



# SAFE PASSAGE PROJECT

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## **Safe Passage Project Statement to the House Judiciary Committee Concerning Section 3 of the Asylum Reform and Border Protection Act of 2015 (H.R. 1153)**

Special Immigrant Juvenile Status (SIJS), a bifurcated federal and state system of child welfare protection, safeguards vulnerable immigrant youth who have been abused, abandoned, or neglected by one or both of their parents. To qualify for SIJS, a young person has to be declared dependent on a U.S. state court which determines that reunification with her offending parent(s) is not possible and that it is not in her best interests to return to her home country.<sup>1</sup> Without the state court's involvement, a young person is not able to petition for immigration relief under SIJS.

Enacted into law in 1990, SIJS was strengthened and expanded by the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008),<sup>2</sup> passed with unanimous consent in the Senate and signed into law by then President George W. Bush.<sup>3</sup> TVPRA 2008 clarified that young people need have been abused, abandoned, or neglected *by one or both* parents to qualify for SIJS protection. This change allowed for young people, like Safe Passage clients J and M, to receive immigration status in the United States through SIJS.

After his parents' separation, J's mother emigrated to the U.S. J's father prostituted him- beginning when J was just 6 years old- to earn additional income for his cocaine habit. As a teenager, J fled from his native Mexico to the United States to reunite with his mother, who then obtained sole custody over him in a U.S. state court which also made the requisite factual findings enabling him to apply for SIJS.

M, a 14 year old girl, lived with her mother and father in San Pedro Sula, Honduras. M's father physically abused her pregnant mother, causing her to miscarry. He threatened to kill both M and her mother if they sought help. He denied M as his daughter and refused to provide her with financial or emotional support, despite living in the same household. M and her mother fled to the United States to find safety and basic liberty. With assistance from a pro bono attorney, M was able have her mother appointed as her legal guardian and apply for SIJS.

The proposed Section 3 of H.R. 1153 will exclude children like J and M from protection through SIJS because only one of their parents has committed abuse, neglect, or abandonment. From our experience at Safe Passage, this change in law would mean that many children like J and M would be ineligible from seeking permanency and stability with their non-offending parent through SIJS. Without protection from SIJS, J might have been deported to Mexico and forced to live again with his abusive father. M might have been returned to the streets of one of the

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<sup>1</sup> 8 U.S.C. § 1101(a)(27)(J).

<sup>2</sup> Pub. L. No. 110-457, § 235(d), 122 Stat. 5044 (2008).

<sup>3</sup> <http://www.ice.gov/news/releases/president-bush-signs-william-wilberforce-trafficking-victims-protection> (last accessed March 1, 2015).



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world's most dangerous cities. SIJS allowed both young people to obtain protection in the United States and live with a loving, caring parent.

SIJS is among the most under-utilized of immigration remedies,<sup>4</sup> with less than 4,000 petitions having been filed in Fiscal Year 2013. It is procedurally complex as Congress has delegated responsibility to state courts to make individual determinations for each youth's care and custody before a petition can be filed for immigration relief. Further, SIJS does not allow a young recipient to petition for lawful immigration status for either of her parents, even the non-offending parent. In our experience at Safe Passage Project, no young person has known about the existence of SIJS prior to working with us. Removing SIJS protection for young people like J and M would take them away from the only safety they have ever known- their mother's care and custody in the United States- and return them to abusive parents or a life on the streets in their home countries.

**For additional information, contact:**

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*Safe Passage Project, a non-profit housed at New York Law School, provides training, resources, and mentoring to volunteer attorneys representing unaccompanied children in Immigration Court.*

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<sup>4</sup>USCIS Number of I-360 Petitions filed with classification of SIJS, Fiscal Years 2010-2013:  
<http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Adjustment%20of%20Status/I-360FY2013.pdf> (last accessed March 1, 2015).