

§3954. Qualified expert witness

1. Identification. In any proceeding subject to this Act that requires the testimony of a qualified expert witness, the qualified expert witness must be provided by the petitioner and must meet the criteria of subsection 3 or 4. A qualified expert witness may be identified based on information from the Indian child's tribe or with the assistance of the United States Department of the Interior, Bureau of Indian Affairs.

[PL 2023, c. 359, §5 (NEW).]

2. Testimony provided. In any proceeding subject to this Act that requires the testimony of a qualified expert witness, at least one qualified expert witness must testify regarding:

A. The prevailing social and cultural standards and child-rearing practices of the Indian child's tribe; and [PL 2023, c. 359, §5 (NEW).]

B. Whether the Indian child's continued custody by the Indian child's parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child. [PL 2023, c. 359, §5 (NEW).]

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3. Tribal qualification. A person is a qualified expert witness under this section if the Indian child's tribe has designated the person as being qualified to testify to the prevailing social and cultural standards of the Indian tribe.

[PL 2023, c. 359, §5 (NEW).]

4. Alternative qualification. If the Indian child's tribe has not designated a qualified expert witness or the designated qualified expert witness is unavailable, the following individuals, in order of priority, may testify as a qualified expert witness:

A. A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices; [PL 2023, c. 359, §5 (NEW).]

B. A member of another Indian tribe who is recognized to be a qualified expert witness by the Indian child's tribe based on the member's knowledge of the delivery of child and family services to Indians and the Indian child's tribe; [PL 2023, c. 359, §5 (NEW).]

C. A layperson who is recognized by the Indian child's tribe as having substantial experience in the delivery of child and family services to Indians, and knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child's tribe; or [PL 2023, c. 359, §5 (NEW).]

D. A professional person having substantial education and experience in the area of the professional person's specialty who can demonstrate knowledge of the prevailing social and cultural standards and child-rearing practices within the Indian child's tribe. [PL 2023, c. 359, §5 (NEW).]

[PL 2023, c. 359, §5 (NEW).]

5. Disqualified persons. A petitioning party, an employee of the petitioning party or an employee of the Department of Health and Human Services may not serve as a qualified expert witness or a professional under this section.

[PL 2023, c. 359, §5 (NEW).]

SECTION HISTORY

PL 2023, c. 359, §5 (NEW).

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