

## **9 FAM 42.32(d)(6) FOURTH PREFERENCE SPECIAL IMMIGRANTS - CERTAIN JUVENILE COURT DEPENDENTS**

*(CT:VISA-1353; 10-21-2009)  
(Office of Origin: CA/VO/L/R)*

### **9 FAM 42.32(d)(6) RELATED STATUTORY PROVISIONS**

*(CT:VISA-1353; 10-21-2009)*

See INA 101(a)(27)(J) (8 U.S.C. 1101(a)(27)(J)), INA 203(b)(4) (8 U.S.C. 1153(b)(4)), INA 204(a)(1)(G)(i) (8 U.S.C. 1154(a)(1)(G)(i)), and INA 241(h) (8 U.S.C. 1231(h)), Amended by *section* 113 of *Public* Law 105-119; Nov. 26, 1997.

#### **INA 101(a)(27)(J)**

(J) an immigrant who is present in the United States—

- (i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State *or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with one or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;*
- (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and
- (iii) in whose case the *Secretary of Homeland Security* consents to the grant of special immigrant juvenile status; except that—

*(I) no juvenile court has jurisdiction to determine the custody status or placement of an alien in the custody of the Secretary of Health and Human Services unless the Secretary of Health and*

*Human Services specifically consents to such jurisdiction; and*

*(II) no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.*

### **INA 203(b)(4)**

b. Preference Allocation for Employment-Based Immigrants. - Aliens subject to the worldwide level specified in section 201(d) for employment-based immigrants in a fiscal year shall be allotted visas as follows:

- (4) Certain special immigrants. - Visas shall be made available, in a number not to exceed 7.1 percent of such worldwide level, to qualified special immigrants described in section 101(a)(27) (other than those described in subparagraph (A) or (B) thereof), of which not more than 5,000 may be made available in any fiscal year to special immigrants described in subclause (II) or (III) of section 101(a)(27)(C)(ii), and not more than 100 may be made available in any fiscal year to special immigrants, excluding spouses and children, who are described in section 101(a)(27)(M).

### **INA 204(a)(1)(G)(i)**

- (i) Any alien (other than a special immigrant under section 101(a)(27)(D)) desiring to be classified under section 203(b)(4), or any person on behalf of such an alien, may file a petition with the Attorney General for such classification.

### **INA 241(h)**

h. Statutory construction: Nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

## **9 FAM 42.23(d)(6) RELATED REGULATORY PROVISIONS**

*(CT:VISA-1353; 10-21-2009)*

### **Refer to 22 CFR 42.32(d)(6)**

*Section 42.32 Employment-based preference immigrants.*

*Aliens subject to the worldwide level specified in section 201(d) for employment-based immigrants in a fiscal year shall be allotted visas as indicated below.*

*(d) Fourth preference--Special immigrants—*

*(6) Certain juvenile court dependents. An alien shall be classifiable under INA 203(b)(4) as a special immigrant defined in INA 101(a)(27)(J) if the consular officer has received from DHS an approved petition to accord such status, or an official notification of such an approval, and the consular officer is satisfied the alien is within the class described in that section.*