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## FISCAL IMPACT REPORT

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| <b>SPONSOR</b> <u>SHPAC</u>   | <b>LAST UPDATED</b> _____                              |
| <b>SHORT TITLE</b> <u>Special Immigrant Juvenile Classification Act</u> | <b>ORIGINAL DATE</b> <u>2/20/2023</u>                  |
|   | <b>BILL NUMBER</b> <u>CS/Senate Bill 229/SHPACS/ec</u> |
|   | <b>ANALYST</b> <u>Gray</u>                             |

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

|  | FY23                      | FY24                      | FY25                      | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--|---------------------------|---------------------------|---------------------------|-------------------|---------------------------|---------------|
|  | Indeterminate but minimal | Indeterminate but minimal | Indeterminate but minimal |                   |                           |               |

Parentheses ( ) indicate expenditure decreases.  
\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Administrative Office of the District Attorneys (AODA)  
 New Mexico Attorney General (NMAG)  
 Children Youth and Families Department (CYFD)  
 Office of Family Representation and Advocacy (OFRA)

## SUMMARY

### Synopsis of SHPAC Substitute of Senate Bill 229

The Senate Health and Public Affairs Committee substitute of Senate Bill 229 (SB229) contemplates enacting a new act concerning the determination of a child’s eligibility for classification as a special immigrant juvenile (SIJ). The bill would allow state juvenile courts to decide cases of child abuse and neglect for certain immigrant juveniles.

Federal law defines a SIJ classification that provides children the ability to seek lawful permanent residence when those children are subject to state juvenile court proceedings related to abuse, neglect, or abandonment.

The bill would allow an individual under the age of 21 years who alleges that returning to their country of origin is not in their best interest to apply for SIJ classification in children’s court. After review of the application, the court would determine whether

- The person is abused, neglected, or abandoned;

- The person may not be viably reunified with their parents; and
- It is not in the person’s best interest to be returned to their country of nationality.

The bill requires the act to be liberally interpreted.

***Differences between substitute and original.*** The SHPAC substitute redefines “court” more broadly to include any court with jurisdiction to make decisions concerning the protection, well-being, care or custody of a child. A provision of the application that “a child who applies to or petitions the court pursuant to this section is not required to name as a respondent a parent with whom reunification may be viable” has been removed with the substitute bill.

Finally, the applicability of the bill is expressly conditioned to denial or revocation by a federal immigration agency.

This bill contains an emergency clause and would become effective immediately on signature by the governor. The bill also provides that the act applies retroactively. See significant issues.

## **FISCAL IMPLICATIONS**

Neither CYFD, the courts, nor the Office of Family Representation and Advocacy specified fiscal impacts. The courts note that SB229 broadens jurisdiction and eligibility, which may increase court cases. These are indeterminate but minimal.

## **SIGNIFICANT ISSUES**

Some children across the nation and in New Mexico qualify but are not receiving the benefit of the SIJ classification. Backlogs and strict timeline requirements make it a risk that a child may miss out on an SIJ determination prior to turning 21. Children who reside in states where the age cutoff is below the federal threshold of 21 may face deportation.

The Children’s Code contains limited jurisdiction for court disposition of abuse and neglect proceedings. Under federal law, courts that make decisions on dependency and the custody and care of juveniles may make SIJS determinations. SB229 would expand the jurisdiction of the Children’s Code and would allow for Children’s Court to establish SIJS determinations in all matters under the Children’s Code, which includes delinquency, children’s behavioral health, families in need of court-ordered services, adoptions, Fostering Connections up to age 21, family representation and advocacy, and Indian family protection acts.

In particular, the bill would expand jurisdiction so that Children’s Court may make SIJ determinations for any individual under the age of 21 who fears returning to their home country. This is contrary to federal law, which states the primary reason for an SIJ determination is parental abuse, neglect, or abandonment.

Lastly, the retroactive provision would expand the eligible population for an SIJ determination to include individuals with no pending proceedings because the bill would apply to individuals whose cases had already been closed.

## TECHNICAL ISSUES

The bill defines “child” as “under 21 years of age.” This conflicts with the Children’s Code, which defines “child” as “less than eighteen years.”

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