

1-1 By: Hernandez, Alonzo H.B. No. 4426
1-2 (Senate Sponsor - Van de Putte)
1-3 (In the Senate - Received from the House May 13, 2009;
1-4 May 14, 2009, read first time and referred to Committee on
1-5 Jurisprudence; May 23, 2009, reported favorably by the following
1-6 vote: Yeas 5, Nays 0; May 23, 2009, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to authorizing a suit to declare that certain young people
1-10 have been abused, neglected, or abandoned and extending the
1-11 jurisdiction of certain courts making such a declaration.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Title 2, Family Code, is amended by adding
1-14 Subtitle D to read as follows:

1-15 SUBTITLE D. SPECIAL DECLARATORY ACTIONS

1-16 CHAPTER 46. SPECIAL IMMIGRANT STATUS

1-17 Sec. 46.001. DEFINITION. In this chapter, "young adult"
1-18 means a person who is at least 18 years of age and younger than 21
1-19 years of age.

1-20 Sec. 46.002. PETITION FOR COURT DECLARATION. A young adult
1-21 who is not a citizen or permanent resident of the United States may
1-22 file a suit requesting the court to declare that the young adult has
1-23 been abused, neglected, or abandoned and otherwise meets the
1-24 requirements for special immigrant status as defined by 8 U.S.C.
1-25 Section 1101(a)(27)(J). The suit may be filed in a court that has
1-26 family law jurisdiction.

1-27 Sec. 46.003. COURT ORDER. The court, on presentation of
1-28 proper evidence, shall render an order declaring that:

1-29 (1) the young adult is court-dependent;

1-30 (2) reunification with one or both of the young adult's
1-31 parents is not viable due to abuse, neglect, or abandonment, as
1-32 defined by state or federal law; and

1-33 (3) it is not in the young adult's best interest to be
1-34 returned to the young adult's or the parent's previous country of
1-35 origin or country of last habitual residence.

1-36 Sec. 46.004. EXTENDED JURISDICTION. A court that renders
1-37 an order under this chapter may retain jurisdiction over the young
1-38 adult until the earliest of:

1-39 (1) the young adult's 21st birthday;

1-40 (2) the date the young adult is granted lawful
1-41 permanent resident status;

1-42 (3) the date an appeal of the denial of an application
1-43 for permanent residency based on a petition for special immigrant
1-44 status is denied; or

1-45 (4) if an appeal described by Subdivision (3) is not
1-46 filed, the day after the last day to file an appeal of the denial of
1-47 an application for permanent residency based on a petition for
1-48 special immigrant status.

1-49 SECTION 2. Chapter 51, Family Code, is amended by adding
1-50 Section 51.0413 to read as follows:

1-51 Sec. 51.0413. EXTENDED JURISDICTION. (a) The court
1-52 retains jurisdiction over a person with respect to issues relating
1-53 to the person's special immigrant status if an application seeking
1-54 special immigrant status as defined by 8 U.S.C. Section
1-55 1101(a)(27)(J) has been filed with the appropriate federal
1-56 authority on behalf of the person.

1-57 (b) The court retains jurisdiction under this section until
1-58 the earliest of:

1-59 (1) the person's 21st birthday;

1-60 (2) the date the person is granted lawful permanent
1-61 resident status;

1-62 (3) the date an appeal of the denial of an application
1-63 for permanent residency based on a petition for special immigrant
1-64 status is denied; or

2-1 (4) if an appeal described by Subdivision (3) is not
2-2 filed, the day after the last day to file an appeal of the denial of
2-3 an application for permanent residency based on a petition for
2-4 special immigrant status.

2-5 SECTION 3. Subchapter A, Chapter 155, Family Code, is
2-6 amended by adding Section 155.006 to read as follows:

2-7 Sec. 155.006. EXTENDED JURISDICTION. (a) If an
2-8 application seeking special immigrant status as defined by 8 U.S.C.
2-9 Section 1101(a)(27)(J) has been filed with the appropriate federal
2-10 authority on behalf of a child over whom the court has continuing,
2-11 exclusive jurisdiction, the court may extend the court's
2-12 jurisdiction over the child after the child's 18th birthday until
2-13 the earliest of:

2-14 (1) the child's 21st birthday;

2-15 (2) the date the child is granted lawful permanent
2-16 resident status;

2-17 (3) the date an appeal of the denial of an application
2-18 for permanent residency based on a petition for special immigrant
2-19 status is denied; or

2-20 (4) if an appeal described by Subdivision (3) is not
2-21 filed, the day after the last day to file an appeal of the denial of
2-22 an application for permanent residency based on a petition for
2-23 special immigrant status.

2-24 (b) The court's jurisdiction under this section is limited
2-25 to issues relating to the child's special immigrant status.

2-26 SECTION 4. Subchapter A, Chapter 262, Family Code, is
2-27 amended by adding Section 262.0021 to read as follows:

2-28 Sec. 262.0021. EXTENDED JURISDICTION. (a) If an
2-29 application seeking special immigrant status as defined by 8 U.S.C.
2-30 Section 1101(a)(27)(J) has been filed with the appropriate federal
2-31 authority on behalf of a child over whom the court has jurisdiction
2-32 under this subtitle, the court may extend the court's jurisdiction
2-33 over the child after the child's 18th birthday until the earliest
2-34 of:

2-35 (1) the child's 21st birthday;

2-36 (2) the date the child is granted lawful permanent
2-37 resident status;

2-38 (3) the date an appeal of the denial of an application
2-39 for permanent residency based on a petition for special immigrant
2-40 status is denied; or

2-41 (4) if an appeal described by Subdivision (3) is not
2-42 filed, the day after the last day to file an appeal of the denial of
2-43 an application for permanent residency based on a petition for
2-44 special immigrant status.

2-45 (b) The court's jurisdiction under this section is limited
2-46 to issues relating to the child's special immigrant status.

2-47 SECTION 5. Subchapter C, Chapter 72, Government Code, is
2-48 amended by adding Section 72.031 to read as follows:

2-49 Sec. 72.031. COLLECTION OF DATA RELATING TO SPECIAL
2-50 IMMIGRANT STATUS. (a) In this section, "young adult" has the
2-51 meaning assigned by Section 46.001, Family Code.

2-52 (b) The office shall track the number of cases in which a
2-53 young adult has requested a court order relating to the young
2-54 adult's special immigrant status.

2-55 (c) The office shall develop a form to be used to report
2-56 information under Subsection (b). The office shall make the form
2-57 available on the office's Internet website. The form must include
2-58 the following information for each case:

2-59 (1) the date the petition in a declaratory action
2-60 under Chapter 46, Family Code, or a motion requesting a court order
2-61 described by Subsection (b) is filed and the date the court order is
2-62 signed;

2-63 (2) the county in which a petition or motion described
2-64 by Subdivision (1) is filed;

2-65 (3) the age of the young adult on the date the petition
2-66 or motion described by Subdivision (1) is filed;

2-67 (4) the young adult's country of origin, if known; and

2-68 (5) whether the young adult is receiving services from
2-69 the Department of Family and Protective Services.

3-1 (d) The office may not collect any personally identifiable
3-2 information relating to the young adult, including the young
3-3 adult's name, the young adult's address, or the case number of the
3-4 declaratory action.

3-5 (e) The attorney representing a young adult in a case
3-6 described by Subsection (b) shall complete the form and file the
3-7 form with the clerk of the court. On receipt of a completed form,
3-8 the clerk shall stamp the form with the date the form was received
3-9 and send the form to the office.

3-10 SECTION 6. This Act expires August 31, 2015. A proceeding
3-11 commenced as a result of a petition filed before that date under
3-12 Chapter 46, Family Code, as added by this Act, or a motion
3-13 requesting a court order relating to a young adult's special
3-14 immigrant status filed under the jurisdiction created by Section
3-15 51.0413, 155.006, or 262.0021, Family Code, as added by this Act,
3-16 before that date shall continue under the law as it existed on the
3-17 date the petition or motion was filed, and that law continues in
3-18 effect for that purpose.

3-19 SECTION 7. This Act takes effect immediately if it receives
3-20 a vote of two-thirds of all the members elected to each house, as
3-21 provided by Section 39, Article III, Texas Constitution. If this
3-22 Act does not receive the vote necessary for immediate effect, this
3-23 Act takes effect September 1, 2009.

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