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14 A PROPOSED RESOLUTION

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18 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

19 To declare the existence of an emergency with respect to the need to amend Chapter 3 of Title 13  
20 of the District of Columbia Official Code, to include appointments of a vulnerable youth  
21 guardian under legal actions that may have published notice in substitution of personal  
22 service of process, and to amend Chapter 23 of Title 16 of the District of Columbia  
23 Official Code to authorize the Family Division of the Superior Court to appoint, modify,  
24 and terminate a new class of legal guardianship for vulnerable youth.

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26 RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
27 resolution may be cited as the “Vulnerable Youth Guardianship Protection Emergency  
28 Declaration Resolution of 2023”.

29 Sec. 2 (a) Special Immigrant Juvenile Status (“SIJS”) is a special humanitarian visa  
30 established by the federal government covering abused, neglected, or abandoned immigrant  
31 youth under age 21. If approved, those granted SIJS are authorized to work, maintain a Social  
32 Security Number, receive assistance for housing and education, and eventually apply for lawful  
33 permanent residency, making SIJS an important legal lifeline for vulnerable immigrant youth,  
34 especially undocumented immigrant youth.

35 (b) Under 8 U.S.C. 1101(a)(27)(J), to apply for a SIJS visa, an applicant must be an  
36 unmarried noncitizen under 21 years of age; be presently residing in the United States; and  
37 possess a juvenile court order from a state court. The court order must find that the petitioner:

38 (1) Is dependent on the court or under custody of a state agency, department, or  
39 court-appointed guardian;

40 (2) Has suffered from abuse, neglect, abandonment, or other related reason that  
41 makes reunification with the petitioner's parents impossible; and

42 (3) It is in the best interest of the petitioner not to return to the previous country of  
43 nationality or the country of the last habitual residence of the petitioner or of the petitioner's  
44 parents.

45 (c) Despite the intended reach of this new visa, a number of eligible immigrant youth in  
46 the District may be unable to access these critical protections due to an inconsistency between  
47 District law and federal law. Under current District law, the Superior Court of the District of  
48 Columbia lacks authority over unmarried noncitizens who are at least 18 but younger than 21  
49 that would be consistent with federal SIJS petition requirements. Specifically, the court does not  
50 have authority over these youth except in certain, extremely-limited circumstances, such as the  
51 youth being under the care of the Child and Family Service Agency or being legally found to  
52 have been subjected to neglect. Because the court's authority over unmarried noncitizens who  
53 are at least age 18 but younger than 21 is limited, the court has no legal mechanism to issue the  
54 orders necessary to allow a number of eligible youth to apply for SIJS, even though federally  
55 SIJS petitioners are allowed to petition until the age of 21. The court also lacks the necessary  
56 authority to appoint guardians to unmarried noncitizens who are at least age 18 but younger than  
57 21, which can be a necessary component of the SIJS petition (8 U.S.C. 1101)(a)(27)(J) can  
58 require that applicants be under the custody of a court-appointed guardian). This lack of

59 authority prevents many immigrant youth (and in particular undocumented immigrant youth)  
60 who have suffered from abuse, abandonment, or neglect, in the District from accessing these  
61 critical federal protections as intended.

62 (d) There is a pressing need to address the lack of access to federal protections and lack  
63 of accessible guardianship appointments for immigrant youth, one of the District's most  
64 vulnerable populations. Child welfare organizations, advocacy groups, and experts testified at the  
65 Committee on the Judiciary and Public Safety's June 8, 2023, hearing on the Vulnerable Youth  
66 Guardianship Protection Amendment Act of 2023, as introduced on January 19, 2023 (B25-44)  
67 ("permanent bill"), that immigrant youth without the critical supports of guardianship are  
68 especially vulnerable to abuses such as human trafficking and housing insecurity. SIJS visas  
69 allow for the material benefits of access to employment, the procurement of a Social Security  
70 number, healthcare, assistance with housing and education, and eventually the possibility of  
71 applying for lawful permanent residency. The stability and safety that SIJS affords immigrant  
72 youth also fosters their emotional, psychological, and physical well-being, by providing them  
73 with a stable and supportive schooling environment, community, and household. With the  
74 protections of a SIJS visa, youth will not be forced to move from their friends and communities  
75 to other jurisdictions to try to meet SIJS petition deadlines. SIJS thus importantly shields  
76 immigrant youth from emotional and psychological suffering, exploitation and abuse,  
77 involvement in illegal activity, material instability, and housing insecurity.

78 (e) Since 2022, Texas and Arizona have bussed thousands of undocumented migrants  
79 arriving in their states to the District, leading the Mayor to describe the situation as a  
80 "humanitarian crisis," with the District "at a tipping point." It is federally estimated that more  
81 than one third of unaccompanied immigrant youth coming to the United States have already  
82 reached 17 years of age, meaning that when these youth arrive in the District they are already on

83 the verge of aging out of Superior Court authority should they wish to seek federal relief under  
84 SIJS while residing in the District. The combined influx of undocumented migrants from other  
85 jurisdictions, coupled with the misalignment between the District and federal law, means that,  
86 absent Council action, a large class of vulnerable District immigrant youth will be unable to seek  
87 legal relief afforded to them by federal law and will be unable to seek the care and support of a  
88 guardianship appointment while living in the District.

89 (f) Although the Committee on the Judiciary and Public Safety is actively considering  
90 permanent legislation to provide the court with this authority, the Council could pass that  
91 legislation at the earliest in fall 2023, after which the bill will need to undergo both Mayoral and  
92 congressional review. As a result, the permanent bill will not become effective until 2024 at the  
93 earliest, more than 6 months from now. The vulnerable immigrant youth the SIJS visa is  
94 intended to support cannot wait half a year or longer to be eligible for this critical relief. Thus, it  
95 is essential that the Council act as soon as possible to provide the court with the authority  
96 necessary to provide the requested supports for SIJS visa petitions, appoint guardians where  
97 appropriate, and otherwise provide support to these vulnerable youth. That said, the emergency  
98 measures here have an effective date of September 1, 2023, to ensure the court has sufficient  
99 time to prepare for the anticipated influx of new cases.

100 Sec. 3. The Council of the District of Columbia determines that the circumstances  
101 enumerated in section 2 constitute emergency circumstances making it necessary that the  
102 Vulnerable Youth Guardianship Protection Emergency Amendment Act of 2023 be adopted after  
103 a single reading.

104 Sec. 4. This resolution shall take effect immediately.