

Cal.Rules of Court, Rule 5.485

WEST'S ANNOTATED CALIFORNIA CODES

CALIFORNIA RULES OF COURT

TITLE 5. FAMILY AND JUVENILE RULES

DIVISION 2. RULES APPLICABLE IN FAMILY AND JUVENILE PROCEEDINGS

CHAPTER 2. INDIAN CHILD WELFARE ACT

**Rule 5.485. Termination of parental rights (Fam. Code, § 7892.5; Welf. & Inst. Code, §§ 361.7, 366.26(c)(2)(B))**

**(a) Evidentiary burdens**

The court may only terminate parental rights to an Indian child or declare an Indian child free of the custody and control of one or both parents if at the hearing terminating parental rights or declaring the child free of the custody and control of one or both parents, the court:

(1) Finds by clear and convincing evidence that active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family were made; and

(2) Makes a determination, supported by evidence beyond a reasonable doubt, including testimony of one or more "qualified expert witnesses" as defined in Welfare and Institutions Code section 224.6 and Family Code section 177(a), that the continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child.

**(b) When parental rights may not be terminated**

The court may not terminate parental rights to an Indian child or declare a child free from the custody and control of one or both parents if the court finds a compelling reason for determining that termination of parental rights would not be in the child's best interest. Such a reason may include:

(1) Termination of parental rights would substantially interfere with the child's connection to his or her tribal community or the child's tribal membership rights; or

(2) The child's tribe has identified guardianship, long-term foster care with a fit and willing relative, or another planned permanent living arrangement for the child.

Current with amendments received through 7/1/2010