

ADOPTIONS AND CHILDREN WITHOUT IMMIGRATION STATUS

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Immigration 101

- ❑ US Citizens (USCs): Conferred all rights
 - By birth in the US, acquisition through birth abroad to USC parents, derivation through a USC parent, or naturalization

- ❑ Immigrants: Come to the US legally to work and reside permanently
 - Lawful permanent residents (LPRs, or green card holders)

- ❑ Non-immigrants: Come to the US for a specific purpose, for a limited period of time
 - Tourists, business purposes, students, foreign diplomats

- ❑ Undocumented individuals: Entered the US without inspection (EWI) or overstayed/violated a nonimmigrant status

- ❑ Other: Live in the US with the government's permission but are neither immigrants nor nonimmigrants
 - Asylum, TPS, DACA

The goal is to have these children go from undocumented to lawful permanent residents



How can undocumented children in the Department of Children and Family Services custody gain lawful status?

Humanitarian relief

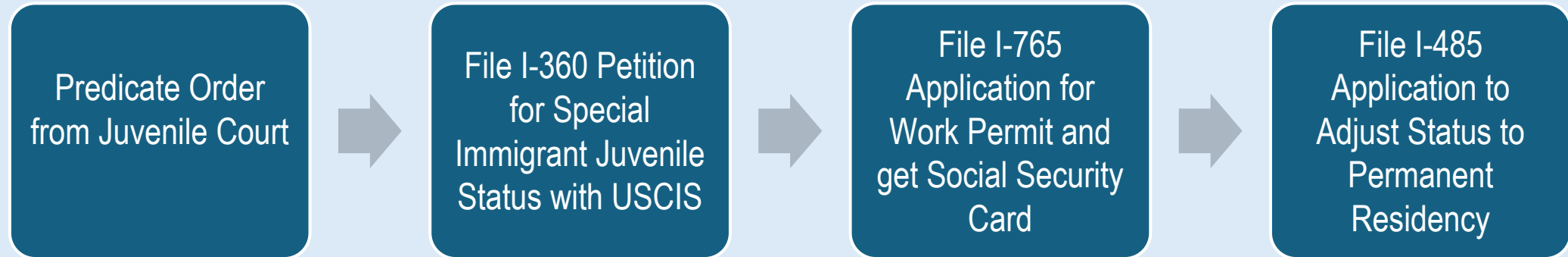
- Victims of crime (U visa)
- Victims of human trafficking (T visa)
- Violence Against Women Act (VAWA)
- Asylum
- Special Immigrant Juvenile Status (SIJS)

Family-based immigration

- Immediate relatives
- Other family-preference categories



OVERVIEW OF SIJS PROCESS



Once USCIS receives the I-360 Petition, it issues a form I-797 Receipt Notice.
Use that receipt notice to link the child to a healthcare plan.

Family Based Immigration

❑ Establish the family relationship

- Form I-130, Petition for Alien Relative
- Proof of the relationship: marriage certificate; joint accounts, bills, and mortgage/lease; pics; letters in support; birth certificate.

❑ Apply for visa or adjustment of status

- When? Might be a long wait. Check the visa bulletin!
- How? Form I-485 application to adjust status OR through the National Visa Center (DS-260)
- Where? US OR back in home country.



How does adoption affect a child's immigration status?

- Adoption alone does not provide any kind of immigration benefit.

- The adoptive parent can file a **family-based petition** on behalf of the child, if:
 - The child was adopted by a US citizen or a lawful permanent resident;
 - The adoption was finalized before the child turned 16; and
 - The child has lived with their adoptive parent for 2 years.



What are the potential hurdles to family-based immigration?

- The child may have to return to their country of origin before they can get their green card.
- The child may have a hard time getting a passport.
- The child may have an old removal or deportation order
- Hague Convention- adoption record must show that the convention does not apply. How?
 1. Letter from home country's Central Authority stating child is not a habitual resident of that country, OR
 2. Show that:
 - Child did not enter the US for purposes of adoption
 - Child's actual residence is in the US
 - Home country's Central Authority was notified of the adoption proceedings



What does a Louisiana adoption provide to undocumented children?

- ❑ A Louisiana agency adoption provides an undocumented child with a permanent home.
- ❑ An adoptive parent now has a legal relationship with the adopted child, which will assist with
 - school registration,
 - access to medical records,
 - authority to make medical decisions, and
 - authority to make other general legal decisions on behalf of the adopted child.

What does a Louisiana adoption NOT provide to undocumented children? (continued)

- It does NOT automatically provide a child with
 - any legal immigration status (including citizenship),
 - a Social Security card,
 - driver's license, or
 - passport (including the ability to travel internationally).

- DCFS adoptions may need to be amended to enable adoptive parents to file for a family-based visa for the child (i.e., Hague Convention).

What Steps Should DCFS Workers Take?

As soon as a child comes into DCFS custody or is in the Family Services unit, the worker should

- ✓ determine if the child is undocumented

- ✓ If a child is undocumented, the worker should consult right away with Bureau of General Counsel (BGC)

Birth certificates



- An original birth certificate is needed to file an adoption petition.
- All efforts must be made to obtain the child's birth certificate as soon as the child enters foster care.
- The birth certificate must be translated into English.
- DCFS employees can send an email along with a copy of the birth certificate to DCFS.Fostercare@LA.GOV requesting translation.



Will the adoptive family receive a subsidy?

Maybe. That depends on whether the adoptive family meets income guidelines.

Required income guidelines must be met for the adoptive family to receive the **board payment** portion of the adoption subsidy.

For example, a family of four with combined household of income of \$44,944 would probably qualify.

DCFS Policy No. 8-730 contains the income guidelines.



What about a non-board payment?

For **non-board payment** part of the subsidy, they will likely be able to qualify for services due to the special needs of the child. Ethnic background is considered to be a “special need.”

As an example, the agency will pay for the adoption attorney to file and complete the adoption. A benefit to adoptive parents is that DCFS will refer to an immigration attorney for Special Immigrant Juvenile Status (SIJS) or other proceedings.

Will the child have health insurance?

- All children regardless of legal status will be covered for emergencies.
- Other medical services may be covered with DCFS state office approval.
- For children who have started the SIJ process, they will get full access to Medicaid once they receive the “Form I-797 Receipt Notice I-360”
- Once the child is adopted, adoptive parents can choose to put the child on their private health insurance.

What does the Form I- 797 Receipt of Notice I-360 look like?

Department of Homeland Security U.S. Citizenship and Immigration Services		Form I-797C, Notice of Action	
THIS NOTICE DOES NOT GRANT ANY IMMIGRATION STATUS OR BENEFIT.			
NOTICE TYPE Receipt	NOTICE DATE December 28, 2023		
CASE TYPE I-360, Petition for Amerasian, Widow(er) or Special Immigrant	USCIS ALIEN NUMBER		
RECEIPT NUMBER [REDACTED]	RECEIVED DATE December 22, 2023	PAGE 1 of 1	
PRIORITY DATE December 22, 2023	PREFERENCE CLASSIFICATION SPECIAL IMMIGRANT JUVENILE	DATE OF BIRTH	
C/O KRISTIN M. JONES CATHOLIC CHARITIES IMMIGRAT 4200 S I 10 SERVICE ROAD W STE 110 METAIRIE, LA 70001		PAYMENT INFORMATION: Application/Petition Fee: \$0.00 Total Amount Received: \$0.00 Total Balance Due: \$0.00	
APPLICANT/PETITIONER NAME AND MAILING ADDRESS			
We have received your form and are currently processing the above case for the following beneficiaries:			
Name:	Date of Birth:	Country of Birth:	Class (if Applicable):
[REDACTED]	[REDACTED]	GUATEMALA	
If this notice contains a priority date, this priority does not reflect earlier retained priority dates. We will notify you separately about any other case you filed.			
If we determine you must submit biometrics, we will mail you a biometrics appointment notice with the time and place of your appointment.			
If you have questions or need to update your personal information listed above, please visit the USCIS Contact Center webpage at uscis.gov/contactcenter to connect with a live USCIS representative in English or Spanish.			
USCIS Office Address: USCIS National Benefits Center Attention: Special Immigrant Juvenile 7600B West 119th Street Overland Park, KS 66213		USCIS Contact Center Number: (800)375-5283 ATTORNEY COPY	

For this form, there is no biometric enrollment notice. Please see the back of this notice for important information.

Form I-797C 10-13-21

If you are visiting a field office and need directions, including public transportation directions, please see www.uscis.gov/fieldoffices for more information.

Notice for Customers with Disabilities

To request a disability accommodation:

- Go to uscis.gov/accommodations to make your request online, or
- Call the USCIS Contact Center at 1-800-375-5283 (TTY 1-800-767-1833) for help in English or Spanish.

If you need a sign language interpreter, make your request as soon as you receive your appointment notice. The more advance notice we have of your accommodation request, the better prepared we can be and less likely we will need to reschedule your appointment. For more information about accommodations, visit uscis.gov/accommodationsinfo.

Should an immigration attorney be consulted?



- Yes. Adoptive parents should consult with an immigration attorney if the child is undocumented.
- There are several paths to legal status for undocumented children.
- DCFS can make a referral to an immigration attorney.



QUESTIONS?