

Tribal Protection Orders

Registering TPOs in the Alaska State Registry

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Order of Protection

Any order issued by a court for the purpose of preventing:

- Violent acts;
- threatening acts;
- Harassment;
- sexual violence;
- contact or communication with or physical proximity to another person;

This includes any temporary or final order issued by a court in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

Paraphrased from VAWA 18 U.S. Code § 2266



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Types of DV Cases

Emergency Hearings

- Ex Parte' Order
- Limited to 20 days

Long Term Protection Hearings

- Long Term Protective Order
- 6 months or longer
- If order excludes offender from village, conditions for returning should be listed



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Whose Laws Apply for Full Faith and Credit?

The law of the Court who issues the Order is the **only** law that applies.

In Tribal Court, tribal law defines what 'domestic violence' is.

Tribes do not have to written law defining it, but it is very helpful.



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Defining DV in Tribal Law

“Domestic Violence” means assault, threats of violence, or physical, sexual, or mental abuse of a person when the victim is a spouse, a former spouse, an extended family member, a boyfriend or girlfriend, or any other person who has been an intimate partner, or a member of the social unit made up of those living together in the same house or village as the victim.



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Parties in a DV Case

- Petitioner- Either the victim themselves OR a person filing on behalf of the victim
- Respondent- The person accused of domestic violence



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Party Rights

Petitioner/Victim Rights

- Be notified of all hearings
- Be present at all hearings
- Advise Tribal Court on conditions required for safety
- Receive restitution for losses sustained as a direct result of DV from the Respondent

Respondent/Offender Rights

- Be notified of all hearings, as possible
- Be present at all hearings, an opportunity to be heard
- The right to call and cross examine witnesses
- The right for all judges to be fair and impartial
- The right to petition for a change of order or dismissal with merit



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Jurisdiction??

- Does situation described in petition meet your codes definition of 'domestic violence'?
- If yes, was one of the parties a tribal member?



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Jurisdiction in DV Cases

- Check your own tribal law

	Respondent is a Tribal Member	Respondent is NOT a tribal member
Petition is a Tribal member	Tribe will generally have jurisdiction	Tribe will have jurisdiction if: <ul style="list-style-type: none">• The respondent consents; or• There is a consensual relationship between “R” and the Tribe; or• The violence threatens the Tribe’s integrity, economic security, or health and welfare
Petition is NOT a tribal member	Tribe will generally have jurisdiction. (A petition is consent)	Tribe will only have jurisdiction in exceptional cases where the dispute has a strong tribal connection



Are Tribal Protection Orders given 'Full Faith and Credit' by other Courts?



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‘Full Faith and Credit’ Requirements

- JURISDICTION
- DUE PROCESS
 - NOTICE
 - OPPORTUNITY BE HEARD
 - FAIR AND IMPARTIAL TRIBUNAL



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Is a Tribe required to register a TPO with the State of Alaska to get 'Full Faith and Credit'/ Enforcement?



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So, Why Register with the State?

- If state law enforcement is needed for enforcement, they know it's a valid order and can locate it with a state assigned case number
- Make it easier to protect tribal members statewide, especially if traveling to ANC or FAI
- Expedites enforcement by AST, and increase likeliness of enforcing violations of an order



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- Court Protective system Protective
- Fax the Form Foreign closes



VERIFICATION FORM

**FOR FILING A FOREIGN DOMESTIC VIOLENCE RESTRAINING ORDER
BY FAX**

**IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA
AT _____**

The Alaska Court System will accept a faxed certified copy of a foreign domestic violence restraining order issued by other states, tribes, or territories only if it has been faxed by the issuing court. The person faxing the order must complete this form and fax it, along with the restraining order, to the local Alaska Court System court.

INFORMATION ABOUT TRIBAL OR STATE COURT FAXING THE ORDER

Name of issuing court: _____

Name of person faxing foreign protective order: _____

Title of person faxing foreign protective order: _____

Telephone number: _____

VERIFICATION OF THE PERSON FAXING THE ORDER

I acknowledge that the paper(s) attached to this verification are true and correct copy(s) of the original document(s) on file in the offices of the ☐ tribal court/council ☐ state court or ☐ territory court and that the document has not been altered.

Date

Signature

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Next Steps..

- The State Court Clerk will file stamp the Tribal Court Protection order and assign it a state court case number
- The State Court Clerk will fax back this copy
- The Protection Order can now be searched/seen by anyone with access to Alaska Protection Order Registry including all Alaska State Troopers and most City Police Departments
- The Protection Order can also be searched on Alaska's Court View website by searching party names



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Enforcement

- If a Respondent violates ANY part of an Order the Tribal Court will enforce the Order and charge them with Contempt of Court; and
- Tribal Court should seek other penalties within their Tribal law
- Alaska & Federal Law should enforce Orders too
 - Call law enforcement and report Order violations
- Prioritize victim Safety
 - Connect victim to services to make a safety plan



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Resources

- Tanana Chief Conference: email for TA
 - Mishal.Gaede@tananachiefs.org
 - Brittany.madros@tananachiefs.org
- Tribal Court Tool Box
 - <https://public.courts.alaska.gov/web/forms/docs/tribal-court-toolbox.pdf>
- Alaska Legal Services
 - <https://alaskatribes.org/>



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