

PLEASE BE SURE YOU CAREFULLY READ ALL THE STEPS IN THIS PACKET BEFORE STARTING YOUR PAPERWORK!

PROTECTIVE ORDER

You have the right to be safe

This is to inform you about what you can do if you are being abused, stalked, or harassed by someone in your life. As a victim, you have the right to ask a judge for a Protective Order. A Protective Order from the court orders the person who has been harassing, stalking, or abusing you to stop doing so or be punished by the court.

A Protective Order is only a court paper. YOU must take other steps to plan for your safety and the safety of your children.

What is a Protective Order (P.O.)?

A Protective Order is a civil court order that is designed to stop violent and harassing behavior and to protect you from the abuser. It offers civil legal protection from domestic violence to both male and female victims. It can set limits on the abusers behavior such as:

- ❖ Order the abuser to stop abusing you and your children;
- ❖ Tell the abuser to leave and stay away from your home, work place, and family;
- ❖ Direct the abuser to have no contact with you, including no phone calls, letters, or messages through other people;
- ❖ Order the abuser to stay away from the children, their babysitter, day care, or school.
- ❖ A Protective Order is not a punishment for the abuser. It is intended to prevent future violence or harassment. However, if the abuser violates the order, the abuser can be arrested and punished.

Am I eligible to file for a Protective Order?

You can seek legal protection from acts of domestic abuse committed by a “family or household member” against you or your minor child. This means you can seek protection from:

- ❖ Spouse
- ❖ Former spouse
- ❖ Person related by blood
- ❖ Person related by existing marriage
- ❖ Person related by prior marriage
- ❖ Person who resides with you
- ❖ Person who resided with abuser
- ❖ Person who has child(ren) with abuser
- ❖ Person in dating/intimate relationship
- ❖ Person in previous dating/intimate relationship

“Domestic abuse” is when a family or household member, or someone you have had a dating relationship with:

- ❖ Physically harms you, or
- ❖ Threatens to physically harm you.

What types of Protective Orders are available?

There are two types of Protective Orders available for you:

- ❖ Emergency Order of Protection (Ex Parte Emergency Order of Protection) - The Petition for Protective Order must clearly show that an act of domestic violence has occurred.
- ❖ Regular Order of Protection (Non-emergency)

How much does it cost to get a Protective Order? Do I need a lawyer?

There are no fees for filing a Protective Order. However, if the judge finds that the order was filed for frivolous reasons or if the petitioner (person filing) fails to appear at the hearings, the judge may decide to order the petitioner to pay court costs.

You do not need an attorney to file for a Protective Order. However, if you wish, you can have an attorney represent you. Tribal Domestic Violence Programs may also be able to help you. They provide crisis and emergency services for victims of sexual assault, stalking and domestic violence. It is recommended that you contact the Tribal Domestic Violence Program. Services offered:

- ❖ Emergency Shelter
- ❖ Transportation
- ❖ Referral Service
- ❖ Counseling for Domestic Violence victims
- ❖ Court advocacy
- ❖ Child advocacy
- ❖ Protective Order assistance
- ❖ Legal assistance

How do I get a Protective Order?

Step 1. Read and review this information on a Petition for Protective Order. If you have any questions regarding a Protective Order, refer to the court clerk.

Step 2. Have information about you and about your abuser on hand.

- ❖ Tribal Enrollment Card or CDIB for you or the abuser;
- ❖ Abuser's complete address;
- ❖ Specific facts describing the act of domestic violence (what happened in detail – who, what, when (date/time), where, why, etc.)

Step 3. Fill out the Petition for Protective Order (included in this packet).

Carefully fill out the petition. On the petition, you will be the “petitioner” and your abuser will be the “defendant”. When describing about the most recent incident of violence, use descriptive language (slapping, hitting, grabbing, choking, threatening, etc.) that fits the situation. Be specific. Include details and dates. But remember to be honest.

If you need assistance, Tribal Domestic Violence Programs may be able to assist you in filling out the petition.

Step 4. The court clerk will review your petition.

After you finish filling out your petition, take it to the court clerk. The court clerk will review your petition to ensure that all the necessary information is provided.

Step 5. Appear for a temporary hearing.

When you appear before the judge, you will be required to answer questions under oath. The judge will decide whether or not to issue the emergency order, and will set a date for a show cause hearing. You will be given a temporary protection order that state the date and time of your hearing.

Step 6. Service of process.

A copy of your petition and the temporary protection order must be served on the defendant. Do not try and serve the defendant in person with the papers yourself. The court will be responsible for serving the defendant.

If the judge is ordering the defendant to leave your residence, contact BIA or Tribal Law Enforcement Services to ask how you should proceed with doing so.

Step 7: Show Cause Hearing.

You must appear at the hearing. If you do not appear, your temporary protection order will expire and you will no longer be protected. If you do not appear at the hearing, it may be harder for you to be granted an order in the future and the court may assess court costs and service fees to you. If the defendant does not show up for the hearing the judge may still grant you a permanent protection order, or the judge may order a new hearing date.

At the Show Causing Hearing, you will show why you need the Protective Order. The best evidence is your honesty, verbal testimony. But other evidence can include:

- ❖ Police report(s);
- ❖ Pictures of your injuries (include date, if possible);
- ❖ Pictures of your household in disarray after an episode of domestic violence;
- ❖ Copies of the abuser's criminal records;
- ❖ Anything else to help you convince the judge you have suffered acts of domestic violence and need certain relief and protection.

However, the judge will listen to your story even if you have no evidence. Tell your story in your own words, but leave out details that have nothing to do with the physical violence or threats of violence. Also, rather than saying "He/She hit me," tell the judge how you were hit, where on your body you were hit, and how many times. Be specific.

Remember:

- ❖ Be on time;
- ❖ Dress clean and neat;
- ❖ Speak directly to the judge;
- ❖ Always address the judge as "Your Honor" and always stand when speaking;
- ❖ If you don't understand a question that the judge asks you, just say so.
- ❖ If you don't know the answer to a question, just say so. Never make up and answer.
- ❖ Be honest.

How do I get a copy of the Protective Order?

After court, the Judge will prepare the Protective Order and you will be given a copy. Review it carefully before you leave. If you have any questions about it, ask the court clerk. If something is wrong (misspelled names, etc.) or missing information, ask the court clerk to correct the order before you leave. Keep a copy of the order with you at all times.

CASE NUMBER:
PO- _____ - _____

**IN THE COMANCHE NATION TRIBAL COURT
DISTRICT COURT**

PETITION FOR PROTECTION ORDER

1. Your Name (*Person asking for protection - Petitioner*):

a. On Behalf of: (name of protected person, if filing on behalf of minor or incapacitated person)

2. Name of person you want protection from (*Respondent*):

3. Besides you, do your children or intimate partner need protection? (if so, list here):

| Full Name | Age | Lives with you? | Child or Intimate Partner? |
|-----------|-------|--|----------------------------|
| _____ | _____ | <input type="checkbox"/> Yes <input type="checkbox"/> No | _____ |
| _____ | _____ | <input type="checkbox"/> Yes <input type="checkbox"/> No | _____ |
| _____ | _____ | <input type="checkbox"/> Yes <input type="checkbox"/> No | _____ |
| _____ | _____ | <input type="checkbox"/> Yes <input type="checkbox"/> No | _____ |

If one or more of the above listed persons do not live with you at your listed address (below), indicate their name and residence:

4. What is the protected person's relationship to the person in 2? (*Check all that apply*):

Spouse Former Spouse Adult person related by blood, marriage, or adoption Person I cohabit, or have cohabited, with

Former or present intimate partner Parent of my child Dating partner Other:

5. Respondent information:

Full legal name: _____

Sex: Male Female _____ Height: _____ Weight: _____ DOB: _____

Hair Color: _____ Eye Color: _____ Age: _____ Race: _____

If Indian, tribal affiliation : _____

Home Address: _____ City: _____ State: _____ Zip: _____

Work Address: _____ City: _____ State: _____ Zip: _____

I declare under penalty of perjury under the laws of the Comanche Nation that the all of the information above is true and correct to the best of my knowledge.

Date: _____

Print your name

Sign your name

VERIFICATION

State of Oklahoma)

)

Comanche Nation)

Signed and sworn to (or affirmed) before me on the _____ day of _____, 20__, by

(printed name(s) of individual(s) making statement

Who proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature of Court Clerk/Notary

Printed Name of Notary