

Assembly Joint Resolution

No. 41

Introduced by Assembly Member Nation

February 2, 2006

Assembly Joint Resolution No. 41—Relative to immigrant children.

LEGISLATIVE COUNSEL’S DIGEST

AJR 41, as introduced, Nation. Immigrant children.

This measure would urge the Congress and the President of the United States to protect unlawful immigrant children by amending the federal immigration law to permit unlawful immigrant children to have an immigration specialist assigned to them prior to their emancipation.

This measure would also urge Congress and the President of the United States to amend the federal Immigration and Nationality Act to allow a child who is adopted while he or she is a dependent of a juvenile court located in the United States to become a United States citizen without being fully admitted for permanent residence.

Fiscal committee: no.

1 WHEREAS, In the past few years, the number of
2 unaccompanied children taken into custody by immigration
3 officials has increased by nearly 30 percent, and is expected to
4 reach an all time high this year; and
5 WHEREAS, Congress has the power to regulate immigration
6 and naturalization (Art. I, Sec. 8, U.S. Const.); and
7 WHEREAS, Federal authority over immigration matters is
8 very broad; and
9 WHEREAS, Federal immigration law specifically provides
10 that a juvenile who is also an unlawful immigrant may be

1 accorded the status of special immigrant if (a) he or she has been
2 declared a dependent in a juvenile court, or is a person whom the
3 court has legally committed to, or placed under the custody of, an
4 agency or department of a state and he or she has been deemed
5 eligible by that court for long-term care due to abuse, neglect, or
6 abandonment, (b) he or she is a person for whom it has been
7 determined in administrative or judicial proceedings that it would
8 not be in his or her best interest to be returned to the juvenile's or
9 his or her parent's previous country of nationality or country of
10 last habitual residence, and (c) he or she is a person in whose
11 case the Attorney General expressly consents to the dependency
12 order serving as a precondition to the grant of special immigrant
13 juvenile status (8 U.S.C. Sec. 1101 (a)(27)(J)); and

14 WHEREAS, In California if an undocumented child has
15 become a dependent of a juvenile court because of abuse or
16 neglect and parent rights are terminated, than that child is eligible
17 for Special Immigrant Juvenile Status (SIJS); and

18 WHEREAS, The child can only obtain legal status while the
19 child is a dependent of the court; and

20 WHEREAS, If the child is not assigned an immigration
21 specialist to obtain SIJS prior to emancipation, his or her ability
22 of gaining legal status becomes practically null; and

23 WHEREAS, The Transitional Independent Living Plan (TILP)
24 was created to help prepare undocumented children to live on
25 their own; and

26 WHEREAS, The TILP is not mandatory and is only a
27 document of suggested guidelines; and

28 WHEREAS, Unless the Child Welfare and Juvenile Court
29 Systems ensure that eligible undocumented children obtain
30 lawful Special Immigrant Juveniles Status prior to their
31 emancipation, these children are destined for lives of instability
32 and fear as outsiders in the only country many have ever known;
33 now, therefore, be it

34 *Resolved by the Assembly and the Senate of the State of*
35 *California, jointly*, That the Legislature of the State of California
36 urges the President and the Congress of the United States to
37 protect these children; and be it further

38 *Resolved*, That the Legislature of the State of California urges
39 the Congress of the United States to amend the federal
40 immigration law to permit these children to have an immigration

1 specialist assigned to them prior to their emancipation; and be it
2 further

3 *Resolved*, That the Legislature of the State of California urges
4 the Congress of the United States to amend Section 320 of the
5 Immigration and Nationality Act to state that if a child has been
6 adopted while a dependent of a juvenile court located in the
7 United States, he or she need not be fully admitted for permanent
8 residence, as required by subsection (a)(3) in order to become a
9 United States citizen pursuant to this section; and be it further

10 *Resolved*, That the Chief Clerk of the Assembly transmit
11 copies of this resolution to the President of the United States, to
12 the United States Secretary for Homeland Security, and to each
13 Senator and Representative from California in the Congress of
14 the United States.