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June 20, 2018

Senator Karen E. Spilka
Chair, Senate Ways and Means
State House Room 212
Boston, MA 02133

Rep. Jeffrey Sánchez
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State House Room 243
Boston, MA 02133

Senator Joan B. Lovely
Vice Chair, Senate Ways and Means
State House Room 413-A
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State House Room 238
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Senator Viriato M. deMacedo
State House Room 313-C
Boston, MA 02133

Representative Todd M. Smola
State House Room 124
Boston, MA 02133

Re: S.2530, Outside Sections 83 and 186 on Special Immigrant Juveniles

Dear Conference Committee Members:

I write as president of the Boston Bar Association (BBA), a volunteer organization of more than 13,000 attorneys drawn from private practice, corporations, government agencies, legal-aid organizations, the courts, and law schools. Our mission is to advance the highest standards of excellence for the legal profession, facilitate access to justice, serve the community at large and promote diversity and inclusion.

The BBA is proud to support Outside Sections 83 and 186 in S.2530, which relates to Special Immigrant Juveniles and would provide critical access to justice for a small set of vulnerable young people between the ages of 18 and 21. This provision would simply allow those individuals to make the case to federal authorities that they qualify for special status under existing federal law, because they have been abused, neglected, or abandoned, and would be at risk if returned to their home countries.

The BBA has long been concerned about this issue. In 2015, we filed an amicus brief in *Recinos v. Escobar*, arguing that the Probate & Family Court has jurisdiction, in equity, over those seeking status as special immigrant juveniles (SIJ's) and may make predicate special findings to support SIJ applications for those up to age 21. Although the Court accepted that argument, the ruling did not obviate the need for a statutory remedy as a permanent and comprehensive solution to this limited but urgent problem.

In fact, the U.S. Citizenship and Immigration Services (USCIS) has recently begun acting in defiance of the spirit, if not the letter, of *Recinos*, finding that SIJ applicants who are over the age of 18 have not met their burden of proof, and claiming that the Legislature "has established that a child is someone under the age of 18" and that therefore our Juvenile Court lacks jurisdiction to make the necessary dependency findings for anyone between 18 and 21.

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Outside Section 83 and 186 will explicitly codify *Recinos*, granting the Court that statutory jurisdiction, applicable retroactive to the date of the *Recinos* decision and to any petitions that were wrongfully denied or revoked in this manner, based on the child's age.

As lawyers, we recognize that while the courts enjoy significant power to right wrongs through their equitable jurisdiction, only the Legislature can act to provide clear statutory parameters and guidelines for the courts' authority. Here, given the position of the USCIS, it is even clearer that legislation is the only mechanism by which a pathway to stable legal status can be offered to all at-risk juveniles who meet the federal law's requirements, without having to rely on the discretion and the legal interpretations of individual judges on a case-by-case basis. Furthermore, these bills spell out a well-defined framework for the courts in handling such cases – helping judges and their staffs, as well as applicants and their legal counsel (if any) to understand how to file and pursue a claim.

This proposal has the support of the courts, bar associations, and legal-service providers who represent the individuals whose ability to stay in Massachusetts – and with it their safety and security – are at stake. Indeed, attached are letters from Chief Justice of the Trial Court and the Chief Justice of the Probate & Family Court, both requesting favorable action on this measure. On behalf of the BBA, I urge you to include Outside Sections 83 and 186 in the FY19 Budget, and thus help extend access to justice to a small group of neglected, abused, and abandoned young people who have nowhere else to turn.

Sincerely,



Mark Smith
President

cc: Senate President Harriette Chandler, Room 332
House Speaker Robert DeLeo, Room 356
Joint Committee on the Judiciary Chairperson Claire Cronin, Room 136
Joint Committee on the Judiciary Chairperson William Brownsberger, Room 504
Senator Cynthia Stone Creem, Room 312-A
Representative Louis Kafka, Room 185