
Executive Summary

² On September 13, 2023, USCIS shared with the coalition a new estimate that there are 93,970 youth with approved SIJS petitions without visa availability and 26,017 youth with pending SIJS petitions without visa availability in the SIJS backlog as of July 7, 2023. According to these numbers, as of July 7, 2023, there are 119,987 youth impacted by the SIJS backlog. USCIS provided this estimate without an accompanying dataset of SIJS petitions, so the estimate has not been independently verified by our data analyst. For these reasons, this number is not included in the analysis of our report.

Special Immigrant Juvenile Status (“SIJS”) is a humanitarian protection created by a bipartisan Congress in 1990 to offer a pathway to lawful permanent resident (“LPR”) status, also known as a “green card,” for immigrant youth who are in need of protection. In all cases, a state court has determined that the youth has survived abuse, abandonment, or neglect by at least one parent and that it would not be in their best interest to return to their country of origin. Once these determinations are made by a state court, the youth then files a petition to USCIS asking the immigration agency to recognize them as a Special Immigrant Juvenile. With SIJS approval, a youth is then eligible to apply for a green card. Despite being a humanitarian status, the pathway to a green card for a SIJS youth is miscategorized under the employment-based immigration visa system, which has country-specific and worldwide annual visa caps, originally designed to limit the number of non-citizen workers seeking permanent status.

Before 2016, no backlog existed and immigrant youth were able to apply for their green cards and work permits concurrently with their SIJS petitions, receiving a decision on their SIJS petition and then shortly thereafter on their work permits and green cards, all within the span of six months to a year. But in 2016 the U.S. Department of State (“DOS”) determined that SIJS youth from certain countries had reached the per-country cap, restricting their ability to apply for green cards and work permits. Due to the limitations imposed by the DOS, many SIJS youth were forced into a years-long limbo merely due to the technical oversight in SIJS’ classification under immigration law. For years the backlog affected primarily youth from El Salvador, Guatemala, Honduras, and Mexico.

In 2021, the size of the SIJS backlog was revealed for the first time in the End SIJS Backlog Coalition’s groundbreaking report, *“Any Day They Could Deport Me”: Over 44,000 Immigrant Children Trapped in the SIJS Backlog*, revealing that at the time 44,868 immigrant youth were trapped in the SIJS backlog. Merely two years later, that number has more than doubled with more than 100,000 youth now waiting to apply for LPR status and gain access to the stability and safety that Congress intended to offer immigrant youth when it created SIJS.

Following the End SIJS Backlog Coalition’s 2021 publication, this report reveals the scope of the SIJS backlog through March 2023.² This report explains the SIJS backlog within the paradigm of new policies impacting the lives of SIJS youth. Since the publication of our initial report in 2021, the administrative landscape has shifted significantly including through the Biden administration’s implementation of a much-welcomed deferred action program for SIJS youth, the emergence of a worldwide backlog in December 2022 impacting SIJS youth from all countries, and the announcement in March 2023 of a new DOS interpretation of visa caps. Additionally, this report seeks to offer solutions to the backlog and its harms, which, if implemented, would provide necessary protections to vulnerable youth in alignment with Congress’ intention in creating SIJS.

Through FOIA litigation, we obtained a dataset of more than 200,000 SIJS petitions, filed between October 1, 2010, and February 28, 2023, covering fiscal year 2011 through part of fiscal year 2023. Our report is based on findings from this dataset, analyzed by the Migration Policy Institute, and from interviews of impacted youth.

Key Findings

- The SIJS backlog more than doubled in the last two years. As of March 1, 2023, 107,693 SIJS youth are trapped in a legal limbo, unable to obtain permanent protection even after being granted humanitarian status.
- The SIJS backlog is worldwide, impacting youth from 151 countries, as of March 1, 2023.
- SIJS youth impacted by the backlog live in all 50 states, with the top states being New York, California, Maryland, Massachusetts, Texas, New Jersey, Virginia, Tennessee, Louisiana, and North Carolina. The top 5 cities where youth impacted by the backlog live are New York City, Los Angeles, the greater Washington D.C. metropolitan area, Houston, and Baltimore.
- USCIS continues to disregard the 180-day deadline to decide SIJS petitions mandated by Congress. Between 2018 to 2023, the average time for USCIS to approve a SIJS petition was 337 days, almost twice the legal deadline. More recently, in the 2023 fiscal year, the average time USCIS has taken to approve a case is 263 days, which although an improvement, is still in violation of the law.
- Though the Biden administration offered SIJS youth the ability to work lawfully through a new and very welcomed deferred action program in May 2022, the prolonged adjudication time for SIJS petitions beyond the 180-day mandate hinders youth's ability to access less exploitative work and protections from deportation because they are not eligible for deferred action and related work permits until their SIJS petitions are approved.

Key Recommendations

- Congress should pass the amendments included in The Protect Vulnerable Immigrant Youth Act³ that would exempt thousands of SIJS youth—who are survivors of abuse, abandonment, and neglect—from the employment-based visa caps, ensuring SIJS youth can achieve the permanency in the United States that Congress intended.
- USCIS must adjudicate all SIJS petitions within the 180-day deadline mandated by Congress.

- DHS should codify protections from removal and access to a work permit for any SIJS youth that is unable to seek LPR status because a visa is not immediately available.
- USCIS should allow SIJS youth to seek work permits based on the grant of deferred action concurrently with the SIJS petition to prevent youth from facing a second backlog of lengthy work permit wait times after adjudication of the SIJS petition.
- The Department of Education (“DOE”) should align the FAFSA handbook with the Higher Education Act’s more expansive and governing definition of “eligible non-citizens” to specifically include SIJS youth. Opening access to financial aid and the doors of higher education to SIJS youth would alleviate the anxiety, stress, and uncertainty some SIJS youth have reported due to having to wait years to start their futures.
- The Biden administration and Congress should create avenues for impacted youth to participate in the development of new policies and reforms that will directly impact their lives. We invite Congress and the Administration to seek out the voices of SIJS youth as experts in the costs and consequences of waiting in the backlog, and in developing solutions that truly improve their day-to-day lives.