

BILL ANALYSIS

Senate Research Center
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H.B. 4426
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Jurisprudence
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A child who is the victim of abuse, neglect, or abandonment is eligible for state and federal protections. A child who is not a citizen and is the victim of abuse is subject to specific federal immigration procedures and protections by a special form of immigration relief called Special Immigrant Juvenile Status (SIJS).

Under federal law, a child is eligible for SIJS until the child becomes 21. The Department of Family and Protective Services currently pursues SIJS relief for children in its care whose permanency plans do not include family reunification. The lack of consistency between "age out" dates in the state and federal statute complicates access to this relief for abused and abandoned children in Texas.

H.B. 4426 authorizes a young adult who is not a citizen or permanent resident of the United States to file a suit in a court that has family law jurisdiction requesting the court to declare that the young adult has been abused, neglected, or abandoned and otherwise meets the requirements for special immigrant status as defined by federal law and extends the jurisdiction of certain courts over issues relating to such a declaration

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 2, Family Code, by adding Subtitle D, as follows:

SUBTITLE D. SPECIAL DECLARATORY ACTIONS

CHAPTER 46. SPECIAL IMMIGRANT STATUS

Sec. 46.001. DEFINITION. Defines "young adult."

Sec. 46.002. PETITION FOR COURT DECLARATION. Authorizes a young adult who is not a citizen or permanent resident of the United States to file a suit requesting the court to declare that the young adult has been abused, neglected, or abandoned and otherwise meets the requirements for special immigrant status as defined by 8 U.S.C. Section 1101(a)(27)(J). Authorizes the suit to be filed in a court that has family law jurisdiction.

Sec. 46.003. COURT ORDER. Requires the court, on presentation of proper evidence, to render an order declaring that:

- (1) the young adult is court-dependent;
- (2) reunification with one or both of the young adult's parents is not viable due to abuse, neglect, or abandonment, as defined by state or federal law; and
- (3) it is not in the young adult's best interest to be returned to the young adult's or the parent's previous country of origin or country of last habitual residence.

Sec. 46.004. EXTENDED JURISDICTION. Authorizes a court that renders an order under this chapter to retain jurisdiction over the young adult until the earlier of:

- (1) the young adult's 21st birthday;
- (2) the date the young adult is granted lawful permanent resident status;
- (3) the date an appeal of the denial of an application for permanent residency based on a petition for special immigrant status is denied; or
- (4) if an appeal described by Subdivision (3) is not filed, the day after the last day to file an appeal of the denial of an application for permanent residency based on a petition for special immigrant status.

SECTION 2. Amends Chapter 51, Family Code, by adding Section 51.0413, as follows:

Sec. 51.0413. EXTENDED JURISDICTION. (a) Provide that the court retains jurisdiction over a person with respect to issues relating to the person's special immigrant status if an application seeking special immigrant status as defined by 8 U.S.C. Section 1101(a)(27)(J) has been filed with the appropriate federal authority on behalf of the person.

(b) Provides that the court retains jurisdiction under this section until the earliest of:

- (1) the person's 21st birthday;
- (2) the date the person is granted lawful permanent resident status;
- (3) the date an appeal of the denial of an application for permanent residency based on a petition for special immigrant status is denied; or
- (4) if an appeal described by Subdivision (3) is not filed, the day after the last day to file an appeal of the denial of an application for permanent residency based on a petition for special immigrant status.

SECTION 3. Amends Subchapter A, Chapter 155, Family Code, by adding Section 155.006, as follows:

Sec. 155.006. EXTENDED JURISDICTION. (a) Authorizes the court, if an application seeking special immigrant status as defined by 8 U.S.C. Section 1101(a)(27)(J) has been filed with the appropriate federal authority on behalf of a child over whom the court has continuing, exclusive jurisdiction, to extend the court's jurisdiction over the child after the child's 18th birthday until the earliest of:

- (1) the child's 21st birthday;
- (2) the date the child is granted lawful permanent resident status;
- (3) the date an appeal of the denial of an application for permanent residency based on a petition for special immigrant status is denied; or
- (4) if an appeal described by Subdivision (3) is not filed, the day after the last day to file an appeal of the denial of an application for permanent residency based on a petition for special immigrant status.

(b) Provides that the court's jurisdiction under this section is limited to issues relating to the child's special immigrant status.

SECTION 4. Amends Subchapter A, Chapter 262, Family Code, by adding Section 262.0021, as follows:

Sec. 262.0021. EXTENDED JURISDICTION. (a) Authorizes the court, if an application seeking special immigrant status as defined by 8 U.S.C. Section 1101(a)(27)(J) has been filed with the appropriate federal authority on behalf of a child over whom the court has jurisdiction under this subtitle, to extend the court's jurisdiction over the child after the child's 18th birthday until the earliest of:

- (1) the child's 21st birthday;
- (2) the date the child is granted lawful permanent resident status;
- (3) the date an appeal of the denial of an application for permanent residency based on a petition for special immigrant status is denied; or
- (4) if an appeal described by Subdivision (3) is not filed, the day after the last day to file an appeal of the denial of an application for permanent residency based on a petition for special immigrant status.

(b) Provides that the court's jurisdiction under this section is limited to issues relating to the child's special immigrant status.

SECTION 5. Amends Subchapter C, Chapter 72, Government Code, by adding Section 72.031, as follows:

Sec. 72.031. COLLECTION OF DATA RELATING TO SPECIAL IMMIGRANT STATUS. (a) Defines "young adult."

(b) Requires the Office of Court Administration of the Texas Judicial System (office) to track the number of cases in which a young adult has requested a court order relating to the young adult's special immigrant status.

(c) Requires the office to develop a form to be used to report information under Subsection (b). Requires the office to make the form available on the office's Internet website. Requires the form to include the following information for each case:

- (1) the date the petition in a declaratory action under Chapter 46, Family Code, or a motion requesting a court order described by Subsection (b) is filed and the date the court order is signed;
- (2) the county in which a petition or motion described by Subdivision (1) is filed;
- (3) the age of the young adult on the date the petition or motion described by Subdivision (1) is filed;
- (4) the young adult's country of origin, if known; and
- (5) whether the young adult is receiving services from the Department of Family Protective Services.

(d) Prohibits the office from collecting any personally identifiable information relating to the young adult, including the young adult's name, the young adult's address, or the case number of the declaratory action.

(e) Requires the attorney representing a young adult in a case described by Subsection (b) to complete the form and file the form with the clerk of the court. Requires the clerk, on receipt of a completed form, to stamp the form with the date the form was received and send the form to the office.

SECTION 6. Provides that this Act expires August 31, 2015. Makes application of this Act prospective.

SECTION 7. Effective date: upon passage or September 1, 2009.