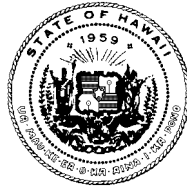


DAVID Y. IGE  
GOVERNOR



PANKAJ BHANOT  
DIRECTOR

CATHY BETTS  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96808

March 3, 2020

TO: The Honorable Senator Russell E. Ruderman  
Senate Committee on Human Services

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 1978 HD1– Relating to Special Immigrant Juvenile Status**

Hearing: March 6, 2020 2:45 p.m.  
Conference Room 016, State Capitol

**DEPARTMENT’S POSITION:** The Department of Human Services (DHS) supports this bill.

**PURPOSE:** This bill specifies that the family court has jurisdiction in proceedings concerning the custody or guardianship of an immigrant child pursuant to a motion for Special Immigrant Juvenile factual findings requesting a determination that the child was abused, neglected, or abandoned before the age of 18. Effective 12/31/2059. (HD1)

Obtaining a juvenile court order issued by a state court for an individual who cannot be reunified with parents due to abuse, abandonment, or neglect, is one requirement for an immigrant juvenile to become eligible for Special Immigrant Juvenile classification per the Immigration and Nationality Act (INA). With the Special Immigrant Juvenile classification, the juvenile may adjust their immigration status and eventually become a lawful permanent resident and obtain a green card. The individual needs to apply for the classification before turning 21 years old.

Like the Violence Against Women Act of 1994, as amended, that sought to improve abused, immigrant women’s access to safety in the United States, this bill supports the protection and recovery of maltreated and neglected immigrant children. DHS currently provides foster care services for immigrant children who have been the victims of parental

abuse and neglect. DHS is committed to continue this work and supports efforts, like this bill, to increase immigrant safety, services, and protection.

Appropriations may be required for support services to the involved minors or individuals while they are seeking this classification.

Thank you for the opportunity to provide comments on this measure.



*The Judiciary, State of Hawai‘i*

**Testimony to the Senate Committee on Human Services**

Senator Russell E. Ruderman, Chair

Senator Karl Rhoads, Vice Chair

Friday, March 6, 2020 at 2:45 p.m.  
State Capitol, Conference Room 016

by

Christine E. Kuriyama

Senior Judge, Deputy Chief Judge

Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

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**Bill No. and Title:** House Bill No. 1978, H.D, 1, Relating to Special Immigrant Juvenile Status.

**Purpose:** Specifies that the family court has jurisdiction in proceedings concerning the custody or guardianship of an immigrant child pursuant to a motion for Special Immigrant Juvenile factual findings requesting a determination that the child was abused, neglected, or abandoned before the age of 18. Effective 12/31/2019. (HD1)

**Judiciary's Position:**

The Judiciary strongly supports this bill, which clarifies that the Hawai‘i Family Court has jurisdiction to hear motions awarding custody or guardianship of immigrant children under the age of 21 who have been abused, neglected or abandoned, for purposes of granting them Special Immigrant Juvenile Status “SIJS” under federal law.

This bill does not expand or contract Family Court's current powers, but is being offered to address the requirements of section 101(a)(27)(J) of the federal Immigration and Nationality Act (codified in 8 U.S.C. section 1101(a)(27)(J)). As a result, the Judiciary does not anticipate requesting additional funding for the implementation of this bill.

Thank you for the opportunity to provide testimony on this measure.

**HB-1978-HD-1**

Submitted on: 3/5/2020 12:31:47 PM

Testimony for HMS on 3/6/2020 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Taryn Reiner	Testifying for Konawaena High School	Support	No

Comments:

Statement of

Taryn Reiner, School Counselor

Before the

Committee on Judiciary

Friday March 6, 2020 at 2:45

State Capitol, Conference Room 016

In consideration of

HB 1978

Relating to Special Immigrant Juvenile Status

Senator Russell E. Ruderman, Chair

Senator Karl Rhoads, Vice Chair

I write in support of HB 1978. I am a school counselor at Konawaena High School on the island of Hawai'i. I was made aware of the issue of lack of immigration status when my student, E.P, received a deportation hearing notice.

When E.P. enrolled at Konawaena High School as a sophomore, I was his advisory teacher and school counselor. His junior and senior years, I was his varsity soccer assistant coach and school counselor.

At the time that my student received his hearing notice, he was a senior, a few months from graduating, and his dad was just deported. This left E.P. working his father's job full time, attending Konawaena High School, and living with his step-mother.

E.P. was left to figure out the immigration system by himself, at the age of 17. When he received the hearing notice he immediately brought it to me. The hearing was scheduled for March 6, 2019 at 12:00 a.m. (MIDNIGHT)! I had no idea where to start and how to confirm that the hearing is at midnight. We worked with a Konawaena High School Teacher who speaks Spanish. Together we wrote a response to the Department of Homeland Security, gathered evidence, spoke to E.P. father in Honduras, and spent countless weekends and after school hours supporting our student.

HB 1978 will protect E.P. along with other students who are successful, contributing community members. These students are our next generation, a generation that is inclusive of differences, students that The State Of Hawai'i should protect!

Thank you for your time and consideration!

Taryn Reiner

School Counselor, Konawaena High School, Kealahou, Hawai'i

**TESTIMONY IN SUPPORT OF HB 1978**

**HEARING DATE:** March 6, 2020  
**TO:** Sen. Russell Ruderman, Chair, and Members of the Senate Committee on Human Services  
**FROM:** Trever Asam

Senator Ruderman and Members of the Committee,

I strongly urge passage of this bill, which aligns Hawaii law with federal requirements for Special Immigrant Juvenile Status (“SIJS”) to provide protections for vulnerable populations in the State.

The bill has received the support of the State Judiciary, the State Department of Human Services, and numerous nonprofit organizations and individuals.

Special Immigrant Juvenile Status (“SIJS”) is a designation under federal law that protects young immigrants who have been abused, neglected, or abandoned. It provides a pathway to permanent residence for individuals who obtain an order from a state juvenile court awarding custody or guardianship over them and making certain findings of fact. Under procedures set forth in the Immigration and Nationality Act, juvenile immigrants under the age of 21 may seek a state juvenile court order finding that it is not in their best interest to be returned to their previous country of nationality and that their reunification with one or both parents is not viable because of abuse, neglect, abandonment, or a similar basis found under state law. 8 U.S.C. § 1101(a)(27)(J)(i-ii). Based on these findings, the juvenile immigrant is placed under the custody of a state, individual, or entity appointed by the juvenile court. *See* 8 U.S.C. § 1101(a)(27)(J)(i). This process, if successfully completed, permits the juvenile immigrant to apply for permanent legal residence within the United States of America.

Consistent with the language of the statute, United States Customs and Immigration Service (“USCIS”) has historically accepted applications from individuals under the age of 21 who obtained the requisite state court order. In 2018, however, USCIS began challenging applications of individuals ages eighteen to twenty on the ground that the state courts did not have authority to hear cases where petitioners had reached the age of majority. The result has been mass denials of SIJS petitions for juvenile immigrants over age eighteen.

To safeguard SIJS protections for their residents, several states have enacted SIJS statutes expressly providing state court jurisdiction over immigrants ages eighteen to twenty for purposes of issuing the required SIJS orders:

STATE	CITATION
New York	N.Y. Fam. Ct. Act § 661
Maryland	Md. Code Ann., Fam. Law § 1-201
California	Cal. Prob. Code § 1510.1
Washington	Wash. Rev. Code Ann. § 13.90.010
Nevada	Nev. Rev. Stat. Ann. § 3.2203
Massachusetts	Mass. Gen. Laws Ann. ch. 119, § 39M
Connecticut	Conn. Gen. Stat. Ann. § 45a-608n
Colorado	Colo. Rev. Stat. Ann. § 15-14-204(2.5)

This bill seeks to accomplish the same goal through an amendment to Hawaii's family court jurisdiction statute, Haw. Rev. Stat. § 571-11. As amended, that statute would read as follows:

Except as otherwise provided in this chapter, the court shall have exclusive original jurisdiction in proceedings . . .

(11) Concerning custody or guardianship of an immigrant child pursuant to a motion for special immigrant juvenile factual findings requesting a determination that the child was abused, neglected, or abandoned before the age of eighteen years for purposes of section 101(a)(27)(I) of the federal Immigration and Nationality Act. For the purposes of this paragraph, "child" means an unmarried individual under the age of twenty-one years.

The addition of this language makes clear that the Hawaii family court has jurisdiction to hear the necessary motions and take the necessary action on behalf of individuals seeking SIJS.

This bill is modeled after the Maryland statute, which USCIS has indicated meets the requirements of the SIJS statute. *See Matter of E-D-J-B-F*, 2017 WL 2573348 (Administrative Appeals Office ["AAO"] June 5, 2017) (finding that the Maryland SIJS statute expanded jurisdiction over the custody and guardianship of persons under the age of 21 years); *Matter of R-A-C-M*, 2016 WL 2621477 (AAO Apr. 20, 2016) (recognizing the validity of the Maryland SIJS statute).

Through passage of this bill, Hawaii can ensure that the protections of SIJS set forth under federal law are available to some of the State's most vulnerable residents.

**TESTIMONY IN SUPPORT OF HB 1978**

**HEARING DATE:** March 5, 2020

**TO:** Chair Russell E. Ruderman, Vice Chair Karl Rhoads, and Members of the Senate Committee on Human Services

**FROM:** Lisa Swartzfager

Chair Russell E. Ruderman, Vice Chair Karl Rhoads, and Members of the Committee,

I strongly urge passage of this bill, which aligns Hawaii law with federal requirements for Special Immigrant Juvenile Status (“SIJS”) to provide protections for vulnerable populations in the State.

SIJS was designed to protect some of the most vulnerable persons living among us -- immigrants under the age of 21 who have been abused, neglected, and/or abandoned by one or both parents. Policy changes have caused some youth who are 18-20 years old to fall through the cracks, depending on state laws regarding the jurisdiction of family courts. This bill will allow Hawaii to ensure that such 18-20 year olds living in Hawaii are able to seek relief that Congress has provided for them through the SIJS statute.

I have had the privilege to represent several teenagers seeking to obtain SIJS status. I also currently have one client who is 19 years old and would like to seek SIJS. Learning about the lives of my clients and other young immigrants has been both heartbreaking and incredibly inspiring. Many such persons, not only have to overcome traumatic events from their past, but also live in constant fear of being deported and separated from their families and loved ones. Some of these youth do not even remember another home. Additionally, 18-20 year-old immigrants without lawful status face challenges in attending colleges and obtaining jobs.

SIJS status often provides the only avenue for young immigrants to become lawful permanent residents (“LPR”) of the United States. A person with LPR status can live and work permanently in the United States, can travel outside of the United States, is eligible for certain scholarships and other benefits, and can ultimately apply for U.S. citizenship.

Through the passage of this bill, Hawaii can ensure that the protections of SIJS set forth under federal law are available to some of the State’s most vulnerable residents.



**HB-1978-HD-1**

Submitted on: 3/5/2020 12:39:08 PM

Testimony for HMS on 3/6/2020 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Elkin Pacheco	Individual	Support	No

Comments:

Statement of

Elkin Pacheco

Before the

Committee on Judiciary

Friday, March 6, 2020 2:45pm

State Capitol, Conference Room 016

In consideration of

HB 1978

Relating to Special Immigrant Juvenile Status

Senator Russell E. Ruderman, Chair

Senator Karl Rhoads, Vice Chair

My name is Elkin "Ely" Pacheco Tabora. I support passage of HB 1978 and I want to share my story to inform your decision. I was born in Santa Rosa de Copan, Honduras on June 7, 2000. Our family was poor, so when I was three years old, my father left for the United States to support my mother and me. Over the next few years, he was able to send back enough money that she was able to build a house, and we were able to buy food, clothes and basic needs. I was able to do some work for money which helped.

Over time, I managed to get a few cows and a mule which allowed me to help my mom and to save a small bit of money. However, my father never was able to come back. One of the local gang leaders began to take an interest in my mother. Because the criminal gangs have a lot of power and people are mostly afraid of them, he pushed his way into a relationship with her. Eventually, she went to live with him leaving me on my own. I do not think the relationship was really consensual, and I think he was abusive to her. However, once a gang leader takes an interest in someone, they either join them and have some protection, or they are targeted for trouble, including violence, rape and even murder. That is what happened with my mother. At that time I was 15 years old. I had a hard time supporting myself alone. I tried to make contact with my mother, to ask for some kind of help or guidance, however, the gang leader, would not allow any kind of contact.

Once, gang members were hiding behind some bushes as I came around a curve in the pathway and they stepped out in front of me. They yelled out and then they just shot my mule dead. After the first shot the mule jumped and I was thrown off. Fortunately, I was able to scramble away from the guys and run around behind a nearby house. I heard more shots so I kept running. I did not go back to my house. I went to my grandmother and discussed what to do. In my town, the gangs have really taken over, the police station is closed after the gangs essentially chased them out. There's really no one you can go to since there are more gang guys than the police, and they have more weapons.

My relatives helped me sell a cow, and together with my savings and some contributions from them, arrangements were made for me to travel out of Honduras to the United States. They wanted to help me, but I also think they wanted me to get away so they would not get into any kind of trouble with gangs themselves if they were seen to be helping me there in the town. I left Honduras in September 2016 and, after passing through Guatemala and Mexico, made it to the U.S. border in October. About two hours after crossing, the Border Patrol picked me up near McAllen, Texas. I received some assistance there and then was flown to Florida for a few days where there was a facility for young people like me. Eventually, they made contact with my father in Hawaii, and I was flown out to stay with him. I was checked in with the local immigration authorities and enrolled at Konawaena High.

Upon enrolling, I worked diligently to learn English so that I could fully participate in my courses and join other school activities like the soccer team and Hula dance. For two years, I was able to focus on my studies like any other teenager. In the spring of my Senior Year, I received an immigration court notice. Instantly, I was back to living in fear of the gangs in Honduras compounded with the threat of the Immigration and Customs Enforcement. Just a few months before that, my father was deported and still cannot return to the U.S. I assumed many of my father's work responsibilities facilitating worksites. My school supported me with a modified schedule allowing me to work and complete my coursework. With the help of my teachers, I secured pro-bono legal representation; my immediate fear of deportation was halted. I went on to attend the prom and proudly graduate from high school. I currently work to provide for myself and serve my community. A year has passed and my legal team has taken a stand not just for me, but for kids like me. Kids who in spite of being abused, neglected or abandoned seize every opportunity to move forward and make a bright future in Hawaii.

This legislation offers hope and the opportunity to participate fully in our communities. I hope you will advance this piece of legislation and Hawaii can lead the way in protecting vulnerable youth like me. I have worked together with my attorney and a Spanish language translator to develop the English version of this testimony as a true representation of my own story.

I have worked together with my attorney and a Spanish language translator to develop the English version of this testimony as a true representation of my own story.

Elkin Ely Pacheco Tabora

2/24/2020