

**TITLE 24. DOMESTIC VIOLENCE CODE**

**ARTICLE I  
GENERAL PROVISIONS**

CHAPTER 1. GENERAL PROVISIONS .....24-1-1  
    Sec. 24-1101. Title.....24-1-1  
    Sec. 24-1102. Policy and Purpose.....24-1-1  
    Sec. 24-1103. Jurisdiction.....24-1-1

**ARTICLE II DEFINITIONS**

CHAPTER 1. DEFINITIONS.....24-2-1  
    Sec. 24-2101. Definitions.....24-2-1

**ARTICLE III ACTIONS AND REMEDIES**

CHAPTER 1. ACTIONS AND REMEDIES .....24-3-1  
    Sec. 24-3101. Order of protection against domestic violence; procedure;  
        petition .....24-3-1  
    Sec. 24-3102. Enforcement of and arrest for violation of order of protection.....24-3-8  
    Sec. 24-3103. Emergency Order of Protection .....24-3-9  
    Sec. 24-3104. Injunction against harassment; procedure; petition.....24-3-11  
    Sec. 24-3105. Enforcement of and arrest for violation of injunction against  
        Harassment.....24-3-15  
    Sec. 24-3106. Injunction against stalking; procedure; petition.....24-3-16  
    Sec. 24-3107. Enforcement of and arrest for violation of injunction against  
        stalking.....24-3-20  
    Sec. 24-3108. Vulnerable adult order of protection; procedure; petition .....24-3-21  
    Sec. 24-3109. Enforcement of and arrest for violation of vulnerable adult order of  
        protection .....24-3-27  
    Sec. 24-3110. Injunction against intimidation; procedure; petition; Injunction against  
        use of telephone or electronic means to terrify, intimidate, threaten,  
        harass, annoy, or offend; procedure; petition.....24-3-28  
    Sec. 24-3111. Enforcement of and arrest for violation of injunction against intimidation  
        and for violation of injunction against use of telephone or electronic  
        means to terrify, intimidate, threaten, harass, annoy or offend.....24-3-32  
  
CHAPTER 2. ADDITIONAL REMEDIES AND CONTEMPT.....24-3-33  
    Sec. 24-3201. Contempt.....24-3-33  
    Sec. 24-3202. Restitution.....24-3-35  
    Sec. 24-3203. Banishment .....24-3-35  
    Sec. 24-3204. Exclusion .....24-3-36  
    Sec. 24-3205. Arrest and procedure; weapon seizure .....24-3-36

**ARTICLE IV REGISTRATION OF ORDERS AND FOREIGN ORDERS**

CHAPTER 1. REGISTRATION OF ORDERS AND FOREIGN ORDERS .....24-4-1  
Sec. 24-4101. Foreign orders; full faith and credit .....24-4-1  
Sec. 24-4102. Registration of orders.....24-4-2

**ARTICLE V VICTIM RIGHTS AND VICTIM ADVOCATE**

CHAPTER 1. VICTIM RIGHTS .....24-5-1  
Sec. 24-5101. Victim rights .....24-5-1  
Sec. 24-5102. Notice to victim about victim advocate services .....24-5-1  
Sec. 24-5103. Right to seek criminal relief.....24-5-2  
Sec. 24-5104. Right to seek civil relief.....24-5-2

CHAPTER 2. VICTIM ADVOCATE; QUALIFICATIONS; DUTIES .....24-5-3  
Sec. 24-5201. Victim advocate qualifications and training .....24-5-3  
Sec. 24-5202. Victim advocate duties.....24-5-3

CHAPTER 3. PRIVILEGE .....24-5-4  
Sec. 24-5301. Victim advocate and victim privilege .....24-5-4

**TITLE 24. DOMESTIC VIOLENCE**

**ARTICLE I**

**GENERAL PROVISIONS**

[NOTE: Title 24 was enacted on January 23, 2013 by Res. No. 1-2013.]

**CHAPTER 1. GENERAL PROVISIONS.**

**Sec. 24-1101. Title.**

(a) The Title of this Code shall be the Domestic Violence Code of the Sac and Fox Tribe of the Mississippi in Iowa.

**Sec. 24-1102. Policy and Purpose.**

(a) The purpose of the Domestic Violence Code is to end domestic and family violence and abuse and promote the healing of families on the Meskwaki Settlement and within the jurisdiction of the Sac and Fox Tribe of the Mississippi in Iowa.

(b) In furtherance of the purpose of the Domestic Violence Code this Title is adopted to:

(1) Ensure the safety of victims of domestic and family violence and provide victims with the maximum protection from abuse and/or violence.

(2) Establish that within the Meskwaki Settlement and the jurisdiction of the Sac and Fox Tribe of the Mississippi in Iowa, violent and abusive behavior will not be tolerated.

(3) Establish procedures and protocol for courts, law enforcement, and victims in order to provide protection to victims and to make offenders accountable for their conduct and bring them to justice.

(4) Affirm that elders, adults, women, children and the vulnerable members of our tribe and community residing on the Meskwaki Settlement and/or within the jurisdiction of the Sac and Fox Tribe of the Mississippi in Iowa are cherished, protected and treated with respect.

(5) Nurture and affirm non-violence within families and instill and promote the cultural and traditional values of the Meskwaki people within the Meskwaki Settlement and the jurisdiction of the Sac and Fox Tribe of the Mississippi in Iowa.

**Sec. 24-1103. Jurisdiction.**

(a) The trial court and the appellate court have subject matter jurisdiction over the

actions contemplated and set forth in this Title as provided in Title 5, Article IV, Title 5, Chapter 1, Sec. 5-4101, Sec. 5-4103, Sec. 5-4104, and Sec. 5-4105, and as may be amended. The trial court and the appellate court have personal jurisdiction over parties and persons contemplated and set forth in this Title as provided in Title 5, Article IV, Chapter 1, Sec. 5-4102, Sec. 5-4103, Sec. 5-4104, and Sec. 5-4105, and as may be amended. Jurisdiction includes, but is not limited to, full civil jurisdiction to issue and enforce protection orders and injunctions involving any person including persons who are not Indian, and includes the authority to enforce orders through contempt proceedings, to exclude violators from Indian land, and to take other appropriate measures in matters arising anywhere in the Indian country of this tribe or otherwise within the authority of this tribe.

(b) The trial court and the appellate court have criminal jurisdiction over parties and subject matter as provided in Title 13, Article V, Chapter 1, section 13-5103.

(c) For purposes of this Title the trial court and the appellate court have personal and subject matter jurisdiction consistent with the provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (42 U.S.C. 14045d) and as may be amended.

(d) Nothing in this section shall abrogate or diminish the power of self-government and inherent power of this Tribe and nothing in the section creates or eliminates any Federal or State criminal jurisdiction over Indian country and nothing in this section affects the authority of the United States of any State government that has been delegated authority by the United States to investigate and prosecute a criminal violation in Indian country.

**TITLE 24. DOMESTIC VIOLENCE****ARTICLE II****DEFINITIONS****CHAPTER 1. DEFINITIONS.****Sec. 24-2101. Definitions.**

Unless the context clearly requires otherwise, as used in this Title:

(a) “Abuse of a vulnerable adult” means those elements of assault and related offenses set forth in the SAC & FOX TR. OF MISS. CODE, Title 13, Article V, Chapter 6, Sec. 13-5601, and as may be amended; and those elements set forth in this Title, Sec. 24-3108.

(b) “Appellate court” means the Court of Appeals of the Sac and Fox Tribe of the Mississippi in Iowa.

(c) “Assault” means those elements of assault set forth in the SAC & FOX TR. OF MISS. CODE, Title 13, Article V, Ch. 6, Sec. 13-5603, and as may be amended.

(d) “Banishment” means those provisions set forth in the SAC & FOX TR. OF MISS. CODE, Title 13, Article VII, and as may be amended.

(e) “Battery” means those elements of battery set forth in the SAC & FOX TR. OF MISS. CODE, Title 13, Article V, Ch. 6, Sec. 13-5604, and as may be amended.

(f) “Court” means the trial court of the Sac and Fox Tribe of the Mississippi in Iowa.

(g) “Crime” means those offenses set forth in the SAC & FOX TR. OF MISS. CODE, Title 13, and as may be amended, and any other ordinance or law of the Tribe for which upon conviction a person may be subject to a criminal fine, imprisonment, or criminal forfeiture, or any combination thereof and any other applicable law of other jurisdictions.

(h) “Dating relationship” means a present courtship or engagement relationship between people of different sex or of the same sex. For purposes of this Title, “dating relationship” does not mean a casual acquaintance or ordinary fraternization between persons in a business or social context.

(i) “Disobedience of a lawful court order” means those elements of disobedience of a lawful court order set forth in the SAC & FOX TR. OF MISS. CODE, Title 13, Article V, Sec. 13-5503, and as may be amended.

(j) “Domestic violence” occurs when certain relationships exist as set forth in this Title, Article III, Sec. 24-3101(b) and when certain offenses are committed as enumerated in this Title, Article III, Sec. 24-3101(a), whether or not the person alleged to have committed domestic

violence has been arrested, charged, or convicted.

(k) “Elder” means a person subject to the jurisdiction of the Tribe who is at least 55 years of age.

(l) “Exclusion” means those provisions set forth in the SAC & FOX TR. OF MISS. CODE, Title 22, and as may be amended.

(m) “Family or household members” means spouses, persons cohabiting, parents, Indian custodians, or other persons related by consanguinity or affinity.

(n) “Harassment” means those elements set forth in this Title, Article III, Sec. 24-3104.

(o) “Hearing” means a hearing or trial conducted before the courts of the Sac and Fox Tribe of the Mississippi in Iowa.

(p) “Indian” means, for purposes of this Title, a person who is enrolled in, eligible for enrollment in, or recognized as a member of a tribal community of an Indian or Alaska Native tribe, band, nation, pueblo, village or community that the United States Secretary of Interior acknowledges to exist as an Indian tribe and further includes, but is not limited to, a person who would be subject to the jurisdiction of the United States as an Indian under section 1153, Title 18, United States Code, if that person were to commit an offense listed in that section in Indian Country to which that section applies pursuant to 25 U.S.C. section 1301(3).

(q) “Indian custodian” means any person who has custody of an Indian child under tribal law or custom or to whom temporary physical care, custody and control has been transferred voluntarily by the parent or guardian of such child.

(r) “Injunction” means, for purposes of this Title, a writ of injunction entered by the court when it appears that the party applying for the writ is entitled to the relief demanded, and such relief or any part thereof requires the restraint of some act by an another person. For purposes of this Title, the Court Rules and Rules of Civil Procedure prohibiting entry of a preliminary injunction without notice to the adverse party do not apply and the Court Rules and Rules of Civil Procedure requiring the giving of security or bond prior to entry of a restraining order or preliminary injunction do not apply.

(s) “Intimate relationship” means a significant romantic involvement that need not include sexual involvement. An intimate relationship does not include casual social relationships or associations in a business or professional capacity.

(t) “Intimidation” means those applicable elements set forth in this Title, Article III, Sec. 24-3110, and those elements set forth in this Code at Title 13, Article V., Ch. 11, Sec. 13-51111, and as may be amended.

(u) “Law enforcement officer” means an officer or agent of the Tribe, the State of Iowa, or the United States with the authority to enforce laws within the Settlement and includes,

but is not limited to, police officers of the Meskwaki Nation Police Department of the Sac and Fox Tribe of the Mississippi in Iowa, and temporary police officers during their term, and members of the Sac and Fox Tribe of the Mississippi in Iowa Police Reserve, and wardens of the Sac and Fox Tribe of the Mississippi in Iowa Natural Resources Department.

(v) “Meskwaki Nation Police Department” means the personnel and police officers of the Sac and Fox Tribe of the Mississippi in Iowa Police Department.

(w) “Meskwaki Settlement” and “Settlement” may be used interchangeably and means the “Settlement” as defined in this section, below.

(x) “Minor child” means a person under the age of eighteen [18] years.

(y) “Non-Indian” or “not an Indian” means a person who is not an Indian as defined in this Title.

(z) “Non-member” means a person who is not an enrolled member of the Sac and Fox Tribe of the Mississippi in Iowa.

(aa) “Order of protection” means a temporary or permanent protective order issued in a tribal court civil proceeding pursuant to this Title and/or a court-approved consent agreement for a protective order, and/or a lawful foreign order of protection or protective order.

(bb) “Police Department” means the Meskwaki Nation Police Department of the Sac and Fox Tribe of the Mississippi in Iowa.

(cc) “Police officer” means a law enforcement officer of the Meskwaki Nation Police Department of the Sac and Fox Tribe of the Mississippi in Iowa and includes temporary police officers during their term, and members of the Sac and Fox Tribe of the Mississippi in Iowa Police Reserve.

(dd) “Prosecutor” means the Prosecutor and any deputy prosecutor of the Sac and Fox Tribe of the Mississippi in Iowa designated to prosecute crimes against offenders in the name of the Tribe pursuant to the SAC & FOX TR. OF MISS. CODE, Title 13, Article I, Ch. 1, Sec. 13-1101(d), and such other prosecutor designated by the Tribal Council to act in the place of the Office of the Prosecutor.

(ee) “Settlement” means the physical territory subject to the jurisdiction of the Tribe as described in Article I of the Constitution of the Sac and Fox Tribe of the Mississippi in Iowa and shall include the lawful jurisdiction of the Tribe provided that nothing in this definition shall be construed to limit the physical territory, jurisdiction, or sovereignty of the Tribe.

(ff) “Stalking” means those elements set forth in this Title, Article III, Sec. 24-3106.

(gg) “Trial court” means the courts of the Sac and Fox Tribe of the Mississippi in Iowa but does not include the appellate court.

- (hh) “Tribal code” means the SAC & FOX TR. OF MISS. CODE.
- (ii) “Tribal council” and “council” means the members of the Tribal Council of the Sac and Fox Tribe of the Mississippi in Iowa.
- (jj) “Tribal court” means the courts of the Sac and Fox Tribe of the Mississippi in Iowa codified in the SAC & FOX TR. OF MISS. CODE, Title 5, Article II.
- (kk) “Tribal member” means a member of the Sac and Fox Tribe of the Mississippi in Iowa.
- (ll) “Tribe” means the Sac and Fox Tribe of the Mississippi in Iowa and its agencies, departments, divisions, instrumentalities, economic enterprises, officials, agents, officers, and employees.
- (mm) “Victim” means a person who has been subjected to domestic or family violence or abuse, or stalking, or harassment, or threats or intimidation by a spouse, family member, household member, or by the other person in a dating relationship, or has been subjected to exploitation or abuse as a vulnerable adult, or any other person who has standing pursuant to this Title to file a petition or injunction requesting the relief provided by this Title. A victim includes a specifically designated person in need of protection when a third party files a petition on behalf of the specifically designated person pursuant to this Title.
- (nn) “Victim advocate” means the person designated to assist victims pursuant to this Title, Article V.
- (oo) “Vulnerable adult” means a person eighteen years of age or older who is unable to protect himself/herself from abuse, neglect or exploitation by others because of a mental or physical impairment and includes, but is not limited to, any adult over whom any court has appointed a guardian or conservator and any adult being cared for, whether voluntarily or involuntarily, in a mental health facility, hospital, nursing home, extended care facility, or similar care facility.

**TITLE 24. DOMESTIC VIOLENCE****ARTICLE III****ACTIONS AND REMEDIES.****CHAPTER 1. ACTIONS AND REMEDIES.****Sec. 24-3101. Order of protection against domestic violence; procedure; petition; contents.**

(a) Domestic violence may be found when certain relationships exist between the parties as set forth in paragraph (b) below. The court may find that domestic violence occurred whether or not the person alleged to have committed domestic violence has been arrested, charged or convicted, or the court may find that domestic violence is likely to occur under the circumstances. When a relationship exists between the parties as set forth in paragraph (b) below, domestic violence means any one or combination of following:

(1) Assault. Assault means a person with apparent ability, attempts unlawful contact with another; or a person intentionally threatens unlawful contact upon another, coupled with an apparent ability to carry out that threat, and does some act which creates a well-founded fear in such other person that such contact is imminent. SAC & FOX TRIBE OF MISSISSIPPI CODE, Title 13, Article V, chapter 6, section 13-5603.

(2) Battery. Battery means a person with the purpose of causing physical injury to a person, causes physical injury to the intended person or any other person; or a person purposely causes stupor, unconsciousness, or physical or mental impairment or injury to another person by administering to him, without his consent, any drug or other substance. SAC & FOX TRIBE OF MISSISSIPPI CODE, Title 13, Article V, Chapter 6, section 13-5604.

(3) Harassment. Harassment means a series of acts over any period of time directed at a specific person that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person and serves no legitimate purpose. A person's acts constitute harassment if, with intent to harass or with knowledge that the person is harassing another person, the person:

(i) Anonymously or otherwise contacts, communicates or causes a communication with another person by verbal, electronic, mechanical, telegraphic, telephonic or written means in a manner that harasses.

(ii) Continues to follow another person in or about a public place for no legitimate purpose after being asked to desist.

(iii) Repeatedly commits an act or acts that harass another person.

(iv) Surveils or causes another person to surveil a person for no legitimate purpose.

(v) On more than one occasion makes a false report to a law enforcement, credit or social service agency about the person.

(vi) Harassment includes but is not limited to unlawful picketing, trespassory assembly, unlawful mass assembly, and the concerted interference with lawful exercise of business activity.

(4) Stalking. Stalking means a course of conduct where a person maintains visual or physical proximity to a specific person or directs verbal, written or other threats whether express or implied, to a specific person on two or more occasions over a period of time, however short, but does not include constitutionally protected activity. A person engages in stalking if the person intentionally or knowingly engages in a course of conduct that is directed toward another person and if that conduct either:

(i) Would cause a reasonable person to fear for the person's safety or the safety of that person's immediate family member and that person in fact fears for their safety or the safety of that person's immediate family member.

(ii) Would cause a reasonable person to fear death of that person or that person's immediate family member and that person in fact fears death of that person or that person's immediate family member.

(iii) For the purposes of this section "Immediate family member" means a spouse, parent, child or sibling or any other person who regularly resides in a person's household or resided in a person's household within the past six months.

(5) Use of telephone or electronic means of communication to terrify intimidate, threaten, harass, annoy or offend. Use of telephone or electronic means of communication to terrify, intimidate, threaten, harass, annoy or offend, means that a person, with intent to terrify, intimidate, threaten, harass, annoy or offend, uses a telephone or electronic means of communication to use obscene, lewd or profane language or suggest any lewd or lascivious act, or threaten to inflict physical harm to the person or property of any person and/or otherwise disturbs by repeated anonymous telephone calls or electronic communications the peace, quiet, or right of privacy of any person at the place where the telephone call[s] or electronic communications[s] were received.

(6) Abuse of a vulnerable adult. Abuse of a vulnerable adult means a person knowingly inflicts physical or mental pain or injury on a vulnerable adult or threatens to do the same; or a person knowingly misuses the funds, property or resources of a vulnerable adult; or a person who is responsible for the care of a vulnerable adult knowingly fails to provide food, clothing, shelter, medical care or other services reasonably necessary to sustain the life or health of a vulnerable adult. SAC & FOX TRIBE OF MISSISSIPPI CODE, Title 13, Article V, Chapter 6, section 13-5601.

(7) Intimidation. Intimidation means conduct of a person who, directly or indirectly, uses unjustified force or violence or threatens the use thereof or engages in any

other unlawful act with intent to force or coerce any other person to do something against such person's will, as set forth in the SAC & FOX TRIBE OF MISSISSIPPI CODE, Title 13, Article V, Chapter 11, section 13-51111, and as may be amended.

(8) All other offenses set forth in Title 13, Chapters 6, 7, 8, 9, 10, and 12, when the plaintiff seeking an order of protection is a victim or when the victim is another person and the plaintiff is acting on that person's behalf as set forth in subsection [c], below.

(b) A finding of domestic violence requires a relationship between parties and may be found under any one of the following circumstances:

(1) The domestic violence is between family members or between household members who resided together at the time of the domestic violence.

(2) The domestic violence is between separated spouses or between persons divorced from each other and not residing together at the time of the domestic violence.

(3) The domestic violence is between persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time, and/or persons who are expecting a child and one party is pregnant by the other party.

(4) The domestic violence is between persons who are family members or who were household members who were not residing together at the time of the domestic violence, but who resided together within one year prior to the domestic violence.

(5) The domestic violence is between persons who are in an intimate or dating relationship or have been in an intimate or dating relationship, and who have had contact with each other within one year prior to the domestic violence. A person may be involved in an intimate or dating relationship with more than one person at a time. In determining whether persons are or have been in an intimate or dating relationship, the court may consider the following nonexclusive list of factors:

(i) the duration of the relationship.

(ii) the frequency of interaction.

(iii) whether the relationship has been terminated, and if terminated, the length of the termination.

(iv) the nature of the relationship, characterized by either party's expectation of sexual or romantic involvement.

(c) A person, as plaintiff, may file a verified petition as a civil action with the tribal court requesting an order of protection for the purpose of restraining another person from committing an act included in domestic violence. A fee shall not be charged for filing a petition under this section. If the person in need of an order of protection is a minor, then the parent, legal

guardian, Indian Custodian, or person who has legal custody of the minor, as a third party plaintiff, shall file the petition unless the court determines otherwise. The petition shall name the plaintiff. In the case of a minor, the petition shall name as plaintiff, the minor's parent, guardian, Indian Custodian, or legal custodian, and name the minor as a person specifically designated for purposes of protection. If a person is either temporarily or permanently unable to request an order, a third party plaintiff may request an order of protection on behalf of the plaintiff with the knowledge and consent of the plaintiff if the plaintiff is able to understand and consent. Consent and knowledge of the plaintiff are not required if the plaintiff is physically or mentally impaired. After the request is filed with the court, the judicial officer shall determine if the third party plaintiff should be permitted to file the request on behalf of the plaintiff.

(d) The court clerk shall offer the person written information about the Victim Advocate services, however, the person is not required to accept the information.

(e) The petition shall state:

(1) The name of the plaintiff. The plaintiff's address shall be disclosed to the court in a document separate from the petition for purposes of future service on the plaintiff. If the address of the plaintiff is unknown to the defendant, the plaintiff may request that the plaintiff's address be protected. The protected address shall be maintained by the court in a separate document or automated database and is not subject to release or disclosure by the court or any form of public access except by further order of the court.

(2) The name, home address, and employer and employer address of the defendant, if known.

(3) A statement, including dates, location, name of persons involved, and specific details of the domestic violence alleged.

(4) A description of the relationship between the parties, to include:

(i) whether there is a pending court proceeding between the parties for maternity or paternity, annulment, legal separation or dissolution of marriage.

(ii) whether the parties resided in the same household at the time of the domestic violence.

(iii) whether the parties are now divorced.

(iv) whether the parties are physically separated and living in separate homes but still married with no dissolution of marriage action having been filed with the court.

(v) whether the parties are parents of the same minor child or expecting a child and one party is pregnant by the other party.

(vi) whether the parties are family members not residing together at the

time of the domestic violence but who resided together within one year prior to the domestic violence.

(vii) whether the parties are persons not residing together at the time of the domestic violence but are persons who resided together within one year prior to the domestic violence.

(viii) whether the parties are in an intimate or dating relationship or have been in an intimate or dating relationship and have had contact with each other within one year prior to the domestic violence.

(5) The name of any court in which any prior or pending proceeding or order was sought or issued concerning the conduct that is sought to be restrained.

(6) The desired relief.

(f) An order of protection shall not be granted:

(1) Unless the party who requests the order files a written verified petition requesting an order of protection unless the order is granted pursuant to entry of an emergency order of protection as set forth in section 24-3103.

(2) Against more than one defendant. If there are multiple defendants then the plaintiff must file a separate petition for each defendant.

(g) At the time the petition is filed, the court shall review the petition, any other pleadings on file, hear the testimony of the plaintiff or the court-approved plaintiff's third party plaintiff, and review evidence offered by the plaintiff as expeditiously as the court's calendar permits, to determine whether the relief requested should issue *ex parte*, without further hearing. The court shall issue an order of protection *ex parte* and without notice to the defendant at the time the plaintiff files the petition if the court determines that there is reasonable cause to believe any of the following:

(1) The defendant may commit an act of domestic violence.

(2) The defendant has committed an act of domestic violence within the past year or within a longer period of time if the court finds that good cause exists to consider a longer period. For the purposes of determining the period of time, any time that the defendant has been incarcerated or out of this jurisdiction shall not be counted.

(h) If the court denies the *ex parte* relief, it may schedule a further hearing within ten days, with reasonable notice to the defendant.

(i) If the court issues an order of protection, the court may do any of the following:

(1) Prohibit the defendant from committing a violation of one or more of the offenses included in domestic violence.

(2) Grant one party the use and exclusive possession of the parties' residence consistent with the housing laws, regulations, and policies of the Tribe, on a showing that there is reasonable cause to believe that physical harm may otherwise result. If a party is excluded from the parties' residence, the excluded party, if accompanied by a law enforcement officer, may return to the residence on one occasion to retrieve personal belongings, clothing, and similar items. A law enforcement officer is not liable for any act or omission in the good faith exercise of the officer's duties under this paragraph.

(3) Restrain the defendant from contacting the plaintiff or other specifically designated person and from coming to the residence, place of employment, or school of the plaintiff or other specifically designated location or person on a showing that there is reasonable cause to believe that physical harm may otherwise result.

(4) If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated person, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer all firearms owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order.

(5) Grant relief that is necessary for the protection of the alleged victim and other specifically designated persons and that is proper under the circumstances.

(j) An *ex parte* order that is issued under this section shall state on its face that the defendant is entitled to one hearing and the hearing is set as follows:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Court Location and Telephone Number \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Warning. This is an official court order. If you disobey this order, you will be subject to arrest and prosecution for the crime of disobedience of a lawful court order pursuant to Title 13, Article V, Chapter 5, section 13-5503 and/or interfering with judicial proceedings and any other crime you may have committed in disobeying this order.**

(k) No filing fee may be charged to either party for requesting or being summoned to a hearing. The court shall make a good faith effort to conduct the hearing within ten days from the date of issuing an *ex parte* order. The court may, in its discretion and/or on a showing of good cause, continue the hearing. If exclusive use of the home is awarded, the hearing shall be held within five days from the date of issuing an *ex parte* order unless the court finds good cause to continue the hearing.

- (l) After the hearing, the court may modify, quash or continue the order.
- (m) When an order is issued, modified or continued in effect after notice and a hearing at which the defendant had an opportunity to participate, the court may require the defendant to participate in Wellness Court and/or complete a domestic violence offender treatment program that is provided by a facility deemed appropriate by the court.
- (n) The court may order that the defendant to pay restitution to the plaintiff upon a written request from the plaintiff requesting restitution pursuant to this Title, Art. III, Ch. 2, Sec. 24-3202.
- (o) A copy of the petition and the order shall be served on the defendant within one year from the date the order is signed. An order of protection that is not served on the defendant within one year expires.
- (p) An order is effective on the defendant on service of a copy of the order and petition. An order expires one year after service on the defendant. A modified order is effective upon service and expires one year after service of the initial order and petition.
- (q) On request of plaintiff, each protective order or injunction issued by the court shall be served on the defendant by the Meskwaki Nation Police Department if the defendant can be served within the jurisdiction of the Meskwaki Nation Police Department. If the defendant cannot be served within the jurisdiction of the Meskwaki Nation Police Department, the police agency or sheriff office in the city or county jurisdiction in which the defendant can be served, shall serve the protective order or injunction and the Meskwaki Nation Police Department shall assist in identifying the appropriate law enforcement agency to serve the defendant and in transmitting the order or injunction and the petition to that agency.
- (r) Each affidavit, acceptance or return of service shall be promptly filed with the clerk of the court. This filing shall be completed in person or by fax or by mail. If filed in person or faxed, the filing shall be no later than the end of the seventh court business day after the date of service. If mailed the filing shall be postmarked no later than the end of the seventh court business day after the date of service. If the filing is made by fax the original affidavit, acceptance, or return of service shall be promptly thereafter filed with the court.
- (s) Within twenty-four hours after the affidavit, acceptance, or return of service has been filed with the court, excluding weekends and holidays, the court shall forward to the Meskwaki Nation Police Department a copy of the order of protection and a copy of the affidavit or certificate of service of process or acceptance of service. Upon receiving these copies, the Meskwaki Nation Police Department shall register the order with all appropriate law enforcement agencies sufficient to cause the order to be maintained in a central repository for orders of protection so that the existence and validity of each order can be easily verified by the Meskwaki Nation Police Department and by other local and relevant law enforcement agencies. The effectiveness of an order does not depend on its registration, and for enforcement purposes a copy of an order of the court, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the order on the defendant.

(t) The court shall not grant a mutual order of protection but the court is not prohibited from issuing cross orders of protection. If opposing parties separately file verified petitions for an order of protection, the court may consolidate the petitions of the opposing parties for hearing.

**Sec. 24-3102. Enforcement of and arrest for violation of order of protection.**

(a) The remedies set forth in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available.

(b) A law enforcement officer within his or her jurisdiction, inclusive of cross-deputization jurisdiction, with or without a warrant, may arrest a person if the law enforcement officer has probable cause to believe that the person has violated Title 13, Article V, Chapter 5, section 13-5503 by disobeying or resisting an order that is issued by the court or a valid order of protection issued in another jurisdiction, whether or not such violation occurred in the presence of the officer. Criminal violations of an order issued pursuant to this Title shall be referred to the appropriate law enforcement agency. The law enforcement agency shall request that a prosecutorial agency file the appropriate charges. A violation of an order of protection shall not be adjudicated unless a complaint has been filed or other legal process has been requested by the prosecuting agency. For the purposes of this section, the court has jurisdiction to enforce a valid order of protection issued by this court, another tribal court, a court of one of the States, or a court of a United States territory.

(c) In addition to release conditions set forth in Title 13, Article VI, and in the rules of criminal procedure or any other applicable code section, an order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim or other specifically designated person and may provide for any other additional conditions that the court deems appropriate, including participation in Wellness Court or counseling programs deemed appropriate by the court.

(d) The law enforcement or other agency with custody of the defendant shall make reasonable efforts to contact the victim or other specifically designated person in the order of protection, if known to the custodial agency, to inform the victim or other specifically designated person of the release of the defendant immediately upon release from custody if the victim or other specifically designated person requested notification of the release of the defendant. A law enforcement officer is not civilly liable for unintentional violation of this section.

(e) A law enforcement officer may presume the validity of and enforce and rely upon a copy of a protection order that is issued by another state, a United States territory or an Indian tribe if the order was given to the officer by any source. A peace officer may also rely on the statement of any person who is protected by the order that the order remains in effect. A peace officer who acts in good faith reliance on a protection order is not civilly or criminally liable for enforcing the protection order pursuant to this section.

(f) A law enforcement officer who makes an arrest pursuant to this section is not civilly or criminally liable for the arrest if the officer acts on probable cause and without malice.

**Sec. 24-3103. Emergency Order of Protection.**

- (a) A judge of the court may issue an emergency order of protection.
- (b) The emergency order of protection may be a written or oral *ex parte* emergency order of protection if a law enforcement officer states that the officer has reasonable grounds to believe that a person is in immediate and present danger of domestic abuse based on an allegation of a recent incident of actual domestic violence.
- (c) The emergency order of protection may be a written or oral emergency order of protection upon request of the alleged victim if there is a finding that a person's life or health is in imminent danger. If a person is either temporarily or permanently unable to request an order, a third party may request an order of protection on behalf of the plaintiff with the knowledge and consent of the plaintiff if the plaintiff is able to understand and consent. Consent and knowledge of the plaintiff are not required if the plaintiff is physically or mentally impaired. After the request is filed with the court, the judicial officer shall determine if the third party should be permitted to file the request on behalf of the plaintiff.
- (d) The availability of an emergency order of protection is not affected by either party leaving the residence.
- (e) If the court finds that the defendant may inflict bodily injury or death on the plaintiff, the defendant may be prohibited from possessing or purchasing a firearm for the duration of the order.
- (f) An emergency order of protection, if oral when issued, shall be written and signed by the judge issuing the order, and filed as soon as practicable after its issuance.
- (g) An emergency order of protection shall state in its Findings and Order:
- (1) The name of the plaintiff.
  - (2) The name of the defendant; the home address, and employer and employer address of the defendant, if known.
  - (3) Findings of domestic violence including date, location, and details of the domestic violence alleged.
  - (4) If the court orders that the defendant is prohibited from possessing or purchasing a firearm for the duration of the order the court shall enter Findings that the defendant may inflict bodily injury or death on the plaintiff
  - (5) A description of the relationship between the parties, to include:
    - (i) whether there is a pending court proceeding between the parties for maternity or paternity, annulment, legal separation or dissolution of marriage.

(ii) whether the parties resided in the same household at the time of the domestic violence.

(iii) whether the parties are now divorced.

(iv) whether the parties are physically separated and living in separate homes but still married with no dissolution of marriage action having been filed with the court.

(v) whether the parties are parents of the same minor child or expecting a child and one party is pregnant by the other party.

(vi) whether the parties are family members not residing together at the time of the domestic violence but who resided together within one year prior to the domestic violence.

(vii) whether the parties are persons not residing together at the time of the domestic violence but are persons who resided together within one year prior to the domestic violence.

(viii) whether the parties are in an intimate or dating relationship or have been in an intimate or dating relationship and have had contact with each other within one year prior to the domestic violence.

(6) The order shall include the following statement:

**Warning. This is an official court order. If you disobey this order, you will be subject to arrest and prosecution for the crime of disobedience of a lawful court order pursuant to Title 13, Article V, Chapter 5, section 13-5503 and/or interfering with judicial proceedings and any other crime you may have committed in disobeying this order.**

(h) An emergency order of protection may include any of the following:

(1) The defendant may be enjoined from committing a violation of one or more of the offenses included in domestic violence.

(2) Grant one party the use and exclusive possession of the parties' residence consistent with the housing laws, regulations, and policies of the Tribe, on a showing that there is reasonable cause to believe that physical harm may otherwise result.

(3) The defendant may be restrained from contacting the plaintiff, coming to the residence, place of employment or school of the plaintiff or other specifically designated locations or persons on a showing that there is reasonable cause to believe that physical harm may otherwise result.

(i) If the person is present before the court clerk, the court clerk shall offer the person

written information about the Victim Advocate services, however, the person is not required to accept the information.

(j) A copy of the emergency order shall be given to the protected party upon issuance in writing.

(k) The emergency order shall be served on the respondent as soon as practicable by a law enforcement officer as set forth in section 24-3101(q).

(l) Upon service of the defendant, the affidavit, acceptance, or return of service shall be filed pursuant to section 24-3101(r) and the court shall verbally notify the Meskwaki Nation Police Department that the emergency order of protection has been issued and served. The Meskwaki Nation Police Department shall cause the order to be maintained in its registry and notify other local and relevant law enforcement agencies of the existence of the order pursuant to section 24-3101(s).

(m) If a person who is named in the order and who has not received personal service of the order but has received actual notice of the existence and substance of the order commits an act that violates the order, the person is subject to any penalty for the violation.

(n) An emergency order of protection expires at the close of the next day of judicial business following the day of issue unless otherwise continued by the court. If the emergency order of protection is continued by the court, then the court shall require the plaintiff to file a written petition and the court shall modify and/or reissue the order as an order of protection and shall proceed in compliance with the provisions of section 24-3101.

(o) A law enforcement agency that has jurisdiction to enforce an emergency order of protection shall enforce the emergency order when it has reasonable cause to believe that the order has been violated.

(p) Failure of a law enforcement agency to enforce an emergency order of protection pursuant to this section does not give rise to civil liability.

#### **Sec. 24-3104. Injunction against harassment; procedure; petition.**

(a) The court may grant writs of injunction when it appears that the party applying for the writ is entitled to the relief demanded, and such relief or any part thereof requires the restraint of some act by another person constituting harassment.

(b) For the purposes of this section, "harassment" means a series of acts over any period of time directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person and serves no legitimate purpose.

(c) A person's acts constitute harassment if, with intent to harass or with knowledge that the person is harassing another person, the person:

(1) Anonymously or otherwise contacts, communicates or causes a

communication with another person by verbal, electronic, mechanical, telegraphic, telephonic or written means in a manner that harasses.

(2) Continues to follow another person in or about a public place for no legitimate purpose after being asked to desist.

(3) Repeatedly commits an act or acts that harass another person.

(4) Surveils or causes another person to surveil a person for no legitimate purpose.

(5) On more than one occasion makes a false report to law enforcement, credit or social service agency about the person.

(6) Harassment includes but is not limited to unlawful picketing, trespassory assembly, unlawful mass assembly, and the concerted interference with lawful exercise of business activity.

(d) A person, as plaintiff, may file a verified petition as a civil action with the tribal court requesting an injunction prohibiting harassment for the purpose of restraining another person from committing an act of harassment. The court, in its discretion, may waive or defer the fee for filing the petition, however there shall be no fee for filing the petition if the petition arises out of a dating relationship. If the person in need of an injunction against harassment is a minor, then the parent, legal guardian, Indian Custodian, or person who has legal custody of the minor, as a third party plaintiff, shall file the petition unless the court determines otherwise. The petition shall name the plaintiff. In the case of a minor, the petition shall name as plaintiff, the minor's parent, guardian, Indian Custodian, or legal custodian, and name the minor as a person specifically designated for purposes of protection. If a person is either temporarily or permanently unable to request an order, a third party plaintiff may request an order of protection on behalf of the plaintiff with the knowledge and consent of the plaintiff if the plaintiff is able to understand and consent. Consent and knowledge of the plaintiff are not required if the plaintiff is physically or mentally impaired. After the request is filed with the court, the judicial officer shall determine if the third party plaintiff should be permitted to file the request on behalf of the plaintiff.

(e) The court clerk shall offer the person written information about the Victim Advocate services, however, the person is not required to accept the information.

(f) The petition shall state:

(1) The name of the plaintiff. The plaintiff's address shall be disclosed to the court in a document separate from the petition for purposes of future service on the plaintiff. If the address of the plaintiff is unknown to the defendant, the plaintiff may request that the plaintiff's address be protected. The protected address shall be maintained by the court in a separate document or automated database and is not subject to release or disclosure by the court or any form of public access except by further order of the court.

(2) The name, home address, and employer and employer address of the

defendant, if known.

(3) A statement, including dates, location, name of persons involved, and specific details of the harassment alleged.

(4) The name of any court in which any prior or pending proceeding or order was sought or issued concerning the conduct that is sought to be restrained.

(5) The desired relief.

(g) An injunction against harassment shall not be granted:

(1) Unless the party who requests the injunction files a written verified petition requesting an injunction.

(2) Against more than one defendant. If there are multiple defendants then the plaintiff must file a separate petition for each defendant.

(h) At the time the petition is filed, the court shall review the petition, any other pleadings on file, hear the testimony of the plaintiff or the court-approved plaintiff's third party plaintiff, and review evidence offered by the plaintiff as expeditiously as the court's calendar permits, to determine whether the relief requested should issue *ex parte*, without further hearing. Court Rules and Rules of Civil Procedure prohibiting entry of a preliminary injunction without notice to the adverse party do not apply to injunctions that are requested pursuant to this section. Court Rules and Rules of Civil Procedure requiring the giving of security or bond prior to entry of a restraining order or preliminary injunction do not apply to injunctions that are requested pursuant to this section. If the court finds reasonable evidence of harassment of the plaintiff by the defendant during the year preceding the filing of the petition, or that good cause exists to believe that great or irreparable harm would result to the plaintiff if the injunction is not granted before the defendant or the defendant's attorney can be heard in opposition, and the court finds specific facts attesting to the plaintiff's efforts to give notice to the defendant or reasons supporting the plaintiff's claim that notice should not be given, the court shall issue an injunction against harassment *ex parte*.

(i) If the court denies the *ex parte* relief, it may schedule a further hearing within ten days with reasonable notice to the defendant. For the purposes of determining the one year period, any time that the defendant has been incarcerated or out of this jurisdiction shall not be counted.

(j) If the court issues an injunction against harassment, the court may do any of the following:

(1) Enjoin the defendant from committing a violation of one or more acts of harassment.

(2) Restrain the defendant from contacting the plaintiff or other specifically designated person and from coming to the residence, place of employment, or school of the plaintiff or other specifically designated location or person.

(3) If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated person, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer all firearms owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order.

(4) Grant relief necessary for the protection of the alleged victim or other specifically designated person that is proper under the circumstances.

(k) An *ex parte* order that is issued under this section shall state on its face that the defendant is entitled to one hearing and the hearing is set as follows:

Date: \_\_\_\_\_  
 Time: \_\_\_\_\_  
 Court Location and  
 Telephone Number \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Warning. This is an official court order. If you disobey this order, you will be subject to arrest and prosecution for the crime of disobedience of a lawful court order pursuant to Title 13, Article V, Chapter 5, section 13-5503 and/or interfering with judicial proceedings and any other crime you may have committed in disobeying this order.**

(l) No filing fee may be charged to either party for requesting or being summoned to a hearing. The court shall make a good faith effort to conduct the hearing within ten days from the date of issuing an *ex parte* order. The court may, in its discretion and/or on a showing of good cause, continue the hearing. If exclusive use of the home is awarded, the hearing shall be held within five days from the date of issuing an *ex parte* order unless the court finds good cause to continue the hearing.

(m) After the hearing, the court may modify, quash or continue the injunction order.

(n) If the injunction order is issued after notice and a hearing at which the defendant had an opportunity to participate, the court may require the defendant to complete a relevant treatment program that is provided by a facility deemed appropriate by the court and/or participate in Wellness Court.

(o) The court may order that the defendant to pay restitution to the plaintiff upon a written request from the plaintiff requesting restitution pursuant to this Title, Art. III, Ch. 2, Sec. 24-3202.

(p) A copy of the petition and the injunction order shall be served on the defendant within one year from the date the injunction order is signed. An injunction against harassment

order that is not served on the defendant within one year expires.

(q) An injunction order is effective on the defendant on service of a copy of the injunction order and petition. An order expires one year after service on the defendant. A modified order is effective on service and expires one year after service of the initial order and petition.

(r) On request of plaintiff, each protective order or injunction issued by the court shall be served on the defendant by the Meskwaki Nation Police Department if the defendant can be served within the jurisdiction of the Meskwaki Nation Police Department. If the defendant cannot be served within the jurisdiction of the Meskwaki Nation Police Department, the police agency or sheriff office in the city or county jurisdiction in which the defendant can be served, shall serve the protective order or injunction and the Meskwaki Nation Police Department shall assist in identifying the appropriate law enforcement agency to serve the defendant and in transmitting the order or injunction and the petition to that agency.

(s) Each affidavit, acceptance or return of service shall be promptly filed with the clerk of the court. This filing shall be completed in person or by fax or by mail. If filed in person or faxed, the filing shall be no later than the end of the seventh court business day after the date of service. If mailed the filing shall be postmarked no later than the end of the seventh court business day after the date of service. If the filing is made by fax the original affidavit, acceptance, or return of service shall be promptly thereafter filed with the court.

(t) Within twenty-four hours after the affidavit, acceptance or return of service has been filed with the court, excluding weekends and holidays, the court shall forward to the Meskwaki Nation Police Department a copy of the injunction against harassment order and a copy of the affidavit or certificate of service of process or acceptance of service. On receiving these copies, the Meskwaki Nation Police Department shall register the injunction order with all appropriate law enforcement agencies sufficient to cause the order to be maintained in a central repository for protection orders including injunctions against harassment so that the existence and validity of each injunction order can be easily verified by the Meskwaki Nation Police Department and by other local and relevant law enforcement agencies. The effectiveness of an order does not depend on its registration, and for enforcement purposes a copy of an order of the court, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the order on the defendant.

(u) The court shall not grant a mutual injunction against harassment but this does not prohibit a court from issuing cross injunctions against harassment. If opposing parties separately file verified petitions for an injunction against harassment the court may consolidate the petitions of the opposing parties for hearing.

**Sec. 24-3105. Enforcement of and arrest for violation of an injunction against harassment.**

(a) The remedies set forth in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available.

(b) This section does not apply to an injunction, preliminary injunction or injunctive

order issued pursuant to an action for dissolution of marriage or legal separation.

(c) A law enforcement officer within his or her jurisdiction, inclusive of cross-deputization jurisdiction, with or without a warrant, may arrest a person if the law enforcement officer has probable cause to believe that the person has violated Title 13, Article V, Chapter 5, section 13-5503 by disobeying or resisting an order that is issued by the court or a valid order issued in another jurisdiction, whether or not such violation occurred in the presence of the officer. Criminal violations of an order issued pursuant to this Title shall be referred to the appropriate law enforcement agency. The law enforcement agency shall request that a prosecutorial agency file the appropriate charges. A violation of an injunction against harassment shall not be adjudicated unless a complaint has been filed or other legal process has been requested by the prosecuting agency. For the purposes of this section, the court has jurisdiction to enforce a valid injunction against harassment issued by this court, another tribal court, a court of one of the States, or a court of a United States territory.

(d) In addition to release conditions set forth in Title 13, Article VI, and in the rules of criminal procedure or any other applicable code section, an order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim or other specifically designated person and may provide for any other additional conditions that the court deems appropriate, including participation in Wellness Court and/or any counseling programs deemed appropriate by the court.

(e) The law enforcement or other agency with custody of the defendant shall make reasonable efforts to contact the victim or other specifically designated person in the injunction against harassment, if known to the custodial agency, to inform the victim or other specifically designated person of the release of the defendant immediately upon release from custody if the victim or other specifically designated person requested notification of the release of the defendant. A law enforcement officer is not civilly liable for unintentional violation of this section.

(f) A law enforcement officer may presume the validity of and enforce and rely upon a copy of an injunction against harassment that is issued by another state, a United States territory or an Indian tribe if the order was given to the officer by any source. A law enforcement officer may also rely on the statement of any person who is protected by the injunction order that the order remains in effect. A law enforcement officer who acts in good faith reliance on an injunction against harassment order is not civilly or criminally liable for enforcing the injunction order pursuant to this section.

(g) A law enforcement officer who makes an arrest pursuant to this section is not civilly or criminally liable for the arrest if the officer acts on probable cause and without malice.

#### **24-3106. Injunction against stalking; procedure; petition.**

(a) The court may grant writs of injunction when it appears that the party applying for the writ is entitled to the relief demanded, and such relief or any part thereof requires the restraint of some act by another person constituting stalking.

(b) For the purposes of this section, a person's conduct constitutes "stalking" when

a person intentionally or knowingly engages in a course of conduct that is directed toward another person and the conduct either:

(1) Would cause a reasonable person to fear for the person's safety or the safety of that person's immediate family member and that person in fact fears for their safety or the safety of that person's immediate family member; or

(2) Would cause a reasonable person to fear death of that person or that person's immediate family member and that person in fact fears death of that person or that person's immediate family member.

(c) For the purposes of this section "course of conduct" means maintaining visual or physical proximity to a specific person or directing verbal, written or other threats, whether express or implied, to a specific person on two or more occasions over a period of time, however short, but does not include constitutionally protected activity.

(d) For purposes of this section "immediate family member" means a spouse, parent, child or sibling or any other person who regularly resides in a person's household or resided in a person's household within the past six months.

(e) The court clerk shall offer the person written information about the Victim Advocate services, however, the person is not required to accept the information.

(f) A person, as plaintiff, may file a verified petition as a civil action with the tribal court requesting an injunction prohibiting stalking for the purpose of restraining another person from committing an act of stalking. The court, in its discretion, may waive or defer the fee for filing the petition, however there shall be no fee for filing the petition if the petition arises out of a dating relationship. If the person in need of an injunction against stalking is a minor, then the parent, legal guardian, Indian Custodian, or person who has legal custody of the minor, as a third party plaintiff, shall file the petition unless the court determines otherwise. The petition shall name the plaintiff. In the case of a minor, the petition shall name as plaintiff, the minor's parent, guardian, Indian Custodian, or legal custodian, and name the minor as a person specifically designated for purposes of protection. If a person is either temporarily or permanently unable to request an order, a third party plaintiff may request an order of protection on behalf of the plaintiff with the knowledge and consent of the plaintiff if the plaintiff is able to understand and consent. Consent and knowledge of the plaintiff are not required if the plaintiff is physically or mentally impaired. After the request is filed with the court, the judicial officer shall determine if the third party plaintiff should be permitted to file the request on behalf of the plaintiff.

(g) The petition shall state:

(1) The name of the plaintiff. The plaintiff's address shall be disclosed to the court in a document separate from the petition for purposes of future service on the plaintiff. If the address of the plaintiff is unknown to the defendant, the plaintiff may request that the plaintiff's address be protected. The protected address shall be maintained by the court in a separate document or automated database and is not subject to release or disclosure by the

court or any form of public access except by further order of the court.

(2) The name, home address, and employer and employer address of the defendant, if known.

(3) A statement, including dates, location, name of persons involved, and specific details of the stalking alleged.

(4) The name of any court in which any prior or pending proceeding or order was sought or issued concerning the conduct that is sought to be restrained.

(5) The desired relief.

(h) An injunction against stalking shall not be granted:

(1) Unless the party who requests the injunction files a written verified petition requesting an injunction.

(2) Against more than one defendant. If there are multiple defendants then the plaintiff must file a separate petition for each defendant.

(i) At the time the petition is filed, the court shall review the petition, any other pleadings on file, hear the testimony of the plaintiff or the court-approved plaintiff's third party plaintiff, and review evidence offered by the plaintiff as expeditiously as the court's calendar permits, to determine whether the relief requested should issue *ex parte*, without further hearing. Court Rules and Rules of Civil Procedure prohibiting entry of a preliminary injunction without notice to the adverse party do not apply to injunctions that are requested pursuant to this section. Court Rules and Rules of Civil Procedure requiring the giving of security or bond prior to entry of a restraining order or preliminary injunction do not apply to injunctions that are requested pursuant to this section. If the court finds reasonable evidence of stalking of the plaintiff by the defendant during the year preceding the filing of the petition, or that good cause exists to believe that great or irreparable harm would result to the plaintiff if the injunction is not granted before the defendant or the defendant's attorney can be heard in opposition, and the court finds specific facts attesting to the plaintiff's efforts to give notice to the defendant or reasons supporting the plaintiff's claim that notice should not be given, the court shall issue an injunction against harassment *ex parte*.

(j) If the court denies the *ex parte* relief, it may schedule a further hearing within ten days with reasonable notice to the defendant. For the purposes of determining the one year period, any time that the defendant has been incarcerated or out of this jurisdiction shall not be counted.

(k) If the court issues an injunction against stalking, the court may do any of the following:

(1) Enjoin the defendant from committing a violation of one or more acts of stalking.

(2) Restrain the defendant from contacting the plaintiff or other specifically

designated person and from coming to the residence, place of employment, or school of the plaintiff or other specifically designated location or person.

(3) If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated person, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer all firearms owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order.

(4) Grant relief necessary for the protection of the alleged victim and other specifically designated person that is proper under the circumstances.

(1) An *ex parte* order that is issued under this section shall state on its face that the defendant is entitled to one hearing and the hearing is set as follows:

Date: \_\_\_\_\_  
 Time: \_\_\_\_\_  
 Court Location and  
 Telephone Number \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Warning. This is an official court order. If you disobey this order, you will be subject to arrest and prosecution for the crime of disobedience of a lawful court order pursuant to Title 13, Article V, Chapter 5, section 13-5503 and/or interfering with judicial proceedings and any other crime you may have committed in disobeying this order.**

(m) No filing fee may be charged to either party for requesting or being summoned to a hearing. The court shall make a good faith effort to conduct the hearing within ten days from the date of issuing an *ex parte* order. The court may, in its discretion and/or on a showing of good cause, continue the hearing. If exclusive use of the home is awarded, the hearing shall be held within five days from the date of issuing an *ex parte* order unless the court finds good cause to continue the hearing.

(n) After the hearing, the court may modify, quash or continue the injunction order.

(o) If the injunction order is issued after notice and a hearing at which the defendant had an opportunity to participate, the court may require the defendant to complete a relevant treatment program that is provided by a facility deemed appropriate by the court and/or participate in Wellness Court.

(p) The court may order that the defendant pay restitution to the plaintiff upon a written request from the plaintiff requesting restitution pursuant to this Title, Art. III, Ch. 2, Sec. 24-3202.

(q) A copy of the petition and the injunction order shall be served on the defendant within one year from the date the injunction order is signed. An injunction against stalking order that is not served on the defendant within one year expires.

(r) An injunction order is effective on the defendant on service of a copy of the injunction order and petition. An order expires one year after service on the defendant. A modified order is effective on service and expires one year after service of the initial order and petition.

(s) On request of plaintiff, each protective order or injunction issued by the court shall be served on the defendant by the Meskwaki Nation Police Department if the defendant can be served within the jurisdiction of the Meskwaki Nation Police Department. If the defendant cannot be served within the jurisdiction of the Meskwaki Nation Police Department, the police agency or sheriff office in the city or county jurisdiction in which the defendant can be served, shall serve the protective order or injunction and the Meskwaki Nation Police Department shall assist in identifying the appropriate law enforcement agency to serve the defendant and in transmitting the order or injunction and the petition to that agency.

(t) Each affidavit, acceptance or return of service shall be promptly filed with the clerk of the court. This filing shall be completed in person or by fax or by mail. If filed in person or faxed, the filing shall be no later than the end of the seventh court business day after the date of service. If mailed the filing shall be postmarked no later than the end of the seventh court business day after the date of service. If the filing is made by fax the original affidavit, acceptance, or return of service shall be promptly thereafter filed with the court.

(u) Within twenty-four hours after the affidavit, acceptance or return of service has been filed with the court, excluding weekends and holidays, the court shall forward to the Meskwaki Nation Police Department a copy of the injunction against stalking and a copy of the affidavit or certificate of service of process or acceptance of service. On receiving these copies, the Meskwaki Nation Police Department shall register the injunction order with all appropriate law enforcement agencies sufficient to cause the order to be maintained in a central repository for protection orders including injunctions against stalking so that the existence and validity of each injunction order can be easily verified by the Meskwaki Nation Police Department and by other local and relevant law enforcement agencies. The effectiveness of an order does not depend on its registration, and for enforcement purposes a copy of an order of the court, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the order on the defendant.

(v) The court shall not grant a mutual injunction against stalking but this does not prohibit a court from issuing cross injunctions against stalking. If opposing parties separately file verified petitions for an injunction against stalking the court may consolidate the petitions of the opposing parties for hearing.

**Sec. 24-3107. Enforcement of and arrest for violation of an injunction against stalking.**

(a) The remedies set forth in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available.

(b) This section does not apply to an injunction, preliminary injunction or injunctive order issued pursuant to an action for dissolution of marriage or legal separation.

(c) A law enforcement officer within his or her jurisdiction, inclusive of cross-deputization jurisdiction, with or without a warrant, may arrest a person if the law enforcement officer has probable cause to believe that the person has violated Title 13, Article V, Chapter 5, section 13-5503 by disobeying or resisting an order that is issued by the court or a valid injunction against stalking order issued in another jurisdiction, whether or not such violation occurred in the presence of the officer. Criminal violations of an order issued pursuant to this Title shall be referred to the appropriate law enforcement agency. The law enforcement agency shall request that a prosecutorial agency file the appropriate charges. A violation of an injunction against stalking shall not be adjudicated unless a complaint has been filed or other legal process has been requested by the prosecuting agency. For the purposes of this section, the court has jurisdiction to enforce a valid injunction against stalking issued by this court, another tribal court, a court of one of the States, or a court of a United States territory.

(d) In addition to release conditions set forth in Title 13, Article VI, and in the rules of criminal procedure or any other applicable code section, an order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim or other specifically designated person and may provide for any other additional conditions that the court deems appropriate, including participation in any counseling programs available to the defendant and/or participation in Wellness Court.

(e) The law enforcement or other agency with custody of the defendant shall make reasonable efforts to contact the victim or other specifically designated person in the injunction against stalking, if known to the custodial agency, to inform the victim or other specifically designated person of the release of the defendant immediately upon release from custody if the victim or other specifically designated person requested notification of the release of the defendant. A law enforcement officer is not civilly liable for unintentional violation of this section.

(f) A law enforcement officer may presume the validity of and enforce and rely upon a copy of an injunction against stalking that is issued by another state, a United States territory or an Indian tribe if the order was given to the officer by any source. A law enforcement officer may also rely on the statement of any person who is protected by the injunction order that the order remains in effect. A law enforcement officer who acts in good faith reliance on an injunction against stalking is not civilly or criminally liable for enforcing the injunction order pursuant to this section.

(g) A law enforcement officer who makes an arrest pursuant to this section is not civilly or criminally liable for the arrest if the officer acts on probable cause and without malice.

**Sec. 24-3108. Vulnerable adult order of protection; procedure; petition.**

(a) This section protects and provides for an order of protection for a vulnerable adult when the relationship and/or elements required for an order of protection against domestic violence are not available.

(b) Abuse, neglect, and/or exploitation of a vulnerable adult means any one or combination of the following:

(1) When, under circumstances likely to produce death or serious physical injury a person causes a vulnerable adult to suffer physical injury or, having the care or custody of a vulnerable adult causes or permits the person or health of the vulnerable adult to be injured or, causes or permits a vulnerable adult to be placed in a situation where the person or health of the vulnerable adult is endangered;

(2) When, under circumstances other than those likely to produce death or serious physical injury to a vulnerable adult, a person causes a vulnerable adult to suffer physical injury or abuse or, having the care or custody of a vulnerable adult causes or permits the person or health of the vulnerable adult to be injured or, causes or permits a vulnerable adult to be placed in a situation where the person or health of the vulnerable adult is endangered.

(3) When a person knowingly inflicts physical or mental pain or injury on a vulnerable adult or threatens to do the same;

(4) When a person knowingly misuses the funds, property or resources of a vulnerable adult;

(5) When a person is responsible for the care of a vulnerable adult and knowingly fails to provide food, clothing, shelter, medical care or other services reasonably necessary to sustain the life or health of a vulnerable adult, or otherwise neglects the vulnerable adult.

(c) For the purposes of this sub-section the terms “endangered” and “abuse” include but are not limited to circumstances in which a vulnerable adult is permitted to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found or equipment is possessed by any person for the purpose of manufacturing a dangerous drug. Violations committed under the circumstances described in this subsection do not require that a person have care or custody of the vulnerable adult.

(d) This section does not apply to:

(1) A health care provider who permits a patient to die or the patient's condition to deteriorate by not providing health care if that patient refuses that care directly or indirectly through a legally recognized health care directive or through a court appointed guardian who has legal authority to make such decisions.

(2) A vulnerable adult who is being furnished spiritual treatment through prayer alone and who would not otherwise be considered to be abused, neglected or endangered if medical treatment were being furnished.

(e) For the purposes of this section, used in reference to a vulnerable adult, the

following terms mean:

(1) "Abuse" includes any of the causes of actions set forth in this Title 24 and further includes any one or combination of:

- (i) Intentional infliction of physical injury.
- (ii) Injury caused by criminally negligent acts or omissions.
- (iii) Unlawful imprisonment.
- (iv) Sexual abuse or sexual assault.

(2) "Emotional abuse" means a pattern of ridiculing or demeaning a vulnerable adult, making derogatory remarks to a vulnerable adult, verbally harassing a vulnerable adult or threatening to inflict physical or emotional harm on a vulnerable adult.

(3) "Physical injury" means the impairment of physical condition and includes any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition that imperils health or welfare.

(4) "Serious physical injury" means physical injury that creates a reasonable risk of death or that causes serious or permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.

(5) "Vulnerable adult" means an individual who is eighteen years of age or older and who is unable to protect himself from abuse, neglect or exploitation by others because of a mental or physical impairment and includes but is not limited to any adult over whom any court has appointed a guardian or conservator and any adult being cared for, whether voluntarily or involuntarily, in a mental health facility, hospital, nursing home, extended care facility, or similar care facility.

(f) The court clerk shall offer the person written information about the Victim Advocate services, however, the person is not required to accept the information.

(g) A person, as plaintiff, may file a verified petition as a civil action with the tribal court requesting a vulnerable adult order of protection against abuse and/or exploitation for the purpose of restraining another person from committing an act included in abuse and/or exploitation of a vulnerable adult. A fee shall not be charged for filing a petition under this section. The petition shall name the plaintiff. If a person is either temporarily or permanently unable to request an order, a third party plaintiff may request an order of protection on behalf of the plaintiff with the knowledge and consent of the plaintiff if the plaintiff is able to understand and consent. Consent and knowledge of the plaintiff are not required if the plaintiff is physically or mentally impaired. After the request is filed with the court, the judicial officer shall determine if the third party plaintiff should be permitted to file the request on behalf of the plaintiff.

(h) The petition shall state:

(1) The name of the plaintiff. The plaintiff's address shall be disclosed to the court in a document separate from the petition for purposes of future service on the plaintiff. If the address of the plaintiff is unknown to the defendant, the plaintiff may request that the plaintiff's address be protected. The protected address shall be maintained by the court in a separate document or automated database and is not subject to release or disclosure by the court or any form of public access except by further order of the court.

(2) The name, home address, and employer and employer address of the defendant, if known.

(3) A statement, including dates, location, name of persons involved, and specific details of the alleged abuse and/or exploitation of a vulnerable adult.

(4) The name of any court in which any prior or pending proceeding or order was sought or issued concerning the conduct that is sought to be restrained.

(5) The desired relief.

(i) A vulnerable adult order of protection shall not be granted:

(1) Unless the party who requests the order files a written verified petition requesting a vulnerable adult order of protection.

(2) Against more than one defendant. If there are multiple defendants then the plaintiff must file a separate petition for each defendant.

(j) At the time the petition is filed, the court shall review the petition, any other pleadings on file, hear the testimony of the plaintiff or the court-approved plaintiff's third party plaintiff, and review evidence offered by the plaintiff as expeditiously as the court's calendar permits, to determine whether the relief requested should issue *ex parte*, without further hearing. The court shall issue an order of protection *ex parte* and without notice to the defendant at the time the plaintiff files the petition if the court determines that there is reasonable cause to believe any of the following:

(1) The defendant may commit an act of abuse and/or exploitation of a vulnerable adult.

(2) The defendant has committed an act of abuse and/or exploitation of a vulnerable adult within the past year or within a longer period of time if the court finds that good cause exists to consider a longer period. For the purposes of determining the period of time, any time that the defendant has been incarcerated or out of this jurisdiction shall not be counted.

(k) If the court denies the *ex parte* relief, it may schedule a further hearing within ten days, with reasonable notice to the defendant.

(l) If the court issues a vulnerable adult order of protection, the court may do any of the following:

(1) Prohibit the defendant from committing a violation of one or more of the offenses included in abuse and/or exploitation of a vulnerable adult.

(2) Restrain the defendant from contacting the plaintiff or other specifically designated person and from coming to the residence, care facility, place of employment, or school of the plaintiff or other specifically designated location or person on a showing that there is reasonable cause to believe that harm and/or exploitation as set forth in this section may otherwise result.

(3) If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated person, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer all firearms owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order.

(4) Grant relief that is necessary for the protection of the alleged victim and other specifically designated persons and that is proper under the circumstances.

(m) An *ex parte* order that is issued under this section shall state on its face that the defendant is entitled to one hearing and the hearing is set as follows:

Date: \_\_\_\_\_  
 Time: \_\_\_\_\_  
 Court Location and  
 Telephone Number \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Warning. This is an official court order. If you disobey this order, you will be subject to arrest and prosecution for the crime of disobedience of a lawful court order pursuant to Title 13, Article V, Chapter 5, section 13-5503 and/or interfering with judicial proceedings and any other crime you may have committed in disobeying this order.**

(n) No filing fee may be charged to either party for requesting or being summoned to a hearing. The court shall make a good faith effort to conduct the hearing within ten days from the date of issuing an *ex parte* order. The court may, in its discretion and/or on a showing of good cause, continue the hearing. If exclusive use of the home is awarded, the hearing shall be held within five days from the date of issuing an *ex parte* order unless the court finds good cause to continue the hearing.

- (o) After the hearing, the court may modify, quash or continue the order.
- (p) When an order is issued, modified or continued in effect after notice and a hearing at which the defendant had an opportunity to participate, the court may require the defendant to complete a relevant treatment program that is provided by a facility deemed appropriate by the court and/or participate in Wellness Court.
- (q) The court may order that the defendant pay restitution to the plaintiff upon a written request from the plaintiff requesting restitution pursuant to this Title, Art. III, Ch. 2, Sec. 24-3202.
- (r) A copy of the petition and the order shall be served on the defendant within one year from the date the order is signed. An order of protection that is not served on the defendant within one year expires.
- (s) An order is effective on the defendant on service of a copy of the order and petition. An order expires one year after service on the defendant. A modified order is effective upon service and expires one year after service of the initial order and petition.
- (t) On request of plaintiff, each protective order or injunction issued by the court shall be served on the defendant by the Meskwaki Nation Police Department if the defendant can be served within the jurisdiction of the Meskwaki Nation Police Department. If the defendant cannot be served within the jurisdiction of the Meskwaki Nation Police Department, the police agency or sheriff office in the city or county jurisdiction in which the defendant can be served, shall serve the protective order or injunction and the Meskwaki Nation Police Department shall assist in identifying the appropriate law enforcement agency to serve the defendant and in transmitting the order or injunction and the petition to that agency.
- (u) Each affidavit, acceptance or return of service shall be promptly filed with the clerk of the court. This filing shall be completed in person or by fax or by mail. If filed in person or faxed, the filing shall be no later than the end of the seventh court business day after the date of service. If mailed the filing shall be postmarked no later than the end of the seventh court business day after the date of service. If the filing is made by fax the original affidavit, acceptance, or return of service shall be promptly thereafter filed with the court.
- (v) Within twenty-four hours after the affidavit, acceptance, or return of service has been filed with the court, excluding weekends and holidays, the court shall forward to the Meskwaki Nation Police Department a copy of the order of protection and a copy of the affidavit or certificate of service of process or acceptance of service. Upon receiving these copies, the Meskwaki Nation Police Department shall register the order with all appropriate law enforcement agencies sufficient to cause the order to be maintained in a central repository for orders of protection so that the existence and validity of each order can be easily verified by the Meskwaki Nation Police Department and by other local and relevant law enforcement agencies. The effectiveness of an order does not depend on its registration, and for enforcement purposes a copy of an order of the court, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the order on the defendant.

(w) The court shall not grant a mutual vulnerable adult order of protection but the court is not prohibited from issuing cross orders of protection. If opposing parties separately file verified petitions for an order of protection, the court may consolidate the petitions of the opposing parties for hearing.

**Sec. 24-3109. Enforcement of and arrest for violation of vulnerable adult order of protection.**

(a) The remedies set forth in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available.

(b) A law enforcement officer within his or her jurisdiction, inclusive of cross-deputization jurisdiction, with or without a warrant, may arrest a person if the law enforcement peace officer has probable cause to believe that the person has violated Title 13, Article V, Chapter 5, section 13-5503 by disobeying or resisting an order that is issued by the court or a valid order of protection issued in another jurisdiction, whether or not such violation occurred in the presence of the officer. Criminal violations of an order issued pursuant to this Title shall be referred to the appropriate law enforcement agency. The law enforcement agency shall request that a prosecutorial agency file the appropriate charges. A violation of an order of protection shall not be adjudicated unless a complaint has been filed or other legal process has been requested by the prosecuting agency. For the purposes of this section, the court has jurisdiction to enforce a valid order of protection issued by this court, another tribal court, a court of one of the States, or a court of a United States territory.

(c) In addition to release conditions set forth in Title 13, Article VI, and in the rules of criminal procedure or any other applicable code section, an order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim or other specifically designated person and may provide for any other additional conditions that the court deems appropriate, including participation in any counseling programs deemed appropriate by the court or participation in Wellness Court.

(d) The law enforcement or other agency with custody of the defendant shall make reasonable efforts to contact the victim or other specifically designated person in the order of protection, if known to the custodial agency, to inform the victim or other specifically designated person of the release of the defendant immediately upon release from custody if the victim or other specifically designated person requested notification of the release of the defendant. A law enforcement officer is not civilly liable for unintentional violation of this section.

(e) A law enforcement officer may presume the validity of and enforce and rely upon a copy of a protection order that is issued by another state, a United States territory or an Indian tribe if the order was given to the officer by any source. A law enforcement officer may also rely on the statement of any person who is protected by the order that the order remains in effect. A law enforcement officer who acts in good faith reliance on a protection order is not civilly or criminally liable for enforcing the protection order pursuant to this section.

(f) A law enforcement officer who makes an arrest pursuant to this section is not

civilly or criminally liable for the arrest if the officer acts on probable cause and without malice.

**Sec. 24-3110. Injunction against intimidation; procedure; petition; content; Injunction against the use of telephone or electronic means to terrify, intimidate, threaten, harass, annoy or offend; procedure; petition; content.**

(a) The court may grant writs of injunction when it appears that the party applying for the writ is entitled to the relief demanded, and such relief or any part thereof requires the restraint of some act by another person constituting intimidation and/or use of a telephone or electronic means to terrify, intimidate, threaten, annoy or offend.

(b) For the purposes of this section a person's conduct constitutes "intimidation" when a person directly or indirectly, uses unjustified force or violence or threatens the use thereof or engages in any other unlawful act with the intent to force or coerce any other person to do something against such person's will, as set forth in the SAC & FOX TR. OF MISS. CODE, Title 13, Article V, Chapter 11, section 13-51111, and as amended.

(c) For the purposes of this section a person's conduct constitutes "use of a telephone or electronic means to terrify, intimidate, threaten, annoy or offend" when a person uses a telephone or electronic means to transmit any obscene, lewd or profane language or suggest any lewd or lascivious act, or threatens to inflict physical harm to the person or the person's immediate family member, or disturbs by repeated anonymous calls the peace, quiet or right of privacy of any person at the place where the telephone call or electronic transmission was received

(d) For purposes of this section "immediate family member" means a spouse, parent, child or sibling or any other person who regularly resides in a person's household or resided in a person's household within the past six months.

(e) The court clerk shall offer the person written information about the Victim Advocate services, however, the person is not required to accept the information.

(f) A person, as plaintiff, may file a verified petition as a civil action with the tribal court requesting an injunction against intimidation and/or against use of a telephone or electronic means to terrify, intimidate, threaten, annoy or offend, for the purpose of restraining another person from committing an act of intimidation and/or use of a telephone or electronic means to terrify, intimidate, threaten, annoy or offend. The court, in its discretion, may waive or defer the fee for filing the petition, however there shall be no fee for filing the petition if the petition arises out of a dating relationship. If the person in need of an injunction is a minor, then the parent, legal guardian, Indian Custodian, or person who has legal custody of the minor, as a third party plaintiff, shall file the petition unless the court determines otherwise. The petition shall name the plaintiff. In the case of a minor, the petition shall name as plaintiff, the minor's parent, guardian, Indian Custodian, or legal custodian, and name the minor as a person specifically designated for purposes of protection. If a person is either temporarily or permanently unable to request an order, a third party plaintiff may request an order of protection on behalf of the plaintiff with the knowledge and consent of the plaintiff if the plaintiff is able to understand and consent. Consent and knowledge of the plaintiff are not required if the plaintiff is physically or mentally impaired. After the request is filed with the court, the judicial officer shall determine if the third party plaintiff should be permitted to file the

(g) The petition shall state:

(1) The name of the plaintiff. The plaintiff's address shall be disclosed to the court in a document separate from the petition for purposes of future service on the plaintiff. If the address of the plaintiff is unknown to the defendant, the plaintiff may request that the plaintiff's address be protected. The protected address shall be maintained by the court in a separate document or automated database and is not subject to release or disclosure by the court or any form of public access except by further order of the court.

(2) The name, home address, and employer and employer address of the defendant, if known.

(3) A statement, including dates, location, name of persons involved, and specific details of the alleged intimidation including use of a telephone or electronic means to terrify, intimidate, threaten, harass, annoy or offend.

(4) The name of any court in which any prior or pending proceeding or order was sought or issued concerning the conduct that is sought to be restrained.

(5) The desired relief.

(h) An injunction against intimidation or injunction against use of a telephone or electronic means to terrify, intimidate, threaten, annoy or offend shall not be granted:

(1) Unless the party who requests the injunction files a written verified petition requesting an injunction.

(2) Against more than one defendant. If there are multiple defendants then the plaintiff must file a separate petition for each defendant.

(i) At the time the petition is filed, the court shall review the petition, any other pleadings on file, hear the testimony of the plaintiff or the court-approved plaintiff's third party plaintiff, and review evidence offered by the plaintiff as expeditiously as the court's calendar permits, to determine whether the relief requested should issue *ex parte*, without further hearing. Court Rules and Rules of Civil Procedure prohibiting entry of a preliminary injunction without notice to the adverse party do not apply to injunctions that are requested pursuant to this section. Court Rules and Rules of Civil Procedure requiring the giving of security or bond prior to entry of a restraining order or preliminary injunction do not apply to injunctions that are requested pursuant to this section. If the court finds reasonable evidence of intimidation and/or use of a telephone or electronic means to terrify, intimidate, threaten, annoy or offend by the defendant during the year preceding the filing of the petition, or that good cause exists to believe that great or irreparable harm would result to the plaintiff if the injunction is not granted before the defendant or the defendant's attorney can be heard in opposition, and the court finds specific facts attesting to the plaintiff's efforts to give notice to the defendant or reasons supporting the plaintiff's claim that notice should not be given, the court shall issue an injunction against intimidation and/or use of a

telephone or electronic means to terrify, intimidate, threaten, harass, annoy or offend, *ex parte*.

(j) If the court denies the *ex parte* relief, it may schedule a further hearing within ten days with reasonable notice to the defendant. For the purposes of determining the one year period, any time that the defendant has been incarcerated or out of this jurisdiction shall not be counted.

(k) If the court issues an injunction against intimidation and/or use of a telephone or electronic means to terrify, intimidate, threaten, annoy or offend, the court may do any of the following:

(1) Enjoin the defendant from committing a violation of one or more acts of intimidation and/or use of a telephone or electronic means to terrify, intimidate, threaten, annoy or offend.

(2) Restrain the defendant from contacting the plaintiff or other specifically designated person and from coming to the residence, place of employment, or school of the plaintiff or other specifically designated location or person.

(3) If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated person, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer all firearms owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order.

(4) Grant relief necessary for the protection of the alleged victim or other specifically designated person that is proper under the circumstances.

(l) An *ex parte* order that is issued under this section shall state on its face that the defendant is entitled to one hearing and the hearing is set as follows:

Date: \_\_\_\_\_  
 Time: \_\_\_\_\_  
 Court Location and  
 Telephone Number \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Warning. This is an official court order. If you disobey this order, you will be subject to arrest and prosecution for the crime of disobedience of a lawful court order pursuant to Title 13, Article V, Chapter 5, section 13-5503 and/or interfering with judicial proceedings and any other crime you may have committed in disobeying this order.**

(m) No filing fee may be charged to either party for requesting or being summoned to a hearing. The court shall make a good faith effort to conduct the hearing within ten days from the

date of issuing an *ex parte* order. The court may, in its discretion and/or on a showing of good cause, continue the hearing. If exclusive use of the home is awarded, the hearing shall be held within five days from the date of issuing an *ex parte* order unless the court finds good cause to continue the hearing.

- (n) After the hearing, the court may modify, quash or continue the injunction order.
- (o) If the injunction order is issued after notice and a hearing at which the defendant had an opportunity to participate, the court may require the defendant to complete a relevant treatment program that is provided by a facility deemed appropriate by the court and/or participate in Wellness Court.
- (p) The court may order that the defendant pay restitution to the plaintiff upon a written request from the plaintiff requesting restitution pursuant to this Title, Art. III, Ch. 2, Sec. 24-3202.
- (q) A copy of the petition and the injunction order shall be served on the defendant within one year from the date the injunction order is signed. An injunction against intimidation and/or use of a telephone or electronic means to terrify, intimidate, threaten, annoy or offend that is not served on the defendant within one year expires.
- (r) An injunction order is effective on the defendant on service of a copy of the injunction order and petition. An order expires one year after service on the defendant. A modified order is effective on service and expires one year after service of the initial order and petition.
- (s) On request of plaintiff, each protective order or injunction issued by the court shall be served on the defendant by the Meskwaki Nation Police Department if the defendant can be served within the jurisdiction of the Meskwaki Nation Police Department. If the defendant cannot be served within the jurisdiction of the Meskwaki Nation Police Department, the police agency or sheriff office in the city or county jurisdiction in which the defendant can be served, shall serve the protective order or injunction and the Meskwaki Nation Police Department shall assist in identifying the appropriate law enforcement agency to serve the defendant and in transmitting the order or injunction and the petition to that agency.
- (t) Each affidavit, acceptance or return of service shall be promptly filed with the clerk of the court. This filing shall be completed in person or by fax or by mail. If filed in person or faxed, the filing shall be no later than the end of the seventh court business day after the date of service. If mailed the filing shall be postmarked no later than the end of the seventh court business day after the date of service. If the filing is made by fax the original affidavit, acceptance, or return of service shall be promptly thereafter filed with the court.
- (u) Within twenty-four hours after the affidavit, acceptance or return of service has been filed with the court, excluding weekends and holidays, the court shall forward to the Meskwaki Nation Police Department a copy of the injunction order and a copy of the affidavit or certificate of service of process or acceptance of service. On receiving these copies, the Meskwaki Nation Police Department shall register the injunction order with all appropriate law enforcement agencies sufficient to cause the order to be maintained in a central repository for protection orders

including injunctions against intimidation and/or against use of a telephone or electronic means to terrify, intimidate, threaten, annoy or offend so that the existence and validity of each injunction order can be easily verified by the Meskwaki Nation Police Department and by other local and relevant law enforcement agencies. The effectiveness of an order does not depend on its registration, and for enforcement purposes a copy of an order of the court, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the order on the defendant.

(v) The court shall not grant a mutual injunction against intimidation and/or against use of a telephone or electronic means to terrify, intimidate, threaten, annoy or offend but this does not prohibit a court from issuing cross injunctions. If opposing parties separately file verified petitions for an injunction provided for in this section the court may consolidate the petitions of the opposing parties for hearing.

**Sec. 24-3111. Enforcement and arrest for violation of an injunction against intimidation and for violation of injunction against use of telephone or electronic means to terrify, intimidate, threaten, harass, annoy or offend.**

(a) The remedies set forth in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available.

(b) This section does not apply to an injunction, preliminary injunction or injunctive order issued pursuant to an action for dissolution of marriage or legal separation.

(c) A law enforcement officer within his or her jurisdiction, inclusive of cross-deputization jurisdiction, with or without a warrant, may arrest a person if the law enforcement officer has probable cause to believe that the person has violated Title 13, Article V, Chapter 5, section 13-5503 by disobeying or resisting an order that is issued by the court or a valid injunction provided for in this section issued in another jurisdiction, whether or not such violation occurred in the presence of the officer. Criminal violations of an order issued pursuant to this Title shall be referred to the appropriate law enforcement agency. The law enforcement agency shall request that a prosecutorial agency file the appropriate charges. A violation of an injunction provided for by this section shall not be adjudicated unless a complaint has been filed or other legal process has been requested by the prosecuting agency. For the purposes of this section, the court has jurisdiction to enforce a valid injunction provided for by this section that is issued by this court, another tribal court, a court of one of the States, or a court of a United States territory.

(d) In addition to release conditions set forth in Title 13, Article VI, and in the rules of criminal procedure or any other applicable code section, an order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim or other specifically designated person and may provide for any other additional conditions that the court deems appropriate, including participation in any counseling programs available to the defendant and/or participation in Wellness Court.

(e) The law enforcement or other agency with custody of the defendant shall make reasonable efforts to contact the victim or other specifically designated person in the injunction against intimidation and/or use of a telephone or electronic means to terrify, intimidate, threaten,

annoy or offend, if known to the custodial agency, to inform the victim or other specifically designated person of the release of the defendant immediately upon release from custody if the victim or other specifically designated person requested notification of the release of the defendant. A law enforcement officer is not civilly liable for unintentional violation of this section.

(f) A law enforcement officer may presume the validity of and enforce and rely upon a copy of an injunction against intimidation and/or use of a telephone or electronic means to terrify, intimidate, threaten, annoy or offend that is issued by another state, a United States territory or an Indian tribe if the order was given to the officer by any source. A law enforcement officer may also rely on the statement of any person who is protected by the injunction order that the order remains in effect. A law enforcement officer who acts in good faith reliance on an injunction against provided for in this section is not civilly or criminally liable for enforcing the injunction order pursuant to this section.

(g) A law enforcement officer who makes an arrest pursuant to this section is not civilly or criminally liable for the arrest if the officer acts on probable cause and without malice.

## **CHAPTER 2. ADDITIONAL REMEDIES AND CONTEMPT.**

### **Sec. 24-3201. Contempt.**

(a) “Contempt” means:

(1) As provided in Title 5, Article IV, Sec. 5-4303, a person commits contempt if the person engages in willful and unjustifiable misbehavior which:

(i) Disrupts, obstructs, or otherwise interferes with the conduct of any proceeding by the Tribal Court; or

(ii) Obstructs or interferes with the administration of justice by the Tribal Court; or

(iii) Constitutes disobedience or resistance to or interference with any lawful summons, subpoena, process, order, rule, decree or command of the Tribal Court.

(2) A person’s willful failure or refusal to comply with a Court order requiring a defendant/person to attend and cooperate in an evaluation for alcohol abuse, drug abuse, anger management, domestic violence, and/or to undergo treatment as described in a treatment plan.

(3) Violation of a lawful order of protection and/or injunction as specified in or incorporated into this Title and/or any such similar protective order lawfully issued by another jurisdiction.

(b) Court as Witness to Contempt. When contempt of court is committed in the presence of the court it may be rectified summarily by the court. In such case, an order shall then

be made reciting the facts constituting the contempt, adjudging the person to be in contempt, and prescribing punishment or other action therefor.

(c) Contempt committed outside the presence of the court. When contempt is committed outside the presence of the court:

(1) A law enforcement officer, attorney, or some credible person may file a petition, motion or affidavit with the court stating the reasonable grounds to believe that a person is guilty of contempt as specified in Sec. 24-3201(a).

(2) When it appears to the court that contempt may have been committed out of the presence of the court, the court may issue a summons to the person so charged directing the person to appear at a time and place designated for a hearing on the matter.

(3) The order to appear and/or summons together with a copy of the petition, motion or affidavit, shall be served upon the person charged within a reasonably sufficient time to enable the person to prepare and appear at the hearing.

(4) If a person served with a summons and/or order to appear fails to appear at the time and place so designated, the court may order the person's arrest and the delivery of the person forthwith before the court for hearing, or deem a failure to appear a default.

(5) Upon conducting a hearing:

(i) If the court finds the person committed contempt but has purged the contempt, the court shall issue an order reciting the facts constituting the contempt and the facts supporting a finding that the contempt is purged and may issue such further orders that the court deems proper and just under the circumstances.

(ii) If the court finds the person committed contempt and has not purged the contempt, the court shall issue an order reciting the facts constituting the contempt, adjudging the person to be in contempt, and prescribing the punishment or other action therefor.

(d) As a civil matter and after notice, when a person intentionally, willfully, or knowingly violates or fails to comply with any provision of any protective order and/or injunction as specified in or incorporated into this Title, and when the person is found in contempt, the person may be:

(1) fined an amount not to exceed five hundred dollars [\$500.00] for the first offense; fined an amount not to exceed two thousand dollars [\$2,000.00] for the second offense; and fined an amount not to exceed five thousand dollars [\$5,000] for the third offense; and/or

(2) ordered to pay restitution to the victim[s] pursuant to Sec. 24-3202.

(e) As a criminal matter, after notice, when a person intentionally, willfully, or

knowingly violates or fails to comply with any provision of any protective order and/or injunction as specified in or incorporated into this Title, the person may be found in contempt. A finding of contempt as set forth in this section is a separate offense from that of Disobedience of a Lawful Court Order as set forth in Title 13, Sec. 13-5503. Upon a finding of contempt under this section, the person may be:

- (1) fined an amount not to exceed \$5,000; and/or
- (2) incarcerated for a period not to exceed one year; and/or
- (3) ordered to pay restitution to the victim[s] pursuant to Sec. 24-3202.

**Sec. 24-3202. Restitution.**

(a) The court may order the defendant to pay restitution to the victim when restitution is appropriate and when the amount of restitution arises from the victim's losses. The court may order a restitution amount up to the full amount of the victim's losses.

(b) The term "full amount of the victim's losses" includes, but is not limited to, costs incurred by the victim for any or all of the following:

- (1) Medical services for physical, psychiatric, psychological, counseling, therapy and other health care;
- (2) Physical and occupational therapy and/or rehabilitation;
- (3) Necessary transportation, temporary housing, and child care expenses;
- (4) Lost income;
- (5) Attorney's fees and costs incurred in obtaining a civil protection order, order of protection, and/or injunction as specified in or incorporated into this Title;
- (6) All other losses suffered by the victim as a proximate result of abuse and/or violence as set forth in this Title.

(c) An order of restitution shall be enforceable by all available and reasonable means, including assignment of per capita if available, garnishment, and all other means deemed proper by the court.

(d) An order of restitution may also be enforced by the victim named in the order in the same manner as a judgment in a civil action.

**Sec. 24-3203. Banishment.**

(a) When a person is a defendant in a lawful order of protection and/or injunction of the nature specified in or incorporated into this Title, and is a member of the Sac & Fox Tribe of the

Mississippi in Iowa, the person may be banished from the Settlement in accordance with and subject to the provisions for banishment at Title 13, Article VII, SAC & FOX TRIBE OF MISSISSIPPI CODE.

(b) For purposes of this section, the order of protection and/or injunction in which the person is a defendant may be issued by this tribal court, another tribal court, a court of any of the States, or a court of a United States territory.

**Sec. 24-3204. Exclusion.**

(a) When a person is a defendant in a lawful order of protection and/or injunction of the nature specified in or incorporated into this Title, and is not a member of the Sac & Fox Tribe of the Mississippi in Iowa, the person may be excluded from the Settlement in accordance with and subject to the provisions for exclusion at Title 22, SAC & FOX TRIBE OF MISSISSIPPI CODE.

(b) For purposes of this section, the order of protection and/or injunction in which the person is a defendant may be issued by this tribal court, another tribal court, a court of any of the States, or a court of a United States territory.

**Sec. 24-3205. Arrest and procedure; weapon seizure.**

(a) A law enforcement officer, with or without a warrant, may arrest a person if the officer has probable cause to believe that domestic violence and/or any offense specified in or incorporated into this Title has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether the offense is a felony or a misdemeanor and whether the offense was committed within or without the presence of the law enforcement officer.

(b) In cases involving the infliction of physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, the law enforcement officer shall arrest a person, with or without a warrant, if the officer has probable cause to believe that the offense has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether the offense was committed within or without the presence of the peace officer, unless the officer has reasonable grounds to believe that the circumstances at the time are such that the victim will be protected from further injury. Failure to make an arrest does not give rise to civil liability.

(c) In order to arrest both parties, the law enforcement officer shall have probable cause to believe that both parties independently have committed an act of domestic violence and/or any offense specified in or incorporated into this Title. An act of self-defense that is justified under Title 13, Article 5, Chapter 2 is not deemed to be an act of domestic violence.

(d) A law enforcement officer may question the persons who are present to determine if a firearm is present on the premises. On learning or observing that a firearm is present on the premises, the law enforcement officer may temporarily seize the firearm if the firearm is in plain view or was found pursuant to a consent to search or warrant and if the officer reasonably believes that the firearm would expose the victim or another person in the household to a risk of serious

bodily injury or death. A firearm that is owned or possessed by the victim shall not be seized unless there is probable cause to believe that both parties independently have committed an act of domestic violence.

(e) If a firearm is seized pursuant to this section the law enforcement officer shall give the owner or possessor of the firearm a receipt for each seized firearm. The receipt shall indicate the identification or serial number or other identifying characteristic of each seized firearm. Each seized firearm shall be held for at least seventy-two hours by the law enforcement agency that seized the firearm.

(f) If a firearm is seized pursuant to this section the victim shall be notified by a law enforcement officer before the firearm is released from temporary custody.

(g) If there is reasonable cause to believe that returning a firearm to the owner or possessor may endanger the victim, the person who reported the assault or threat, or another person in the household, the prosecutor shall file a notice of intent to retain the firearm with the court. The prosecutor shall serve notice on the owner or possessor of the firearm by certified mail. The notice shall state that the firearm will be retained for not more than six months following the date of seizure. On receipt of the notice, the owner or possessor may request a hearing for the return of the firearm, to dispute the grounds for seizure, or to request an earlier return date. The court shall hold the hearing within ten days after receiving the owner's or possessor's request for a hearing. At the hearing, unless the court determines that the return of the firearm may endanger the victim, the person who reported the assault or threat or another person in the household, the court shall order the return of the firearm to the owner or possessor.

(h) In addition to release conditions set forth in Title 13, Article VI, and in the rules of criminal procedure or any other applicable code section, an order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim or other specifically designated person and may provide for any other additional conditions that the court deems appropriate, including participation in Wellness Court and/or counseling programs deemed appropriate by the court.

(i) When a law enforcement officer responds to a call alleging that domestic violence and/or any offense specified in or incorporated into this Title has been or may be committed, the officer shall offer any alleged or potential victim written procedures and resources available for the protection of the victim. The victim is not required to accept the written information. The written information shall include:

(1) Requesting an order of protection pursuant to section 24-3101; an injunction against stalking pursuant to section 24-3106; an injunction against harassment pursuant to section 24-3104; a vulnerable adult order of protection pursuant to section 24-3108; an injunction against intimidation and/or against use of telephone or electronic means of communication to terrify, intimidate, threaten, harass, annoy or offend pursuant to section 24-3110.

(2) The emergency telephone number for the local police agency.

- (3) The telephone numbers for emergency services in the local community.
- (4) The telephone number and contact information for Victim Advocate services.
- (j) A law enforcement officer is not liable for any act or omission in the good faith exercise of the officer's duties under this section.

**TITLE 24. DOMESTIC VIOLENCE****ARTICLE IV****REGISTRATION OF ORDERS AND FOREIGN ORDERS****CHAPTER 1. REGISTRATION OF ORDERS AND FOREIGN ORDERS****Sec. 24-4101. Foreign orders; full faith and credit.**

(a) A valid protection order arising from domestic or family abuse, stalking, intimidation, harassment, threats, and/or any offense specified or incorporated into this Title, and that is issued by a court in another state, a court of a United States territory or another tribal court shall be accorded full faith and credit and shall be enforced as if it were issued in this court's jurisdiction for as long as the order is effective in the issuing jurisdiction. For the purposes of this subsection:

(1) A protection order includes any order of protection, injunction, or other order that is issued for the purpose of preventing violent or threatening acts, or stalking or harassment, or contact or communication with, or physical proximity to, another person and as specified in and incorporated into this Title. A protection order includes temporary and final orders that are issued by civil and criminal courts if the order is obtained by the filing of an independent action or is a *pendente lite* order in another proceeding.

(2) A protection order is valid if the issuing court had jurisdiction over the parties and the matter under the laws of the issuing state, a United States territory, or an Indian tribe, and the person against whom the order was issued had reasonable notice and an opportunity to be heard unless the order is issued *ex parte*, in which case the notice and opportunity to be heard shall be provided within the time required by the laws of the issuing state, a United States territory, or an Indian tribe, and within a reasonable time after the order was issued.

(3) A mutual protection order that is issued against both the party who filed a petition and the person against whom the filing was made is not entitled to full faith and credit if either:

(i) The person against whom an initial order was sought has not filed a cross or counter petition or other written pleading seeking a protection order; or

(ii) The issuing court failed to make specific findings supporting the entitlement of both parties to be granted a protection order.

(b) A peace officer may presume the validity of and enforce and rely on a copy of a protection order and/or injunction that is issued by another state, a United States territory, or an Indian tribe, if the order was given to the officer by any source. A peace officer may also rely on the statement of any person who is protected by the order that the order remains in effect. A peace officer who acts in good faith reliance on a protection order is not civilly or criminally liable for enforcing the protection order pursuant to this section.

**Sec. 24-4102. Registration of Orders.**

(a) The Meskwaki Nation Police Department shall register and maintain copies of all orders of protection and injunctions provided for in this Title in a repository which causes the existence of the order or injunction to be readily accessible to all law enforcement officers and to other local and relevant law enforcement agencies beyond the jurisdiction of the Sac and Fox Tribe of the Mississippi in Iowa.

(b) Upon receipt of a copy of an order of protection or any injunction provided for in this Title from the court, the Meskwaki Nation Police Department shall cause each order or injunction to be entered into the Meskwaki Nation Police Department repository, presently maintained at the Tama County Communications Service Center, or such other designated law enforcement central communication center, and shall further register the order or injunction with all appropriate law enforcement agencies sufficient to cause the order to be maintained in a central repository for such orders and injunction so that the existence and validity of each order or injunction can be easily verified by the Meskwaki Nation Police Department and by other local and relevant law enforcement agencies beyond the jurisdiction of the Tribe.

(c) Upon receipt from another law enforcement agency or person in possession of an order or injunction from another jurisdiction which is of the nature of orders and injunctions provided for in this Title, the Meskwaki Nation Police Department shall cause each order or injunction to be entered into the Meskwaki Nation Police Department repository, presently maintained at the Tama County Communications Service Center, or such other designated law enforcement central communications center.

(d) The effectiveness of an order does not depend upon its registration and for enforcement purposes a copy of an order of the court, whether registered or not, is presumed to be a valid existing order of the court for a period of one year from the date of service of the order on the defendant.

(e) A law enforcement officer may presume the validity of and enforce and rely on a copy of a protection order or injunction for protection that is issued by another state, a United States territory, or an Indian tribe, if the order was given to the officer by any source. A law enforcement officer may also rely on the statement of any person who is protected by the order or injunction that the order remains in effect. A law enforcement officer who acts in good faith reliance on a protection order is not civilly or criminally liable for enforcing the protection order

**TITLE 24. DOMESTIC VIOLENCE**

**ARTICLE V**

**VICTIM RIGHTS AND VICTIM ADVOCATE**

**CHAPTER 1. VICTIM RIGHTS**

**Sec. 24-5101. Victim Rights.**

(a) A victim of any offense specified in or incorporated into this Title shall:

(1) be informed by the court of all hearing dates and hearing continuance dates; it is the responsibility of the victim to provide the court with the victim’s correct address and telephone number[s];

(2) be entitled upon request of the victim to receive a copy of the law enforcement officer’s report at no cost, whether or not the defendant was arrested;

(3) be entitled to provide the court with a victim-impact statement, victim-opinion statement, and/or an assessment of the risk of further harm in a manner deemed appropriate by the court;

(4) be entitled to be present at all court hearings and to address the court upon request in a manner deemed appropriate by the court;

(5) be entitled to recommend and advise the court, in a manner deemed appropriate by the court, of conditions of pre-trial release and probation necessary to ensure the safety of the victim and other family or household members;

(6) be entitled to receive restitution for losses sustained as a direct consequence of the matter or incident before the court pursuant to Sec.24-3202 and in the discretion of the court;

(b) The Prosecutor shall offer the victim in writing, notice of the victim’s rights set forth in this section. The victim is not required to accept the written notice.

**Sec. 24-5102. Notice to victims about victim advocate services.**

(a) If a law enforcement officer in his or her capacity as a law enforcement officer has contact with a victim the law enforcement officer shall inform the victim in writing of the procedures and resources available for the protection of the victim including:

(1) Requesting an order of protection pursuant to section 24-3101; an injunction against stalking pursuant to section 24-3106; an injunction against harassment pursuant to section 24-3104; a vulnerable adult order of protection pursuant to section 24-

3108; an injunction against intimidation and/or against use of telephone or electronic means of communication to terrify, intimidate, threaten, harass, annoy or offend pursuant to section 24-3110; and an emergency order of protection pursuant to section 24-3103.

- (2) The emergency telephone number for the local police agency.
- (3) The telephone numbers for emergency services in the local community.
- (4) The telephone number and contact information for Victim Advocate services.

(b) If a victim seeks through the court an order of protection and/or injunction as specified in and incorporated into this Title, the court clerk shall offer the victim written information about Victim Advocate services but the victim is not required to accept the information.

**Sec. 24-5103. Right to Seek Criminal Relief.**

(a) A victim's right to seek the filing of a criminal complaint through the Office of the Prosecutor shall not be affected by:

- (1) The victim's use of reasonable force in self-defense against the defendant or perpetrator of the offense;
- (2) Evidence that the victim previously requested and filed a Petition for a protective order and/or injunction and subsequently reconciled with the defendant or perpetrator;
- (3) Evidence that the victim left the residence or household to avoid abuse and/or violence;
- (4) Evidence that a married victim did not file an action for divorce, legal separation, and/ annulment;
- (5) Evidence that the victim left the Meskwaki Settlement.

**Sec. 24-5104. Right to Seek Civil Relief.**

(a) A victim's right to seek an Order of Protection, Vulnerable Adult Order of Protection, Emergency Order of Protection, and/or Injunction as provided in this Title, shall not be affected by:

- (1) The victim's use of reasonable force in self-defense against the defendant or perpetrator of the offense;
- (2) Evidence that the victim previously requested and filed a Petition for a protective order and/or injunction and subsequently reconciled with the defendant or

perpetrator;

(3) Evidence that the victim left the residence or household to avoid abuse and/or violence;

(4) Evidence that a married victim did not file an action for divorce, legal separation, and/ annulment;

(5) Evidence that the victim left the Meskwaki Settlement.

## **CHAPTER 2. VICTIM ADVOCATE; QUALIFICATIONS; DUTIES**

### **Sec. 24-5201. Victim Advocate Qualifications and Training.**

(a) For purposes of this Title, “Victim Advocate” means a person who:

(1) Is preferably an employee of Meskwaki Family Services but may be an employee or volunteer at a domestic violence shelter or service provider for victims of domestic violence, and who meets the requirements of this section; and

(2) Has a bachelor’s degree from an accredited college in the field of social work, or counseling, or criminal justice, or similar behavioral science or human services degree; OR

(3) Has a 2-year degree or certificate from an accredited college in the field of criminal justice, or counseling, or similar behavioral science or human services field and has a minimum of two years of experience working with victims to obtain information, giving advice about programs and services, and assisting victims with finding shelter if needed, with law enforcement and judicial processes, and with crisis intervention.

(b) A victim advocate who is a volunteer shall perform all activities under qualified supervision.

### **Sec. 24-5202. Victim Advocate Duties.**

(a) The duties and role of the Victim Advocate are:

(1) To respond to law enforcement requests or victim requests to assist victims of domestic violence, crime, and other offenses specified in or incorporated into this Title.

(2) To assess victim needs and act as a resource for community service referrals; to provide necessary and emergency intervention services or arrange for the provision of services by other agencies for the victim. To assist the victim in contacting the victim’s family or friends and arrange for emergency shelter as needed.

(3) To offer short term crisis counseling and intervention to the victim.

- (4) To assist the victim in the identification of witnesses.
- (5) To assist the victim in securing an Order of Protection or Injunction as specified in or incorporated into this Title, as appropriate.
- (6) To assist the victim in determining losses suffered by the victim and assist the victim in his or her request for restitution as appropriate.
- (7) To serve as a liaison between the victim and the Office of the Prosecutor and court staff.
- (8) To accompany the victim to court proceedings;
- (9) To inform the victim in writing about his or her victim rights.
- (10) To engage in follow-up contact with the victim after case disposition.
- (11) To document contact information and resources provided.
- (12) To report data to the Department of Justice as required.

(b) The Victim Advocate, if not an employee of Meskwaki Family Services, shall notify Meskwaki Family Services at the earliest opportunity of the victim's name, address, and telephone number if the victim lives within the Settlement, or is a tribal member, or if the tribal court has jurisdiction over the matter, so that Meskwaki Family Services may contact the victim and assume the role of Victim Advocate for the victim if feasible and if acceptable to the victim.

### **CHAPTER 3. PRIVILEGE**

#### **Sec. 24-5301. Victim Advocate/Victim Privilege.**

(a) In a civil action, a Victim Advocate shall not be examined as to any communication made by the victim to the Victim Advocate.

(b) Notwithstanding subparagraph (a) above, unless the Victim Advocate has immunity under other provisions of law, the communication is not privileged if the Victim Advocate knows or should have known that the victim will give or has given perjurious statements or statements that would tend to disprove the existence of domestic violence and/or any other offense specified in or incorporated into this Title.

(c) The Victim Advocate privilege does not apply to the extent of facts in cases in which the Victim Advocate has a duty to report non-accidental injuries and physical neglect of minors or vulnerable adults.

(d) A party to an action may make a motion for disclosure of privileged information under this section and, if the court finds reasonable cause, the court shall hold a hearing *in camera* as to whether the privilege should apply.