

Committee on Children JOINT FAVORABLE REPORT

Bill No.: HB-5185

AN ACT CONCERNING GUARDIANSHIP APPOINTMENTS FOR INDIVIDUALS

Title: SEEKING SPECIAL IMMIGRANT JUVENILE STATUS.

Vote Date: 3/1/2018

Vote Action: Joint Favorable Substitute

PH Date: 2/27/2018

File No.: 8

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SPONSORS OF BILL:

Committee on Children

REASONS FOR BILL:

To permit certain unmarried persons under the age of twenty-one to be appointed a guardian solely in connection with a petition to United States Citizenship and Immigration Services for designation of the person as having special immigrant juvenile status.

RESPONSE FROM ADMINISTRATION/AGENCY:

Sarah Healy Eagan JD, Child Advocate, Office of the Child Advocate, State of Connecticut

The OCA supports this bill as it would provide certain protections to those non-citizen youth who are under the age of twenty-one and reliant on a guardian for his/her care from possible deportation. Such youth are not technically adults and may have intellectual, emotional and /or physical limitations. Providing a safety-net for such youth to reach adulthood without the unnecessary threat of deportation.

Steven Hernandez, Esq., Executive Director, Commission on Women, Children and Seniors

The Commission fully supports HB 5185, in adding to the definition of a minor child, an unmarried person under the age of twenty-one, and for the court to appoint such person a guardian who will specifically work with them to petition the U.S. Citizenship and Immigration Services for designation of the person as having special immigrant status. These children often times were brought to the United States by their parents or guardians when they were

very young and we believe that it would be inhumane if not unconstitutional to deny them the most basic of due process rights. While our laws may be unclear on the issue of whether these children should be afforded procedural and substantive due process, Connecticut should lead the way in interpreting our own constitution in the affirmative.

Christine Rapillo, Chief Public Defender-Division of Public Defender Services, State of Connecticut

This bill would clarify that for the sole purpose of seeking SIJ status, a “minor” or “minor child” includes an unmarried person under the age of twenty-one who is dependent on a competent caregiver and consents to the appointment of continuation of a guardian after turning eighteen. This is an important and necessary change for this limited purpose because the federal SIJ statutes allow petitions for such status to be filed for a youth up to the age of twenty-one only if state law defines a “minor” to include such youth.

NATURE AND SOURCES OF SUPPORT:

David McGuire, Executive Director, American Civil Liberties Union of Connecticut

The ACLU-CT believes in equality for all people, no matter where they are from or what they have been subjected to in their past. Young immigrants are contributing to our state in a multitude of ways and deserve to be respected and offered help when they need it. Young immigrants who have been abused, neglected, or abandoned deserve the opportunity to apply for SIJ status. Late last year, the Connecticut Supreme Court in *In re Henry P. B-P* identified a troubling gap between the Connecticut and federal age limit for applying for SIJ status.

Passing this bill into law would put Connecticut in step other states in the Northeast that have already addressed this issue by providing young immigrants with these protections. New York, New Jersey, and Massachusetts allow youth to apply for protection with the federal government.

American Immigration Lawyers Association (AILA)

SIJ is only granted to individuals who meet certain requirements. The individual must be declared dependent upon a juvenile court or committed to the custody agencies of a state. The court must also find that reunification with one or both parents is not viable due to abuse, neglect, abandonment, or similar basis found under state law and that the return to their country of nationality or last habitual residence is not in the juvenile’s best interest. As the law in Connecticut stands today, it prevents juveniles from seeking the protections that would otherwise be available to them under the federal laws concerning SIJ Status.

The need to protect juveniles faced with the truly horrible decision of risking their lives to seek safety in the United States has been recognized by federal and state governments alike.

Paula Bacolini:

As a mother and a CT resident of over 30 years, I write in Support of HB 5185. Special Immigrant Juvenile Status will protect immigrant youth up to the age of twenty-one, who have been abandoned, abused or neglected by their guardians, and allow them to

legalize their status. Our neighboring states of New York, New Jersey, and Massachusetts, as well as, other states: California, Washington, and Maryland, have passed this type of legislation to address this issue.

Francisco Baires, Greater Hartford Deportation Defense

This bill is necessary so that Connecticut can fully implement the intent of the federal law seeking to protect vulnerable young people. Since October 2015, more than 800 unaccompanied children have been resettled in Connecticut by the ORR. A significant portion of these children have fled their countries of origin due to abuse, neglect and abandonment. SIJS is a form of immigration relief designed to protect children up to the age of twenty-one, who have been abandoned, abused or neglected by allowing them to regularize their immigration status.

Alok Bhatt, Community Defense Coordinator, Connecticut Immigrant Rights Alliance

The proposal before you today would allow children and youth under the age of 21 to be appointed a guardian for the sole purpose of seeking SIJ status before United States Citizenship and Immigration Services (USCIS). Many undocumented youths between ages 18 and 21 came to the United States to escape life-threatening circumstances and seeking a better life, enduring extreme hardship, danger, and continual trauma. An opportunity to regularize their status in the United States would grant many Connecticut youths a chance to live a healthier life, free of the compounding anxieties of deportation.

The State of Connecticut cannot allow youth in our communities to remain vulnerable to the indiscriminate violence of Immigration and Customs Enforcement (ICE). Fundamental notions of justice and fairness dictate that we insulate our young people from oppressive policing on all levels, and afford them the opportunities to build their lives safely and peacefully.

Camila Bortolletto, CT Students for a Dream

The obstacles and difficulties these youth face are extreme and unimaginable to most of us, and this age limitation that is inconsistent with federal law adds an additional and unnecessary barrier. In our work as an organization, we have heard many stories of and spoken to young people who have fled from their home countries by themselves and became unaccompanied minors entering the United States. These are youth that have lost contact with one or both of their parents, youth that do not know anything about the system when they get to this country. Many times these youth do not have access to basic services, let alone an experienced immigration attorney, because they do not have an adult present to guide them. This means that many youth do not find out they qualify for SIJS until they are already over 18 and it is too late to apply under the current process in CT.

Deybis Carcamos:

I was cared for by my great-grandmother in Honduras up until a year and a half ago when she had a stroke. I had no other place to go except my grandmother's house here in Connecticut. I was taken by the U>S> Border Patrol as I tried to enter the United States. A short while later I was sent to live with my grandmother in Connecticut to face an immigration court process. It was very difficult for my grandmother to get legal help. She could not afford

a lawyer to help her become my legal guardian. Thankfully, after many months and weeks shy of my 18th birthday the Center for Children's Advocacy took my case. Thanks to the work from my lawyer my grandmother was able to become my legal guardian and get the special findings I need to remain in her care here in Connecticut. But all this almost didn't happen.

Edwin D. Colon, Esq., Director Immigrant Childrens Justice Project, Center for Children's Advocacy

By voting in favor of this bill you are not deciding or creating immigration policy. You are simply removing an obstacle our state laws create on vulnerable and dependent youth trying to apply for a protection that our federal government has made available to them for the past twenty-eight years.

Because Probate Court jurisdiction for youth ends at eighteen, this form of relief is often unavailable to many youth who are about to turn eighteen or have reached this age by the time they enter our State.

Allowing the Probate Courts to exercise jurisdiction in these cases is critical. Without the legal ability to continue to make decisions on behalf of these youth caregivers have no meaningful vehicle to ensure that these dependent young people can maintain the physical safety, housing stability, medical care, education and mental health services they need.

Beberly Coy:

When I was seventeen, I took my brothers and escaped from my grandmother's house with the help of a cousin who agreed to drive us to Mexico. We eventually entered the United States and were apprehended by U.S. immigration court. My mom works really hard but does not make enough money to pay a lawyer. A month before I was to turn eighteen we were told about the Center for Children's Advocacy. Thankfully the attorney at the Center took my case right away and work quickly to help me. I hope you vote in favor of this bill so that the Courts in Connecticut are open and available to youth like me.

Enelsa Diaz, Managinq Attorney, Greater Hartford Legal Aid, Inc.

Under Immigration law, a person can petition for SIJS relief until age 21, but this Immigration process relies on state court findings made by a juvenile court. Under Connecticut's current laws, our courts do not have the ability to accept cases for youth who have already turned 18, and thus make the necessary findings needed for their Immigration petition. This gap leaves youth ages 18-21 unable to petition the Probate Court, and therefore unable to file for Immigration relief. Many of these youth are still in high school, learning English, and without the ability to work and care for themselves.

Expanding the definition of minor child is necessary in order to ensure that our state is meeting the basic needs of our most vulnerable youth while also addressing the inconsistencies between our state statute and federal law that deprive youth of an existing protection.

Michael Hernandez:

I currently have special immigrant juvenile status. Being able to have special immigrant juvenile status is one of the best opportunities our state and federal governments can give our young immigrants to prove they are valuable assets to our society. I urge the Connecticut General Assembly to pass legislation to extend this wonderful opportunity to persons between the ages of 18 and 21.

Varun Khattar, Community Organizer, CT Center for a New Economy

As the Trump administration continues to promote racial profiling, increase immigration enforcement and border militarization, and expand private prisons and detention centers as part of the President's white nationalist and pro-capitalist agenda, the safety and futures of many of young migrants are at stake.

Alicia R. Kinsman, Director and Managing Attorney for the Immigration Legal Services Program

HB 5185 brings Connecticut law into alignment with federal immigration law, so that its courts can protect abused, neglected, and /or abandoned children, and allow them to pursue legal status through a Special Immigrant Juvenile Status self-petition.

However, in Connecticut a "minor" child must be under the age of eighteen. Thus, SIJS protection disappears too soon. Several states have already addressed this "gap" between the age-limit for obtaining these findings under state law (eighteen in Connecticut) and the federal age limit for applying for SIJ status (twenty-one), including New York, California, Washington, and Maryland. Now Connecticut can demonstrate similar commitment to its vulnerable foreign-born youth.

Camille Kritzman, Community Organizer, CT Students for a Dream.

I have witnessed first-hand the difference that this status can have on a youth's life. While working at East Hartford High school with Connecticut Student's for a Dream's College Access Program, I met youth were unaccompanied minors who received SIJ status. The students were working to earn money to support themselves but also considering going to college, going after a career of their choosing, improving English, and looking forward to life after high school. I also met students who were 19, and did not qualify for SIJ status. These students had a different demeanor, worked under the table to survive, lived in the shadows in fear of deportation, and did not envision many prospects for themselves beyond graduation, if they were able to make it to that point. These youth came to the U.S. in search of safety and security, only to be met with insurmountable barriers, even in a state that deems themselves a "welcoming" state to immigrants.

Joanne Lewis, Managing Attorney, Connecticut Legal Services

This bill is necessary for several reasons:

The Supreme Court in the case of Henry P. B-P , urged the General Assembly to deal with this issue of le for an immigration program called Special Immigrant Juvenile Status or SIJS. By Federal abandoned neglected and abused children between the ages of 18 and 21. They expressed concern for children like Henry, who turned 18 during the pendency of a Probate Court guardianship proceeding, resulting in the court's dismissal of the case. Had the court

not acted, Henry would be ineligible for an immigration program called SIJS. By Federal statute, they can be granted SIJS until the age of 21, but that status requires certain findings by a court of juvenile jurisdiction.

Barbara Lopez, Lead Organizer, Make the Road Connecticut

Make the Road CT supports a proposal that would expand Special Immigrant Juvenile Status two-part process: if the state court pursuant to a guardianship or a child abuse or neglect proceeding makes some specific findings as to the immigrant child, he or she can then take the state court order and apply for the SIJS protection with the federal government.

If our legislature is serious about protecting our young people, we urge you to pass HB5185. By passing this bill you are protecting the most vulnerable youth in our state, those in need of a competent caregiver to avoid abuse and neglect. This bill will eliminate statutory barriers that otherwise defy our State policy to protect children from abuse and neglect and go against the spirit of the federal protection otherwise afforded to them.

Tara McDonough:

I have recently married a non-U.S. citizen, who has given me many stories of the struggles he faced adjusting to the U.S.'s broader culture, educational and legal system when he came here at the age of 18 for a college education. He came from a supportive family and yet still faced isolation, a vast cultural divide, and numerous obstacles in obtaining financial support for his education. It leaves me feeling desperate to change this policy gap when I think that a youth might enter or be living in this country with even more obstacles to face in the ways of securing not only an education, but their very own physical safety. It is my belief that this bill would greatly assist in ensuring the basic safety and security of young people who are at a pivotal time in their lives attempting to ensure further education, or the beginning of fruitful careers.

Sarah Morrison:

As a youth worker in the state of Connecticut I have seen the negative long term consequences that accompany youth who have experienced trauma and abuse who do not receive the services and support that they need. Passing this bill will help vulnerable youth access the supports they need to be healthy thriving members of society.

Jane Nadel, Policy Director, Connecticut Shoreline Indivisible

Through our work on behalf of immigrants, we learned about an anomaly in Connecticut statutes that prevents vulnerable youth from obtaining a type of immigration relief called Special Immigrant Juvenile Status even if they are entitled to that form of relief under federal law. Under federal immigration statutes, children and youth up to age twenty-one who have been abandoned, abused or neglected can apply for SIJS. In order to apply for SIJS, it is first necessary for a state court to either make the child dependent on the court or place the child under custody of a state agency or individual.

Adriana Podesta, Immigration Attorney and Director of Legal Service-Building One Community

There is currently a disconnect between CT's statutory definition of minor child up to the age of eighteen and the federal relief of SIJS accorded to "children" of up to twenty-one years of age. New York, California, Washington and Maryland have passed statutes to address this issue' and both New Jersey and Massachusetts have extended jurisdiction for SIJS findings. We very often see children in our office who have come to the U.S. because they were abandoned, abused or neglected by one or both of their parents. However by the time they are released from ORR to an adult in our state, they are already eighteen or close to eighteen and they cannot qualify for the protection of our laws against abuse and neglect.

Jennifer Roach, RN:

As a Registered Nurse, I am an advocate for the health and safety of my community. Too often, vulnerable young people such as undocumented immigrants, avoid reporting abuse or abandonment because they fear legal consequences. I want to assure my patients that we are first and foremost concerned with their health and safety. Resources such as the protection of the Probate court allow me to professionally assess for abuse and neglect, knowing that the state will support that young person.

April Fawn Scheller:

I am writing today concerning HB 5185. To look at two individuals in our country of the same age, and claim that only one is not a minor because of where on earth they were born is at best a ridiculous nonsense on the part of an unreasonable government. When a life is at stake because the state will not recognize a minor, this form of discrimination is both a shame and a tragedy. Please rectify the problem justly.

Alyssa Siegel-Miles:

Many young people endure extreme hardship on their journey to the U>S> the protection of Special Immigrant Juvenile Status should extend to age 21, in keeping with federal law.

NATURE AND SOURCES OF OPPOSITION:

Reported by: Joyce Turner

Date: 3/23/18