

- SUBJECT:** Court jurisdiction for certain abused, neglected or abandoned children
- COMMITTEE:** Human Services — committee substitute recommended
- VOTE:** 8 ayes — Rose, Herrero, Darby, Hernandez, Hughes, Legler, Naishtat, Walle
0 nays
1 absent — Elkins
- WITNESSES:** For — David Walding, Bernardo Kohler Center; Jacqueline Watson; (*Registered, but did not testify:* Amy Casso, LaFe Policy Research and Education Center; Alison Dieter, Texas Gray Panthers; Laura Martin, ACLU of Texas; Diana Martinez, TexProtects, the Texas Association for the Protection of Children; Andrew Rivas, Texas Catholic Conference)

Against — None

On — Amy Thompson
- BACKGROUND:** Abused, neglected, or abandoned children in Texas receive protection and related services from the Department of Family and Protective Services (DFPS) regardless of their immigration status. About one percent of the children in the state foster care system in fiscal 2008 were undocumented immigrants.

Federal law provides for a child who is the victim of abuse, neglect, or abandonment, and who is not a citizen, to have specific federal immigration procedures and protections by a special form of relief known as Special Immigrant Juvenile Status (SIJS). To obtain SIJS status, a court must first determine that the child has been the victim of abuse, neglect, or abandonment. Because there is no federal family court system, state courts make this determination. If the state court determines the child is a victim of abuse, neglect, or abandonment, the federal SIJS status may be pursued. If the state court determines otherwise, then the child may not pursue the SIJS status. Federal law allows a child to pursue SIJS status until the age of 21, but in Texas, court jurisdiction over a child ends at 18

years of age. Therefore, foster youth within the Texas foster care system, are not able to pursue this federal remedy after age 18.

The Legislative Budget Board staff in the 2009 *Texas State Government Effectiveness and Efficiency* (GEE) report stated that changes should be made to improve the processing of SIJS for foster youth in order to maximize federal funds. One LBB recommendation called for amending the Family Code to extend the jurisdiction that county and district courts have over foster youth from age 18 to 21, if SIJS petitions and legal permanent status applications have been filed. The LBB anticipated no significant fiscal impact to the state with the implementation of this GEE recommendation because the number of individuals to which the SIJS applies is extremely small. In 2008, 30 foster youth could have sought this status with proper court jurisdiction.

DIGEST:

CSHB 4426 would amend the Family Code, adding ch. 46 to address special immigrant status of “young adults,” or those between the ages of 18 and 21. The bill would allow a young adult who was not a citizen or permanent resident of the United States to file suit requesting a court with family law jurisdiction to declare that the young adult had been abused, neglected, or abandoned. The court would, upon presentation of proper evidence, render an order declaring that:

- the young adult was court-dependent;
- reunification with the young adult’s parents was not viable due to abuse, neglect, or abandonment; and
- it would not be in the young adult’s best interest to be returned to the young adult’s or parent’s country of origin.

The bill would amend Family Code, ch. 51, 155, and 262, to allow a court to retain jurisdiction over a young adult until the earliest of:

- the young adult’s 21st birthday;
- the date the young adult was granted lawful permanent resident status;
- the date an appeal of the denial of an application for permanent residency status based on a petition for special immigrant status was denied; or
- 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.

The bill also would provide for the collection of data relating to young adults seeking special immigrant status.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009. The bill would expire August 31, 2015.