

232B.10 Qualified expert witnesses — standard of proof — change of placement.

1. For the purposes of this chapter, unless the context otherwise requires, a “*qualified expert witness*” may include, but is not limited to, a social worker, sociologist, physician, psychologist, traditional tribal therapist and healer, spiritual leader, historian, or elder.

2. In considering whether to involuntarily place an Indian child in foster care or to terminate the parental rights of the parent of an Indian child, the court shall require that qualified expert witnesses with specific knowledge of the child’s Indian tribe testify regarding that tribe’s family organization and child-rearing practices, and regarding whether the tribe’s culture, customs, and laws would support the placement of the child in foster care or the termination of parental rights on the grounds 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.

3. In the following descending order of preference, a qualified expert witness is a person who is one of the following:

a. A member of the child’s Indian tribe who is recognized by the child’s tribal community as knowledgeable regarding tribal customs as the customs pertain to family organization or child-rearing practices.

b. A member of another tribe who is formally recognized by the Indian child’s tribe as having the knowledge to be a qualified expert witness.

c. A layperson having substantial experience in the delivery of child and family services to Indians, and substantial knowledge of the prevailing social and cultural standards and child-rearing practices within the Indian child’s tribe.

d. A professional person having substantial education and experience in the person’s professional specialty and having substantial knowledge of the prevailing social and cultural standards and child-rearing practices within the Indian child’s tribe.

e. A professional person having substantial education and experience in the person’s professional specialty and having extensive knowledge of the customs, traditions, and values of the Indian child’s tribe as the customs, traditions, and values pertain to family organization and child-rearing practices. Prior to accepting the testimony of a qualified expert witness described in this lettered paragraph, the court shall document the efforts made to secure a qualified expert witness described in paragraphs “a”, “b”, “c”, and “d”. The efforts shall include but are not limited to contacting the Indian child’s tribe’s governing body, that tribe’s Indian Child Welfare Act office, and the tribe’s social service office.

2003 Acts, ch 153, §11; 2004 Acts, ch 1101, §29