



PA 18-92—sHB 5185
Committee on Children
Judiciary Committee

AN ACT CONCERNING GUARDIANSHIP APPOINTMENTS FOR INDIVIDUALS SEEKING SPECIAL IMMIGRANT JUVENILE STATUS

SUMMARY: Existing law permits a party in a probate court case involving guardianship, parental rights, or adoption to petition the court to make certain findings that someone may use to apply to U.S. Citizenship and Immigration Services (USCIS) for special immigrant juvenile status (SIJS) (see BACKGROUND). Under federal law, an immigrant child under age 21 who (1) has been abused, neglected, or abandoned and (2) meets certain other criteria, may apply for SIJS. If granted by the federal court, SIJS allows the child to legally remain in the United States.

For proceedings involving guardianship appointment or removal, this act allows the probate court to issue those findings for certain SIJS applicants under age 21, instead of under age 18 as under prior law. This change enables 18-, 19-, and 20-year-olds who are eligible to apply for SIJS under federal law, in certain circumstances, to petition the probate court for the findings they need to make that application (i.e., that they are dependent on the court).

The act also makes conforming changes.

EFFECTIVE DATE: July 1, 2018

WRITTEN FINDINGS

By law, at any point during a pending probate court petition to remove a parent or other person as guardian or appoint a guardian or co-guardian, a party may petition the court to make written findings to be used to apply for SIJS. A parent, guardian, or attorney for a minor child may also petition the court to make such findings if the court previously granted a petition to (1) remove a parent or other person as guardian or (2) appoint a guardian or co-guardian for the minor.

Under prior law, the court could only issue such findings if the minor was under age 18. Under the act, the court may additionally issue such findings if the minor (1) is under age 21 and unmarried; (2) is dependent on a competent caregiver; (3) has consented to the appointment or continuation of a guardian after turning 18; and (4) files, or someone files on his or her behalf, a petition seeking such findings from the probate court.

As under existing law, if the court grants or has granted the removal or appointment petition, it must also issue the requested written findings, including:

1. the minor child's age and marital status;
2. whether the minor is dependent on the court (a minor is dependent on the

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court if the court removed the child's parent or another person as guardian, appointed a guardian or co-guardian for him or her, terminated the parental rights of his or her parent, or approved his or her adoption);

3. whether reunification with one or both parents is not viable for certain reasons (e.g., abandonment or abuse); and
4. whether it is not in the minor's best interest to be returned to the minor's or parents' country of nationality or last customary residence.

BACKGROUND

Special Immigrant Juvenile Status

Under federal law, USCIS may grant SIJS to an immigrant if:

1. he or she was (a) declared dependent on a juvenile court or (b) legally committed to, or placed under the custody of, a state agency or department, or a person or entity appointed by a state or juvenile court located in the United States;
2. his or her reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and
3. an administrative or judicial proceeding determined that it would not be in his or her best interest to be returned to the child's or parent's previous country of nationality or last habitual residence (8 U.S.C. § 1101(a)(27)(J)).