



## **KIND and the End SIJS Backlog Coalition Endorse the Immigrant Victim and Witness Protection Act of 2021 (H.R. 6078)**

The [Immigrant Victim and Witness Protection Act of 2021 \(H.R. 6078\)](#), introduced by Representative Jimmy Panetta (D-CA), is groundbreaking legislation that would eliminate an arbitrary limit on the annual number of visas allocated by Congress to Special Immigrant Juvenile Status (SIJS) recipients, thereby removing barriers to safety and security for over 44,000 children and immigrant youth<sup>1</sup> who have suffered parental abuse, abandonment, and neglect. The Act would also ensure vital protections for immigrant survivors of trafficking, domestic violence, and other harm. Kids in Need of Defense (KIND) and the End SIJS Backlog Coalition endorse this bill.

### **Background**

Congress created SIJS to provide humanitarian protection to children and immigrant youth who have suffered abuse, abandonment, neglect, or similar harm by one or both parents.<sup>2</sup> Once granted SIJS, these young people can apply for legal permanent residence (“green cards”) if and when a so-called “visa number” becomes available to them, then ultimately seek U.S. citizenship. This protection pathway reflects Congress’s recognition of these young people’s particular vulnerabilities and the imperative to ensure their safety.

While SIJS is a form of humanitarian relief, current law counts visa numbers for SIJ recipients against a broader annual ceiling of 140,000 “employment-based” visas—a ceiling that includes per-country limits<sup>3</sup>—relegating only a small percentage of that whole to SIJS youth. The resulting “SIJS visa cap” needlessly restricts visa number and associated green card availability for vulnerable young people granted SIJS, particularly children and youth from northern Central America and Mexico<sup>4</sup> who in recent years have sought protection from abuse, abandonment, and neglect in higher numbers. As of April 2021, over 44,000 SIJS petitioners and recipients were ineligible to apply for green cards,<sup>5</sup> languishing in a legal limbo that often persists for more than two or three years. The adverse consequences of this limbo are profound. They include:

---

<sup>1</sup> Rachel Davidson and Laila Hlass, “*Any Day They Could Deport Me*”: *Over 44,000 Immigrant Children Trapped in the SIJS Backlog*” (Nov. 2021);

<https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/61a7bceb18795020f6712eff/1638382830688/Any+Day+They+Could+Deport+Me-+Over+44%2C000+Immigrant+Children+Trapped+in+the+SIJS+Backlog+%28FULL+REPORT%29.pdf>.

<sup>2</sup> Immigration and Nationality Act (INA) § 101(a)(27)(J), 8 U.S.C. 1101(a)(27)(J).

<sup>3</sup> 8 U.S.C. § 1151(d); § 1153(b)(4).

<sup>4</sup> At other times the SIJS visa cap has impacted youth from India. See Rachel Davidson and Laila Hlass, “*Any Day They Could Deport Me*” (Nov. 2021);

<https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/61a7bceb18795020f6712eff/1638382830688/Any+Day+They+Could+Deport+Me-+Over+44%2C000+Immigrant+Children+Trapped+in+the+SIJS+Backlog+%28FULL+REPORT%29.pdf>.

<sup>5</sup> *Id.*

- **Threat of deportation.** The Department of Homeland Security (DHS) has sought to deport SIJS recipients who are ineligible to apply for green cards due to lack of available visa numbers,<sup>6</sup> even though state juvenile courts and DHS already determined that these young people are victims of abuse, abandonment, or neglect whose best interests would not be served by return to their countries of origin. This ongoing danger of deportation—potentially to the same source of harm SIJS recipients fled in the first place—creates severe instability for traumatized youth.
- **Preclusion from employment authorization.** An “employment authorization document” (EAD) not only enables SIJS youth to financially support themselves and their family members, it also often serves as their sole form of identification and is needed to access vital documents, services, and opportunities ranging from driver’s licenses to medical treatment to higher education. Under U.S. Citizenship and Immigration Services (USCIS) policy, only SIJS youth who are eligible to apply for their green cards can request EADs. The SIJS visa cap, operating in tandem with this policy, thereby precludes tens of thousands of these vulnerable young people from employment authorization, depriving them of potential income and basic services while heightening their susceptibility to further exploitation.
- **Ineligibility for Federal Financial Aid (FAFSA) for college.** A SIJS recipient cannot qualify for FAFSA without first obtaining a green card. For many SIJS youth who are unable to access FAFSA and lack employment authorization, college is unattainable. In this way, the SIJS visa cap often blocks these youth from higher education and from fulfilling their aspirations for the future.
- **Delayed stability and permanency.** By needlessly delaying young people’s assumption of the rights and responsibilities of legal permanent residence along with U.S. citizenship, the SIJS visa cap stalls their ability to find stability and permanency and to fully integrate into and enrich the social and economic fabric of their communities and the nation.

For too long, the SIJS visa cap has undermined the intent of this protection pathway, posing severe obstacles to security for children and youth already determined by DHS to qualify for permanent protection in the United States. Congress should act swiftly to eliminate this cap.

### **Immigrant Victim and Witness Protection Act of 2021**

The Immigrant Victim and Witness Protection Act would bring about long-overdue SIJS reforms, aligning the original intent of this vital form of humanitarian relief with current protection needs and ensuring security and stability for immigrant youth who are among the world’s most vulnerable groups. Specifically, this legislation would:

- Eliminate the unnecessary and harmful limit on SIJS visas;

---

<sup>6</sup> See Rachel Davidson and Laila Hlass, “*Any Day They Could Deport Me: Over 44,000 Immigrant Children Trapped in the SIJS Backlog*” (Nov. 2021); <https://static1.squarespace.com/static/5fe8d735a897d33f7e7054cd/t/61a7bceb18795020f6712eff/1638382830688/Any+Day+They+Could+Deport+Me+-+Over+44%2C000+Immigrant+Children+Trapped+in+the+SIJS+Backlog+%28FULL+REPORT%29.pdf>; Dalia Castillo-Granados, The Center for Public Interest Law/Commission on Immigration, American Bar Association, “A Long Wait for Special Immigrant Juveniles Means a Risk of Deportation” (Feb. 23, 2021); [https://www.americanbar.org/groups/public\\_interest/immigration/generating\\_justice\\_blog/a-long-wait-for-special-immigrant-juveniles-means-a-risk-of-depo/](https://www.americanbar.org/groups/public_interest/immigration/generating_justice_blog/a-long-wait-for-special-immigrant-juveniles-means-a-risk-of-depo/).

- Prohibit the Department of Homeland Security from deporting or detaining SIJS petitioners and recipients; and
- Provide employment authorization for SIJS recipients as well as SIJS petitioners whose petitions have been pending for 180 days or longer.

The Act would also ensure vital safeguards for survivors of trafficking, domestic violence, and other harm who have petitioned for and/or received T (trafficking) visas, U visas (for victims of a crime), or Violence against Women Act (VAWA) protection.

KIND and the End SIJS Backlog Coalition applaud introduction of this bill and encourage House members to move swiftly to deliver safety and stability to SIJS children and youth and other vulnerable immigrants in need of protection. For further information, please contact KIND's Director of Policy, Jason Boyd, at [jboyd@supportkind.org](mailto:jboyd@supportkind.org) and End SIJS Backlog Steering Committee Member, Rachel Davidson, at [rdavidson@door.org](mailto:rdavidson@door.org).