

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
ENACTING THE SPECIAL IMMIGRANT JUVENILE CLASSIFICATION ACT;  
PROVIDING FOR JURISDICTION OF SPECIAL IMMIGRANT JUVENILE  
CLASSIFICATION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 40 NMSA 1978 is  
enacted to read:

"SHORT TITLE.--This act may be cited as the "Special  
Immigrant Juvenile Classification Act"."

SECTION 2. A new section of Chapter 40 NMSA 1978 is  
enacted to read:

"DEFINITIONS.--As used in the Special Immigrant Juvenile  
Classification Act:

A. "abandoned child" means a child who is left  
without provision for reasonable and necessary care or  
supervision;

B. "abused child" means a child:

(1) who has suffered or who is at risk of  
suffering serious harm because of the action or inaction of  
the child's parent, guardian or custodian;

(2) who has suffered physical abuse,  
emotional abuse or psychological abuse inflicted or caused by  
the child's parent, guardian or custodian;

1 (3) who has suffered sexual abuse or sexual  
2 exploitation inflicted by the child's parent, guardian or  
3 custodian;

4 (4) whose parent, guardian or custodian has  
5 knowingly, intentionally or negligently placed the child in a  
6 situation that may endanger the child's life or health; or

7 (5) whose parent, guardian or custodian has  
8 knowingly or intentionally tortured, cruelly confined or  
9 cruelly punished the child;

10 C. "child" means any unmarried, foreign-born  
11 person under the age of twenty-one;

12 D. "court" means any court in this state with  
13 jurisdiction to make decisions concerning the protection,  
14 well-being, care or custody of a child;

15 E. "dependent on the court" means subject to the  
16 jurisdiction of a court competent to make decisions  
17 concerning the protection, well-being, care and custody of a  
18 child, to make findings and issue orders or referrals to  
19 support the health, safety and welfare of a child or to  
20 remedy the effects on a child of abuse, neglect, abandonment  
21 or similar circumstances;

22 F. "neglected child" means a child:

23 (1) who has been abandoned by the child's  
24 parent, guardian or custodian;

25 (2) who is without proper parental care and

1 control or subsistence, education, medical or other care or  
2 control necessary for the child's well-being because of the  
3 faults or habits of the child's parent, guardian or custodian  
4 or the failure or refusal of the parent, guardian or  
5 custodian, when able to do so, to provide them;

6 (3) who has been physically or sexually  
7 abused, when the child's parent, guardian or custodian knew  
8 or should have known of the abuse and failed to take  
9 reasonable steps to protect the child from further harm;

10 (4) whose parent, guardian or custodian is  
11 unable to discharge that person's responsibilities to and for  
12 the child because of incarceration, hospitalization or  
13 physical or mental disorder or incapacity; or

14 (5) who has been placed for care or adoption  
15 in violation of the law; provided that nothing in the Special  
16 Immigrant Juvenile Classification Act shall be construed to  
17 imply that a child who is being provided with treatment by  
18 spiritual means alone through prayer, in accordance with the  
19 tenets and practices of a recognized church or religious  
20 denomination, by a duly accredited practitioner thereof is  
21 for that reason alone a neglected child within the meaning of  
22 the Special Immigrant Juvenile Classification Act; and  
23 further provided that no child shall be denied the protection  
24 afforded to all children under any other provision of law;  
25 and

1           G. "similar circumstances" means a similar basis  
2 under state law that demonstrates similar harm or effects of  
3 those of an abused child, neglected child or abandoned child,  
4 including but not limited to the death of a parent,  
5 deportation of a parent or incarceration of a parent."

6           **SECTION 3.** A new section of Chapter 40 NMSA 1978 is  
7 enacted to read:

8           "APPLICATIONS AND PETITIONS FOR CLASSIFICATION AS A  
9 SPECIAL IMMIGRANT JUVENILE.--

10           A. A request may be made by a petitioner pursuant  
11 to this section for classification as a special immigrant  
12 juvenile as provided in 8 U.S.C. Section 1101(a)(27)(J), in  
13 conjunction with a petition for any determination on the care  
14 and custody of a child.

15           B. The application or petition for classification  
16 as a special immigrant juvenile shall set forth the facts  
17 necessary to establish eligibility pursuant to this section."

18           **SECTION 4.** A new section of Chapter 40 NMSA 1978 is  
19 enacted to read:

20           "JURISDICTION OF THE COURT--STANDARDS--PROCEDURES.--

21           A. The court has jurisdiction to make findings of  
22 fact and determinations of law in the best interests of the  
23 child for classification as a special immigrant juvenile  
24 pursuant to 8 U.S.C. Section 1101(a)(27)(J) in all matters  
25 and proceedings that involve an abused child, a neglected

1 child or an abandoned child, including but not limited to  
2 child custody, guardianship and abuse and neglect  
3 proceedings.

4 B. A court acting pursuant to the Special  
5 Immigrant Juvenile Classification Act acts as a juvenile  
6 court as defined in 8 C.F.R. Section 204.11(a).

7 C. Upon review of an application or petition for  
8 classification as a special immigrant juvenile pursuant to 8  
9 U.S.C. Section 1101(a)(27)(J), supporting affidavits and any  
10 other evidence, the court shall issue findings of fact and  
11 rulings of law to determine whether:

12 (1) the child is dependent on the court;

13 (2) the child is an abused child, neglected  
14 child or abandoned child or has suffered similar  
15 circumstances;

16 (3) the child may not be viably reunified  
17 with one or both of the child's parents because the child is  
18 an abused child, neglected child or abandoned child or has  
19 suffered similar circumstances; and

20 (4) it is not in the child's best interests  
21 to be returned to the child's or parent's country of  
22 nationality or country of last habitual residence.

23 D. A court shall hear and adjudicate an  
24 application or petition and issue findings of fact and  
25 rulings of law as soon as it is administratively feasible but

1 before the child reaches the age of twenty-one.

2 E. Nothing in the Special Immigrant Juvenile  
3 Classification Act shall preclude the district court from  
4 issuing findings of fact and rulings of law similar to the  
5 provisions of Subsection C of this section in any other  
6 proceeding."

7 SECTION 5. APPLICABILITY.--The provisions of this act  
8 shall apply retroactively to any child deemed by a state  
9 court order to be an abused child, neglected child or  
10 abandoned child from the time the child received the order;  
11 provided that the petition is subject to denial or revocation  
12 by a federal immigration agency based on the child's  
13 dependency status or age when the special findings were  
14 issued.

15 SECTION 6. EMERGENCY.--It is necessary for the public  
16 peace, health and safety that this act take effect  
17 immediately. \_\_\_\_\_