

h. Termination of Parental Rights.

The right to require proof beyond a reasonable doubt, including the testimony of qualified expert witnesses, 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.

“

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PARENT, INDIAN CUSTODIAN,
OR TRIBAL REPRESENTATIVE)

Certification

Pursuant to the California Rules of Court, rules 1439(i)(4) and 1439(j)(2), the Honorable _____, _____ of the _____ Juvenile Court for the State of _____, does certify that this waiver was knowingly and voluntarily executed in writing and recorded before me in court, that the terms and consequences were explained in detail to _____, and that the party fully understood the consequences, and that party understood English or that it was interpreted into a language he/she understood.

Certified this _____ day of _____, 20__.

Judge of the Juvenile Court

L JUDICIAL TIP: *At least one California case has found that a parent may waive the right to receive services. The Rules of Court allow a knowing and intelligent waiver. A waiver of ICWA rights executed by one party does not waive the rights of other parties or potential parties to the proceeding. For the rights granted under ICWA to be waived entirely, the parents, the Indian custodian (if any), and the tribe must sign a waiver, or the required evidentiary showing should be made. The court should exercise caution with waivers. If a tribe has not received proper notice or intervened as a party, the tribe cannot join in a waiver. Since the tribe has an independent interest in securing compliance with the requirements of the ICWA and may intervene at any point in a proceeding, a Tribe may intervene late in a proceeding and petition to invalidate when the Act has not been fully complied with.*