



CHILDREN
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PLANNING

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IMMIGRATION REMEDIES FOR CHILDREN

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- Special Immigration Juvenile Status (“SIJS”)
 - See companion handout for details on SIJS
 - **A VERY BENEFICIAL VISA JUST FOR CHILDREN WHO HAVE BEEN ABUSED, ABANDONED, OR NEGLECTED BY A PARENT.**
- Immediate relative of U.S. citizen
 - If the child’s parent is a U.S. citizen, the child may be eligible for a permanent visa.
 - Under age 21
 - Unmarried
 - Not subject to quota
 - Exception: if the child is the child of a U.S. citizen through adoption, the child must obtain one of three adoption-based visas available:
 - 101(b)(1)(E) – adoption with 2 years of custody and residence
 - 101(b)(1)(F) – orphan
 - 101(b)(1)(G) – Hague
 - Another exception: for children of U.S. citizens born through surrogacy with no genetic connection to the U.S. citizen-intended parent, a different route will need to be taken. *See* <https://travel.state.gov/content/travel/en/legal-considerations/us-citizenship-laws-policies/assisted-reproductive-technology.html>.
- Child of LPR
 - Under age 21
 - Unmarried
 - But subject to quota and therefore a wait
- S visa
 - Snitch visa
 - Rare
- T visa

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- Trafficking visa
- Subject to severe trafficking
- Present in the United States
- Cooperates with investigation (not required for child-victims)
- Would suffer extreme hardship involving unusual and severe harm upon removal
- Trafficker need not be U.S. citizen or Legal Permanent Resident
- U visa
 - Child must have suffered substantial physical or mental abuse as a result of having been the victim of: rape, incest, DV, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, being held hostage, abduction, false imprisonment, assault, witness tampering.
 - Has information about the crime
 - Helping with the investigation
 - Certification from law enforcement that child is helping
 - Abuser need not be U.S. citizen or Legal Permanent Resident
- VAWA
 - A unique type of abuse-based immediate relative petition, without the need for the abusive sponsor's help
 - Child (or parent) is a victim of abuse
 - Can include psychological and emotional abuse, not just physical abuse
 - Abuser is a U.S. citizen or Legal Permanent Resident
 - Under 21
 - Unmarried
 - Resided with abuser for some period of time
- Asylum
 - Child must fear persecution from government of country of origin or from a group that the government is unable or unwilling to control, *e.g.*, guerilla group
 - Persecution or well-founded fear thereof must be based on race, religion, politics, nationality, or social group
 - Must be present in the United States
- Refugee status
 - A person outside of their country of nationality (or if no nationality, country of last habitual residence)
 - Who is unable or unwilling to return home
 - Because of persecution or a well-founded fear of persecution on account of race, religion, politics, nationality, or social group
- Temporary protected status (“TPS”)
 - Not a visa
 - Rather, a temporary, humanitarian form of relief from removal
 - Child is a national of a TPS country
 - Child has been present in the United States since a certain date, which varies
 - TPS countries (or parts of countries) are designated by U.S. government because of extraordinary and temporary political or physical conditions in the country, *e.g.*, political unrest in Honduras, natural disaster in Haiti
- Humanitarian parole

- Last-ditch effort to get someone into the country
- Not a visa, just permission to enter for a limited period of time
- Completely in the discretion of the federal government
- Very difficult to obtain

- Dependent or sibling of most of the above (very generally speaking)

- Deferred Action for Childhood Arrivals (“DACA”)
 - **NO LONGER AVAILABLE. CREATED BY PRESIDENT OBAMA. TERMINATED BY PRESIDENT TRUMP.**
 - Not a status, just a promise not to remove the child for 2 years
 - For “Dreamers”
 - At least 15 years old at the time of the DACA filing (unless in removal proceedings or subject to an order of removal or voluntary departure)
 - Came to the United States before 16th birthday
 - Was under the age of 31 and had no valid immigration status on June 15, 2012 (day DACA took effect)
 - Has continuously resided in the United States for 5 years before June 15, 2012
 - Is currently in school, has graduated from high school, has obtained a GED, or was honorably discharged from the U.S. Coast Guard or Armed Forces
 - Has not been convicted of a felony, a “significant” misdemeanor, or 3 or more other misdemeanors, and does not otherwise pose a threat to national security or public safety

- Temporary visas
 - Visitor, student, exchange student, visa-exempt (Canada) or visa-waiver (Europe)
 - Be careful! Seeking a temporary visa with the intent to adopt or have the child permanently reside in the United States is immigration fraud.