

Title	Juvenile Law: Eligibility for Special Immigrant Juvenile Status (revise form JV-224).
Summary	The proposed revised form incorporates updated federal statutory provisions and makes other clarifying changes regarding special immigrant juvenile status.
Source	Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, Cochairs
Staff	Melissa Ardaiz, Associate Attorney, 415-865-7567, melissa.ardaiz@jud.ca.gov

Title 8 United States Code section 1101(a)(27), which defines the term “special immigrant,” was revised on March 19, 2009. Section 1101(a)(27)(J)(i) now provides that a “special immigrant” is one “who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant’s parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law[.]”

The revised language must be incorporated into the *Order Regarding Eligibility for Special Immigrant Juvenile Status* (form JV-224). The Family and Juvenile Law Advisory Committee recommends revising form JV-224 to bring it into compliance with section 1101(a)(27)(J)(i) and to make other clarifying changes. The following changes are proposed:

1. In item 1, add the language “or an individual or entity” to be consistent with new language in section 1101(a)(27)(J)(i).
2. In item 2, replace “eligible for long-term foster care” with the language “to be unable to reunify with one or both of his or her parents” to be consistent with new language in section 1101(a)(27)(J)(i).
3. In item 4, remove the check boxes for abuse, neglect, or abandonment and include the language “by reason of a similar basis under California law.” The check boxes have created confusion for those using the form and are unnecessary.
4. Add a new item 5, stating “Specific factual findings about the child or the child’s parents are provided on Attachment 5.” Those using the form have expressed

concern that there is currently no space on the form to file specific supplemental information about the child and/or parents.

5. Remove the box at the bottom of the form that defines “eligible for long-term foster care.” This term is no longer included in section 1101(a)(27)(J), and a definition is unnecessary.

While considering this proposal, the issue of the applicability of Special Immigrant Juvenile Status (SIJS) in probate guardianships proceedings was raised with the suggestion to create a form jointly applicable to juvenile and probate proceedings or a separate probate form. The applicability of SIJS to probate guardianships has been referred to the Probate and Mental Health Advisory Committee for consideration. The Family and Juvenile Law Advisory Committee invites comment on this issue. Any comments received will be referred to the Probate and Mental Health Advisory Committee for review.

The Family and Juvenile Law Advisory Committee recommends that form JV-224 go into effect on July 1, 2011, to allow courts and other justice partners time to implement. This delay should not be problematic as the changes proposed to the form, while necessary, are not time sensitive.

Proposed revised form JV-224 is attached on page 3.

Title 8 United States Code section 1101(a)(27)(J) is attached on page 4.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT 3 01/27/10 mc Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
ORDER REGARDING ELIGIBILITY FOR SPECIAL IMMIGRANT JUVENILE STATUS	CASE NUMBER:

The court has reviewed the supporting material on file, heard the arguments of counsel, and found the following:

1. The child was brought under the jurisdiction of the juvenile court of the county of (specify):
 and was committed to the custody of a state agency or an individual or entity on (specify date):
 The child remains under this court's jurisdiction.
2. The child was deemed to be unable to reunify with one or both of his or her parents on (specify date):
3. It is not in the best interest of the child to be returned to his or her parent's previous country of nationality or country of last habitual residence (specify):
 It is in the child's best interest to remain in the United States.
4. The above findings were made by reason of the abuse, neglect, or abandonment of the child or by reason of a similar basis under California law.
5. Specific factual findings about the child or the child's parents are provided on Attachment 5.

Date: _____ JUDICIAL OFFICER

Title 8 United States Code section 1101(a)(27)(J)

(a) As used in this chapter—

(27) The term “special immigrant” means—

(J) an immigrant who is present in the United States—

(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant’s parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;

(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien’s best interest to be returned to the alien’s or parent’s previous country of nationality or country of last habitual residence; and

(iii) in whose case the Secretary of Homeland Security consents to the grant of special immigrant juvenile status, except that—

(I) no juvenile court has jurisdiction to determine the custody status or placement of an alien in the custody of the Secretary of Health and Human Services unless the Secretary of Health and Human Services specifically consents to such jurisdiction; and

(II) no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter;

Item SPR10-35 Response Form

Title: Juvenile Law: Eligibility for Special Immigrant Juvenile Status (revise form JV-224)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

Internet: <http://www.courtinfo.ca.gov/invitationstocomment/>

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 18, 2010

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.