

Active Efforts in ICWA: Legal Requirements, Practice, and Application

Exploring legal frameworks and practical implementations

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Agenda Overview



- Definition and Scope of Active Efforts in ICWA
- Legal Standards and Burden of Proof for Active Efforts
- Comparison of Active Efforts and Reasonable Efforts
- Involvement of Extended Family and Tribal Resources
- Federal Laws Interacting with ICWA Active Efforts Requirement
- Application of Active Efforts in Voluntary and Involuntary Proceedings
- Court Opinions and Case Law Interpreting Active Efforts
- Applicable Federal Law and ICWA Topics Overview

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Definition and Scope of Active Efforts in ICWA

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Legal definition and regulatory requirements for active efforts

Definition of Active Efforts

Active efforts are affirmative and timely actions to reunite or maintain Indian children with their families.

Tailored Family Assessments

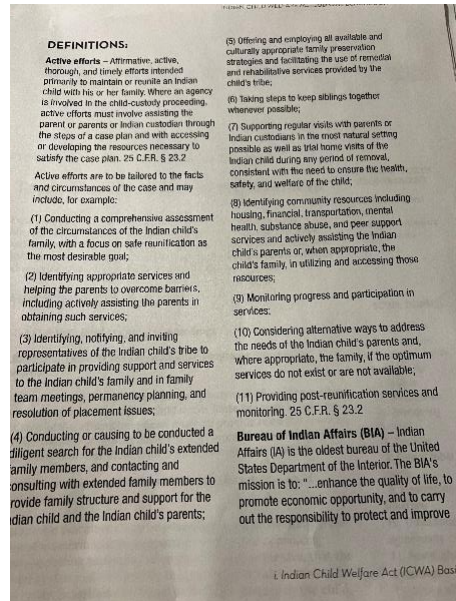
Efforts include thorough assessments focused on safe reunification as the primary goal in each case.

Tribal Participation and Support

Involving the Indian child's tribe to provide support and participate in family team meetings and planning.

Resource Identification and Assistance

Identifying and helping families access community resources like housing, health, and financial support services.



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Examples of Active Efforts



Coordinating Community Resources

Active efforts involve working closely with community partners to connect families to valuable local resources and support services.

Culturally Relevant and Direct Services

Providing culturally relevant services, conducting home visits, and offering transportation ensure equitable and accessible support for every family.

Family Engagement and Collaboration

Engaging extended family and developing service plans collaboratively empower families and respect their voices in decision-making.

Monitoring and Adapting Interventions

Regular case review, consistent progress monitoring, and adjusting interventions ensure services fit the family's evolving needs.

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Role of the Bureau of Indian Affairs in ICWA cases

Active Efforts in ICWA

Active efforts refer to thorough and timely actions to maintain or reunite Indian children with their families.

Family and Tribal Involvement

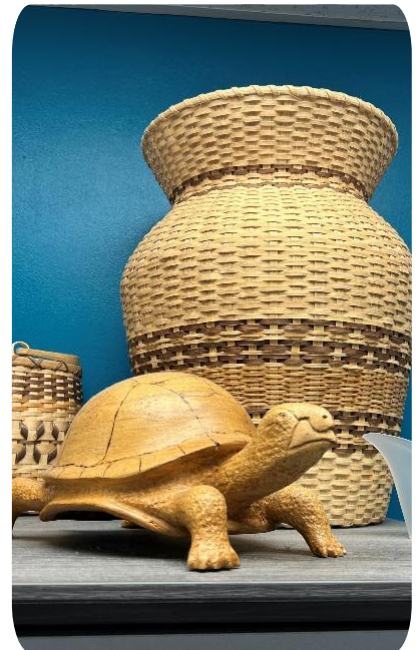
Efforts include involving tribal representatives and extended family to support the child and parents.

Comprehensive Support Services

Identifying community resources like housing, mental health, and financial aid is key in ICWA cases.

Role of Bureau of Indian Affairs

The BIA promotes economic opportunity and protects the welfare of Indian children in custody cases.



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Legal Standards and Burden of Proof for Active Efforts

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Burden of proof in termination of parental rights under ICWA



Burden of Proof Standard

Termination of parental rights under ICWA requires evidence beyond a reasonable doubt, including expert testimony.

Party with Burden of Proof

The party petitioning termination must prove parental rights should be terminated with sufficient evidence.

Criteria for Termination

It must be proven the parent's custody likely causes serious emotional or physical harm to the child.

Additional Legal Protections

State laws may require additional factors to protect parents before termination under ICWA occurs.

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Burden of proof for demonstrating active efforts in court

Voluntary vs Involuntary Proceedings

Active efforts are not required if a parent voluntarily consents to terminate rights, but mandatory in involuntary cases.

Active Efforts in Private Cases

Private parties must provide active efforts and courts may refer parents to rehabilitation services before termination decisions.

Burden of Proof Standards

Courts apply different burdens of proof: clear and convincing, beyond reasonable doubt, or lesser standards based on state law.

State Court Examples

Various state courts apply different burden of proof standards in child custody and termination proceedings.



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State variations in burden of proof for active efforts

Legal Cases Across States

Various states apply different burdens of proof related to active efforts in family reunification cases.

Reasonable Efforts Requirement

The Adoption Assistance and Child Welfare Act mandates reasonable efforts to preserve and reunify families after child removal.

Active Efforts Stringency

ICWA requires active efforts in every case, a more stringent standard than reasonable efforts, with no exceptions.

Practice Guidance

A party should not deny reunification if reasonable efforts are met, even if active efforts are questioned.



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Comparison of Active Efforts and Reasonable Efforts

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Active Efforts Definition

Active efforts require heightened responsibility and engagement beyond passive or reasonable efforts.

Reasonable Efforts Explained

Reasonable efforts generally involve referrals and expect families to seek help independently.

Cultural and Tribal Considerations

Active efforts include respecting social, cultural conditions and utilizing tribal and extended family resources.

Legal Mandate and Challenges

Active efforts are mandated by law without exceptions, requiring thorough engagement even in challenging situations.

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Legal and practical implications of the two standards



State Court Cases Overview

Various state courts have addressed standards for reasonable and active efforts in child welfare cases.

Reasonable Efforts Definition

Reasonable efforts are required by the Adoption Assistance and Child Welfare Act to preserve and reunify families after child removal.

Active Efforts Requirement

ICWA mandates active efforts in every case without exception, a more stringent standard than reasonable efforts.

Legal Practice Tip

Meeting reasonable efforts should prevent arguments against reunification due to unmet active efforts requirements.

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Practice tips for meeting the active efforts requirement

Active vs Reasonable Efforts

Active efforts require engaging families directly, unlike reasonable efforts which mainly offer referrals for help.

Cultural and Tribal Considerations

Active efforts must consider the child's tribal culture, involving extended family and tribal resources extensively.

Legal Mandate and Resource Use

Resource limitations do not excuse failure to make active efforts as mandated by ICWA and relevant laws.



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Involvement of Extended Family and Tribal Resources

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Guidelines for including extended family in active efforts



Active Efforts Requirement

Active efforts are required to meet the needs of Indian children and families before terminating parental rights.

Role of Extended Family

Extended family and tribal resources must be involved to support the child and family under BIA guidelines.

Cultural and Tribal Considerations

Courts must consider tribal social and cultural conditions to preserve Indian family relations and prevent unwarranted removals.

Impact of Legislation

The Adoption and Safe Families Act modifies how active efforts are applied in Indian Child Welfare Act cases.

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Utilization of tribal and community resources



Definition of Active Efforts

Active efforts require more responsibility than reasonable efforts, involving hands-on support rather than passive plans.

Incorporation of Tribal Resources

Active efforts must include using tribal culture, extended family, social services, and individual caregivers.

Legal Mandate and Challenges

No exceptions exist to the active efforts mandate even if resources are limited; courts emphasize thorough engagement.

Practical Implications

Active efforts focus on remedying underlying issues through tailored, culturally aware social work practices.

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Cultural considerations in providing active efforts

Definition of Active Efforts

Active efforts require more responsibility than reasonable efforts, involving guided support through reunification plans.

Cultural and Social Considerations

Active efforts must consider tribal culture, social conditions, and use extended family and tribal resources.

Legal Mandate and Practice Tips

Courts mandate active efforts without exceptions; lack of resources or incarceration are not acceptable excuses.

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Federal Laws Interacting with ICWA Active Efforts Requirement

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Impact of the Adoption and Safe Families Act (ASFA) on ICWA

ASFA's Effect on ICWA

ASFA does not change ICWA's active efforts requirement but recognizes exceptions for aggravated abuse cases.

Title IV-E and Tribal Jurisdiction

Title IV-E funding excludes tribes with jurisdiction over foster care, limiting support for tribal children and services.

Cooperative Agreements Challenges

Some tribes share Title IV-E funds with states, but legal barriers limit widespread cooperative agreements.

Need for Legislative Change

Congress must address current legal barriers to better support tribal foster care systems and resources.



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Interaction of Title IV-E of the Social Security Act with ICWA

ASFA and ICWA Relationship

ASFA does not alter ICWA's active efforts requirement despite recognizing some exceptions for reasonable efforts.

Title IV-E Reimbursement Requirements

Title IV-E mandates reasonable efforts for family reunification or child maintenance for federal foster care funding.

Tribal Funding Limitations

Tribes lack direct access to Title IV-E funds, limiting support for tribal foster and adoptive care services.

Need for Congressional Action

Legal barriers hinder tribal-state funding agreements under Title IV-E, requiring Congress to address inequities.



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Barriers to tribal access to federal funding and cooperative agreements

ASFA and ICWA Requirements

ASFA does not change ICWA's active efforts requirement despite recognizing exceptional circumstances.

Title IV-E Funding Limitations

Title IV-E restricts tribal access to funds for foster care services and administrative reimbursements.

Impact on Tribal Services

Limited funding access causes resource strain and disadvantages tribal children in foster care.

Cooperative Agreements Challenges

Current laws hinder most tribes and states from forming cooperative funding agreements.



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Application of Active Efforts in Voluntary and Involuntary Proceedings

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Active efforts in voluntary termination of parental rights



Voluntary Termination Rights

Courts hold that voluntary termination of parental rights does not require active efforts to prevent termination.

Active Efforts in Involuntary Cases

Active efforts are required in involuntary proceedings even if the parent consents later to the placement or termination.

Role of Private Parties

Private parties in stepparent adoption must provide active efforts, with courts referring biological parents to services.

Burden of Proof Variations

Different courts apply varying burdens of proof for active efforts, from clear and convincing to beyond a reasonable doubt.

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Obligations of private parties and state courts in providing active efforts

Active Efforts Requirement

Active efforts are required in involuntary proceedings even if the parent later consents to placement or petition admission.

Private Party Obligations

Private parties initiating custody proceedings must provide active efforts, sometimes requiring court referral to rehabilitative services.

Burden of Proof Variations

Different courts apply varying burdens of proof, including clear and convincing or beyond reasonable doubt standards.



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Service requirements for foster care placement and termination of parental rights

Parental Rights Termination Criteria

Termination requires evidence beyond a reasonable doubt that the child faces serious emotional or physical harm if custody continues.

Active Efforts Requirement

Parties must prove active efforts to provide remedial services to prevent family breakup before foster care placement or termination.

Role of Expert Witnesses

Qualified expert testimony is essential to determine the likelihood of harm to the child in custody decisions.

Legal Framework and Compliance

Indian Child Welfare Act and related federal laws set high standards to protect children's rights and family integrity.



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Court Opinions and Case Law Interpreting Active Efforts

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Key federal and state court decisions on active efforts

Poverty Not Grounds for Termination

General poverty or social conditions alone cannot justify terminating parental rights under BIA guidelines.

Bonding Not Basis for Termination

Courts reject bonding issues as sole grounds for parental rights termination, emphasizing child welfare and ICWA compliance.

Protecting Stable Environments

Removing a child from a stable environment can cause serious emotional harm and is often discouraged by courts.



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Cases addressing bonding and termination of parental rights

Poverty Not Grounds for Termination

General poverty conditions alone do not justify termination of parental rights under BIA guidelines.

Bonding Not Grounds for Termination

Courts generally reject lack of bonding as sufficient reason for terminating parental rights, especially under ICWA.

Protecting Child's Stability

Removing a child from the only stable environment can cause serious emotional harm, influencing court decisions.

13.2 - What is the burden of proof for termination of parental rights to an Indian child under the ICWA?

The Indian Child Welfare Act (ICWA) 192(f) provides that "[n]o termination of parental rights may be ordered in such proceedings in the absence of a determination, supported by evidence beyond a reasonable doubt, including the testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child." *In re O.S.*, 2005 SD 86, 4-7, 701 N.W.2d 421, 424; *In re A.N.*, 2005 MT 19, 16-23, 325 Mont. 379, 383-85, 106 P.3d 556, 560.

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13.3 - Who has the burden of proof to demonstrate that parental rights should be terminated?

The party petitioning to have parental rights terminated has the burden of proof. *E.N. v. State*, 856 P.2d 468 (Alaska 1993); *D.W.J.I. v. Cabinet For Human Res.*, 706 S.W.2d 840, 842-43, (Ky. Ct. App. 1986).

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13.4 - What must be proved under 192(f) to show that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child?

It must be shown, beyond a reasonable doubt, that the conduct of the parents or Indian custodian, is likely to harm the child and that the parent, or Indian custodian, is unlikely to change the harmful conduct. *Indian Child Custody Proceedings*, 44 Fed. Reg. 67,584, 67,593 (Bureau of Indian Affairs Nov. 26, 1979) (guidelines for state courts); *E.A. v. State*, 46 P.3d 986, 992 (Alaska 2002); *In re J.W.*, 921 P.2d 604, 607 (Alaska 1996).

Practice Tip:

In addition to proving the ICWA standard, state law may require the party to prove other factors, which may give the parents more protection, prior to termination of parental rights.

Note that ICWA applies to a termination of parental rights proceeding even when it is the non-Indian parent whose rights are at issue. See, e.g., *C.J. v. State*, 18 P.3d 1234, 1237 (Alaska 2001); *In re T.N.F.*, 781 P.2d 973, 975, 978 (Alaska 1989) (holding ICWA

Reasonable Efforts Explained

Reasonable efforts are legally required actions to preserve and reunify families after a child's removal.

Active Efforts Requirement

Active efforts are a strict legal mandate in ICWA cases, requiring thorough steps to support family reunification.

State Law Variations

Different states apply varying burdens of proof and standards for active and reasonable efforts under their laws.

Legal Practice Tip

Meeting reasonable efforts should not negate the need for active efforts in family reunification cases.

efforts requirement applies even if the parent or Indian custodian ultimately voluntarily consents to a placement or admits the petition initiating the proceeding.

In some circumstances it may appear to be impractical for the party initiating the child custody proceeding to be required to provide "active efforts." This is true, for example, in stepparent adoption proceedings where the initiating party is a private party. However, a private party is obligated as a matter of law to provide active efforts. See, e.g., *In re N.B.*, No. 06CA1325 (Colo. Ct. App. Sept. 6, 2007). In these situations, the onus may also fall upon the state court to refer the biological parent to appropriate services to rehabilitate that parent prior to making the decision whether to terminate parental rights and permit the adoption.

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12.2 - What is the burden of proof to show that active efforts have been provided?

Section 192(f) does not contain a burden of proof. Some courts will apply the burden of proof required in the underlying action. They will apply the clear and convincing burden required in a foster care placement under 192(b) and the beyond a reasonable doubt burden required in a termination of parental rights under 192(f). Other state courts, on the other hand, will apply a lesser burden based on state law.

Courts Applying the Burden of the Underlying Proceeding

Iowa: *In re L.N.W.*, 457 N.W.2d 17 (Iowa Ct. App. 1990) (applying the 192(f) "beyond a reasonable doubt" standard in TPR)

Court opinions on the necessity and scope of active efforts

Applicable Federal Law and ICWA Topics Overview

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Summary of 25 U.S.C. § 1912 and remedial services requirements

Active Efforts Requirement

Courts require proof of active efforts to provide remedial and rehabilitative services to prevent Indian family breakup before foster care placement.

Clear and Convincing Evidence

Foster care placement orders must be supported by clear evidence that parental custody risks serious harm to the child.

Legal Framework and Guidance

The Indian Child Welfare Act provides legal guidelines to safeguard Native American children's family integrity through federal statutes.



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Evidence requirements for foster care and termination orders

Active Efforts Requirement

Courts require proof of active efforts to provide remedial services before foster care placement or termination.

Clear and Convincing Evidence

Foster care orders need clear, convincing evidence including expert testimony of potential harm to the child.

Prevention of Family Breakup

Legal standards focus on preventing breakup of Indian families through rehabilitative programs and services.



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Overview of ICWA topics related to active efforts

Active Efforts Requirement

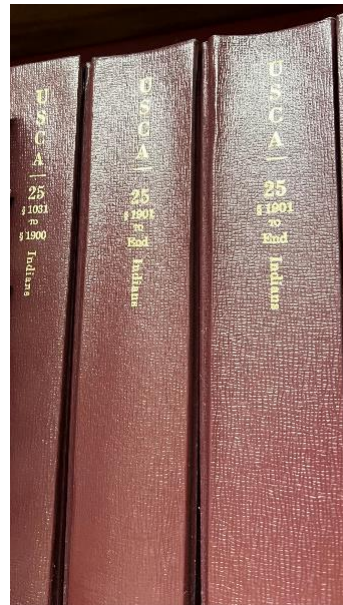
Courts require proof of active efforts to provide remedial and rehabilitative services before foster care placement of Indian children.

Federal Law Overview

25 U.S.C. § 1912 mandates clear evidence that parental custody risks serious harm before foster placement decisions.

ICWA Topics Summary

The Indian Child Welfare Act covers topics from jurisdiction to foster care placement and active efforts requirements.



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Conclusion: Strengthening Child Welfare Through Active Efforts in ICWA

Role of Active Efforts

Active efforts under ICWA are crucial for protecting Native children's welfare and preserving cultural ties.

Involving Family and Tribal Resources

Engaging extended family and tribal resources ensures culturally sensitive and effective child welfare practices.

Legal Compliance and Interpretation

Understanding federal laws and court rulings helps ensure compliance and protects Native children's rights.

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ICWA Qualified Expert Witnesses: Requirements, Roles, and Practice

Understanding standards for expert witnesses in ICWA cases

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Agenda for ICWA Expert Witnesses

- Requirements for Expert Witnesses in ICWA Cases
- Qualifications and Types of ICWA Expert Witnesses
- Role and Use of Expert Testimony in ICWA Proceedings
- Challenging and Reviewing Expert Witness Qualifications
- Consequences of Failing to Use a Qualified Expert Witness
- State and Tribal Social Workers as Expert Witnesses
- Expert Witness Testimony: Direct Contact and Methods
- Locating and Identifying Qualified Expert Witnesses

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Requirements for Expert Witnesses in ICWA Cases

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When is an expert witness required in ICWA cases?

Requirement of Expert Witness

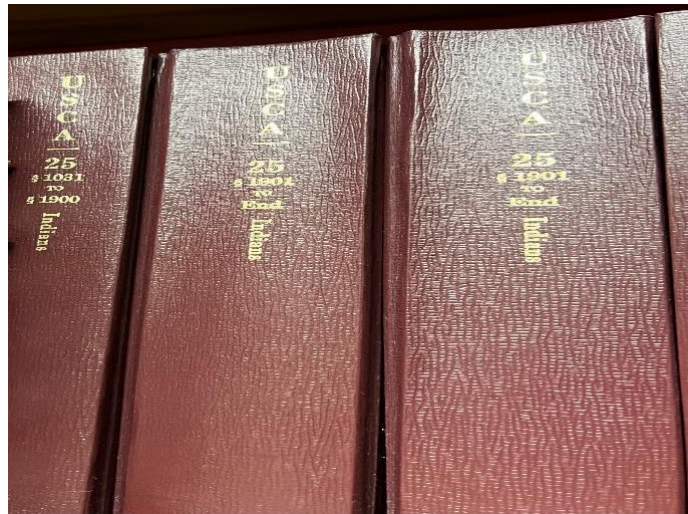
A qualified expert witness is required in foster care placements and parental rights termination cases under ICWA. Adjudication through post-TPR.

Legal Proof Standards

Foster care requires clear and convincing evidence; termination requires proof beyond reasonable doubt with expert testimony.

Role in Placement Deviations

Expert witnesses support deviations from placement preferences based on child's emotional and physical needs.



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Who may be qualified as an expert witness under ICWA?

Expert Witness Requirement

Qualified expert witnesses are required in foster care and parental termination cases under ICWA to prove potential harm to the child.

Qualification Criteria

Expert witnesses must possess specialized knowledge of Indian child welfare and relevant laws to qualify under ICWA.

Role in Court Decisions

Expert testimony supports deviations in placement preferences and helps courts assess emotional and physical child welfare.



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Qualifications and Types of ICWA Expert Witnesses

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Necessary qualifications for a qualified expert witness



Tribal Member Expert

A qualified expert can be a tribal member recognized for knowledge in tribal customs related to childrearing practices.

Lay Expert Witness

An expert with extensive experience delivering child and family services and knowledge of social and cultural standards within the tribe.

Professional Expert

Professionals with substantial education and experience in their specialty may qualify even without tribal cultural knowledge.

Cultural Competency Importance

Courts emphasize the need for cultural knowledge to reduce bias and properly assess child welfare in Indian custody cases.

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Types of experts recognized under BIA Guidelines



Tribal Member Expert

A member of the Indian child's tribe recognized as knowledgeable in tribal customs related to childrearing.

Lay Expert Witness

Experienced in delivering child and family services to Indians with extensive cultural and social knowledge.

Professional Expert

Professionals with significant education and experience in their specialty area, potentially without Indian cultural knowledge.

Cultural Competency Importance

Expert witnesses must understand Indian cultural aspects to reduce bias and properly assess child welfare cases.

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State-specific requirements for expert witnesses

Types of Qualified Experts

Three types of qualified experts include tribal members, lay experts with cultural knowledge, and professionals with relevant education.

State-Specific Guidelines

States like Minnesota and Iowa have more stringent criteria for expert witnesses in Indian child custody cases.

Expertise Beyond Social Work

Experts must have cultural knowledge to reduce bias and understand unique child-rearing customs and remedial efforts.



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Role and Use of Expert Testimony in ICWA Proceedings

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Expert testimony in foster care and termination of parental rights cases



Dual Burden of Proof in Foster Care

Some states use a dual burden of proof: state factors first, then ICWA's clear and convincing standard.

ICWA Burden in Termination Cases

In termination of parental rights, courts apply state burden first, then ICWA's beyond reasonable doubt standard.

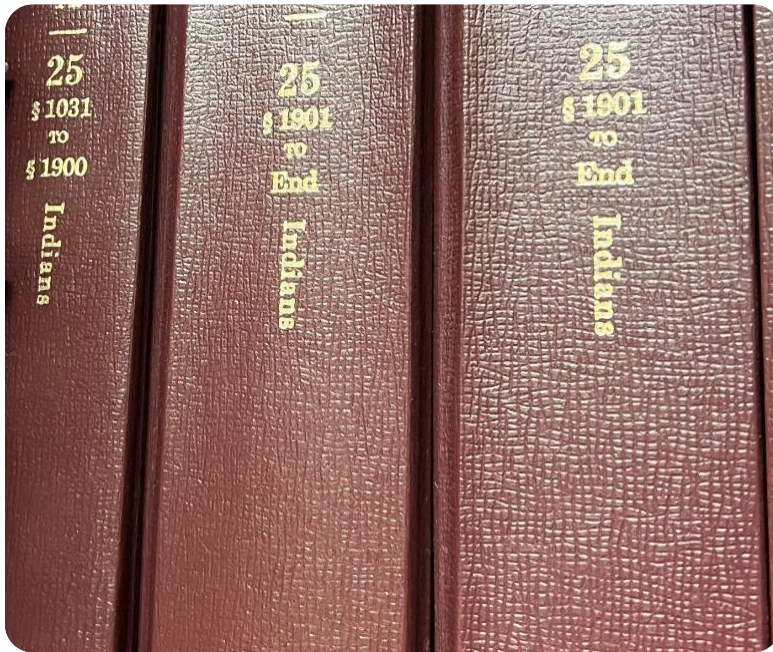
Socio-economic Factors Excluded

ICWA guidelines specify socio-economic conditions should not influence custody decisions in Indian child cases.

States' Different Burden Approaches

Some states follow dual burden, others apply only ICWA burden depending on case type and jurisdiction.

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Dual and single burden of proof in ICWA cases

Dual Burden of Proof in Foster Care

Some states use dual burdens: state burden for placement, ICWA's clear and convincing standard for emotional harm risk.

Dual Burden in Termination of Rights

Termination proceedings use state burden first, then ICWA's beyond a reasonable doubt to assess harm risk.

Single ICWA Burden States

Some states apply only the ICWA burden of proof for both foster care and termination proceedings.

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Challenging and Reviewing Expert Witness Qualifications

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Challenging the qualifications of an expert witness



Single Expert Witness Sufficiency

Courts recognize a single qualified expert witness can fulfill the proof requirements under ICWA.

Challenging Expert Qualifications

Parties must timely object to expert qualifications following local rules to preserve error for appeal.

Appellate Review Standards

Appellate courts review expert qualification rulings deferentially or de novo depending on legal context.

Impact of Unqualified Expert

Failure to use a qualified expert can lead to mandatory reversal of court decisions under ICWA.

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Appellate review standards for expert witness qualifications



Single Expert Qualification

A single qualified expert witness can satisfy proof requirements under ICWA, though complexity may require multiple experts.

Challenging Expert Qualifications

Expert witness qualifications can be challenged timely according to local rules to preserve error for appeal.

Appellate Review Standards

Appellate courts review expert qualifications deferentially, mostly for abuse of discretion or de novo on legal rulings.

Consequences of Unqualified Experts

Failure to use qualified experts can result in mandatory reversal of court decisions under ICWA.

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Consequences of Failing to Use a Qualified Expert Witness

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Effect on Court Authority and Mandatory Reversal



Single Expert Witness Validity

Courts accept a single qualified expert witness to meet ICWA proof requirements, though multiple experts may be necessary in complex cases.

Challenging Expert Qualifications

Qualifications of experts can be challenged if objections are timely made, following state rules and procedures.

Effect of Missing Qualified Expert

Failure to use a qualified expert results in loss of court authority to meet ICWA burden, causing mandatory reversal.

Social Worker as Expert

State social workers may qualify as experts if they have specialized knowledge of Indian culture and childrearing practices.

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State and Tribal Social Workers as Expert Witnesses

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State social workers as qualified expert witnesses

Single Qualified Expert

Courts recognize that a single qualified expert witness can fulfill the proof requirements under ICWA.

Challenging Expert Qualifications

Parties must timely challenge expert qualifications following local rules to preserve objections on appeal.

Consequences of No Qualified Expert

Failing to use a qualified expert results in mandatory reversal due to unmet statutory burdens.

Social Workers as Experts

State social workers qualify as experts if they have specialized knowledge of Indian culture and childrearing.



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Tribal social workers as qualified expert witnesses



Qualification Criteria

Tribal social workers qualify as expert witnesses if they have expertise in Indian culture and childrearing practices beyond normal qualifications.

Use of Expert Testimony

Expert testimony can clarify whether harmful parental actions relate to Indian culture or not, impacting case outcomes significantly.

Testimony Based on Contact

Expert testimony may be based on file review without direct interviews, depending on jurisdiction and case specifics.

Telephonic Testimony Use

Telephonic testimony is a viable option for experts on reservations or with limited physical access, requiring court permission.

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Conflicts of interest for agency employees as expert witnesses

Conflict of Interest Risks

Agency employees may have conflicts of interest that disqualify them as expert witnesses in parental rights cases.

Tribal Social Worker Expertise

Qualified tribal social workers with specialized knowledge of Indian culture can serve as expert witnesses under specific conditions.

Expert Testimony Requirements

Expert testimony may require direct personal contact or rely on file review depending on jurisdiction and case circumstances.

Telephonic Testimony Option

Telephonic testimony can be used for experts remotely located, especially on reservations, with court approval.



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Expert Witness Testimony: Direct Contact and Methods

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Requirements for direct personal contact in expert testimony



Tribal Social Worker Expertise

A tribal social worker qualifies as an expert if possessing knowledge of Indian culture beyond standard qualifications.

Conflict of Interest in Parental Testimony

Parental rights holders should not serve as expert witnesses due to conflicts of interest in cases.

Direct Personal Contact Requirement

Expert testimony may rely on file review or direct contact, depending on jurisdiction and case circumstances.

Telephonic Expert Testimony

Telephonic testimony is an option for experts on reservations, requiring court approval beforehand.

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Use of telephonic testimony in ICWA proceedings



Expert Witness Qualifications

Tribal social workers qualify as expert witnesses if they have specialized knowledge of Indian culture and childrearing beyond standard qualifications.

Conflict of Interest in Witnesses

Parental rights holders should not serve as expert witnesses due to conflicts of interest in ICWA proceedings.

Telephonic Testimony Use

Telephonic testimony is permitted if court approval is obtained, especially when experts are remote or resource-limited.

Direct Contact Not Always Required

Expert testimony may rely solely on document review without personal interviews, depending on jurisdictional rules.

Locating and Identifying Qualified Expert Witnesses

Tribal resources for expert witness identification

Primary Tribal Resources

Tribes involved in custody proceedings provide expert witnesses familiar with tribal social and cultural norms. Melody Turner is the expert witness for the EBCL Family Safety program. She can be contacted at (828) 359- 1506.

BIA and Social Services

BIA caseworkers and local tribal social services often collaborate in identifying expert witnesses for ICWA cases.

Referral Networks

National and urban Indian organizations maintain referral systems to connect practitioners with qualified experts. NICWA – the National Indian Child Welfare Association is the main contact for these referrals. Their website is NICWA.org.



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BIA and Indian Health Services as resources



ICWA Legal Framework

Several states have court cases setting precedence on ICWA burden of proof and termination of parental rights.

Locating Expert Witnesses

The tribe involved is the best resource for expert witnesses knowledgeable in tribal social and cultural norms.

Role of BIA Social Workers

BIA case and social workers collaborate with tribal programs to assist in child custody and welfare issues.

Indian Health Services Support

Social workers from Indian Health Services hospitals and clinics provide crucial support in tribal child and family cases.

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Referral systems and national organizations

State ICWA Legal Cases

Various state court rulings shape the application of ICWA burden of proof and parental rights termination.

Expert Witness Resources

Tribal members and BIA social workers are key resources for expert testimony on tribal customs and practices.

Referral Systems and Organizations

BIA, tribal, and urban Indian organizations provide referral systems to locate experts in tribal social and cultural norms.

Practice Guidance

If ICWA burden is unmet, foster care or termination petitions must be denied despite state burden met.



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Conclusion

Expert Witness Requirements

ICWA expert witnesses must meet specific qualifications to provide credible testimony in child welfare cases.

Roles and Responsibilities

These witnesses play crucial roles in advocating for compliance with ICWA and protecting children's welfare.

Challenges Faced

Expert witnesses often encounter challenges balancing legal standards and cultural sensitivity in proceedings.

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