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**Testimony of June Lee, Director of Immigrants' Rights Legal Services Project
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**Before the Committee on the Judiciary and Public Safety
Council of the District of Columbia**

Public Hearing Regarding:

Bill 25-0044

"Vulnerable Youth Guardianship Protection Amendment Act of 2023"

June 8, 2023

Legal Aid of the District of Columbia¹ submits the following testimony in support of Bill 24-0044, "Vulnerable Youth Guardianship Protection Amendment Act of 2023." This bill would allow immigrant youth in DC aged 18 up to 21 to obtain life-changing safety and opportunity by being appointed a guardian and becoming eligible for Special Immigrant Juvenile Status (SIJS) immigration relief.

¹ Legal Aid of the District of Columbia was formed in 1932 to "provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs." Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. Over the last 91 years, Legal Aid staff and volunteers have been making justice real – in individual and systemic ways – for tens of thousands of persons living in poverty in the District. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal justice system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. More information about Legal Aid can be obtained from our website, www.LegalAidDC.org.

Youth Aged 18 Up To 21 Living in DC Are Currently Precluded From SIJS Relief Due to a Misalignment in Local and Federal Law

Introduction to SIJS

SIJS is a federal immigration law that allows certain undocumented youth to obtain lawful permanent residency (or “green card”), and, eventually, US citizenship.² Under the Immigration and Nationality Act (“INA”), a person under 21 years of age (1) who is placed under the custody or guardianship of an individual or entity, or is otherwise dependent on a state court; (2) who cannot viably be reunified with one or both parents due to abuse, neglect or abandonment; and (3) whose return to their home country is not in their best interest, may be eligible for immigration status under SIJS.³ Stated simply, SIJS applies to youth who are currently under the care of a person or entity in the U.S., and who would be harmed by deportation because they suffered abuse, neglect, or abandonment by one or both parents.

A young person seeking SIJS must first obtain a Family Court order that places them under the care of an individual or entity (such as a custody or guardianship order).⁴ The Court must also make findings that reunification with one or both parents is not viable due to abandonment, abuse, or neglect, and that it is not in young person’s best interest to be returned to their home country.⁵ These Family Court findings, referred to as “predicate orders” are subsequently included in the young person’s application to US Citizenship and Immigration Services (USCIS) for SIJS immigration relief.⁶

The Problem of Misaligned Local and Federal Law

Currently, DC Superior Court does not have jurisdiction to issue custody or guardianship orders regarding youth aged 18 up to age 21 residing in DC unless they are already in Child and Family Services Agency’s (CFSA) custody or were previously found to be

² INA § 203(b)(4).

³ INA § 101(a)(27)(J).

⁴ See 8 CFR § 204.11(a).

⁵ INA § 101(a)(27)(J).

⁶ Rachel Prandini, Andrew Craycroft, Alison Kamhi, and ILRC Attorneys with Kristen Jackson, *Special Immigrant Juvenile Status and Other Immigration Options for Children and Youth*, at 57.

neglected by the court.⁷ As a result, many of these youth are unable to access SIJS relief because they are unable to obtain the necessary predicate orders from DC Superior Court.

While some youth in this situation might relocate to a jurisdiction with expanded Family Court jurisdiction (Maryland, for example, has already enacted legislative changes allowing youth aged 18 up to 21 to obtain SIJS predicate orders from Family Court)⁸, many youth aged 18 and older residing in DC will likely be precluded from SIJS immigration relief.

Many Immigrant Youth Face Challenges to Seeking SIJS Relief Prior to Turning 18

There are many reasons why immigrant youth – including those who enter the U.S. prior to turning 18 – might not be able to obtain predicate orders prior to their 18th birthday. Many immigrant youth who enter the U.S. as “unaccompanied”⁹ minors are already at least 15 years old by the time they reach the U.S.¹⁰ The Office of Refugee Resettlement (ORR), which is a part of the U.S. Department of Health and Human Services (HHS)¹¹ reported that in 2022, about 72% of unaccompanied children detained at the border were 15 years of age or older.¹² Over time, this age group has consistently comprised an

⁷ See DC Code § 16-2301.

⁸ Clinic, *Maryland Law Expands Eligibility for Special Immigrant Juvenile Status*, (July 2014), available at <https://www.cliniclegal.org/resources/childrens-issues/maryland-law-expands-eligibility-special-immigrant-juvenile-status>. H.B. 315, available at <https://mgaleg.maryland.gov/2014RS/bills/hb/hb0315T.pdf>.

⁹ See 6 USC § 279(g)(2).

¹⁰ See U.S. Department of Health and Human Services, *The Administration for Children and Families, Fact Sheets and Data*, available at www.acf.hhs.gov/orr/about/ucs/facts-and-data#age.

¹¹ See U.S. Department of Health and Human Services, *The Administration for Children and Families, Unaccompanied Children (UC) Program Fact Sheet*, available at <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data#age>.

¹² See U.S. Department of Health and Human Services, *The Administration for Children and Families, Fact Sheets and Data*, available at www.acf.hhs.gov/orr/about/ucs/facts-and-data#age.

overwhelming percentage of unaccompanied children, accounting for at least 63% of the total number since 2012.¹³

Once immigrant youth arrive in the U.S., barriers such as lack of language access, lack of knowledge of immigration law, and limited financial means, make it hard for these youth to (1) learn that they may be eligible for SIJS relief and (2) find legal counsel. Within the past year-and-a-half, Legal Aid's Immigration practice has handled multiple cases for SIJS-eligible children who were already 17 years old and on the verge of becoming ineligible for filing a request for a SIJS predicate order from DC Superior Court.

These time-sensitive cases involving 17-year-old SIJS petitioners pose a challenge to services providers such as Legal Aid. For example, in December 2022, Legal Aid attorneys met a 17-year-old child who had been abandoned and neglected by both of his parents, and who had arrived in the U.S. by walking on foot for more than two weeks in dangerous heat while lacking food and water. By the time that the child came to Legal Aid and was determined to be SIJS-eligible, there were only two weeks left until his 18th birthday. Within two weeks, a Legal Aid attorney gathered facts and documents from the child and his sister (who was seeking third-party custody of the child), obtained translated documents for court filings, drafted a complaint for custody and motion for SIJS findings, and compiled and submitted the requisite court filings to DC Superior Court.

While the attorney in this case was successful in obtaining the requisite predicate order for this child on an expedited basis, the unfortunate reality is that most children in this situation would not be able to obtain a SIJS predicate order in such a short time frame. Many service providers and *pro bono* attorneys would not have the expertise or capacity to accept and complete such a case within two weeks. Thus, it is likely that many young people in this situation would be unable to find legal representation. As a result, they would miss their opportunity to obtain a SIJS predicate order from DC Superior Court.

The Bill Is a Common-Sense Fix That Would Re-Align Local and Federal Law with Minimal Disturbance to Existing DC Law

The Vulnerable Youth Guardianship Protection Amendment Act fixes this problem by giving DC Superior Court jurisdiction to appoint a guardian for noncitizen youth up until the age of 21, allowing the Court to make requisite findings for SIJS eligibility for this age

¹³ See *id.*

group.¹⁴ The bill is minimally invasive to the existing DC Code. For instance, the bill does not alter the definition of a “child” under the DC Code, but, instead creates a new definition of “vulnerable youth” as an unmarried noncitizen up to 21 years of age.¹⁵ In addition, the bill does not alter the rights or services for children in foster care, and does not take away any decision-making rights for children between the ages of 18-21.¹⁶ The youth also have a right to modify, amend, and terminate the guardianship before they turn 21.¹⁷ Finally, by enacting this legislation, DC would follow more than a dozen other jurisdictions that have enacted similar laws,¹⁸ such as Maryland and New York.¹⁹

The Bill Would Provide Many Immigrant Youth Residing In DC with a Court-Appointed Guardian, Safety, Support, and Opportunities

This bill would provide life-changing benefits for immigrant youth who are aged 18 to 21. By assigning a court-appointed guardian to care for these youth, who have often endured abuse and exploitation, the bill would help protect these youth against further harm. In addition, these youth would have a guardian’s assistance in navigating cultural or linguistic barriers to accessing services such as school enrollment and health benefits.

Moreover, the bill would allow these youth to seek immigration benefits conferred by SIJS status. Once a youth has an approved SIJS petition, they may eventually be eligible to apply for Lawful Permanent Resident (“green card”) status.²⁰ Lawful Permanent

¹⁴ See Bill 25-0044, Vulnerable Youth Guardianship Protection Amendment Act of 2023. Available at <https://lims.dccouncil.gov/downloads/LIMS/52104/Introduction/B25-0044-Introduction.pdf?Id=154177>.

¹⁵ See *id.* at § 16-2399.02.

¹⁶ See *id.* at § 16-2399.06(d).

¹⁷ See *id.* at § 16-2399.06(c).

¹⁸ Project Lifeline, *Predicate Order State-by-State Age-Out Analysis (2023)*, available at <https://projectlifeline.us/resources/state-by-state-analysis>.

¹⁹ Project Lifeline: Collaborating for Kids, *State-by State Age-Out Database: New York, (2023)* available at <https://projectlifeline.us/resources/state-by-state-age-out-database/> (Stating that in New York, “[p]redicate order must be issued before 21. The Family Court makes determinations for minors up until 21, including in guardianship proceedings. N.Y. Fam. Ct. Act § 661(a) (2022).”).

²⁰ INA § 101 (a)(27).

Resident Status allows the status-holder to live and work in the United States Permanently,²¹ and apply for citizenship if they meet certain criteria.²² As Lawful Permanent Residents, these youth will no longer need to fear deportation. They will be on a more secure path toward financial self-sufficiency due to increased employment opportunities, and because they will be on the pathway to becoming “qualified immigrants” for purposes of obtaining federal public benefits.²³

Conclusion

In conclusion, Legal Aid DC urges the Council to pass this important legislation that will enhance safety and opportunity for immigrant youth residing in DC.

²¹ USCIS, *Rights and Responsibilities of a Green Card Holder (Permanent Resident)*, available at <https://www.uscis.gov/green-card/after-we-grant-your-green-card/rights-and-responsibilities-of-a-green-card-holder-permanent-resident>.

²² 8 USC § 1429.

²³ See 8 U.S.C. § 1641(b).