

# Read It...

Take a journey through the pages that follow.

# Feel It...

Imagine yourself in this situation with your son or daughter.

# Fix It!

*You* can make the difference in someone's life!



**SueCares...**

**Do you?**

## CHILD AVAILABLE

CONTACT: CDSS Adoptions  
Rohnert Park District Office

This child's name is **Vicente**. He is an eight year old boy of Mexican heritage.



### CURRENT SITUATION:

Vicente is a healthy, charming eight year old who loves to joke around, play outside, eat spicy foods and work at arts and crafts. He is yearning to be in an environment that emphasizes physical activity and social interaction. He was born July 16, 1990. He is currently stable with a foster parent who is not interested in adoption. At this point, he prefers speaking English to Spanish.

### HISTORY

Vicente was raised by relatives in Mexico until he was five years old, when his birthmother brought him to the United States. In July, 1997, he was removed from his mother's care due to physical abuse. He always reminded her of his birthfather, who was abusive to his birthmother. He



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has been in three foster homes since being taken into custody. He has been in the current home since October, 1998.

#### BIRTH PARENTS:

The information currently available about the birthparents specifically pertains to their inability to parent the children. The birthmother is 30, and has three other (younger) children by another man. She is illiterate and often homeless, and has returned to Mexico.

The birthfather was reportedly very abusive to Vicente's mother, and sexually abused her as well as her younger sisters. The birthmother has always projected these characteristics onto Vicente. The father has had no known contact with Vicente in over seven years. He is in Mexico.

#### LEGAL STATUS:

Reunification services have been terminated. A hearing to terminate parental rights will be scheduled for March, 1999 to allow time to identify a potential adoptive family.

#### DEVELOPMENT AND EMOTIONAL STATUS:

Vicente appears to be functioning in the average range of conceptual development. A psychological evaluation is on file. Emotionally he appears to be resilient and somewhat anxious. He tends to avoid feelings. His self-esteem is low. Though superficially charming, friendly and affectionate, he will need some time to develop deeper attachments. He is working well in weekly therapy on these issues.

Vicente is approximately one year behind educationally, and is currently being assessed for learning disabilities and special programming needs. He receives ESL programming at school. He needs enriched help and supervision in this area, as he is understandably resistant to school, and can be very creative and manipulative in avoiding schoolwork.

#### NEEDS OF CHILD:

Vicente needs a caring, stable, committed permanent home, which he has never experienced. He responds very well to limit-setting and consistency. It is preferable that the parent(s) be experienced, patient, and available before and after school hours to facilitate attachment.



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## OUR LIFE AND WHY WE CARE

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**H**ave you ever met a little boy who by the young age of six had many scars on the top of his head where he'd been hit with a broom? Clorox bleach was poured over his head and he was scrubbed with SOS because he was too dark. If he tore his pants and didn't mend them properly, the needle was jabbed into his hand repeatedly. This little boy suffered all of this abuse *and more* at the hand of the one person he trusted most—his mom. When she put an inch-and-a-half gash into the back of his head, he was finally removed from her care by Child Protection Services and placed in foster care. The reunification process ended when his mom took his brothers and sister back to Mexico, abandoning him and leaving him a dependent of the courts. When a judge deemed that it was not in his best interest to return to Mexico, parental rights were consequently terminated by the courts.

### *You have just been introduced to Vicente.*

When Vicente was eight years old, my husband and I adopted this precious little boy who had endured so much. A year later when applying for his social security card, I was informed that Vicente did not have legal status in the United States. After several phone calls to the State Adoption Agency, immigration attorneys and the Human Services Dept., I learned that you can legally adopt a child who does not have legal status. My son was therefore subject to being deported at any time. My fears escalated to the point of devising a plan to hide Vicente—my son—to protect him if need be. I thank God that this plan never had to come to fruition...at least for *my* family.



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**CURRENT IMMIGRATION LAW FOR  
UNDOCUMENTED CHILDREN EMANCIPATING OUT OF THE SYSTEM**

**I**f an undocumented child has become a dependent of a juvenile court because of abuse or neglect and parental rights are terminated, then that child is eligible for Special Immigrant Juvenile Status (SIJS).

**THE CATCH...** The child can only obtain legal status while the child is a dependent of the court. Unfortunately, there are no current laws to require the assignment of an Immigration Specialist to ensure that this will happen.

If the child is not assigned an Immigration Specialist to obtain SIJS prior to emancipation, there is little or no hope of gaining legal status even though many of these children were brought here as infants and have lived almost their entire lives in the United States.

The Transitional Independent Living Plan (TILP) was created to help prepare these children to live on their own, presumably to create productive lives for themselves through work and higher education. Unfortunately, the TILP is not mandatory and is nothing more than suggested guidelines. So, even with the best of intentions, it becomes almost meaningless because without legal status they have no legal ability to work in the United States and have no access to federal financial aid to further their educations. Without these crucial tools, they lack a path to self-sufficiency and success.

To further complicate the situation:

- An 18-year-old undocumented child has six months to return to his/her home country to apply with the American consulate to re-enter the United States legally. If the child turns 18½ prior to returning to his/her home country the child will be barred from re-entering the United States for *three years*.
- If the child turns 19, there is a *ten-year bar* from returning to the United States.

Unless the child welfare and juvenile court systems ensure that eligible undocumented children obtain lawful status as Special Immigrant Juveniles prior to their emancipation, these children are destined for lives of instability and fear as outsiders in the only country many have ever known. They should be given a better future than this.



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## STATE LEGISLATION

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### PREVIOUSLY PROPOSED LEGISLATION ASSEMBLY BILL 1338

AB 1338

An excerpt from the Legislative Counsel's Digest

"...This bill would additionally require that a dependent child of the court who is not a lawful permanent resident or citizen of the United States and for whom the court has determined parental reunification is no longer an option, be provided an attorney specializing in immigration law who may pursue special immigrant status or any other avenue to obtain legal permanent resident status or citizenship for that child. The bill would require the Judicial Council to promulgate specified rules of court in relation to the qualifications of those attorneys...."

For more information or to view AB 1338 in its entirety, go to:

[www.SueCares.com](http://www.SueCares.com)  
[www.LegInfo.ca.gov](http://www.LegInfo.ca.gov)

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### GOVERNOR SCHWARZENEGGER'S VETO MESSAGE

Bill Number: AB 1338  
Vetoed: Date 10/7/2005

To the Members of the California State Assembly:

I am returning Assembly Bill 1338 without my signature.

This bill is similar to AB 1795 which I vetoed last year. I support policies that provide children and their advocates with means to obtain and exercise their rights, however this bill is unnecessary. This bill is an **overly broad** and **costly** response to a problem that **may be resolved administratively**.

The Department of Social Services has taken steps to minimize this potential problem for foster youth by recently developing regulations that require a Transitional Independent Living Plan to be completed for each child in foster care. This plan includes a variety of issues, including addressing immigration status. This should enable the immigration process to be started sooner.

Current law requires the court to appoint an attorney to represent the child in dependency proceedings. In addition, counties have the option of appointing an attorney to assist in resolving the immigration status of a child. This bill will apply an overbroad solution to all counties regardless of the individual needs of each jurisdiction.

For the reasons stated above I am unable to support this measure.

Sincerely,

Arnold Schwarzenegger



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## SUECARES' RESPONSE TO AB 1338 VETO MESSAGE

SueCares submitted the following response to various members of the community and the press:

AB 1338 was introduced for children who have been made dependents of the court—children who do not have legal status in the United States and who have been abused and/or neglected and removed from parental care **by the courts**. With parental rights terminated, they can be adopted, even without legal status. Those children who are not lucky enough to be adopted emancipate out of the system, again without legal status. These children are in danger of deportation at all times.

AB 1338 would have required that these children be assigned an immigration specialist. Again, “these children” are those for whom the courts have taken responsibility by terminating parental rights. If we don’t give these children legal rights, what exactly have we done for them?

*(The following refer to specific language found in the Governor’s veto message.)*

**“overly broad”**: If 400 children out of 10.4 million children in California is overly broad, then I guess it’s a matter of interpretation.

**“costly”**: In 2004, the Governor vetoed AB 1895 because of the cost. In an effort to get AB 1338 passed in 2005, the cost was removed with the intention of securing private funding.

**“may be resolved administratively”** (refers to the Transitional Independent Living Plan): The Governor is right, the TILP does address immigration Status. The problem? The TILP is not *mandatory*. It’s nothing more than *suggested guidelines*.

**Conclusion**: Children who are adopted or emancipate without legal status continue to be in danger of deportation The courts are not required to assign an immigration specialist to protect them.

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## INTERESTING QUOTES BY GOVERNOR SCHWARZENEGGER

“As you know, I'm an immigrant. I came over here as an immigrant, and what gave me the opportunities, what made me to be here today, is the open arms of Americans. I have been received. I have been adopted by America.”

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“Everything I have, my career, my success, my family, I owe to America.”

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“As long as I live, I will never forget that day 21 years ago when I raised my hand and took the oath of citizenship. Do you know how proud I was? I was so proud that I walked around with an American flag around my shoulders all day long.”

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“In this country, it doesn’t make any difference where you were born. It doesn’t make any difference who your parents were. It doesn’t make any difference if, like me, you couldn’t even speak English until you were in your twenties.”



**PROCEDURES UNDER CURRENT LAW  
FOR ADOPTIVE PARENTS OF UNDOCUMENTED CHILDREN**

If a child is made a dependent of the court because of abuse and/or neglect, the courts terminate parental rights *and* this child does not have legal status in this country, adoptive parents must follow these procedures in order to gain legal status for their adopted child. If these procedures are not followed, the child will *not* have legal status and is vulnerable to deportation.

- The child must remain in the legal, physical custody of the adoptive parents for two years, at which point they can request an interview with the American Consulate in the child's home country.
- It takes one to two years to get the interview.
- At the time of the interview, the adoptive parents must take the child back to the home country and ask the consulate for permission to bring their adopted child back into the United States. There is always a possibility that permission will be denied and the child will not be able to re-enter the United States with his/her adoptive parents.
- If an adopted child turns 18 prior to the interview, he/she has to go back to his/her home country and wait for the interview. Some of these children have been in the United States since they were infants or small children and don't even speak their home language.
- If an 18-year-old does not return to his/her home country and turns 18½ before the interview, when the child does go to the interview, the child will be barred from re-entering the United States for three years.
- If the child turns 19, there is a ten-year bar from returning to the United States.

***Remember, the courts have taken responsibility for these children by making them dependents of the court and terminating parental rights.***



**IMMIGRATION AND NATIONALITY ACT, SECTION 320**

Congresswoman Lynn Woolsey has drafted an amendment to the following section of the U.S. Code:

**320 CHILD BORN OUTSIDE OF UNITED STATES OF ONE ALIEN AND ONE CITIZEN PARENT AT TIME OF BIRTH; CONDITIONS UNDER WHICH CITIZENSHIP AUTOMATICALLY ACQUIRED**

SEC. 320. [8 U.S.C. 1431]

(a) A child born outside of the United States, one of whose parents at the time of the child's birth was an alien and the other of whose parents then was and never thereafter ceased to be a citizen of the United States, shall, if such alien parent is naturalized, become a citizen of the United States, when-

(1) such naturalization takes place while such child is under the age of eighteen years; and

(2) such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of naturalization or thereafter and begins to reside permanently in the United States while under the age of eighteen years.

(b) Subsection (a) of this section shall apply to an adopted child only if the child is residing in the United States at the time of naturalization of such adoptive parent, in the custody of his adoptive parents, pursuant to a lawful admission for permanent residence.

**PROPOSED AMENDMENT TO SECTION 320  
OF THE IMMIGRATION AND NATIONALITY ACT**

**Proposed by Congresswoman Lynn Woolsey**

**Dependent Child Citizen Act of 2005**

Amendment to Section 320 of the Immigration and Nationality Act.

At the end of Section 320 (b) add:

If such a child has been adopted while a dependent on a juvenile court located in the United States, he or she need not be lawfully admitted for permanent residence as required by subsection (a)(3) in order to become a United States Citizen pursuant to this section.



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## FAQs

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1. Can you legally adopt a child that does not have legal status?

Yes, if the courts determine that it is in the best interest of the child.

2. Do adoptive parents have to be informed of a child's legal status?

No—this leaves the child vulnerable to deportation, unbeknownst to the adoptive parents.

If the child turns 18½ and has not gained legal status, he/she is subject to a three-year bar from the United States. At age 19, he/she is subject to a ten-year bar. (See *page* for further explanation.)

If the adoptive parents learn that the child does not have legal status, they must suffer the emotional and financial burden of navigating the immigration system to protect their child.

3. Is a child caught crossing the border eligible for the Dependent Child Citizen Act of 2005?

These children are immediately placed in deportation proceedings. If for some reason the child ends up in foster care, the child is automatically eligible for Special Immigrant Juvenile Status (SIJS) which supersedes the Dependent Child Citizen Act of 2005.

4. If a child gains legal status through Dependent Child Citizen Act of 2005, can the birth parent(s) use that child as an avenue to claim *any* rights in the United States?

NO! The courts have already terminated parental rights.

5. If a child gains legal status through Dependent Child Citizen Act of 2005, can a birth parent or a natural sibling gain legal status?

NO! Parental rights have been terminated, leaving this child with no legal ties to its birth parents and natural siblings.

6. What's the difference between a *ward* of the court and a *dependent* of the court?

*Ward of the Court:*

A child who has come within the jurisdiction of the Juvenile Court due to a delinquent or criminal act.

*Dependent of the Court:*

A child who has come within the jurisdiction of the Juvenile Court because of abuse or neglect.

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## SUECARES SCHOLARSHIP PROGRAM

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**A**fter children emancipate out of the foster care system, they are left to survive on their own. Continued education is costly and to many of these children, college is a dream—not a reality. For this reason, SueCares is creating a scholarship program for children in the foster care system to help make their dreams a reality.

After meeting a wonderful young man by the name of Hemal, I realized how important a scholarship program is for children in the foster care system. Hemal was a dependent of the court and parental rights were terminated when he was just a young boy. Because he was not assigned immigration counsel, he has never obtained his legal status, only his residence card. Once he emancipated out of the system, Hemal began to work full time to put himself through school. Now at the young age of 24, Hemal is a senior studying political science with a desire to go to law school. However, he still does not have his citizenship and is therefore not eligible for conventional scholarships. Because he has worked full time to put himself through college, his grades suffered—he's not sure he will even be accepted by a law school.

Hemal is a smart, respectful and well-respected young man with a desire to succeed. I myself have so much respect for this young man that he is the reason that I have decided to start a scholarship program through SueCares.

As the scholarship program evolves, our website will be updated, so please check it often. If you are interested in donating to SueCares in support of the scholarship program, you can do so in either of two ways:

- Send your check payable to **SueCares Scholarship Program** to:

SueCares Scholarship Program  
P.O. Box 302  
Cotati, CA 94931

- Visit our website at [www.SueCares.com](http://www.SueCares.com) and click on the Scholarship page or the Donations page.



**SueCares...**  
**Do you?**

If you have **read** this,

You had to **feel** it.

Now here's how you can

**Fix It!**

**You can make the difference in someone's life.**

- Support SueCares' Scholarship program with a donation of any size.
- Contact your Senator or Representative to make sure they are aware of this problem.
- Talk to your community, friends and family to bring attention to this problem.
- Support future legislation as it is introduced. Democrats and Republicans alike are adopting these children.



**Vicente   Jerry   Sue   Nathan   Garrett**

We made a difference for one little boy.  
**You** have the power to make a difference for **many**.



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**Do you?**