

§4099-I. At-risk noncitizen children

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "At-risk" means there is reasonable cause to suspect that a child's health, safety and welfare is in jeopardy due to abuse, neglect, abandonment or similar circumstances and that return to the child's or the child's parent's country of origin or country of last habitual residence would not be in the best interest of the child. [PL 2019, c. 366, §5 (NEW).]

B. Notwithstanding section 4002, subsection 2, "child" means an unmarried person who has not attained 21 years of age. [PL 2019, c. 366, §5 (NEW).]

C. "Court" includes, but is not limited to, the Probate Court and District Court, or any other state court with juvenile jurisdiction. [PL 2019, c. 366, §5 (NEW).]

D. "Dependent on the court" means subject to the jurisdiction of a court competent to make decisions concerning the protection, well-being, care and custody of a child for findings, orders or referrals to support the health, safety and welfare of a child or to remedy the effects on a child of abuse, neglect, abandonment or similar circumstances. [PL 2019, c. 366, §5 (NEW).]

E. "Noncitizen" means any person who is not a United States citizen. [PL 2019, c. 366, §5 (NEW).]

F. "Similar circumstances" means conditions that have an effect on a child comparable to abuse, neglect or abandonment, including, but not limited to, the death of a parent. [PL 2019, c. 366, §5 (NEW).]

[PL 2019, c. 366, §5 (NEW).]

2. Petition for special findings and rulings for certain at-risk noncitizen children. An at-risk noncitizen child may petition the court for special findings. Upon reviewing the petition or complaint seeking special findings, any supporting affidavits and other evidence presented, the court shall issue findings of fact and rulings of law that must determine whether the child who is the subject of the proceeding:

A. Is dependent on the court; [PL 2019, c. 366, §5 (NEW).]

B. Has suffered from abuse, neglect, abandonment or similar circumstances; [PL 2019, c. 366, §5 (NEW).]

C. May not be viably reunified with one or both parents due to abuse, neglect, abandonment or similar circumstances; and [PL 2019, c. 366, §5 (NEW).]

D. May not be returned to the child's or the child's parent's country of origin or country of last habitual residence because it is not in the best interest of the child. [PL 2019, c. 366, §5 (NEW).]

A court making a decision under this subsection is acting as a juvenile court in that it has jurisdiction over a child.

The health and safety of the child must be of paramount concern. When considering the child's health and safety, the court shall consider whether present or past living conditions will adversely affect the child's physical, mental or emotional health.

[PL 2019, c. 366, §5 (NEW).]

3. Notice. If the identity or location of the child's parents is unknown or if the parents reside outside of the United States, the court may serve notice using any alternative method of service the court determines is appropriate or waive service when the child is described in 8 United States Code, Section 1101(a)(27)(J)(2019) and 8 United States Code, Section 1357(h)(2019).

[PL 2019, c. 366, §5 (NEW).]

4. Expeditious adjudication. A court shall hear, adjudicate and issue findings of fact and rulings of law on any petition or complaint for special findings under this section as soon as it is administratively feasible and prior to the child reaching 21 years of age to serve the best interest of the child.

[PL 2019, c. 366, §5 (NEW).]

5. Availability of special findings. Special findings are available under subsection 2 for the protection, well-being, care and custody of an at-risk noncitizen child for whom a remedy is not otherwise available or appropriate under Title 18-C, Title 19-A or this Title.

[PL 2019, c. 366, §5 (NEW).]

6. Referral for services or protection. A child who is the subject of a petition for special findings under subsection 2 may be referred for psychiatric, psychological, educational, occupational, medical, dental or social services or for protection against human trafficking or domestic violence. Participation in any referred services is voluntary.

[PL 2019, c. 366, §5 (NEW).]

7. Additional available remedies; similar findings of fact and rulings of law. Nothing in this section prevents a petitioner from filing a complaint under Title 18-C, Title 19-A or this Title or for any other remedy available under the laws of this State to protect the at-risk noncitizen child from further abuse or other harm, or to provide support. Nothing in this section prevents the court from issuing similar findings of fact and rulings of law to those in subsection 2 in any other proceeding concerning a noncitizen child.

[PL 2019, c. 366, §5 (NEW).]

8. Construction. This section must be liberally construed to promote the best interest of the child.

[PL 2019, c. 366, §5 (NEW).]

SECTION HISTORY

PL 2019, c. 366, §5 (NEW).

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