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Laureen A. D'Ambra
Rhode Island Family Court

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Laureen A. D'Ambra*

I. INTRODUCTION

The issues before the Rhode Island Family Court involving child abuse and child neglect cases have become more complicated as our State has become more diverse. Special Immigrant Juvenile Status cases and the role of the Family Court have evolved as a new concept and area of legal expertise. The federal immigration law relating to juveniles was revised in March of 2009 and will continue to evolve as lawmakers attempt to better address all immigration issues. It is vital that Family Court judges, practitioners, and agency representatives appearing before the court have a basic understanding of immigration law as it relates to children and juveniles under the age of twenty-one who are illegal immigrants and come to the court as a result of abuse,

* Associate Justice, Rhode Island Family Court. Judge D'Ambra has presented at national conferences throughout the country and authored several articles on legal topics affecting children and families. Prior to her judicial appointment, Judge D'Ambra had been practicing law since 1980, during which time she served as the Child Advocate for the State of Rhode Island, and legal counsel for the Department of Children, Youth and Families. Judge D'Ambra is also an adjunct professor in the Masters Program at Rhode Island College School of Social Work. Throughout her legal career, Judge D'Ambra has received numerous commendations and advocacy awards from state and local organizations.

neglect and/or abandonment. In these cases, a state judge must make special findings in accordance with federal law for a federal immigration judge to consider granting green card status. Additionally, an admission of child maltreatment by a parent in Family Court may lead to adverse action against them by immigration authorities and, in turn, result in severe consequences to both the parents and their children.

This article explores the legal and social issues impacting children and their families in the Family Court. In particular, it attempts to simplify the procedural process for lawyers and judges to successfully ensure legal immigration status is granted for abused and neglected children, known to child welfare, who require permanent status in the United States when it is not in their best interest to return to their native country.

II. DEFINING THE PROBLEM

The United States is experiencing high levels of legal and illegal immigration. It has become a hot political topic in the halls of Congress, at the Rhode Island General Assembly, as well as in discussions during numerous debates in recent elections. The statistics are staggering. Across the United States, there are 11.9 million undocumented immigrants.[1] According to a new analysis by the Pew Hispanic Center, between 2005 and 2008, undocumented immigrants comprised approximately 2.8 percent of the Rhode Island population and 3.6 percent of its work force.[2] The population of undocumented immigrants living in Rhode Island in 2008 was estimated to be 30,000.[3] According to the Pew study, the undocumented immigrant population is largely composed of young families.[4] It should be noted that the report defines "unauthorized immigrants" as "residents of the United States who are not U.S citizens, who do not hold current permanent resident visas, or who have not been granted

1. *See* Karen Lee Ziner, *Undocumented Immigrants Subject of Detailed Study*, PROVIDENCE J., Apr. 15, 2009 at A1 (citing Jeffrey S. Passel, *A Portrait of Unauthorized Immigrants in the United States*, PEW HISPANIC CENTER, Apr. 14, 2009, *available at* http://pewhispanic.org/reports/report.php?ReportID=107).

2. *Id.*

3. *Id.*

4. *Id.*

permission to remain in the country under a set of specific authorized temporary statuses for long-term residence and work."[5]

The Pew study also suggests that many of the nation's undocumented immigrants are Hispanic, and the majority are from Mexico. In Rhode Island, the overwhelming majority of illegal immigrants live in the poorer neighborhoods of Providence, Pawtucket, Woonsocket, and Central Falls.[6] Children and families without legal status are most likely to find themselves in the child welfare system and ultimately the Family Court.

III. THE FAMILY COURT'S ROLE

There are two major instances when the Family Court has a great impact on immigration issues. First, there is a need for the court to make special findings in Special Immigrant Juvenile cases when an abused or neglected child is before the Family Court. Second, a parent's admission in Family Court may be considered for immigration proceedings when a state court makes a finding of parental abuse and/or parental neglect.[7] This impact is dramatic considering the estimated 1.6 million children in the country who lack legal status, as well as the demographics that suggest that families and youth without legal status are more likely to be in Family Court.[8]

As illustrated in the case studies discussed in this article, the Family Court has a notable impact on juveniles who hope to gain permanent residence. One way that these juveniles can attain permanent residency is through obtaining Special Immigrant Juvenile Status. This special status was added to the Immigration and Nationality Act in 1990 to address the hardships that juveniles for whom the State has become a guardian had

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5. *Id.* at A8.

6. *See* RHODE ISLAND FOUNDATION, UNITED WAY OF RHODE ISLAND & RHODE ISLAND KIDS COUNT, 2009 RHODE ISLAND KIDS COUNT FACTBOOK (2009) *available at* http://www.rikidscount.org/matriarch/documents/09_RIKC_Factbook_Web.pdf.

7. *See* Theo Liebmann, *Family Court and the Unique Needs of Children and Families who Lack Immigration Status,* 40 COLUM. J.L. & SOC. PROBS. 583, 583-84 (2007).

8. *See id.* at 584-85.

faced.[9] The statute expresses compassion by allowing these juveniles to become legal residents to avoid further hardship.[10] Indeed, it is well documented that juveniles in Family Court without legal status are vulnerable given that "[w]hen illegal immigrants become subject to the court's determinations, rulings, and orders, they face severe consequences with which families with legal status need not contend, such as detention in an immigration facility, deportation to another country, and permanent geographical separation from their homes and families."[11] Undocumented youth are less likely to find employment, get higher education, and obtain health coverage.[12] Therefore, a determination in the Family Court that may lead to permanent residence could, in turn, significantly improve the lives of many youth. Given these implications, it is imperative that judges, practitioners, lawyers, social workers, and social service agencies are aware of the interplay of these immigration issues in the Family Court.

A. Special Findings

When appropriate, there are findings of fact that the Family Court must make in order for a juvenile to be eligible for Special Immigration Status. These legal determinations are referred to as "special findings."[13] Without the Family Court making these findings, it is impossible for the juvenile to otherwise apply and gain Special Immigrant Status.[14] The child's petitioner must file a motion, as well as an affidavit, asking the Family Court to find that the child is dependent on the juvenile court, reunification with one or both parents is not viable because of abuse, neglect, abandonment, or other similar basis in state law, and that returning to the country of nationality or last residence is not in the child's best interest.[15] "For purposes of immigration law, a child is 'dependent' on the Family Court if the Court has

9. *See id.* at 588.
10. *See id.*
11. *Id.* at 586.
12. *See id.*
13. *See id.* at 588.
14. *See id.* at 588-89.
15. *See* 8 C.F.R. § 204.11 (2009).

jurisdiction over a case involving the child."[16]

B. Admissions

Admissions made in the Family Court can have an impact tantamount to criminal cases, and may, in fact, result in harsh immigration consequences.[17] Specifically, when an alien is convicted or admits to a crime of "moral turpitude," immigration officials have the power to deport or refuse entry into the United States to that individual.[18] Federal courts have held that harming a child constitutes a crime of moral turpitude.[19] A parent who is in this country illegally, or legally but is not a citizen, knowing that he or she may get deported upon admission, may not admit to abuse or neglect allegations in Family Court. Counsel and judges must ensure that parties involved in immigration proceedings are aware of the consequences of their admissions, despite the common assumption that only admissions and findings in criminal cases risk such severe consequences.[20]

The risk that comes with admissions or court fact-finding may conflict with the child's interest in obtaining Special Immigrant Juvenile Status. After all, a parent who would otherwise admit to neglect or abuse (an eligibility requirement as to one or both parents), may not make such an admission because he or she may suffer as a result. Indeed, as mentioned, such an admission by a parent may result in deportation, thus separating the parent and child. Certainly, this is not an ideal result as separating a parent from a child is a step backward considering the overall goal of the Family Court. In sum, an unfortunate consequence of a parent's encouraged admission in court leading to the child's possible chance at legal residence, could result in the parent never being able to see the child again because he or she is deported and denied re-entry to this country.[21]

IV. SPECIAL IMMIGRANT STATUS AS DEFINED BY FEDERAL LAW

An undocumented juvenile can acquire permanent residence

16. Liebmann, *supra* note 7, at 589.
17. *See id.* at 594.
18. *See id.*
19. *See id.* at 595.
20. *See id.*
21. *See id.*

by obtaining Special Immigrant Juvenile Status.[22] Special Immigrant Status is defined as:

> (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. . .[23]

Further, 8 C.F.R. 204.11(c) defines Special Immigrant Status by laying out criteria required for eligibility. Specifically, a juvenile may qualify for Special Immigrant Status if he/she:

> (1) Is under twenty-one years of age;
>
> (2) Is unmarried;

22. *See* 8 U.S.C. § 1255(i) (2006).
23. 8 U.S.C. § 1101(a)(27)(J) (LexisNexis 2009).

> (3) Has been declared dependent upon a juvenile court located in the United States in accordance with state law governing such declarations of dependency, while the alien was in the United States and under the jurisdiction of the court;
>
> (4) Has been deemed eligible by the juvenile court for long-term foster care;
>
> (5) Continues to be dependent upon the juvenile court and eligible for long-term foster care, such declaration, dependency or eligibility not having been vacated, terminated, or otherwise ended; and
>
> (6) Has been the subject of judicial proceedings or administrative proceedings authorized or recognized by the juvenile court in which it has been determined that it would not be in the alien's best interest to be returned to the country of nationality or last habitual residence of the beneficiary or his or her parent or parents; or
>
> (7) On November 29, 1990, met all the eligibility requirements for special immigrant juvenile status in paragraphs (c)(1) through (c)(6) of this section, and for whom a petition for classification as a special immigrant juvenile is filed on Form I-360 before June 1, 1994.

Long-term foster care means that family reunification is no longer an option for the child per a juvenile or family court determination.[24] Many older children languish in the child welfare system and do not always experience permanency under the jurisdiction of the Family Court until adulthood.[25] "A child who is eligible for long-term foster care will normally be expected to remain in foster care until reaching the age of majority, unless the child is adopted or placed in a guardianship situation."[26]

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24. *See* Aliens and Nationality, 8 C.F.R. § 204.11(a).
25. *See generally* R.I. GEN. LAWS § 14-1-6, §42-72-3, §42-72-5 (2007).
26. *See* 8 C.F.R. § 204.11(a).

V. THE TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2008

Due to confusion concerning the long-term foster care provision of 8 C.F.R. § 204.11, and with a hope to offer status to more individuals, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) clarifies and amends the law by eliminating the long-term foster care provision (indicating that reunification is not viable for both parents), and making it clear that this is available not only to children who remain in foster care, but also to children who cannot be reunified with *one or both* parents.[27] This amendment is significant because it may prevent deportation of a parent who is in the United States; findings may be made against an absent parent, rather than both parents.

Furthermore, the TVPRA adds to the provision that reunification is not viable due to abuse, abandonment, neglect, *or similar basis* under state law.[28] In essence, this means that only one parent needs to admit to one of these bases, or a Family Court needs to find that only one of the parents is guilty of one of these bases, for the child to meet the required element of Special Immigrant Status. The TVPRA also transfers the consent provision of 8 U.S.C. § 1101(a)(27)(J)(iii)(I) from being the Department of Homeland Security's responsibility to the Department of Health and Human Services' responsibility.[29] This may make the process faster and lead to more consistent results.[30]

The TVPRA mandates that the adjudication of applications for status be processed within 180 days of the applicant's filing date.[31] Further, with regard to the age eligibility requirement that the applicant be under twenty-one years of age, the TVPRA

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27. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457 § 235(d(1)(A), 122 Stat. 5043, 5079 (2008) (emphasis added).

28. 457 § 235(d(1)(A), 122 Stat. at 5079 (2008) (emphasis added).

29. 457 § 235(d)(1)(B), 122 Stat. at 5079-80.

30. *See* Deborah Lee et al., *Update on Legal Relief Options for Unaccompanied Alien Children Following the Enactment of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008,* AILA InfoNet Doc. No. 09021830, Feb. 19, 2009, *available at* http://www.aila.org/ (search for "09021830").

31. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457 § 235(d)(2), 122 Stat. 5043, 5080 (2008).

makes it clear that so long as the applicant was under twenty-one at the time of filing his application, he or she may not be denied Special Immigrant Juvenile Status.[32] As a result, lawyers, practitioners, and judges need to identify those children who are eligible for Special Immigrant Juvenile Status and ensure that the application process is filtered through the system according to the newly established time-lines. With the knowledge of how imperative this process is for young children without legal status, the Family Court can assist in lessening the burden on immigrant youth.

VI. CASE STUDIES

There is very little case law in this ever-evolving area of the law and there is no appellate case law in Rhode Island. Recently, however, there were two cases in Providence County Family Court that resulted in the Department of Children, Youth and Families (DCYF) initiating immigration status after legal and statutory criteria were met. For purposes of confidentiality the names of the children and parents are changed in this article.

The first case involved Maria who was a young teen living in DCYF care for nearly two years. At the time the immigration issues came to the court's attention, DCYF had filed a termination of parental rights petition against both her parents alleging abandonment and seeking adoption by Maria's foster family. While in state care, Maria had very little contact with her birth mother who was living in Rhode Island with "green card status to work." Maria had been placed in the temporary custody of DCYF, and was in non-relative foster care. Maria was doing extremely well in school, loved her foster family and had a strong desire to remain with them as their adopted daughter.

Prior to entering the United States, Maria had been living in her native country with her grandmother and uncle. During this time, Maria's mother, who lived in Rhode Island, maintained contact with her and had sent the family money to care for Maria. While apart from Maria, her mother married and had several children with her new husband in Rhode Island. When Maria's grandmother and uncle passed away, it was decided she would move to Rhode Island to live with her mother. Accordingly, Maria

32. 457 § 235(d)(6), 122 Stat. at 5080.

was illegally smuggled across the Texas border by a friend of the family and was relocated to Rhode Island.

Maria's half-siblings were born in the United States, and they are US citizens. Allegations of physical abuse against the mother resulted in Maria's removal from the home and her placement by DCYF. This matter was complicated by a language barrier as Maria's mother spoke very little English, and thus she required an interpreter to assist her during the proceedings. Further, there had been very little communication between Maria and her mother throughout DCYF's involvement, and a miscommunication led DCYF to believe that both mother and daughter did not wish to see each other.Further complicating the matter, it was also disclosed during a court conducted in-camera interview of Maria that her stepfather sexually abused her before her removal from the home by DCYF. Maria's stepfather was no longer living with Maria's mother and half siblings. The stepfather's status is unknown as he had no involvement with Maria's family and was not a party to the Termination of Parental Rights proceeding that was pending before the court.

Fortunately, after all testimony was completed, the parties were able to resolve the issues and act in the best interest of Maria. This judge made special findings that Maria had been in the state's care and custody for over a year, she had been abandoned by her birth father,[33] whose whereabouts were unknown, and it was clearly not in her best interest to return to her country of origin given the circumstances of her family. DCYF filed the necessary legal documents and the case will be heard by the US Immigration Court for a decision regarding whether Maria's legal immigration status as a juvenile will be granted, permitting her to stay in the United States as a productive member of society. Without the Family Court making special findings in cases involving juveniles before the Family Court, the Department of Homeland Security cannot grant legal status to the child. The Special Juvenile Status Provision recognizes the need to provide for the challenges of children who often need a

33. TVPRA requires Special Immigration Juvenile Status findings that only one parent has abandoned the child and findings against both parents is no longer required under the new amendments in the federal law. *See* 457 § 235(d(1)(A), 122 Stat. at 5079 (2008).

compassionate method to become legal residents.[34]

This case clearly illustrates the severe consequences involved with complicated matters of child neglect, abuse and abandonment coupled with immigration issues. Further, in this case there was a language barrier that impacted how this case was handled. Certainly, Maria's mother was in fear that her own immigration status could be affected given that a court finding of abuse or neglect could lead to her deportation. Maria's mother also has other children living in the United States who are US citizens. She did not want to permanently lose her parental rights, and Maria also expressed a strong desire to see her mother and her siblings. Maria was flourishing in her foster home, her community, and her school. Maria was a very impressive young woman, and all parties agreed that she should be given every opportunity to gain her legal status in the United States. As such, this is exactly the type of case that is ripe for Special Juvenile Immigrant Status in accordance with federal law.[35] If Maria were deported, she would potentially be placed in a situation of violence and destitution, alone and without her family because all her relatives were deceased and she had no viable resources in her homeland. The action that is pending is the first step to ensure Maria's permanency and future in the United States.

The second case involves Miguel, a young teen who is medically fragile and severely impaired.[36] The Child Advocate's Office initiated a petition in the Family Court for state custody of Miguel.[37] DCYF had refused to do so and did not pursue commitment. There are numerous state agencies involved, complicated funding issues, and many collateral issues that have not been fully resolved, which this article will not address given the status of the case. Suffice it to say that Miguel was before the United States Immigration Court and recently received Special Juvenile Status.[38] The Family Court made special findings based on stipulated facts agreed to by all parties. In this case, both

34. *See* Liebmann, *supra* note 7, at 586.

35. 8 U.S.C. § 1255 (2006).

36. This case was actually the catalyst for the initial research used in this article regarding immigration issues impacting children in DCYF care.

37. *See In re* R.J.P., 445 A.2d 286, 286 (R.I. 1982).

38. At the time of publication, Miguel was notified that his green card status was approved. He may now be eligible for Medicaid.

Miguel and his mother are illegal immigrants, but Miguel's mother is not living in Rhode Island, and she is not able to care for him given his fragile medical condition and unusual circumstances. The US Attorneys' Office was notified and they provided assistance to all parties in addressing Miguel's severe needs. Given his unique circumstances, the Department of Homeland Security had no interest in exercising jurisdiction, and it was determined that any attempts to relocate Miguel could be life threatening. The special circumstances of Miguel's case clearly exemplify the vital role of the Family Court and its unique jurisdiction which, in turn, is necessary and must occur before federal action is pursued in the Immigration Court for Special Juvenile Immigration Status.

VII. CASE LAW: ESTABLISHING JURISDICTION IN STATE JUVENILE COURTS INVOLVING IMMIGRANTS

It is a common misconception that Family Courts may not have jurisdiction over alien children and their parents. However, the families' immigration status is generally irrelevant unless the case is already open to the Immigration and Naturalization Service (INS). This is confirmed by the opinions of two state courts of last resort.

In 2002, the Supreme Judicial Court of Massachusetts addressed the issue of the state's jurisdiction involving the physical abuse of an immigrant child by her father. When a court sought to terminate the parental rights of an Indian National father, the father argued that the court did not have jurisdiction because both he and his child were not citizens of the United States.[39] The Supreme Judicial Court of Massachusetts rejected the father's argument and upheld the trial judge's findings that the father either actively abused his daughter or knowingly neglected to prevent the severe harm that she sustained.[40] The Supreme Judicial Court of Massachusetts found that the court had jurisdiction over the child on the basis that, "federal immigration law specifically recognizes the jurisdiction of State Juvenile Courts over determinations regarding the custody and best interests of children who have been abused or neglected,

39. *See In re* Adoption of Peggy, 767 N.E.2d 29, 37 (Mass. 2002).
40. *Id.* at 34, 37, 41.

regardless of their immigration status."[41] Further, the court held, "[t]he Juvenile Court's jurisdiction over the matter stems from the child's presence in the Commonwealth and her obvious need of care and protection."[42] This also stands true regardless of where the abuse, neglect, or other charge occurred so long as the child is present in the state.[43] For the same reasons, the court also exercised jurisdiction despite the father's argument that the "judge lacked authority to dispense with his consent to the child's adoption because both he and the child are Indian nationals."[44] Similarly, the Supreme Court of New Hampshire decided that it had jurisdiction over a nonresident, foreign child present in the state because "'[t]he jurisdiction of the juvenile court is not limited to those who reside or have their domicile in [the state in question] but applies to any neglected or delinquent child found within the state.'"[45] Nevertheless, allowing jurisdiction in the State Juvenile or Family Court will not deprive INS from deporting an individual; it only makes available certain criteria for obtaining Special Immigrant Status.[46] Even when obstacles for reunification make it almost impossible for parental reunification to occur, and for the court to determine parental fitness, state courts nevertheless can exercise jurisdiction.[47]

However, state courts do not have jurisdiction over children in INS custody nor do they have jurisdiction to prevent deportation by INS authorization. In a federal court decision concerning the jurisdiction of a state juvenile court, a foster care agency petitioned a state juvenile court asking it to find that a child immigrant was dependent on the court and that it was not in the child's best interest to return to his native country of China.[48] After the state court found that the child was dependent and that it was not in his best interest to return to China, the child petitioned the INS for Special Immigrant Status. Despite this request, the INS denied the petition claiming that the court did

41. *Id.* at 37.
42. *Id.* at 36.
43. *See In re* SRUN R., 2005 WL 2650254, at *7 (Conn. Super. Ct. 2005).
44. *In re Peggy*, 767 N.E.2d at 35.
45. *In re* JUVENILE 2002-098, 813 A.2d 1197, 1200 (N.H. 2002) (quoting *In re* Poulin, 129 A.2d 672 (N.H. 1957)).
46. *See* Gao v. Jenifer, 185 F.3d 548, 555 (6th Cir. 1999).
47. *See* JUVENILE, 813 A.2d 1197 at 1201.
48. *See Gao*, 185 F.3d at 551.

not originally have jurisdiction over the child because he was in the "legal custody" of the INS at that time.[49] On appeal, the Sixth Circuit held that if the child is not in INS custody, state Juvenile, Family, or District Courts can issue a dependency order. However, if the child is in INS custody, the Sixth Circuit held that the Attorney General must consent to the court's order prior to a judicial determination.[50]

The federal courts have clearly limited state court jurisdiction if a child is already in INS custody, and have held that the state courts lack jurisdiction regardless of the child's circumstances. A Florida case granted jurisdiction of an orphaned, child immigrant without the Attorney General's consent because, although 8 U.S.C. § 1101 prohibits a state court from declaring a child dependent without the consent of the Attorney General, when the Attorney General has actual or constructive custody of the child and "where a child has never been in the custody of the Attorney General, . . . the statute makes no such consent necessary."[51] In this case, the court held that the child was not in the Attorney General's custody and, therefore, met the legal definition of a dependent child.[52]

Unless the child is in INS custody, state Juvenile, Family, or District Courts can issue a dependency order. If the child is in INS custody, the Attorney General must consent to the court's order prior to the court exercising jurisdiction.[53] "[W]here a child has never been in the custody of the Attorney General . . . [8 U.S.C. § 1101] makes no such consent necessary."[54] Regardless, "a minor child . . . without parents or legal guardians is dependent under [State] Law."[55]

VIII. COLLABORATION AND IMPLEMENTATION OF FEDERAL LAW IS IN THE BEST INTEREST OF UNDOCUMENTED IMMIGRANT YOUTH

On a national level, it has been strongly recommended that,

49. *Id.*
50. *See In re* SRUN R., 2005 WL 2650254, at *2 (Conn. Super. 2005).
51. F.L.M. v. Dept. of Children and Families, 912 So.2d 1264, 1267-68 (Fla. Dist. Ct. App. 2005).
52. *See id.* at 1268.
53. *See SRUN*, 2005 WL 2650244, at *2.
54. *F.L.M.*, 912 So. 2d at 1267-68.
55. *Id.* at 1268-69.

"[j]udges in the Family Court should ensure they are fully familiar with their limited, but vital role in assisting undocumented immigrant youth."[56] Juvenile Court judges are responsible for making the special findings that are necessary to be eligible for Special Immigrant Juvenile Status.[57] It is imperative that the Family Court first inquire whether INS is involved and determine a proper notification process before factual determinations are made. Further, given the harsh consequences following admissions made in the Family Court, especially for those without legal status, judges should only accept admissions made after the respondent has been "fully advised of the potential consequences of that admission on any immigrant matters which the respondent may have pending, or with which the respondent may be involved in the future."[58] To spread awareness, agencies providing legal aid and Bar Associations should produce written resources and training to ensure that attorneys are aware of the collateral consequences of admissions in the Family Court, just as criminal defense agencies have done.[59] Moreover, central sources of information may provide further assistance, such as information tables in the Family Court building, as well as mandatory and ongoing training for judges and attorneys on spotting and handling immigration issues.[60]

In Rhode Island, it is imperative that DCYF and other child-caring agencies develop specific regulations to identify eligible immigrant youth and to develop legal protocol to formally motion the Family Court for special findings to be made in cases involving illegal immigrant youth in accordance with federal law. Additionally, necessary forms should be devised to facilitate the process. DCYF needs to promulgate regulations that will formalize the Special Immigrant Juvenile Status process and best meet the needs of children in state care. An additional incentive to the state is the funding mechanism for reimbursement that could alleviate the financial stress on the State budget when DCYF is caring for illegal immigrant children who may not be eligible for federal reimbursement.

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56. Liebmann, *supra* note 7, at 601.
57. *See id.*
58. *Id.*
59. *See id.*
60. *See id.* at 602.

The legal community, particularly legal service agencies working with immigrants, must be aware of the change in the Special Juvenile Status statute as it can positively impact the clients these agencies serve. Our children are our future, and all children need to be given the opportunities that law and justice provide, particularly our state's most vulnerable children. Judges, lawyers, and social workers who work with immigrant populations involved with the child welfare system need to work in a coordinated and meaningful process to successfully ensure legal immigration status for children in state care who cannot return to their native country. Facilitating the legal process for a green card, although not a guarantee, provides an opportunity for many youth to find employment, receive higher education, and obtain health coverage. State juvenile courts need to work collaboratively with federal authorizes and facilitate the implementation of federal immigration law devised to benefit juveniles in order to best meet the needs of undocumented immigrant youth who appear before the Family Court.

IX. CONCLUSION

It is crucial that child protection agencies recognize their important duty to identify children who are eligible for Special Immigrant Juvenile Status and to communicate with lawyers, social workers, and guardians in a collaborative effort to act in the best interest of the child. They need to initiate appropriate legal action in the Family Court on behalf of immigrant youth.[61] This would alleviate some of the risk of future unemployment for children who remain without resident status when they leave the protection agency's care, because juveniles without permanent resident status can be deported and denied employment, health care, and opportunities for higher education.[62] Some states already place this responsibility on their child welfare agencies and mandate that child welfare employees are taught how to obtain status for immigrant youth.[63] It follows that legal representatives should be required to inquire about their clients'

61. *See id.* at 599.
62. *See id.*
63. *See id.*

immigration status.[64] Whenever a child client, parents, or any relevant parties before the Family Court are not legal citizens of the United States, their attorney will need to be aware of relevant immigration law and inform the clients that an admission could result in deportation or denial of entry.

As our country and our state continues to become more diverse, it is obvious that judges, lawyers and social workers working with immigrant populations in the Family Court need to be familiar with immigration law and, most importantly, their respective roles. The role of the Family Court is vital, and the future of many immigrant youth is dependant on the court to enhance their wellbeing as well as their family's ability to remain together. Although the special findings only apply to abused and neglected children who appear before the Family Court, the proper implementation of both federal and state laws can positively improve the lives of this special population of children and youth.

64. *See id.* at 600.