



**STATEMENT OF THE FORDHAM LAW SCHOOL  
FEERICK CENTER FOR SOCIAL JUSTICE**

**SUBMITTED TO THE U.S. HOUSE OF REPRESENTATIVES  
JUDICIARY COMMITTEE**

**H.R. 1153, “ASYLUM REFORM AND BORDER PROTECTION ACT OF 2015”**

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The Fordham Law School Feerick Center for Social Justice is dedicated to addressing social injustices through convening, fact finding, policy analysis, and providing direct assistance to individuals in need. Since 2011, the Center has worked to promote improved policy and practice affecting unaccompanied immigrant children in New York,<sup>1</sup> and has since developed various policy reports related to special immigrant juvenile status (“SIJS”). We write to share our analysis of section 3 of H.R. 1153, the “Asylum Reform and Border Protection Act of 2015,” which would amend the provisions of the Immigration and Nationality Act related to SIJS by striking “and whose reunification with 1 or both parents is not viable due” and inserting “and who cannot be reunified with either of the immigrant’s parents due.” As explained below, the proposed changes would be a significant step backward in the protection of vulnerable children in the United States, would create greater conflict between immigration law and established principles in child welfare policy, and could potentially raise costs to states by disincentivizing family reunification in favor of out-of-home care.

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Congress created Special Immigrant Juvenile Status in 1990 after officials from the Santa Clara Social Services Agency in California sought a solution to the problems faced by undocumented

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<sup>1</sup> In 2012, the Feerick Center hired Olga Byrne to direct its work supporting unaccompanied immigrant children and to teach a course on child migration. A 2004 graduate of Fordham Law School, Ms. Byrne worked at the Vera Institute of Justice for five years on national programs to improve access to legal representation for detained immigrants. Ms. Byrne was a 2011-2012 U.S. Fulbright-Schuman Scholar in the European Union, where she studied European migration policies affecting children.

immigrant youth who were aging out of the foster care system.<sup>2</sup> The three aims of child welfare systems are to promote the safety, well-being, and permanency of children in their care.<sup>3</sup> As children approach the age of majority, child welfare programs aim to facilitate self-sufficiency; for children without lawful immigration status, this proves highly challenging. SIJS facilitates permanency and self-sufficiency by providing an option for lawful permanent residence. Lawful status, in turn, enables youth who age out of the system to access employment; educational opportunities, including financial aid; and other benefits. SIJS was, and continues to be, the only provision in substantive immigration law that considers a child's best interests—the cornerstone principle of child protection in U.S. child welfare systems.

In 2008, the William Wilberforce Trafficking Victim Protection Reauthorization Act (TVPRA) expanded eligibility for SIJS through the “one-parent provision,” which provides that a child is eligible if reunification with one or both of the child's parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law. The provision serves to further align federal immigration law with established child welfare principles. In the domestic context, when child welfare authorities have determined that a child has been abused, neglected, or abandoned, the child may be removed from the parental home. However, placement in foster care does not mean that family reunification may not occur in the future; to the contrary, family reunification is the preferred permanency option, and is the most common goal for children and youth in out-of-home care.<sup>4</sup> Promoting safe family reunification is not only in the best interests of the child, but may also result in a net cost savings to the state by eliminating the costs of foster care placements.<sup>5</sup> The one-parent provision aligns SIJS with child welfare policies by allowing for the potential reunification with one parent, when reunification with the other parent is not possible due to abuse, neglect, abandonment, or a similar basis under state law.

The changes contemplated by H.R. 1153 requiring that children not be able to reunify with both parents is not in line with well-established and evidence-based child welfare practices, and would lead to case outcomes that are contrary to children's best interests. Moreover, it could raise costs to states by disincentivizing family reunification and potentially prolonging stays in out-of-home care for children who could be living with one of their parents. State child protective services and court systems around the country have embraced SIJS, including the one-parent provision, by offering guidance, support, and funding to service providers. Congress should do the same by leaving a good policy in place, rather than seeking to change it.

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<sup>2</sup> Kristen Jackson, “Special Status Seekers: Through the underused SIJS process, immigrant juveniles may obtain legal status,” *Los Angeles Lawyer*, February 2012.

<sup>3</sup> U.S. Administration for Children and Families, “Integrating Safety, Permanency, and Well-Being for Children and Families in Child Welfare,” 2012, *available at* [http://www.acf.hhs.gov/sites/default/files/cb/acyf\\_fy2012\\_projects\\_summary.pdf](http://www.acf.hhs.gov/sites/default/files/cb/acyf_fy2012_projects_summary.pdf).

<sup>4</sup> U.S. Administration for Children and Families, “Supporting Reunification and Preventing Reentry Into Out-of-Home Care,” 2012, *available at* <https://www.childwelfare.gov/pubPDFs/srpr.pdf>.

<sup>5</sup> *See e.g.*, Johnson-Motoyama, et al., Cost analysis of the strengthening families program in reducing tiem to family reunification among substance-affected families, *Children and Youth Services Review* 35 (2013); Nicholas Zill, *Adoption from Foster Care: Aiding Children While Saving Public Money*, Brookings 2011.