment Act

This bill extends DC Superior Court jurisdiction in a narrow way by adding new sections to DC law that will align DC and federal law with the dual goals of: 1) providing immigrant youth living in DC increased opportunities for stability and productivity by having an adult guardian in their lives, and 2) increasing access to immigration relief through SIJS. The bill will:

- **Create a new class of protected vulnerable youth for the purposes of guardianship proceedings** by defining “vulnerable youth” as an unmarried noncitizen up to 21 years old
- **Give the Family Court Division of the DC Superior Court the jurisdiction to appoint legal guardians for youth** up to 21 years old who are not already in Child and Family Administrative Services (CFSA) custody without the need for ongoing supervision from city agencies or the participation of Office of the Attorney General (OAG) attorneys
- **Align DC law with federal law to allow these youth to access Special Immigrant Juvenile Status (SIJS)**, a humanitarian immigration benefit that provides a path to legal status for abused, abandoned, or neglected immigrant youth
- **Promote stability, safety, and permanency for immigrant youth who have experienced trauma and hardship**, without taking away any of the youth's rights

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Office of Refugee Resettlement

Unaccompanied Children (UC) and Unaccompanied Refugee Minors (URM)

ORR provides a safe environment to children who enter the United States without immigration status and without a parent or legal guardian to provide for them.

TEMPORARY PLACEMENT



Unaccompanied Afghan minors are entering the U.S. as humanitarian parolees. Once referred to ORR, they are placed with care providers that have the appropriate cultural and linguistic experience. ORR is working to unite them with a relative or other sponsor. Those who cannot be united may be placed in foster care but would remain in ORR custody.

Some UC may qualify for the Unaccompanied Refugee Minors (URM) Program which provides specialized placement with state-licensed foster families.

Unaccompanied Refugee Minors Program

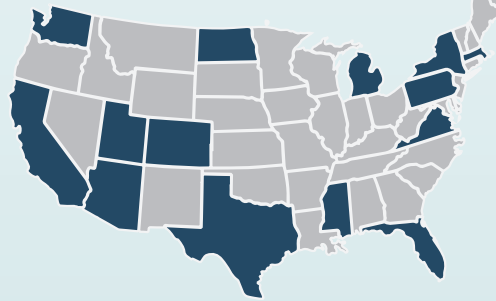
HOW UC QUALIFY FOR URM

Unaccompanied Child (UC) must have no viable sponsor or reunification options. ORR determines if UC is ready for community-based care. To qualify for the URM program, children must have:

Refugee Status Department of State and U.S. Citizenship and Immigration Services	Asylum granted Immigration judge or USCIS	Trafficking victim Must have trafficking eligibility letter from ACF Office on Trafficking in Persons	Special Immigrant Juvenile (SIJ) status Abused, abandoned, or neglected by parent as determined by local court
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STATES THAT OPERATE URM PROGRAMS:

AZ MA PA
CA MI TX
CO MS UT
DC ND VA
FL NY WA



APPLICATION

Attorneys/case workers apply for URM program on behalf of UC

ORR verifies eligibility, child's needs, identity, and age



REFERRAL



If application is accepted, case is referred to URM partners for placement

States, national resettlement agencies, URM provider agencies

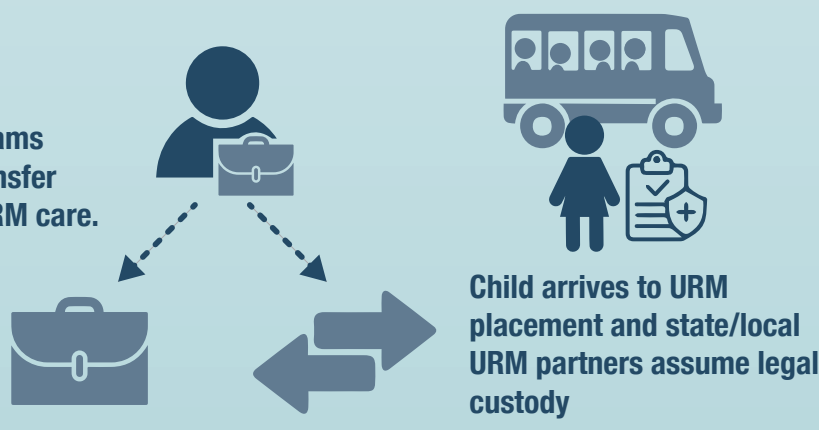
URM APPROVAL

After appropriate placement is found, child is approved by ORR to enter the URM program.



TRANSFER

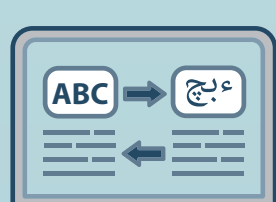
UC and URM programs coordinate and transfer child from UC to URM care.



How States Can Help Afghan Children

EDUCATION DEPARTMENT

- Ensure access to English Language Learner (ELL) classes
- Provide cultural sensitivity training for teachers and administrators
- Designate time and space for children to worship
- Provide interpreters



HEALTH DEPARTMENT

- Notify health care providers, clinics
- Ensure children have access to medical care, including vaccines and medications
- Provide interpreters

FOSTER CARE LICENSING

- Seek additional foster care families among Afghan-American communities
- Expedite licensing process
- Provide interpreters



SUPPORT AFGHAN COMMUNITIES

- Provide resources for community-led programs and opportunities
- Hire interpreters who are from Afghan communities
- Connect with places of worship and community organizations



Interested in Fostering?

Learn which states have foster care programs for unaccompanied children at <https://www.acf.hhs.gov/orr/foster>

Two national resettlement agencies also assist with the Unaccompanied Refugee Minors (URM) Program through a network of foster care providers.

Lutheran Immigration and Refugee Service (LIRS) <http://lirs.org/fostercare/>

United States Conference of Catholic Bishops (USCCB) <http://www.usccb.org/fostercare>





Case Interest Form

Thank you for attending a KIND training, please consider representing a child pro bono. Use this form to let the KIND DC-VA Office know what type of cases you'd like to work on.

Today's Date:

Name:

Firm:

Email:

Bar Admission, if any:

Language Fluency/Proficiency:

From the "Available Cases" list, which # client would you like to represent?

If you can't take on a case now, what types of cases would you like to work on in the future, and when would you be available to take on a case?

Are there any scheduling limitations you'd like us to keep in mind?

Any other strengths or limitations you'd like us to know about before placing a case with you?

Do you currently work for the federal government, or are you applying to work for the federal government?

