

**August 23, 2016 — Immigration issues facing children in dependency — panel from Americans for Immigrant Justice (AIJ)— Jennifer Anzardo & Farahnaz Jamette.**

- The **Children's Legal Program** serves thousands of unaccompanied children each year - whether they are in foster care, immigration shelters, or in the community, living without the protection of a parent or legal guardian.
- **AIJ** protects and promotes the basic human rights of immigrants. In Florida and on a national level, it champions the rights of unaccompanied immigrant children; advocates for survivors of trafficking and domestic violence; serves as a watchdog on immigration detention practices and policies; and speaks for immigrant groups who have particular and compelling claims to justice.
- **Undocumented- one who is present in the U.S, without lawful immigration status or without proof of lawful status**
  - One who entered the U.S. on a visa that has expired.
  - One who crossed the U.S. border without detection.
  - One who obtained lawful immigration status and subsequently lost his/her status.
  - One who obtained lawful immigration status but does not have proof of status.
- **Potential consequences for undocumented youth — they may be detained and deported by federal immigration authorities EVEN IF:**
  - The child has lived in the U.S. for most of his/her life, does not have any ties with the home country, or speak the language of the native country.
  - The child does not have any relatives in the native country who can care for him or her.
  - A state court has ordered the child to live with a guardian, relative, or in a licensed foster home.
- **It is important for an undocumented child to obtain legal status because they may:**
  - Work lawfully in the U.S.
  - Obtain a state-issued ID or Driver's License
  - Obtain a social security number
  - Receive certain public benefits(e.g. Medicaid)
  - Receive federal financial assistance for college education
- Sample U.S. Citizen documents: passport, birth certificate, naturalization certificate
- Sample lawful permanent resident and non-resident documents: Green card (lawful permanent resident), work permit, student visa (I94) which is stamped with a return date- usually 6 months, travel visa
- There are many potential remedies for immigrant youth: special immigrant juvenile status, DACA, U visa, T visa, asylum-related relief, relief under the Violence Against Women Act, Legal Permanent Residency and Citizenship (for green card holders)
- **Special Immigrant Juvenile (SIJ) status- for those under 21 years old:**
  - who have been declared dependent by a state court;
  - where reunification with one or both parents is not viable due to abuse, abandonment, neglect or other similar basis under state law; and
  - where it would not be in the child's best interest to be returned to the child's previous country of nationality or country of last habitual residence.

- Allocated by country- 7,000 per year. Guatemala, Mexico, El Salvador, Honduras & India have used all allotted visas for 2016. Expect delays for minors from these countries to be able to apply for green cards
  - Cannot assist parents with immigration status
  - Must apply for turning 21 !!!!
- **Deferred Action for Childhood Arrivals (DACA)** – 6/15/12 Sec'y of Homeland Security announced certain people who came to U.S. as children may be eligible for deferred action to block one's deportation back to home country.
  - Eligible for work permit
  - NOT a pathway to green card
  - Eligibility for DACA:
    - Under age 31 on June 15, 2012;
    - Age 15 or older on date of DACA application\* (unless in immigration court proceedings);
    - Entered US when under 16 years old;
    - Continuously resided in US since June 15, 2007;
    - Physically present on June 15, 2012;
    - Without valid immigration status on June 15, 2012;
    - Possession of high school diploma, GED certificate, honorable discharge from US armed services, or current enrollment in school; AND
    - Lack of disqualifying criminal record.
- **U Non-immigrant Status-** A type of immigration status for qualifying victims of criminal activity
  - Gives permission to live and work in the U.S. for 4 years
  - NOT a visa for travel (not a visa at all)
  - A pathway to a green card
  - U status holders can apply for a green card after 3 years in U status
  - Eligibility for U Non-Immigrant status
    - Victim of domestic violence or another qualifying criminal activity
    - Criminal activity occurred in the US
    - Suffered substantial physical or mental harm as a result
    - Certification of helpfulness from a law enforcement official.
- **T Non-Immigrant Status (T Visa)-** a remedy for victims of severe forms of trafficking
  - Sex trafficking in which commercial act is induced by force, fraud, or coercion or in which the victim is under 18 or
  - Labor trafficking- those forced to perform work or services in involuntary servitude through force, fraud or coercion
- **Other legal remedies:**
  - Family petitions
  - Derivative citizenship
  - Asylum- well-founded fear of persecution in home country- very high standard

- VAWA- for certain children who have been subjected to battery or extreme cruelty by a US citizen or LPR parent or step-Parent. Also available for children of immigrants abused by US citizen or LPR spouse.
- **AIJ role in dependency court**
  - Our Kids cases- referred by DCF case managers, GALs, etc.
  - Draft and file best interest motions and orders
  - Represent immigrants in dependency system filing SIJ status, residency and citizenship
- You need to ask all your youth about immigration status- appearance, names & speech aren't accurate indicators of citizenship. If a child doesn't have a birth certificate, they may still be a citizen.
  - Ask them where they were born, where their parents were born, when they came to US, & if they have birth certificates or immigration documents.
  - Help youth make an appointment with immigration legal service provider and help obtain docs for the youth's immigration case.
    - Docs to bring to legal appointment: birth certificate, passport, immigration docs, court docs and order, dispositions of any delinquency or criminal charges
- Don't assume a child's immigration status; don't provide legal advice; & don't refer to people who are UNDOCUMENTED as "illegal".