

TRIBAL COURT PROTECTION ORDERS IN MINNESOTA

A TRIBAL COURT PROTECTION ORDER IS ENFORCEABLE ON AND OFF INDIAN (RESERVATION) LANDS

Tribal members travel for family, school, business, access to treaty lands and for other purposes both in and out of state. When a tribal member travels, their right to be protected from domestic violence (abuse) extends under tribal, federal and state law. A Tribal court can protect a member from domestic violence by issuing a “Protection Order,” often referred to as an “Order for Protection” (OFP) or “Restraining Order.” Federal law recognizes a Tribal court’s authority to protect a person from domestic violence.

WHAT IS A TRIBAL COURT PROTECTION ORDER?

Federal Law provides that a “Protection Order” includes a Tribal Court Protection Order *issued by a Tribal nation’s court*. A Protection Order is a legal order protecting a person from violence or abuse. It can also prevent someone from contacting or being near you. A Protection Order may be temporary or final, and include a child custody, support, or visitation order that is part of an order protecting you (or your child) from domestic violence, sexual assault, dating violence or stalking.

WHO CAN OBTAIN A TRIBAL COURT PROTECTION ORDER (TRIBAL OFP)?

This depends on the laws of each Tribal nation. Typically, a tribal member can obtain a Tribal Court Protection Order (“Tribal OFP”). A Tribal nation’s law may also permit a person who lives, works or otherwise has significant contact with the Tribal nation to obtain a Tribal OFP.

IS A TRIBAL OFP ENFORCEABLE BY STATE COURTS AND LAW ENFORCEMENT?

YES. Federal Law requires all states (including Minnesota) to give full enforcement (full faith & credit) to a Tribal OFP. The Tribal OFP is enforceable regardless if the protected person or abuser is located on or off Indian (reservation) lands.

DOES STATE LAW ENFORCEMENT AUTOMATICALLY ENFORCE MY TRIBAL OFP?

When a Domestic Violence victim or protected person notifies state law enforcement that a Tribal OFP is in effect, law enforcement typically checks the State’s protection order file from the National Crime Information Center (NCIC) and other databases to verify the Tribal OFP. At this time Tribal nations do not have direct access to the NCIC to enter Tribal OFPs; the Tribal OFPs may only be entered into the state court system’s file. However, if the Tribal OFP appears valid, state law enforcement must treat it as valid and enforce the Tribal OFP. This may include arresting an abuser who is ordered to stay away from you (or your child) when off Indian (reservation) lands. ***If you have obtained a Tribal OFP, talk with a Domestic Abuse Advocate about keeping a copy of the Tribal OFP with you for your safety and enforcement.***

HOW DO I GET A TRIBAL OFP?

Talk with your Tribal nation’s clerk of court or domestic abuse advocate for help. You can also contact an attorney who is familiar with your tribal court. Otherwise you may contact the Domestic Abuse Service Center at (612) 348-5073 in the 4th Judicial District (Hennepin) for help accessing information about getting a Tribal

INFORMATION CONTAINED IN THIS DOCUMENT IS LEGAL INFORMATION ONLY AND IS NOT LEGAL ADVICE. YOU ARE STRONGLY ENCOURAGED TO CONTACT AN ATTORNEY FOR LEGAL ADVICE CONCERNING YOUR CIRCUMSTANCES.

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