



# A SOCIAL WORKER'S TOOL KIT FOR WORKING WITH IMMIGRANT FAMILIES

Immigration Status and Relief Options  
June 2009



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## IMMIGRATION STATUS AND RELIEF OPTIONS

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### Objectives

- To understand the implications of immigration issues and how they impact outcomes in child welfare.
- To develop assessments to assist child welfare staff in gathering immigration facts and documentation.
- To understand the different potential immigration relief options available to assist a child or family member.
- To address issues of disparity and disproportionality due to a lack of understanding and familiarity of the dynamics of immigration.

### Summary

The purpose of this tool kit is to provide public child welfare workers with a basic overview of the dynamics of the U.S. immigration system as it impacts their clients. A Child Welfare Flowchart is the companion to this document and available online at [www.americanhumane.org/migration](http://www.americanhumane.org/migration). The tool kit reviews basic immigration concepts and constructs such as:

- The Department of Homeland Security, its three branches and other relevant governmental entities
- Immigration status and classifications
- The migration experience
- Confidentiality
- Immigration relief options

The tool kit also includes the following appendices with supporting web links:

Appendix 1: Vital Documents for Immigrant Children in the Child Welfare System

Appendix 2: Five Action Items to Facilitate Communication Between the Child Welfare System and Immigration Legal Counsel

Appendix 3: Screening Questions for Immigrant Youth: Determining Potential Avenues for Legal Status

Appendix 4: Summary of Immigration Relief Options Applicable to Youth in Dependency Proceedings

Appendix 5: Glossary of Immigration Terms

Appendix 6: For More Information

**Disclaimer:** *Be advised that the information in this tool kit is intended to provide a general overview on the intersection of immigration and child welfare. It is not intended to be used as a self-help guide or to provide legal advice. It should not be used as a substitute for professional legal or child welfare advice that takes into account the specific circumstances of each family's situation. Immigration and child welfare policy and practice vary greatly in different jurisdictions, so it is important to always consult with your local experts.*

## About the U.S. Department of Homeland Security

Prior to Sept. 11, 2001, immigration services were handled by one office — Immigration and Naturalization Services, commonly known as INS. After Sept. 11, INS was reorganized under the Department of Homeland Security. DHS has primary responsibility for administering and enforcing immigration laws and is divided into three branches:

- 1. U.S. Citizenship and Immigration Services:** CIS is responsible for processing and making decisions on all applications for immigration benefits, including applications for asylum, lawful permanent residency and citizenship. It has the power to initiate removal proceedings, where appropriate, when it denies an application benefit (e.g. request for asylum).
- 2. U.S. Customs and Border Protection:** CBP is responsible for inspecting visitors and cargo at ports of entry and tries to secure U.S. land, sea and air (airport) borders. CBP concentrates on immigration violations at ports of entry and borders, while the U.S. Immigration and Customs Enforcement concentrates on violations of immigration and customs laws in the U.S. interior.
- 3. U.S. Immigration and Customs Enforcement:** ICE is responsible for enforcement of U.S. immigration laws and concentrates the majority of its resources on “interior” enforcement (not at the border). ICE’s primary function is apprehension of noncitizens and the initiation of removal proceedings against them. ICE also carries out the removal of noncitizens. ICE attorneys represent the U.S. government in removal proceedings.

While immigration courts oversee judicial decisions regarding the immigration process, CIS oversees the paper process (i.e., applications). CBP is charged with border entry issues and ICE is the enforcement arm of the Department of Homeland Security. For the child welfare system, the most relevant contact agency is CIS, since this branch handles the Special Immigrant Juvenile Status (SIJS) applications and other relevant options, so it is important for child welfare agencies to develop professional relationships with their local CIS agency staff.

## Understanding Immigration Status

*Note: For a glossary of immigration terms, see Appendix 5.*

The term *immigration status* refers to a person’s classification under U.S. immigration laws. This section outlines the basic classifications of immigration status. In many circumstances, a child will not know or may have wrong information about his or her immigration status. Many adults also do not know their immigration status or characterize their status incorrectly.

A person’s immigration status will determine what immigration consequences he (or she) will face under the law, as well as what options, rights and privileges he is entitled to, such as whether he is subject to removal from the U.S. (i.e., deportation), and whether he is entitled to apply for citizenship or lawful immigration status. It also determines employment activities he can engage in while in the U.S., or whether he can be employed at all, and what access he has to U.S. public programs, resources and benefits.

Discerning a youth’s immigration status can be complicated and as such, should be undertaken by an immigration attorney or advocate. Nevertheless, those who work in the child welfare system should be aware of the basic classifications of immigration status.

### 1. U.S. Citizenship

U.S. citizenship, if validly acquired, may not be lost as a result of any violations. Citizens can never be deported or refused admission to the U.S.

#### 1a. Citizenship by Birth, Parents or Naturalization

A person can be granted citizenship in three primary ways: 1) birth in the U.S., 2) birth to a U.S. citizen parent or parents, or 3) naturalization. Naturalization is the process whereby a person who has become a legal permanent resident (i.e., green card holder) applies to become a U.S. citizen. In most instances, a person must be a legal permanent resident for five years before he or she is eligible to apply for citizenship. A person must also meet certain requirements before citizenship is granted (e.g., pass a civics test, establish English proficiency, establish that he or she is a person of “good moral character”). Certain acts can bar a person from becoming a U.S. citizen. If a person does not acquire citizenship by birth in the U.S. or through his or her parents, there is no way to obtain citizenship without first becoming a legal permanent resident.

### 1b. **Acquired Citizenship**

Many persons born in other countries may unknowingly inherit U.S. citizenship from their parents under one of several provisions of nationality law. A person *automatically* acquires citizenship regardless of any violations (or other considerations) if the following four conditions are met:

- At least one parent is or becomes a U.S. citizen by birth or naturalization;
- The child is under 18;
- The child is a legal permanent resident; and
- The child is in the legal and physical custody of the citizen parent at the time the parent becomes a U.S. citizen.<sup>1</sup>

This provision of immigration law is not widely known; many people became U.S. citizens and are unaware of it. The best, most efficient way to obtain proof of acquired citizenship is to apply for a U.S. passport. See [travel.state.gov/passport/passport\\_1738.html](http://travel.state.gov/passport/passport_1738.html) for an application and information on how to do this.

## 2. **Noncitizens or “Aliens”**

**A person who is not a U.S. citizen and falls within one of the categories listed below is a noncitizen.** The immigration laws and authorities often refer to such persons as "aliens." A noncitizen is *always* subject to the possibility of deportation or removal regardless of his or her circumstances.

### 2a. **Legal Permanent Resident or Green Card Holder**

A legal permanent resident (LPR) is not a U.S. citizen but is permitted to live and work permanently and legally in the U.S.<sup>2</sup> It is the most secure immigration status, short of being a U.S. citizen. However, LPRs are still subject to removal at any time if they violate immigration laws. Legal permanent residents are given “green cards” which state “Resident Alien” across the top (green cards are actually now pink or white in color, not green). LPR status does not expire, although the green card itself must be renewed every 10 years. LPR status can only be revoked by an immigration judge or by leaving the U.S. for such a period of time that it is deemed abandoned (generally more than one year).

### 2b. **Refugee or Asylee**

Both refugees and asylees (persons granted asylum) have been granted safe haven in the U.S. because they have established that they would suffer or have suffered persecution in their country of origin. Refugees are accorded refugee status abroad by a U.S. consulate before relocating to the U.S. Asylees come to the U.S. and request protection from persecution once they have arrived. The decision on which an immigrant group receives classification of refugee or asylee status is usually a policy decision by the U.S. State Department. For example, sometimes these statuses are granted for immigrants from a country suffering a natural disaster or political persecution, but the status is generally time-limited and subject to change (e.g., Cuban and Vietnamese refugees, etc.).

Both refugees and asylees are entitled to apply for legal permanent resident status after they have been in the U.S. for one year as a refugee or asylee. While in refugee or asylee status, these persons are given work permits that state “Employment Authorization” across the top and are approximately the size of a driver’s license. Despite the fact that they have established persecution (or threat of it), refugees and asylees are like any other noncitizens in that they are always subject to removal or deportation if they violate immigration laws.

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1 A prior version of this provision required both parents to become U.S. citizens, or proof that the child was in the legal custody of the citizen parent if there had been divorce or separation. The new version of the law became effective Feb. 27, 2001. The courts have determined that it is not retroactive and that the person must have been under 18 on the effective date to benefit from the new provisions.

2 There are two types of permanent residents: legal permanent residents (LPRs) and conditional permanent residents (CPRs). A conditional permanent resident is a legal permanent resident who gains status through marriage to a U.S. citizen where the marriage is less than 24 months at the time of adjudication of the application for residence. CPR status expires after two years and an additional petition must be filed to become a legal permanent resident.

### **2c. Nonimmigrant Visa Holder**

A nonimmigrant visa holder is a person who obtained a temporary visa allowing him or her to enter and remain in the U.S. legally for a specific period of time under specific conditions. Some examples of nonimmigrant visas are tourist, student, temporary work (e.g., H1-B) and diplomatic visas. Likewise, nonimmigrant visa holders are subject to the same child abuse and neglect laws as U.S. citizens and residents. Nonimmigrant visa holders who violate the terms of their visa (e.g., students who drop out of school or tourists who stay longer than permitted) become "undocumented," meaning they no longer have lawful status in the U.S. and are subject to apprehension by immigration authorities and removal from the country.

### **3. Undocumented Person (a.k.a. “Illegal Alien”)**

An undocumented person is someone who does not have legal status under the immigration laws to be in the U.S. There are two categories of undocumented persons:

1. A nonimmigrant visa holder (described above) whose visa has expired or been terminated (e.g., a foreign student who drops out of school or a tourist who overstays a visa); and
2. A person who entered the U.S. illegally (i.e., crossed the border) and has never had lawful immigration status.

Just because a person is undocumented, however, does not mean that he or she will be removed. Many undocumented people are eligible to apply for legal immigration status through one of the avenues available under the immigration laws, such as someone who is undocumented but has married a U.S. citizen. An important note is that marriage to a U.S. citizen does not automatically confer any lawful status on someone. It simply entitles a person to apply for legal permanent resident status. This is a complex process involving numerous applications wherein the noncitizen must prove various things. Various violations under immigration law can foreclose options for obtaining legal immigration status. Undocumented persons are always at risk of apprehension, detention and initiation of removal proceedings by immigration authorities.

### **Work Permits or Employment Authorization Documents**

Immigration authorities issue work permits or employment authorization documents of temporary duration to certain categories of noncitizens. Work permits do not confer legal status. The permit allows the person to work lawfully for the duration specified. Some examples of noncitizen categories for which work permits are issued include: 1) persons who are married to U.S. citizens and in the process of applying for their green cards based upon their marriage; 2) persons in the process of applying for, or who have been granted, asylum or refugee status; and 3) persons who come from countries which the U.S. has granted “temporary protected status” (e.g., persons from Honduras following Hurricane Mitch).

### **About the Migration Experience**

Every immigrant has a unique story. Many of these tales include overcoming tremendous obstacles in order to establish themselves in the U.S. Once finally here, interaction with the public child welfare system and “the authorities” will create a high level of anxiety, especially if the immigrant perceives that his or her stay in the U.S. will be jeopardized. To provide relevant child welfare services to immigrant families, social workers need to be aware of this reality.

Many immigrant families are “mixed-immigration status” families (e.g., younger children are U.S.-born citizens, older children are undocumented and one or both parents are undocumented). While most immigrant children who enter the child welfare system, particularly young children, may be U.S. citizens, there may be others living in the household, including the parent(s), with undocumented immigrant status. Awareness of the immigration status of all the individuals within a family (e.g., parents, grandparents, siblings, extended relatives) is an important function of culturally competent child welfare practice. A critical prerequisite in the assessment is building trust with the family so they understand that obtaining the actual immigration facts is necessary for the assessment and service plan. It is important to emphasize that the information will be used within the construct of the child welfare agency’s confidentiality guidelines to report the family to immigration for deportation.<sup>3</sup>

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<sup>3</sup> See page 6, Confidentiality and Mandated Partnership.

Key immigration considerations that affect family dynamics and case planning include:

- Who in the family was born in the U.S.?
- Who are the naturalized U.S. citizens or American nationals?
- Who are the legal permanent residents?
- Who are the undocumented members of the household?
- Who are the identified extended families (here and abroad)?
- Who are the nonrelative, extended families and what is their legal status?

Understanding the migration history for these children and families is important for public child welfare staff for many reasons, including:

- Some immigration status is time-limited and temporary, such as a student or tourist visa. Others are more permanent, such as legal permanent residents, parolees and asylees, subject to the condition of the entrance requirements and conduct of the immigrant during his or her tenure in the U.S.
- The child or family may be legally present in the U.S. and may have lost or otherwise become separated from important documents such as green cards or an asylum-granting letter. A child may have been born in a foreign country and have one or more parents who are U.S. citizens, and may be eligible for legal status through derived citizenship without knowing it.
- There is possible flight risk of the family or family members who may have immigration status issues.
- Some immigrant children may come through temporary (e.g., visitor) visas, overstay their visas and become undocumented. Or they may have come illegally through the border. These children may be staying with relatives or nonrelatives.
- An increasing number may be “trafficked” illegally through the border for labor or the sex trade.

Social workers need to assess a family’s migration history in order to determine the level of risk associated with keeping the child with the family. The migration experience should also be taken into consideration when determining the additional placement options and eligibility for benefits and relief options as part of the overall case assessment.

Immigrant children enter the child welfare system with a variety of immigration statuses and their status will impact the different components of the case plans (e.g., child abuse referral, family maintenance, family reunification, permanency). When a child abuse referral is evaluated, a social worker must make an assessment based on a variety of safety and risk factors including how cooperative the family appears to be. This assessment will determine the next level of response, whether it is family reunification, family maintenance, informal supervision or something else. If a family appears to be uncooperative, it may be due to fear of discovery regarding their undocumented immigration status. Understanding how immigration status may affect family dynamics will assist the social worker in making an appropriate determination for the disposition of the case.

Immigrants who are refugees or asylees have special protections and are eligible for services that are not available to other types of immigrants, such as cash, housing and medical assistance upon arrival for up to eight months. When a refugee or asylee enters the child welfare system, his or her special immigration status needs to be documented and then integrated with local protocols for sponsoring agencies and relevant support systems (e.g., Catholic Charities and Lutheran Immigration and Refugee Services, among other sponsoring agencies). A sponsoring agency has a unique and special relationship to the refugee or asylee that undocumented immigrants do not have. For information about contacting refugee or asylee services, please contact the federal contractor for refugee services, Bridging Refugee Youth and Children’s Services (BRYCS), a project of the U.S. Conference of Catholic Bishops ([www.brycs.org](http://www.brycs.org)).

In a U.S. climate that has become increasingly hostile to immigrants and where deportation fears prevent families from seeking services, it is important that the role of the public child welfare agency is clearly explained to immigrant families. Currently, no federal law requires state and local officials to affirmatively enforce federal immigration laws. Therefore, state and local officials have no duty under federal law to report noncitizens. However, state, county or local policies may require officials to report suspected noncitizens. It is important that social workers become familiar with these policies and laws. In many states, however, enforcement of immigration laws against children and families in the child welfare system may violate provisions of state law and subject counties to liability. For example, most states have laws strictly limiting the release of information pertaining to minors because confidentiality has always been of paramount importance, out of concern for the well-being of minors.

## Confidentiality and Mandated Partnerships

In working with immigrant families, it is critical to underscore the agency's commitment to resolving the immediate issues of protecting children from abuse and neglect. This mandate includes a certain confidentiality provision that is designed to promote and protect the working relationship and the child's right to privacy. If the case were filed upon, issues of immigration status as it pertains to the case plan may need to be shared with the juvenile court system. For example, a child who is the dependent of the juvenile court based on sexual abuse has the right to have this information remain confidential. In the event this information needs to be shared with an immigration agency, such as CIS, relating to certain immigration relief application options, it must be reviewed with the juvenile court system to determine what can and cannot be disclosed to the immigration agency.

Unintentional consequences and issues may occur when a case is cross-reported to law enforcement, such as in the matter of a joint investigation with law enforcement or when there is a background check for potential placements. Confidentiality guidelines may differ between law enforcement, child welfare and other agencies such as public health. While the child welfare agency may be addressing issues before the juvenile court, law enforcement may be cross-reporting to immigration officials, resulting in conflicted outcomes regarding the initial child abuse investigation. Some of these issues between these public agencies may not always be fully reconciled; however, the child welfare worker should know which of their local community agencies to refer a client to in the event an immigration issue emerges in the course of the child abuse investigation. This also may be an area where local procedures and protocols may need to be entered into between the juvenile court system and local law enforcement.

*Note: Practice and protocols vary from state to state, and social workers should check with their agency's legal counsel for clarification about their agency's internal confidentiality guidelines. In general, the best practice to preserve confidentiality is to disclose the least amount of information necessary to support the immigration application. This can often be accomplished by working closely with an immigration advocate or legal counsel.*

## The Child Welfare Decision-Making Process

*Note: See Appendix 6 for more resources on team decision making and family group decision making with immigrant families.*

The essence of good child welfare service lies in the ability to make balanced decisions that take into consideration the need for child safety, the benefit of keeping families together and the importance of including the voices of family members and their support system at child welfare decision-making points. Team decision making (TDM) and family group decision making (FGDM) are two commonly used methods in child protection and child welfare that are particularly relevant to good problem solving when there are overlaps of immigration issues affecting child welfare decisions. The following two case examples illustrate how TDM and FGDM can be helpful in immigrant cases.

- A social worker is trying to place a child with an aunt or uncle. The uncle's brother lives with the family and is undocumented. In the process of doing a license clearance, the uncle's brother is found to be undocumented and is in immigration removal proceedings. Had there been a TDM or FGDM conducted prior to placement, this issue may have been identified and evaluated to the benefit of all parties concerned.
- An undocumented teenager's placement has failed. The social worker must look for another placement. In assessing additional placement options, the prospective new foster parent or relative placement requests from the social worker the agency's plan for resolving the teenager's immigration status. The youth's permanency and placement plan is jeopardized unless there is resolution to his or her immigration status.

## Assessment for Immigration Relief Options

*Note: Please see Appendix 3 – Screening Questions for Immigrant Youth: Determining Potential Avenues for Legal Status and Appendix 4 – Summary of Immigration Relief Options Applicable to Youth in Dependency Proceedings.*

Some immigrant children who have contact with the child welfare system are undocumented, without any lawful immigration status or papers. An undocumented youth will find it very hard to successfully transition to adulthood, because he or she cannot work legally or obtain a Social Security card, driver's license or bank account, and could be deported to his or her country of origin if discovered by immigration authorities.

There are special immigration relief options available to assist undocumented children who have been abused or neglected to get lawful immigration status. Social workers may be the first and only persons an eligible immigrant child

sees who are able to identify the issues and get help. If an immigration relief option is not identified early on, the child may forever lose the chance of obtaining legal immigration status in the U.S.

It is, therefore, critical that social workers screen children for potential immigration relief. The screening necessary to determine eligibility for any of these various forms of immigration status, let alone the actual application process, is generally not recommended without assistance from a competent immigration advocate or attorney. However, basic familiarity with these avenues, as outlined in the following section, provides awareness that can enhance the capacity of the child welfare system to develop leadership and policies that can more effectively meet the needs of noncitizen youth.

The most effective way to ensure that noncitizen youth are screened for eligibility for any of the avenues outlined below is to build partnerships with local immigrant advocacy organizations that can assist the youth and ensure that the dependency attorney is addressing the youth's immigration issues (and has the training and resources to do so). County agencies with expertise or with the assistance of a local community-based agency or attorney can also screen and file these applications themselves. It is crucial to identify the child as soon as possible. Securing vital documents and beginning the process early are often big factors in a successful immigration relief application.

## Tips

- It is important to gather the full names of all members of the family, including correct spelling and accents. Many Latino families have common last names and require the full middle names and surnames to do an accurate relative search.
- Social workers should never assume a child's or family's immigration status without thorough assessment. How well someone speaks English, for example, is not reflective of his or her immigration status. A child who has been living in the U.S. since he or she was young may speak perfect English and be undocumented, while an elderly person without any English skills may be a legal permanent resident.
- In cases involving domestic violence, often the individual with the green card or legal status will use his or her sponsorship of the nonlegal resident as a "power dynamic" against the victim. For that and other reasons, victims do not always readily admit (or even recognize) their victimization.
- Take language barriers into account. The language in which the child welfare decision-making process (e.g., TDM or FGDM) is held can be significant. For example, if the family speaks Spanish and the TDM is held in English with a Spanish-speaking interpreter, it is important to consider what is implied based on the language used. It is also important to understand the language needs of the whole family, not just of the parents (e.g., the child, relatives, etc.).
- Many public child welfare agencies have developed protocols and guidelines to assist their staff in working with immigrant families, which are available at [www.f2f.ca.gov/sampleMOUs.htm](http://www.f2f.ca.gov/sampleMOUs.htm).
- One issue with using interpreters in child welfare cases is that although they may be able to translate the language, they may not understand child welfare concepts. Access issues for non-English speakers go beyond language, and include the culture, values and faith of the immigrant community, as well as understanding events and experiences that may have an impact on the family's mental, physical and emotional state. Community-based agencies could be engaged to help support immigrant families during the child welfare process.
- For counties that normally do not deal with immigration issues and have not developed protocols for working with immigrant families, there are national clearinghouses to assist in finding competent advice regarding immigration legal issues (see *Appendix 6 — For More Information*).

## VITAL DOCUMENTS FOR IMMIGRANT CHILDREN IN THE CHILD WELFARE SYSTEM

When an immigrant child becomes involved with the child welfare system, his or her consulate should be notified and is often able to help with vital document searches, home studies, parent locators, criminal record clearance and other related services.

### To Obtain an Original Birth Certificate:

- Request in writing a birth certificate from the consulate or embassy of the child's country of origin. Include as much detailed information about the child's birth as possible, such as date of birth, names of parents and place of birth, including province, town and name of hospital. When applicable, send fees payable to the consulate or embassy of the child's country of origin for the birth certificate or the identification card.
- In some states, such as California, if a birth certificate cannot be obtained for an unaccompanied child, the child's immigration attorney can request a certificate referred to as a "delayed registration of birth document" from the state, which is used in lieu of a birth certificate. The process involves a relative taking an affidavit verifying the date and location of birth. A baptism certificate can also be used in some circumstances.
- International Social Service USA Branch (ISS-USA) is a nonsectarian, nonprofit international social work agency. It is composed of an international network of more than 150 national branches, affiliated bureaus and correspondents, with its general secretariat in Geneva. ISS-USA has the federal contract with the U.S. State Department to provide repatriation services for American citizens. The organization is available to assist family courts by responding to requests made by judges, lawyers, guardians ad litem and child welfare agencies (see [www.iss-usa.org](http://www.iss-usa.org)).
- ASISTA has a state-by-state guide for obtaining birth certificates, including who can request them, how to request them and contact information (See [www.asistaonline.org/VAWA/Obtaining\\_Birth\\_Certificates.pdf](http://www.asistaonline.org/VAWA/Obtaining_Birth_Certificates.pdf)).

### To Obtain a Passport:

- To obtain a passport, a request must be submitted in person and all of the following documents must be presented at the time of the appointment:
  - A letter from the child welfare staff requesting a passport;
  - An original birth certificate;
  - A school identification card or an identification card from the country of origin or issued by the consulate;
  - A court order or findings that support dependency;
  - The appropriate fees to pay for the passport (contact the consulate for the specific amount and type of payment accepted); and
  - If the child has no form of identification, the child welfare staff must write a letter providing information about the child, with a photo attached to the letter.
- Country-specific U.S. embassy information in countries other than the U.S. is available on the U.S. Department of State's websites of the U.S. embassies, consulates and diplomatic missions, at [www.usembassy.gov](http://www.usembassy.gov).
- Please note that care and sensitivity should be taken prior to contacting a consulate or embassy due to the potential impact this inquiry may have upon the client and his or her family system, who may still reside in the country of origin. For example, when applying for a U visa, cooperation with law enforcement in the U.S. may cause reprisals to remaining family residing in the country of origin. The best practice is to inform the client of consenting age of any possible implications of contacting a consultant or embassy and get the client's permission prior to initiating contact.

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## FIVE ACTION ITEMS TO FACILITATE COMMUNICATION BETWEEN THE CHILD WELFARE SYSTEM AND IMMIGRATION LEGAL COUNSEL

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*By Ken Borelli, MSW/ACSW, immigration and child welfare consultant, the Annie E. Casey Foundation's Family to Family Initiative and BRYCS/U.S. Conference of Catholic Bishops (January 2009)*

This document was written to assist front-line child welfare staff, such as the attorney of record, guardian ad litem and social worker in working with immigration legal counsel, who may not understand the dependency system. It is important that there is coordination and clear understanding between all parties involved in the case so mishaps, such as double or inappropriate filings, do not occur. What is the petition against the parent? What is the case plan? Before any action is filed with immigration officials, all parties need to understand their roles and how they relate to the child welfare/juvenile court case. This includes:

1. Knowing the referring agency or party, and understanding their relationship to your client within the context of the child welfare/juvenile court process. Is it a parent? Is it a friend? Is it a social worker? Who is making the referral?
2. Learning about the specifics of the child welfare case and service plan for the child immigrant victim, siblings and parents, including key juvenile court review dates and proceedings.<sup>4</sup>
3. Actively participating in any joint immigration planning processes that may affect the child welfare case or service plan, especially as it relates to placement, family maintenance, family reunification or independent living for emancipated minors. For example, Special Immigration Juvenile Status (SIJS) is only available for those children where family reunification has failed and the child is being placed in a permanency modality. It is important that the immigration attorney not inadvertently jeopardize the immigration status of the parent or siblings with an inappropriate SIJS filing.
4. Making sure to connect with the attorney of record for the client within the juvenile court proceedings and inquire about any relevant court orders and/or warrants. Some common types of warrants are failure to pay child support and restraining orders.
5. Coordinating with the child welfare case manager (usually the caseworker) in the development of a case-specific immigration safety plan, emergency options and securing vital documents and resources that are needed to support the immigration relief activities. Some examples of vital documents that need to be secured include birth, death, divorce and baptismal certificates.

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<sup>4</sup> Children and families in the child welfare system generally have a case and/or service plan that is specific to the needs of the family. The plan is based on child welfare mandates and/or reviews, findings and orders by the dependency and/or juvenile court. The case and service plans can be the same, or in some agencies, the case plan is a more global desired outcome with separate service plans for each family member or part of the case. For example, an immigration issue would emerge as an action item within the overall goal of "independent living." The case-specific service plan would be to apply for SIJS. The global case plan is to work with other family members for a "long-term placement."

## SCREENING QUESTIONS FOR IMMIGRANT YOUTH: DETERMINING POTENTIAL AVENUES FOR LEGAL STATUS

By Angie Junck, immigration attorney, Immigrant Legal Resource Center, [www.ilrc.org](http://www.ilrc.org) (January 2009)

1. Is the child a U.S. citizen without knowing it?
  - A. Anyone born in the U.S. or Puerto Rico is a citizen, and anyone born in Guam, American Samoa or Swain Island is a national who cannot be deported.
  - B. If the person is born outside the U.S., ask the following two threshold questions to see if the person is automatically a U.S. citizen. If the answer to either might be yes, refer the person for immigration counseling.
    - Were any of the person's parents or grandparents U.S. citizens at the time of the person's birth?

Or

    - Before the person's 18<sup>th</sup> birthday, did both of these events happen (in either order): the child became a permanent resident, and at least one natural or adoptive (but not step-) parent having some form of custody over the child was or became a U.S. citizen. (Tip: Encourage the parent to become a naturalized U.S. citizen!)
2. Is the child currently under dependency court jurisdiction where the court has ruled that (a) the child is eligible for long-term foster care, (b) the child cannot be reunified with either parent because of abuse, neglect or abandonment, and (c) it would not be in the child's best interest to be returned to the home country? If the answer to any of these questions is "yes," the child may qualify for **Special Immigrant Juvenile Status (SIJS)**.
  - **Important:** The child must stay in the jurisdiction of the dependency court until the SIJS application is adjudicated, so watch out for youth aging out of the system.
  - *Note: As of March 23, 2009, a new law requires that the court rule that reunification with one or both parents is not viable due to abuse, neglect or abandonment, or a similar basis under state law, therefore making the child eligible for SIJS.*
3. Has the child been abused by a *U.S. citizen or permanent resident* spouse or parent, including adoptive parent, natural parent or stepparent? Has the child's parent been a victim of domestic violence by his or her U.S. citizen or permanent lawful resident spouse? The child may qualify for **Violence Against Women Act (VAWA) relief**.
  - The child does not need to be under current court jurisdiction, and may be reunited with the other parent.
  - The child will need to show "good moral character."
4. Has the child been a victim of a serious crime in the U.S. or of human trafficking? Is the child willing to cooperate with authorities to investigate or prosecute the offense? The child may qualify for SIJS status or a T or U visa.
5. Does the child have a *U.S. citizen or permanent resident parent or spouse* who is willing to petition for him or her? The child may qualify for a **family immigration petition**.
  - To immigrate through an adoptive parent the adoption must be completed by the child's 16<sup>th</sup> birthday.
6. Does the child come from a country that has recently experienced *civil war or natural disaster*? Does the child fear return to his or her home country because of *persecution*? The child may qualify for other forms of relief such as **asylum and temporary protective status**.

# SUMMARY OF IMMIGRATION RELIEF OPTIONS APPLICABLE TO YOUTH IN DEPENDENCY PROCEEDINGS<sup>5</sup>

By Angie Junck, immigration attorney, Immigrant Legal Resource Center, [www.ilrc.org](http://www.ilrc.org), and Ann Benson, director, Washington Defender Association's Immigration Project (December 2008)

## 1. U.S. Citizenship — Is the Youth Already Unknowingly a U.S. Citizen, or Could He or She Become a Citizen if a Parent Naturalized?

Some people who were born outside the U.S. automatically inherited U.S. citizenship at birth from their U.S. citizen parents, often without knowing it. If at the time of a person's birth, his or her parent or even grandparent was a U.S. citizen, the person may have inherited citizenship and should obtain immigration counsel to analyze the laws governing "acquisition of citizenship."

A second way that many persons are citizens without knowing it is through "derivation of citizenship." A child automatically becomes a U.S. citizen if, before he or she reaches the age of 18, the following three events happen in any order: (1) he or she is a permanent resident, (2) at least one of his or her parents becomes a U.S. citizen, and (3) he or she lives in the U.S. in that parent's legal and physical custody.

*If a child is a permanent resident, encourage a parent who has custody to naturalize and become a U.S. citizen. If this occurs before the child's 18<sup>th</sup> birthday, the child will become a U.S. citizen automatically, without having to meet any other requirement and will be made safe against immigration consequences of any adult convictions that he or she may receive in the future.*

## 2. SIJS and VAWA Relief — Was the Youth a Victim of Family Violence or Abuse?

Children are eligible for permanent residency through **Special Immigrant Juvenile Status (SIJS)** if they are under the jurisdiction of a juvenile court (including a delinquency court or probate guardianship) and the court has made a finding that it cannot reunite them with either of their parents due to abuse, neglect or abandonment. Instead, the court might place the child in a foster home, foster care group home or other rehabilitative setting. It is not necessary for the court to formally terminate the parents' rights. The immigration status of the parents is irrelevant. The SIJS application must be adjudicated *while the child remains under juvenile court jurisdiction*, so it is imperative that social workers, dependency attorneys and immigration advocates screen children for possible eligibility for relief early in the process. The juvenile court judge will have to sign an order making the required findings. One tactic is to encourage dependency until age 21 in states that allow this option.

To go through the SIJS application process, a minor needs to submit two different applications — an initial SIJS application followed by an application for adjustment of status (the process to become a legal permanent resident, i.e., green card holder).

The benefits of SIJS are:

- SIJS may be the only means for a minor to ever obtain legal permanent resident status, which will ultimately get the minor on the path to becoming a U.S. citizen.
- Many of the grounds of inadmissibility and deportability (i.e., the basis for deporting or denying immigration benefits to noncitizens) are often waived for SIJS applicants.

<sup>5</sup> Immigrant Legal Resource Center has free handouts on the forms of immigration relief for children on their website. The Benchbook on Immigration Law for Family, Dependency and Delinquency Courts covers all forms of relief and immigration factors in these proceedings. Special Immigrant Juvenile Status is a comprehensive manual on how to identify and analyze a case and submit the application. Go to [www.ilrc.org](http://www.ilrc.org), click on the quick link "Immigrant Youth" and look under "Documents" and "Special Immigrant Juvenile Status." Materials on VAWA and the U visa are also available: Click on the quick link "VAWA and U Visas."

- Application for SIJS allows the minor to remain in the U.S. and be temporarily protected from deportation, until a determination to grant or deny the application is made.
- The application for adjustment of status can be submitted simultaneously with the application for SIJS.
- Employment authorization can be requested as soon as the application for adjustment of status is filed. This will allow a minor to work until application is adjudicated, obtain official picture identification and receive a Social Security number.

Some changes to the SIJS requirements went into effect on March 23, 2009. On Dec. 23, 2008, the Trafficking Victims Protection and Reauthorization Act (TVPR) of 2008, H.R. 7311, was signed into law. This new law makes some important changes to certain SIJS requirements and procedures to expand protections for noncitizen children and youth. Under this new law, the court order needed to file an SIJS application is more lenient. It will require that the juvenile court find that reunification with one or both parents is not viable due to abuse, neglect or abandonment or a similar basis under state law and that it is not in the best interest of the child to return to his or her home country. The current interpretation of the TVPR is that a child also will no longer have to stay in the jurisdiction of the dependency court until the entire immigration application is adjudicated. No child can be denied SIJS as long as he or she was a child (under 21) when he or she applied.

A child is eligible for permanent residency under the immigration provisions of the **Violence Against Women Act (VAWA)** if he or she has been “battered or subject to extreme cruelty” (including purely emotional abuse) by a *U.S. citizen or permanent resident parent or stepparent*. The parent or stepparent must have the required immigration status, but there is no requirement that the child remain under juvenile court jurisdiction. In contrast with SIJS, under VAWA a child can reunite with one parent. For example, a child could live with the undocumented mother (who might also be eligible for VAWA) and apply for VAWA based on abuse by a U.S. citizen or resident stepfather. VAWA is also available due to abuse by a citizen or permanent resident spouse as well as to a child of a parent who has been a victim of domestic violence by his or her U.S. citizen or permanent resident spouse.

Children who were victims of serious crime or human trafficking but do not come within the SIJS or VAWA provisions might qualify for the T and U visas (see next section).

### 3. **T and U Visas — Was the Child a Victim of Human Trafficking or of a Serious Crime?**

Often children charged in delinquency proceedings are themselves victims of serious crime. Child and adult victims of certain serious crimes who cooperate with authorities in investigating or prosecuting the crimes may be eligible for visas designed to protect victims and provide them with lawful status. The so-called “T” and “U” visas are temporary “nonimmigrant” visas, but the person can apply for permanent residency (a green card) after three years in T or U status.

The U visa is available to noncitizens who suffer substantial physical or mental abuse resulting from a wide range of criminal activity, including assault, domestic abuse, incest, etc. The applicant (or, if the applicant is under age 16, his or her parent, guardian or next friend) must possess information concerning the criminal activity and must have been helpful, currently be helpful or be likely to be helpful in the investigation or prosecution of the criminal activity. In order to qualify for the U visa, a judge, prosecutor, investigator or similar official must sign a certification regarding this requirement.

The T visa is more specialized. It is available to victims of severe forms of trafficking in persons (i.e., human trafficking). This includes (a) trafficked persons who were forced or defrauded into performing sex acts, or while under the age of 18 were induced to perform such an act, and (b) trafficked persons who were coerced or defrauded into involuntary servitude. The person must have complied with reasonable requests for assistance in investigation or prosecution of the offense (unless he or she is under the age of 16), and must show he or she has suffered extreme hardship. *Note: In both T and U visa relief action, be sensitive to the parent’s or relative’s situation in the home country. Assess the implications of any unintended issues related to harassment and unintentional consequences. For example, placement issues abroad may bring attempts of extortion or kidnapping.*

### 4. **Family Immigration — Does the Youth Have a Willing Citizen or Permanent Resident Spouse or Biological, Step- or Adoptive Parent?**

U.S. citizens and legal permanent residents can help certain family members immigrate to the U.S. (i.e., become permanent residents) by submitting a family visa petition for them. Children and spouses of citizens immigrate quickly, while children (unmarried) and spouses of permanent residents may have to wait for some years. To

qualify as a stepchild, the marriage creating the step relationship must take place before age 18. To qualify as a natural child of a father, the father must acknowledge the child.

**5. Asylum and Temporary Protected Status — Does the Child Fear Return to the Home Country Based on Political, Economic or Other Factors?**

People who fear returning to their home country because of an individualized fear of persecution can apply for **asylum or withholding of removal**. A person who fears torture by the home government for any reason can apply for benefits under the **Convention Against Torture**.

Juveniles applying for asylum or withholding are entitled to specific protections and evidentiary rules under the government's *Guidelines for Children's Asylum Claims*.

Formerly, the law required applicants to apply for asylum within one year of entering the U.S., unless they were prevented from applying by extreme circumstances or conditions that affect their eligibility for asylum. Presumably, situations involving domestic violence could justify looking past that requirement. However, as of March 23, 2009, a new law in the Trafficking Victims Protection and Reauthorization Act (VPRA) of 2008 eliminates the one-year bar to apply for asylum. The one-year bar does not apply to withholding or Convention Against Torture.

People from certain countries that have experienced devastating natural disaster or civil strife may be eligible for **Temporary Protected Status**, which provides temporary permission to be in the U.S. and temporary work authorization. In recent years the U.S. has designated countries such as Angola, Bosnia-Herzegovina, Burundi, El Salvador, Guinea-Bissau, Honduras, Kosovo, Liberia, Montserrat, Nicaragua, Sierra Leone, Sudan and Somalia for TPS or similar relief. Applicants need not prove that they will be singled out for persecution. They need only prove that they are nationals of a country that currently is designated TPS, and have been in the U.S. since a required date.

**6. Cancellation of Removal for Permanent Residents — Is the Youth a Long-Term Permanent Resident?**

Noncitizen youth who have lawful permanent residency and end up in removal proceedings may be eligible to be granted a cancellation of removal (CoR) by the immigration judge. To apply for CoR, the noncitizen must have been a permanent resident for at least five years and have resided in the U.S. for seven years since being admitted in any status. Every minor who is a permanent resident should also be screened for possible derivative citizenship. As described above, if one parent with custody of the minor is able to naturalize to U.S. citizenship before the minor's 18<sup>th</sup> birthday, the minor automatically becomes a U.S. citizen and will be free of concerns about immigration.

**7. Cancellation of Removal for Nonpermanent Residents — Does an Undocumented Youth Have a Long History in the U.S. and Close Citizen or Permanent Resident Relatives?**

Noncitizens who have lived in the U.S. illegally for 10 years or more and who are put into deportation or removal proceedings can apply to the immigration judge for **cancellation of removal (CoR)**, if they have a parent, spouse or child who is a U.S. citizen or permanent resident and this qualifying relative would suffer extraordinary hardship if the person were deported. If the immigration judge decides, as a matter of discretion, to cancel the removal, then the applicant will become a permanent resident. Cancellation is a highly discretionary relief, and consultation with an expert immigration practitioner is required.

## GLOSSARY OF IMMIGRATION TERMS

**Alien:** A term often used in government documents referring to a foreign national who is not a U.S. citizen.

**Arrival-Departure Card (also known as Form I-94, Arrival-Departure Record):** The Customs and Border Protection official at the port of entry gives foreign visitors (all non-U.S. citizens) an Arrival-Departure Record (small white card) when they enter the U.S. Recorded on this card are the immigrant classification and the authorized period of stay in the U.S. This is either recorded as a date or the “entry of D/S” (meaning “duration of stay”). It is important to keep this card safe, kept with the passport, because it shows the length of time foreign visitors are permitted and authorized by the Department of Homeland Security to stay in the U.S.

**Asylee and Refugee:** A person fleeing his or her country of origin because of political, religious or physical persecution without the option to return to the country of origin. Asylees and refugees are in the U.S. legally, often can get services that are not available to other types of immigrants, and have the right to work in the U.S. without a separate employment authorization card. They are provided this designation by the Department of Homeland Security. Refugees receive their designated status *prior* to resettlement in the U.S., while asylees are granted their designation *after* their arrival in the U.S.

**Certificate of Naturalization:** A document issued by the Department of Homeland Security as proof that a person has become a U.S. citizen (naturalized) after immigration to the U.S.

**Deportation (Immigration Removal):** The process whereby an immigration judge orders an immigrant removed from the U.S. If an immigrant is deported, he or she could be barred from returning to the U.S. for many years.

**Disparity and Disproportionality:** Disparities refer to the gaps between racial and ethnic groups on specific indicators or in specific circumstances (e.g., access to health care). Disproportionality refers to the level of racial and ethnic group representation on specific indicators as compared to a group’s level of representation in the population. Disproportionality is usually caused by disparities in treatment. (This definition is from the *Race Matters* facilitator’s guide. More information about *Race Matters* is available on the Annie E. Casey Foundation website at [www.aecf.org](http://www.aecf.org).)

**Dual Citizenship:** The U.S. recognizes dual citizenship in some circumstances. For guidance on relative searches and placement, documentation searches, etc., contact the consulate general of the child’s home country when a child enters the child welfare system with dual citizenship.

**Dual Jurisdictional Status:** A general child welfare term to denote the population of children who may be in either the child welfare dependency system or the juvenile delinquency system. Many of these children transfer into each system, depending on the circumstances and behavior of the child. These dual jurisdictional circumstances may impact an immigration matter. For example, the child welfare agency may be filing SIJS for a teen client and the client is arrested for a criminal activity such as drugs or theft and referred to juvenile delinquency. Once the criminal matter is brought up to immigration court, this may impact the outcome of the petition. Also, many pro bono immigration attorneys may be more hesitant to accept these cases.

**Employment Authorization Document (EAD):** A work permit given by the immigration agency. An immigrant youth may be eligible for this card after applying for certain types of immigration relief. The card allows the immigrant to work in the U.S. legally until the expiration date.

**Family Group Decision Making (FGDM):** A process that recognizes the importance of involving family groups in decision making about children who need protection or care that can be initiated by child welfare agencies whenever a critical decision about a child is required. In FGDM processes, a trained coordinator who is independent of the case brings together the family group and the agency personnel to create and carry out a plan to safeguard children and other family members. FGDM processes position the family group to lead decision making, and the statutory authorities agree to support family group plans that adequately address agency concerns. FGDM processes actively seek the collaboration and leadership of family groups in crafting and implementing plans that support the safety, permanency and well-being of their children. More information about FGDM is available on the American Humane Association’s website at [www.americanhumane.org](http://www.americanhumane.org).

**First Generation Immigrant:** A person born in another country and who is the first person in his or her family to move to and reside in the U.S. or another host country. A **second-generation immigrant** is a person born in the U.S. who is the child of parents who are first-generation immigrants.

**Human Trafficking:** The recruitment, transportation, harboring or receipt of people for the purposes of slavery, forced labor (including bonded labor or debt bondage) and servitude.

**Legal Permanent Resident (i.e., Green Card Holder):** A person who has legal documentation allowing him or her to live as a resident in the U.S. Legal permanent residents are still citizens in their home countries, but possess many of the same rights as a U.S. citizen. However, they cannot register or vote, and until gaining their U.S. citizen status, remain deportable. They may be required to fulfill specific residence obligations to retain their status. In some cases, permanent residency may be conditional on a certain type of employment or maintenance of a business.

*NOTE: Selective Service is a compulsory registration for military service, which is required of all male residents aged 18-26, including U.S. citizens, legal permanent residents and undocumented males.*

**Mixed Status Family (or Blended-Status Families):** It is very common for immigrant households to have members with different levels of immigrant status, such as an undocumented parent(s) and older sibling(s) and younger children born in the U.S. with citizenship. The household may also include recently arrived relatives or visiting family members on a tourist or student visa.

**Naturalized U.S. Citizen:** Naturalization is the process through which an immigrant becomes a U.S. citizen. Generally, an immigrant must first be a legal permanent resident for five years before applying for naturalization, but some are eligible after three years through marriage to a U.S. citizen. The process includes a moral character interview, English language exam and civics exam, which tests knowledge of history and government. Naturalized citizens possess the same rights and responsibilities as native-born citizens and cannot generally be deported. In some cases, legal permanent resident children can become citizens automatically if their parents naturalize before the children turn 18. Legal permanent residents 18 years and older must demonstrate five years of “good moral character” before seeking to naturalize.

**Office of Refugee Resettlement (ORR):** Under the U.S. Department of Health and Human Services – Administration of Children’s Services, the purpose of ORR is to provide assistance and support to refugees and asylees. The Unaccompanied Refugee Minor (URM) Foster Care Program is a program of ORR. ORR identifies refugee children as eligible for this program if they are eligible for resettlement in the U.S. but do not have a parent or relative available and committed to providing for their long-term care. The refugee children are placed within a network of foster care services and programs, administered by the U.S. Conference of Catholic Bishops and Lutheran Immigration and Refugee Service. These two lead agencies conduct several important functions, including identifying eligible children in need of URM services, providing technical assistance in the reclassification process, determining appropriate placements for children among their networks of affiliated agencies and conducting training and assistance on URM services. Reunification of these children with their parents or other appropriate adult relatives is encouraged through family tracing and coordination with local refugee resettlement agencies. Refugee children who enter the U.S. with family but experience a family breakdown may also be eligible to participate in the URM program.

**PRUCOL (Permanently Residing Under Color of Law):** The U.S. Citizenship and Immigration Services (USCIS) does not recognize PRUCOL as an immigration status; this category was created by the courts and is a public benefits eligibility category. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 abolished the PRUCOL doctrine by creating a new statutory definition of “qualified alien.” While the PRUCOL expression remains in many federal, state and city statutes and regulations, there are now only a few exceptions clearly specified by statute. An alien who is not a “qualified alien” is not eligible for any federal public benefit.

**Public Charge:** A term used in immigration law that describes persons who cannot support themselves and who depend on benefits that provide cash (such as cash welfare or Social Security income) for their income. Noncash assistance such as Food Stamps will not cause a public charge. Depending on a person’s immigration status, DHS or State Department consular officers abroad can refuse to let someone enter the U.S., re-enter the U.S. or become a legal permanent resident if they think he or she will not be able to support him- or herself without these benefits in the future. Public charge is not an issue for immigrants who are applying to become citizens, or refugees or persons granted asylum.

**Qualified Alien:** This term is often used in reference to eligibility for certain public benefits available to immigrant clients. The term is not a separate immigration category; rather, it refers to immigrants in many categories who are not qualified for certain federal government benefits but may be qualified for state or local government benefits.

**Refugee:** See Asylee and Refugee

**Sanctuary City:** This is a term given to U.S. cities and some states that follow certain practices that protect illegal immigrants, such as not allowing municipal funds or resources to be used to enforce federal immigration laws. These cities and states have adopted “sanctuary” ordinances banning city employees and police officers from asking people about their immigration status. The designation has no legal meaning.

**Special Immigrant Juvenile Status (SIJS):** A special immigration relief option for abused, abandoned or neglected children that is dependent on the family court ordering that it is not in the child’s best interest to return to his or her home country. This status then qualifies the child for long-term foster care or guardianship. This special designation must be achieved prior to the child “aging out” of the foster care system (age 18 in most states and can be extended to 21 in certain states). There are changes to this requirement by the Trafficking Victims Protection and Reauthorization Act (TVPRA) of 2008, H.R. 7311, effective March 23, 2009. See Appendix 3.

**Team Decision Making (TDM):** The purpose of a TDM is to make immediate decisions regarding a child’s placement once the family comes to the attention of the public child welfare agency and the child may or may not be able to remain in his or her home. The goal of the meeting is to develop consensus between the agency and the family regarding placement decisions that protect the child and preserve or reunify the family. More information about TDM is available at the Annie E. Casey Foundation website at [www.aecf.org](http://www.aecf.org).

**T Visa:** A T visa may be available to a person who came to the U.S. as the victim of a severe form of human trafficking. This could mean that the person was brought into the country and then forced to pay off a debt, work or perform sexual acts against his or her will. The applicant will need to help the police with the case against the trafficker in order to be eligible. A T visa is temporary, but can lead to permanent status.

**Undocumented Immigrant (i.e., Illegal Alien):** A person who comes to live in a host country without legal documentation. Undocumented immigrants may have entered the U.S. unlawfully or may have expired or revoked visitor visas. They do not have permission to work and are not eligible for most health and social services programs. They may be eligible to apply for lawful immigration status through special relief options, or become legal permanent residents through the sponsorship of a family member or employer.

**U.S. Citizenship and Immigration Services (USCIS, formerly known as Immigration and Naturalization Services or INS):** USCIS is charged with processing immigrant visa petitions, naturalization petitions and asylum and refugee applications, as well as making adjudicative decisions performed at service centers, and managing all other immigration benefits functions (not immigration enforcement) performed by the former INS. There are many USCIS field offices located throughout the country where interviews are held for potential immigration options.

**U Visa:** A U visa may be an option for a victim of a serious crime in the U.S. It is intended to help overcome the victim’s fear of immigration detection and encourage reporting and other cooperation with investigation or prosecution of crimes. It is also designed to protect vulnerable victims and assist domestic violence victims and other crime survivors. The applicant must get a law enforcement certification and assist in the investigation and/or prosecution of the crime.

**Violence Against Women Act (VAWA):** A collection of federal laws designed to protect abused immigrant spouses and children who are often afraid to seek police protection because abusers often use their legal status against them to coerce or threaten them, especially with deportation. VAWA allows the victim to “self-petition” separately from the U.S. citizen/legal permanent resident spouse.

**Visa:** A citizen of a foreign country wishing to enter the U.S. generally must first obtain a visa — either a nonresident visa for temporary stay, or an immigrant visa for permanent residence. Visa applicants will need to apply overseas, at the U.S. embassy or consulate, generally in their country of permanent residency. The type of visa needed is defined by immigration law and relates to the purpose of travel.

## FOR MORE INFORMATION

**Bridging Refugee Youth and Children's Services (BRYCS)** is a national technical assistance project funded by the Office of Refugee Resettlement (ACF/DHHS) and a project of the U.S. Conference of Catholic Bishops. BRYCS provides consultations, training and conference presentations, and the largest website and clearinghouse focused specifically on migration and child welfare. The searchable online clearinghouse has more than 2,000 resources and serves a number of audiences, including practitioners, researchers, policymakers, educators, program managers, administrators, refugees and immigrants. BRYCS has produced 35 publications, collected 60 promising practices and written dozens of *Spotlight* articles, all on migration and child welfare topics and available to download free at [www.brycs.org](http://www.brycs.org).

Family to Family is a national child welfare and foster care reform initiative sponsored by the Annie E. Casey Foundation. A list of internal forms developed by and for public child welfare agencies is available on the California **Family to Family** website, under "Sample Forms from Public Child Welfare Agencies, including MOUs with the Mexican Consulate" and includes internal immigration status assessment forms and SIJS checklists (see [www.f2f.ca.gov/Immigrants.htm](http://www.f2f.ca.gov/Immigrants.htm)).

**Lutheran Immigration and Refugee Service (LIRS)** is one of the two refugee resettlement agencies authorized by the U.S. Department of State to arrange foster care placement for unaccompanied refugee minors, primarily through their 25 affiliated child welfare programs across the country (see [www.lirs.org](http://www.lirs.org)).

**Language Portal: A Translation and Interpretation Digital Library**, developed by the National Center on Immigrant Integration Policy/Migration Policy Institute is a searchable digital library of close to 600 resources relating to the use of language access services in social service and public safety agencies. Geared toward government administrators who want to make their services available to limited-English-proficient individuals, the Portal provides sample documents, service models, hourly translation and interpretation rates for different languages in key U.S. regions, pay differentials for multilingual staff and sample translated documents (see [www.migrationinformation.org/integration/language\\_portal/](http://www.migrationinformation.org/integration/language_portal/)).

The **Resources in Spanish** section of the **Child Welfare Information Gateway** website is designed for child welfare professionals who work with Spanish-speaking families, and includes a dictionary of Spanish and English terms for child welfare, as well as topically organized resources on child abuse and neglect, preventing and responding to child abuse and neglect, supporting and preserving families, out-of-home care and adoption (see [www.childwelfare.gov/spanish](http://www.childwelfare.gov/spanish)).

### Information on Team Decision Making and Family Group Decision Making With Immigrant Families

*Using Family Group Conferencing to Assist Immigrant Children and Families in the Child Welfare System*  
By Michelle Howard, MS, LPC, and Lara Bruce, MSW, American Humane Association (2008)  
[www.americanhumane.org/assets/docs/protecting-children/PC-fgdm-immigrant-children-families.pdf](http://www.americanhumane.org/assets/docs/protecting-children/PC-fgdm-immigrant-children-families.pdf)

*Immigration Dynamics in Team Decision-Making Meetings (TDM) — Peer to Peer Discussion*  
California Family to Family Convening (Nov. 3, 2006, San Francisco, Calif.)  
[www.f2f.ca.gov/res/pdf/ImmigrationDynamicsTDMwkshpNov06.pdf](http://www.f2f.ca.gov/res/pdf/ImmigrationDynamicsTDMwkshpNov06.pdf)

*Family and Community Centered Child Welfare Practice With Refugees and Immigrants*  
Bridging Refugee Youth & Children's Services (Fall 2007 *Spotlight*)  
[www.brycs.org/brycs\\_spotfall2007.pdf](http://www.brycs.org/brycs_spotfall2007.pdf)

## Training Resources on Immigration Relief Options

**CalSWEC** (California Social Work Education Center), University of California, Berkeley, School of Social Work, has developed a training resource, *Legal Residency for Juveniles Within the Child Welfare System: Special Immigrant Juvenile Status and the Violence Against Women Act*. This brief resource, developed for supervisors and managers, is designed to inform child welfare staff about SIJS and VAWA and the applicability of these laws to undocumented immigrant youth who are in the child welfare system. There is also a separate curriculum resource for child welfare workers that includes learning objectives, Title IV-E competencies, a lesson plan, training activities and supplemental handouts (see <http://calswec.berkeley.edu/CalSWEC/OtherTraining.html>).

**SIJS Caseworker's Toolkit for Children in Federal Custody**: Developed by the Children's Services Department of the U.S. Conference of Catholic Bishops/Migration and Refugee Services, this tool kit is primarily developed for foster care caseworkers assisting children in federal custody to ensure that SIJS-eligible children receive the assistance and case monitoring they need during the SIJS application process (see [www.brycs.org/sijs/default.htm](http://www.brycs.org/sijs/default.htm)).

**Obtaining Special Immigrant Juvenile Status (SIJS) for Dependents and Wards of the Juvenile Court** (April 2008): Written by the California Foster Care Ombudsman's program, this three-page fact sheet includes information about SIJS eligibility, process and further resources (see [www.f2f.ca.gov/res/pdf/ObtainingSpecialImmigrant.pdf](http://www.f2f.ca.gov/res/pdf/ObtainingSpecialImmigrant.pdf)).

**Benefits for Immigrant Victims of Trafficking, Domestic Violence and Other Serious Crimes in California** (June 2008): Produced by the California Immigrant Policy Center, this guide provides advocates, victims of trafficking and domestic violence, and their families with information on how to gain access to the resources that will help them find treatment, support and aid to cope with the residual effects of abuse (see [www.f2f.ca.gov/res/pdf/BenefitsForImmigrant.pdf](http://www.f2f.ca.gov/res/pdf/BenefitsForImmigrant.pdf)).

## Immigration Legal Resources

**ASISTA** is a collaborative between four nationally recognized immigration legal organizations who provide technical assistance on the intersection between immigration and domestic violence law. ASISTA maintains an online clearinghouse of resources, samples and best practices and is physically located in Des Moines, Iowa. Its website includes the latest information on the Violence Against Women Act and other immigration relief options for victims of domestic violence. For more information, go to [www.asistahelp.org](http://www.asistahelp.org).

**American Bar Association Commission on Immigration** was established in 2002 and directs the ABA's efforts to ensure fair treatment and full due process rights for immigrants and refugees within the U.S. Publications available from the ABA Commission on Immigration include *Standards for the Custody, Placement and Care; Legal Representation; and Adjudication of Unaccompanied Alien Children in the United States, A Judge's Guide to Immigration Law in Criminal Proceedings* and *Immigration Detainee Pro Bono Opportunities Guide*. A guide of free or low-cost legal services for immigrants and refugees, located by state, is available at [www.abanet.org/publicserv/immigration/legal\\_services\\_directory\\_map.shtml](http://www.abanet.org/publicserv/immigration/legal_services_directory_map.shtml).

**Catholic Legal Immigration Network, Inc.** (CLINIC) provides a range of legal and nonlegal support services to 173 member agencies composed mainly of Catholic diocesan immigration programs. The member agencies serve low-income immigrants seeking family reunification, citizenship and protection from persecution and violence (see [www.cliniclegal.org](http://www.cliniclegal.org)).

**Immigrant Children Lawyers Network** is a group of accredited representatives, lawyers and those providing technical assistance to accredited representatives and lawyers on immigration issues for children (see [www.aila.org/content/default.aspx?docid=19960](http://www.aila.org/content/default.aspx?docid=19960)).

**Immigrant Legal Resource Center** is a national nonprofit resource center that provides legal trainings, educational materials and advocacy to advance immigrant rights. ILRC provides the unique "Attorney of the Day," a technical assistance service to assist via phone or email on immigration cases (see [www.ilrc.org](http://www.ilrc.org)). They have many publications available online regarding potential immigration relief options for foster youth including:

- Fact sheets on immigration options for undocumented children, SIJS, VAWA, family visas, U visas, asylum, U.S. citizenship and temporary protected status (see [www.ilrc.org/resources/sijs/Fact%20sheets%20immigrant%20children.pdf](http://www.ilrc.org/resources/sijs/Fact%20sheets%20immigrant%20children.pdf)).
- A manual on Special Immigrant Juvenile Status, with in-depth discussion of the requirements of SIJS and

instructions on how to file an SIJS petition (see [www.ilrc.org/pub\\_output.php?id=10](http://www.ilrc.org/pub_output.php?id=10)).

- *Living in the United States: A Guide for Immigrant Youth*  
([www.ilrc.org/resources/sijs/Youth\\_Handbook\\_English.pdf](http://www.ilrc.org/resources/sijs/Youth_Handbook_English.pdf))
- *Immigration Benchbook for Juvenile and Family Court Judges*  
([www.ilrc.org/resources/sijs/2005%20SIJS%20benchbook.pdf](http://www.ilrc.org/resources/sijs/2005%20SIJS%20benchbook.pdf))
- *The VAWA Manual: Immigration Relief for Abused Immigrants*  
(see [www.ilrc.org/pub\\_output.php?id=8](http://www.ilrc.org/pub_output.php?id=8))

## About the Migration and Child Welfare National Network

Formed in 2006, the Migration and Child Welfare National Network is a coalition focused on improving the child welfare system's services to immigrant families. Membership to MCWNN is free and members learn from each other's experience and expertise. Questions about joining MCWNN or about this tool kit can be referred to the Migration and Child Welfare National Network at [CWMN@americanhumane.org](mailto:CWMN@americanhumane.org). MCWNN funding partners are the Annie E. Casey Foundation and the American Humane Association (funding and program/fiscal partner).

## About the Tool Kit

This resource is part of *A Social Worker's Tool Kit for Working With Immigrant Families*, a multicomponent resource guide developed by the Migration and Child Welfare National Network. The full tool kit can be downloaded at the MCWNN website at [www.americanhumane.org/migration](http://www.americanhumane.org/migration). Please contact the MCWNN at [CWMN@americanhumane.org](mailto:CWMN@americanhumane.org) with your feedback on how to improve this tool kit and make it relevant to child welfare practitioners.

## Immigration Status and Relief Options

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